



**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1290/2026

**Reserved on: 07.04.2026
Pronounced on: 08.04.2026**

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Mr. B. Anand, Member (A)**

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... Applicant

(By Advocate: Sh. Karan Bharihoke)

VERSUS

1. Union of India
Through Secretary
Ministry of Corporate Affairs
5th Floor, A Wing, Shastri Bhawan
Dr. R.P. Road, New Delhi-110001.

2. Sh. Bachu Venkat Balram Das
Having office at: NCLT
Block No. 3 Ground
6th, 7th and 8th Floor
CGO Complex, Lodhi Road
New Delhi-110003
Email-bvbd9mjnclt@gmail.com

... Respondents

(By Advocate: Sh. Jalaj Agarwal, Sr. CGSC for R-1 and Sh.
Shivanshu Bhardwaj for R-2)



ORDER

Hon'ble Mr. R.N. Singh, Member (J)

In the present Original Application (OA) filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

“a. Quash and set aside the impugned Notification No. F. No. A-45011/534/2025-Ad.IV-MCA dated 16.03.2026 issued by the Respondent No. 1, ordering Respondent No. 2-Mr. Bachu Venkat Balararam Das to act as President of the National Company Law Tribunal consequent upon the completion of the term of Sh. Deep Chandra Joshi, for being violative statutory as well as constitutional provisions;

b. Declare that the applicant being the ‘Senior-most Member’ of the National Company Law Tribunal, shall act as President of the National Company Law Tribunal in terms of Section 415(1) read with 407 (c) of the Companies Act, 2013;

c. Pass any other order(s) as this Hon'ble Tribunal may deem fit and proper”

2. It is the case of the applicant that an offer of appointment as a Technical Member of the National Company Law Tribunal (NCLT) was given to the applicant by Respondent No. 1 on 11.09.2021 for a period of five years from the date of assumption of charge of the post or till attaining the age of 65 years whichever is the earliest. Pursuant thereto, the applicant joined and assumed the office as a Technical Member of NCLT on 01.10.2021. On 10.10.2021, an offer of appointment as a Judicial Member of NCLT was given to the respondent no. 2 by respondent no. 1 for a period of five years from the date of assumption of charge of the post or till attaining the age of 65



years whichever is earliest. He, in turn, assumed the office as a Judicial Member, NCLT on 18.10.2021. On 13.02.2026, vacancy arose for the post of President, NCLT on completion of term of office of the holder of such post. The senior most Member who was the Judicial Member, NCLT was ordered to act as the President in terms of Section 415 (1) of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the Act). The term of the then acting President was completed on 16.03.2026. The applicant is aggrieved by the impugned notification dated 16.03.2026 to the extent that the respondent no. 2 has been treated as the senior most Member, NCLT and has been ordered to act as President, NCLT in terms of provisions of Section 415(1) of the Act for a period of six months from 17.03.2026 or until a regular President is appointed or until further orders, whichever is the earliest. It is the case of the applicant that by virtue of the offer of appointment and also assumption of charge of the post, the applicant is senior to respondent no. 2 and, therefore, in view of the provisions of the Act, he was required to be considered and ordered to act as the President, NCLT and not respondent no. 2.

3. Aggrieved by the impugned notification, the applicant had initially approached the Hon'ble High Court of Delhi vide Writ Petition (C) No. 3509/2026 wherein the Hon'ble High Court had ordered notice on 18.03.2026. Subsequently, the WP is stated to have been dismissed as withdrawn vide order dated 06.04.2026 to enable the applicant to avail alternative remedy. Learned counsel for the applicant has argued



that the impugned order issued by respondent no. 1, having its office in New Delhi, has adversely affected the conditions of service of the applicant and, therefore, this Tribunal is having jurisdiction to entertain and adjudicate the present OA.

4. Learned counsels who have appeared on behalf of the respondents have opposed the OA on the ground of lack of jurisdiction in the matter as well as on merit. Mr. Bhardwaj, learned counsel for respondent no. 2 has relied upon the judgment dated 19.11.2025 of the Hon'ble Apex Court in **WP(C) No. 1018/2021 titled Madras Bar Association vs Union of India & Anr.** As the issue of jurisdiction has come for consideration, we deem it appropriate to adjudicate such issue before touching the merit of the claim.

5. We have considered the submissions made by the learned counsels for the parties.

6. Section 14 of the Administrative Tribunals Act, 1985, as amended from time to time, deals with the jurisdiction, powers and authority of the CAT which reads as under:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal.-(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;



(b) all service matters concerning-

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.

[Explanation - for the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to



(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause(b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.”

7. The parameter for holding a post to be a Civil Post as delineated by the Hon'ble Apex Court has been reproduced by the Hon'ble High Court of Delhi in the case of **Union of India & Anr vs Shanker Raju**, reported in 2008 (100) DRJ 742 (DB) as under:

“27. We may refer here the judgment of the Supreme Court in State of Assam and Ors. v. Kanak Chandra Dutta, AIR 1967 SC 884. The parameters for holding a particular post to be a civil post were delineated in the said judgment by the Supreme Court in the following manner:-

“The question is whether a Mauzadar is a person holding a civil post under the State within Art. 311 of the Constitution. There is no formal definition of post and civil post. The sense in which they are used in the Services Chapter of Part XIV of the Constitution is indicated by their context and setting. A civil post is distinguished in Art. 310 from a post connected with defence; it is a post on the civil as distinguished from the defence side of the administration, an employment in a civil capacity under the Union or a State, see marginal note to Art. 311. In Art. 311, a member of a civil service of the Union or an all-India service or a civil service of a State is mentioned separately, and a civil post means a post not connected with defence outside the regular civil services. A post is a service or employment. A person holding a post under a State is a person serving or employed under the State, see the marginal notes to Arts. 309, 310 and 311. The heading and the sub-heading of Part XIV and Chapter I emphasis the element of service. There is a relationship of master and servant between the State and a person said to be holding a post under it. The existence of this relationship is indicated by the State's right to select and appoint the holder of the post, its



right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages or remuneration. A relationship of master and servant may be established by the presence of all or some of these indicia, in conjunction with other circumstances and it is a question of fact in each case whether there is such a relation between the State and the alleged holder of a post.”

8. Further in paragraph 29 of the said judgment, the Hon'ble High Court has ruled as under:

“29. Very recently, a Division Bench of this Court was called upon to decide as to whether Presiding Officer of the National Highways Tribunal would be subject to the jurisdiction of the CAT under the Administrative Tribunal Act, 1986. The CAT had taken the view that Presiding Officer of the said Tribunal was holder of a civil post within the meaning of Section 14(1) of the Administrative Tribunal Act. Writ petition was filed against that judgment before this Court titled as *Union of India v. Shiv Charan Sharma* - WP(C) No. 15754/2006. A Division Bench of this Court in its judgment dated 26.4.2007 disagreed with the opinion of the CAT and concluded that the Presiding Officer of the said Tribunal was not the holder of a civil post. This conclusion was predicated on the functions which the National Highways Tribunal discharges. The Division Bench was of the opinion that the functions of the National Highways Tribunal are quasi-judicial in nature and therefore, the post of Presiding Officer of that Tribunal cannot be equated with a civil post. After analysing the provision of the National Highways Authority Act with regard to the qualification, appointment, service conditions and removal etc. of the Presiding Officer, the Court recorded its conclusion in para 20 of that judgment in the following manner:—

“20. From the above observations it is concluded:—

- (a) National Highways Tribunal is a creation of Statute i.e. The Control of National Highways (Land and Traffic) Act, 2002.
- (b) Presiding Officer of the Tribunal should either be qualified to be a Judge of the High Court or has been a Member of the Indian Legal Service.
- (c) Presiding Officer of the Tribunal is selected by a Selection Committee chaired by a Judge of the Supreme Court of India and two members, one Secretary to the Government of India in the Ministry of Road Transport and



Highways and second from the Secretary to the Government of India in the Ministry of Law and Justice (Department of Legal Affairs).

- (d) The Selection Committee has the authority to devise its own procedure for selecting candidate for appointment.
- (e) On the recommendations of the Selection Committee, the Central Government makes a list of persons selected for appointment as a Presiding Officer. Only person so selected has to be appointed as a Presiding Officer of the Tribunal.
- (f) The Presiding Officer of the Tribunal has the jurisdiction, powers and authority to entertain appeals from the orders passed or actions taken by the Highway Administration to the exclusion of any other authority except the Hon'ble Supreme Court and High Court exercising jurisdiction under Article 226 and 272 of the Constitution. The Tribunal has the powers as are vested in civil court under the Code of Civil Procedure (without any biding force) for the purposes of discharging its functions while trying a suit as specified in the Act in accordance with the principles of natural justice and other provisions of the Control of National Highways Act and Rules.
- (g) The Tribunal is independent in its functions and has the powers to regulate its own procedure including the places at which it shall have its sitting.
- (h) The Proceedings before the Tribunal are deemed to be judicial proceedings within the meaning of Sections 193 and 228, and for the purposes of Section 196 of the Penal Code, 1860 and the Tribunal is deemed to be a civil court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- (i) The orders of the Tribunal are to be executed by a civil court on its directions as if the said civil court has passed the decree.
- (j) The Presiding Officer of a Tribunal can be removed only after an inquiry made by a Judge of a High Court on the ground of proved misbehaviour or incapacity.”



9. Learned counsel for the applicant has submitted that the NCLT is only an adjudicating authority by virtue of the same being set up by respondent no. 1 under the provisions of Section 408 of the Act and the Members of NCLT are appointed by respondent no. 1, conditions of their service are also considered and regulated by respondent no. 1 and, therefore, issues relating to the conditions of their service are amenable to the jurisdiction of this Tribunal.

10. In support of his contentions, he has placed reliance on a judgment of the Hon'ble Apex Court in the case of **Pradip Kumar versus Union of India & Ors. reported in (2012) 13 SCC 182**. The learned counsel for the applicant has further argued that the in the case of **A.K. Doshi (Dr.) versus Central Administrative Tribunal and ors. reported in 2000 II AD (DELHI) 107**, the Hon'ble High Court had decided that the Member of Company Law Board would be holder of a Civil Post and the Hon'ble Apex Court has not interfered in the said judgment of the Hon'ble High Court.

11. It is undisputed that respondent no. 1, by invoking the provisions of Section 408 of the Act has constituted the NCLT w.e.f. 01.06.2016. The amendment to the Company Act, 2013 was notified by the Tribunals Reforms Act, 2021 (No. 33 of 2021) and the vires of such Act has been under challenge in a batch of Petitions before the Hon'ble Apex Court including in **WP(C) No. 1018/2021 titled Madras Bar Association vs Union of India & Anr** dated 19.11.2025. It is undisputed that the NCLT discharges the functions of a judicial/quasi-



judicial authority and the Tribunals take over the functions of the Courts.

12. The NCLT is a statutory body, not a department and/or a wing of the respondent no. 1 in view of the law laid down by the Hon'ble Apex Court in catena of cases including in the case of **Madras Bar Association** (supra). It is expected to function independently to discharge its judicial duties. The post of Technical Member and/or Judicial Member is neither a Civil Post nor the post belongs to All India service nor the matter in hand relates to a Civilian appointed to a defence service in connection with the provisions of Section 14(a) or (b). Furthermore, the NCLT is not the institution/authority notified by the Central Government as required under Section 14 of the Administrative Tribunals Act, 1985.

13. Further, as apparent from the paragraph 25 of the judgment of the Hon'ble High Court of Delhi in **Shanker Raju** (supra), the Hon'ble Apex Court has though not interfered in the case of **A.K. Doshi** (supra) in the facts and circumstances of the case, however, it has left the issue as to whether holder of the post is civil or not, open. Moreover, in the case of **A.K. Doshi** (supra), the matter related to a Member of Company Law Board whereas in the case in hand, the matter relates to NCLT which has come into existence w.e.f. 01.06.2016 further amended in 2021.



14. In the present case also, the NCLT is a creation of a statute. It is independent in its function and has powers to regulate its own procedure and the proceedings before it are deemed to be judicial/quasi-judicial proceedings etc.

15. We are of the considered view that in the judgment of the Hon'ble Apex Court in the case of **Pradip Kumar** (supra), neither the issue of jurisdiction is found to be raised nor the same is found to have been adjudicated by their Lordship's, and thus, the same is not of any assistance to the applicant to contend that the issue involved in the present OA is amenable to the jurisdiction of this Tribunal. Further, in the case of **A.K. Doshi** (supra) as well, the issue of jurisdiction has been apparently left open and thus, the same is also not found to be of assistance to the applicant.

16. In view of the above, we are of the considered view that the Tribunal lacks the jurisdiction in the matter. Accordingly, the OA deserves to be dismissed for lack of jurisdiction. We order accordingly. However, the applicant shall be at liberty to agitate his grievances before the appropriate forum, if he is so advised, in accordance with law.

17. However in the facts and circumstances of the case, there shall be no order as to costs.

(B. Anand)
Member (A)

/NS/

(R.N. Singh)
Member (J)