

ITEM NO.301

Court 8 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No.2217 of 2020 in W.P.(C) No.804/2020

(Arising out of impugned final judgment and order dated 27-11-2020 in W.P.(C) No.804/2020 passed by the Supreme Court Of India)

MADRAS BAR ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(EXEMPTION FROM FILING AFFIDAVIT, CLARIFICATION/DIRECTION)

WITH

MA 2218/2020 in W.P.(C) No.804/2020 (PIL-W)
(CLARIFICATION/DIRECTION)

Date : 17-12-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s)

Mr. Basava P. Patil Sr. Adv.
Mr. Venkatesh Adv
Mr. Nitin Saluja AOR
Mr. Vikas Maini Adv
Mr. Suhael Buttan Adv
Mr. Anant Singh Adv
Mr. Abishek Nangia Adv
Ms. Shivani Lohia Luthra, Adv.
Mr. Sasha Maria Paul Adv

Mr. Mukul Rohatgi, Sr. Adv.
Mr. V. Giri, Sr. Adv
Mr. Sajan Poovayya, Sr. Adv.
Mr. Buddy A. Ranganadhan, Adv.
Mr. Hemant Singh, Adv
Mr. Mridul Chakravarty, Adv
Mr. Ankur Kashyap, Adv
Mr. Pratibhanu S Kharola, Adv
Mr. Lakshya Bagdawal, Adv
Mr. Tushar Srivastava, Adv
Mr. Hasan Murtaza, AOR

I.A. 126897 & 126909

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Buddy A Ranganadhan, Adv
Mr. Ankur Kashyap, Adv
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Mr. Mridul Chakravarty, Adv
Mr. Lakshya Bagdawal, Adv
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Ms. Suveni Bhagat, Adv
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For Respondent(s)

Mr. K.K. Venugopal, Ld. AG.
Mr. Balbir Singh, ASG
Mr. Surya Prakash V. Raju, ASG
Mr. R. Balasubramanian, Sr. Adv.
Mr. Zoheb Hossain, Adv.
Ms. Chinmayee Chandra, Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. Arvind Kr. Sharma, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

We have heard learned Attorney General for India, Mr.Mukul Rohatgi, Mr.V.Giri, Mr.Basava P.Patil and Mr. Sajan Poovayya, learned senior counsel.

These applications have been filed for clarification of the judgment dated 27.11.2020 in so far as it relates to retirement of Chairpersons, Vice-Chairpersons and Members of the Tribunal. These I.As. relate to the retirement of a technical member of Appellate Tribunal for Electricity (APTEC). The technical Member who was scheduled to retire on 08.11.2020 continued to function on the basis of the interim order passed by this court on 09.10.2020. However, in view of the judgment dated 27.11.2020, he could not continue as he was scheduled to retire on 08.11.2020. The submission made by the learned senior counsel is to the effect that a large number of cases have been heard by a bench of the Tribunal consisting of the technical Member and those matters have been reserved for judgment. The direction sought by the learned senior counsel is to permit the technical Member to continue till 31.12.2020 as directed by this Court on 09.10.2020 to enable the Tribunal to pronounce the judgments on matters which have been reserved for judgment.

The learned Attorney General for India submitted that para 53 (15) needs clarification. He is of the opinion that the Chairpersons, Vice-Chairpersons and Members of the Tribunal were permitted to continue till 31.12.2020. By the final judgment delivered on 27.11.2020, this Court directed that the retirement of the Chairpersons, Vice-Chairpersons and Members of the Tribunal shall be in accordance with the applicable Rules. The direction given by the order dated 09.10.2020, permitting the Members of Tribunal to continue till 31.12.2020 which has not been altered by the final Judgment gives an indication that the order dated 09.10.2020 subsists.

After hearing the learned Attorney General and the learned senior counsel, we are of the opinion that there is no need for any clarification of the Judgment dated 27.11.2020 in respect of the retirement of the Chairpersons, Vice-Chairpersons and Members of the Tribunal. There is no ambiguity in Para 53 (XV). All appointments prior to 12.02.2020 were directed to be governed by the parent statutes and Rules. The Rules of 2020 with the modifications suggested by this Court will be applicable for all appointments made after 12.02.2020. After noting that an interim order was passed on 09.10.2020 that the terms of all Chairpersons, Vice-Chairpersons and

members was extended till 31.12.2020, it was made clear that their retirements shall be in accordance with the applicable rules. The said direction applies to all serving Chairpersons, Vice-Chairpersons and Members of the Tribunal and also those who were appointed prior to 12.02.2020. The Technical Member, APTEL was scheduled to retire on 08.11.2020 in accordance with the terms of his appointment. The consequences of the direction issued by this Court have to follow. Though, we appreciate the difficulties pointed out by the learned Senior Counsel relating to the time and effort spent on the hearing of the cases, we do not intend to an exception. The Member, Technical, APTEC ceased to hold the post after 08.11.2020.

Miscellaneous applications and pending applications are accordingly, disposed of.

(B.Parvathi)
Court Master

(Beena Jolly)
Court Master