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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1549/2009**

COURT ON ITS OWN MOTION

.....Petitioner

Through: Mr.Rajeev K. Virmani, Sr. Adv.
(Amicus Curiae) with Ms.Shreya
Gambhir, Ms.Saloni Sharma and
Ms.Diva Saigal, Advs.

versus

STATE

.....Respondent

Through: Ms.Avnish Ahlawat, SC, GNCTD
with Mr.N.K. Singh, Ms.Aliza Alam,
Mr.Amitoj Chadha and MrMohnish
Sehrawat, Advs.
Mr.Ravinder Agarwal, Adv. with
Mr.Manish Kumar Singh and Mr.Vasu
Agarwal, Advs. for UPSC.
Mr.Sumer Singh Boparai, Adv. with
Mr.Surya Pratap Singh, Mr.Abhilash
Kumar Pathak, Mr.Sirhaan Seth and
Mr.Piyush Kumar, Advs. for R-5,
R-12, R-13, R-16 & R-19 to 22.
Mr.Abhishek Aggarwal, Adv. for
R-16 and R-21.
Mr.Ripu Daman Bhardwaj, SPP for
CBI with Mr.Kushagra Kumar and
Mr.Amit Kumar Rana, Advs.
Mr.Vivek Sood, Sr.Adv. with
Mr.Gaurav Singh, President,
Mr.Jamshed Ansari, Secretary for
DPWA.



CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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09.07.2025

CRL.M.As. 18506/2013, 13869/2014, 14366/2014, 11196/2015, 3847/2023, 3961/2023, 13451/2024, 2535/2025 & 16892/2025

1. We have perused the affidavit dated 27.05.2025 filed by the respondent/Department of Home, Government of NCT of Delhi. In paragraph-3 of the said affidavit, it has been stated that a total 210 sanctioned posts of Additional Public Prosecutor and 265 sanctioned posts of Assistant Public Prosecutor have been created after cadre restructuring in the Directorate of Prosecution. It has also been stated therein that the cadre restructuring sought to be effected by means of the order dated 25.11.2024 will be final only after fulfillment of certain requirements i.e. (1) submission of the proposal of cadre restructuring to the competent authority in terms of the requirement of Office Memorandum dated 05.01.2024, and (2) notification of amended Recruitment Rules for the posts of Additional Public Prosecutor and Assistant Public Prosecutor.
2. It has also been stated in the said affidavit that the proposal for ensuring compliance of the requirement under Office Memorandum dated 05.01.2024 is under process which has been vetted by the Services Department of Government of NCT of Delhi. It has been informed by the learned counsel representing the Government of NCT of Delhi that the proposal inviting objections was put up on the website of the Directorate of Prosecution on 25.05.2025, whereafter 30 days time for receiving the objections has expired on 24.06.2025.



3. It has been submitted by learned counsel representing the Union Public Service Commission that 66 posts of Assistant Public Prosecutor, though were advertised, however the advertisement has been challenged before the Central Administrative Tribunal on certain counts. Mr. Ravinder Agarwal, Adv. representing the Union Public Service Commission states that in fact after the cadre restructuring whereby posts have been upgraded, the corresponding amendment in the Recruitment Rules has yet not been effected which may create hurdle in proceeding with the recruitment process as per the advertisement dated 12.04.2025. In the affidavit, it has also been averred that pending regular recruitment/appointment, the Government of NCT of Delhi is working on other options such as engaging contractual appointment of Assistant Public Prosecutor and ad-hoc promotion of Additional Public Prosecutor. The affidavit however is silent about steps which are taken or can be taken by the Government of NCT of Delhi for filling up the posts/vacancies in respect of which no amendment in the Recruitment Rules is required.

4. In the aforesaid view of the matter, we direct that a fresh affidavit shall be filed by Government of NCT of Delhi giving therein the clear roadmap for filling up the vacancies in the entire cadre of the prosecutors in the Directorate of Prosecution.

5. In the meantime, we also direct that in terms of the decision already taken by Government of NCT of Delhi, pending regular recruitments against the posts of Additional Public Prosecutor/Assistant Public Prosecutor, adequate steps shall be taken for ensuring that ad-hoc appointments are made on these posts so as to ensure that the criminal courts in Delhi function smoothly, and ensure that one Public Prosecutor for each Court is made



available. The steps for making the alternative arrangement of ad-hoc appointment either by way of direct recruitment or even by ad-hoc promotion, shall be made by the Government of NCT of Delhi, within four weeks from today. We hope and trust that the process relating to the Office Memorandum dated 05.01.2024 and amendment in the Recruitment Rules shall be completed within this period.

6. Learned counsel representing respondent nos. 16 and 21, who are working as CBI Prosecutors, has drawn our attention to an order dated 14.08.2024.

7. Learned counsel representing the CBI has stated that a recommendation has already been made by the Central Bureau of Investigation for upgradation of the pay scales to the Central Government in the Department of Personnel and Training (DoPT), where the said recommendation is pending.

8. We direct the learned counsel representing the Central Bureau of Investigation to seek instructions by the next date of listing as to the decision which might have been taken by the DoPT on the proposal submitted by the CBI.

9. List on 12.09.2025.

DEVENDRA KUMAR UPADHYAYA, CJ

ANISH DAYAL, J

JULY 09, 2025

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