CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01866/2018

DATED THIS THE 17TH DAY OF JANUARY 2020

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV. SANKAR, MEMBER (A)

Chandrakant C Harikantra,
Aged about 37 years,
S/o Chimanu Rukudya Harikantra,
Working as Weapon fitter,HSK II
Naval Ship Repair Yard,
Naval Base,Karwar-581 308.
Residing at :
Behind Head Post Office,
Karwar: 581 308. ...Applicant

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Reptd. by Secretary,
Ministry of Defence (Navy)
New Delhi – 110 001.

2. Flag Officer
Commanding in Chief,
HQ, Western Naval Command,
Sahid Bhagat Singh Marg,
Mumbai-400 001.

3.Flag Officer,
Commending – HQ
Karnataka Naval Area,
Naval Base,
Karwar-581 308.

4.Commander Superintendent,
Material Organization,
Naval Base,
Karwar-581 308. ....Respondents

(By Shri N.Amaresh, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. Heard. The matter seems to be covered by our earlier order in OA.No.181/2019 dated 29.8.2019 which we quote:-

"O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J)

The matter seems to be covered by our order in OA No. 263/2019 dated 26.07.2019 which we quote:

"Heard. We had earlier handled this matter in OA.No.1002/2016, which was disposed of vide order dated 28.07.2017, which we quote:

"HON'BLE DR K.B. SURESH, MEMBER(J)

Heard. The matter seems to be covered by the decision of the Hon'ble Apex Court in Union of India vs. Zorawar Singh and Jagadish Prasad reported in (1982) 1 SCC 421, that the effect of the decision is, once a person is promoted regularly, later on found that promotion cannot lie for any reason, notice have to be issued to him and he must be given a chance of being heard before a decision is taken.

2. Shri M.V. Rao, learned counsel for the respondents admits that no notice had been issued to the applicants before they were reverted.

3. Therefore, the reversion is hereby quashed. But then, we will grant liberty to the respondents to issue notice to the applicants and pass appropriate orders as the case may be in accordance with law.

4. OA is disposed of. No order as to costs."

2. Thereafter, once again the issue arose in OA.No.388-396/2018 and on 25.04.2018 we had passed an interim order, which we quote:

> *"Heard the learned counsel for the applicant. Apparently, this is a 3rd round of litigation. In the earlier orders we had quashed reversion order. Thereafter, the respondents themselves had canceled that order before the matter coming for a final hearing. Now, apparently, the same order seems to be reagitated once again.*
>
> *Issue notice to the respondents by Dasti. The applicant shall take out notice and have it served on the respondents within 7 days next and produce evidence for having done so.*
>
> *The respondents to file a short reply on the question of interim relief within next 2 weeks.*
>
> *The respondents can also file a detailed reply within 4 weeks. In that case, the applicant can file rejoinder within 2 weeks thereafter.*
>
> *In the meanwhile, reversion order Annexure A-11 is stayed until further orders. Post the matter on 6.3.2019."*

3. Thereafter, the respondents submitted that they cancelled the order and thereupon we had passed an order in OA.No.388-396/2018 on 16.05.2018, which we quote:

"O R D E R(ORAL)

> *Learned counsel for the applicants is present. Lt. Commander AvinashSabard appears on behalf of the respondents and submits an order dated 10.4.2018 by which the reversion order in respect of the applicants stands cancelled.*
>
> *2. The learned counsel for the applicants submits that in view of the said order, the OA has become infructuous.*
>
> *3. In view of the above, the OA stands dismissed as having become infructuous. No order as to costs."*

4. Thereafter, again the applicants were reverted, which we quote:

Headquarters
Karnataka Naval Area
Naval Base
Karwar-581 308

CS/4200/FOK/RESTRUCTURING *29 Jan 19*

NOTICE FOR RESTRUCTURING

1. Refer to HQWNC letter CS(II)/2577/ Restructuring/Karwar dated 18 Aug 16 and NSRY(Kar)letter HRC/6900 dated 13 Dec 18 (copy enclosed).

2. It is intimated that the extra placement as recommended by Restructuring Board were not considered as the Government of India Order No.11(5)/2009-D (Civ.I) dated 14 Jun, 10 does not permit the same and there are no such rules/ provisions which can substantiate the same.

3. Therefore in view of above individuals mentioned in Para 2 of NSRY (Kar) letter mention ibid be reverted back to SK at the earliest citing the reason at above mentioned paragraph.

Sd/-
Utpal Bora
Administrative Officer-II
Staff Officer(Civ)
For Flag Officer Commanding

CIVILIAN ESTABLISHMNET ORDER PART II (INDUSTRIAL) NO.1.2019 NSPV(KAR)

Sl No.	*Name and Design*	*Particulars /remarks*
1	*Shri Mane SudhirTanaji HKS-II (Machinist) T No. 14392H*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 21 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7610(iii) Dated 13th Nov. 18*
2	*ShriLakhanBuddhappa Kamble HKS-II (Machinist) T No. 15816-B*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 19 Mar. 10 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7611 Dated 13th Nov. 18*
3.	*ShriSwapnil D Naik HST-II (GT Fitter) T No. 14399-M*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 11 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7612 Dated 15th Nov. 18*
4	*Shri Joseph G Nadakkal HKS-II (Machinery Contoller Fitter) T No. 14347-T*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 13 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7605 Dated 13th Nov. 18*
5	*ShriSudheerMahekar HKS-II (Engine Fitter) T No. 14376-1*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 18 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19*

		ii)NSRY(KAR) Notice for Reversion HRC/7610(ii) Dated 13th Nov. 18
6	*Shri Rahul Ashokrao Chiwande HKS-II (Engine Fitter) T No. 14360-B*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 1 Sep. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7610(i) Dated 15th Nov. 18*
7	*ShriGanapathi K. Naik HKS-II (Weapon Fitter) T No. 14408-H*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 11 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7607 Dated 13th Nov. 18*
8	*ShriChandrakant C Harantra HKS-II (Weapon Fitter) T No. 14409-1*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 11 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7607(i) Dated 13th Nov. 18*
9	*ShriShyam M Kindalkar HKS-II (Electrical Fitter) T No. 14456-H*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 11 Aug. 09 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7610 Dated 13th Nov. 18*
10	*ShriPankaj S. Tale HKS-II (Millwright) T No. 15815-W*	*Re-designated and placed in the grade of Tradesman(Skilled) w.e.f. 19 Mar. 10 Authority i)HQKNA Letter CS/4200/FOK/RESTRUCTURING Dated 29th Jan. 19 ii)NSRY(KAR) Notice for Reversion HRC/7606 Dated 13th Nov. 18*

HRC/6900
Date: 31 Jan, 19
Naval Ship Repair Yard
Naval Base,
Karwar-581 308

Sd/-
(Albinus Soren)
TA(Const)

Assistant Manager (HRDT)
For Admiral Superintendent.

5. Thereafter, now it seems that they have once again issued an order of promotion accommodating the applicants, which is placed before us across the bar. Thereafter, now they have issued an order dated 11.03.2019, forwarding the promotions of the applicant and others, which we quote:

"Headquarters
Karnataka Naval Area
Naval Base
Karwar-581 308

CS/4200/FOK/DPC/HSK-II/Promotion Order 11 Mar 19
The Admiral Superintendent, NSR (Kar)
The Material Superintendent, MO(Kar)
The Commanding Officer, INHS Patanjali
The Commanding Officer, Vajrakosh(Kar)
The Commanding Officer, CTP/CNTW(Kar)

FORWARDING OF PROMOTION ORDER TO THE HIGHER POST (ARTISAN STAFF) SKL TO HSK-II OF NAVAL BASE, KARWAR
1.Refer to this Headquarters letter CS/4200/FOK/DPC/HSK-II/Panel,(i) & (ii) dated 28 Feb 19.

2.The under mentioned individuals (SKL) of various trades (Artisan Staff) are hereby promoted to the grade of HSK-II (Pay scale of Rs.25500/- per month in the pay scale as per pay matrix of VII CPC under CCS (RP), Rule 2016 of 25500-81100 (Level-4), (Pre-revised VI CPC pay scale of Rs.5200-20200 (PB-I) with G.P of Rs.2400/-) with effect from the date mentioned against each existing vacancy and transferred/ retained to the unit as mentioned below:-

Lagger, HSK-II for the year 2017-18				
Sr. No.	*Name & Design Token No.*	*Category*	*Effective Date of promotion*	*Present Unit*
(i)	*BhimagondKyatannavar SK(Lagger) T.No.14502-M*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Ship Fitter, HSK -II for the year 2017-18				
(ii)	*Manoj Kumar. B Chougale SK(Ship Fitter) T.No. 14475-N*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Machinist Trade, HSK-II for the year				

2017-18				
(i)	*Shri Mane SidhirTanaji SK(Machinist) T.No.14392-H*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(II)	*ShriNagaraj H SK(Machinist) T.No.14394-N*	*ST*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriLakhanBuddhappa Kamble SK(Machinist) T.No.15816-B*	*SC*	*26 Dec 18*	*NSRY(Kar)*
GT Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriSwapnil D Naik SK(GT Fitter) T.No. 14399-M*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriVirendraKudalkar SK(GT Fitter) T.No. 14403-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Engine Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriSudheerKamalakar Mahekar SK(Engine Fitter) T.No.14376-L*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*Shri Rahul Ashokrao Chiwande SK(Engine Fitter) T.No.14360-B*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriMahajanAmit Chandrakant SK(Engine Fitter) T.No.14398-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriDileep Kumar Warkade SK(Engine Fitter) T.No.14362-L*	*ST*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriJvala Prasad SK(Engine Fitter) T.No.15823-T*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(vi)	*ShriShib Mohan Kumar SK(Engine Fitter) T.No.15822-N*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
RAC Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriRameej TK SK(RAC Fitter) T.No.14335-E*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriKrishanand BaskarNaik SK(RAC Fitter)*	*OBC*	*26 Dec 18*	*NSRY(Kar)*

	T.No.14337-M			
(iii)	*ShriDayanand M Kanade SK(RAC Fitter) T.No.14343-B*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriKolekarNavanath Naganath SK(RAC Fitter) T.No.14338-R*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriSivanadham Muni Babu SK(RAC Fitter) T.No.14339-W*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
Painter Trade, HSL-II for the year 2017-18				
(i)	*ShriLanjewar Sanjay Vithal, SK(Painter) T.No.14533-M*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriAmitkumarTalekar SK(Painter) T.No.14538-L*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriKhagendra Barman SK(Painter) T.No.14539-N*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriSanjeev Y Haldankar SK(Painter) T.No.13648-N*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
Shipwight Trade, HSK-II for the year 2017-18				
(i)	*Shri Suresh B SK(Shipwright) T.No.14502-M*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriDhiraj Kumar Ghanshyam SK(Shipwright) T.No.14501-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriPrasanth KS SK(Shipwright) T.No.14503-R*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriSajeshChavaranal Madhavan SK(Shipwright) T.No.14504-W*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriShiju CM SK(Shipwright) T.No.14547-M*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(vi)	*ShriGaikwad MahendraVitthal SK(Shipwright) T.No.14496-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*

Electrical Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriShyamMaha-Baleshwar Kindalkar SK(Electrical Fitter) T.No14456-H*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*Shri Naveen Kumar Sambrani SK(Electrical Fitter) T.No14447-E*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*Shri Ingle Mukesh Ramesh SK(Electrical Fitter) T.No14448-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriShrinivas Suresh Tandel SK(Electrical Fitter) T.No14457-L*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriManjunath DevalappaLamani SK(Electrical Fitter) T.No14449-M*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(vi)	*Shri Vishal Suresh Joglekar SK(Electrical Fitter) T.No14458-N*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(vii)	*Shri V ketKamalakar Govekar SK(Electrical Fitter) T.No14459-T*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(viii)	*ShriSatishMaruthi Harikantra SK(Electrical Fitter) T.No14460-L*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ix)	*ShriBodade Manoj Ganpat SK(Electrical Fitter) T.No14451-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(x)	*ShriRajendra Shejwadkar SK(Electrical Fitter) T.No14401-A*	*ST*	*26 Dec 18*	*NSRY(Kar)*
Machinist Trade, HSK-II for the year 2017-18				
(i)	*ShriSrikanth V SK(Machinist) T.No.15023-W*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriSujit Kumar Parida SK(Machinist) T.No.14893-H*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriAstava Naga Murali SK(Machinist)*	*OBC*	*26 Dec 18*	*NSRY(Kar)*

	T.No.16327-E			
(iv)	*ShriSuryanarayana Ventapalli SK(Machinist) T.No.16330-E*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriBharath Kumar Putcha SK(Machinist) T.No.16331-K*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(vi)	*ShriPradeepTattikota SK(Machinist) T.No.16319-H*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(vii)	*ShriSwajeesh C SK(Machinist) T.No.16320-W*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(viii)	*ShriTompala Praveen SK(Machinist) T.No.16322-H*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Pipe Fitter Trade, HSK-II for the year 2017-18				
(i)	*Sri VamsidharPamula SK(Pipe Fitter) T.No.16334-W*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*Shri Anil Kumar SK(Pipe Fitter) T.No.16336-H*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriVechalapuEswar SK(Pipe Fitter) T.No.16337-L*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriBandariMuthyalu Naidu SK(Pipe Fitter) T.No.16338-N*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
GT Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriTulasidas C Kudtakar SK(GT Fitter) T.No.14975-L*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
Engine Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriVinayak G Shirokdkar SK(Engine Fitter) T.No.14965-E*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriSurjith K.N SK(Engine Fitter) T.No.14966-K*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
MC Fitter Trade, HSK-II for the year 2017-18				

(i)	*ShriAnantharaju N Poojari SK(MC Fitter) T.No.14954-R*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
Weapon Fitter Trade, HSK-II for the year 2017-18				
(i)	*Shri Ram BrijMaurya SK(Weapon Fitter) T.No.14964-R*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
Computer Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriDarshanUlhas Mahekar SK(Computer Fitter) T.No.15834-H*	*GEN*	*26 Dec 18*	*NSRY*
(ii)	*Shri Deepak Manohar Naik SK(Computer Fitter) T.No.15835-L*	*GEN*	*26 Dec 18*	*NSRY*
(iii)	*Jayesh Anil Kalgutkar SK(Computer Fitter) T.No.15836-N*	*OBC*	*26 Dec 18*	*NSRY*
Radar Fitter Trade, HSK-II for the year 2017-18				
(i)	*ShriBharath Kumar N SK(Radar Fitter) T.No.14972-W*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*Smt Padma M Nayak SK(Radar Fitter) T.No.13235-K*	*ST*	*26 Dec 18*	*NSRY(Kar)*
Electrical Fitter Trade, HSK-II for the year 2017-18				
(i)	*Shri Rajesh M. Gavde SK(Electrical Fitter) T.No.14977-T*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriVigneshwa MaheshwarNaik SK(Electrical Fitter) T.No.14980-T*	*GEN*		*NSRY(Kar)*
(iii)	*ShriMuthu Krishnan Sudalaiyandi SK(Electrical Fitter) T.No.14947-A*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriRamachndra G Sawant SK(Electrical Fitter) T.No.13886-B*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriVinayak Salaskar*	*OBC*	*26 Dec 18*	*NSRY(Kar)*

	SK(Electrical Fitter) T.No.13884-R			
(vi)	*ShriSardeshJaneshwar Pedneka SK(Electrical Fitter) T.No.16030-B*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(vii)	*Shri Ashok Kumar Nanda SK(Electrical Fitter) T.No.15955-K*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(viii)	*ShriSujeet Kumar SK(Electrical Fitter) T.No.15954-E*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ix)	*Shri V. Apparao P SK(Electrical Fitter) T.No.16228-A*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(x)	*ShriSeshagiriKanni SK(Electrical Fitter) T.No.16236-W*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Welder Trade, HSK-II for the year 2017-18				
(i)	*ShriSatyanarain SK(Welder) T.No.15021-M*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
Painter Trade, HSK-II for the year 2017-18				
(i)	*ShriSanjeev Kumar VU SK(Painter) T.No.14955-W*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriWadipalli RukhamajiShankarrao SK(Painter) T.No.14985-R*	*OBC*	*26 Dec 18*	*MO(Kar)*
Tailor, HSK-II for the year 2017-18				
(i)	*SmtBharathiSainath Pawaskar SK(Tailor) T.No.13234-E*	*SC*	*26 Dec 18*	*INHS Patanjali*
Shipwright, HSK-II for the year 2017-18				
(i)	*ShriPrajeesh PN SK(Shipwright) T.No.15020-K*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
Plater, HSK-II for the year 2017-18				
(i)	*ShriHanamant Nadageri SK(Plater) T.No.14960-H*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriRanePratap*	*GEN*	*26 Dec 18*	*NSRY(Kar)*

	Purushottam SK(Plater) T.No.15847-B			
(iii)	*ShriGajananRohidas Pednekar SK(Plater) T.No.15848-H*	*ST*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriIrappaTippanna Bheemappanavar SK(Plater) T.No.12809-T*	*ST*	*26 Dec 18*	*NSRY(Kar)*
Rigger, HSK-II for the year 2017-18				
(i)	*Shri Kale Hemant Gajanan SK(Rigger) T.No.14941-W*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(ii)	*ShriNileshAchutNaik SK(Rigger) T.No.15857-K*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*Shri Rajesh Rajnath Yadav SK(Rigger) T.No.15858-M*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(iv)	*ShriPathalaVenkata NookaRaju SK(Rigger) T.No.15860-K*	*GEN/Ex-Ser*	*26 Dec 18*	*NSRY(Kar)*
(v)	*ShriPrasannaPuranmal Sharma SK(Rigger) T.No.15859-R*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(vi)	*ShriMahekar Mahesh Ulhas SK(Rigger) T.No.15856-L*	*GEN*	*26 Dec 18*	*NSRY(Kar)*
(vii)	*ShriAmbigUmesh* Baglu *SK(Rigger) T.No.15861-M*	*OBC*	*26 Dec 18*	*NSRY(Kar)*
(viii)	*ShriRajuGiriyaHulswar SK(Rigger) T.No.15866-L*	*SC*	*26 Dec 18*	*NSRY(Kar)*
Civil Works, HSK-II for the year 2017-18				
(i)	*ShriShambulingiah KA SK(Civil Works) T.No.12800-K*	*UR*	*26 Dec 18*	*NSRY(Kar)*
ICE Crane Fitter, HSK-II for the year 2017-18				
(i)	*Shri Manoj PM SK(ICE Crane Fitter)*	*OBC*	*26 Dec 18*	*NSRY(Kar)*

	T.No.14959-N			
(ii)	*ShriBakul Roy SK(ICE Crane Fitter) T.No.14958-L*	*SC*	*26 Dec 18*	*NSRY(Kar)*
(iii)	*ShriYogesh Vijay Nayak SK(ICE Crane Fitter) T.No.14943-H*	*OBC*	*26 Dec 18*	*INS Vajrakosh*
MT Fitter, HSK-II for the year 2017-18				
(i)	*ShriShridhar M Hodahodekar SK(MT Fitter) T.No.13240-R*	*OBC*	*26 Dec 18*	*CTP/ CNTW (Kar)*
(ii)	*ShriMahendra M Naik SK(MT Fitter) T.No.13601-H*	*OBC*	*26 Dec 18*	*CTP/ CNTW (Kar)*
Shiplift Operator and Maintenance, HSK-II for the year 2017-18				
(i)	*ShriVivek V Gajinkar SK(Shiplift Operator and Maintenance) T.No.15030-N*	*GEN*	*26 Dec 18*	*NSRY(Kar)*

3.The promotion of above individual will take immediate effect from the date indicated at para 2 above, considering the individual assumed the duty in the higher post on the same day. The promotion of the individual is subject to the out come of the court cases, if any, and also any administrative decision or otherwise on grounds of disciplinary, currency of punishment, the proceeding cover will be considered at the appropriate time.

4.It is stated that the pay fixation of the above individual may be carried out in accordance with the instructions contained in this Headquarters letter CS/IV/2920 dated 04 Oct 2000 after exercising option, if any, in the stipulated period.

5.In the event of availing of financial upgradation under MACP Scheme and subsequent pay fixation, no further pay fixation is authorized against the above promotion.

6.The promotion will take effect from the date of assumption of duty in the higher grade at stations where they are posted.

7.The concerned individual be informed accordingly and the promotion be published in the CE Order and entries thereof made in the service Documents of the respective individual.

8.The charge assumption report be forwarded to this Headquarters within one month of the date of eventuality.

9.The above promotion orders are applicable as per DOP&T guidelines/instructions wherein the promotion will be effective from the date on which the individual is actually promoted or on the date of the meeting of the DPC, whichever is later.

10.Request receipt of the letter be acknowledged.

Sd/-

Utpal Bora
Administrative Officer-II
Staff Officer(Civ)
For Flag Officer Commanding"

But wherein they would say that the promotion will take effect on assumption of duty on higher grade at stations where they are posted.

6. Learned counsel for the respondents would submit that in 2008, there was restructuring, but it was not implemented, since there were some doubt about how it can be implemented and that is why it got delayed. Apparently, there was a decision by the Bombay Bench of the Tribunal to dispose of the representations and thinking that it is mandate, the respondents have acted.

Now the applicant's claim is covered by the Judgment of the Hon'ble Apex Court in Union of India vs. Zorawar Singh and Jagadish Prasad reported in 1982 (1) SCC 421, which we quote:

> *"(1982) 1 Supreme Court Cases 421*
> *(Before P.N. Bhagwath, R.S Pathak and E.S. Venkataraman, JJ)*
> *Union of India …Appellant*
> *Vs.*
> *Zorawar Singh and Jagadish Prasad …Respondents*
> *Civil Appeals Nos. 1855-1857 of 1971, decided on December 2, 1981.*
> *JUDGMENT*
> *1. There is nothing on the record to show that the appointment of the respondent in each of these three appeals was made on an officiating basis. The order dated May 7, 1964 upgrading the four posts to those of Chief Ticket Inspector does not show that the upgrading was of a temporary character nor does that order promoting the respondents in each of the three appeals to the post of Chief Ticket Inspector show that the promotion was on an officiating basis. The learned counsel appearing on behalf of the Union of India has also not been able to draw our attention to any rule which prescribes that the promotion of an employee to the post of Chief Ticket Inspector shall initially be on officiating basis. We must, therefore, proceed on the basis that that the promotion of the respondents in each of the three appeals to the post of Chief Ticket Inspector was on a permanent basis and if that be so the reversion of each of them must be held to be violative of Article 311(2) of the Constitution. This indeed was not disputed by the learned counsel appearing on behalf of the Union of India. His attempt was only to show that promotion of each respondent was on an officiating basis but for reasons given above that attempt cannot succeed.*
> *2. We accordingly dismiss each of the three appeals with costs. allowed to this extent in limine . No order as to cost."*

7. It also seems to be covered by Hon'ble Apex Court Judgment in Ashok Pal Singh &ors vs. U.P. Judicial Services Asson. &ors., reported in 2011(1)SC 10, which we quote:

"SUPREME COURT OF INDIA

The Hon'bleMr. Justice R.V. Raveendran
The Hon'bleMr. Justice MarkandeyKatju

AshokPal Singh &Ors. ..... Appellants

Vs.

UP Judicial Services Association &Ors. ..... Respondents

Civil Appeal No.1312 of 2005

With

Civil Appeal No. 1313 of 2005 And

CA 7927/2010 (@ SLP(C) No. 11476/2005)

JUDGMENT

R. V. RAVEENDRAN J.

Leave granted in SLP (C) No.11476 of 2005. These appeals arise out of yet another round of litigation in the dispute between direct recruits and promotees in the Uttar Pradesh Higher Judicial Service, having its genesis in two decisions of this Court in the earlier rounds.

2. The recruitment and appointment to the Uttar Pradesh Higher Judicial Service consisting of a single cadre comprising the posts of District and Sessions Judges and Additional District and Sessions Judges are governed and regulated by the U.P. Higher Judicial Services Rules, 1975, (`Rules' for short) framed under Article 309 read with Article 233 of the Constitution of India. The said Rules were amended by the UP Higher Judicial Services (Fourth Amendment) Rules, 1996, with effect from 15.3.1996. For convenience, the Rules before amendment will be referred to as the `Unamended Rules' and the Rules after the 1996 amendment will be referred to as the `Amended Rules'. As we are concerned with the recruitments for the years 1988, 1990, 1992-1994 and 1998-2000, it may be necessary to refer to the unamended Rules in regard to the recruitments relating to 1988, 1990 and 1992-1994, and the amended rules with reference to the 1998-2000 recruitment. Rules 5, 6, 8, 20, 22 and 26 are relevant and they are extracted below :

"5. Source of recruitment - The recruitment to the Service shall be made -

(a) by direct recruitment of pleaders and advocate of not less than seven years standing on the first day of January next following the year in which the notice inviting applications is published :

(b) by promotion of confirmed members of the Uttar Pradesh NyayikSewa (hereinafter referred to as the NyayikSewa, who have put in not less than seven years service to be computed on the first day of January next following the year in which the notice inviting applications is published:

Provided that for so long as suitable officers are available from out of the dying cadre of the Judicial Magistrate, confirmed officers who have put in not less than seven years service to be computed as aforesaid shall be eligible for appointment as Additional Sessions Judges in the Service.

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6. Quota - Subject to the provisions of rule 8, the quota for various source of recruitment shall be-

(i) Direct recruitment from the Bar : 15%
(ii) Uttar Pradesh NyayikSewa : 70% of the vacancies.
(iii) Uttar Pradesh Judicial Officers Service (Judicial Magistrates) : 15%

Provided that where the number of vacancies to be filled in by any of these sources in accordance with the quota is in fraction, less than half shall be ignored and the fraction of half or more shall ordinarily be counted as one: Provided further that when the strength in the cadre of the Judicial Magistrate gradually gets depleted or is completely exhausted and suitable candidates are not available in requisite numbers or no candidate remains available at all, the shortfall in the number of vacancies required to be filled from amongst Judicial Magistrates and in the long run all the vacancies, shall be filled by promotion from amongst the members of the NyayikSewa and their quota shall, in due course, become 85 per cent.

8. Number of appointments to be made - (1) The Court, shall, from time to time, but not later than three years from the last recruitment, fix the number of officers to be taken at the recruitment keeping in view the vacancies then existing and likely to occur in the next two years.

Note : The limitation of three years mentioned in this sub-rule shall not apply to the first recruitment held after the enforcement of these rules.

(2) If at any selection the number of selected direct recruits available for appointment is less than the number of recruits decided by the Court to be taken from that source, the Court may increase correspondingly the number of recruits to be taken by promotion from the NyayikSewa:

Provided that the number of vacancies filled in as aforesaid under this sub rule shall be taken into consideration while fixing the number of vacancies to be allotted to the quota of direct recruits at the next recruitment, and the quota for direct recruits may be raised accordingly; so, however, that the percentage of direct recruits in the Service does not in any case exceed 15 per cent of the total permanent strength of the service.

Provided further that all the permanent vacancies existing on May 10, 1974 plus 31 temporary posts existing on that date, if and when they are converted into permanent posts, shall be filled by promotion from amongst the members of the NyayikSewa; and only the remaining vacancies shall be shared between the three sources under these rules;

Provided also that the number of vacancies equal to 15 per cent of the vacancies referred to in the last preceding proviso shall be worked out for being allocated in future to the Judicial magistrates in addition to their quota of 15 per cent prescribed in rule 6, and thereupon, future recruitment (after the promotion from amongst the members of the NyayikSewa against vacancies referred to in the last preceding proviso) shall be so arranged that for so long as the additional 15 per cent vacancies worked out as above have not been filled up from out of the Judicial magistrates, the allocation of vacancies shall be as follows :

(i) 15% by direct recruitment.
(ii) 30% from out of the Judicial Magistrates;

(iii) 55% from out of the members of the NyayikSewa

Note : The first proviso to sub-Rule (2) of Rule 8 was amended by the Amendment Rules of 1996 omitting the crucial word "permanent" when referring to "15% of the total permanent strength of the service". The first proviso as amended, reads thus :

Provided that the number of vacancies filled in as aforesaid under this sub rule shall be taken into consideration while fixing the number of vacancies to be allotted to the quota of direct recruits at the next recruitment, and the quota for direct recruits may be raised accordingly; so, however, that the percentage of direct recruits in the Service does not in any case exceed 15 per cent of the total strength of the service.]

20. Promotion of members of NyayikSewa :

(1) Recruitment by promotion of the members of the NyayikSewa shall be made by selection on the principle of seniority-cum-merit.

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(4) The Selection Committee shall forward the list of the candidates chosen at the preliminary selection to the Chief Justice along with the names of the officers who, if any, in the opinion of the Committee have been passed over for promotion to the service.

(5) The Court shall examine the recommendations of the Selection Committee and make a final selection for promotion and prepare a list in order of seniority of the candidates who are considered fit for promotion and forward the same to the Governor.

The list shall remain operative only till the next recruitment.

22. Appointment- (1) Subject to the provisions of sub-rules (2) and (3), the Governor shall on receipt from the Court of the list mentioned in Rules 18, 20, and 21 make appointments to the service on the occurrence of substantive vacancies by taking candidates from the lists in the order in which they stand in the respective lists.

(2) Appointments to the service shall be made on the rotational system, the first vacancy shall be filled from the list of officers of the NyayikSewa, the second vacancy shall be filled from the list of direct recruits (and so on), the remaining vacancies shall thereafter be filled by promotion from the list of the officers of the NyayikSewa.

Provided that for so long as suitable officers are available from the cadre of the Judicial Magistrates, appointments to the service shall be made in such a way that the second fifth and eighth (and so on), vacancy shall be filled from the list of Judicial Magistrates.

(3) Appointment for temporary vacancies or in officiating capacity shall be made by the Governor in consultation with the Court from amongst the members of the NyayikSewa.

Provided that for so long as suitable officers are available from the cadre of the Judicial magistrate, appointments on temporary vacancies or in officiating capacity shall be made in consultation with the Court from amongst the Judicial

Magistrate according to the quota fixed for that source under these rules:

Provided further that for so long as such members of the Judicial Service as are considered suitable for appointments on temporary vacancies or in officiating capacity, are not available in sufficient number, the Governor in consultation with the Court may fill in not more than 50 per cent of such vacancies from amongst the officers of the cadre of Judicial Magistrates.

(4) The appointments shall be made on rotational system, the first vacancy shall be filled from the list of officers of the NyayikSewa, the second vacancy shall be filled from the list of Judicial Magistrates (and so on).

[Note : Sub-Rule (3) and its two provisos of Rule 22 were substituted by the following by the Amendment Rules of 1996 :

(3) In the eventuality of delay in making appointment under sub-rule (1) and further if exigency of service so requires, the Governor may, in consultation with the Court, make short term appointment as a stop-gap arrangement from amongst the members of NyayikSewa in the vacancy in these services within the quota fixed by the Court till the appointments are made under sub- rules (1) and (2) :

Provided that the period of service spent by the member of NyayikSewa on short term appointment to the service as a stop-gap arrangement shall not be computed for seniority under Rule 26.]

26. Seniority - (1) Except as provided in sub-rule (1), seniority of members of the service shall be determined as follows :

(a) Seniority of the officers-promoted from the NyayikSewavis-`-vis the officers recruited from the Bar shall be determined from the date of continuous officiation in the service in the case of promoted officers and from the date of their joining the service in the case of direct recruits. Where the date of continuous officiation in the case of an officer promoted form the NyayikSewa and the date of joining the service in the case of a direct recruit is the same, the promoted officer shall be treated as senior Provided that in the case of a promoted officer the maximum period of continuous officiation in the service shall not, for the purpose of determining seniority exceed three years immediately preceding the date of confirmation;

Provided that where any officer is not found fit for confirmation and is not confirmed in his turn, the officiating period or the probationary period, as the case may be, prior to the date of decision taken by the High Court in this behalf shall not be taken into account for purposes of computing the period of continuous officiation or for purposes of working out the date of joining of the service, as the case may be;

(b) Seniority inter se of the officers appointed from out of the Judicial Magistrates shall be determined from the date of continuous officiation, provided that in the case of officers appointed on the basis of one selection, their seniority shall be determined according to their seniority in the Uttar Pradesh Judicial Officers Service:

Provided further that where an officer is not found fit for confirmation and is not confirmed in his turn, the officiating period prior to the date of decision taken by the High Court in this behalf shall not be taken into account for computing the period of continuous officiation. (2) Seniority of members of the service who have

been confirmed in the service prior to the commencement of these rules shall be as has been determined by the order of Government as amended from time to time.

[Note : Rule 26 of 1975 Rules was substituted in entirety by the following by the Amendment Rules of 1996 :

26. Seniority - (1) Seniority of the officers appointed in the service shall be determined in accordance with the order of appointment in the Service under sub-rules (1) and (2) of Rule 22 of these rules.

(2) Seniority of members of the service who have been confirmed in the service prior to the commencement of these rules shall be as has been determined by the order of the Government as amended from time to time.]

3. The dispute between the promotees and direct recruits in regard to their inter-se seniority in the Uttar Pradesh Higher Judicial Services came up before this Court at the instance of promotees in P.K. Dixit vs. State of Uttar Pradesh - 1987 (4) SCC 621. This Court allowed the petitions and directed preparation of fresh seniority list in accordance with the following directions:

"(i) So far as the posts available on a particular dated i.e. May 10, 1974 are concerned the High Court will have to look into the matter afresh and decide the seniority in the light of the above position. But after the 1975 Rules came into force, the appointments to the Higher Judicial Service either on the basis of direct recruitment or on the basis of promotion must have been in accordance with these rules and it is expected that the probation, confirmation and seniority must have been looked into by the High Court strictly in accordance with these Rules.

(ii) Under Rule 22(3) appointment to temporary vacancies shall be made only from the NyayikSewa and as and when a substantive vacancy arises and the procedure for selection is to be followed, the officers who were appointed to fill in the temporary posts should be considered first and appointed on probation, if found fit. When appointment under Rule 22 is contemplated in the service of substantive vacancies, it may be both temporary or permanent but the vacancy must be in the cadre. A person could only be confirmed when a permanent post is available for him.

(iii) If a person is appointed to officiate in the Higher Judicial Service his case for confirmation normally will be considered within three years and either he will be confirmed or will be reverted. The High Court must examine the case of a promotee officer within three years and decide whether the officer deserves to be confirmed or deserves to be reverted. It is with this view that Rule 23 provides that period of probation shall not ordinarily exceed three years and Rule 26 provides that in case of promotee officer's continuous officiation even if it is for more than three years, only three years will be counted for purpose of seniority. This itself contemplates that such an occasion shall not arise when a person may be officiating for more than three years and still his case hs not been considered for confirmation."

4. Pursuant to the judgment in P.K. Dixit, the High Court issued a tentative seniority list on 11.2.1988 and objections were invited. The promotees were satisfied that the said list was drawn in conformity with the judgment in P.K.Dixit and unobjectionable. The High Court constituted a Five-Judge Committee to finalise the list. On the basis of the report of the committee, final seniority list was

issued on 25.8.1988. Aggrieved by the final seniority list, the promotees (O.P. Garg and four others) filed a writ petition. The petitioners P.K. Dixit filed an application in the said petition seeking clarification and supporting the case of the promotees. The direct recruits filed a writ petition challenging the final seniority list issued by the High Court. Both sides contended, for different reasons, that the final seniority list dated 25.8.1988 was contrary to the decision in P.K. Dixit. This court found that the High Court, the direct recruits and promotees were interpreting the directions and observations in P.K. Dixit differently. Therefore this court in its judgment dated 23.4.1991, reported in O.P. Garg v. State of U.P. &Ors. - 1991 (Supp) 2 SCC 51, decided to take a fresh look into the matter in regard to aspects which were not dealt with and decided by P.K. Dixit. This court, therefore, posed the following three questions for consideration :

1. What is the scope and interpretation of second proviso to Rule 8(2) of the 1975 rules? Whether the Additional District and Sessions Judges, holding the posts on April 5, 1975, can claim that by operation of the 1974 Rules they stood appointed to the service and as such consumed all the posts which were available on April 5, 1975 or they were only entitled to vacancies under the second proviso to Rule 8(2) of the 1975 rules?

2. Whether the period of continuous officiation in case of a promotee, for determining seniority, is to be counted in terms of First proviso to Rule 26(1)(a) of the 1975 Rules or in accordance with the principle adopted by the High Court. Isn't it the requirement of law that a promotee is entitled to seniority in the service from the date when vacancy in his quota became available?

3. Seniority and appointment in the service being inter- linked a further question which necessarily arises for our consideration is whether Rules 22(3) and 22(4) of the 1975 rules, which provide appointments to temporary posts in the service from two sources of promotees excluding the direct recruits, can be legally sustained?

On consideration of the issues, this Court quashed the final seniority list dated 25.8.1988 with a direction to the High Court to prepare, circulate, invite objections and then finalize the seniority list keeping in view the following directions, declarations and findings:

"(i) All the 236 promotee officers working against 236 posts (229 permanent plus 7 temporary) as Additional District and Sessions Judges on April 5, 1975 shall be deemed to be existing members of the Service as constituted under the Rules with a direction that they shall en bloc rank senior to all other officers appointed to the service thereafter from three sources in accordance with their quota under the Rules.

(ii) The first proviso to Rule 26(1)(a) of the Rules was struck down with a direction that the continuous officiation/service by a promotee appointed under the Rules shall be counted for determining his seniority from the date when a substantive vacancy in permanent or temporary post is made available in his quota under the Rules.

(iii) Sub-rules (3) and (4) of Rule 22 were struck down with the saving that the appointments already made under the said Sub-rules shall not be invalidated.

(iv) While selecting candidates under Rule 18 of the said rules, the committee shall prepare a merit list of candidates twice the number of vacancies and the said list shall remain operative till the next recruitment; and the appointments under

Rules 22(1) and 22(2) of the Rules shall be made to permanent as well as to temporary posts from all the three sources in accordance with the quota provided under the said rules.

5. In pursuance of the decision in O.P. Garg, the High Court calculated the vacancies under different quotas for recruitment/promotion for different periods. The dispute centeringaround the method of calculation made by the High Court in regard to the ratio between direct recruits and promotees in a given year, again came up before this court in one more round between promotees and direct recruitees in SrikantTripathi&Ors. v. State of U.P. &Ors. [2001 (10) SCC 237], wherein this Court issued the following directions :

"1. Appointments already made to the Higher Judicial Service, whether by direct recruitment or by promotion, need not be annulled and shall be continued.

2. With effect from 1988 recruitment and in all subsequent recruitments which are the subject matter of challenge before us, the High Court shall determine the number of vacancies available as on the relevant year of recruitment in terms of Rule 8, as already explained by us and then, allocate the percentage to different sources of recruitment, contained in Rule 6, and after such determination is made, then find out whether the appointments of direct recruits already made for that recruitment year are in excess of the quota or within the quota. If it is found that any appointment has been made in excess of the quota, then the said appointee would be allowed to continue, but his or her seniority will have to be reckoned only when he or she is adjusted in the next recruitment.

3. If in each recruitment year, posts were available in the quota of promotees and promotion has not been made, even though selection had been made under Rule 20, then the legitimate right of the promotees cannot be denied and promotion must be made with effect from the date they should have been appointed.

4. This exercise has to be made for the recruitment of 1988 as well as for each subsequent recruitment that has been made.

5. Since the determination under Rule 8 is being made now, pursuant to the directions of this Court, in respect of past recruitment years for which recruitment has been made, the expression "vacancies likely to occur" loses its importance and determination has to be made, on the basis of the actual vacancies available in any of such recruitment year.

6. So far as the recruitment of 1998 is concerned, advertisements having been issued for 38 vacancies being filled up by direct recruitment and the process of selection being already over, but no appointment having been made, we think it appropriate to direct that the appointment of the selected candidates may be made against the quota available to direct recruits calculated in accordance with the Rules in the light of our decision.

7. For all future appointments, the High Court must take steps to fill the vacancies of every recruitment year during that year itself. The High Court must determine the vacancies not only on the basis of the actual vacancies on the date of such determination but also take into account probable vacancies by reason of superannuation of officers in the next two years from that date. Once the vacancies are so determined, the percentage of the vacancies available for recruitment by direct recruitment and by promotion must be fixed and steps taken for filling up the same expeditiously. The number of vacancies available for the

direct recruits quota must be advertised without any variation clause. The Select List prepared both for direct recruits as well as for promotees prepared by the High Court will be operative only till the next recruitment commences with the fixation of the vacancies for the next recruitment year.

6. On 30.11.2001 the Chief Justice of the High Court placed the matter before the Administrative Committee of the High Court, for implementation of the directions in SrikantTripathi. On 5.12.2001, the Administrative Committee in turn constituted a Three Member Sub-Committee to examine and submit a report. The Sub-Committee examined the matter and submitted a report dated 24.8.2002, determining the actual number of vacancies available for the 1988, 1990, 1992-1994 and the 1998 (initiated in 2000) and the actual recruitments made, with other details. We extract below the operative portion of the said report:

"The office on re-examination of record has found that 13 vacancies were left out inadvertently from being incorporated in the existing Gradation List. The details of those vacancies have been given on page no.13 of the appendix attached herewith.

Before the process of 1988 recruitment could commence, 5 direct recruits were appointed in the U.P. Higher Judicial Service Cadre on different dates under the order of Hon'ble Supreme Court. Since no vacancies have been allocated to them in the existing Gradation List, we have allocated 5 vacancies out of 13 left out vacancies to these direct recruits, the details of which have been shown on page no.14.

As per direction no.5 referred to above, we have determined the vacancies after taking into account the vacancies which existed before 1.1.1988 and also the vacancies which actually occurred or accrued during the recruitment period and not on the basis of the expression `likely to occur'. On re-calculation, we find that in all there were 314 actual vacancies available for 1988 recruitment, as shown below and whose details are indicated on page 16 of the appendix.

(A) Vacancies which remained unfilled prior to 1.1.1988

Remaining vacancies out of 13 vacancies which	
were left out inadvertently in the Gradation List	*08*
Vacancies which occurred or accrued between-	
24.5.1984 to 31.12.1984	*23*
1.1.1985 to 31.12.1985	*34*
1.1.1986 to 31.12.1986	*40*
1.1.1987 to 31.12.1987	*129*
Total	*234*

(B) Vacancies which actually occurred or accrued between –

1.1.1988 to 31`.12.1990.	*80*
Total number of vacancies available for recruitment	*314*

Though as per quota Rule, 47 direct recruits could be appointed out of 314 vacancies but because of the ceiling imposed under the Rules, only 42 direct

recruits could be appointed as their number could not at any point of time exceed 15% of the Cadre strength. Instead of 42, only 24 direct recruits were recruited from the Bar and 3 vacancies within their quota were kept reserved for SC/ST candidates which were carried forward to the next recruitment. We thus find that the appointment of the direct recruits made in 1988 recruitment was not in excess of their quota. The Apex Court observed as under:

"If it is found that any appointment has been made in excess of the quota, then the said appointee would be allowed to continue but his or her seniority will have to be reckoned only when he or she is adjusted in the next recruitment."

Since from the chart prepared on page 16 it is apparent that there has been no appointment in excess of the quota of direct recruits in 1988 recruitment, no question thus arises for the seniority of the direct recruits being adjusted in the next recruitment.

On the same basis, similar exercise was made in relation to subsequent recruitments of 1990 and 1992-94 batches. The position of the actual vacancies available for these recruitments has been exhibited in the charts on pages 38 and 48 respectively.

For the latest recruitment of 2000, the court has fixed the number of direct recruits to be recruited as 38. We have worked out the total number of vacancies available for this recruitment and they have been indicated in the chart shown on page 69. From this chart it would appear that maximum number of direct recruits who could be appointed under the Rules comes to 38. Advertisement has also been made for making 38 appointments within the quota of direct recruits. In this view of the mater 38 appointments within the quota of direct recruits has to be made in the 2000 recruitment. We have been told that examination has already been held but its result is awaited as vacancies were to be calculated afresh in the light of the directions of the Apex Court in the case of Shri Kant Tripathi. Direction no. 6 was in the following term:

So far as the recruitment of 1998 is concerned advertisements having been issued for 38 vacancies being filled up by direct recruitment and the process of selection being already over, but no appointment having been made, we think it appropriate to direct that the appointment of the selected candidates may be made against the quota available to direct recruits calculated in accordance with the Rules in the light of our decision.

As a matter of fact no recruitment was made in 1998, instead the court has initiated the recruitment process for 2000 recruitment.

On re-calculation, we have already found above that 38 vacancies are available in the quota of direct recruits for their appointment in 2000 recruitment. Advertisement was also made for the same number of posts. Therefore, 38 appointments may be made from the members of the Bar in accordance with the Rules. Similarly 334 promoted officers, if available and found suitable, be also recruited for appointment to service in accordance with rule 22(1) read with rule 22(2).

For future recruitment, office is directed to take steps in accordance with direction no.7. Office shall immediately calculate the actual number of vacancies as are found existing on the date of such determination. It shall also work out the probable vacancies likely to occur in the next two years from that date by reason

of superannuation. This figure shall be added to the number of existing vacancies and thereafter the percentage of vacancies available for both the sources shall be fixed and steps shall be taken for filling up the same expeditiously. The vacancies which are worked out in the direct recruits quota shall be advertised without any variation clause.

We may add that we have not gone into the question of inter se seniority between the promoted officers and the direct recruits because for that purpose a separate Committee has been constituted by the Chief Justice." The factual position as worked out in the annexures to the said report is as under :

Description	*1988*	*1990*	*1992-94*	*1998*
	(with expected vacanciesuptovacancies upto 31.12.1990)	*(with expected 31.12.1992)*	*(with expected vacancies upto 31.12.1997)*	*(with expected vacancies upto 2000)*
Total vacancies Carried forward	*8*	*96*	*117*	*196*
Vacancies during The period	*306*	*44*	*261*	*176*
Total	*314*	*140*	*378*	*372*
Allotment of vacancies				
Promotees	*267*	*119*	*321*	*316*
Direct recruits	*47*	*21*	*57*	*56*
Cadre strength				
Permanent	*376*	*511*	*572*	*572*
Temporary	*219*	*85*	*169*	*226*
Total	*595*	*596*	*741*	*798*
15% of Cadre Strength (maximum number of direct recruits permissible with reference to cadre strength)	*89*	*89*	*111*	*120*
Actual number of Direct recruits working	*47* *42*	*73* *16*	*66* *45*	*82* *38*
Maximum number of Direct recruits who could Be appointed				
Actual recruitment				
Promotees	*191*	*17*	*161 (48+113)*	*Permissible: 334*
Direct recruits	*24*	*5*		*Permissible: 38*
Vacancies kept Reserved for ST/ST	*3*	*1*		
Unfilled to be carried Forward	*96*	*117*		*196*

The said report was approved by the Administrative Committee on 4.9.2002 and was approved by the Full Court of the High Court on 1.2.2004.

7. The promotees were aggrieved by the acceptance of the Report by the Full Court. They contended that calculations made by the Sub-Committee and the conclusion arrived by it that that the actual number of direct recruitment made for the said years was not in excess of the quota available for direct recruits, were erroneous. According to them, the posts available in the quota of promotees (NyayikSewa Officers) was 475 for 1998 recruitment and not 334. They also disputed the finding that 38 vacancies were available for direct recruitment in 1998. Their cause was espoused by the UP Higher Judicial Service Association by filing a writ petition (WP No.316 of 2004) seeking the following reliefs :

(i) a direction to the State and the High Court not to make any appointment by direct recruitment in the UP Higher Judicial Service until the posts available for promotion of members of the UP NyayikSewa with effect from 1988 recruitment are calculated and filled up in accordance with the Rules as directed by this Court in S.K. Tripathi;

(i) a direction to the State and the High Court to appoint to the UP Higher Judicial Service, the members of the said Association against the 222 existing vacancies in the quota of promotees; and

(iii) quashing the decision of the Full Court of the High Court dated 1.2.2004 accepting the recommendations of the three-member Committee dated 24.8.2004.

8. A Division Bench of the High Court allowed the said writ petition by the impugned order dated 25.8.2004. It quashed the resolution of the Full Court dated 1.2.2004 accepting the recommendations of the three-member Committee dated 24.8.2002 and directed a fresh exercise to be carried out in the light of SrikantTripathi to determine the vacancies and their distribution between the three sources of recruitment as per their quota under the Rules, for the recruitment years 1988 to 1998 in accordance with the following guidelines :

(1) The number of the officers of NyayikSewa and Judicial Service who were already promoted and appointed against temporary posts under Rule 22(3) or 22(4) of the Rules and whose appointments have been protected in O P Garg would be taken into consideration and the number of vacancies equal to the number of such officers shall be excluded from computation.

(2) While applying the ratio of judgment in O P Garg and distributing temporary as well as permanent vacancies, allocation of 15% vacancies of the quota of direct recruits under rule 6 of the Rules, has further to be subject to ceiling of 15% of the permanent strength of service, till the amendment in the rules came into effect i.e. 25th February, 1996.

(3) While making an exercise to find out (in accordance with direction no.2) as to whether the direct recruits taken into service are in excess of the quota or not, simultaneous exercise has to be done for compliance of direction no.3 in

S.K. Tripathi and vacancies of the quota of promotees shall be deemed to have been filled up from the date they are entitled to promotion.

(4) Thirty one posts of the service which have been transferred to Uttaranchal with effect from 30.9.2001 shall be excluded while determining the strength of the service in order to work out 15% of the quota of direct recruits.

(5) Out of 13 unnoticed vacancies, found by the office in the year 1988 only two vacancies equal to 15% of the quota of direct recruits be given to them instead of adjusting five appointments en bloc and again giving one out of eight vacancies to them applying 15% quota rule.

(6) The second proviso to Rule 6 be also given effect to as and when the occasion arises.

The Division Bench issued a consequential direction that the State Government and the High Court cannot be permitted to appoint thirty eight direct recruits for the 1998 recruitment year and permitted the State and the High Court to proceed with the appointment of direct recruits for 1998 not exceeding twenty four and also fill up 334 posts by promotion subject to the final determination of vacancies in accordance with the directions contained therein. The said order is challenged in these civil appeals.

9. Judicial Officers belonging to U.P. Higher Judicial Service appointed in the direct recruits quota, in the years 1988, 1990, 1992 and 1994, who were not parties before the High Court and whose seniority is adversely affected by the order of the division bench of the High Court are the appellants in C.A. No.1312/2005.

The High Court of Allahabad which was the second respondent in the writ petition filed by the U.P. Judicial Service Association, is the appellant in C.A.No.1313/2005.

The candidates who participated in the U.P. Higher Judicial Service Examination, 2000 for direct recruitment and whose names are found in the select list but who are not appointed in view of the directions in the impugned order (to restrict the appointments to only 24 instead of 38), have filed the last appeal.

10. The appellants (direct recruits, the High Court administration and the prospective direct recruits) in their respective appeals, have contended that directions (1), (2), and (3) issued by the Division Bench as also the consequential direction to conduct a fresh exercise in the light of Srikant Tripathi are erroneous and require interference. Their contentions in brief are:

(a) The direction by the division bench of the High Court that the vacancies occupied by promotees in excess of their quota whose appointments were protected by the Supreme Court, shall be excluded from the computation of the respective quotas for direct recruitments and promotion, is contrary to the decision in SrikantTripathi, but also inconsistent with the settled legal position vide A. K. Subraman vs. Union of India - (1975) 1 SCC 319 and P.S. Mahal vs. Union of India - (1984) 4 SCC 545.

(b) The interpretation of the first proviso to Rule 8(2) is contrary to the decision in O.P. Garg and inconsistent with the views of this Court in OP Singla&Anr. vs.

Union of India &Ors. - (1984) 4 SCC 450.

(c) The direction that the ceiling of 15% of permanent strength of the service should be given effect, till the amended Rules came into effect (15.3.1996), instead of treating 15% of the cadre strength as quota for direct recruits, is contrary to the decision in O.P. Garg, holding that "all temporary posts created under Rule 4 (4) of the 1975 Rules are additions to the permanent strength of the cadre and as such form part of the cadre."

11. On the contentions raised, the following questions arise for our consideration :

(i) Whether the vacancies occupied by judicial officers promoted and appointed against temporary posts under Sub-Rules (3) or (4) of Rule 22 should be excluded when computing the respective quotas for promotees and direct recruits?

(ii) Whether the direct recruits are entitled to 15% of the vacancies as a fixed quota or whether the said percentage is a ceiling imposed in regard to direct recruitment meaning that the vacant posts shall not be filled up more than 15% by the direct recruits?

(iii) Whether the words "15% of the total permanent strength of the service" occurring in first proviso to sub-Rule (2) of Rule 8 of the unamended Rules (as contrasted from "15% of the strength of the service" after the amendment), shall be given effect in computing the respective quotas of promotees and direct recruits till the amendment of Rules (effective from 15.3.1996) deleting the word "permanent" in the said first proviso?

(iv) Whether the procedure of carrying forward vacancies adopted by the full court of the High Court is erroneous having regard to the specific provisions of Rule 8(2) and direction no.3 issued by this Court in SrikantTripathi?

The answers to these questions would to a large extent depend upon the interpretation of the earlier decisions of this Court in O.P. Garg and SrikantTripathi.

Re : Question (i)

12. In O. P. Garg, this Court struck down Rules 22(3) and 22(4) which confined the appointment to temporary posts to only promotees (NyayikSewa and Judicial Magistrates) held that when temporary posts under Rule 4(4) of the 1975 Rules are created as addition to the cadre, the direct recruits could not be denied their share of the quota as provided under Rule 6 of the said Rules; and as the services were comprised of three sources including the direct recruitment, there was no justification to deprive the direct recruits of their share in the temporary posts in the service. This court also struck down the first proviso to Rule 26(1)(a). As a result this Court directed :

"We also strike down Rules 22(3) and 22(4) of the 1975 Rules but the appointments already made under these rules shall not be invalidated. We further direct that while selecting candidates under Rule 18 of the said Rules the Committee shall prepare a merit of candidates twice the number of vacancies and the said list shall remain operative till the next recruitment. We further direct that the appointments under Rules 22(1) and 22(2) of the 1975 rules shall be made to permanent as well as to temporary posts from all the

three sources in accordance with the quota provided under the said rules."

Since the recruitment to the service is from three sources, the existence of a vacancy either permanent or temporary is the sine qua non for claiming benefit of continuous length of service towards seniority. The period of officiation/service which is not against a substantive vacancy (permanent or temporary) cannot be counted towards seniority. While striking down first proviso to Rule 26(1)(a) of the 1975 Rules, we hold that the continuous officiation/service by a promotee shall be counted for determining his seniority only from the date when a substantive vacancy against a permanent or temporary post is made available in his quota under the 1975 Rules."

13. As a consequence of striking down of the sub-rules(3) and (4) of Rule 22, the appointments already made by applying those rules had to be invalidated to the extent of 15% which was the quota of direct recruits, resulting in the reversion of those who were promoted to vacancies to which direct recruits were entitled and filling those vacancies by direct recruitment. But, this Court did not want any of the appointments already made under the sub-rules 22(3) and (4) to be invalidated. It, therefore, extended limited protection to those appointments of promotees already made to the higher temporary posts which ought to have gone to the direct recruits quota by directing that appointments already made under Rules 22(3) and 22(4) shall not be invalidated. This saved such promotees from reversion. What was saved was only their appointments and not the seniority by reason of the illegal appointments. The effect of saving the promotee from invalidation of the promotion is that he would be allowed to continue, but his seniority will be reckoned only when he is adjusted against a promotee vacancy in the next recruitment. Therefore all the consequences of striking down Rules 22(3) and 22(4) followed, the only consequence that was excluded was the invalidation of appointments already made by applying the said sub-rules 22(3) and 22(4). Such protection cannot be widened or extended, to deny the quota of direct recruits in the temporary vacancies and thereby nullify the striking of the said sub-rules. Nor can the protection against invalidation of promotion be used to exclude the number of vacancies equal to the number of officers who were given protection, while computing the vacancies to be filled by different sources. Consequently, in spite of the protection against invalidation and reversion, all the appointments of promotees to temporary vacancies will have to be counted and adjusted against the substantive vacancies under promotee quota under the Rules. In short, the direct recruits should be given quota in the temporary posts also. Therefore, the first direction in the impugned judgment of the High Court (that vacancies occupied by promotees in excess of their quota shall be excluded from computation of respective quotas for direct recruitment and promotion) is contrary to the decision in O. P. Garg, and cannot be sustained.

Re : Question No.(ii)

14. Rule 6 relates to quota for various sources of recruitment and provides the quota for direct recruitment from the Bar shall be 15% of the vacancies subject to the provision of Rule 8. Sub-Rule (2) of Rule 8 provides that if at any selection, the number of selected direct recruits available for appointment is less than the number of recruits decided by the High Court to be taken from that source, the court may increase accordingly the number of recruits to be

taken by promotion from the NyayikSewa. The first proviso to the said sub-rule provides that the number of vacancies filled in as aforesaid under the Sub-Rule (2) of Rule 8 shall be taken into consideration while fixing the number of vacancies to be allotted to the quota of direct recruits at the next recruitment and the quota for direct recruits may be raised accordingly and in so doing, the percentage of direct recruits in the service does not in any case exceed 15% of the total permanent strength of the service. By the 1996 amendment to the Rules, with effect from 15.3.1996, the word total permanent was deleted and as a result the last part of the first proviso to Rule 8(2) from 15.3.1996 reads thus : "so, however, that the percentage of direct recruits in the service does not in any case exceed 15% of the strength of the service".

15. The promotees contend that having regard to the wording of Rule 8(2) and its first proviso, there is a ceiling of 15% of the total permanent strength for direct recruits. They contend that while the appointments by direct recruitment could not exceed 15% of the strength of the service, the appointment by promotion can exceed the quota of 85%. On the other hand, the direct recruits contend that their quota is 15% of the strength of the service. They point out that even if any shortfall in the number of selected direct recruits is filled by increasing the number of promotees, at the nextrecruitment, the shortfall has to be made good while fixing the number of vacancies to be filled by direct recruits and by promotion and this showed that their quota was 15%.

16. Both sides relied upon the decision of this Court in O,P, Singla vs. Union of India - (1984) 4 SCC 450, in support of their respective contentions. While the promotees relied upon para 16 of O.P. Singla to contend that the Rules refer to the 15% as a ceiling for appointment of direct recruits and there is no obligation to fill 15% of the vacancies with direct recruits, direct recruits relied upon para 17 of O.P. Singla, to contend that the Rules prescribe a quota of 15% for direct recruits. We extract below the relevant observations from O.P. Singla :

"16. Logically, we must begin this inquiry with the question as to the interpretation of the proviso to Rule 7. Does that proviso prescribe a quota or does it merely provide for a ceiling ? In other words, does the proviso require that, at any given point of time, 1/3rd of the substantive posts in the Service shall be reserved for direct recruits or does it only stipulate that the posts held by direct recruits shall not be more than 1/3rd of the total number of substantive posts in the Service ? The proviso reads thus:

Provided that not more than 1/3rd of the substantive posts in the Service shall be held by direct recruits.

This language is more consistent with the contention of the promotees that the proviso merely prescribes, by way of imposing a ceiling, that the direct recruits shall not hold more than 1/3rd of the substantive posts. Experience shows that any provision which is intended to prescribe a quota, generally provides that, for example, "1/3rd of the substantive posts shall be filled in by direct recruitment." A quota provision does not use the negative language, as the proviso in the instant case does, that "not more than" one-third of the substantive posts in the Service shall be held by direct recruits.

17. If the matter were to rest with the proviso, its interpretation would have to be that it does not prescribe a quota for direct recruits : it only enables the appointment of direct recruits to substantive posts so that, they shall not hold

more than 1/3rd of the total number of substantive posts in the Service. However, it is well recognised that, when a rule or a section is a part of an integral scheme, it should not be considered or construed in isolation. One must have regard to the scheme of the fasciculus of the relevant rules or sections in order to determine the true meaning of any one or more of them. An isolated consideration of a provision leads to the risk of some other inter-related provision becoming otiose or devoid of meaning. That makes it necessary to call attention to the very next rule, namely, Rule 8. It provides by Clause 2 that :

The seniority of direct recruits vis-a-vispromotees shall be determined in the order of rotation of vacancies between the direct recruits and promotees based on the quotas of vacancies reserved for both categories by Rule 7 provided that the first available vacancy will be filled by a direct recruit and the next two vacancies by promotees and so on.

This provision leaves no doubt that the overall scheme of the rules and the true intendment of the proviso to Rule 7 is that 1/3rd of the substantive posts in the Service must be reserved for direct recruits. Otherwise, there would neither be any occasion nor any justification for rotating vacancies between direct recruits and promotees. Rule 8(2), which deals with fixation of seniority amongst the members of the Service, provides, as it were, a key to the interpretation of the proviso to Rule 7 by saying that the proviso prescribes "quotas" and reserves vacancies for both categories. The language of the proviso to Rule 7 is certainly not felicitous and is unconventional if its intention was to prescribe a quota for direct recruits. But the proviso, as I have stated earlier, must be read along with Rule 8(2) since the two provisions are inter-related. Their combined reading yields but one result, that the proviso prescribes a quota of 1/3rd for direct recruits."

(emphasis supplied)

17. Whether the Rules provide for a specific fixed quota for the direct recruits or whether they merely indicate the ceiling for the appointment by direct recruitment would therefore depend on the wording of the Rules. Rule 6 provides a specific quota of 15% of the vacancies for direct recruits. But as rule 6 provides that the same shall be subject to the provision of Rule 8, the question is whether rule 8 modifies the quota of direct recruits from `15% of the vacancies' to `not more than 15% of the vacancies'. Rules 6 and 8 were interpretated in SrikantTripathithus :

"The recruitment to the service has to be made, both by direct recruitment and by promotion and promotion could be made from amongst the confirmed members of Uttar Pradesh NyayikSewa, who have put in, not less than seven years of service and also from out of the dying cadre of the U.P. Judicial Officers Service. Rule 6 which is subject to Rule 8 and provides for the quota for various sources of recruitment, unequivocally indicates that 15% of the vacancies would be, by direct recruitment from the Bar, 70% of the vacancies from the Uttar Pradesh NyayikSewa and 15% from Uttar Pradesh Judicial Officers Service. Under the second proviso to Rule 6, when the strength in the cadre of Judicial Magistrate gets completely exhausted and no officer from that cadre is available, then the vacancies in the cadre of Higher Judicial Service have to be filled up by 15% from the direct recruitment from the Bar and 85% from Uttar Pradesh NyayikSewa.

On fixation of the number of officers to be taken at the recruitment under sub-rule (1) of Rule 8 from different sources and after taking recourse to the procedure contained in Part IV for making direct recruitment to the service in respect of the vacancies advertised, if selected direct recruits for appointment become less than the number decided by the Court to be recruited, then it would be open for the Court to correspondingly increase the number of recruits to be taken by promotion from NyayikSewa. But under the proviso, while fixing the number of vacancies to be allotted to the quota of direct recruits at the next recruitment under sub-rule (1) of Rule 8, the quota has to be raised to the extent the number was not available in the earlier recruitment. But that raising of number would in no case exceed 15 percent of the strength of the service. It may be noted that while the rules prohibit that under no situation, the number of direct recruits would exceed 15 percent of the cadre strength, there is no prohibition so far as promotees are concerned and, therefore, in a given situation, the rule contemplates of having promotees more than the quota fixed for them viz. 85 per cent. As we have stated earlier, this issue has not cropped up in the present batch of cases and as such, we need not further probe into the matter. But it must be remembered that the rules only provide the embargo that under no circumstances the Direct Recruits would exceed the 15% of cadre strength. But that does not compel the High Court to recruit 15% of the vacancies by direct recruitment at every recruitment."-(Emphasis supplied)

18. Though the Rules do not compel the High Court to recruit 15% of the vacancies by direct recruitment at every recruitment, they require the High Court to take note of any shortfall in the number of direct recruits at recruitment, during the next recruitment by raising the quota correspondingly. Thus when the first proviso to Rule 8(2) uses the words that the "percentage of direct recruits in the services does not in any case exceed 15%", the intention is to ensure that the direct recruits maintain their quota of 15%, that is, while doing adjustments in fixing the number of vacancies to be filled by direct recruitment at a subsequent recruitment to make good the shortfall at a previous recruitment to maintain 15%, the quota of direct recruit be exceeded. This means that the quota of direct recruits is 15% of the strength of the service. The entire purpose of the exercise is to maintain the 15% quota of the direct recruits. To conclude, the following clear indicators show that the quota of direct recruits is `15%' and not "upto 15%" :

(a) Rule 6 uses the words "15% of the vacancies" as the quota of direct recruits and does not use the words "not more than 15% of the vacancies".

(b) The purpose and intent of Rule 8(2) is not to dilute or change the quota of direct recruits. Its object is to ensure that no vacancy remains unfilled for want of adequate number of direct recruits under their 15% quota. This is because there are reasonable chances of adequate number of candidates being not available for direct recruitment, whereas usually sufficient number of candidates will be available for promotion. The first proviso to Rule 8(2) ensures that the shortfall in 15% quota for direct recruits in any recruitment does not get permanently converted to promotee quota, by providing that the shortfall shall be made good at the next recruitment. The words "does not in any case exceed 15%" are used to further ensure that while making good the shortfall of direct recruits at the next recruitment, the direct recruits do not

encroach upon the quota of promotees.

(c) The provision for appointment to the service by rotational system (that is Rule 22(2) providing that the first vacancy to be filled from the list of NyayikSewa Officers and the second vacancy to be filled from the list of direct recruits and so on), makes it clear that the overall scheme of the Rules is to provide a clear 15% quota for direct recruits.

19. Let us illustrate with a case where the quota of direct recruits at a recruitment with reference to available vacancies, was 20 and only 10 direct recruits were available. Having regard to the Rule 8(2), the remaining 10 vacancies need not be kept unfilled. They can be filled by promotion. However, the High Court while determining the quota of direct recruits at the next recruitment, will take note of the shortfall of 10 in direct recruitment, at the earlier recruitment and correspondingly increase the quota of direct recruits. This means while fixing the vacancies to be filled by direct recruits at a recruitment, the fact that lesser number of direct recruits were appointed at the last recruitment has to be taken note of and the vacancies to be filled by direct recruits is to be increased to cover the previous shortfall. But such adjustment should be done in such a manner, that the total direct recruits in the service do not exceed 15% of the strength of the service. This is conveniently done by calculating the total entitlement of direct recruits (that is 15% out to the total strength), finding out the actual posts occupied by direct recruits and calculating the difference which will be the entitlement of direct recruits. As a result, the shortfall is made up by increasing the posts to be filled by direct recruitment. Therefore when there has been a shortfall in direct recruits in an earlier recruitment, the number fixed for direct recruits at a subsequent recruitment will necessarily exceed 15% of the vacancies for which the subsequent recruitment is being held, by reason of the fact that the earlier shortfall is required to be filled.

20. Rule 8 clarifies that direct recruits are entitled to 15% quota not only in the vacancies to be filled, but also 15% in the strength of the service. The Rules also make it clear that when a shortfall in a particular recruitment is made up at the next recruitment, there is no question of the direct recruits appointed to the shortfall vacancies claiming seniority over the promotees who filled the shortfall post of direct recruits at the previous recruitment. Though the shortfall is made good at the next recruitment, the question of seniority will be governed by Rule 26. No direct recruit at a subsequent recruitment can claim that as he is being appointed against a direct recruitment vacancy of previous recruitment, his seniority should be reckoned from any date earlier to the date of his joining the service.

21. Thus though the quota of direct recruits is fixed, there is flexibility in fixing the vacancies to be filled by direct recruitment and vacancies to be filled by promotion. The High Court can make adjustments in fixing the number of officers to be appointed by promotion and direct recruitment as shown in Rule 8(2) and the provisos thereto ensuring that the number of direct recruits does no exceed 15% of the total strength of the service.

Re : Question No.(iii)

22. The Division Bench of the High Court has accepted the contention of the

promotees that while applying the ratio of the judgment in O.P. Garg and distributing the permanent and temporary vacancies, the allocation of 15% vacancies of the direct recruits quota should be further subjected to the ceiling of 15% of the permanent strength of service, till the 1996 amendment to the Rules came into effect (on 15.3.1996). The promotees further contend that Rule 6 provides for quota for direct recruits as 15% of the vacancies subject to the provisions of Rule 8; that Rule 8 provided that the percentage of direct recruits should not exceed 15% of the permanent strength of the service; and that therefore the quota of direct recruits could not exceed 15% of the permanent strength of the service (excluding temporary posts) till 15.3.1996.

23. In O.P.Garg, this court held as follows in regard to entitlement of direct recruits for a quota in the temporary posts :

"24. We agree with the above findings and accept the position that the service consists of permanent as well as temporary posts. The substantive vacancy has not been defined under the 1975 Rules but as held by this Court in Dixit case there can also be a substantive vacancy in a temporary post which is part of the cadre. All temporary posts created under Rule 4(4) of the 1975 Rules are additions to the permanent strength of the cadre and as such form part of the cadre. Appointments under Rule 22 of the 1975 Rules can be made to a permanent post as well as to a temporary post. So long as the temporary post has an independent existence and is a part of the cadre strength the appointment against the said post has to be treated as substantive appointment."

"29. Recruitment to the service under the 1976 Rules is from three sources and is based on quota as provided therein. The cadre consists of permanent as well as temporary posts. We have already interpreted the seniority rule to mean that the seniority of the direct recruit is to be determined from the date of his joining the service and that of promotee on the basis of continuous officiation/service from the date when a vacancy whether permanent or temporary, becomes available in his quota. With these characteristics of the service it is obligatory that there should be equality of opportunity to enter the service for all the three sources of recruitment. The seniority in the service is consequential and dependent on appointment. If the recruitment rule gives unjustifiable preference to one source of recruitment the seniority rule is bound to become unworkable. The object of having recruitment from different sources is to have a blended service to create healthy competition and in the process achieve efficiency. If one of the sources of recruitment is dealt with unevenly under the Service Rules the said objective cannot be fulfilled. The 1975 Rules permit appointment to temporary vacancies in the service by promotion and from the judicial service. No direct recruitment to the temporary vacancies is provided under the said rules....."

....We see no justification in not applying the quota rule to the temporary posts in the service and confining appointments to said posts to the two sources of promotees. This Court in A.K. Subraman vs. Union of India - 1975 (1) SCC 319, held as under :

`The quota rule will be enforced with reference to vacancies in all posts, whether permanent or temporary, included in the sanctioned strength of the cadre (except such vacancies as are purely of a fortuitous or adventitious

nature)....'

31. This Court in P.S. Mahal vs. Union of India - 1984 (4) SCC 545, held as under :

`It is therefore obvious that if a vacancy arises on account of an incumbent going on leave or for training or on deputation for a short period, it would be a fortuitous or adventitious vacancy and the quota rule would not be attracted in case of such a vacancy. But where a vacancy arises on account of the incumbent going on deputation for a reasonably long period and there is no reasonable likelihood of the person promoted to fill such vacancy having to revert, the vacancy would be subject to the quota rule ..... It is, therefore, apparent that what has to be considered for the applicability of the quota rule is a vacancy in a post included in the sanctioned strength of the cadre.....' "32. When temporary posts under Rule 4(4) of the 1975 Rules are created as addition to the cadre we see no justification to deny the direct recruits their share of the quota as provided under Rule 6 of the said rules. Rule 5 of the 1975 Rules specifically lays down that recruitment to the service shall be made from three sources including the direct recruits. Rule 6 fixes the quota for various sources of recruitment to the service and allocates 15 per cent of the posts in the service to the direct recruits. Rules 5 and 6 read with Rule 22(2) provide for appointments to the service in accordance with quota. These rules have to be read homogeneously and as a part of the same scheme. The service having comprised of three sources including the direct recruitment there is no justification to deprive the direct recruits of their share in the temporary posts in the service. Unless the direct recruits are given their due quota in the temporary posts the seniority rule cannot operate equitably. We see no justification whatsoever in having Rules 22(3) and 22(4) of the 1975 Rules which deprive one of the sources of recruitment the benefit of appointment to the temporary posts. The rules on the face of it are discriminatory. There is no nexus with the object sought to be achieved by framing the abovesaid rules. We, therefore, strike down Rules 22(3) and 22(4) of the 1975 Rules being discriminatory and violative of Articles 14 and 16 of the Constitution of India. We, however, direct that the appointments already made under these rules [Rules 22(3) and 22(4)] shall not be invalidated on this ground. We further direct that while selecting candidates under Rule 18 the Committee shall prepare a merit list of candidates twice the number of vacancies and the said list shall remain operative till the next recruitment. We further direct that the appointments under Rules 22(1) and 22(2) of the Rules shall be made to permanent as well as temporary posts from all the three sources in accordance with the quota provided under the 1975 Rules."

24. The division bench of the High Court has accepted the contention of the promotees that while applying the ratio of the judgment in O.P.Garg and distributing temporary as well as permanent vacancies, the allocation of 15% vacancies as the quota of direct recruits under Rule 6 of the Rules has to be subjected to a ceiling of 15% of the permanent strength of the service till the amendment in the Rules came into effect (on 15.3.1996). In O.P.Garg this court held that the various rules will have to be homogenized as parts of the same scheme; that as the service was comprised of three sources including direct recruitment, there is no justification to deprive the direct recruits of their share of temporary posts in the service; that unless the direct recruits are given their

due quota in the temporary posts, the seniority rule cannot operate equitably; that Rules 22(3) and 22(4) providing that appointment for temporary vacancies shall be made only from among the members of NyayikSewa/Judicial Magistrates were discriminatory and appointments under Rules 22(1) and 22(2) shall have to be made to permanent as well as temporary posts from all the three sources in accordance with the quota provided under the Rules. In spite of the said decision by the three Judge Bench of this court, the promotees have been contending that the percentage of direct recruits in the service should not exceed 15% of the permanent strength of the service till the amendment to the Rules with effect from 15.3.1996, in view of the fact that this court in O.P.Garg while striking Rules 22(3) and 22(4) did not strike down the word "permanent" occurring in the first proviso of Rule 8(2) which provided: "so, however that the percentage of direct recruits in the service does not in any case exceed 15% of the total permanent strength of the service." The words "total permanent" were omitted from the first proviso to Rule 8(2) only by the amendment Rules of 1996 with effect from 15.3.1996.

25. If Rule 8(2) is to be read in the manner suggested by the promotees, it would nullify the decision in O.P.Garg which held that the direct recruits were entitled to 15% quota not only in the permanent strength of the service but also in the temporary posts. This court in O.P.Garg, apparently did not strike down the word "permanent" in the latter part of the first proviso to Rule 8(2) while striking down Rule 22(3) and 22(4) as it apparently assumed that rule 8(2) and the first proviso thereto were applicable only in a contingency referred to in Rule 8(2). The rule making authority rightly understood the decision and proceeded on the basis that if sub-rules (3) and (4) of Rule 22 were invalid and the direct recruits were entitled to 15% quota even in the temporary posts, then the word "permanent" should be deleted in the first proviso to Rule 8(2). That is why the rule making authority while substituting Rule 22 in the rules in 1996 in pursuance of the decision in O.P.Garg striking down sub-rules (3) and (4) of Rule 22, simultaneously deleted the words "total permanent" from the words "total permanent strength of service" in the first proviso to Rule 8(2). The amendment to the first proviso to Rule 8(2) omitting the words `total permanent' is clearly a clarification/reiteration of the position which prevailed as a result of the decision in O.P. Garg.

26. The Division Bench of the High Court has proceeded on the basis that this Court in O.P.Garg had no occasion to consider, nor considered the first proviso to Rule 8(2) which provided the ceiling for direct recruitment; and therefore the ceiling was 15% of the "permanent strength of the service" and not cadre strength of the service till the amendment to the Rules with effect from 15.3.1996. The said interpretation put forth by the promoteeswhich found favour with the division bench of the High Court, is untenable as it would amount to ignoring the law laid down in O.P. Garg and nullifying the directions in O.P.Garg holding that direct recruits are entitled to 15% quota even in temporary posts. The proviso to Rule 8(2) should be read in the context of the quashing of Sub-Rules (3) and (4) of Rule 22. If so read, it would be clear that when Sub-Rules (3) and (4) of Rule 22 were struck down holding that direct recruits were entitled to a quota in temporary posts also, the word "permanent" in the first proviso to Rule 8(2) is deemed to have been impliedly struck down or omitted by the decision in O.P. Garg. As the quota of direct recruits is 15% of

the strength of the service, the number of appointments of direct recruits might have never exceeded their quota. Therefore, the second direction of the Division Bench in the impugned judgment cannot be sustained.

Re : Question No. (iv)

27. Direction No.3 in SrikantTripathi is to the effect that if in each recruitment year posts were available in the quota of promotees and promotions were not made even though selections had been made under Rule 20 then the legitimate right of the promotees cannot be denied and promotions must be made with effect from the date they should have been appointed. On the other hand, the third direction of the Division Bench of the High Court in the impugned order is that while undertaking an exercise as per its second direction as to whether direct recruits taken into service or in excess of the quota or not, a simultaneous exercise has to be done in compliance with direction No.3 in SrikantTripathi and vacancies of the quota of promotees shall be deemed to have been filled up from the date they were entitled to promotion.

28. The first part of the third direction in the impugned order depends upon the result of the exercise undertaken in pursuance of its second direction. We have held that directions 1 and 2 in the impugned order of the High Court are contrary to the decision in O.P.Garg. In view of it, the question of undertaking any exercise as per the second direction of the impugned order does not arise. All that therefore remains out of the third direction in the impugned order is reiteration of direction No.3 of SrikantTripathi. The third direction in the impugned judgment to the extent it reiterates direction No.3 in SrikantTripathi has to be upheld. There is no question of unfilled vacancies being carried forward for the purpose of fixing the number of officers to be taken at the next recruitment. The total vacancies to be filled at a recruitment shall have to be filled by applying sub- rules (1) and (2) of Rule 8 and its provisos. In that sense all vacancies, which are not filled by direct recruitment, get filled by promotion and there will be no carry over. There is only a limited `carry over' of unfilled direct recruitment vacancies in the manner stated in the Rule 8(2) and the first proviso thereto.

29. We may illustrate the effect of the directions in SrikantTripathi with reference to the figures arrived at in the Report of the Sub-Committee, abstract of which is given in the Table in paragraph 6 above (by assuming that the figures specified are correct). For 1988 recruitment, the vacancies are shown as 314, the actual recruitment is shown as 24+3 by direct recruitment and 191 by promotion and the carried forward unfilled vacancies as 96. If there were 314 vacancies and what is filled by direct recruitment was 27, the remaining 287 vacancies should be filled up by promotions instead of 191 having regard to Rule 8(2). There is no question of any vacancies being carried forward for 1990 recruitment, unless sufficient numbers of candidates are not available for filling the posts even by promotion also. Therefore the vacancies to be filled in 1990 (with the expected vacancies up to 31.12.1992) should be treated as only 44 of which promotees' share would be 37 and share of direct recruits would be 7. As only 5 were appointed by direct recruitment, the remaining 39 ought to be filled by promotion. In regard to 1998 recruitment, if 15% of strength of the service is 120 and the number of direct recruits actually working were only 82,

there is nothing wrong in directly recruiting 38 out of the actual vacancies of 176. We have given these examples with reference to the figures given by the Sub-Committee in its Report and it should not be assumed that the figures given by the sub-committee have been accepted by us to be correct. In fact the figures may have to be re-worked with reference to the other directions of the High Court which have been upheld by us. Be that as it may.

Conclusion

30. The 1975 Rules are vague and complicated. The four rounds of litigation are the result of absence of clear and simple Rules. The High Court administration had the difficult task of harmonizing the Rules, the directions of this Court in O.P. Garg and the directions of this court in SrikantTripathi. The High Court Sub-Committee apparently made a sincere effort to implement the Rules and the directions. Unless the exercise by the High Court through its Sub-Committee (approved by the Full Court of the High Court), is arbitrary or is in non-compliance with any specific direction of this Court, it will not be open to question. Be that as it may.

31. In view of our aforesaid findings, we allow these appeals in part as follows :

(i) Direction Nos. (1) and (2) in para 55 of the impugned order dated 25.8.2004 are set aside;

(ii) Direction No.(3) in para 55 of the impugned order dated 25.8.2004 is restricted to reiteration of direction No.3 issued in SrikantTripathi (2001 (10) SCC 237); and

(iii) Direction Nos. (4), (5) and (6) in the impugned order dated 25.8.2004 are upheld.

(iv) The consequential exercise directed by the High Court should be restricted to the directions which have been upheld.

(v) None of the appointments already made to the Higher Judicial Service, whether by direct recruitment or by promotion, shall be annulled, but shall be continued, even if the appointment is found to be in excess of the quota, subject to the condition that the seniority of such excess appointee will be reckoned from the date on which he becomes entitled to be adjusted at the subsequent recruitment/s. Any elevation to the High Court on the basis of seniority already given shall also not be affected.

We request the High Court to give a quietus to the long-drawn dispute, by giving effect to direction nos.(4) to (6) of the impugned order and direction no. (3) in SrikantTripathi, without any delay.

All pending applications stand disposed of."

8. Therefore, nothing else remains to be decided other than declaring the new forwarding of promotions does not seem to inspire confidence in view of the Hon'ble Apex Court Judgment. The earlier stand as it arose in 2018 regarding all applicants, is upheld. All the benefits which was originally granted, must be restored to them within 2 months next.

OA is Allowed. No costs."

2. Therefore, this OA is allowed in terms of the decision in OA No. 263/2019 as the matter relates to the same issue. No order as to costs."

2. The learned counsel for the respondents points out that there is one distinction now as some of the alleged seniors to the applicants herein has filed motion before Hon'ble Bench at Mumbai, CAT and the Mumbai Bench, CAT had directed that the representations of those people also to be considered. They also rely on one judgement of Hon'ble High Court of Madras following the decision of the Chennai Bench of the Tribunal which we quote:-

"Madras High Court
S.Raghuraman vs. Union of India on 21.3.2017

In the High Court of Judicature at Madras

Dated : 21.3.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice S.M.SUBRAMANIAM

Writ Petition Nos.25543 & 25650 of 2016

S.Raghuraman, Highly Skilled
Grade II Examiner Engineering
Heavy Alloy Penetrator Project,
Trichy-25. ...Petitioner in WP.No. 25543 of 2016

S.Alexander Highly Skilled
Grade II Machinist, Heavy Alloy
Penetrator Project, Trichy-25. ...Petitioner in WP.No. 25650 of 2016

Vs

1.Union of India, rep.by the General
Manager, Heavy Alloy Penetrator
Project, Trichy-25.

2.The Ordnance Factory Board, rep.by
its Director General, Ayudh Bhavan,
10-A, S.K.Bose Road, Calcutta-1.

3.The Deputy General Manager
(Administration), Heavy Alloy
Penetrator Project, Trichy-25.

4.The Registrar, Central Administrative
Tribunal, Madras Bench ...Respondents in

both WPs PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus

(i) to call for the records, quash the orders passed by the 4th respondent in O.A.No.1567 of 2012 dated 10.9.2014 and consequently direct the 1st respondent to elevate the petitioner to the post of Highly Skilled Grade-I in PB-1 (5200-20200) + GP 2800 w.e.f. 01.1.2006 with all consequential benefits including monetary benefits flowing therefrom (W.P. No.25543 of 2016) and

(ii) to call for the records, quash the orders passed by the 4th respondent in O.A.No.1568 of 2012 dated 10.9.2014 and consequently direct the 1st respondent to elevate the petitioner to the post of Highly Skilled Grade-I in PB-1 (5200-20200) + GP 2800 w.e.f. 01.1.2006 with all consequential benefits including monetary benefits flowing therefrom (W.P. No.25650 of 2016) (Prayers amended respectively vide WMP.Nos.7408 and 7409 of 2017 on 21.3.2017 by NRRJ and SMSJ).

For Petitioners in both WPs: *Mr.R.Pandian*

For Respondents 1 to 3 in
WP.No.25543 of 2016 : Mr.N.Rajan, SCGSC

For Respondents 1 to 3 in
WP.No.25650 of 2016 : Mr.Christopher
Kishore Vincent, ACGSC

COMMON ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

Originally, both the writ petitions are directed against the common order dated 10.9.2014 passed by the Central Administrative Tribunal respectively in O.A.Nos.1567 and 1568 of 2012, instituted by the respective writ petitioners as also the common order dated 02.1.2015 dismissing the review applications in R.A.Nos.65 and 66 of 2014 moved in the aforesaid respective original applications. Though separate writ petitions ought to have been preferred against the common order dated 02.1.2015 passed in the review applications, it was not done so. However, subsequently, the prayer in the writ petitions

was sought to be amended and the petitions seeking amendment are ordered today. In the amended prayer, the writ petitioners seek to quash only the common order dated 10.9.2014 made in the respective original applications.

2. Both the writ petitioners are working in Heavy Alloy Penetrator Project at Tiruchirapalli, an Ordinance Factory under the control and administration of Ministry of Defence. They are industrial employees. While the writ petitioner in W.P.No.25543 of 2016 belongs to Examiner Engineering Trade, the other writ petitioner belongs to Machinist Trade. The question they rake up is whether they are entitled for fitment as Highly Skilled Grade I industrial employees or not.

3. The Sixth Central Pay Commission made certain recommendations with regard to cadre restructuring. Recommendations made by the Sixth Pay Revision Commission have been accepted by the Government of India and scales of pay have been revised with effect from 01.1.2006. It is subsequently thereto the Ministry of Defence has taken a decision through their letter No. 11(5)/2009-D (Civ-I) dated 14.6.2010 to restructure the grades in the industrial cadre and also the pay band allowable to them.

4. The Skilled Category were given Pay Band - I (PVI) of Rs.5,200-20,200 with a Grade Pay of Rs.1,900/-, Highly Skilled Grade II Category with the same Pay Band - I of Rs.5,200-20,200 with a Grade Pay of Rs.2,400/- and Highly Skilled Grade I Category with the same Pay Band - I of Rs.5,200-20,200 with a Grade Pay of Rs.2,800/-. Master Craftsman was assigned Pay Band - II of Rs.9,300-34,800 with a Grade Pay of Rs.4,200/-.

5. Thus, hitherto existing Highly Skilled Category of industrial employees had to be organized into various grades and hence, the said letter of the Ministry of Defence dated 14.6.2010 has formulated the proportion, in which, the grades have to be organized. The ratios so fixed are :

(i) 45% of the posts may be granted Pay Band I with Grade Pay of Skilled Worker of Rs.1,900/-;

(ii) 25% of the remaining 55% of the posts (which works out to 13.75%) may be granted Pay Band II with Grade Pay of Rs.4,200/- and be treated as Master Craftsmen (MCM); and

(iii) The remaining (41.25%) posts are ordered to be divided in a ratio of 50 : 50 and are re-designated as Highly Skilled Worker Grade II with a Grade Pay of Rs.2,400/- in Pay Band I and Highly Skilled Worker Grade I with a Grade Pay of Rs.2,800/- in Pay Band I.

6. In other words, 45% of the existing Skilled Category of employees on the shop

floors of Ordinance Factories are ordered to be organized as Skilled Workers in Pay Band I with a Grade Pay of Rs.1,900/-. A limited extent of 25% out of the balance 55% alone, which works out to 13.75%, get the fitment as Master Craftsmen in Pay Band II and with a superior Grade Pay of Rs.4,200/-. The balance, which represents the remaining 75% out of 55% of the industrial employees, which works out to 41.25%, have got to be treated as Highly Skilled Grade I and Highly Skilled Grade II, in equal proportions i.e. 50 : 50. While Highly Skilled Grade I will have a superior Grade Pay of Rs.2,800/-, Highly Skilled Grade II will have a Grade Pay of Rs.2,400/- only, but in the same Pay Band I.

7. While working out this fitment formula, certain clarifications were required and accordingly, the Ordinance Factory Board at Kolkatta, through their communication No.01/CR/A/I/658 dated 13.12.2010, addressed to all Senior General Managers and General Managers of Ordinance Factories and Ordinance Equipment Factories as well as the Principal Director of National Academy of Defence Production clarifying that the Highly Skilled industrial employees be re-designated as Highly Skilled Worker Grade I and Highly Skilled Worker Grade II, in equal proportions.

8. Thus, all the Highly Skilled Category employees existing on the rolls as on 01.1.2006 were asked to be re-designated in the above manner. The following clauses in the clarification letter dated 13.12.2010 will give a clearer picture about the scheme of the fitment :

"4 (i) The factory should work out the trade wise revised inter-grade ratio on the sanctioned/ authorized strength as on 01.1.2006 in the ratio as mentioned in para-3 above as clarified vide M of D letter at ref.(ii). If there are non viable trades having meagre number of workers (say less than five), those trades should be grouped together to arrive at a viable ratio.

(ii) The posts of highly skilled shall be split with effect from 01.1.2006 in the ratio mentioned at 3(iii).

(iii) Highly skilled employees (including those who were wasted out due to retirement, death, etc.) shall be re-designated HS I and HS II Grade in the corresponding pay scale/pay band and grade pay due to splitting as per the aforesaid ratio. Necessary factory order may be published accordingly.

(iv) The senior most highly skilled employees shall be placed in HS Grade I as per revised ratio calculated on the sanctioned/ authorized strength.

The remaining highly skilled employees shall be placed in HS Grade II resultant shortfall in HS Grade II due to the said prescribed ratio of the sanctioned/authorized

strength shall be filled up by promotion from existing skilled grade from the date of occurrence of vacancies.

(v) Highly Skilled Grade I shall be en-bloc senior to Highly Skilled Grade II and separate seniority list should be prescribed for Highly Skilled Grade I and Highly Skilled Grade II trade wise. The said seniority list will be circulated to all concerned.

(vi) The placement of the individuals in the posts resulting from the above restructuring shall be made with effect from 01.1.2006, in relaxation of the conditions, if any, i.e trade test, DPC, qualifying service, etc., as one time measure till the date of the issue of this order. However, no relaxation is to be given for DGOF competency test for Electrical Trades/Boiler Attendant Trades except as provided in Rules/Instructions.

(vii) The post of Master Craftsman shall be the part of the hierarchy and the placement of Highly Skilled Grade I in the Grade of Master Craftsman will be treated as promotion.

(viii) Placement of 50% of the existing highly skilled workers (Grade Pay Rs.2,400/-) as highly skilled worker Grade I (Grade Pay Rs.2,800/-) with effect from 01.1.2006 will be treated as promotion for the purpose of ACP.

(ix) While implementing the instructions, factory should ensure that placements are made within the stipulated ratio prescribed vide M of D letter under reference (i)."

(Emphasis is all mine)

9. From the above, it is abundantly clear that the hitherto existing industrial employees called as 'Highly Skilled industrial employees' are now asked to be re-organized into four different groups. By using the expressions 'shall be re-designated', the issue is put beyond any pale of doubt that the fitment or re-organization of the existing highly skilled industrial employees is not involving any promotion inter-se. The senior most highly skilled employees are directed to be placed in Highly Skilled Grade I Category as per the ratio and that such senior most highly skilled employees shall be en-bloc senior to the remaining highly skilled employees, who shall be placed in Highly Skilled Grade II Category and hence, a separate seniority list was ordered to be prepared so far as Highly Skilled Grade I industrial employees were concerned.

10. Clause (vi) of paragraph 4 of the above letter of the Ordinance Factory Board has made the issue further clear by announcing that the placement of individuals in the posts resulting from restructuring shall be made with effect from 01.1.2006 in relaxation of the conditions, if any, i.e. trade test, DPC, qualifying service, etc., as one time measure. Thus, the placement of some of the employees in Highly Skilled Grade I to the extent of

50%, while retaining the other 50% in Highly Skilled Grade II, does not involve a promotion at all. However, in Clause (viii) of paragraph 4 of the letter of the Ordinance Factory Board, such placement is ordered to be treated as promotion for the purpose of ACP (Assured Career Progression Scheme).

11. In other words, the actual placement of 50% of the highly skilled industrial employees, as per the ratio fixed, in Highly Skilled Grade I, does not actually involve any promotion. But, it is only a fitment pursuant to re-organization of the cadre. However, the same will be treated for the purpose of extending the Assured Career Progression benefits as a promotion. The Assured Career Progression benefits are liable to be extended to relieve the employees from the ill effect of stagnation for long periods in the same grade and hence, the benefits of financial upgradation for such stagnant employees were put in place.

12. When once 50% of the highly skilled employees get placed in Highly Skilled Grade I with a superior 'Grade Pay' than the remaining Highly Skilled Grade II employees, they would have enjoyed a financial upgradation in that process. Hence, the ill-effects of stagnation in the same grade for too long a period get automatically neutralized. As a result, the benefits of further financial upgradation, as per the Assured Career Progression Scheme, can be deferred. For that purpose, paragraph 4(viii) has created a fiction of treating the fitment in Highly Skilled Grade I as a kind of promotion for the limited purpose of ACP, though it is a mere fitment pursuant to cadre restructuring.

13. We are, therefore, of the firm opinion that fitment of some employees in Highly Skilled Grade I does not involve any promotion, in the normal sense that word is understood. The fitment undertaken is a result of cadre restructuring, but not by way of creation of an altogether new cadre, for which, certain categories of employees are rendered eligible to stake a claim by way of promotion.

14. In this context, Mr.N.Rajan, learned Senior Central Government Standing Counsel appearing for respondents 1 to 3 in W.P.No.25543 of 2016, has pointed out that the word 'promotion' clearly connotes progression from one lower grade to another superior grade involving additional financial benefits. Since the fitment in Highly Skilled Grade I secures additional financial benefits to the employee concerned, by fetching him the Grade Pay of Rs.2,800/-, in contrast to the Grade Pay of Rs.2,400/- payable to Highly Skilled Grade II, he, therefore, contended that though it is a fitment of certain candidates from the existing highly skilled cadre to that of Highly Skilled Grade I, it certainly involves promotion securing both an increment in Grade and financial benefit.

15. He has placed reliance upon the judgment rendered by the Supreme Court in the case of State of Rajasthan Vs. Fateh Chand Soni [reported in 1996 (1) SCC 562] wherein the relevant portion reads as follows:

"The High Court, in our opinion, was not right in holding that promotion can only be to a higher post in the service and appointment to a higher scale of an officer holding the same post does not constitute promotion. In the literal sense the word 'promote' means 'to advance to a higher position, grade or honour'. So also 'promotion' means 'advancement or preferment in honour, dignity, rank or grade.' (See Webster's Comprehensive Dictionary, International Edition p.1009). 'Promotion' thus not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law also, the expression 'promotion' has been understood in the wider sense and it has been held that 'promotion' can be either to a higher pay scale or to a higher post'. (See Union of India Vs. S.S.Ranade [1995 (4) SCC 462] at page 468)."

16. There is hardly any doubt in our minds that whenever an employee moves from one grade to a higher or superior grade securing him an additional financial benefit, the same is liable to be treated as a case of promotion. Promotion need not always convey moving of an employee vertically from one post to another. Even a horizontal movement from one grade to another grade, within the same post can also amount to a promotion.

17. But, in the instant case, for the first time, the existing cadre of highly skilled industrial employees of the Ministry of Defence are sought to be restructured. When such restructuring takes place, certain percentage of employees move away and get organized into a separate grade. That was the reason why such movement, pursuant to restructuring of cadre, is not to be treated as a case of vertical movement indicating promotion, but is a matter of fitment in a new grade alone.

18. The existing cadre is sought to be re-organized and hence, the question of involving promotion does not arise. Once the cadre gets re-organized, any subsequent movement from one grade to another would then amount to a promotion. In other words, the initial fitment of the existing highly skilled industrial employees as Highly Skilled Grade I and Highly Skilled Grade II as on 01.1.2006 does not amount to a promotion, as no new cadre is created, but the existing cadre is split up. However, if they were to be considered for further movement as Master Craftsmen or Highly Skilled Grade I, as the case may be, any such later exercise amounts to granting them promotion.

19. We are, therefore, clearly of the view that the petitioners in both the writ petitions being seniors, they ought to have been fitted as Highly Skilled Grade I. It is also

clear that on 15.4.2011, when their juniors were granted Highly Skilled Grade I scale, the writ petitioners have suffered an injury. Though they asked for rectification of this error, the same was erroneously rejected. The reason being that there were certain disciplinary proceedings initiated against the petitioners. In so far as the petitioner in W.P.No.25650 of 2016 is concerned, such disciplinary proceedings were initiated in August 2005 i.e. prior to 01.1.2006 whereas the disciplinary proceedings were initiated against the petitioner in W.P.No.25543 of 2016 subsequent to 01.1.2006. In both the cases, they were inflicted with a punishment of reduction in lower time scale for a period of three months, which is a minor punishment.

20. Since the respondents had viewed mere fitment in Highly Skilled Grade I as a promotion and in view of the fact that the disciplinary proceedings were pending, the claims of the writ petitioners were not considered for such fitment in Highly Skilled Grade I. Since we have already come to the conclusion that fitment in Highly Skilled Grade I does not involve any promotion, but is the result of re-organization of the existing cadre, the two writ petitioners could not have been denied fitment in Highly Skilled Grade I on 15.4.2011, when their respective juniors in the Examiner Engineering Trade and the Machinist Trade have been granted such a fitment.

21. It is, therefore, a case where, all due to an erroneous conclusion drawn by the respondents that fitment in Highly Skilled Grade I amounts to promotion, they applied the principle of a person facing disciplinary proceedings cannot secure promotion pending finalisation of the same. In our view, for the fitment of employees pursuant to cadre restructuring, the pendency of disciplinary proceedings will no way come in the way of such fitment, as there is no promotion involved. We are of the view that the Central Administrative Tribunal has totally erred in its conclusion that there is an involvement of promotion in fitment of the existing highly skilled employees as Highly Skilled Grade I.

22. For the aforementioned reasons, we allow the writ petitions. No costs.

23. However, Sri.N.Rajan, Senior Central Government Standing Counsel and Sri.Christopher Kishore Vincent, learned Additional Central Government Standing Counsel have pointed out that some other employees have already been fitted in Highly Skilled Grade I and they are also paid financial benefits correspondingly, but they are not made party respondents to the original applications moved before the Central Administrative Tribunal or the present writ petitions and that the respondents cannot fit more number of persons in Highly Skilled Grade I beyond the ratio fixed by the Ministry of Defence, which deserves a serious consideration.

24. When once the cadre re-organization has to take place on a structured format, it is not open to us to direct the respondents to depart from any principle relevant for such cadre restructuring. Hence, we direct respondents 1 to 3 to consider placing the writ petitioners in Highly Skilled Grade I by way of re-designation with effect from 01.1.2006 onwards by extending only notional financial benefits, but not the actual payment thereof. The actual payment may commence from 01.4.2016. It shall also be open to respondents 1 to 3 to replace equal number of juniors to the writ petitioners, who have been erroneously fitted in Highly Skilled Grade I with effect from 01.1.2006, duly observing the principles of natural justice, but however without effecting any monetary recovery from them, as they are not at fault in getting fitted as Highly Skilled Grade I and getting paid higher Grade Pay.

21.3.2017 Speaking Index : Yes Internet : Yes To

1.The General Manager, Heavy Alloy Penetrator Project, Trichy-25.

2.The Director General, Ordnance Factory Board, Ayudh Bhavan, 10-A, S.K.Bose Road, Calcutta-1.

3.The Deputy General Manager (Administration), Heavy Alloy Penetrator Project, Trichy-25.

4.The Registrar, Central Administrative Tribunal, Madras Bench RS NOOTY. RAMAMOHANA RAO AND S.M.SUBRAMANIAM,J RS WP.Nos.25543 & 25650 of 2016 21.3.2017"

Which also to be the effect that the seniors should not be ignored. But then the learned counsel for the applicant points out 2 issues. One issue is that actually these people who have now stolen a march over the applicants are not the seniors but juniors to the applicants and a mistake had been made. They have produced the seniority list which we quote:-

"LIST OF ELIGIBLE CANDIDATES FOR RESTRUCTURING OF CADRE OF ARTISAN STAFF AND PLACEMENT OF SKL TO HSK-II AT NAVAL BASE, KARWAR AS ON 14 JUN 2010

Sl No	Name	Token No.	Unit/Department	Present Grade	Date of entry in service	Date of present seniority	Re-Designated and placed in the promotional post of HSK-II in the pay scale of 5200-20200 with the GP Rs. 2400 in relaxation in the conditions, if any, i.e. trade test etc. as one time measure with effect from	SOS (CAUSE)	SOS (DATE)	Remarks
TRADE: MACHINIST					No. of Posts: 11					
1.	Shri Amit Vijaysingh Gujar	14377-N	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned	30-Aug-11	Placement-1
2.	Shri Purna Chandra Hazira	14418-M	NSRY	SKL	03-Nov-08	03-Nov-08	Upgraded w.e.f. 03-11-2009	Resigned	11-Jun-14	Placement-2
3.	Shri Nishad PN	14379-A	NSRY	SKL	29-Sep-08	29-Sep-08	Upgraded w.e.f. 29-09-2009	…	…	Placement-3
4.	Shri Kambala Srinivasrao	14381-T	NSRY	SKL	26-Aug-08	26-Aug-08	Upgraded w.e.f. 29-09-2009	…	…	Placement-4
5.	Shri Armugam Sudalayandi	14382-A	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Placement-5
6.	Shri Nare Dilip Tanaji	14344-H	NSRY	SKL	28-Aug-08	28-Aug-08	28-Aug-09	Technical Resigned	29-02-2012	Placement-6
7.	Shri Kadam Pradip Ram	14385-M	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement-7
8.	Shri Patil Krishna Tukaram	14386-R	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Placement-8
9.	Shri Suman Kumar	14387-W	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned	19-Dec-09	Placement-9
10.	Shri Meher Prashant Bhagvan	14390-W	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	Resigned	28-Jun-12	Placement-10
11.	Shri Narendra Surisetti	14345-L	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-09	Mutual Transfer	07-Jan-11	Placement-11
12.	Shri Vahid Ahmed Nashiruddin Shaikh	14391-B	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-Aug-09	…	…	Re-Placement-1 for (Sl.No.9)
13.	Shri Tompala Simhachalam	14354-M	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-09	Resigned	31-Jul-09	Eligible
14.	Shri Mane Sudhir Tanaji	14392-H	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-Aug-09	…	…	Extra Placement-1
15.	Shri Santosh Shatrugna Karande	14393-L	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-Aug-09	Transfer ND(Mbi)	04-Oct-10	Extra Placement-2
16.	Shri Nagaraja-H	14394-N	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-Aug-09	…	…	Extra Placement-3
17.	Shri Darshan N Patil	15817-H	NSRY	SKL	19-Mar-09	19-Mar-09	19-Mar-10	Mutual Transfer	24-Apr-13	Eligible
18.	Shri Suresh S. Shigam	15818-L	NSRY	SKL	19-Mar-09	19-Mar-09	19-Mar-10	Mutual Transfer	08-Aug-13	Eligible
19.	Shri Lakhan Buddhappa	15816-B	NSRY	SKL	19-Mar-09	19-Mar-09	Upgraded w.e.f.	…	…	Extra Placement-

	Kamble						19-03-10			4
20.	Shri Sumit C. Gouda	15820-H	NSRY	SKL	20-Mar-09	20-Mar-09	20-Mar-09	Mutual Transfer	21-Apr-11	Eligible

TRADE: ICE FITTER			No. of Posts: 06							
1.	Shri Subramanya Bhat	13107-M	NSRY	SKL	29-Nov-05	04-Aug-08	Upgraded w.e.f. 04-08-2008	…	…	Placement - 1
2.	Shri Meesala Laxman Rao	14358-H	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-Aug-2009	…	…	Placement - 2
3.	Shri Tuwar Girish Suresh	14356-W	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-Aug-09	Mutual Transfer	08-09-10	Placement - 3
4.	Shri Kalesh K	14355-R	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-Aug-2009	…	…	Placement - 4
5.	Shri Namdev Niloba Meher	14359-L	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-Aug-2009	…	…	Placement - 5

TRADE: GAS TURBINE FITTER					No. of Posts: 04					
1.	Shri Tadi Siva Kumar	14395-T	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-09	TechnicalResigned	20-Feb-12	Placement - 1
2.	Shri Patil Sachin Sudhakar	14396-A	NSRY	SKL	25-Aug-08	25-Aug-08	Upgraded w.e.f. 25-08-2009	…	…	Placement - 2
3.	Shri Gurudatte N Bhongale	14400-T	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-08-2009	…	…	Placement - 3
4.	Shri Ishraque Ahmed	14397-E	NSRY	SKL	19-Aug-08	19-Aug-08	Upgraded w.e.f. 19-08-2009	…	…	Placement - 4
5.	Shri Swapnil D Naik	14399-M	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Extra Placement - 1
6.	Shri Virendra Kudalkar	14403-K	NSRY	SKL	13-Aug-08	13-Aug-08	13-Aug-2009	…	…	Eligible
7.	Shri Mahendra Singh Meena	14416-E	NSRY	SKL	17-Nov-08	17-Nov-08	17-Nov-2009	…	…	Eligible

TRADE: BOILER MAKER					No. of Posts: 01					
1.	Shri Sanjay Deochand Sukhadev	14545-E	NSRY	SKL	13-Feb-09	13-Feb-09	Upgraded w.e.f. 13-02-2010	…	…	Placement - 1

TRADE: MACHINERY CONTROL FITTER						No. of Posts: 05				
1.	Shri Sunil B Bawadekar	14353-K	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-Aug-09	…	…	Placement - 1
2.	Shri Koli Ganesh Babu Rao	14350-T	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	Mutual Transfer	03-Jan-11	Placement - 2
3.	Shri Niranjan J	14351-A	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Placement - 3

4.	Shri Manjunath Ganpayya Gunaga	1435 2-E	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-Aug-09	…	…	Placement - 4
5.	Shri Manikpuri Pankaj Durgadas	1434 6-N	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Placement - 5
6.	Shri Joseph G Nandakkal	1434 7-T	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-Aug-09	…	…	Extra Placement - 1
7.	Shri Prabhakar Laxman Kammar	1434 8-A	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible
8.	Shri Yogesh Govind Naik	1434 9-E	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible

TRADE: ENGINE FITTER				No. of Posts: 09						
1.	Shri Abhishek Bajpai	1436 4-T	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	Transfer COD (Kanpur)	07-Nov-12	Placement -1
2.	Shri Romeo John Fernandes	1436 5-A	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-Aug-09	…	…	Placement - 2
3.	Shri Nandan Goankar	1436 6-E	NSRY	SKL	14-Aug-08	14-Aug-08	Upgraded w.e.f. 14-Aug-09	…	…	Placement - 3
4.	Shri Vishal Pundalik Prabhu	1436 7-K	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-2009	Resigned	14-Nov-09	Placement - 4
5.	Shri Barijidnesh Shashikant	1437 2-R	NSRY	SKL	25-Nov-08	25-Nov-08	25-Nov-2009	Mutual Transfer	06-Feb-12	Placement - 5
6.	Shri Rarheesh TR	1437 3-W	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	Mutual Transfer	19-Dec-11	Placement - 6
7.	Shri Doddi Trinadha Rao	1437 4-B	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-Aug-09	…	…	Placement - 7
8.	Shri Ramdas Kashinath Gunagi	1436 9-R	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-Aug-09	…	…	Placement - 8
9.	Shri Amar Singh	1437 0-K	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-Aug-2009	…	…	Placement - 9
10.	Shri Utekat Amit Kashinath	1437 1-M	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-09	Mutual Transfer	21-Mar-13	Re-Placement -1 for (sl.No.4)
11.	Shri Kumbar Subhash Dattu	1437 5-H	NSRY	SKL	25-Aug-08	25-Aug-08	25-Aug-09	Resigned	16-Aug-10	Eligible
12.	Shri Sudheer Kamalakar	1437 6-L	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-Aug-09	…	…	Extra Placement - 1
13.	Shri Rahul Ashokrao Chiwande	1436 0-B	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Extra Placement - 2
14.	Shri Ranjit	1436	NSRY	SKL	20-	20-	20-Aug-09	Mutual	03-Jan-	Eligible

	S. kakde	1-H			Aug-08	Aug-08		Transfer	11	
15.	Shri Mahajan Amit Chandrakant	14398-K	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-2009	…	…	Eligible
16.	Shri Dileep Kumar Warkade	14362-L	NSRY	SKL	25-Aug-08	25-Aug-08	25-Aug-09	…	…	Eligible
17.	Shri Hrishikesh Pandit	15821-L	NSRY	SKL	20-Mar-09	20-Mar-09	20-Mar-09	…	…	Eligible
18.	Shri Jvala Prasad	15823-T	NSRY	SKL	23-Mar-09	23-Mar-09	23-Mar-09	…	…	Eligible
19.	Shri Shib Mohan Kumar	15822-N	NSRY	SKL	20-Mar-09	20-Mar-09	20-Mar-09	…	…	Eligible

TRADE: AC & REF FITTER				No. of Posts: 05						
1.	Shri Jnaneshwara Nayak	14330-H	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-Aug-09	…	…	Placement -1
2.	Shri Subhasis Guha	14331-L	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-Aug-2009	…	…	Placement - 2
3.	Shri Shriom Sharma	14332-N	NSRY	SKL	25-Sep-08	25-Sep-08	Upgraded w.e.f. 25-09-2009	…	…	Placement - 3
4.	Shri Vimal Sudhakar	14333-T	NSRY	SKL	14-Aug-08	14-Aug-08	Upgraded w.e.f. 14-Aug-09	…	…	Placement - 4
5.	Shri Nityanan Mahabaleshwar Pednekar	14334-R	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-Aug-09	…	…	Placement - 5
6.	Shri Santhosh Nagale	14341-R	NSRY	SKL	29-Aug-08	29-Aug-08	29-Aug-09	Mutual Transfer	21-Jul-11	Eligible
7.	Shri Ravikumar R	14342-W	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-09	Resigned	13-May-10	Eligible
8.	Shri Rameej TK	14335-E	NSRY	SKL	26-Aug-08	26-Aug-08	26-Aug-09	…	…	Eligible
9.	Shri Patil Ravindra Janaba	14336-K	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-09	Mutual Transfer	30-Sep-10	Eligible
10.	Shri Krishnanand Bhaskar Naik	14337-M	NSRY	SKL	13-Aug-08	13-Aug-08	13-Aug-09	…	…	Eligible
11.	Shri Dayanand M Kande	14343-B	NSRY	SKL	14-Aug-08	14-Aug-08	14-Aug-09	…	…	Eligible
12.	Shri Kolekar Navanath Naganath	14338-R	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-09	…	…	Eligible
13.	Shri Sivanandham Muni Babu	14339-W	NSRY	SKL	29-Aug-08	29-Aug-08	29-Aug-09	…	…	Eligible
14.	Shri	1434	NSRY	SKL	20-	20-	20-Aug-09	…	…	Eligible

	Bhambure Pravin Ashok	0-M			Aug-08	Aug-08				

TRADE: WELDER		No. of Posts: 09								
1.	Shri Paidi Raju Gavara	13458-E	NSRY	SKL	01-Jun-07	01-Jun-07	Upgraded w.e.f. 01-06-2008	…	…	Placement -1
2.	Shri MD Gulam Mustafa	14525-N	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned	09-Jul-10	Placement - 2
3.	Shri Desai Subhodh Ashok	14526-T	NSRY	SKL	20-Aug-08	20-Aug-08	20-Aug-09	…	…	Placement - 3
4.	Shri Laxmidhar Nayak	14527-A	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned	12-Oct-10	Placement - 4
5.	Shri Sudhakar Appikonda	14528-E	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-08-2009	…	…	Placement - 5
6.	Shri Kotivada Jagan	14529-K	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-08-2009	…	…	Placement - 6
7.	Shri Binesh KV	14517-R	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement - 7
8.	Shri Rama Siddappa Naik	14520-R	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement - 8
9.	Shri Pradeep Kumar	14521-W	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement - 9
10.	Shri Manoj Kumar Verma	14522-B	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Extra Placement - 1
11.	Shri Sathi Raju Koppadi	14523-H	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned		Eligible
12.	Shri Pawar Shankar Thavaru	14429-A	NSRY	SKL	17-Nov-08	17-Nov-08	17-Nov-2009	Mutual Transfer	22-Mar-11	Eligible
13.	Shri Nelson C John	15813-M	NSRY	SKL	17-Mar-09	17-Mar-09	Upgraded w.e.f. 17-03-2010	…	…	Extra Placement - 2
14.	Shri Nilesh S Chavan	15814-R	NSRY	SKL	19-Mar-09	19-Mar-09	19-Mar-10	Mutual Transfer	05-Apr-13	Eligible
15.	Shri Harban Singh	15819-N	NSRY	SKL	20-Mar-09	20-Mar-09	20-Mar-10	…	…	Eligible

TRADE: PAINTER		No. of Posts: 06								
1.	Smt Renu Thankappan		NAD	SKL	01-Dec-06	01-Dec-06	01-Dec-07	Resigned	05-May-09	Placement -1
2.	Shri Jayesh C	13427-E	NSRY	SKL	30-May-07	30-May-07	Upgraded w.e.f. 30-05-08	…	…	Placement - 2
3.	Shri Sabrichand GS	13426-A	NSRY	SKL	23-May-07	23-May-07	Upgraded w.e.f. 23-05-08	…	…	Placement - 3
4.	Shri Minde Nilesh Ramakant	13901-K	WED	SKL	27-Nov-07	27-Nov-07	27-Nov-08	Transferred	20-Jan-09	Placement - 4

5.	Shri Suresh PR	14534-R	NSRY	SKL	22-Aug-08	22-Aug-08	Upgraded w.e.f. 22-08-2009	…	…	Placement - 5
6.	Shri Chandrashekhar V	14532-K	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Placement - 6
7.	Shri Sunil Gangaram Dahiwalkar	14536-B	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	Resigned	29-Apr-10	Re-Placement -1 for (Sl.No.1)
8.	Shri Kampole Vilasreddy Sagareddy	14537-H	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Re-Placement -2 for (Sl.No.4)
9.	Smt Lanjewar Anita Sanjay	14535-W	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Re-Placement -3 for (Sl.No.7)
10.	Shri Lanjewar Sanjay Vithal	14533-M	NSRY	SKL	21-Aug-08	21-Aug-08	21-08-2009	…	…	Eligible
11.	Shri Amitkumar Talekar	14538-L	NSRY	SKL	12-Aug-08	12-Aug-08	12-08-2009	…	…	Eligible
12.	Smt Kamble Neha Kailas	14389-H	NSRY	SKL	01-Sep-08	01-Sep-08	01-09-2009	…	…	Eligible
13.	Shri Khagendra Barman	14539-N	NSRY	SKL	01-Oct-08	01-Oct-08	01-Oct-09	…	…	Eligible
14.	Smt Kamble Nalini Kailas	14540-H	NSRY	SKL	01-Sep-08	01-Sep-08	01-09-2009	…	…	Eligible
15.	Shri Sanjeev Y Haldankar	13648-N	WED	SKL	19-Jan-09	19-Jan-09	19-Jan-10	…	…	Eligible

TRADE: LAGGER		No. of Posts: 02								
1.	Shri Ravindra Devidas Naik	14507-L	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement -1
2.	Shri Naveen P Chendekar	14508-N	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement - 2
3.	Shri Bhimagond Kyatannavar	14505-B	NSRY	SKL	19-Aug-08	19-Aug-08	19-08-2009	…	…	Eligible

TRADE: SHIPWRIGHT		No. of Posts: 12								
1.	Shri Joshi Savalaram Bhanudas	13189-B	NSRY	SKL	16-Oct-06	16-Oct-06	Upgraded w.e.f. 16-10-2007	…	…	Placement -1
2.	Shri Parab Aniket Dattaram	13446-M	NSRY	SKL	25-May-07	25-May-07	Upgraded w.e.f. 25-05-08	…	…	Placement - 2
3.	Shri Narayan Vithal Sutar	13445-K	NSRY	SKL	22-May-07	22-May-07	Upgraded w.e.f. 22-05-08	…	…	Placement - 3
4.	Shri Martal	1390	MO(K	SKL	22-Nov-	22-	Upgraded	Transfe	21-Jun-	Placement

	Tushar Jayaram	0-E	ar)		07	Nov-07	w.e.f. 22-11-08	rred	13	- 4
5.	Shri Bandkar Pravin Satyawan	13448-W	MO(Kar)	SKL	28-May-07	28-May-07	Upgraded w.e.f. 28-05-08	…	…	Placement - 5
6.	Shri Arunkumar S	13447-R	NSRY	SKL	01-Jun-07	01-Jun-07	Upgraded w.e.f. 01-06-2008	…	…	Placement - 6
7.	Shri Shinde Rohan Balkrishna	13450-R	NSRY	SKL	25-May-07	25-May-07	Upgraded w.e.f. 25-05-08	…	…	Placement - 7
8.	Shri Ingle Sunil Maruti	13449-B	MO(Kar)	SKL	25-May-07	25-May-07	Upgraded w.e.f. 25-05-08	…	…	Placement - 8
9.	Shri Narendra Kumar Sharma	13929-K	MO(Kar)	SKL	11-Feb-07	11-Feb-07	Upgraded w.e.f. 11-02-08	…	…	Placement - 9
10.	Shri Sameer S Vengurlar	14495-E	NSRY	SKL	29-Aug-08	29-Aug-08	29-08-2009	Mutual Transfer	03-May-13	Placement -10
11.	Shri Masurkar Damodar Bhikaji	14497-M	NSRY	SKL	26-Aug-08	26-Aug-08	Upgraded w.e.f. 26-08-2009	…	…	Placement - 11
12.	Shri Manesh MA	14498-R	NSRY	SKL	22-Aug-08	22-Aug-08	Upgraded w.e.f. 22-08-2009	…	…	Placement - 12
13.	Shri Abhinav Kumar	14499-W	NSRY	SKL	19-Aug-08	19-Aug-08	19-08-2009	…	…	Eligible
14.	Shri Yogesh Bhau Borhade	14500-E	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Extra Placement - 1
15.	Shri Suresh B	14502-M	NSRY	SKL	22-Aug-08	22-Aug-08	22-Aug-09	…	…	Eligible
16.	Shri Dhiraj Kumar Ghanshyam	14501-K	NSRY	SKL	26-Aug-08	26-Aug-08	26-08-2009	…	…	Eligible
17.	Shri Prasanth KS	14503-R	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible
18.	Shri Sajesh Chavaranal Madhavan	14504-W	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible
19.	Shri Gaikwad Mahendra Vittal	14496-K	NSRY	SKL	21-Aug-08	21-Aug-08	21-08-2009	…	…	Eligible
20.	Shri Shiju CM	14547-M	NSRY	SKL	12-Feb-09	12-Feb-09	12-Feb-10	…	…	Eligible

TRADE: PLATER/BLACK SMITH/SHEET METAL		No. of Posts: 06								
1.	Shri Aneesh Muraleedharan	13239-B	NSRY	SKL	17-Jan-07	17-Jan-07	Upgraded w.e.f. 17-01-2008	…	…	Placement -1
2.	Shri Lijo Paul	14512-T	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-08-2009	…	…	Placement - 2
3.	Shri Lineesh K	14513-A	NSRY	SKL	26-Aug-08	26-Aug-08	Upgraded w.e.f. 26-08-2009	…	…	Placement - 3

4.	Shri Aji Narayanan	14510-L	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-08-2009	…	…	Placement - 4
5.	Shri Anand Raj	14511-N	NSRY	SKL	25-Aug-08	25-Aug-08	Upgraded w.e.f. 25-08-2009	…	…	Placement - 5

TRADE: SHIP FITTER			No. of Posts: 05							
1.	Shri Vijay Lakshman Javkar	14378-T	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement -1
2.	Shri Gangadhar Krishna Ankolekar	14480-A	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement - 2
3.	Shri Jagadeesh Beerappa Ambig	14479-K	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement - 3
4.	Shri Babu Vinayak Ankolekar	14481-E	NSRY	SKL	13-Aug-08	11-Aug-08	Upgraded w.e.f. 13-08-2009	…	…	Placement - 4
5.	Shri Annepu Praveen Kumar	14478-E	NSRY	SKL	27-Aug-08	27-Aug-08	Upgraded w.e.f. 27-08-2009	…	…	Placement - 5
6.	Shri Manojkumar B Chougale	14475-N	NSRY	SKL	27-Aug-08	27-Aug-08	27-Aug-09	…	…	Eligible

TRADE: RIGGER			No. of Posts: 08							
1.	Shri Pediredla Harinadh Ramu	13455-N	COMCEN	SKL	01-Jun-07	01-Jun-07	01-Jun-2008	Technical Resigned	01-Mar-10	Placement -1
2.	Shri Shiv Kumar Sahu	14118-L	NSRY	SKL	21-Apr-08	21-Apr-08	Upgraded w.e.f. 21-04-2009	…	…	Placement - 2
3.	Shri Govind Shantaram Bhojane	14442-H	NSRY	SKL	17-Nov-08	17-Nov-08	Upgraded w.e.f. 17-11-2009	…	…	Placement - 3
4.	Shri Samail Khan	14461-N	NSRY	SKL	17-Nov-08	17-Nov-08	Upgraded w.e.f. 17-11-2009	…	…	Placement - 4
5.	Shri Ranjan Chudamani Tandel	14516-M	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement - 5
6.	Shri Suresh Manohar Sutar	14462-T	NSRY	SKL	17-Nov-08	17-Nov-08	Upgraded w.e.f. 17-11-2009	…	…	Placement - 6
7.	Shri Santosh Yeshwant Naik	14469-B	NSRY	SKL	03-Nov-08	03-Nov-08	Upgraded w.e.f. 03-11-2009	…	…	Placement - 7
8.	Shri Manoj Bala Majalikar	14476-T	NSRY	SKL	03-Nov-08	03-Nov-08	Upgraded w.e.f. 03-11-2009	…	…	Placement - 8
9.	Shri Sandeep Ganapati Naik	14942-B	NSRY	SKL	02-Jun-09	02-Jun-09	Upgraded w.e.f. 02-06-2010	…	…	Re-Placement -1 for (Sl.No.1)
10.	Shri Kale Hemant Gajanan	14941-W	NSRY	SKL	01-Jun-09	01-Jun-09	01-Jun-2010	Transferred from HQKNA	14-Oct-10	Eligible

11.	Shri Ravindra Ramachandra Sakat	14940-R	NSRY	SKL	13-May-09	13-May-09	Upgraded w.e.f. 13-05-2010	Compassionate Transfer	01-Feb-12	Extra Placement - 1

TRADE: COMPUTER FITTER				No. of Posts: 04						
1.	Kum Dighe Leena Namdev	14422-R	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Placement - 1

TRADE: WEAPON FITTER				No. of Posts: 07						
1.	Shri Sachin Dilip Chavan	14413-N	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Placement-1
2.	Shri T V Veerabhadra Prasad	14415-A	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Placement-2
3.	Shri Pawar Sandip Shrirang	14417-K	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement-3
4.	Shri Rickshad Fernandes	14420-K	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement-4
5.	Shri Bhupalkar Ranganath Sidram	14406-W	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement-5
6.	Shri Nandkumar Mohan Kawale	14421-M	NSRY	SKL	29-Aug-08	29-Aug-08	29-Aug-2009	Mutual Transfer	05-Apr-13	Placement-6
7.	Shri Datta Mahadev Khune	14405-R	NSRY	SKL	29-Aug-08	29-Aug-08	29-Aug-2009	Compassionate Transfer	16-Dec-10	Placement-7
8.	Shri Ganapati K Naik	14408-H	NSRY	SKL	07-Jan-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Extra Placement-1
9.	Shri Chandrakant C Harikantra	14409-L	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Extra Placement-2
10.	Shri Krishnand Mohan Talekar	14410-B	NSRY	SKL	12-Aug-08	12-Aug-08	12-Aug-2009	…	…	Eligible
11.	Shri Manoj Pandurang Modgekar	14411-H	NSRY	SKL	12-Aug-08	12-Aug-08	12-Aug-2009	…	…	Eligible
12.	Shri Ganapati H Khobrekar	14412-L	NSRY	SKL	12-Aug-08	12-Aug-08	12-Aug-2009	…	…	Eligible

TRADE: SONAR FITTER				No. of Posts: 03						
1.	Shri Ajan J	14423-W	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement -1
2.	Smt Ranjini Anil Kumar	14424-B	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement - 2

TRADE: RADIO FITTER	No. of Posts: 04	

1.	Shri Padmakar Ramakant Mesta	14430-N	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement -1
2.	Shri Sathyan K	14431-T	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement - 2
3.	KumJully Vasant Gajbhiv	14434-K	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	…	…	Placement - 3
4.	Shri Nilesh Bhiku Datekar	14432-A	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement - 4
5.	Kum Santhini SG	14435-M	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-09	Compassionate Transfer	12-Feb-14	Eligible
6.	Shri Pawar Dinesh Sudhakar	14427-N	NSRY	SKL	25-Aug-08	25-Aug-08	25-Aug-09	…	…	Eligible
7.	Shri Bhoir Tushar Suresh	14425-H	NSRY	SKL	29-Aug-08	29-Aug-08	29-Aug-09	…	…	Eligible
8.	Kum Samidha Anil Varadkar	14407-B	NSRY	SKL	17-Nov-08	17-Nov-08	17-Nov-2009	Compassionate Transfer	30-Sep-14	Eligible
9.	Shri Chandrashekar P	14428-T	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible
10.	Shri Manibaba Thummalapalli	14426-L	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-09	Resigned	12-Dec-11	Eligible

TRADE: RADAR FITTER			No. of Posts: 03							
1.	Shri Prafulla Kumar Mohanta	14438-B	NSRY	SKL	29-Aug-08	29-Aug-08	Upgraded w.e.f. 29-08-2009	Technical Resignation	30-Sep-14	Placement -1
2.	Shri Roy R	14440-W	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement - 2
3.	Shri Nitin Maruti Ankolekar	14436-R	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement - 3
4.	Shri Shreedhar Pundalik Mayekar	14437-W	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible

TRADE: GYRO FITTER			No. of Posts: 04							
1.	Shri Ratheesh PV	14445-T	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement -1
2.	Kum Korrayi Suneeta	14446-A	NSRY	SKL	28-Aug-08	28-Aug-08	29-Aug-2009	Resigned	09-Dec-11	Placement - 2
3.	Shri Dipu M	14443-L	NSRY	SKL	21-Aug-08	21-Aug-08	Upgraded w.e.f. 21-08-2009	…	…	Placement - 3
4.	Shri Goureesh G Kochrekar	14444-N	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement - 4

TRADE: ELECTRIC FITTER				No. of Posts: 20						
1.	Shri Rajashekhar Mashyal	13178-N	NAD	SKL	01-Dec-06	01-Dec-06	Upgraded w.e.f. 01-12-2007	…	…	Placement-1
2.	Shri Pepakayala Siva Prasad	13437-L	NSRY	SKL	29-May-07	29-May-07	29-May-08	Resigned	08-Jul-08	Placement-2
3.	Shri Kelzare Avinash Bhimraoji	13443-A	NSRY	SKL	28-May-07	28-May-07	28-May-08	Resigned	19-Nov-10	Placement-3
4.	Shri Tarade Purushottam S	13436-H	NSRY	SKL	24-May-07	24-May-07	24-May-08	Mutual Transfer	04-Oct-13	Placement-4
5.	Shri Walekar Chandrakant Laxman	13441-N	NSRY	SKL	24-May-07	24-May-07	Upgraded w.e.f. 24-05-2008	…	…	Placement-5
6.	Shri Nidheeskumar TM Purushothaman	13440-L	NSRY	SKL	01-Jun-07	01-Jun-07	Upgraded w.e.f. 01-06-2008	…	…	Placement-6
7.	Shri Pandare Rahul Ganpat	13438-K	NSRY	SKL	27-Aug-07	27-Aug-07	27-Aug-09	Mutual Transfer	22-Nov-13	Placement-7
8.	Shri Jena Sibabrata	13629-H	NSRY	SKL	27-Aug-07	27-Aug-07	Upgraded w.e.f. 27-08-2008	…	…	Placement-8
9.	Shri Bhosale Dattatray Mahadev	13439-T	NSRY	SKL	24-May-07	24-May-07	Upgraded w.e.f. 24-05-2008	…	…	Placement-9
10.	Shri Chavare Ravindra Nana	13444-E	NSRY	SKL	24-May-07	24-May-07	24-May-08	Mutual Transfer	04-Oct-13	Placement-10
11.	Shri Prashant Babu Hulswar	14463-A	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement-11
12.	Shri S. Shabbeer Ali	14464-E	NSRY	SKL	01-Sep-08	01-Sep-08	Upgraded w.e.f. 01-09-2009	…	…	Placement-12
13.	Shri Munendra Kumar Saket	14467-R	NSRY	SKL	28-Aug-08	28-Aug-08	29-Aug-2009	Resigned	13-Apr-10	Placement-13
14.	Shri Rajendra S Chinchankar	14468-W	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement-14
15.	Shri Kundan J Kadam	14470-R	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement-15
16.	Shri Roopesh Ramesh Gunagi	14471-W	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement-16
17.	Shri Bhamare Pravin Raghunath	14472-B	NSRY	SKL	25-Aug-08	25-Aug-08	Upgraded w.e.f. 25-08-2009	…	…	Placement-17
18.	Shri Chandrakant Bhikarya	14404-M	NSRY	SKL	22-Aug-08	22-Aug-08	Upgraded w.e.f. 22-08-2009	…	…	Placement-18

	Harikantra									
19.	Shri Nagaraj Manohar Gunagi	14473-H	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement-19
20.	Shri Bharat Balkrishna Honnavarkar	14474-L	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement-20
21.	Shri Avinash Ankolekar	14454-W	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Re-Placement-1 for (Sl.No.2)
22.	Shri Shantkumar Mahadev Dudalkar	14455-B	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Re-Placement-2 for (Sl.No.13)
23.	Shri Shivam Mahabaleshwar Kindalkar	14456-H	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Extra Placement-1
24.	Shri Naveen Kumar Sambrani	14447-E	NSRY	SKL	13-Aug-08	13-Aug-08	13-08-2009	…	…	Eligible
25.	Shri Ingle Mukesh Ramesh	14448-K	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-2009	…	…	Eligible
26.	Shri Shrinivas Suresh Tandel	14457-L	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible
27.	Shri Manjunath Devalappa Lamani	14449-M	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible
28.	Shri Vishal Suresh Joglekar	14458-N	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible
29.	Shri Viket Kamalakar Govekar	14459-T	NSRY	SKL	12-Aug-08	12-Aug-08	12-Aug-2009	…	…	Eligible
30.	Shri Shivraj Bhimappa B	14450-E	NSRY	SKL	28-Aug-08	28-Aug-08	28-Aug-2009	…	…	Eligible
31.	Shri Rohit Tippanna Bullannanavar	14452-M	NSRY	SKL	20-Aug-08	20-Aug-08	20-Aug-2009	…	…	Eligible
32.	Shri Sateesh Maruti Harikantra	14460-L	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-2009	…	…	Eligible
33.	Shri Pramod Kumar Behera	14402-E	NSRY	SKL	01-Sep-08	01-Sep-08	01-Sep-08	…	…	Eligible
34.	Shri Manoj Krishna Rodde	14453-R	NSRY	SKL	25-Aug-08	25-Aug-08	25-Aug-09	Mutual Transfer	01-Nov-10	Eligible
35.	Shri Bodade Manoj Ganpat	14451-K	NSRY	SKL	22-Aug-08	22-Aug-08	22-Aug-09	…	…	Eligible
36.	Shri Rajendra Shejwadkar	14401-A	NSRY	SKL	21-Aug-08	21-Aug-08	21-Aug-2009	…	…	Eligible
37.	Shri Muthu Krishnan	14947-A	COY	SKL	11-May-09	11-May-	11-May-2010	…	…	Eligible

						09				
38.	Shri Jadhav Sushil Sitaram	14945-N	COY	SKL	12-May-09	12-May-09	12-May-2010	…	…	Eligible

TRADE: MILLWRIGHT		No. of Posts: 03								
1.	Shri Vivek Dadarao Bobade	14882-K	NSRY	SKL	28-Aug-08	28-Aug-08	Upgraded w.e.f. 28-08-2009	…	…	Placement -1
2.	Shri Goutam Biswas	14418-M	NSRY	SKL	17-Nov-08	17-Nov-08	17-Nov-09	Resigned	29-Sep-10	Placement -2
3.	Shri Kuchekar Vinit Mohan	14484-R	NSRY	SKL	20-Aug-08	20-Aug-08	Upgraded w.e.f. 20-08-2009	…	…	Placement -3
4.	Shri Pankaj S Tale	15815-W	NSRY	SKL	19-Mar-09	19-Mar-09	Upgraded w.e.f. 19-03-2010	…	…	Extra Placement -1

TRADE: ICE CRANE FITTER				No. of Posts: 06						
1.	Shri Kadam Ravindara Vitthal	13192-B	NAD	SKL	16-Oct-06	16-Oct-06	Upgraded w.e.f. 16-10-2007	…	…	Placement -1
2.	Shri Gururaj Kalloli	13193-H	NAD	SKL	16-Oct-06	16-Oct-06	Upgraded w.e.f. 16-10-2007	…	…	Placement -2
3.	Shri Padaki Somanatha Mallarao	13212-H	MO (Kar)	SKL	01-Nov-06	01-Nov-06	Upgraded w.e.f. 01-11-2007	…	…	Placement -3
4.	Shri Salaskar Giridhar Vishnu	13237-R	MO (Kar)	SKL	05-Jan-07	05-Jan-07	Upgraded w.e.f. 05-01-2008	…	…	Placement -4
5.	Shri Naik Pawar Anandrao Narayan	13457-T	NSRY	SKL	18-May-07	18-May-07	Upgraded w.e.f. 18-05-2008	…	…	Placement -5
6.	Shri Kadam Machhindra Vitthal	14487-H	NSRY	SKL	13-Aug-08	13-Aug-08	Upgraded w.e.f. 13-08-2009	…	…	Placement -6
7.	Shri Xavier Manu KM	14485-W	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-08-2009	…	…	Extra Placement -1
8.	Shri Sinosh T	14486-B	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible
9.	Shri Shaji G	14488-L	NSRY	SKL	18-Aug-08	18-Aug-08	18-Aug-09	…	…	Eligible
10.	Shri Vijay Yogesh Nayak	14943-H	Vajrakosh	SKL	14-May-09	14-May-09	14-May-09	…	…	Eligible

TRADE: SHIPLIFT OPERATOR & MAINTAINER						No. of Posts: 05				
1.	Shri Umesh R	14491-L	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement -1
2.	Shri Shreedhar D Idoorkar	14492-N	NSRY	SKL	13-Aug-08	13-Aug-08	13-Aug-09	Technical Resignation	02-Jan-12	Placement -2
3.	Shri Shrinivas Ladu Gauda	14383-E	NSRY	SKL	22-Aug-08	22-Aug-08	Upgraded w.e.f. 22-08-2009	…	…	Placement -3

4.	Shri Bhopi Mahesh Laxman	14490-H	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-08-2009	…	…	Placement -4
5.	Shri Milind R Shardul	14489-N	NSRY	SKL	28-Aug-08	26-Aug-08	26-Aug-09	Resigned	28-Mar-12	Placement -5

TRADE: SHIPLIFT OPERATOR & MAINTAINER						No. of Posts: 05				
1.	Shri Umesh R	14491-L	NSRY	SKL	12-Aug-08	12-Aug-08	Upgraded w.e.f. 12-08-2009	…	…	Placement-1
2.	Shri Shreedhar D Idoorkar	14492-N	NSRY	SKL	13-Aug-08	13-Aug-08	13-Aug-09	Technical Resignation	02-Jan-12	Placement-2
3.	Shri Shrinivas Ladu Gauda	14383-E	NSRY	SKL	22-Aug-08	22-Aug-08	Upgraded w.e.f. 22-08-2009	…	…	Placement-3
4.	Shri Bhopi Mahesh Laxman	14490-H	NSRY	SKL	18-Aug-08	18-Aug-08	Upgraded w.e.f. 18-08-2009	…	…	Placement-4
5.	Shri Milind R Shardul	14489-N	NSRY	SKL	28-Aug-08	26-Aug-08	26-Aug-09	Resigned	28-Mar-12	Placement-

TRADE: POWERPACK OPERATOR & MAINTENER/WINCH OPERATOR								No. of Posts:		
1.	Shri Tribhuvan Shrikant Kamble	14541-L	NSRY	SKL	11-Aug-08	11-Aug-08	Upgraded w.e.f. 11-08-2009	…	…	Placement-1
2.	Shri Subramanya S Harikantra	14542-N	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-09	…	…	Placement-2
3.	Shri Vishwanath Pednekar	14543-T	NSRY	SKL	11-Aug-08	11-Aug-08	11-Aug-09	…	…	Placement-3

3. With the help of the learned counsel we had gone through it. It appears that those people who have now stolen march over the applicants were appointed subsequently and therefore, could not have been deemed senior to the applicants, even though they have claimed to be so. Mumbai Bench and Madras Bench had only stated that seniors should not be ignored.

4. The learned counsel for the applicant raises one another aspect also that seniority is determined Unit wise and not on an All India basis. The promotions to the applicants were given in the year 2015 and at that point of time the other

concerned persons were within Mumbai Unit and therefore, they were not eligible to be considered. Their eligibility had been raised by them on the basis that applicants had been given retrospective promotion from 2009 on which date they were also in Karwar in Karnataka and therefore they should have been at least notionally entitled to be in the Unit of Karwar and then granted a promotion that might not be the meaning of unit wise seniority. Seniority is determined at a juncture and point at which a need arises. Need for it arose in the year 2015 and the notional promotion given to him from 2009 will not clothe any right on the others who had gone over to other Units. He would say on the twining ground taken by the respondents, the ground will not lie. We think that probably if Unit wise seniority is to be taken then notional seniority also may have a role to play. Therefore, there may not be any sufficient ground for the respondents to say that a wrong promotion has been given to the applicant w.e.f. 2009 as HSK.II. He is held to be eligible for HSK.I promotion also from 2016, if the DPC find him so eligible. Benefit to be extended to the applicant within the next 2 months if he is legally entitled to it if otherwise.

5. Apparently, the matter is covered by *K.* MEGHACHANDRA SINGH & ORS. VS. NINGAM SIRO & ORS., as the Hon"ble Apex Court in CIVIL APPEAL NO. 8833-8835/2019 dated 19.11.2019 which we quote:-

"[REPORTABLE]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8833-8835 OF 2019

(Arising out of SLP(C) Nos.19565-19567 of 2019

K. MEGHACHANDRA SINGH & ORS. APPELLANT(S)

VERSUS

NINGAM SIRO & ORS. RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 8838 OF 2019
(Arising out of SLP(C) No(s).17007 of 2019

CIVIL APPEAL NO(S). 8836-8837 OF 2019
(Arising out of SLP(C) No(s). 19568-19569 of 2019

J U D G M E N T

Hrishikesh Roy, J.

Leave Granted.

2. These matters pertain to an inter-se seniority dispute in the Manipur Police Service Grade II Officers Signature Not Verified Digitally signed by MAHABIR SINGH Date: 2019.11.19 Cadre, hereinafter referred to as MPS Grade II Cadre. The appellants before us in the SLP (C) No. 19565-67 of 2019 were few of the respondents in the W.P.(C) No. 366 of 2013. They are to be described hereinafter as direct recruits. The respondents in this SLP were the Writ Petitioners in the High Court who were appointed on promotion to the MPS Grade II Cadre. For clarity and ease of understanding, they are being referred as promotees in this judgment.

3. Prior to their induction (on 01.03.2007) to the MPS Grade II Cadre, the promotees were serving as Inspector of Police and they were granted promotion on the basis of a duly constituted Departmental Promotion Committee (DPC). On the other hand, the Private Respondents 3 to 32 and no. 33 in the Writ Petition (C) No. 366 of 2013 were directly recruited into the MPS Grade II Cadre, vide the respective orders dated 14.08.2007 and 24.11.2007.

4. Appointment and seniority in the Manipur Police Service is governed by the Manipur Police Service Rules, 1965 (hereinafter referred to as the MPS Rules, 1965). After

considering the claims and objections and in compliance with the Courts direction (18.02.2013) in W.P(C) No. 235 of 2012, the Govt. of Manipur, applying the principle of dovetailing between the promotees and the direct recruit officers, issued the Order on 17.5.2013 publishing the final seniority list (as on 01.04.2013), of the MPS Grade II Officers. The promotees challenged this through the Writ Petition (C) No. 366 of 2013 in the High Court of Manipur. By amending their Writ Petition, the promotees also challenged the subsequent Govt. orders dated 20.01.2014 and 19.02.2014 where the direct recruits were placed above them.

5. Before the Writ Court, the promotees contended that they entered the MPS Grade II Cadre on 01.03.2007 whereas the private respondent nos.3 to 33 were appointed subsequently (on 14.08.2007 and 24.11.2007 respectively) and, therefore, they should be regarded as senior to the direct recruits.

6. The direct recruits on the other hand claimed seniority over the promotees by contending that seniority has to be decided in accordance with the year of the vacancy and not by the fortuitous date on which, the appointment could be finalized for the direct recruits.

7. In an earlier proceeding i.e., Writ Petition (C) No. 235 of 2012, in an inter-se seniority dispute amongst the direct recruits and promotees in the MPS Grade II Cadre, the State in their counter affidavit took the stand that seniority should be determined from the date on which the person was appointed but not from the date of vacancy. For the direct recruits appointed on 14.08.2007 against the vacancy of 2004-2005 it was averred that their seniority should be counted from the date of appointment.

8. The learned Judge heard the parties, applied his mind to the Office Memorandums produced before him and by the common judgment dated 07.07.2017 quashed the impugned orders. It is seen that single Judge directed that the batch of promotees appointed on 01st of March 2007 must be given seniority above the direct recruits appointed on 14th August, 2007 and he justified this by stating that a direct recruit can claim seniority only from the date of his regular appointment and cannot claim seniority from a date when he is not borne in the service. For this conclusion, the learned Judge had relied upon, inter alia, the ratio in Jagdish Chandra Patnaik vs. State of Orissa1. The

Court also held that the expression year must refer to financial year and not calendar year. Support for such conclusion is based on the Office Memorandum dated 29.4.1999 which contains instructions to be followed by DPC in the matter of holding its meetings towards promotion which is one of the methods of recruitment. This Memo specifies that the recruitment year would be treated as the financial year. Besides the Manipur Reservations of Vacancies in Posts and Services (for Schedule Castes and Schedule Tribes) Act of 1976 which was enacted on 24th February, 1977, for short the Manipur (SC & ST) Act, 1976, provided that the term meant financial year. It was also seen that on 18.12.2009, the State of Manipur amended the Manipur Police Service Rules of 1965 by introducing sub-rule 2(g) defining the word year to mean calendar year. This amendment had provided that it would come into force with effect from the date of publication in the official gazette of Manipur thereby making it plain that the same was not intended to have any retrospective effect. The learned Single Judge relied on this to hold that prior to the date of this notification, the word year could not be said to be calendar year but would mean the financial year.

9. In consequence, the learned Single Judge held that the promotees get entry into the cadre in the recruitment year 2006-2007 whereas the direct recruits would stand appointed in the recruitment year 2007 -2008. There being no overlap between the promotees and direct recruits as far as the year of recruitment is concerned, applying Rule 28(iii) to dovetail the two streams using the principle of rotation of quota, would not arise. It was accordingly determined that the impugned seniority lists are bad in law and all action taken thereunder are rendered null and void. The following directions were then issued by the learned Judge in his common judgment dated 07.07.2017:-

.....

(14) For the reasons stated herein above, the writ petitions being WP(C)No.366 of 2013 and WP(C)No.120 of 2014 are allowed and consequently, the Government orders dated 17-05-2013, 20- 01-2014 and 19-02-2014, impugned herein, in respect of the petitioners and the private respondents, are quashed and set aside with the following directions:

(a) The State Government shall prepare a seniority list afresh in respect of the MPS Officers, after taking into account the observations made by this Court hereinabove, within a period of

three months from the date of receipt of a copy of this judgment and order;

(b) While preparing the seniority list of MPS Officers, the State Government shall follow the guidelines/instructions contained in the Office Memorandum dated 07-02- 1986 which is adopted by the State Government vide its Office Memorandum dated 13-11-1987 as directed vide order dated 18-02-2013 passed by the Honble Gauhati High Court in WP(C)No.235 of 2012. There shall be no order as to costs

. .....

10. Aggrieved by the declaration of inter-se seniority favouring the promotees, few direct recruits including the respondent no.14 K. Meghachandra Singh and others filed the Writ Appeal No.49 of 2017.This Appeal in the Manipur High Court was transferred to the Gauhati High Court and was re-numbered as Writ Appeal No. 66 of 2018. The State Government did not however challenge the analogous judgment (07.07.2017) rendered in the Writ Petition (Civil) No.366 of 2013.

11. The Division Bench upheld the conclusion of the Single Judge but confined its justification to the principle that seniority for direct recruits could not be reckoned from a date prior to their appointment. In doing so, it approved the finding of the Learned Single Judge to the same effect.

.12. The Division Bench did not however feel it necessary to go into the question as to whether year means calendar year or financial year. They felt that the position being very clear, there was no reason to embark upon the interpretation of the word/words year or for that year, as was done by the Learned Single Judge.

13. It was also made clear that the promotees will naturally have seniority over the Appellants as they had entered the cadre of MPS Grade II, before the Writ Appellants were borne in the cadre.

14. Following the above judgment (26.09.2018) in the Writ Appeal No.66 of 2018 against

the direct recruits, K. Meghachandra Singh and others filed the Review Petition No. 10 of 2019. But neither on 04.04.2019 nor on 10.04.2019, the counsel for the direct recruits were present before the Gauhati High Court and accordingly the Review Petition was dismissed for non-prosecution, through the order dated 10.04.2019. The I.A.(C)No.1741 of 2019 was then filed by K. Meghachandra Singh for restoration of the Review Petition; but the restoration was held to be unmerited and accordingly the I.A. filed by the direct recruits was dismissed on 24.05.2019.

15. Aggrieved by rejection of their Writ Appeal and the related petitions, the direct recruits have approached this Court with the Special Leave Petition (C) No.19565-67 of 2019 to challenge the decisions of the High Court.

16. Assailing the impugned judgment and orders, Mr P.S. Patwalia, the learned Senior Counsel contends that seniority of the direct recruits in the MPS Grade-II Cadre must be reckoned from the time when vacancies occurred and should relate to the requisition (29.07.2005) made to the Manipur Public Service Commission, to fill up the vacancies. According to him, the date of actual appointment of the appellants on later dates (14.08.2007 and 24.11.2007), shouldnt impact the inter-se seniority of the direct recruits vis-à-vis the promotees, who were promoted to the cadre on 01.03.2007.

17. The Senior Counsel cites Union of India and others Vs. N.R. Parmar, (2012)13 SCC 340, to argue that when action was initiated for filling up the 2005 vacancies, the administrative delay in finalization of the recruitment leading to delayed appointment should not deprive the individual of his due seniority. By referring to the rotation of quota principle, the counsel argues that initiation of action for recruitment in the year of the vacancy would be sufficient, to assign seniority from that year.

18. According to Mr. Patwalia, the Learned Single Judge erroneously interpreted recruitment year as financial year in order to confer higher seniority position to the promotees vis-à-vis direct recruits as both groups were appointed in different months of the same year i.e. 2007. The Counsel refers to the 1989 Amendment (18.12.2009) of the MPS Rules to point out that recruitment year has been clarified as calendar year and therefore, there is no necessity to interpret the expression.

19. The Senior Counsel then refers to Rule 28(iii) of the MPS Rules to highlight that seniority of the direct recruits and promotees are to be determined on the principle of rotation of vacancies under Rule 5 for that year and therefore, the promotees cannot be placed en-bloc above the direct recruits merely because, they were promoted on an earlier date i.e. 01.03.2007, particularly when, the recruitment process for the direct recruits commenced in the year 2005 itself.

20. Representing the respondents/promotees, the learned Senior Counsel, Shri Jaideep Gupta refers to the MPS Rules, 1965 to argue that the provisions of the Rules make it abundantly clear that inter-se seniority in the cadre of MPS Grade-III is to be determined by the order in which appointments are made to the service. The counsel pointedly refers to Rules 28 (i) where it is specified that the . seniority in the service shall be determined by the order in which appointments are made to the service. He also refers to the later part of Rule 28(iii), where again it is specified that the seniority of the officer shall be counted from the date, he/she is appointed to the service. The provisions in Rule 16(iii) are pressed home by Mr Gupta to argue that only when the person is appointed, he shall be deemed to have been appointed to the service from the date of encadrement.

21. The judgment in N.R. Parmar (Supra) is read with equal emphasis by Mr Gupta to firstly point out that this case does not lay down the correct law in determination of seniority. The counsel highlights the incongruity in a situation where a person who entered service later will claim seniority above those who joined service at an earlier point of time. The applicability of the ratio in N.R. Parmar (Supra) to the litigants in the present case is also questioned by Mr Gupta by pointing out that the provisions of MPS Rules, 1965 applicable for the officers in the Manipur Police Officers, was not the subject of consideration in N.R. Parmar (Supra), and, therefore, the said ratio relatable to Income Tax Inspectors, with different Service Rules, will not apply to the present case.

22. The learned Senior Counsel, Mr Gupta, then refers to the office Memorandum dated 07.02.1986 and the illustration provided in the same Office Memorandum to explain the carry forward principle to argue that the judgment in N.R. Parmar (Supra) misconstrued the legal implication of the OM. According to the counsel, the MPS Rules 1965 did not refer to the financial year as was done by the learned Single Judge or even the calendar year as was mentioned by the Division Bench in as much as the Rules make it abundantly

clear that inter-se seniority has to be reckoned from the date of appointment. It is, therefore, argued that the 2005 requisition for the direct recruit vacancies, can have no bearing on the inter-se seniority of those who were borne in the cadre on an earlier date vis-à-vis those who entered service later, like the direct recruits.

23. The respondents counsel would then submit that reference to the Office Memorandum and the other notifications to decide the inter-se seniority in the MPS Grade-II Cadre would be unnecessary inasmuch as the Rules i.e. MPS Rules, 1965 makes it amply clear that the date of entry in service should be the basis of reckoning the seniority of an incumbent.

24. The State of Manipur is represented by Mr V. Giri, the learned Senior Counsel and he refers to the somewhat inconsistent views between the Single Judge and the Division Bench in the matter of interpretation of the expression recruitment year. He submits that while determining the inter-se seniority of the Manipur Police Service Officer, the applicable Service Rules should be the basis instead of resorting to an interpretive exercise particularly when, there is no scope for ambiguity in the Rules.

25. The learned Senior Counsel for the State then points out that although the Single Judge interfered with the impugned seniority lists prepared by the Manipur Government, the State did not challenge this judgment but have filed the SLP(C) No.19568-69 of 2019 to challenge the Division Bench Judgment in the Writ Appeal No.66 of 2018.

26. Mr Giri refers to the MPS Rules, 1965 (2nd Amendment), 2009 published vide notification dated 18.10.2009 which defines the recruitment year as the calendar year but submits although the Govt. had issued the revised notification (29.06.2019) following N R Parmar (Supra), it will again revisit the seniority list as per the Courts directions.

27. At this stage it needs to be recorded that although the promotees approached the concerned authority for compliance of the direction passed in their favour, the Manipur Government did not take any action. Then the respondents filed the Contempt Case(C) No.224 of 2018 where the Government Advocate appeared and requested for time for reporting compliance. The States Advocate General thereafter informed the Court that the seniority list has been revised and sought time for submitting compliance report. On the

next date, the Advocate General produced a copy of proceeding No.22/2/1989MPS/DP(PT-II), dated 29.06.2019 issued by the Under Secretary (DP), Government of Manipur and submitted that the order of the High Court has been complied. Accepting this submission, the closure of the Contempt Case(C) No.224 of 2018 was ordered on 02.07.2019. As this case was filed by one of the promotees i.e., Ningam Siro, the aggrieved party has filed the Special Leave Petition No.17007 of 2019 to challenge the High Courts closure Order. Representing him, the learned Senior Counsel Mr Jaideep Gupta submits that the High Court should have examined the purport of the proceedings dated 29.06.2019 to satisfy itself about the actual compliance instead of blindly accepting the submission of the Advocate General, to order closure of the contempt case.

28. The contention raised by the learned Counsel for the parties have been considered and the impugned orders and the relevant materials on record have been perused.

29. Before proceeding to deal with the contention of the appellants Counsel vis-à-vis the judgment in N.R. Parmar (Supra), it is necessary to observe that the Law is fairly well settled in a series of cases, that a person is disentitled to claim seniority from a date he was not borne in service. For example, in J.C. Patnaik (Supra) the Court considered the question whether the year in which the vacancy accrues can have any bearing for the purpose of determining the seniority irrespective of the fact when the person is actually recruited. The Court observed that there could be time lag between the year when the vacancy accrues and the year when the final recruitment is made. Referring to the word recruited occurring in the Orissa Service of Engineers Rules, 1941 the Supreme Court held in J.C. Patnaik (Supra) that person cannot be said to have been recruited to the service only on the basis of initiation of process of recruitment but he is borne in the post only when, formal appointment order is issued.

30. The above ratio in J.C. Patnaik (Supra) is followed by this Court in several subsequent cases. It would however be appropriate to make specific reference considering the seniority dispute in reference to the Arunachal Pradesh Rules which are pari materia to the MPS Rules, 1965, (vide (2007) 15 SCC 406 - Nani Sha & Ors. Vs. State of Arunachal Pradesh & Ors.). Having regard to the similar provisions, the Court approved the view that seniority is to be reckoned not from the date when vacancy arose but from the date on

which the appointment is made to the post. The Court particularly held that retrospective seniority should not be granted from a day when an employee is not even borne in the cadre so as to adversely impact those who were validly appointed in the meantime.

31. We may also benefit by referring to the Judgment in State of Uttar Pradesh and others vs. Ashok Kumar Srivastava and Anr2. This judgment is significant since this is rendered after the N.R. Parmar (Supra) decision. Here the Court approved the ratio in Pawan Pratap Singh and Ors. Vs. Reevan Singh & Ors.3, and concurred with the view that seniority should not be reckoned retrospectively unless it is so expressly provided by the relevant service Rules. The Supreme Court held that seniority cannot be given for an employee who is yet to be borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime. The law so declared in Ashok Kumar Srivastava (supra) being the one appealing to us, is profitably extracted as follows:

> *24. The learned Senior Counsel for the appellants has drawn inspiration from the recent authority in Pawan Pratap Singh v. Reevan Singh where the Court after referring to earlier authorities in the field has culled out certain principles out of which the following being the relevant are produced below:*
>
> *45. (ii) Inter se seniority in a particular service has to be determined as per the service rules. The date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one officer or the other or between one group of officers and the other recruited from different Any departure therefrom in the statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution.*
>
> *.....*
>
> *45. (iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.*

32. With the above understanding of the law on seniority, the provisions of the MPS Rules, 1965 and more specifically Rule 28(i), Rule 28 (iii) and Rule 16 (iii) will now bear consideration. For ready reference they are extracted: -

> *Rule 28(i) In the case of persons appointed on the result of competitive examination or by selection under clause (b) of sub-rule (1) of Rule 5, seniority in the Service shall be determined by the Order in which appointments are made to the service.*
>
> *Rule 28(iii) The relative seniority of direct recruits and promotees shall be determined according to rotation of vacancies between direct recruits and promotees as determined under Rule 5 for that year and the additional direct recruits selected against the carried forward vacancies of the previous year would be placed enbloc below the last promotees (or direct recruits as the case may be).*
>
> *The seniority of the officer so appointed under sub-rule (3) of the Rule 16, shall be counted from the date, he/she is appointed to the Service.*
>
> *. . . . .*
>
> *Rule 16(iii)*
>
> *<u>In the case of a person who had been appointed to a post which is subsequently declared as duty post he shall be deemed to have been appointed to the Service from the date of encadrement of the post in the MPS Schedule.</u>*

33. As can be seen from above, the MPS Rules, 1965 never provided that seniority should be counted from the date of vacancy. For those covered by the MPS Rules 1965 the seniority for them will be reckoned only from the date of appointment and not from the stage when requisition for appointment was given.

34. In the above context, it is also necessary to refer to the relevant advertisement issued in 2005 for direct recruitment which allowed the aspirants to apply even if, their result in the qualification examination is awaited. Even more intriguing and significant is the relaxation that those proposing to appear in the qualifying examination are also allowed to respond to the advertisement. If such be the nature of the process initiated (in the year 2005) for making direct recruitment, we can easily visualize a situation where, in the event

of granting seniority from the stage of commencing the process, a person when eventually appointed, would get seniority from a date even before obtaining the qualification, for holding the post.

35. The judgment in N.R. Parmar (Supra) is now to be considered in some detail as this is heavily relied by the appellants counsel. At the outset it must however be cleared that the cited case had nothing to do with the MPS Rules, 1965 and that litigation related to the Income Tax Inspectors who were claiming benefits of various Central Government OMs (dated 22.12.1959, 07.02.1986, 03.07.1986 and 03.03.2008). The judgment was rendered in respect of Central Government employees having their own Service Rules. The applicable Rules for the litigants in the present case however provide that the seniority in the service shall be determined by the order in which appointments are made to the service. Therefore, the concerned Memorandums referred to in N.R. Parmar (Supra) which deal with general principles for determination of seniority of persons in the Central Government service, should not according to us, have any overriding effect for the police officers serving in the State of Manipur.

36. After the judgment in N.R. Parmar (Supra) was delivered, the Union of India issued the Office Memorandum on 04.03.2014 defining the recruitment year to be the year of initiating the recruitment process against the vacancy year and that the rotation of quota, would continue to operate for determination of inter-se seniority between direct recruits and promotees. This Memo was not made applicable to the State of Manipur till the issuance of the OM dated 21.12.2017, adopting the OM dated 04.03.2014 prospectively with effect from 01.01.2018. Significantly, the said OM specifically provided that "".....appointments/promotions made before the issue of this OM will not be covered by this OM. The seniority already fixed as per existing rules followed earlier in the State prior to the issue of this OM may not be reopened. It was also specifically stated therein that this OM will come into effect from 01.01.2018 with the publication in the Gazette

37. From above, it is not only apparent that the above OM was only to be given prospective effect from 1.1.2018 but it contains an express acknowledgement that this was not the position prior to the issuance of the OM and that a different Rule was followed earlier in the State. The conclusion is, therefore, inevitable that at least prior to 1.1.2018, direct recruits cannot claim that their seniority should be reckoned from the date of

initiation of recruitment proceedings and not from the date of actual appointment.

38. When we carefully read the judgment in N. R. Parmar (Supra), it appears to us that the referred OMs (dated 07.02.1986 and 03.07.1986) were not properly construed in the judgment. Contrary to the eventual finding, the said two OMs had made it clear that seniority of the direct recruits be declared only from the date of appointment and not from the date of initiation of recruitment process. But surprisingly, the judgment while referring to the illustration given in the OM in fact overlooks the effect of the said illustration. According to us, the illustration extracted in the N.R. Parmar (Supra) itself, makes it clear that the vacancies which were intended for direct recruitment in a particular year (1986) which were filled in the next year (1987) could be taken into consideration only in the subsequent years seniority list but not in the seniority list of 1986. In fact, this was indicated in the two OMs dated 07.02.1986 and 03.07.1986 and that is why the Government issued the subsequent OM on 03.03.2008 by way of clarification of the two earlier OMs.

39. At this stage, we must also emphasize that the Court in N. R. Parmar (Supra) need not have observed that the selected candidate cannot be blamed for administrative delay and the gap between initiation of process and appointment. Such observation is fallacious in as much as none can be identified as being a selected candidate on the date when the process of recruitment had commenced. On that day, a body of persons aspiring to be appointed to the vacancy intended for direct recruits was not in existence. The persons who might respond to an advertisement cannot have any service-related rights, not to talk of right to have their seniority counted from the date of the advertisement. In other words, only on completion of the process, the applicant morphs into a selected candidate and, therefore, unnecessary observation was made in N. R. Parmar (Supra) to the effect that the selected candidate cannot be blamed for the administrative delay. In the same context, we may usefully refer to the ratio in vs. Shankarsan Dash Vs. Union of India4, where it was held even upon empanelment, an appointee does not acquire any right.

40. The Judgment in N. R. Parmar (Supra) relating to the Central Government employees cannot in our opinion, automatically apply to the Manipur State Police Officers, governed by the MPS Rules, 1965. We also feel that N.R. Parmar (Supra) had incorrectly distinguished the long-standing seniority determination principles propounded in, inter-alia,

J.C. Patnaik (Supra), Suraj Prakash Gupta & Ors. vs. State of J&K & Ors. 5 and Pawan Pratap Singh & Ors. Vs. Reevan Singh & Ors.(Supra). These three judgments and several others with like enunciation on the law for determination of seniority makes it abundantly clear that under Service Jurisprudence, seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre. In our considered opinion, the law on the issue is correctly declared in J.C. Patnaik (Supra) and consequently we disapprove the norms on assessment of inter-se seniority, suggested in N. R. Parmar (Supra). Accordingly, the decision in N.R. Parmar is overruled. However, it is made clear that this decision will not affect the inter-se seniority already based on N.R. Parmar and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy/the date of advertisement.

41. As noted earlier, the Learned Single Judge based his judgment on two propositions but the Division Bench was of the view that result would be the same merely on the basis of one of the two propositions and, therefore, it was unnecessary to pronounce upon the other proposition. Such an approach cannot therefore be described as a conflict (as has been suggested), between the two judgments. Both Benches were absolutely consistent in their conclusion that promotees would have to be given seniority over direct recruits. It cannot therefore be argued that by some convoluted reasoning, it is possible to come to the conclusion that the orders passed by the two Courts would result in diametrically opposite situation namely, that direct recruits would have to be given seniority over promotees.

42. The Learned Single Judge in his Judgment interpreted the Office Memorandum (07.02.1986), as adopted by the State Government vide its OM dated 13.11.1987 to mean that direct recruits could be given seniority only from the date of appointment. The Judgment in N.R. Parmar (Supra) was not cited and the principle contained therein cannot therefore be said to have been intended to be applied by the Learned Judge.

43. That apart, the paragraph (14) of the judgment (7.7.2017) expressly refers to the earlier WP(C) No.235 of 2012 and the 18.02.2013 order passed therein. In that case, the State of Manipur filed counter affidavit categorically stating that, seniority of direct recruits would be counted from their date of appointment and not from the date of initiation of the recruitment process.

44. The Learned Single Judge in paragraph 14 of the judgment directed the State Government to prepare the seniority list after taking into account the observations made by the Court where the Court had clearly observed that the direct recruits cannot get seniority over and above the promotees and that the principle of dovetailing cannot be applied while determining the inter-se seniority between the appellants and the private respondents. This observation is undoubtedly a part of the Courts directions and while implementing this order, the Government could not have given seniority to the direct recruits over the promotees. By doing so, they have acted in violation of the Court Orders and not in conformity therewith.

45. It is now necessary to deal with Mr Patwalias final contentions in reply, placing reliance on All India Judges Association & Ors. Vs. Union of India and Ors.6. He emphasizes the following passage in paragraph 29 of the Judgment:-

> *Hardly if ever there has been a litigation amongst the members of the service after their recruitment as per the quotas, the seniority is fixed by the roster points and irrespective of the fact as to when a person is recruited*

46. The above would however refer to an incumbent whose roster points have been fixed after their recruitment as per the prescribed quotas. The cited judgment does not propose to say that seniority by roster points be fixed, ignoring the date, when the person is recruited. The judgment obviously was not considering a situation, where seniority is being fixed even before the incumbent is borne in service. In any case, having regard to the specification made in the MPS Rules, 1965, which squarely governs the litigants here, the ratio in the All India Judges Association (Supra) would be of no assistance, for the appellants.

47. As earlier discussed, the Rule 28 of the MPS Rules, 1965 shows that seniority in the service shall be determined based on the date of appointment to the service. In particular Rule 28(i) of the MPS Rules, 1965 which is applicable to both promotees and direct recruits, provides that seniority shall be determined by the order in which the appointments are made to the service. If seniority under Rule 28(i) is to be determined based on the date of appointment, it cannot be said that for the purpose of Rule 28(iii), the seniority of direct recruits should be determined on the basis of the date of initiation of the recruitment

process. The term Recruitment Year does not and cannot mean the year in which, the recruitment process is initiated or the year in which vacancy arises. The contrary declaration in N.R. Parmar2 in our considered opinion, is not a correct view.

48. In view of the foregoing, let us now consider the Government order (29.06.2019) produced by the Manipur Advocate General in the Contempt Case. As it appears the seniority list published on 29.06.2019 could not be an independent exercise but its purpose should be to give effect to the judgments passed by the High Court. Since the judgment of the learned single Judge was affirmed by the Division Bench, the seniority list must be prepared in accordance with the High Courts direction. It is certainly not permissible to prepare a fresh seniority list as an independent exercise, without reference to the decisions of the Court. When we test the validity of the list (29.06.2019), there is no escape from the conclusion that the list ignores the decision of the single Judge as affirmed by the Division Bench. It is declared so accordingly.

49. In consequence, the appeals arising out of SLP (C)No.19565-67 of 2019 filed by the direct recruits are dismissed. On the same reasoning, the appeals arising out of SLP (C)No. 19568-69 of 2019, filed by the State of Manipur are not entertained and the same shall stand dismissed. With the above finding on the Contempt Case No.224 of 2018 and quashment of the 29.06.2019 proceeding produced in that case before the High Court, the appeals arising out of SLP (C)No. 17007 of 2019 filed by Ningam Siro against the High Courts order in the Contempt Case No.224/2018 is disposed of.

50. In view of the foregoing, the orders of the High Court in the Writ Petition and the Writ Appeal are upheld. The State of Manipur is accordingly directed to prepare a revised inter-se seniority list in the MPS Grade-II cadre in light of the above discussion and the High Courts Orders. This shall be done within 8 weeks from today. All consequential actions will follow from this judgment. It is ordered accordingly.

….....J.
[R.BANUMATHI]

….....J.
[A.S.BOPANNA]

….....J.
[HRISHIKESH ROY]

NEW DELHI
NOVEMBER 19, 2019 "

5. OA is, therefore, allowed to this limited extent. No order as to costs.

(CV. SANKAR)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER (J)

bk.

Annexures referred to by the Applicant in OA.No.1866/2018

Annexure A-1: Copy of Cadre strength of Naval base, Karwar dated 14.6.2010.
Annexure A-2: Copy of notification memo dated 2015/Oct.15

Annexure A-3: Copy of letter dated 23.10.2015.

Annexure A-4: Copy of staff minute sheet dated Nov.2015.

Annexure A-5: Copy of Selection List of DQE
Annexure A-6: Copy of letter dated 17.6.2016
Annexure A-7: Copy of letter dated 7.12.2016
Annexure A-8: Copy of letter dated 3.1.2017
Annexure A9:Copy of letter dated 6.1.2017
Annexure A10:Copy of the letter dated 10.4.2018
.Annexure A11:Copy of the letter dated 13.7.2018.

Annexures referred to by the Respondents in the Reply Statement

Annexure R-1: Copy of letter 28.10.2016

Annexure R-2:Copy of Hon.CAT Bangalore order dated 22.8.2017 in OA.992/2016

Annexure R-3: Copy of notice of reversion dated 13.11.2018.

Annexure R-4: Copy of letter dated 18.8.2016

Annexure R-5: Copy of letter dated 14.6.2010

Annexure R-6: Copy of letter dated 25.6.2012

Annexure R-7: Copy of letter dated 13.4.2015

Annexure R-8: Copy of letter dated 17.4.2015

Annexure R-9: Copy of letter dated 15.5..2015

Annexure R-10: Copy of letter dated 16.5..2015

Annexure R-11: Copy of letter dated 3.6.2015

Annexure R-12: Copy of letter dated 8.6.2015

Annexure R-13: Copy of letter dated 29.6.2015

Annexure R-14(series): Copy of applicants letter

Annexure R-15(series): Copy of Hqs orders

Annexure R-16: Copy of letter dated 15.4.2016

Annexure R-17: Copy of letter dated 28.3.2016

Annexure R-18: Copy of letter dated 15.7.2016

Annexure R-19: Copy of letter dated 5.9.2017

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