

Central Administrative Tribunal
Principal Bench

OA No.1384/2016
MA No.1369/2016
MA No. 679/2017

Reserved on: 21.03.2017
Pronounced on: 06.04.2017.

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Shri D.K. Mishra s/o Sh. Radhey Shyam Mishra
R/o H.No.10, New Type-V,
Jal Vihar, Lajpat Nagar, New Delhi
Group "A" Service Age 58 years,
Subject: Seniority.
2. Shri Jayadev Sarangi s/o Sh. Janardan Sarangi
R/o 17/1, Rajpur Road, Civil Lines, Delhi.
Group "A" Service Age 57 years,
Subject: Seniority.
3. Shri N.K. Sharma s/o Sh. Hem Prakash
R/o H-2, Type-V, D.A. Flats,
Model Town, Delhi.
Group "A" Service Age 58 years,
Subject: Seniority.
4. Shri D.P. Dwivedi s/o Late Sh. B.P. Dubey
R/o 30, Delhi Govt. Officers Flats,
Greater Kailash-I, New Delhi.
Group "A" Service Age 58 years,
Subject: Seniority.
5. Shri Ashutosh Kumar s/o Late Sh. M.S. Saxena,
R/o 70, Delhi Govt. Officers Flats,
Greater Kailash-I, New Delhi.
Group "A" Service Age 58 years,
Subject: Seniority.
6. Shri V.K. Jain s/o Late Sh. K.R. Jain,
R/o 57, Meera Bai Polytechnic Campus,
Maharani Bagh, New Delhi
Group "A" Service Age 57 years,
Subject: Seniority.
7. Shri Manoj Kumar s/o Sh. Girdhari Lal
R/o 38, Delhi Govt. Officers Flat,
Greater Kailash-I, New Delhi.
Group "A" Service Age 55 years,
Subject: Seniority.

8. Shri S.P. Singh s/o Late Sh. S.S.Singh,
R/o H.No.1, New Type-V Flats,
Jal Vihar, Lajpat Nagar-1,
New Delhi
Group "A" Service Age 57 years,
Subject: Seniority.

9. Shri G.S. Meena s/o Sh. Chiranjilal Meena,
R/o D-1/36, Bharti Nagar, New Delhi.
Group "A" Service Age 55 years,
Subject: Seniority.

10. Shri G.L. Meena s/o Late Sh. Samaliya Meena,
R/o B-5, Delhi Govt. Officers Flats,
Near Deep Public School,
Sector D2, Vasant Kunj,
New Delhi.
Group "A" Service Age 57 years,
Subject: Seniority.

11. Shri R.K. Mishra s/o late Sh. V.P. Mishra,
R/o A-307, Priyadarshni Apartments,
Patparganj, Delhi.
Group "A" Service Age 57 years,
Subject: Seniority. ...Applicants

(By Advocate: Mrs.Jyoti Singh, Senior Advocate with
Mr. Amandeep Joshi and Mr. Himanshu)

Versus

1. Union of India through
Secretary,
Ministry of Personnel, Public Grievances &
Pensions (DOPT), Govt. of India
New Delhi.

2. Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.

3. Govt. of NCT of Delhi through
Chief Secretary,
Delhi Secretariat,
New Delhi. ...Respondents

(By Advocate: Mr. R.K. Jain)

O R D E R

By Hon'ble Mr. K.N. Shrivastava, Member (A):

MA No.1369/2016 filed for joining together is allowed.

2. The applicants joined Delhi, Andaman & Nicobar Islands Administrative Service [hereinafter referred to as DANICS] between the years 1982-1985. They secured their regular promotions to Selection Grade, Junior Administrative Grade-II [for short, JAG-II] and Junior Administrative Grade-I [for short, JAG-I]. The details in this regard are at Annexure A-3.

3. In terms of Rule 8 (1) of the Indian Administrative Service (Recruitment) Rules, 1954 read with Regulation 9(1) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the applicants were inducted into IAS and allocated AGMUT Cadre. Their induction was against the vacancies of the years 2009 and 2010 and an order to this effect was issued by the respondent no.1 on 24.11.2011 (Annexure A-5). *Inter se* seniority of State Civil Service (SCS) Officers inducted into IAS is governed by the Indian Administrative Service (Regulation of Seniority) Rules, 1987 [for short, Seniority Rules, 1987]. The relevant Rule 3, which deals with assignment of year of allotment, is reproduced below:-

“3. Assignment of year of allotment:-

(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in these rules.

(2) The year of allotment of an officer in Service at the commencement of these rules shall be the same as has been assigned to him or may be assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules.

(3) The year of allotment of an officer appointed to the Service after the commencement of these rules shall be as follows:-

(i) the year of allotment of a direct recruit officer shall be the year following the year in which the competitive examination was held:

Provided that if a direct recruit officer is permitted to join probationary training under rule 5(1) of the IAS (Probation) Rules, 1954, with direct recruit officers of a subsequent year of allotment, then he shall be assigned that subsequent year as the year of allotment.

(ii) The year of allotment of a promotee officer shall be determined with reference to the year for which the meeting of the Committee to make selection, to prepare the select list on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in the State Civil Service not below the rank of a Deputy Collector or equivalent, up to the 31st day of December of the year immediately before the year for which meeting of the Committee to make selection was held to prepare the select list on the basis of which he was appointed to the Service, in the following manner:-

a. for the service rendered by him upto twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years;

b. he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation- For the purpose of calculation of the weightage under this clause, the fractions, if any, are to be ignored:

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list:

(iii) the year of allotment of an officer appointed by selection shall be determined with reference to the year for which the meeting of the Committee to make the selection to prepare the select list, on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in a post equivalent to the post of Deputy Collector or a higher post, up to the 31st December of the year immediately before the year for which the meeting of the Committee to make the selection was held to prepare the select list on the basis of which he was appointed to the service, in the following manner:-

(a) for the service rendered by him up to twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years;

(b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation- For the purpose of calculation of the weightage under this clause, the fractions, if any, shall be ignored:

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the Service on the basis of an earlier select list:

Provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the recruitment rules, whose length of Class I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the State.

Explanation - The length of the relevant Class I continuous service in either case shall be with reference to the 31st day of December of the year immediately before the year for which the meeting of the Committee to make selection was held to

prepare the select list on the basis of which appointments were made in the respective cases.”

4. The Ministry of Home Affairs (Respondent no.2) have published the National Capital Territory of Delhi, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil Service) Rules, 2003 (page 75-99 of the paper book)[for short, 2003 Rules]. The ‘approved service’ in relation to any grade under 2003 Rules has been defined as under:-

“(e) “Approved Service”, in relation to any grade, means the period or periods of regular service rendered in that grade, including period or periods during which a member of the Service could have held a post on regular basis in that grade but for his being on leave or otherwise not being available to hold such posts, from the 1st day of July of the year –

- (a) following the year in which the examination was held in respect of an officer appointed directly to that grade;*
- (b) for which the recruitment was made on regular basis in respect of an officer appointed to that grade by promotion.”*

5. The Seniority Rules, 1987 were amended in the year 2012 and notified in the Gazette on 18.04.2012. The amended Rule 3 in *sub rule (3)* for clause (ii) now reads as under:-

“(A) The words “immediately before the year” shall be omitted.

(B) For sub-clauses (a) and (b), the following clauses shall be substituted, namely:-

“(a) for the service rendered by him upto twelve years, he shall be given a weightage of one year for every completed four years of service, subject to a minimum of three years;

(b) for the service rendered by him beyond 12 years, as referred to in sub-clause (a) and upto 21

years, he shall be given a weightage of one year for every completed three years of service.

(c) for the service rendered by him beyond 21 years, as referred to in sub-clause (b), he shall be given a weightage of one year for every completed two years of service, subject to a maximum of three year.”

6. As per the un-amended Seniority Rules, 1987, a promotee officer inducted into IAS was to get a weightage of one year for every three years of completed approved service and beyond 21 years, he was to get a weightage of one year for every two years of completed approved service. Thus, a promotee officer after having put in 25 years of approved service was getting a weightage of 9 years $[(21/3 = 7 + 4/2 = 2); \text{Total } 7+2 = 9 \text{ years}]$.

7. Under the amended Seniority Rules, 1987, a promotee officer upto 12 years of approved service gets a weightage of one year for every four years of completed approved service, between 12-21 years of approved service, he gets a weightage of one year for every three years of completed approved service, and beyond 21 years, he gets a weightage of one year for every two years of completed approved service. Thus, under the amended Rules, a promotee officer having 25 years of approved service would get a weightage of 8 years as per the following calculations:-

$[12/4 = 3, 9/3 = 3 \text{ and } 4/2 = 2 \text{ [Total } 3+3+2 = 8 \text{ years}]$

8. The background of the amendments to the Seniority Rules, 1987 which were published in the Gazette on 18.04.2012 is that the Hon'ble High Court of Punjab & Haryana in ***Praveen Kumar versus U.P.S.C. and Ors.*** [CWP No.15798/2010 decided on 1st February, 2010], having examined the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, held as under:-

"21. We find substantive support to the aforesaid submission in Unnumbered proviso to Regulation 5(1). According to the aforesaid proviso if no meeting of the Committee could be held during a year then whenever the Committee meets again, the select list has to be prepared separately for each year during which the Committee could not meet as on December 31st of each year. The aforesaid proviso is consistent with the definition of expression 'year' in Regulation 2(1)(1). Therefore, the vacancies for the year 2006 i.e. from 01.01.2006 to 31.12.2006 have to be determined as on December 31st of that year. The select list, which has been erroneously styled as 'Select List of 2007', in fact, is the select list for the year 2006. Therefore, the age of the petitioner has to be determined as on 01.01.2006. Accordingly, he would be eligible.

22. It is true that for the vacancies of the year 2006, the Committee would meet in the year 2007. It does not follow that if meeting of the Committee is held in 2007 then it would alter the eligibility in so far age of a candidate is concerned, which is provided by Regulation 5(3). The effect of any contrary interpretation would be that the officers like the petitioners would be deprived of entering the zone of consideration without any fault of theirs. For example, the petitioner would not be eligible in respect of the vacancies, which have arisen in January 2006 although he was not yet 54 years of age nor he would be eligible for vacancies of the year 2007 because he would cross 54 years of age. The consideration of all eligible candidates annually in respect of vacancies which have arisen during that year is to avoid any such anomaly. It is also to facilitate the work of the Committee so that all vacancies of that year are considered in one meeting instead of holding a meeting for every single vacancy and then determining eligibility.

23. To better understand, another hypothetical situation could be considered. Let us assume that the date of birth of an officer is December 31, 1952. As on 01.01.2006, he would be less than 54 years of age but on 01.01.2007 he would certainly cross the age of 54 years. Therefore, if the reasoning adopted by the Tribunal and the respondents is applied then such an officer would never enter the zone of consideration for the vacancies of year 2006.

24. The intention of the framers of the Regulations further become discernible from the reading of un-amended Regulations, which have linked the age of 54 years to the 1st of April of the year of meeting. The framers of the Regulations must have found that the year of meeting has no relationship for determination of the age of eligibility as it was wholly fortuitous. Therefore, to keep the eligibility intact in respect of the year for which the select list is prepared, amendment has been incorporated in the year 2000 and an effort has been made to link the age of eligibility to the occurrence of vacancies and to de-link the same from the year of meeting. If we construe the Regulation 5(3) to mean that age has to be determined by reference to the year of meeting then the mischief which is sought to remedied would perpetuate and amendment would lose its object. The aspirations of a brilliant and meritorious officer working in the State cannot be defeated by any arbitrary method of fixing the age of eligibility, which has got nothing to do with the basic principles of service jurisprudence, namely, occurrence of vacancy. Therefore, we find that the Tribunal has committed a grave error by presuming that the age of eligibility has to be determined in respect of the year when the Committee is supposed to meet, which is wholly unsustainable.”

9. The judgement of Hon'ble High Court in **Praveen Kumar** (supra) was challenged by the respondents in an SLP before the Hon'ble Apex Court. The said SLP was, however, dismissed. Consequently, the judgement in **Praveen Kumar** (supra) attained finality. The respondent no.1, to implement the judgement of the Hon'ble High Court in **Praveen Kumar** (supra), amended the Seniority

Rules, 1987 and accordingly notified the amended Rules vide Gazette Notification dated 18.04.2012.

10. Pursuant to the amendments to Rule 3 of the Seniority Rules, 1987, respondent no.1 issued Civil List dated 22.11.2002 [Annexure A-1 (Colly.) pg.39] wherein the year of allotment of IAS to applicant no.1 was changed from the year 2000 to 2001. Likewise other applicants too were affected in some way or the other. It is the contention of the applicants that this amendment has adversely affected them by postponing their year of allotment in IAS. The applicants, except applicant nos. 5 & 10, made representations dated 04.01.2013, 31.08.2015, 09.09.2015, 01.10.2015 and 07.10.2015 to respondent no.1 [Annexure A-8 (Colly.)]. As no action has been taken by the respondent no.1 on their representations, the applicants have filed this OA under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief(s):-

“(a) Pass an order declaring that Rule 3 of the IAS (Regulation of Seniority) Amendment Rules, 2012 would apply prospectively from the date of their gazette notification and will not apply prior to the said date so as to adversely affect the seniority of the applicants and holding that the applicants will continue to be governed by the Seniority Rules of 1987 as it stood prior to the amendment and at the time of their induction into IAS in 2011.

(b) Pass an order quashing the Civil List dated 22.11.2012 to the extent it fixes the seniority of the applicants illegally on the basis of amended Rules and pass a direction to the respondents to issue a fresh Civil

List fixing seniority as per IAS (Regulation of Seniority) Rules, 1987 and giving weightage as mentioned in those Rules.

(c) Pass an order directing the respondents to correctly calculate the approved service based on the year following year of examination of Civil Services Examination and not date of joining."

11. The main grounds pleaded by the applicants for claiming the reliefs are as under:-

(a) The applicants were called upon to give their willingness for induction into IAS against the vacancies for the years 2009 and 2010. They gave their willingness considering the then prevailing rules and service conditions. They were inducted into IAS vide Annexure A-5 order dated 24.11.2011. At that point of time, amendment to Rule 3 of Seniority Rules, 1987 was not at sight nor was it notified. The amendments to Rule 3 of the Rules *ibid* have been effected vide notification dated 18.04.2011 [Annexure A-1 (Colly.)] which has severely prejudiced the applicants' interest. All the applicants have lost almost one year of seniority.

(b) The applicants, at the time of their consideration for induction into IAS, were already in the pay scale of Rs.37400-67000 (PB-4) + Grade Pay of Rs.8700/- w.e.f. 01.02.2007. After their induction into IAS and allotment of 2000 batch, they have been placed in the

pay of Rs.15600-39100 (PB-3) + Grade Pay of Rs.7600/-. They would not have given their willingness for induction into IAS if they had the knowledge that the seniority fixation rules will be changed with retrospective effect.

(c) The rule relating to 'approved service' provides that approved service will have the period of regular service in the grade from the 1st day of July of the year following the year in which the examination was held in respect of an officer appointed directly to that grade. Based on this criterion of approved service, the applicants have been given promotions upto JAG-I level in DANICS. The same criterion of approved service has been followed while inducting the applicants into IAS in the year 2011. However, to the detriment of the applicants, while determining their seniority in terms of the amended Seniority Rules, 1987, the respondents have wrongly calculated the service from the year of joining and this has caused a loss of 18 months approximately in the seniority of the applicants.

(d) The respondents, having inducted the applicants into IAS vide Annexure A-5 order dated 24.11.2011, are

now estopped from changing service conditions of the applicants by subsequent amendments.

(e) The amendment to the Seniority Rules, 1987 cannot be applied retrospectively. Even if it is assumed that the amendment is not bad in law, its applicability can only be with prospective effect. Thus, the seniority in IAS of the candidates like the applicants considered by the Selection Committees for Select Lists 2009 and 2010 will have to be governed under the un-amended Seniority Rules, 1987.

12. Pursuant to the notices issued, the respondents entered appearance and filed the reply. The important averments made in the reply are as under -

(a) The amendment to the Seniority Rules, 1987 vide Notification dated 18.04.2012 became necessary in order to implement the ratio of law laid down by the Hon'ble High Court of Punjab & Haryana in ***Praveen Kumar*** (supra) which had attained finality after the Hon'ble Apex Court dismissed the SLP preferred against the said judgment of Hon'ble Punjab & Haryana High Court. In ***Praveen Kumar*** (supra), *inter alia*, it has been held that the select list of promotion of SCS officers to IAS should be styled coinciding the year of occurrence of vacancies and eligibility should

be reckoned from 1st day of January of the year of occurrence of vacancies. Accordingly, OM dated 25.08.2010, referred to in ***Praveen Kumar*** (supra) was issued by the respondents laying down guidelines for fixation of seniority as per the ratio of the said decision. In the wake of ***Praveen Kumar*** (supra), the service of SCS officers is to be counted from the date of continuous appointment in the grade of Deputy Collector or equivalent till 30th December of the year of which the select list had been prepared. In order to ensure that the promotee IAS officers appointed after ***Praveen Kumar's*** case do not get undue benefit of additional year of seniority vis-à-vis the officers appointed before that, it was considered necessary to amend Rule 3 of the Seniority Rules, 1987 and the same was carried out vide Notification dated 18.04.2012.

(b) When the Selection Committee met for considering the induction of the applicants against IAS vacancies for the years 2009 and 2010, OM dated 25.08.2010 had already been issued. By implication, it means that the guidelines contained in the OM dated 25.08.2010 were in the knowledge and notice of the Selection Committees.

13. After completion of pleadings, arguments advanced by Ms. Jyoti Singh, learned Senior Counsel together with Sh. Amandeep Joshi and Sh. Himanshu, on behalf of the applicants and Sh. R.K. Jain, learned counsel for the respondents were heard.

14. Learned counsel for the parties by and large elaborated the contentions of their respective parties in the pleadings. Ms. Jyoti Singh strongly argued that as the applicants' induction into IAS had taken place prior to the amendments to Rule 3 of the Seniority Rules, 1987 vide notification dated 18.04.2012, the amended rules cannot be applied retrospectively and, as such, the Seniority list dated 22.11.2012 issued by the respondents on the basis of the amended rules requires to be interfered with by this Tribunal.

15. On the other hand, the main thrust of Sh. R.K. Jain, learned counsel for the respondents, was that proviso to Rule 3 of the Seniority Rules, 1987 has not been amended by the notification dated 18.04.2012. The said proviso reads as under:-

"Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the Service on the basis of earlier select list."

Sh. R.K. Jain stated that an officer Sh. K.K. Jindal is admittedly senior to the applicants and has been assigned

year of allotment as the year 2000. The applicant no.1 has also claimed the year of allotment for him as the year 2000. This would be impermissible in terms of the *ibid* proviso. Sh. Jain also raised some procedural issues. He said that assuming that the relief, as claimed by the applicants, is granted, in that case several other officers would get affected and they have not been made party in this OA. He further stated that the seniority list was published on 22.11.2012 whereas the instant OA challenging the said seniority list has been filed much belatedly on 07.04.2016 and, thus, the OA is also hit by limitation. No application for condonation of delay has been filed by the applicants.

16. We have given our thoughtful consideration to the arguments put forth by learned counsel for the parties.

17. Admittedly, the applicants have been considered for their induction into IAS against the vacancies for the years 2009 and 2010. Indisputably, Rule 3 of the Seniority Rules, 1987 had not been amended at that point of time. Pursuant to the recommendations of the Selection Committee, the applicants were appointed/inducted into IAS vide Annexure A-5 order dated 24.11.2011. As a follow up of this notification, the respondents were obliged to assign the year of allotment to the applicants immediately thereafter. Unfortunately, that did not happen. The

respondents chose to wait for the amendments to Rule 3 of the Rules *ibid* and only thereafter assigned the year of allotment to the applicants vide notification dated 22.11.2012. Obviously, this notification was in accordance with the amended Rules. As indicated in para no.11(c), the amendments have resulted into loss of seniority of the applicants by one year e.g. the applicant no.1, who was entitled for assignment of the year of allotment as 2000, has in fact been given the year of allotment as 2001. This has definitely prejudiced the service prospects of the applicants.

18. On the issue of retrospective application of any legislation/rules, the Hon'ble Apex Court in case of **Shyam Sunder & Ors. Vs. Ram Kumar & Anr.** [2001 (8) SCC 24], has held as under:-

"(F) From the aforesaid decisions the legal position that emerges is that when a repeal of an enactment is followed by a fresh legislation such legislation does not affect the substantive rights of the parties on the date of suit or adjudication of suit unless such a legislation is retrospective and a Court of appeal cannot take into consideration a new law brought into existence after the Judgment appealed from has been rendered because the rights of the parties in an appeal are determined under the law in force on the date of suit. However, the position in law would be different in the matters which relate to procedural law but so far as substantive rights of parties are concerned they remain unaffected by the amendment in the enactment. We are, therefore, of the view that, where a repeal of provisions of an enactment is followed by fresh legislation by an amending Act such legislation is prospective in operation and does not affect substantive or vested rights of the parties unless made retrospective either expressly or by necessary intendment. We are further of the view that there is a presumption against the retrospective operation of a

statute and further a statute is not to be construed to have a greater retrospective operation than its language renders necessary, but an amending Act which affects the procedure is presumed to be retrospective, unless amending Act provides otherwise. We have carefully looked into new substituted S.15 brought in the parent Act by Amendment Act, 1995 but do not find it either expressly or by necessary implication retrospective in operation which may affect the right of the parties on the date of adjudication of suit and the same is required to be taken into consideration by the appellate Court. In *Shantidevi (Smt) v. Hukumchand* (1996) 5 SCC 768 : (1996 AIR SCW 3680 : AIR 1996 SC 3525) this Court had occasion to interpret the substituted S.15 with which we are concerned and held that on a plain reading of S.15 it is clear that it has been introduced prospectively and there is no question of such section affecting in any manner the Judgment and decree passed in the Suit for pre-emption affirmed by the High Court in the second appeal. We are respectfully in agreement with the view expressed in the said decision and hold that the substituted S.15 in the absence of anything in to show that it is retrospective, does affect the right of the parties which to them on the date of suit or on the date passing of the decree the Court instance. We are also of the view that present appeals are unaffected by change in law so far it related to determination of substantive rights of the parties and the same are required to be decided in light of law of pre-emption as it existed on the date of passing of the decree.”

Similar view has been taken by this Tribunal in the case of

Shri R.A. Sanjeev & Ors. V/s. Union of India & Ors.

[OA No.2982/2012 decided on order dated 29.05.2015]

wherein the case of Delhi Andaman & Nicobar Islands Police Service [for short, DANIPS] officers for induction into Indian Police Service was involved.

19. We have also considered the arguments of the learned counsel for the respondents that the proviso to Rule 3 has not been amended and as per that proviso an officer shall not be assigned the year of allotment earlier than the year

of allotment assigned to an officer senior to him. Sh. Jain had argued that Sh. K.K. Jindal, who is indisputably senior to all the applicants, has been assigned the year of allotment as 2000. Thus, in terms of the *ibid* proviso, the applicants cannot be granted the year of allotment as 2000. We have also gone through the *ibid* proviso which only says that an officer cannot be assigned the year of allotment earlier than the year of allotment assigned to an officer senior to him, but it does not prohibit assignment of the same year and placing the juniors below the senior in order of seniority, in the same year of allotment.

20. In the present case, as discussed earlier, position of the applicants in the seniority list has got adversely affected by one year due to amendment to Rule 3 of the Seniority Rules, 1987. We have already analyzed in para no. 18 that retrospective application of an amended rule is impermissible in law. We have no doubt in our mind that the applicants have been adversely affected due to the implementation of the amended rules retrospectively. This injustice meted out to the applicants deserves to be set right which can be done by directing the respondents to assign the year of allotment to the applicants strictly in terms of the un-amended seniority rules.

21. In the conspectus of discussions in the foregoing paras, the instant OA succeeds. The seniority list published vide notification dated 22.11.2012 (page 39-42 of the paper book) is quashed and set aside. The respondents are directed to re-work out the year of allotment to the applicants strictly in terms of the un-amended rules of seniority as they existed prior to the amendment vide notification dated 18.04.2012. While doing so, if some of the applicants are found to be entitled for assignment of year of allotment as the year 2000, in that case such applicants shall be placed below Sh. K.K. Jindal in the seniority list in the same year of allotment i.e. the year 2000.

22. The above directions shall be implemented by the respondents within a period of three months from the date of receipt of certified copy of this order. No costs.

23. In view of the order passed in the OA, all ancillary applications also stand disposed of.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman