

OA.No.170/00586-00599/2015/CAT/Bangalore Bench
**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00586-00599/2015

DATED THIS THE 02nd DAY OF MARCH, 2018

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

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. Rajiv Kumar Singh
S/o. Shri Abhay Kumar Singh
Aged about 32 years
Working as Intelligence Offices
Office of Directorate of Revenue Intelligence
Ministry of Finance
Department of Revenue
Banaswadi
Bangalore. OA.No.170/00586/2015
2. Debasish Ghosh
S/o. Shri Debesh Chandra Ghosh
aged about 34 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Club Road
Belgaum. OA.No.170/00587/2015
3. Alok Singh
s/o. Shri Arjun Singh
aged about 32 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Club Road
Belgaum. OA.No.170/00588/2015
4. Alok Kumar Singh
s/o. Shri Upendra Prasad Singh
aged about 31 years
working as Inspector
Office of Commissioner of Central Excise
Club Road
Belgaum. OA.No.170/00589/2015
5. Subodh Chand
s/o. Shri.Munni
aged about 34 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Club Road

Belgaum.

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6. Ashonik Kumar
s/o. Shri.Munshi Lal
aged about 38 years
working as Inspector
Office of Commissioner of Central Excise
Head Quarter
Ministry of Finance
Panambur
Mangalore.

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7. Rakesh Kumar
s/o. Shri.Bhisham Prasad
aged about 36 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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8. Udit Baghel
s/o. Shri Amir Chand Baghel
aged about 32 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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9. Harpreet
s/o. Shri Surender Kumar
aged about 29 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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10. Raju Kumar Mahto
S/o. Shri.Laxman Mahto
aged about 34 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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11. Randhir Kumar Mishra
s/o. Shri Ram Narayan Mishra
aged about 33 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance

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Mangalore.

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12. Bikram Chakraborty
s/o. Shri Bimal Kumar Chakraborty
aged about 33 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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13. Ashok Kumar Yadav
s/o. Shri Sudarsan Yadav
aged about 35 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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14. Om Shiv Ram
s/o. Shri Bhanwar Lal Bairwa
aged about 29 years
working as Inspector
Office of Commissioner of Central Excise
Ministry of Finance
Panambur
Mangalore.

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.....Applicants

(By Advocate Shri Izzhar Ahmed)

Vs.

1. The Commissioner of Central Excise
Bangalore-1 Commissionerate
Ministry of Finance
Department of Revenue
C.R.Building
Queens Road
Bangalore-560001.

2. The Union of India
through the Secretary
Ministry of Finance
Department of Revenue
North Block
New Delhi-110 001.

....Respondents

(By Advocate Sri.S.Prakash Shetty)

ORDER

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicants aggrieved by their placement in the seniority list of 08.09.2014 have approached this Tribunal in the present OA seeking the following relief:

- i. Set aside vide impugned order No.II/34/09/2014-Estt-A (CCU) dated 11.03.2015(Annexure:A-09) so far as the applicants are concerned is illegal, without rules and against the parameters of the rules of law.*
 - ii. Direct the respondent 1 to re-cast the seniority of the Inspector cadres based on the principles of N.R.Parmar's case (Annexure:A13) and the letter dated 08.09.2014 (Annexure:A-18) by interspersing the applicants seniority with the promotes of the recruitment year-2006 and grant higher grade promotion with all consequential benefits within the stipulated time.*
2. The Applicants submit that they appeared in the examination conducted by the Staff Selection Commission pursuant to the notification issued in the year 2006 and on being selected they were appointed as Inspector of Central Excise. The examination was conducted in August-2007 and the results were declared on 17.03.2009(Annexure-A1). Thereafter the applicants were offered appointments between August and October 2009 and joined the post thereafter. They referred to offer of appointment(Annexure-A2) which stated vide para-4 that the candidates will be considered to have joined service from the date on which he/she actually joined for duty. The seniority in the grade will be determined according to the orders in force and communicated later. The seniority list of direct recruits and promotes was prepared by the respondents on 13.08.2014(Annexure-A3) which according to the applicant was done without following the settled instructions on seniority. They mentioned that the said seniority list includes the candidates at Sl.No.3 to 264

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who have already been promoted to the post of Superintendent, some 22 candidates who have already expired long back and 25 candidates who have resigned from service and 16 candidates who have been removed/terminated from service. They have also submitted that there are some candidates who have joined the post on a later date have been placed before the persons who have joined on earlier date. Thereafter the applicants have filed several representations to the respondents vide Annexures-A4 to A8 referring to various DOPT instructions dtd.07.02.1986, 03.07.1986, 04.03.2014 & 13.08.2014 as well as the case of N.R.Parmar stating that the date of vacancies for the recruitment year should be taken into consideration in their case and not the date of appointment. The Hon'ble Apex Court in N.R.Parmar's case have indicated that the date from when the vacancy arisen should be taken into consideration and not the date of appointment for fixing the seniority. However, the respondents issued order dtd.11.03.2015 rejecting the claim of the applicants saying that the seniority settled with reference to DOPT OM dated 07.02.1986/03.07.1986 may not be re-opened and the instructions in OM dtd.04.03.2014 will be applicable from 27.11.2012 and hence it does not call for any review. Aggrieved by the said order, the applicants have approached this Tribunal in the present OA.

3. The applicants further submit that the OM dtd.03.03.2008 was held as non-est in N.R.Parmar's judgment and the Hon'ble Apex Court had clearly held that the direct recruits will have to be interlaced with the promotes of the same recruitment year. According to the applicants, the DOPT OM dtd.4.3.2014 exclusively referred the interpretation of the term availability as contained in DOPT's OM dtd.07.02.1986/03.07.1986 which was adopted wrongly by the respondents and hence they have ignored the eligibility of the applicants in terms of the Apex Court's judgment in N.R.Parmar's case. The applicants

have also referred to the order dtd.15.04.2014 of the Lucknow Bench passed in OA.No.118/2013(Annexure-A15) and the order of Mumbai Bench dtd.01.08.2013 in OA.No.233/2013(Annexure-A16) and order passed by the Principal Bench dtd.12.05.2014 in OA.No.1854/2013(Annexure-A17) saying that in those cases which are identical to the case of the applicants, the respondents were directed to re-cast the seniority of the applicants in terms of the judgment in N.R.Parmar's case. They have also referred to an order of this Tribunal in Aalok Tiwary vs. Ministry of Finance in OA.No.674/2014 wherein the Tribunal vide order dtd.16.01.2015 (Annexure-A19) extended the benefits of judgment passed in N.R.Parmar's case and directed the respondents to recast the seniority list.

4. The respondents in the reply statement submitted that the applicants are direct recruit Inspectors allocated from the Combined Graduate Level Examination, 2006(CGLE 2006) conducted by the Staff Selection Commission and allotted to the Bangalore zone during the year 2009. After completion of necessary pre-appointment formalities, they were offered appointment during the year 2009 only. The respondents have referred in detail to the DOPT OM dtd.7.2.1986(Annexure-A10) saying that as per the instructions, the seniority of direct recruits and promotee Inspectors available every year(those who were appointed during the year) was fixed by rotating them to the extent it was possible to rotate in the ratio prescribed in the recruitment rules and the excess DRs or promotes who have joined during the year were bunched together and placed enbloc below the last direct recruit/promote. They have also referred to the OM dtd.3.3.2008(Annexure-A12) saying that right from 1986, the above procedure has been adopted for fixing the seniority. They have also referred to the Hon'ble Apex Court judgment in N.R.Parmar & Ors and DOPT instructions dtd.4.3.2014 which says that cases of seniority already

OA.No.170/00586-00599/2015/CAT/Bangalore Bench settled with reference to the applicable interpretation of the term availability as contained in DOPT OM dtd.7.2.86/3/7/86 may not be reopened. According to the respondents, the inter-se seniority in the case of the applicants who are direct recruits and the promotes were fixed with reference to their dates of appointment as per the procedure followed since 1986. Further the principles laid down in the OM dtd.4.3.2014 was effective from 27.11.2012 and hence the representations submitted by the applicants were rejected vide letter dtd.11.3.2015.

5. Referring to the specific instances of irregularities in the seniority list as pointed out by the applicants in the OA, the respondents say that 298 candidates who were considered for promotion to the grade of Superintendent are very much senior to the applicant as they were recruited/promoted during the years 1993 to 2002. Further the names of candidates who are shown as expired, resigned, terminated have not been promoted irrespective of the fact that their names appear in the seniority list of Inspector while they were in service. In regard to some of the DR candidates who have joined on a later date but are placed above the applicants, they mentioned that the relative seniority of the Inspectors recruited through CGL exam was fixed as per their ranking in the said examination irrespective of their date of joining. The seniors shown above were selected in same selection exam and have obtained higher rank. The candidates who are higher in the order of merit become seniors to the applicants even though they might have joined at later dates. Hence, there is no irregularity in the fixation of seniority as far as this aspect is concerned.
6. In regard to sequence of events in the recruitment process, the respondents say that the Central board of Excise & Customs being the nodal authority for

intimating vacancies to SSC initiated the process in 2007 and after confirmation of reported figure of total vacancies, they have communicated to the SSC in April, 2008 and the candidates were allocated to the zonal offices in June, 2009. The candidates who appeared for CGL exam-2006 were allocated against the combined vacancies of the years 2006-2007 which included DR vacancies computed out of the additional vacancies of Inspectors sanctioned in August 2007 and initiation of recruitment process for these vacancies took place after April 2008. Hence, the recruitment year for all purposes would not be the year 2006, since the vacancies itself pertain to the year 2007 and the recruitment process i.e. sending of requisition took place in 2008.

7. The respondents further submitted that although OM dtd.3.3.2008 has to be treated as non-existent in pursuance to the Supreme Court's judgment in the case of Parmar, in view of the facts that there was no change in the manner of fixation of seniority prior and after 3.3.2008, and also of the fact that the seniority fixed up to 27.11.2012 as per the applicable interpretation of the OM dated 7.2.86/3.7.86 need not be reopened, the applicants were informed vide letter dated 11.3.2015 that no revision was called for in the seniority fixation after 3.3.2008 and that their request cannot be acceded to. The said stand of the respondents is in conformity with the instructions issued by the DOPT. Referring to various orders of the Tribunal referred to by the applicants in the OA, the respondents submitted that the entire facts of those cases are not known to them though from the orders itself it appears that they relate to the fixation of seniority in terms of the Hon'ble Supreme Court's orders dtd.27.11.2012 in the case of Parmar. They further mentioned that pursuant to the order of Hon'ble Supreme Court in the case Parmar, the DOPT, being the nodal Ministry issued the OM dtd.4.3.2014 prescribing the criteria for fixation

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of inter-se seniority in respect of direct recruits and promotes and the effective date of the said OM. The seniority issue has been dealt with in accordance with the said OM only. Therefore, they held that the action taken by them is as per rules.

8. We have heard the Learned Counsel for both sides. The Learned Counsel for the applicant while highlighting the submission already made in the OA submitted that the decision of the Hon'ble Apex court in N.R.Parmar is very clear and the year for which the vacancies are notified and the action initiated for the recruitment process should be taken into consideration for deciding seniority and not the date of appointment. The respondents have not followed the principle laid down by the Hon'ble Apex Court in para-33 of its order dtd.27.11.2012 in N.R.Parmar's case and hence the seniority list needs to be revisited. Making reference to the orders passed by this Tribunal in various cases, the Learned Counsel also refers to another judgment passed by the Ernakulam Bench of the Tribunal in OA.No.806/2014 and OA.611/2009 pertaining to the Central Excise Department wherein vide order dtd.16.11.2015, a direction was given to fix the seniority of the applicants therein in accordance with the principle laid down in N.R.Parmar's case and with reference to the date of initiation of the process of recruitment. He also referred to the judgment of Ahmedabad Bench of the Tribunal in OA.No.405/2014 wherein the Tribunal vide its order dtd.15.12.2015 gave a direction to the respondents to draw a fresh seniority list in the light of the judgment of the Hon'ble Apex Court in N.R.Parmar's case. Therefore, he submitted that the respondents in the present case should also be directed to recast the seniority list in accordance with the principle laid down by the Hon'ble Apex Court in N.R.Parmar's case.

9. The Learned Counsel for the respondents, on the other hand, highlighted the submission already made in the reply statement and mentioned that the respondents have followed the principle laid down in DOPT OM dtd.7.2.1986 and the seniority of DRs and promote Inspectors available every year i.e. who were appointed during the year was fixed to the extent it was possible in the ratio prescribed in the RRs. He further referred to DOPT OM dtd.4.3.2014 issuing instructions in pursuance to the judgment of Hon'ble Apex Court in N.R.Parmar's case wherein it was mentioned at para-5 that the principles for determination of inter-se seniority of direct recruits and promotes would be effective from 27.11.2012 and in cases of seniority already settled with reference to the applicable interpretation of the term availability as contained in DOPT OM dtd.7.2.1986/3.7.86 may not be reopened.
10. Both the Counsels have also furnished written arguments which have practically reiterated the submissions made in the OA and reply statement respectively.
11. The applicants have subsequently filed an MA in which they have enclosed a copy of the communication dtd.14.10.2016 issued by the Central Board of Excise & Customs in which all CCs/DGs were directed to confirm that the seniority of Direct Recruits and Promotees has been revised in the same manner interpreted by the Hon'ble Supreme Court in the case of N.R.Parmar & Ors. They also enclosed an office order issued by the Bangalore Circle on 8.3.2017 in which it is stated that a cell is constituted for compiling the relevant data and keep it ready for revision of inter-se seniority of direct recruits and promotes in the manner interpreted by the Hon'ble Apex Court in the case of N.R.Parmar & Ors. and to comply with Board's/Court's directions if any. The respondents in response to the said MA submitted that Board has

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issued a memo dtd.14.10.2016 asking field formations to confirm that the seniority of direct recruits and promotees in the grades of Inspectors and Tax Assistants was revised in accordance with the same manner interpreted by the Hon'ble Supreme Court in the case of N.R.Parmar & Ors. In continuation to the said letter, the Board has issued further directions vide a subsequent letter dtd.2.12.2016 wherein they have reiterated instructions of DOPT's letter dtd.4.3.2014 that the cases of seniority already settled in terms of DOPT OM's dtd.7.2.1986/3.7.1986 shall not be re-opened. Regarding an office order issued constituting a cell for preparation and compiling of data that may be required for review the inter-se seniority, they submitted that an action was taken by the office to keep ready the documents/data in the eventuality of a need for revision of the seniority list from 1986 on receipt of any specific orders from the Hon'ble Court or from the Board to that effect.

12. We have carefully considered the facts of the case and submissions made by either side. The primary issue in the present OA is whether the draft seniority list prepared/published by the respondents on 13.08.2014 reflecting the inter-se seniority between the direct recruits and promotes is in accordance with the principle laid down by the Hon'ble Apex Court in Civil Appeal No.7514-7515/2005 in UOI vs. N.R.Parmar & Ors. The applicants have also pointed out some other errors in the seniority list such as inclusion of the names of persons who already stand promoted or who have since retired or terminated from service etc. They have also cited some instances where persons in the same batch of direct recruits who have been placed higher even though they have joined later. But we are not inclined to discuss those aspects in detail. However, we are of the view that the stand taken by the respondents in these instances appear justified.

13. The Hon'ble Apex Court in its order dtd.27.11.2012 in N.R.Parmar's case had examined the DOPT OM dtd.7.2.1986 and 3.7.1986 in great detail in para 28 & 29 and indicated in the conclusions drawn from the said OMs. It had also struck down the OM dtd.3.3.2008 which issued clarification regarding the term 'available' used in OM dtd.3.7.1986 to mean the actual date of appointment. The Hon'ble Apex Court vide para-33 of its order dtd.27.11.2012 had directed as follows:

33. Having interpreted the effect of the OMs dated 7.2.1986 and 3.7.1986(in paragraphs 20 and 21 hereinabove), we are satisfied, that not only the requisition but also the advertisement for direct recruitment was issued by the SSC in the recruitment year in which direct recruit vacancies had arisen. The said factual position, as confirmed by the rival parties, is common in all matters being collectively disposed of. In all these cases the advertised vacancies were filled up in the original/first examination/selection conducted for the same. None of the direct recruit Income Tax Inspectors herein can be stated to be occupying carried forward vacancies, or vacancies which came to be filled up by a "later" examination/selection process. The facts only reveal, that the examination and the selection process of direct recruits could not be completed within the recruitment year itself. For this, the modification/amendment in the manner of determining the inter-se seniority between the direct recruits and promotees, carried out through the OM dated 7.2.1986, and the compilation of the instructions pertaining to seniority in the OM dated 3.7.1986, leave no room for any doubt, that the "rotation of quotas" principle, would be fully applicable to the direct recruits in the present controversy. The direct recruits herein will therefore have to be interspaced with promotees of the same recruitment year.

14. The respondents in their submissions have indicated that they have fixed the seniority of DRs and promotee Inspectors available every year (i.e. who were appointed during the year) by rotating them to the extent it was possible to rotate in the ratio prescribed in the RRs. In other words, they have taken the year of appointment as 'available' which is not consistent with the direction of the Hon'ble Apex Court in N.R.Parmar's case. In fact the OM dtd.3.3.2008 indicated the date of appointment as synonymous to the term 'available' which was struck down by the Hon'ble Apex Court in N.R.Parmar's case. Therefore, the reference made by the respondents to the DOPT OM and taking a stand that the cases of seniority have been settled by them with reference to the applicable interpretation of the term 'availability' as contained

OA.No.170/00586-00599/2015/CAT/Bangalore Bench in OM dtd.7.2.1986/3.7.1986 and hence need not be reopened appears to us as clearly wrong as they have all along taken the date of appointment as the basis for assigning seniority. There is no necessity to analyse or interpret the OM dtd.7.2.1986/3.7.86 which has already been done by the Hon'ble Apex Court in its order dtd.27.11.2012 in N.R.Parmar's case. We can only conclude that the interpretation of the term 'available' meaning as the date of appointment as contended by the respondents is misconceived and is against the spirit of the Hon'ble Apex Court's order in N.R.Parmar's case.

15. The applicants had referred to various orders passed by various Benches of the Tribunal on this issue. Most of the OAs pertain to the Income Tax department and it is understood that Income Tax department had already revisited the seniority list prepared by them earlier by taking the vacancy year and the initiation of recruitment process as the basis for according seniority to the direct recruits and not the date of appointment. The order of the Ernakulam Bench of the Tribunal in OA.No.806/2014 and 611/2009 pertains to the Customs and Excise Department wherein direction was issued for fixation of seniority of the applicants therein with reference to the date of initiation of the process of recruitment and in terms of the rotation of quota principle. Reference has also been made to the order of the Ahmedabad Bench of the Tribunal dtd.15.12.2015 in OA.No.405/2014 which also pertains to the Central Excise and Customs department. The Ahmedabad bench of the Tribunal in its order dtd.15.12.2015 passed in OA.No.405/2014 vide para-16 to 21 held as follows:

16. We find that the ratio laid down by the Apex Court is squarely applicable to the relief being claimed by the applicants in this OA. The facts and the circumstances are identical to the matter considered by the Apex Court in the above mentioned Civil Appeal before them. The only difference is that N.R.Parmar's case pertains to the Department of Income Tax whereas the instant OA pertains to the Department of Central Excise and Customs. In view

of above, there can be only one way to settle this dispute and that is to settle it in the same terms as decided by the Apex Court. In our words as far as this dispute is concerned the inter se seniority between the applicant and promotes with respect to vacancies of 2003 has to be redrawn considering their year of recruitment i.e. 2003 and not 2005 when the applicants actually joined the service. Accordingly the seniority list will have to be interspaced accordingly. In other words, the applicant will enjoy the inter se seniority vis-à-vis promote with respect to the vacancies of 2003 based on their year of recruitment i.e. 2003 and not 2005, the year they actually joined the service.

17. As regard the applicability of the DoPT circular No.20011/1/2012-Estt.(D) dated 04th march, 2014, the Bombay High Court in Writ Petition No.6784/2014 on 22.9.2014 has held as below:-

40. With the above discussion, we conclude and proceed to pass the following operative order:

41. (a) Both the OA Nos.741/2013 and 692/2013 are partly allowed.
- b) The impugned combined seniority list Annexure A1, dated 17.12.2012 and Annexure-A2, dated 01.4.2013 are hereby quashed and set aside.
- c) Consequently, the respondents are directed to prepare a fresh draft seniority list of Inspectors (Preventive Officers) of direct recruits and promote officers by strictly following the judgment rendered by the Hon'ble Supreme Court in Parmar's case referred above and by ignoring clauses 5(h) of recent DOPT's OM dated 04.03.2014 Annexure-R1.
- d) The respondents shall place the applicants and other similarly placed direct recruits at appropriate slots in the revised seniority list according to their recruitment years.
- e) On preparation of the draft revised seniority list as above, the same be published inviting objections to it and after considering the same a single final/approved combined seniority list of Inspectors(Preventive Officers) of Bombay and Panji, Goa Customs office be prepared and issued.
- f) The above exercise should be done within a period of three months from the date of receipt of the copy of this order.
- g) It is needless to say that till the above exercise is done, it will not be appropriate to permit the respondents to hold any DPC (on the basis of impugned seniority lists, which are now quashed and set aside), although, we are aware of the fact that large number of promotion posts, are lying vacant and the process to fill up the same is help up, on account of the interim order passed by this Tribunal.
- h) Both the OAs stands disposed of with the above directions.

18. Given the categorical finding on the Bombay High Court, the issue of retrospectively vis-à-vis the above mentioned DoPT circular gets settled. Para 5(h) and (i) of DoPT circular No.20011/1/2012-Estt.(D) dated 04th march, 2014 in the light of the High Court judgment lose their validity and applicability and do no offer the respondents any leeway to circumvent the ratio laid down by the Apex Court in this regard, as discussed above.

19. In the course of arguments, the counsel for the applicants placed before us copy of an order dated 20.3.2007 passed by the Principal Bench in OA.No.2093/2005. In that OA, Ministry of Finance, Department of Revenue; Central Board of Excise and Customs; the Commissioner of Central Excise, Delhi-I, and the Secretary, DoPT were the respondents. The order is reproduced as below:

We heard learned counsel for both sides for some time. It was fairly pointed out to us that issue regarding inter se seniority of Inspectors and various other grades

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pertaining to Ministry of Finance whether they belong to CBEW/CBDT is pending adjudication before the Hon'ble Supreme Court in CA.No.7514-7515/2005 Union of India & Ors. V. N.R.Parmar & Ors.

On bestowing our careful consideration to all aspects of the case we are of the considered view that all parties including this Tribunal would be bound by the judgment to be rendered in the said case, and accordingly we dispose of present OA with the observation that both sides would be governed by the judgment to be pronounced in the aforementioned case, as and when it is decided. In case applicants are further aggrieved, it will be opened to them to take appropriate action in accordance with law. No costs.

20. *It is therefore, surprisingly that despite an express understanding before the Principal Bench that they will abide by the decision of the Apex Court in N.R.Parmar case, they should prevaricate before us and take a contrary stand in this OA before us.*

21. *OA thus resultantly succeeds. The impugned orders are quashed and set aside. A fresh seniority list be drawn in the light of the judgment of the Hon'ble Apex Court in N.R.Parmar's case taking into consideration applicants seniority from 2003 vis-à-vis the promote officers promoted in 2003. They may be accordingly interspaced with promote officers. If DPCs for further promotion have been held disregarding their revised seniority, they stand invalidated. Future DPCs to be held taking into consideration this new seniority. However, there shall be no other dilution or modification in the rules concerning their promotion.*

Parties will bear their own cost of litigation.

16. We are inclined to agree with the stand taken by the different Benches of the Tribunal as outlined in the preceding paras for determination of inter-se seniority in accordance with the principles laid down by the Hon'ble Apex Court in N.R.Parmar's case. As explained earlier, we are of the view that seniority list prepared by the respondents on 13.08.2014 by taking date of appointment as the basis for assigning seniority is violative of the principle laid down by the Hon'ble Apex Court in N.R.Parmar's case. The same therefore, cannot be sustained and needs to be revisited.

17. Therefore, on detailed consideration of the matter and in the light of the observation in the preceding paras, we hold that the seniority list prepared by the respondents dtd.13.08.2014 is not in accordance with the principle laid down by the Hon'ble Apex Court in N.R.Parmar's case and hence the same is set aside. The respondents are directed to draw a fresh seniority list in the

light of the judgment of the Hon'ble Apex Court in N.R.Parmar's case and assigning the applicants their seniority in terms of the vacancy year i.e. 2006 and not from the date of appointment and fix the inter-se seniority in terms of the rotation of quota principle. This shall be done within a period of four(4) months from the date of receipt of a copy of this order.

18. The OAs are accordingly allowed in terms of the aforesaid direction. No order as to costs.

(P.K.PRADHAN)
MEMBER (A)

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

/ps/

Annexures referred to by the applicants in OA.170/00586-00599/2015

Annexure-A1: A copy of final result dtd.17.3.2009
Annexure-A2: A copy of offer of appointment dtd.31.8.2009 & 7.10.2009
Annexure-A3: A copy of seniority list dtd.13.8.2014
Annexure-A4: A copy of representation dtd.01.09.2014
Annexure-A5: A copy of representation dtd.15.09.2014
Annexure-A6: A copy of representation dtd.24.09.2014

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Annexure-A7: A copy of representation dtd.22.09.2014
 Annexure-A8: A copy of representation dtd.02.09.2014
 Annexure-A9: A copy of impugned order dtd.11.03.2015
 Annexure-A10: A copy of DoP&T's O.M. dtd.07.02.1986
 Annexure-A11: A copy of DoP&T's O.M. dtd.03.07.1986
 Annexure-A12: A copy of DoP&T's O.M. dtd.03.03.2008
 Annexure-A13: A copy of order dtd.27.11.2012 in Civil Appeal-7514-7515/2005
 Annexure-A14: A copy of DoP&T's O.M. dtd.04.03.2014
 Annexure-A15: A copy of order dtd.15.04.2014 in OA.118/2013
 Annexure-A16: A copy of order dtd.01.08.2013 in OA.233/2013
 Annexure-A17: A copy of order dtd.12.05.2014 in OA.1854/2013
 Annexure-A18: A copy of letter dtd.03.09.2014 and 08.09.2014
 Annexure-A19: A copy of order dtd.16.01.2015 in OA.674/2014

Annexures with reply statement:

Annexure-R1: Copy of letter F.No.A.11013/12/2007-Ad.IV dtd.07.08.2007
 Annexure-R2: Copy of letter F.No.A.11013/12/2007-Ad.IV dtd.16.08.2007
 Annexure-R3: Copy of letter F.No.8/B/26/O&PM/2007 dtd.19.09.2007
 Annexure-R4: Copy of letter C.No.II/31/14/2007.Estt.A dtd.01.11.2007
 Annexure-R5: Copy of letter DOF.No.A.12034/SSC/3/2007-Ad.III.B dtd.04.04.2008
 Annexure-R6: Copy of letter DOF.No.A.12034/SSC/1/2008-Ad.III.B dtd.05.01.2009
 Annexure-R7: Copy of letter DOF.No.A.12034/SSC/1/2008-Ad.III.B dtd.18.03.2009
 Annexure-R8: Copy of letter F.No.A.12034/SSC/3/2009-Ad.III(B) dtd.16.06.2009

Annexures with written note submitted by the applicants:

Annexure-A20: A copy of seniority list dtd.11.05.2015
 Annexure-A21: A copy of letter dtd.15.12.2015
 Annexure-A22: A copy of letter dtd.14.10.2016
 Annexure-A23: A copy of order dtd.16.11.2015 in OA.806/14
 Annexure-A24: A copy of order dtd.16.11.2015 in OA.611/09
 Annexure-A25: A copy of order dtd.15.12.2015 in OA.405/14

Documents supplied by the applicants:

Annexures-M-01: A true copy of representation dtd.20.02.2017

Documents supplied by the applicants in MA.113/2017:

Annexure-M-01: A copy of instruction dtd.14.10.2016
 Annexure-M-02: A copy of office order dtd.08.03.2017

Documents supplied by the applicants:

Annexure-M-01: A true copy of revised seniority list dtd.01.04.2015
 Annexure-M-02: A true copy of draft seniority list dtd.20.03.2017
 Annexure-M-03: A true copy of representation dtd.21.03.2017
 Annexure-M-04: A true copy of draft seniority list dtd.30.03.2017
 Annexure-M-05: A true copy of promotion order dtd.31.03.2017
 Annexure-M-06: A true copy of DoP&T's OM dtd.17.12.1986
 Annexure-M-07: A true copy of DoP&T's OM dtd.23.10.1989

Annexure-M-08: A true copy of DoP&T's OM dtd.25.03.1996

Annexure-M-09: A true copy of order dtd.12.05.2016 in OA-3405/2014 (PB), New
Delhi

Documents supplied by the applicants in MA.570/2017:

Annexure-M-01: A true copy of order dtd.31.10.2017 in OA-894/2015
