



2024:GAU-AS:12929

THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

WRIT PETITION (C) NO.3665/2023

Rabindra Nath Barman, S/o - Late Jogananda Barman, R/o - Barbari, P.O.- Hengerabari, VIP Road, Opposite Doordarshan Colony, H. No-353, Guwahati-36 and presently Serving as Deputy Registrar, Itanagar Permanent Bench.

.....Petitioner

-VERSUS-

The Gauhati High Court through the Registrar General, Gauhati High Court, Guwahati.

.....Respondent

WITH I.A.(CIVIL) NO. 2305/2023

Rabindra Nath Barman, S/o - Late Jogananda Barman, R/o - Barbari, P.O.- Hengerabari, VIP Road, Opposite Doordarshan Colony, H. No-353, Guwahati-36 and presently Serving as Deputy Registrar, Itanagar Permanent Bench.

.....Applicant

-VERSUS-

The Gauhati High Court through the Registrar
General, Gauhati High Court, Guwahati.

.....Opposite Party

Advocates :

Petitioner	: Mr. P.K. Tiwari, Senior Advocate Mr. U. Pathak, Advocate
Respondents	: Mr. H.K. Das, Standing Counsel, Gauhati High Court.
Date of Hearing	: 27.08.2024 & 29.11.2024
Date of Judgment & Order	: 18.12.2024

BEFORE

HON'BLE MR. JUSTICE MANISH CHOUDHURY
JUDGMENT & ORDER

1. In this writ petition preferred by the writ petitioner under Article 226 of the Constitution of India, the writ petitioner has highlighted his grievances regarding non-fixation of his seniority position as well as non-fixation of his *inter se* seniority position in the cadre of Deputy Registrar for a period of about twenty-twenty two years till about his retirement from service on reaching the age of superannuation. The petitioner's condition of service used to be regulated by the Gauhati High Court Services [Appointment, Conditions of Service and Conduct] Rules, 1967. The petitioner joined service on 08.09.1990 and his date of retirement from service on reaching the age of superannuation of 60 years is 30.09.2024. In this writ petition, the petitioner highlighted about his service of more than twenty-twenty two years in the post/cadre of Deputy Registrar from 12.08.2002 to 30.09.2024 and his stagnation therein whereas there were a nos. of promotions from the post/cadre of

Deputy Registrar to the next higher posts/cadres of officers whose *inter se* seniority positions, according to the petitioner, ought to have been below him, as they were juniors to the petitioner in service.

2. To the writ petition, an affidavit-in-opposition has been filed on behalf of the sole respondent traversing the contentions made in the writ petition. The background facts, which have emerged from the pleadings in the writ petition and the affidavit-in-opposition, are expounded in the following paragraphs.
 - 2.1. The petitioner initially came to be appointed on 08.09.1990 as a Lower Division Clerk [LDC] at the Aizwal Bench of the Gauhati High Court. On being so appointed, the petitioner joined his service at the Aizwal Bench of the Gauhati High Court. The petitioner was promoted to the post of Upper Division Clerk [UDC] in April, 1992 when he was serving at the Aizwal Bench. The petitioner had thereafter, made a prayer for his inter-cadre transfer from the Aizwal Bench of the High Court to the Principal Seat of the High Court in Guwahati. The petitioner has averred that for such inter-cadre transfer, he consented to forego his promotion to the post of UDC and his seniority as LDC at the Aizwal Bench. On the basis of such prayer of the petitioner, the petitioner was brought on inter-cadre transfer from the Aizwal Bench of the High Court to the Principal Seat of the High Court in Guwahati as the junior-most Lower Division Assistant [LDA] by an Order dated 23.06.1992. Accordingly, the petitioner joined in the post of LDA on 04.07.1992 at the Principal Seat of the High Court. In essence, the petitioner was reborn in the cadre of LDA of the Principal Seat as the junior-most LDA and his past services in the cadre of LDC and UDC at the Aizwal Bench were wiped out.
 - 2.2. At the Principal Seat, the petitioner was promoted from time to time. By a Notification dated 21.07.2003, the petitioner was promoted to the post of Deputy Registrar w.e.f. 12.08.2002.
 - 2.3. While the petitioner was serving as the Deputy Registrar, the petitioner was placed under suspension with immediate effect by an Order dated 16.11.2005 pending

initiation of disciplinary proceeding against him. During such period of suspension, the petitioner was served with a Show Cause Notice dated 23.06.2006 in connection with the disciplinary proceeding drawn against him whereby five charges were leveled against him. The charges leveled against the petitioner related to his prosecuting the LL.B. Course during the period from 2001 to 2003 from one Royal Academy of Law, Manipur without obtaining prior permission from the competent authority of the High Court.

- 2.4. The disciplinary proceeding so initiated against the petitioner, came to be culminated by an Order dated 18.12.2006, whereby, the petitioner was imposed with the major penalty of reversion to the post of Assistant Registrar. There was a further direction in the Order dated 18.12.2006 to make the petitioner the junior-most in the cadre of Assistant Registrar. The said direction was given effect to by a consequential Order dated 17.01.2007 passed by the Registrar General, Gauhati High Court. On 17.01.2007, another Order came to be passed whereby after his reversion as the junior-most Assistant Registrar, the petitioner was sent on transfer to Kohima Bench of the Gauhati High Court. However, by another Order dated 02.04.2007, the petitioner was brought back to Guwahati as an Assistant Registrar from the Kohima Bench. In the meantime, an appeal preferred by the petitioner against the Order imposing penalty was dismissed on 28.11.2007.
- 2.5. The legality and validity of the disciplinary proceeding initiated against him and the Order of imposition of major penalty of reversion to the post of Assistant Registrar as the juniormost were assailed by the petitioner in a writ petition, W.P.[C] no. 4364/2008 [Rabindra Nath Barman vs. Gauhati High Court and another]. A Division Bench of this Court by a Judgment and Order dated 02.03.2012 set aside the Order dated 18.12.2006 whereby the major penalty of reversion was imposed, and also the consequential Order dated 17.01.2007.
- 2.6. Pursuant to the Judgment and Order dated 02.03.2012 [supra], a Notification dated 04.12.2012 came to be issued whereby the petitioner was placed in the post of Deputy Registrar from the date of his reversion, without any break in service as

Deputy Registrar. The petitioner was held entitled to the financial benefits for the post of Deputy Registrar for the concerned period and also the differential salary, if any, for the period he was kept under suspension.

- 2.7. Subsequently, by a Notification no. HC.V-47/2013/1832-1850/ESTT. dated 22.08.2013, the petitioner who was then serving as the Deputy Registrar [PM&P], Gauhati High Court at the Principal Seat, was posted, on transfer, against a vacant post of Deputy Registrar, Gauhati High Court, Itanagar Permanent Bench, Naharlagun in the usual scale of pay and other allowances as admissible under the rules, in the exigencies of public service and in exercise of the powers conferred under Article 229 of the Constitution of India. On issuance of the Notification dated 22.08.2013, the petitioner joined as Deputy Registrar, Gauhati High Court at the Itanagar Permanent Bench on 30.08.2013.
- 2.8. A challenge to the Order of his transfer to the Itanagar Permanent Bench was made by the petitioner by preferring a writ petition, W.P.[C] no. 1664/2014 on 21.03.2014. During the pendency of the writ petition, W.P.[C] no. 1664/2014, a draft Gradation List of Officers and Staff [Ministerial] of the Principal Seat was published on 26.09.2014. The said draft Gradation List also contained a draft Gradation List of Deputy Registrar [General Cadre]. But in the draft Gradation List of Deputy Registrar [General Cadre], the name of the petitioner did not figure and in a Note appearing therein it was mentioned that the position and status of the petitioner had been kept pending vide an Order dated 18.03.2014. It is the case of the petitioner that at the time of issuance of the draft Gradation List on 26.09.2014, the petitioner was the senior-most Deputy Registrar having been appointed to the said post on 12.08.2002.
- 2.9. During the pendency of the writ petition, W.P.[C] no. 1664/2014, an Assistant Registrar from the Itanagar Permanent Bench, Shri Kago Abey preferred a writ petition, W.P.[C] no. 372[AP]/2017 in June, 2017 assailing, *inter alia*, the Order dated 22.08.2013 transferring the petitioner to the post of Deputy Registrar, Gauhati High Court, Itanagar Permanent Bench. The primary ground of challenge was that the post of Deputy Registrar at Itanagar Permanent Bench could not have been

occupied by an employee belonging to the cadre of Deputy Registrar in the Principal Seat of the Gauhati High Court at Guwahati to block the avenues of promotions from the cadre of Assistant Registrar at the Itanagar Permanent Bench of the High Court.

- 2.10. When the afore-mentioned writ petition, W.P.[C] no. 372[AP]/2017 was pending, an up-to-date Gradation List of the Officers and Ministerial Staff of the Registry of the High Court was published by a Notice dated 22.06.2018, with a direction to submit grievances, if any, in that regard by 09.07.2018. In the said up-to-date Gradation List too, the name of the petitioner did not figure in the cadre of Deputy Registrar [General Cadre] of the Principal Seat.
- 2.11. The writ petition, W.P.[C] no. 1664/2014 challenging the Order of transfer of the petitioner came to be disposed of vide a Judgment and Order dated 09.12.2019. It was observed therein that there was no cogent ground to warrant interference to the Notification dated 22.08.2013 whereby the petitioner was transferred in the capacity of Deputy Registrar to the Itanagar Permanent Bench and/or to the other prayers made in the writ petition. By making certain observations, the writ petition was disposed of providing an opportunity to the petitioner to make an effective Representation for fresh consideration of his transfer and posting to the Principal Seat of the High Court at Guwahati. It was observed to the effect that in the event such a Representation regarding transfer was made the same should stand for consideration and disposal within an outer limit period of three months from the date of receipt of such Representation. It was further observed in the Judgment and Order dated 09.12.2019 that it would be open to the petitioner to make a Representation on subsequent date for consideration on his prayer for promotion to the post of Joint Registrar in the Principal Seat of the High Court.
- 2.12. Pursuant to the disposal of the writ petition, W.P.[C] no. 1664/2014 by the Judgment and Order dated 09.12.2019, the petitioner submitted a detailed Representation on 19.12.2019 praying *inter alia* for his recall to the Principle Seat of the High Court at Guwahati from the Itanagar Permanent Bench. The Representation dated 19.12.2019 was placed before the Hon'ble Chief Justice. The Representation

after consideration, came to be disposed of by an Order dated 18.03.2020. The petitioner was thereafter, informed by a Letter bearing no. HC.V-47/2014[pt-I]/219/Estt. dated 19.03.2020 by the Registrar [Establishment] about the disposal of the Representation, enclosing therewith a copy of the Order dated 18.03.2020 passed by the Hon'ble Chief Justice. By the Order dated 18.03.2020, the prayer of the petitioner for recalling him to the Principal Seat was rejected.

- 2.13. Just prior to such disposal of the Representation by the Order dated 18.03.2020, a Show Cause Notice dated 13.03.2020 in connection with Disciplinary Proceeding no. 04/2020 came to be issued under the hand of the Registrar [Establishment] and served upon the petitioner whereby the petitioner was asked to show cause under Rule 23 of the Gauhati High Court Services [Appointment, Conditions of Service and Conduct] Rules, 1967 ['the 1967 Rules' or the Rules, 1967', for short] read with Article 311 of the Constitution of India as to why any of the penalties prescribed under Rule 22 of the 1967 Rules should not be inflicted on him on the charges, mentioned therein, based on the Statement of Allegations attached therewith. The substance of the charge against the petitioner was that while discharging his duties of D.D.O. in the Registry of Itanagar Permanent Bench, he kept the bills relating to travelling allowance, medical reimbursement and leave travel concession of Hon'ble Judges and other officials of the Registry of Itanagar Permanent Bench pending from 19.02.2019 till 21.11.2019. On receipt of the Show Cause Notice, the petitioner submitted his Written Statement of Defence. Thereafter, the proceedings of Disciplinary Proceeding no. 04/2020 against the petitioner commenced and the recording of evidence in the disciplinary proceeding was complete on 30.01.2023. At the time of filing the present writ petition, the Enquiry Report of the Enquiry Officer was awaited.

- 2.14. The petitioner stated to have submitted another Representation before the Hon'ble Chief Justice [Acting] on 24.11.2020 *inter alia* highlighting his stagnation in the post of Deputy Registrar since 2013 [from his date of transfer to the Itanagar Permanent Bench] and about promotion of his juniors from Deputy Registrar in the Principal Seat. The petitioner further prayed for his re-transfer to the Principal Seat. The

petitioner submitted another Representation to the Registrar General, Gauhati High Court, through the Registrar of the Itanagar Permanent Bench, on 30.06.2021 seeking his transfer to the Principal Seat and for his promotion retrospectively from the date on which his immediate junior in the cadre of Deputy Registrar was given such promotion or, in the alternative, to absorb him in the Itanagar Permanent Bench by fixing his *inter se* seniority in the cadre of Deputy Registrar.

- 2.15. On 24.02.2022, a Final Gradation List of the officers and staff of the Gauhati High Court, Itanagar Permanent Bench came to be published vide a Notice no. HC[IB]02/2008 dated 24.02.2022 by the Registrar, Gauhati High Court, Itanagar Permanent Bench. In the said Final Gradation List, the petitioner's name was shown at serial no. 1 in the cadre of Deputy Registrar.
- 2.16. The petitioner submitted a Representation before the Hon'ble Chief Justice again on 14.09.2022 praying for his re-transfer to the Principal Seat and for his promotion to the post of Joint Registrar from Deputy Registrar and from Joint Registrar to the post of Registrar retrospectively from the date on which his immediate junior in the cadre of Deputy Registrar was given such promotions or, in the alternative, to absorb him in the Itanagar Permanent Bench by fixing his *inter se* seniority. Upon receipt of the afore-mentioned Representation dated 14.09.2022, the petitioner was informed by the Registrar [Establishment] Gauhati High Court vide a Letter bearing no. HC.V-47/2014[Pt-I]/767 dated 22.11.2022 that his Representation was placed before the Hon'ble Chief Justice and it was directed that the Representation would be considered after conclusion of Disciplinary Proceeding no. 04/2022 initiated against the petitioner.
3. It was after the Letter dated 22.11.2022 of the Registrar [Establishment], Gauhati High Court, the petitioner had approached this Court by the present writ petition invoking the extra-ordinary writ jurisdiction under Article 226 of the Constitution of India seeking the following reliefs :-

- [i] Issue a writ of Certiorari quashing and setting aside the decision conveyed in the letter of the Registrar [Estt.], Gauhati High Court dated 22.11.2022.
- [ii] Issue a writ of Mandamus directing the respondents to convene a review DPC for consideration of the petitioner's case for promotion to the posts of Joint Registrar and Registrar [Estt.] with retrospective effect applying the next below rule with further direction to apply sealed cover procedure on the recommendation of the DPC.

-OR-

- [iii] Issue a writ of Mandamus directing the respondents to absorb the petitioner in the cadre of Deputy Registrar in the Itanagar Permanent Bench counting his past service as Deputy Registrar in the Principal Seat at Guwahati towards his seniority in the cadre of Deputy Registrar in the Itanagar Permanent Bench with further direction of giving petitioner the benefits of Modified Assured Career Progression [MACP] Scheme as applicable in the State of Arunachal Pradesh for his more than 20 [twenty] years of service as Deputy Registrar.
- [iv] Pass such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of the present case.

4. Subsequent to the filing of the writ petition on 21.06.2023, an interlocutory application, I.A.[Civil] no. 2305/2023 was filed on 08.08.2023. In the interlocutory application, it was averred that during the pendency of the writ petition, the petitioner was informed by a Letter no. HC.V-26/2020/514/Estt. dated 22.06.2023 of the Joint Registrar [Admn.-II], Gauhati High Court that the Disciplinary Authority was pleased to accept the Enquiry Report dated 31.05.2023 submitted by the Enquiry Officer in connection with Disciplinary Proceeding no. 04/2020 initiated against the petitioner. It was mentioned therein that the Enquiry Officer had held that charges in Disciplinary Proceeding no. 04/2020 could not be proved and accordingly, Disciplinary Proceeding no. 04/2020 drawn against the petitioner stood closed.

- 4.1. In interlocutory application, it was averred that in view of the Letter dated 22.06.2023, the foundation of the impugned decision conveyed by the impugned Letter dated 22.11.2022 of the Registrar [Establishment], Gauhati High Court did not survive, thereby, rendering the first prayer made in the writ petition infructuous. It was contended that consequently, there was no impediment to initiate the process for consideration of the case of the petitioner for promotion to the higher post. It was contended that the case of the petitioner for promotion to the post of Joint Registrar had to be with retrospective effect from 24.09.2009 when his immediate junior in the cadre of Deputy Registrar, one Sri Mahesh Chandra Sarma was promoted as Joint Registrar superseding the petitioner when the petitioner was serving the penalty of reversion from Deputy Registrar to Assistant Registrar. The petitioner had further highlighted that his further promotion to the post of Registrar [Estt.] had to be considered with effect from 30.11.2017 when his immediate junior in the cadre of Deputy Registrar, one Sri S. Surjya Baran Singha was promoted to the post of Registrar [Estt.] vide a Notification dated 30.11.2017.
- 4.2. It was further averred that the petitioner came to learn from information obtained by him under the Right to Information Act that there was no order dated 18.03.2014 but a note only in the file that the position of the petitioner in the Gradation List be kept pending and it was on the basis of the said note, made by the Joint Registrar [Admn.], the name of the petitioner was omitted from the Gradation List of Deputy Registrars, as on 21.08.2014.
- 4.3. With the afore-stated projections, it was prayed that the respondent authority be directed to recall the petitioner as Deputy Registrar to the Principal Seat at Guwahati and to convene a DPC for consideration of his case for promotion to the posts of Joint Registrar and Registrar [Estt.] with retrospective effect applying the next below rule.
5. I have heard Mr. P.K. Tiwari, learned senior counsel assisted by Mr. U. Pathak, learned counsel for the petitioner; and Mr. H.K. Das, learned Standing Counsel, Gauhati High Court [GHC] for the respondent.

6. During the course of hearing, the learned counsel for the parties had placed before this Court the following two documents :- [i] Notification no. HC.V-47/2014[Pt.-I]/371/Estt. dated 09.05.2024 issued by the Registrar General; and [ii] Order no. HC.V-29/2023/711/Estt. dated 16.08.2024 passed by the Registrar General. In the Notification dated 09.05.2024, it was mentioned that the Hon'ble Chief Justice, in exercise of powers conferred under Article 229 of the Constitution of India, had transferred and posted the petitioner as Deputy Registrar in the Principal Seat with immediate effect against a vacancy created due to retirement w.e.f. 29.02.2024. It was further observed therein that the petitioner's *inter se* seniority would be fixed later on and shall be subject to the outcome/further order[s], if any, made in the writ petition, W.P.[C] no. 3665/2023 and in the interlocutory application, I.A.[Civil] no. 2305/2023. In the Order dated 16.08.2024, it was mentioned that the petitioner would retire from service on 30.09.2024 on reaching the age of superannuation of 60 years.
7. Mr. Tiwari, learned senior counsel appearing for the petitioner had submitted that in view of the Notification no. HC.V-47/2014[Pt.-I]/371/Estt. dated 09.05.2024, Prayer no. [iii] would not require a consideration. Mr. Tiwari had submitted that the petitioner was promoted to the post of Deputy Registrar at the Principal Seat w.e.f. 12.08.2002 by the Notification dated 21.07.2003. Though by the Order dated 18.12.2006 the petitioner was imposed with the penalty of reversion upon conclusion of the disciplinary proceeding initiated against him, the petitioner was restored back in the post of Deputy Registrar from the date of his such reversion, without any break in service, pursuant to the Judgment and Order dated 02.03.2011 passed by the Division Bench in the writ petition, W.P.[C] no.4368/2008 [Rabindra Nath Barman vs. the Gauhati High Court and others] whereby the Order dated 18.12.2006 was quashed and set aside. At the time of his transfer to the post of Deputy Registrar at the Itanagar Permanent Bench, in exigencies of public service, vide the Notification dated 22.08.2013, the petitioner was the seniormost Deputy Registrar at the Principal Seat.
- 7.1. Mr. Tiwari had highlighted that in the draft Gradation List of 2014, which was subsequently made final without any alteration, the name of the petitioner was omitted from the cadre of Deputy Registrar [General Cadre] with a note that the petitioner's

name was tentatively kept pending vide an Order dated 18.03.2014. But, the Order dated 18.03.2014 was neither communicated to the petitioner nor the petitioner was made aware of the contents of the Order and about the authority who had passed the Order. Thereafter in the Gradation List of the officers and ministerial staff of the Registry at the Principal Seat, published vide the Notice dated 22.06.2018, the name of the petitioner was altogether omitted without even a note. Thus, during the period from 2013 to 2022 when the petitioner was serving as Deputy Registrar at the Itanagar Permanent Bench, his name figured neither in the Gradation List of the Principal Seat nor in the Gradation List of the Itanagar Permanent Bench, meaning thereby, there was no decision about his seniority position during that period.

- 7.2. It had been submitted by Mr. Tiwari that in the Judgment and Order dated 09.12.2019 passed in the writ petition, W.P.[C] no. 1664/2014, the Hon'ble Court had observed that there was, indeed, an issue of stagnation in so far as the promotional prospect of the petitioner was concerned and the Court could not remain oblivious to it. The Hon'ble Court had, therefore, kept it open for the petitioner to make a Representation for consideration of his prayer for promotion to the post of Joint Registrar in the Principal Seat. Mr. Tiwari had drawn attention to the fact that when the Representation dated 19.12.2019 was disposed of by an Order dated 18.03.2020, it was observed in the Order dated 18.03.2020 that restoration of the petitioner's seniority in the cadre of Deputy Registrar could be addressed at an appropriate time after conclusion of the disciplinary proceeding, as Disciplinary Proceeding no. 04/2020 had already been initiated on 13.03.2020 by issuance of a Show Cause Notice of even date. Mr. Tiwari had further submitted that in the counter affidavit also, it has been averred that it was ordered that the Representations, dated 24.11.2020 and dated 30.06.2021, submitted by the petitioner would receive consideration after conclusion of the disciplinary proceeding drawn against the petitioner. It was also informed by the Letter dated 22.11.2022 of the Registrar [Establishment], Gauhati High Court that the petitioner's Representations would receive consideration after conclusion of Disciplinary Proceeding no. 04/2020. It has been further stated in the counter affidavit that Disciplinary Proceeding no. 04/2020 stood closed after receipt of the Enquiry Report of the Enquiry Officer wherein the Enquiry Officer held that the allegations were not proved. The

petitioner had been conveyed by a Letter no. HC.V-29/2020/514/Estt. dated 22.06.2023 of the Joint Registrar [Admn-II] that Disciplinary Proceeding no. 04/2020 drawn against him had already stood closed. Thus, there is no bar at present for consideration of the petitioner's Representations, mentioned above, containing his prayer for *inter se* seniority and giving retrospective promotion to the next higher post/cadre.

- 7.3. The learned senior counsel appearing for the petitioner had further submitted that the petitioner would be retiring from service on reaching the age of superannuation. But, such impending retirement on superannuation would not be a bar for the Appointing Authority to consider the case of the petitioner for promotion with retrospective effect by holding a review DPC and following the next below rule. In support of his such submissions, reliance had been placed in the decisions in *D.D. Suri vs. Union of India and another*, reported in [1979] 3 SCC 553; and *Union of India and others vs. K.V. Jankiraman and others*, reported in [1991] 4 SCC 109. He had submitted that the accompanying interlocutory application, I.A.[Civil] no. 2305/2023 was preferred for such prayers. Mr. Tiwari had cited the cases of one Sri Mahesh Chandra Sarma and one Sri S. Surja Baran Singha, who were juniors to the petitioner in the cadre of Deputy Registrar in the Principal Seat and who were promoted to the post of Joint Registrar on 24.09.2009 and 08.12.2014 respectively.
8. Mr. Das, learned Standing Counsel, GHC appearing for the respondent had referred to the statements and averments made in the counter affidavit. While not disputing the sequence of events, as delineated in paragraph 2 above, Mr. Das had submitted that the petitioner was transferred to the Itanagar Permanent Bench due to exigencies of public service as per Order of the Hon'ble Chief Justice, which was passed by virtue of the power vested under Article 229 of the Constitution of India and Rule 17A of the 1967 Rules. He had contended that the petitioner's transfer to the Itanagar Permanent Bench was due to requirement and exigencies of public service and there was no law that such requirement was to be for a fixed period of time.
- 8.1. On the Gradation List, Mr. Das had submitted that prior to 2014, no Gradation List of the officers and staff of the Principal Seat was published. Subsequent to publication of

the draft Gradation List on 26.09.2014, the Final Gradation List was published on 20.01.2016, asking all the concerned employees to submit their objections, if any, by 30.01.2016. He had stated that, as alluded in the counter affidavit, the name of the petitioner was not included in the Gradation List in the cadre of Deputy Registrar because separate Gradation List was being prepared for the Itanagar Bench. The reason for the petitioner's non-inclusion was that at the relevant time, the petitioner was serving as Deputy Registrar at the Itanagar Permanent Bench and also drawing salary from the Itanagar Permanent Bench. Mr. Das had further submitted that, as adverted to in the counter affidavit, when the Gradation List of officers and ministerial staff of the Principal Seat was published on 22.06.2018, excluding the name of the petitioner therefrom, the petitioner was then serving at the Itanagar Permanent Bench as Deputy Registrar enjoying a pay scale higher than that of the Deputy Registrar at the Principal Seat. With the publication of the Gradation List on 22.06.2018, objections, if any, were invited for submission on or before 09.07.2018 but at no point of time, the petitioner had submitted any objection regarding his non-inclusion in the Gradation List during the said period.

- 8.2. Mr. Das had submitted that the case of Sri Mahesh Chandra Sarma, the then Deputy Registrar, received consideration for promotion to the post of Joint Registrar and consequently he was promoted as Joint Registrar vide Notification dated 24.09.2009. Mr. Das had further stated that the post of Joint Registrar is a feeder post for promotion to the post of Registrar [Establishment] and the case of Sri S. Surja Baran Singha was considered for promotion to the post of Registrar [Establishment] as he was holding the feeder post of Joint Registrar since 08.12.2014. Accordingly, Sri S. Surja Baran Singha was promoted to the post of Registrar [Establishment] vide a Notification dated 01.12.2017. Mr. Das had further submitted that during the relevant time, the petitioner was serving as Deputy Registrar in the Itanagar Permanent Bench and only the names of the Deputy Registrars serving at the Principal Seat during the relevant time were considered for promotion to the post of Joint Registrar.
- 8.3. It had been further submitted by him that it is a fact that during the pendency of the present writ petition, the disciplinary proceeding initiated against the petitioner vide

Show Cause Notice dated 13.03.2020, that is, Disciplinary Proceeding no. 04/2020 came to a closure. The Enquiry Officer submitted the Enquiry Report in connection with Disciplinary Proceeding no. 04/2020 on 30.05.2023 holding the charge to be not proved against the petitioner. He had drawn attention to the statement made in paragraph 3 of the counter affidavit that the Joint Registrar [Admn-II] had issued a Communication dated 22.06.2023 conveying the decision of closure of Disciplinary Proceeding no. 04/2020 against the petitioner.

- 8.4. It had been fairly submitted by Mr. Das that in the Order dated 18.03.2020, it was observed that in so far as the issue regarding restoration of seniority of the petitioner in the cadre of Deputy Registrar was concerned, the same could be addressed, at an appropriate time, after conclusion of the disciplinary proceeding. By the Letter dated 22.11.2022 also, it was conveyed that the Representation of the petitioner, submitted on 14.09.2022, would receive consideration after conclusion of Disciplinary Proceeding no. 04/2020. He had further submitted that when the Representations of the petitioner, dated 24.11.2020 and dated 30.06.2021, were placed before the Hon'ble Chief Justice, it was observed that the Representations would be considered after completion of the then pending disciplinary proceeding, that is, Disciplinary Proceeding no. 04/2020. It was further submitted by him that so far as consideration of the case of the petitioner for promotion after closure of the disciplinary proceeding was concerned, it could only be considered by the DPC as per law.
- 8.5. Having canvassed in the manner, as reproduced in paragraph 8.4 above, Mr. Das had submitted that as it was observed that all the Representations of the petitioner containing his prayer for fixation of seniority, promotion with retrospective effect, etc. would be given due consideration after conclusion of Disciplinary Proceeding no. 04/2020 and the proceedings of the Disciplinary Proceeding no. 04/2020 had already come to closure holding that the charge against the petitioner was not proved, it would be proper, in the interest of justice, to dispose of this writ petition with a direction to the respondent to place all such Representations of the petitioner containing the above prayers for consideration before the competent authority and the competent authority thereafter, upon consideration of the prayers of the petitioner would dispose the

Representations by way of a speaking order by taking into account all the relevant facts and applicable laws in that regard.

9. In response to the above submissions of the learned Standing Counsel, GHC, Mr. Tiwari, learned senior counsel had submitted that consideration of the Representations on the issues of fixation/restoration of inter-se seniority, granting promotion to the petitioner with retrospective effect *qua* the next below rule and by holding a review DPC, if it was decided so, might require time but in view of the petitioner's impending retirement from service on 30.09.2024 on superannuation, the case of the petitioner might have to be considered from the perspective of notional promotion. He had, thus, submitted that in such obtaining fact situation, the case of the petitioner should also be considered for notional promotion.
10. Subsequent to closure of hearing, it came to the knowledge of the Court, from the materials available in the case records, that there was another disciplinary proceeding, Disciplinary Proceeding no. 20 of 2015 against the petitioner. It was found out that there was no mention about Disciplinary Proceeding no. 20 of 2015 either in the writ petition or in the counter affidavit filed by the respondent. In the interlocutory application, it was stated in paragraph 7 therein that previously, three disciplinary proceedings were drawn up against the petitioner. In the first disciplinary proceeding, a penalty of reversion was imposed and the same was subsequently set aside by the Division Bench of this Court. The second disciplinary proceeding initiated against the petitioner was closed when the charges leveled against him were held to be not proved in the Enquiry Report of the Enquiry Officer. In the disciplinary proceeding drawn up for the third time against the petitioner, the charges could not be proved and the said disciplinary proceeding was accordingly closed. In the affidavit-in-opposition filed by the respondent in I.A.[Civil] no. 2305/2023, no mention was made about the second disciplinary proceeding, Disciplinary Proceeding no. 20 of 2015. In view of the ambiguity regarding the second disciplinary proceeding, Disciplinary Proceeding no. 20 of 2015, the learned counsel for the parties were heard again on the issue.

- 10.1. As there was no mention about Disciplinary Proceeding no. 20 of 2015 in the entire body of the writ petition and there was only a passing reference about a second disciplinary proceeding in the interlocutory application, the ambiguity maintained by the petitioner about it *prima facie* suggestive of suppression of material facts. On a query made by the Court about it to the learned counsel for the petitioner, it was submitted that though inadvertently, mention about Disciplinary Proceeding no. 20 of 2015 was not specifically made, he had mentioned about it in the list of dates submitted at the time of hearing.
- 10.2. Mr. Das had submitted that as in the writ petition, no mention was made about Disciplinary Proceeding no. 20 of 2015, no traverse was made in the counter affidavit. Subsequently, when it came to his knowledge about initiation and conclusion of Disciplinary Proceeding no. 20 of 2015, he collected information about it. The charges leveled therein, though ultimately found to be not proved, were serious in nature. Disciplinary Proceeding no. 20 of 2015 was initiated with the issuance of a Show Cause Notice dated 13.07.2015 and the Enquiry Officer submitted his Enquiry Report on 07.05.2018. In view of pendency of Disciplinary Proceeding no. 20 of 2015, there could not have been any consideration for promotion in case of the petitioner during the said period.
11. The submissions of the learned counsel for the parties have been duly considered. The stands of the parties, as alluded in the pleadings, have been given due consideration.
12. In the writ petition, W.P.[C] no. 1664/2014, apart from the challenge made to the Notification dated 22.08.2013 whereby the petitioner was posted, on transfer, against a vacant post of Deputy Registrar in the Itanagar Permanent Bench and the consequent Release Order dated 23.08.2013 whereby the petitioner was released from the Principal Seat, the petitioner made two other prayers :- [a] for counting his service as Deputy Registrar in the Itanagar Permanent Bench towards his seniority in the cadre of Deputy Registrar in the Principal Seat of the Gauhati High Court; and [b] for constitution of Review DPC or DPC for considering his promotion to the post of Joint Registrar in the Principal Seat of the Gauhati High Court. Apart from the issue of transfer, it was urged on

behalf of the petitioner that because of the order of transfer, the petitioner would be visited by adverse consequences if permanently posted at Itanagar Permanent Bench; his seniority and benefit of services as Deputy Registrar at the Principal Seat would get obliterated; his Representation for consideration of promotion as Joint Registrar at the Principal Seat by constituting Review DPC [as persons junior to him in the cadre of Deputy Registrar were promoted to the post of Joint Registrar at the time when he was serving the penalty of reversion, which penalty was set aside by a Division Bench of this Court in W.P.[C] no. 4364/2008] would be rendered infructuous; etc. The Court while negating the challenge to the impugned transfer order, had in its Judgment and Order dated 09.12.2019 observed that there is, indeed, an issue of stagnation in so far as the promotional prospect of the petitioner is concerned. The Court had observed that there is no dispute that from 08.12.2014 to 31.07.2018 around eight Deputy Registrars, junior to the petitioner, had been promoted to the post of Joint Registrars at the Principal Seat and it is an aspect about which the Court cannot remain oblivious. The Court after observing so, had allowed the petitioner to make an effective representation for fresh consideration of his transfer and posting to the Principal Seat. The Court had further observed that after consideration of the representation on the transfer and posting, it would be open to the petitioner to make a representation on subsequent date for consideration of his prayer for promotion to the post of Joint Registrar in the Principal Seat.

13. It needs iteration that the petitioner was promoted to the post of Deputy Registrar in the Principal Seat w.e.f. 12.08.2002 by the Notification dated 21.07.2003. The petitioner when he was serving as Deputy Registrar [Admn.] at the Principal Seat, was placed under suspension with immediate effect by an Order dated 16.11.2005, pending initiation of disciplinary proceeding against him. The first of the three disciplinary proceedings, initiated against the petitioner, commenced with the Show Cause Notice dated 23.06.2006 and culminated when by an Order dated 18.12.2006 the petitioner was imposed with the major penalty of reversion to the Assistant Registrar making him the juniormost in the said cadre. After the Judgment and Order dated 02.03.2012 passed by the Division Bench in W.P.[C] no. 4364/2008, the petitioner was again placed in the post of Deputy Registrar from the date of his reversion, without any break in service as Deputy Registrar, by the Notification dated 04.12.2012. The petitioner was also held

entitled to the financial benefits for the post of Deputy Registrar for the concerned period and also the differential salary, if any, for the period he was kept under suspension.

14. The second of the three disciplinary proceedings drawn up against the petitioner, that is, Disciplinary Proceeding no. 20 of 2015 was initiated by issuance of a Show Cause Notice dated 13.07.2015 whereby the petitioner was asked to show cause, under Rule 23 of the Rules, 1967 read with Article 311 of the Constitution of India, as to why any of the penalties prescribed in Rule 22 of the Rules, 1967 should not be inflicted upon him. In the Show Cause Notice dated 13.07.2015, five charges were leveled against the petitioner alleging misconduct, gross indiscipline, gross negligence and misuse of official position. The charges pertained to a recruitment process initiated by the High Court, in the year 2004, for selection and appointment of candidates in the post of Lower Division Assistant [LDA] wherein the petitioner as the then Deputy Registrar [Admn.] was associated with. An Enquiry Officer and a Presenting Officer were appointed and thereafter, prosecution witnesses and defence witnesses were examined during the disciplinary proceedings. The Enquiry Officer had submitted his Enquiry Report on 07.05.2018 holding that the charges against the petitioner as the delinquent were not proved.
15. In deference to the liberty granted by the Judgment and Order dated 09.12.2019, the petitioner submitted a Representation on 19.12.2019, which after consideration, stood disposed of by an Order dated 18.03.2020 of the Hon'ble Chief Justice. In the Order dated 18.03.2020, the pendency of the disciplinary proceeding [Disciplinary Proceeding no. 04/2020] was taken note of and after taking the facts and circumstances in totality, the prayer of the petitioner for recalling him to the Principal Seat was rejected. In the Order dated 18.03.2020, it was observed that the issue of restoration of the petitioner's seniority in the cadre of Deputy Registrar would be addressed only after conclusion of the disciplinary proceeding, at an appropriate time. It can be seen from the facts narrated above that the concerned disciplinary proceeding, that is, Disciplinary Proceeding no. 04/2020 which commenced with issuance of the Show Cause Notice dated 13.03.2020 came to a closure after acceptance of the Enquiry Report dated 31.05.2023 of the Enquiry Officer by the Disciplinary Authority. In the Enquiry Report, the Enquiry Officer held that the charges against the petitioner in Disciplinary Proceeding no. 04/2020 could

not be proved. The factum of closure of Disciplinary Proceeding no. 04/2020 was informed to the petitioner by a Letter bearing no. HC.V-29/2020/514/Estt. dated 22.06.2023 of the Joint Registrar [Admn.-II], Gauhati High Court.

16. From the above narration, it has emerged that the petitioner during his service tenure, faced three disciplinary proceedings as under :-

Disciplinary Proceeding	Date of Show Cause Notice	Results of Disciplinary Proceeding
1 st Disciplinary Proceeding	23.06.2006	An Order of penalty of reversion to Assistant Registrar was passed on 18.12.2016, which was subsequently set aside by Judgment & Order dated 02.03.2012 passed in W.P.[C] no. 4364/2008.
2 nd Disciplinary Proceeding [Disciplinary Proceeding no. 20 of 2015]	13.07.2015	The Enquiry Officer submitted his Enquiry Report on 07.05.2018 holding that none of the five charges framed against the petitioner was proved and the disciplinary proceeding came to a closure.
3 rd Disciplinary Proceeding [Disciplinary Proceeding no. 04 of 2020]	13.03.2020	The Enquiry Officer submitted his report on 31.05.2023 holding that the charges could not be proved and the Disciplinary Authority accepted the Enquiry Report closing the disciplinary proceeding.

17. With the closure of Disciplinary Proceeding no. 04/2020 with the charges held not to be proved against the petitioner, the issue of consideration of restoration of petitioner's seniority in the cadre of Deputy Registrar, as observed in the Order dated 18.03.2020, has risen to the fore. As regards consideration of the two Representations – dated 24.11.2020 & dated 30.06.2021 – submitted by the petitioner, it has been averred in paragraph 19 of the counter affidavit of the respondent that it was ordered that the said two Representations would be considered after completion of the then pending disciplinary proceeding, that is, Disciplinary Proceeding no. 04/2020. When the petitioner preferred the Representation dated 14.09.2022, the petitioner was informed by the Letter bearing no. HC.V-47/2014[Pt-I]/767 dated 22.11.2022 that his Representation was placed before the Hon'ble Chief Justice and it was directed that the Representation would be considered after conclusion of Disciplinary Proceeding no. 04/2022 initiated against the

petitioner. By the Notification dated 09.05.2024, it has been conveyed that the petitioner's inter-se seniority would be fixed later and subject to outcome/further order[s], if any, made in the present litigation.

18. From the stand taken by the respondent in [i] the Order dated 18.03.2020; [ii] paragraph 19 of the counter affidavit; and [iii] the Letter bearing no. HC.V-47/2014[Pt-I]/767 dated 22.11.2022; with regard to the Representations of the petitioner – dated 19.12.2019, dated 24.11.2020, dated 30.06.2021 and dated 14.09.2022; and [iv] the Notification dated 09.05.2024; it has clearly emerged that the issue regarding fixation of seniority of the petitioner in the cadre of Deputy Registrar has been kept alive since after the Judgment and Order dated 09.12.2019. From the stand taken in paragraph 23 of the counter affidavit, it further appears that the matter of promotion of the petitioner, to be considered by the DPC in terms of the promotion policy, is also kept open for consideration.
19. From the facts and circumstances narrated above, it is evident that the petitioner was borne in the cadre of Deputy Registrar on and from 12.08.2002. He continued to serve in the post/cadre of Deputy Registrar till his retirement on superannuation on 30.09.2024. Though three disciplinary proceedings – [i] Disciplinary Proceeding initiated by Show Cause Notice dated 23.06.2006; [ii] Disciplinary Proceeding no. 20/2015; and [iii] Disciplinary Proceeding no. 04/2020 – were drawn up against the petitioner during the period, mentioned in the Table above, all of the three disciplinary proceedings finally ended without the petitioner being visited with any kind of penalty. It can, therefore, be observed that the petitioner's service of about twenty-two years in the post/cadre of Deputy Registrar from 12.08.2002 to 30.09.2024 was without any proved misconduct. It does not appear from the materials on record that during the period from 12.08.2022 to 30.09.2024, the case of the petitioner was considered for promotion to the next higher post/cadre in the service.
20. The 'Next Below Rule', as expounded in *D.D. Suri* [supra], is a principle which is applicable when an officer in a post [whether within the cadre of his service or not] is for any reason prevented from officiating in his turn in a post on higher scale or grade borne on

the cadre of the service to which he belongs, he may be authorized by special order of the appropriate authority pro forma officiating promotions into such scale of pay and thereupon be granted the pay of that scale or grade, if they be more advantageous to him on each occasion on which the officer immediately junior to him in the cadre of his service draws officiating pay in that scale or grade. The principle behind the 'Next Below Rule' is evidently that an officer out of his regular line should not suffer by forfeiting acting promotion which he would otherwise have received had he remained in his regular line.

21. In service jurisprudence, promotion means advancement or preferment in honour, dignity, rank, grade. Promotion not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law, the expression, 'promotion' has been understood in wider sense and it has been held that promotion can be either to a higher pay scale or to a higher post [*State of Rajasthan vs. Fateh Chand Soni*, (1996) 1 SCC 562, & *Union of India vs. Pushpa Rani and others*, (2008) 9 SCC 242].
22. A disciplinary proceeding against an employee is considered to have started from the date when the memorandum of charges is served to the employee. If during the period of pendency of the disciplinary proceeding the employer initiates any promotional exercise and the delinquent employee is within the zone of consideration for promotion then in respect of such a delinquent employee the Departmental Promotion Committee [DPC] ordinarily, adopts the sealed cover procedure. The sealed cover procedure is to be followed only after issuance of such memorandum of charges against an employee. The DPC is required to assess the suitability of the delinquent employee along with other eligible candidates without taking into consideration the disciplinary proceeding pending. The assessment of the DPC is then kept in a sealed cover. The cover is not to be opened till the conclusion of the disciplinary proceeding. The right to be considered for promotion is held to be a fundamental right guaranteed under Article 14 and Article 16 of the Constitution of India. Even if a disciplinary proceeding is initiated against an employee and the disciplinary proceeding is pending on the date on which names of other employees are considered for promotion to the next higher post, the delinquent

employee, if he is similarly circumstanced as other employees and is also eligible, has a right to be considered for promotion to the next higher post along with other employees. His name cannot be omitted from consideration merely because of the pendency of the disciplinary proceeding. The rationale behind the sealed cover procedure is that an employee cannot be denied this right at the interlocutory stage of the disciplinary proceeding as he is still to be found guilty on the basis of the evidence which might be produced against him during the disciplinary proceeding. Till the charges are established, his right to be considered cannot be defeated as he is not under the cloud of having been found guilty but is only suspected to be guilty. Mere suspicion is not a substitute for proof. Consideration for promotion along with other eligible candidates is done so as to give effect to the fundamental right available even to a delinquent employee under Article 14 and Article 16 of the Constitution. Once the name is considered for promotion, the recommendation of the DPC is required to be kept in a sealed cover for the reason that if the employee is ultimately found to be not guilty and the charges set out against him are found as not established or proved, he may be promoted immediately to the next higher post. The right to be considered by the DPC is also considered to be a fundamental right guaranteed under the Constitution of India, provided the employee is eligible and is in the zone of consideration. The sealed cover procedure permits the issue of promotion of such a delinquent employee to be kept in abeyance till the result of any pending disciplinary proceeding. But the findings of the disciplinary proceeding exonerating the employee would have to be given effect to as it obviously relates back to the date on which the charges are framed. If the disciplinary proceeding ended in his favour, it is as if the employee has not been subjected to any disciplinary proceeding. The sealed cover procedure is required to be adopted to give benefit of any assessment made by the DPC in favour of such an employee, if he is found fit for promotion and if he has been exonerated in the disciplinary proceeding which was pending at the time when the DPC met. The above, in substance, is the proposition which emerges from the decision in *K.V. Jankiraman* [supra].

23. Materials are not brought before the Court to reach any view as to whether during the pendency of the three disciplinary proceedings drawn against the petitioner the sealed cover procedure was adopted or not. It was recorded in the Judgment and Order dated

09.12.2019 that during the period from 08.12.2014 to 31.07.2018, around eight Deputy Registrars, junior to the petitioner, were promoted to the post of Joint Registrars. The petitioner had projected that one Sri Mahesh Chandra Sarma, who was immediate junior to the petitioner, was promoted from the post of Deputy Registrar to the post of Joint Registrar on 24.09.2009. It was further projected that one Sri S. Surjya Baran Singha, junior to the petitioner in the cadre of Deputy Registrar, had held the post of Joint Registrar on and from 08.12.2014. Sri S. Surjya Baran Singha was, later on, also promoted to the post of Registrar [Estt.] vide a Notification dated 01.12.2017. From the stand taken on behalf of the respondent authority with regard to the promotions of Sri Mahesh Chandra Sarma and Sri S. Surjya Baran Singha was to the effect that during the relevant time, those two employees were serving as Deputy Registrar/Joint Registrar in the Principal Seat and the petitioner was serving as a Deputy Registrar in the Itanagar Permanent Bench and the petitioner's seniority and/or for that matter, *inter-se* seniority in the cadre of Deputy Registrar was not given a finality. It has emerged from the documents appended to the interlocutory application that in the draft gradation list prepared in 2014, the name of the petitioner was not included pursuant to a note dated 18.03.2014 whereby the matter of seniority of the petitioner was tentatively kept pending in view of the petitioner's posting at the Itanagar Permanent Bench pursuant to the Notification dated 22.08.2013.

24. It has been observed in *State of Mysore vs. C.R. Sheshadri and others*, [1974] 4 SCC 308, that as per the constitutional scheme, a broad three-fold division exists, that is, *firstly*, the power to promote an employee belongs to the employer and the judicial power may control or review the action of the employer but cannot extend to acting as if it were the employer; *secondly*, the court exercising the power of judicial review may issue directions but the court has to leave it out to the employer to carry it out; and *thirdly*, the court by exercising the power of judicial review cannot promote or demote employees but may demolish a bad order of the employer or order reconsideration on correct principles. In essence, it is in the employer's discretionary power, fairly exercised, to promote an employee. It has been observed that if the rule of promotion is one of sheer seniority it may be that promotion is a matter of course. However, if the seniority-cum-merit is the rule then the issue of promotion could be problematic. It has been observed to the effect

that in the absence of positive proof of the relevant service rules, it would be hazardous to assume that by efflux of time the concerned employee would have been promoted to the post he had sought for. It is held to be difficult for the court to speculate in retrospect what the rule was and whether the petitioner would have been selected on merit, etc. It has been held that the frontiers of judicial review cannot be stretched that far. A proper direction can only be that the employer would reconsider the case of the petitioner for notional promotion.

25. Rule 18 of the 1967 Rules has prescribed that vacancies in the higher grades of the Ministerial services shall be filled up according to merit, and ordinarily by promotion from the lower grade, seniority being counted only when the merit is equal. In view of such prescription in the rule regarding promotion, it is difficult for this Court to reach any decision, within the contours of the power of judicial review, that the petitioner, as sought for by him in the Representations, would have been promoted upto the post/cadre of Registrar after being, firstly, promoted to the post/cadre of Joint Registrar.
26. It is discernible from the decision in *C.R. Sheshadri* that in a case involving an issue of promotion of an employee who has approached with an assertion that he was unjustly denied promotion, with retrospective effect and the employee retired from service, in the interregnum and before the decision of the court, no one in the service would be effected by such employee's claim because what was a service issue earlier, would become one of money payment. In a writ petition wherein the issue raised is non-promotion of the writ petitioner while promoting his juniors, the appropriate relief that is possible to be granted is not a direction to promote the writ petitioner but a direction to consider the case of the petitioner for promotion from the date of promotion of his juniors on the same criteria on which the juniors were promoted.
27. In the case in hand, as has emerged from the stand taken by the respondent and the discussion made above, the fixation of seniority of the petitioner in the cadre of Deputy Registrar and consequently, his *inter-se* seniority in the cadre of Deputy Registrar are yet to be finalized and the same are kept pending to be decided at an appropriate time, more particularly, after conclusion of the then pending disciplinary proceeding. As has been

found out, the disciplinary proceeding has already ended with the charge not established/proved against the petitioner. Both the issues - the fixation of seniority of the petitioner in the cadre of Deputy Registrar and consequently, his inter-se seniority in the cadre of Deputy Registrar – have remained alive and they are within the exclusive domain of the employer and this Court is ill-equipped to take any decision on the two issues

28. In view of such fact situation obtaining in the case, and having regard to the stand taken in respect of the Representations submitted by the petitioner, as discussed in paragraph 17 above, this Court is of the considered view that it would be most appropriate to dispose of this writ petition with a direction to the respondent to place the Representations - dated 24.11.2020, dated 30.06.2021 & dated 14.09.2022 - submitted by the petitioner before the competent authority for consideration. One of the factors which has influenced this Court for such a course is that the criterion for promotion laid down in Rule 18 of the 1967 Rules for promotion from the post/cadre of Deputy Registrar to the higher posts/cadres and the nature of complexity involved, already highlighted in paragraph 24 and 25 above. Accordingly, this writ petition is disposed of with a direction to the respondent to place all the afore-mentioned Representations of the petitioner before the competent authority for consideration of the petitioner's prayers therein, which have not yet attained any finality like the petitioner's seniority position in the post/cadre of Deputy Registrar as well as his *inter-se* seniority position in the post/cadre of Deputy Registrar, his claim for promotion on the basis of the next-below-rule notionally, by holding review DPC, etc. There is also necessity to consider the case of the petitioner for promotion from the date of promotion of his juniors on the same criteria on which the juniors were promoted by taking into consideration the fact that during the period from 08.12.2014 to 31.07.2018, around eight Deputy Registrars, apparently junior to the petitioner, had been promoted to the post of Joint Registrars at the Principal Seat, as recorded by the Coordinate Bench in the Judgment and Order dated 09.12.2019, giving rise to the issue of stagnation in so far as the promotional aspect of the petitioner is concerned, in the light of the observation made in this order. Taking all its aspects in its entirety, it is further observed that the Representations of the petitioner require consideration in an expeditious manner and it is expected that such consideration will be

made expeditiously, preferably within a period of three months from the date of this order.

29. With the observations made and the order passed in the manner above, this writ petition is disposed of. The interlocutory application, I.A.[Civil] no. 2305/2023 is also accordingly disposed of. No cost.

JUDGE

Comparing Assistant