

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 3671 of 2012**

1. R. N. Kaushik, aged about 56 years, S/o late Shri B. L. Kaushik, presently posted as Assistant Fisheries Officer, Fish Seed Farm, Bhojpuri, Bilaspur (CG)
2. B. B. Pandey, aged about 53 years, S/o Shri L. R. Pandey, presently posted as Assistant Fisheries Officer, Fish Seed Farm, Ghongha, Bilaspur (CG)
3. Rajendra Kumar Sen, aged about 51 years, S/o Shri Babulal Sen, presently posted as Assistant Fisheries Officer, Fish Seed Farm, Belmundi, Bilaspur (CG)
4. Umashankar Singh, aged about 49 years, S/o Shri L. G. Singh, presently posted as Assistant Fisheries Officer, Office of the Assistant Director fisheries, Mungeli, District Mungeli (CG)
5. Yogesh Manwatkar, aged about 43 years, S/o late Umakant Manwatkar, Fisheries Inspector, Office of the Assistant Director Fisheries, Janjgir-Champa (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Government of Chhattisgarh, Department of Fisheries, DKS Bhawan, Mantralaya, Raipur (CG)
2. The Director, Directorate of Fisheries, Raipur (CG)

---- Respondents

For Petitioners	:	Shri Pawan Kesharwani, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Writ Petition (S) No. 790 of 2013

Umeshwar Singh S/o late Shyam Bahadur Singh, aged about 55 years, occupation service, posted as Assistant Fisheries Officer in

the office of Assistant Director Fisheries, Baikunthpur, District Koriya (CG)

---- **Petitioner**

Versus

1. State of Chhattisgarh through the Principal Secretary fisheries Department, Mahanadi Bhawan, New Raipur, District Raipur (CG)
2. The Director, Fisheries Telibandha, near railway crossing Raipur, Post Office Ravigram, Police Station Telibandha Raipur (CG)
3. Anil Kumar Tiwari S/o Ganga Prasad Tiwari, posted as Assistant Fisheries Officer, in the office of Deputy Director Fisheries, Training Institute, Telibandha, near railway crossing Raipur, Post Office Ravigram, Police Station Telibandha Raipur (CG)
4. B. D. Patel S/o Mandhar Patel, posted as Assistant Fisheries Officer, in the office of Deputy Director Fisheries, Composite Building, Collectorate, Police Station Civil Lines, Bilaspur (CG)
5. Koushlendra Mishra S/o Dineshwar Mishra, posted as Assistant Fisheries Officer, in the office of Officer on Special Duty, Fisheries Department, Mahanadi Bhawan Raipur, Police Station New Raipur (CG)
6. Damodar Prasad Bhargav S/o Hira Lal Bhargav, Posted as Assistant Fisheries Officer, in the office of Deputy Director Fisheries, Kondagaon, Police Station Kondagaon, District Kanker (CG)
7. G. P. Agrawal S/o Kashiram Agrawal, posted as Assistant Fisheries Officer, in the office of Director Fisheries, Telibandha, near Railway Crossing Raipur, Post Office Ravigram, Police Station Telibandha Raipur (CG)

---- **Respondents**

For Petitioner	:	Shri Rakesh Pandey, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate
For Private Respondents:		Shri Manoj Kumar Sinha, Advocate

Writ Petition (S) No. 1511 of 2013

1. Yagya Narayan Dwivedi S/o Ganga Prasad Dwivedi, aged about 49 years, Fisheries Inspector Posted at the Office of the Assistant Director Fisheries, PO, PS & District Korba, Chhattisgarh
2. Anita Bhardwaj W/o Shri Lailun Kumar Bhardwaj, aged about 42 years, Fisheries Inspector, Posted at the Office of the Assistant Director Fisheries, Raigarh, PO, PS and District Raigarh, CG
3. Ajay Kumar Mandal S/o Jodh Ram Mandal, aged about 44 years, Fisheries Inspector, Posted at the Office of the Assistant Director Fisheries, Narayanpur, PO, PS and District Narayanpur, , CG

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Government of Chhattisgarh, Department of Agriculture (Fisheries Department) DKS Bhawan, Mantralaya, Raipur, PS, PO and District Raipur, Chhattisgarh
2. Director (Fisheries Department) Directorate of Fisheries, Raipur, PS, PO & District Raipur (CG)
3. Deepak Shrivastav S/o Shri Saroj Kumar Shrivastav, aged about 53 years, Fisheries Inspector (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh
4. Saleem Ahemad Khan S/o M. W. Khan Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Durg, PS, PO and District Durg, Chhattisgarh
5. Dilip Kumar Shrivastav S/o Shri C. L. Shrivastav, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Rajnandgaon, PS, PO and District Rajnandgaon, Chhattisgarh
6. H. R. Devangan S/o Shri Ramji Devangan, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Jashpur, PS, PO and District Jashpur, Chhattisgarh

7. Nain Shah S/o Shri Mohan Lal Shah, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Ambikapur, PS, PO and District Ambikapur, Chhattisgarh
8. B. L. Choudhary S/o Shri Moti Ram Choudhary, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raigarh, PS, PO and District Raigarh, Chhattisgarh
9. G. P. Deshmukh S/o Shri B. S. Deshmukh, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Durg, PS, PO and District Durg, Chhattisgarh
10. Sharad Kumar Das S/o Nishamani Das, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Mahasamund, PS, PO and District Mahasamund, Chhattisgarh
11. Gulab Chand Bind S/o Shri Ramanand Bind, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Durg, PS, PO and District Durg, Chhattisgarh
12. Vidyapuri Goswami S/o Shri Balaram Puri Goswami, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh
13. Yado Rao Patle S/o Shri Ramcharan Patle, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Rajnandgaon, PS, PO and District Rajnandgaon, Chhattisgarh
14. Bhagvat Prasad Tonde S/o Late Chinta Ram Tonde, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Bilaspur, PS, PO and District Bilaspur, Chhattisgarh
15. Sukul Singh Maravi S/o Lt. Bhoran Singh, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted

at the Office of the Assistant Director Fisheries, Bijapur, PS, PO and District Bilaspur, Chhattisgarh

16. Sumant Singh Parihar S/o Shri Ramgopal Singh Parihar, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh
17. Girish Kumar Upadhyay S/o Gopal Krishna Upadhyay, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Directorate Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh
18. Vivek Kumar Vaidya S/o Shri Dinesh Chand Vaidya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Durg, PS, PO and District Durg, Chhattisgarh
19. Rafique Md. Qureshi S/o Rasool Md. Qureshi, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Dhamtari, PS, PO and District Dhamtari, Chhattisgarh
20. A. L. Magariya S/o Bhareu Lal Magariya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
21. Arvind Kumar Sirothiya S/o Shri Caturbhuj Sirouthiya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
22. Hari Babu Ahirwar S/o Shri Jagannath Prasad Ahirwar, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
23. Bramh Prakash Bajpayee S/o Mahendra Dutta Bajpayee, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh

24. Sudhir Kumar Dubey S/o Shri Krishnakant Dubey, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raigarh, PO, PS and District Raigarh, Chhattisgarh
25. Ramnarayan Mishra S/o Shri Sriram Sanehi Mishra, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
26. Bheemraj Meshram S/o Tijram Meshram, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Korba, PO, PS and District Korba, Chhattisgarh
27. Rajendra Singh Rajput S/o Shri Puran Singh Rajput, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Koriya, PS, PO and District Koriya, Chhattisgarh
28. A. K. Kaneriya S/o Shri B. R. Kaneriya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Durg, PS, PO and District Durg, Chhattisgarh
29. Ulphati Pawan S/o Shri Kanchan Lal Pawan, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PO, PS and District Raipur, Chhattisgarh
30. Virendra Singh Jadon S/o Shri Ramsingh Jadon, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
31. Himadri Shekhar Kar S/o Shri D. N. Kar, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PO, PS and District Raipur, Chhattisgarh
32. Barkat Ullah Kazi S/o Hasmat Ullah Kazi, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted

at the Office of the Assistant Director Fisheries, Raigarh, PO, PS and District Raigarh, Chhattisgarh

33. Rajendra Kumar Soni S/o Shri Mohan Lal Soni, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PO, PS and District Raipur, Chhattisgarh
34. Suresh Babu Pachouri S/o Shri Bindravan Pachouri Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Ambikapur, PO, PS and District Ambikapur, Chhattisgarh
35. Jabi Ullah Khan S/o Lt. Habib Ullah Khan, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
36. Anil Kumar Hazari S/o Shri Badri Prasad Hazari, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Rajnandgaon, PO, PS and District Rajnandgaon, Chhattisgarh
37. Subhash Chand Puloriya S/o Shri Babu Lal Puloriya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Rajnandgron, PO, PS and District Rajnandgaon, Chhattisgarh
38. Surendra Kumar Naveen S/o Shri Kishan Lal Naveen Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Kabeerdham, PO, PS and District Kabeerdham, Chhattisgarh
39. Puran Singh Patel S/o Shri Kanhaiya Lal Patel Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh
40. Kishori Lal Jaiswal S/o Shri Sahas Ram Jaiswal, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PS, PO and District Raipur, Chhattisgarh

41. Ramgopal Bohre S/o Shri Jadish Prasad Bohre Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Raipur, PO, PS and District Raipur, Chhattisgarh
42. Shrikant Devangan S/o Shri Siyaram Devangan, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Bijapur, PS, PO and District Bijapur, Chhattisgarh
43. Tripurari Singh S/o Shri Ramjanam Singh Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Jashpur, PO, PS and District Jashpur, Chhattisgarh
44. Vinay Sarma S/o Shri Y. P. Sharma, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Janjgir, PO, PS and District Janjgir, Chhattisgarh
45. Sirish Singh Sengar S/o Shri Prahlad Singh Sengar, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Janjgir, PO, PS and District Janjgir, Chhattisgarh
46. Naresh Mishra S/o Shri Kailash Narayan Mishra, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Bilaspur, PO, PS and District Bilaspur, Chhattisgarh
47. Prakash Chand Jain S/o Shri M. L. Jain, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Kavardha, PO, PS and District Kavardha, Chhattisgarh
48. Ajay Kumar Shukla S/o Shri Ramswarup Shukla, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Assistant Director Fisheries, Dhamtari, PO, PS and District Dhamtari, Chhattisgarh
49. Chandra Prakash Sharma S/o Bhagvan Lal Sharma, Fisheries Inspector, (absorbed as such by virtue of absorption dated

11.05.2006) posted at the Office of the Assistant Director Fisheries, Rajnandgaon, PO, PS and District Rajnandgaon, Chhattisgarh

50. Nigam Singh Bhadouriya S/o H. S. Bhadourya, Fisheries Inspector, (absorbed as such by virtue of absorption dated 11.05.2006) posted at the Office of the Deputy Director Fisheries, Durg, PO, PS and District Durg, Chhattisgarh

---- Respondents

For Petitioner : Shri B. N. Nande, Advocate
 For Respondent/State : Shri Shashank Thakur, Govt. Advocate
 For Private Respondents : Shri Manoj Kumar Sinha, Advocate

Writ Petition (S) No. 1826 of 2013

Anil Kumar Tiwari S/o Shri Gaya Prasad Tiwari, aged about 55 years, Assistant Fisheries Officer, R/o H.O. No. 19/236 Gayatri Colony, Kamla College Road, Rajnandgaon, Tah. & PS Basantpur, District District Rajnandgaon, Civil and Revenue District Rajnandgaon (CG)

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Agriculture (Fisheries) Department, Mahanadi Bhavan, New Raipur (CG)
2. Director, Fisheries, Raipur, District Raipur (CG)

---- Respondents

For Petitioner : Shri Manoj Kumar Sinha, Advocate
 For Respondent/State : Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

31/07/2018

The dispute in all these bunch of writ petitions are primarily between the same set of petitioners and private respondents. The challenge in

WPS Nos. 3671/2012, 790/2013 & 1511/2013 is to the seniority list of the Assistant Fisheries Officer dated 28.07.2012 Annexure P-1 and also the seniority list of Fisheries Inspector dated 28.07.2012 Annexure P-2. The petitioners are aggrieved by the seniority given to the private respondents from the date of their initial appointment. In WPS No.1826/2013, the challenge was to the order of the Govt. dated 31.05.2013 whereby the respondents have decided to grant seniority to the employees who have come on deputation and have later on been absorbed, from the date of absorption ignoring their past services.

2. The grievance of the petitioners arose when the Department while preparing the two impugned seniority lists granted seniority to the Assistant Fisheries Officer i.e. the persons whose name reflect at serial no.14 to 61 and Fisheries Inspector i.e. the persons whose name appear from serial no.2 to 6 over and above the petitioners.

3. It is a case where these private respondents were originally employees with the Fish Farmer Development Agency (in short 'FFDA') which was a society registered under the Societies Act and as such, it was not a government establishment nor were these private respondents government employees. In the year 2006, the State Govt. decided to merge the FFDA with the Fisheries Department of the State and these private respondents were absorbed to the services of the State Govt. w.e.f. 11.05.2006.

4. According to the petitioners, the private respondents had initially filed writ petitions before the High Court of Chhattisgarh claiming the status of government employee and seniority from their initial date of appointment with consequential benefits. The writ petitions were dismissed holding that since they were not substantially government employees till they were

absorbed by the State Govt., the petitioners who were the employees of FFDA would not be entitled for the benefit. Thereafter, some of the petitioners preferred writ appeals before the Division Bench of this Court and the writ appeals also stood dismissed.

5. Initially a provisional gradation list was published on 13.06.2012 wherein the Assistant Fisheries Officers and Fisheries Inspectors who were from FFDA were placed below the name of the petitioners who were the regular appointees under the State Govt. Meanwhile, the State Govt. amended Chhattisgarh Civil Services (General Condition Service) Rules 1961 (for short "the Rules, 1961") and vide notification dated 10.01.2012 Rule-12 (2) (c) of the Rules, 1961 was amended. On the basis of the said amendment brought into Rule-12 (2) (c) of the Rules, 1961, the final gradation list was published i.e. the two impugned gradation lists granting seniority to the private respondents from their initial date of appointment and placing them over and above the petitioners leading to the filing of the present writ petition.

6. According to the counsel for the petitioners, since the employment of the private respondents prior to their absorption with the State Govt. was not that of a government employee and the department where they were serving also not being a government establishment, the provisions of Rule 12 (2) (c) of the Rules, 1961 would not be applicable. The private respondents were in fact employees of a Society registered under the Societies Registration Act and they became a government employ only after their services were absorbed with the State Government, therefore, for all practical purposes they could be awarded seniority only from the date of their absorption by the State Government w.e.f. 11.05.2006. The petitioners relied upon the judgments of the Supreme Court in AIR 2018 SC 1116 (Commissioner of Income Tax 5 Mumbai v. M/s Essar

Teleholdings Ltd. through its Manager), (2005) 10 SCC 675 (M. P. State Textile Corporation Ltd. v. Mahendra and others) and (2001) 9 SCC 758 (Satya Narain and another v. Satish Kumar and others).

7. Per contra, counsel appearing for the private respondents so also the State opposing the petition submitted that the decision to grant seniority to the private respondents over and above the petitioners was in the light of the judgment of this Court in WP No. 3926/2005 in the case of Dev Sharan Dilliwar and others v. High Court of CG and others wherein Rule 12 (2) (c) of the Rules, 1961 to the extent of granting seniority to the employees whose services being absorbed while on deputation from the date of absorption was held to be bad in law. It was also the contention of the counsel for the respondents that pursuant to the order of the High Court in the aforesaid writ petition, the State Government amended Rule 12 (2) (c) of the Rules, 1961 and thereby for the purpose of granting seniority ordered for reckoning the services rendered in their parent department on regular basis. Even otherwise Fish Farmer Development Agency was also an establishment of the State Government in as much as though it was a registered Society, it was fully under the control of the State Govt. and the entire funding was also made by the State Govt. It was also the contention of the respondents that even the mode of recruitment in FFDA was by the same procedure in as much as initially the selected candidates were sent for training and subsequent to their successful completion of training, they were appointed either with the State Govt. or the Fish Farmer Development Agency. As such it cannot be said that the private respondents were not Govt. employees. They may not be Govt. employees in technical sense but for all practical purposes they were at par with the Govt. employees so far as the source of recruitment is

concerned. For all these reasons, counsel for the respondents submitted that there is no illegality in the publication of the impugned gradation lists.

8. Having heard the contentions put forth by the parties and on perusal of the record what is relevant to take note of is the fact that the private respondents were all initially recruited after following due process of selection conducted by the Fisheries Department of the State Govt. As per the recruitment method, the candidates who found suitable for the post of Fisheries Inspector were sent for training for a period of 10 months to the Fisheries Training Institute run by the State Govt. On successful completion of training, a written examination was conducted by the Fisheries Department and thereafter a merit list was published on the basis of which few of the candidates were given appointment with Fish Farmer Development Agency which again was a body managed by the Fisheries Department. The seniority of the private respondents working in different Fish Farmer Development Agency were maintained in the Fisheries Department on the basis of their merit list prepared at the time of appointment.

9. From the aforesaid mode of recruitment and the selection process it reflects that the appointment of these private respondents was made by the Fisheries Department itself. There is no dispute as regards the fact that the private respondents had been appointed much earlier to the petitioners herein. It would also be relevant at this juncture to refer to the amended provision of Rule 12 (2) (c) of the Rules, 1961 which is reproduced hereinafter:

“(c) In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for “transfer on deputation/transfer”) his seniority in the grade in which he is absorbed will normally be counted from the date of

absorption. If he has however been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority, from the date he has been holding the post on deputation or the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department whichever is earlier.”

10. So far as filing of writ petition and writ appeal and both of which getting dismissed is concerned, the same would not come in the way of the grant of seniority to the private respondents in the light of the amended provisions of Rule 12 (2) (c) of the Rules, 1961. Moreover, it is the State Government which has decided granting of seniority reckoning the past service of the private respondents and it is well within the domain of the State Govt. If the State Govt. for the reasons assigned particularly the amended rule provision i.e. Rule 12 (2)(c) of the Rules, 1961 and also taking note of the mode of recruitment of the private respondents have decided as a policy matter to grant seniority to the private respondents from the date of their initial regular appointment with the Fish Farmer Development Agency, the same cannot be found fault with.

11. So far as the judgments which have been relied upon by the petitioners are concerned, if we look into those cases it would reveal that those judgments were decided under entirely different factual and statutory provisions. Moreover, the said judgments were passed without there being a rule provision similar to the amended rule 12 (2) (c) of the Rules of 1961 which has been the basis on which, the State has granted seniority to the private respondents. One of the judgments cited by the petitioners was in fact under the Income Tax Act. The applicability of the statute

under taxing law arena is entirely different from the applicability of a statutory law under service jurisprudence.

12. In view of the aforesaid facts and circumstances of the case and the findings of this Court, WPS Nos. 3671/2012, 790/2013 & 1511/2013 do not have much force or merit calling for interference with the impugned order under challenge and theses writ petitions therefore stand dismissed.

13. So far as WPS No.1826/2013 is concerned, in the light of the amendment by the State Govt. to the provisions of Rule 12 (2) (c) of Chhattisgarh Civil Services (General Condition Service) Rules 1961 and for the discussions held in the preceding paragraphs, the impugned order is not sustainable and the same deserves to be and is accordingly set aside/quashed. Accordingly, WPS No.1826/2013 stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**