

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.27852 OF 2018

DATE: 5.09.2018

Between:

Kontham Priyamvada d/o. Late K.Sree Ramulu,
Aged about 56 years, occu:Assistant Secretary,
O/o Transport Commissioner, Govt.of Telangana,
Dr. B.R.Ambedkar Transport Bhavan,
Khairatabad, Hyderabad.

.... Petitioner

And

State of Telangana, rep.by its Prl.Secretary to Govt.,
Transport, Roads and Buildings (S&V) Department,
Telangana Secretariat, Hyderabad and others.

.... Respondents



HON'BLE SRI JUSTICE P.NAVEEN RAO
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ORDER:

The controversy in the present writ petition is who should get promotion to the post of Deputy Commissioner for Transport first. Government notified Telangana State Transport Service Rules, 1993 vide G.O.Ms.No.180 Transport, Roads and Buildings Department dated 01.07.1994 governing the service of posts of Deputy Commissioner, Regional Transport Officer (RTO), Assistant Secretary and other posts. The post of Deputy Commissioner is organised as category-3 of Telangana State Transport Service. It can be filled up by promotion from categories-4 and 4A of the said service. The post of Regional Transport Officer is organised as category-4 post and the post of Assistant Secretary as category-4A of the service. Though the posts of RTO and Assistant Secretary are two different categories, no separate rota or quota is prescribed and merge into one group for consideration for promotion as Deputy Commissioner. Thus, an integrated seniority list of RTOs and Assistant Secretaries is to be drawn up to assess the zone of consideration for promotion. On 05.10.2016 combined provisional seniority list of RTOs and Assistant Secretaries was drawn up. In the said list petitioner was shown at serial No.12 and unofficial respondents were shown against serial numbers 14, 15 and 16. On consideration of the objections against provisional seniority list, the Transport Commissioner published final seniority list vide his proceedings dated 30.03.2017. In the said seniority list respondents 3 to 5 are now shown against serial numbers 2 to 4 and petitioner is shown against serial No.14. The date of promotion

of petitioner as Assistant Secretary is altered to 18.02.2016, i.e., to match with the date of promotion granted to respondents 3 to 5. Aggrieved by the said alteration of date of promotion and pushing petitioner below respondents 3 to 5 this writ petition is filed.

2. This Court having noticed glaring infirmities in the seniority list, by order dated 08.08.2018, while granting time to learned Government Pleader, ordered interim suspension as prayed for by the petitioner operative for a period of two weeks. On behalf of respondents 4 and 5, learned counsel Sri P.N. Sanghi and Sri M. Srinivasa Rao took notice. Notice was ordered on 3rd respondent.

3. Fourth respondent filed I.A.No.4 of 2018 praying to vacate the interim order. Heard counsel for petitioner Sri J. Sudheer, learned senior counsel Sri M. Surender Rao for respondents 3 and 5, learned special Government Pleader on behalf of Additional Advocate General for the State and Transport Commissioner and learned counsel Sri P.N. Sanghi for 4th respondent. Though, the matter is coming up for consideration of admission and extension of interim orders learned counsel agreed for final disposal of the writ petition at this stage.

4.1. According to learned counsel for petitioner, petitioner was promoted as Assistant Secretary on 29.08.2015, her probation was commenced from that date and on satisfactory completion of probation her probation was declared, and she has become substantive member of the post of Assistant Secretary from that date. Therefore, said date to be reckoned for the purpose of determination of her seniority while considering for promotion to the post of Deputy Commissioner.

4.2. He would further submit that in the provisional seniority list dated 05.10.2016 her placement was correctly shown taking her date of promotion as Assistant Secretary. As petitioner did not have objection to the placement assigned to her or placement assigned to any other person shown in the seniority list, she did not file objections. While so in the final seniority list published on 30.03.2017 her date of promotion is altered to 18.02.2016 and she is pushed down in the seniority list and illegally unofficial respondents are brought above her. He would submit that placement assigned in the provisional seniority list cannot be changed to the disadvantage of petitioner without putting her on notice and affording opportunity whereas there was no prior notice and opportunity on the claim made by unofficial respondents and therefore the entire exercise leading to publication of final seniority list is illegal and liable to be set-aside on that ground alone.

4.3. According to learned counsel petitioner and unofficial respondents belong to two different categories and when integrating two different categories and assigning placements in the integrated seniority list for the purpose of consideration for promotion, the dates assigned in the respective categories alone should be reflected.

4.4. Learned counsel made elaborate submissions on the manner of promotion granted to respondents 3 to 5. He would content that as respondents 3 to 5 were promoted against direct recruitment vacancies the date of promotion assigned to them is not valid. At any rate as petitioner was promoted against promotion vacancy in her category and that being substantive promotion to reckon

seniority for further promotion that date alone is criteria and cannot be changed merely because unofficial respondents were promoted on 18.02.2016 and therefore the entire exercise is illegal.

5.1. Learned senior counsel Sri M. Surender Rao contended that the writ petition is liable to be dismissed on the ground of delay and laches. According to learned senior counsel the seniority list was finalised on 30.03.2017. Petitioner did not file appeal against the said seniority list and allowed it to become final. This writ petition is filed after 16 months and just before promotions are scheduled to be taken up. As per Rule 34 of General Rules, an aggrieved person shall prefer appeal within 60 days. No explanation is made in the affidavit filed in support of the writ petition as to why petitioner did not choose to file appeal and did not file petition immediately thereafter but timed it just before promotions are scheduled.

5.2. In support of said contention, learned senior counsel placed reliance on the following decisions:

i) **The State of Jammu & Kashmir v. Triloki Nath Khosa and others**¹;

ii) **Government of Andhra Pradesh etc. v. P.Dilip Kumar and another**²

iii) **P.S.Sadasivaswamy v. State of Tamil Nadu**³;

iv) **Ghulam Rasool Lone v. State of J & K and another**⁴;

v) **State of M.P. and others v. Nandlal Jaiswal and others**⁵;

vi) **B.S.Bajwa and another v. State of Punjab and others**⁶;

¹ 1974 0 AIR (SC) 1

² 1993 SCC (2) 310

³ 1975 (1) SCC 152

⁴ 2009 0 AIR (SCW) 5260

⁵ 1987 0 AIR (SC) 251

vii) **H.S.Vankani and others v. State of Gujarat and others**⁷; and

viii) **Vijay Kumar Kaul and others v. Union of India and others**⁸

5.3. He would further submit that on due consideration of fact that there are large number of vacancies in the cadre of RTO and taking due note of administrative exigencies, vacancies meant for direct recruitment were diverted in exercise of power of relaxation under General Rule 31 vide G.O.Ms.No.17 dated 17.02.2016 promoting the unofficial respondents as RTO. He would therefore submit that promotion granted to them is valid and substantive and shall be reckoned for all other benefits. As unofficial respondents were promoted against vacancy either to meant to be filled up by direct recruitment they sought placement below the existing direct recruit and the same is granted. He would submit that such action is valid and legal. As a consequence, the date of promotion of petitioner is changed only for the purpose of determination of seniority and all other aspects of petitioner service are not affected.

6.1. Learned Counsel Sri P.N. Sanghi, while supplementing the submissions of learned senior counsel, would contend that no prejudice is caused to petitioner by virtue of the impugned seniority list. There are 6 vacancies in the Deputy Transport Commissioner cadre and persons shown from serial numbers 5 to 11 and 16 have retired from service and petitioner is within the zone of consideration and thus no prejudice is caused to petitioner

⁶ 1998 0 AIR (SC) 758

⁷ 2010 0 AIR (SC) 1714

⁸ 2012 0 AIR (SC) 2274

with reference to her entitlement for promotion on account of the change in the seniority position.

6.2. He would submit that there is no justification to annul the seniority list, that too in the writ petition filed after 16 months. He would therefore submit that the court need not exercise its extraordinary and discretionary jurisdiction to set aside the seniority list merely on the ground that there is a change in the seniority position of petitioner.

6.3. He would further submit that the panel year comes to an end on 31.08.2018 and if panels are not drawn and promotions are not affected before the cut-off date grave prejudice would be caused to the in-service candidates and the same cannot be remedied later. These are all the factors which have to be weighed while considering the claim of the petitioner, more so, when no prejudice is caused to the petitioner on her claim for promotion.

7. According to learned Special Government Pleader as unofficial respondents were promoted by diverting the vacancies earmarked for direct recruitment and as these vacancies were of earlier years their names are shown below the incumbent direct recruit. He would therefore justify the decision to assign higher seniority to unofficial respondents. He would further submit that there is an urgent need to fill up vacancies in the Deputy Commissioner cadre and as the panel year is coming to end shortly the State should be allowed to fill up the vacancies in accordance with the final seniority list. He would submit that as petitioner did not avail the remedy of appeal within the time prescribed the

present writ petition is not maintainable and balance of convenience is not in favour of the petitioner.

8.1. In reply, learned counsel for petitioner would submit that merely because there is an alternative remedy in the form of appeal is no ground to dismiss the writ petition. Remedy under Article 226 of the Constitution of India is an extraordinary remedy and there are no fetters imposed on the constitutional court to entertain the writ petition merely because there is an alternative and/or efficacious remedy.

8.2. He would submit that as the exercise undertaken by the Transport Commissioner is *ex facie* illegal merely because petitioner has not filed writ petition immediately cannot be a ground to throw the writ petition. He would further submit that filing writ petition after 16 months cannot be called as an inordinate delay to reject the writ petition on that ground. He would further submit that in the meantime promotions are not made and no rights have accrued, and the position stands as it was when the seniority list was published. As the seniority list impugned is vitiated on the grounds urged above this is a fit case for this Court to exercise its extraordinary jurisdiction and undertake judicial review of the decision impugned.

8.3. In support of his contentions learned counsel placed reliance on following decisions:

i) **Ashok Kumar Mishra and others v. Collector, Raipur and others**⁹;

ii) **M/s Dehri Rohtas Light Railway Company Limited v. District Board, Bhojpur and others**¹⁰;

⁹ (1980) 1 SCC 180

iii) **M.P.State Agro Industries Development Corpn.Ltd., and another v. Jahan Khan**¹¹; and

iv) **Committee of Management and another v. Vice-Chancellor and others**¹²

9. Though elaborate submissions were made by learned counsel for respective parties, the Court is not going into the merits of determination of integrated seniority of Officers belonging to feeder cadres for promotion as Deputy Commissioner. The only issue for consideration is whether the respondent- Commissioner was justified in accepting the plea of respondents 3 to 5 and granting them higher seniority while finalizing the integrated seniority list of RTOs and Assistant Secretaries to consider them eligible for promotion as Deputy Commissioner without notice and opportunity to petitioner.

10. As seen from material on record, position assigned in the provisional seniority list is changed in the final seniority list to the disadvantage of petitioner by accepting the plea of respondents 3 to 5 without putting the petitioner on notice and affording due opportunity. This change in placement affects her entitlement for promotion.

11. Placement in seniority list is an important facet of service conditions of an employee. Every employee has right to include his name in the seniority list of the cadre and at appropriate place as per his entitlement. Further, there must be certainty to seniority position and finality. Placement in seniority list determines further elevation in status and opportunity to reach higher echelons of

¹⁰ (1992) 2 SCC 598

¹¹ (2007) 10 SCC 88

¹² (2009) 2 SCC 630

service. As employees progress upwards to higher positions in the pyramidal structure, the scope of elevation narrows down. Change of one placement in the seniority list, up or down, would have cascading effect. As seniority placement is a valuable right, detailed procedure is envisaged to determine seniority positions. It is necessary to draw provisional seniority list determining positions and to call for objections. If objections are filed, they have to be considered and then finalize the seniority list. A person need not file his objections if he is satisfied with the position assigned to him in provisional seniority list. If accepting objection of an employee would result in substantial variation in the principle to determine seniority and placement in the seniority list, it is but necessary to put on notice persons likely to be affected.

12. In the case on hand, final seniority list was drawn changing the placements assigned in the provisional seniority list without affording due opportunity to the persons affected. As pointed by the learned counsel Sri Sudheer, the placement of petitioner is changed to her disadvantage without notice to her. As the statutory right of appropriate placement in seniority is affected, which right in turn denies the right for consideration for promotion, which is a valuable right to any employee, the exercise undertaken by the respondent-Commissioner is unsustainable.

13. It is the forcible submission of learned senior counsel that there is delay in filing the writ petition and the writ is liable to be dismissed on that ground alone.

14. I have carefully considered the decisions cited at the bar.

15. The writ remedy is discretionary remedy. Though no limitation is prescribed to entertain a writ petition under Article 226 of the Constitution of India and no fetters are imposed on writ Court to entertain a writ petition, the principle of law is well settled that a person, who seeks intervention of the High Court under Article 226 of Constitution of India, should invoke the jurisdiction of this Court immediately after arising of cause of action and at any rate within a reasonable time. Ordinarily, the reasonable time in prosecuting the writ remedy is the time available to prosecute civil law remedy. Anything beyond that cannot be said as reasonable for prosecuting the writ remedy. Whenever, there is delay in filing writ petition, detailed reasons must be assigned with supporting material. The burden is heavy on petitioner to explain the delay in filing the writ petition when such delay is unreasonably long.

16. In ***Shankara Co-op. Housing Society Ltd., Vs M. Prabhakar and others***¹³, on detail consideration of the various judgments on the issue of maintainability of the writ petition filed after long lapse of time, the Supreme Court laid down the parameters for entertaining the writ petition. They read as under:

“The relevant considerations, in determining whether delay or laches should be put against a person who approaches the writ court under Article 226 of the Constitution is now well settled. They are : (1) there is no inviolable rule of law that whenever there is a delay, the court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts. (2) The principle on which the court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because court should not

¹³ (2011) 5 SCC 607

harm innocent parties if their rights had emerged by the delay on the part of the petitioners. (3) The satisfactory way of explaining delay in making an application under Article 226 is for the petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the Statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the petitioner chooses to believe in regard to the remedy. **(4) No hard and fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.** (5) That representations would not be adequate explanation to take care of the delay” (Para 53).

(emphasis supplied)

17. In **City Industrial Development Corporation V Dosu Aardeshir Bhiwandiwalla and Others**¹⁴, the Supreme Court held as under :

“A writ of Mandamus is highly discretionary. The relief cannot be claimed as of right. One of the grounds for refusing relief is that the person approaching the High Court is guilty of unexplained delay and the laches. Inordinate delay in moving the court for a writ is an adequate ground for refusing a writ. The principle is that courts exercising public law jurisdiction do not encourage agitation of stale claims and exhuming matters where the rights of third parties may have accrued in the interregnum.” (emphasis supplied)

18.1. With reference to claims to seniority, in the two following decisions, Supreme Court held writ petition should not be entertained, if it is filed after inordinate delay.

18.2. In **B.S. Bajwa Vs State Of Punjab**¹⁵, Supreme Court, held as under:

“7. Having heard both sides we are satisfied that the writ petition was wrongly entertained and allowed by the Single Judge and, therefore, the judgments of the Single Judge and the Division Bench have both to be set aside. *The undisputed facts appearing from the record are alone sufficient to dismiss the writ petition on the ground of laches because the grievance was made by B.S. Bajwa and B.D. Gupta only in 1984 which was long after they had entered the department in 1971-72. During this entire period of more than a decade they were all along treated as junior to the other aforesaid persons and the*

¹⁴ AIR 2009 SC 571

¹⁵ (1998) 2 SCC 523

rights inter se had crystallised which ought not to have been reopened after the lapse of such a long period. At every stage others were promoted before B.S. Bajwa and B.D. Gupta and this position was known to B.S. Bajwa and B.D. Gupta right from the beginning as found by the Division Bench itself. ***It is well settled that in service matters the question of seniority should not be reopened in such situations after the lapse of a reasonable period*** because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under Article 226 and to reject the writ petition.”

(emphasis supplied)

18.3. In **Shiba Shankar Mohapatra Vs State Of Orissa**¹⁶, on review of law on the maintainability of stale claims on seniority, Supreme Court held:

“**18.** The question of entertaining the petition disputing the long-standing seniority filed at a belated stage is no more res integra. A Constitution Bench of this Court, in *Ramchandra Shankar Deodhar v. State of Maharashtra* [(1974) 1 SCC 317 : 1974 SCC (L&S) 137] considered the effect of delay in challenging the promotion and seniority list and held that any claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb the vested rights of other persons regarding seniority, rank and promotion which have accrued to them during the intervening period. A party should approach the court just after accrual of the cause of complaint. While deciding the said case, this Court placed reliance upon its earlier judgments, particularly in *Tilokchand Motichand v. H.B. Munshi* [(1969) 1 SCC 110] , wherein it has been observed that the principle on which the court proceeds in refusing relief to the petitioner on the ground of laches or delay, is that the rights, which have accrued to others by reason of delay in filing the writ petition should not be allowed to be disturbed unless there is a reasonable explanation for delay. The Court further observed as under: (*Tilokchand case* [(1969) 1 SCC 110] , SCC p. 115, para 7)

“**7. ... The party claiming fundamental rights must move the Court before other rights come into existence.** The action of courts cannot harm innocent parties if their rights emerge by reason of delay on the part of the person moving the Court.”

.....

29. It is settled law that fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. ***No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the court is guilty of delay and the laches.*** The court exercising public law jurisdiction does not

¹⁶ (2010) 12 SCC 471

encourage agitation of stale claims where the right of third parties crystallises in the interregnum. (Vide *Aflatoon v. Lt. Governor of Delhi* [(1975) 4 SCC 285 : AIR 1974 SC 2077] ; *State of Mysore v. V.K. Kangan* [(1976) 2 SCC 895 : AIR 1975 SC 2190] ; *Municipal Council, Ahmednagar v. Shah Hyder Beig* [(2000) 2 SCC 48] ; *Inderjit Gupta v. Union of India* [(2001) 6 SCC 637 : 2001 SCC (L&S) 1083] ; *Shiv Dass v. Union of India* [(2007) 9 SCC 274 : (2007) 2 SCC (L&S) 395] ; *A.P. SRTC v. N. Satyanarayana* [(2008) 1 SCC 210 : (2008) 1 SCC (L&S) 161] and *City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla* [(2009) 1 SCC 168]).

30. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained. In *K.R. Mudgal*, this Court has laid down, in crystal clear words that a seniority list which remains in existence for 3 to 4 years unchallenged, should not be disturbed. Thus, **3-4 years is a reasonable period for challenging the seniority and in case someone agitates the issue of seniority beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation.** (emphasis supplied)

19. As held in the precedent decisions, in considering delay and laches in seeking remedy under Article 226 of the Constitution of India issue has to be seen in each case in the given facts of that case. In the facts of this case, it cannot be said that there is laches on the part of petitioner in invoking jurisdiction of this Court. More so, in the facts of this case, court having noticed glaring illegality in drawing the final seniority list cannot reject the writ petition on that ground. Furthermore, in the meantime, no rights have accrued to any person, which would be adversely affected at this stage, to be specific, no promotions were affected in the meantime.

20. Though petitioner ought to have availed remedy of appeal as provided in Rule 34 of the General Rules, merely on that ground writ petition cannot be thrown out, having regard to the grave illegalities noticed by the Court. I am fortified in my view by the following decisions.

21. In **Committee of Management**, on allegation of misconduct, respondent no.3 was subject to disciplinary action and was held guilty of the same. The Vice Chancellor however refused to grant the order of removal holding that the order of removal was not in consonance to the statute of University of Lucknow. The above order was challenged before the High Court and High Court refused to exercise its discretion to entertain the writ petition filed by the petitioner minority institution holding that alternative remedy of appeal before the Chancellor was not exhausted as per section 68 of the Act. Supreme Court held that not all remedies available are efficacious and there is no legal principle laid down that discretionary jurisdiction cannot be exercised on availability of an alternative remedy and the High Court should not have refused to exercise its discretionary jurisdiction.

22. Supreme Court held as under:

“23. Furthermore, when an order has been passed by an authority without jurisdiction or in violation of the principles of natural justice, the superior courts shall not refuse to exercise their jurisdiction although there exists an alternative remedy. In this context, it is appropriate to refer to the observations made by this Court in *Whirlpool Corpn. v. Registrar of Trade Marks* [(1998) 8 SCC 1] : (SCC p. 10, para 15)

“15. ... But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the fundamental rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.”

(See also *Guruvayoor Devaswom Managing Committee v. C.K. Rajan* [(2003) 7 SCC 546] .)” (emphasis supplied)

23. In **Machani Nagaraju v. Commissioner of Endowments Hyderabad and others**¹⁷, learned single Judge considered similar objection and rejected the objection holding that availability of alternative remedy is not an absolute bar. I am in respectful agreement with lucid assessment of scope of jurisdiction of writ Court under Article 226 of the Constitution of India vis-a-vie alternative remedy. Learned Judge held,

“13. The power to issue prerogative Writs, under Article 226 of the Constitution, is plenary in nature and is not limited by any other provision of the Constitution. The High Court, having regard to the facts of the case, has the discretion under Article 226 of the Constitution to entertain or not to entertain a writ petition. It has imposed upon itself certain restrictions one of which is that, if an effective and efficacious remedy is available, it would not normally exercise its jurisdiction. **But the alternative remedy would not operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been violation of principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.** (Whirlpool Corpn. v. Registrar of Trade Marks (1998) 8 SCC 1 = 1998(6) ALD (S.C.S.N.) 20; Popcorn Entertainment v. City Industrial Development Corpn. (2007) 9 SCC 593; Mumtaz Post Graduate Degree College v. University of Lucknow (2009)2 SCC 630; Guruvayoor Devaswom Managing Committee v. C.K. Rajan, (2003) 7 SCC 546).

14. **Where the order, complained against, is alleged to be illegal or invalid, as being contrary to law, a petition at the instance of person adversely affected by it, would lie to the High Court under Article 226 of**

¹⁷ 2014 (5) ALD 540

the Constitution. Neither is the jurisdiction of the High Court ousted nor need such a petition be rejected on the ground that an appeal/revision lies to a higher forum. (Philips Worker's Union v. Registrar of Trade Unions; Ram and Shyam Company v. State of Haryana). The High Court may exercise its writ jurisdiction despite the fact that an alternative remedy is available, inter alia, in a case where the same would not be an efficacious one. (Mumtaz Post Graduate Degree College). The petitioner has invoked the jurisdiction of this Court complaining that the Commissioner had illegally and arbitrarily appointed the 2nd respondent as the Executive Officer of the subject temple contrary to Section 29 of the 1987 Act. ***As the petitioner complains of violation of his fundamental rights under Article 14 of the Constitution of India, and since the Writ Petitioner was elaborately heard on merits, I see no reason to now relegate the petitioner to avail the statutory remedy of revision under Section 93 of the 1987 Act.***” (emphasis supplied)

24. For the aforesaid reasons, the impugned final seniority list is liable to be declared as illegal. It is made clear that the court has considered the validity of the final seniority list only on the touch stone of affecting petitioner's placement in the seniority list and downgrading her position without affording due opportunity to her.

25. It is also to be noted that it is open to any employee to contest the claim for assignment of seniority and to request to show his name above in the seniority list. Similarly, respondents 3 to 5 have filed their objections to the provisional seniority list and sought to reflect their names above than the placements assigned to them. Thus, filing of objections and claim made by them, as per their understanding, cannot be faulted. Tenability of the objections cannot be gone into at this stage. Having regard to the facts of this

case, Respondent-Commissioner is directed to treat the seniority list dated 30.03.2017 as provisional seniority list. It is open to all persons including petitioner, whose placements are affected, to raise objections on the placements shown in the seniority list dated 30.03.2017. If the petitioner intends to raise objections to the placement assigned to her, she shall file objections within two weeks from the date of receipt of copy of this order. The Transport Commissioner shall notify the directions of the Court to all others included in the seniority list to file objections granting them two weeks time from the date of service of notice. If objections are filed within the time granted, the same shall be considered objectively. He may hold personal hearing to persons who have raised objections on a day fixed in advance. On due consideration of objections and by assigning due reasons in support of the decision, he shall pass orders and finalize the integrated seniority list of RTOs and Assistant Secretaries. Entire exercise shall be completed within six weeks from the date of receipt of copy of this order. It is also made clear that if no objections are filed within the time granted above, the seniority list dated 30.03.2017 be treated as final.

26. If the respondent-State intends to fill up the existing vacancies of Deputy Commissioners immediately, it is open to respondents 1 and 2 to effect promotions based on the provisional seniority list. In the event of affecting promotions based on provisional seniority list, such promotions shall be *ad hoc* and temporary valid for a period of three months from the date of grant of promotion or till regular promotions are affected after finalization of seniority list, whichever is earlier.

27. Writ Petition is accordingly disposed of. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 05.09.2018
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