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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20.02.2018

+ W.P.(C) 1558/2018 & CM APPL. 6397-6398/2018

BACHE SINGH & ORS Petitioners
Through: Ms. Jyoti Dutt Sharma with
Mr. Rahul Sharma & Mr. C.K. Bhatt, Advs.

versus

DELHI HIGH COURT Respondent
Through: Mr. Viraj R. Datar, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

S. RAVINDRA BHAT, J.(ORAL)

The petitioners seek a direction that they be provided promotional avenues by the seniority channel. All of them are Group 'D' employees working as Court Attendants, Ushers, *Daftaries*, etc. The grievance articulated is that the existing Rules of the High Court Establishment do not enable a seniority channel for promotion but rather restrict the promotional avenue to qualify in a written departmental test with typing test essential condition – to the cadre of Restorer/Junior Judicial Assistant, in the 20% quota set apart for promotion in that cadre (the balance 80% has to be filled through direct recruitment). The petitioners had represented to the High Court Establishment; the concerned Committee (the

Committee for Amendment/Review of Rules of Appointment, Conditions of Service, etc. of Employees of the Court) by its minutes of meeting dated 06.09.2017 rejected the representation.

2. Learned counsel for the petitioners relied upon the Rule position in the Punjab High Court where 50% quota is being set apart for promotion by seniority from amongst Group 'D' staff to the cadre of Restorers. She also relied upon the judgment of the Bombay High Court in *High Court of Judicature at Bombay v. State of Maharashtra* AIR 1916 Bom. 307 where the existing rules were set aside; she also relied upon the amendments carried out to the Central Civil Service Rules of 2010, which provided for 10% promotion (to the cadre of LDCs). Those amendments provided for a 10% quota purely on the basis of seniority subject to fitness with an added condition that upon promotion but within the probation period, the promotee incumbent is to clear a typing test failing which she or he would be reverted to the earlier post. The counsel also emphasized that 70% of the vacancies as on 2003 were to be filled by seniority promotion.

3. A careful consideration of the petition and the submissions made in support would reveal that the essential grievance is the lack of promotional avenue based upon seniority. The existing Rules of the Delhi High Court Establishment provide for promotion on the basis of merit determined through a departmental test (written and typing) for the cadre of Restorer/Junior Judicial Assistant to the extent of 20% quota. The petitioners for various

reasons are unable to fulfil the essential eligibility condition with respect to the typing test and therefore want parity based on either the Punjab High Court Rules or the Central Government Amendments of 2010. The minutes of meeting of 06.09.2017 indicate that whilst the representations were rejected, the Committee felt that the demand for seniority-cum-promotions should be considered along with the comprehensive exercise of re-framing the Rules based upon the promotional prospects of all employees of the Court, as is evident from the Committee's direction – in the decision at Agenda Item No.2 that -

“The matter is not to be considered at this stage and directs the Registry to examine the promotional prospects of all the employees of this Court at different stages and to suggest the modalities to redress the grievance of the staff and to reduce the inter se litigation. Deferred.”

4. In these circumstances, having regard to this decision, the Court enquired from the counsel appearing on behalf of the High Court Establishment as to the progress made pursuant to the direction of the Committee (of 06.09.2017). Learned counsel indicated, upon instructions, that the comprehensive review is under progress. However, he could not indicate any concrete steps or timeline in this regard as to the conclusion of such review.

5. In the circumstances and having regard to the material placed on the record, particularly, the amendments to the CCS Rules, the Bombay High Court judgment and the Punjab High

Court Rules, a direction is issued to the Delhi High Court Establishment to complete the comprehensive review, as early as possible, and definitely within 4 months from today and place the report before the Committee for early action. In the light of these observations, the representation of the petitioners too should be taken into account at the stage of framing the report for a comprehensive review.

The writ petition is disposed of in the above terms. All the pending applications also stand disposed of accordingly.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 20, 2018
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