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

Reserved on: 18th September, 2019

Pronounced on: 27th September, 2019

+ **W.P.(C) 2904/2014 & CM APPL. 8231/2015, 40624/2018, 40625/2018, 5958/2019, 17370/2019, 17371/2019, 39667/2019**

UNION OF INDIA

..... Petitioner

Through: Mr. R. V. Sinha, Mr. A.S. Singh,
Mr. Amit Sinha and Mr. Sharanya
Sinha, Advocates.

versus

DEEP CHAND SHARMA (RETD.) AND ORS Respondents

Through: Mrs. Harvinder Oberoi, Advocates for
R-1 to 38.
Mr. Purushottam Sharma Tripathi,
Mr. Amit, Mr. Ravi C. Prakash and
Mr. Mukesh K. Singh, Advocates for
R-43 to 49.

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH**

J U D G M E N T

Talwant Singh, J.

1. This petition filed by the Petitioner Union of India ('UOI') under Article 226 of the Constitution of India is directed against the order and judgement dated 12th November, 2013 in OA No. 1709/2012 (Annexure P-1) ('Impugned Judgment') passed by the learned Central Administrative Tribunal ('CAT'), Principal Bench at New Delhi. The case pertains to the seniority of direct recruits as well as promotees from the post of Junior Time

Scale ('JTS') to the regular post of Senior Time Scale ('STS').

2. In the impugned judgment, the Principal Bench of Central Administrative Tribunal (CAT) has observed as under:

“We have heard the learned counsel for the Applicant Mrs. Harvinder Oberoi and learned counsel for the Respondents Dr. Ch. Shamsuddin Khan. In spite of notice issued to the private Respondents, they have chosen not to contest the case. Admittedly, the promotion to the posts in JTS was governed by the ISS Rules notified on 14.09.2005. It was in vogue till it was amended w.e.f. 25.10.2009. Again, admittedly, the vacancies up to 2007-08 were filled up based on the unamended rules. As the amendment took place only on 25.10.2009, the vacancies for the year 2008-09 were to be filled up as per the unamended rules. It was, admittedly not done. It is well settled, as held by the Apex Court in the case of *Y.V. Rangaiah and Others vs. J. Srinivasan Rao and Others*, vacancies which have occurred prior to amendment of Recruitment Rules, would be governed by the old Recruitment Rules and not by the new Recruitment Rules. Therefore, DPC for filling up the vacancies of the year 2008-09 is concerned, the crucial date of determining eligibility has fallen on 01.01.2008 and DPC should have been held prior to that date. As regards the vacancies for the year 2009-10, are concerned, the date of determining the eligibility has fallen on 01.01.2009 and the DPC should have been held prior to that date. However, during the same vacancy year on 25.11.2009, the amended Recruitment Rules came into existence and additional vacancies must have arisen for which a supplementary DPC could have held in the same year. Thereafter, while determining vacancies for the year 2010-11 the date of determining vacancies for the year 2010-11 the date of determining the eligibility should have been reckoned as 01.01.2010 and the number of vacancies determined should, of course, be in accordance with the amended Recruitment Rules. In fact, the DPC under the Chairmanship of the Member of UPSC for the vacancy years 2008-09 was held on 25.04.2011 and recommended a panel/extended panel for promotion to the JTS of ISI consisting of the following persons:

“PANEL FOR THE YEAR 2008-09 (No. of vacancies: Gen. 06+SC.01+ ST.01)

Sl. No.	Name) S/Shri/Ms.	
1.	Raj Lal	
2.	Hari Dass (SC)	RAUV
3.	S.N. Ahirwar (SC)	RAUV
4.	Anil H. Ramteke (SC)	RAUV
5.	Deep Chand Sharma	
6.	Ghisa Ram Janghu	
7.	R.S. Mehtra (SC)	RAUV
8.	Virender Singh (ST)	RAUV

Extended Panel

1. M.S. Dhanda – To be promoted in lieu of the officer at S. No. 3 in the regular panel who has retired in the panel year 2008-09,

RARV: Recommended Against Reserved Vacancy

RARV: Recommended Against Unreserved Vacancy”

Similarly, the DPC again met on 12.07.2011 and recommended another panel/extended panel consisting of the following

“PANEL FOR THE YEAR 2009-10

Sl. No.	Name (S/Shri/Ms)	
1.	Ved Prakash	RA

	(SC)	UV
2.	Dharam Paul Dugga (CS)	RA UV
3.	P.K. Santosh (SC)	RA UV
4.	Pradosh Kumar Hone	
5.	M. Lakshmi Rao	
6.	Mahesh Chand (SC)	RA UV
7.	Brij Mohan	RA RV
8.	Narender Singh	
9.	V.K. Jain	
10.	Amit Kamal	
11.	M.P. Diwakar (SC)	RA UV
12.	C. Arokiasamy Chiniyan (SC)	RA UV
13.	Onkar Wakode (SC)	RA UV
14.	N. Venkat Rao	
15.	Hareeswaran K	
16.	N.N. Reji	
17.	Devanand P. Lade (SC)	RA UV
18.	Utpal Bordoloi	
19.	Jawait Alam Khan	
20.	K.B. Thesia	
21.	A.K. Pandey	
22.	R.B. Nair	
23.	R.N. Tailor (ST)	RA UV
24.	Dwijendra Nath Hazong (ST)	RA UV
25.	Suresh Chand Agrawal	

26.	K.C. Meena (ST)	RA UV
27.	Daram Dass (SC)	RA RV
28.	Hari Prasad Sidar (ST)	RA UV
29.	Habil Barwa (ST)	RA UV
30.	D.R. Rathia (ST)	RA UV
31.	Mahavir Singh (SC)	RA UV
32.	Poonam Gupta	
33.	Rakesh Chandra Negi	
34.	C.S. Bhatia	
35.	Alok Nigam	
36.	Ved Pal Singh (SC)	RA UV
37.	P.B. Rangarajan	
38.	D.S. Mishra	
39.	R.N. Rathee (SC)	RA UV
40.	M.A. Khan	
41.	Promod Kumar (SC)	RA RV
42.	Ram Swaroop Singh	RA RV
43.	Ram Rattan Bagga (SC)	RA RV
44.	B.B.S. Negi (ST)	RA RV
45.	K.C. Rathore (SC)	RA RV
46.	Pramod Chandra (SC)	RA RV
47.	Paramjit Singh (SC)	RA RV

48.	K.L. Katole (ST)	RA RV
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Extended Panel

Sl. No.	Name (S/Shri/Ms.)
1.	Rajendra Pathak
2.	Satyender Kumar
3.	Tanveer Ahmed Khan
4.	O.P. Gupta
5.	Ravi Velivela
6.	Mitra Sain
7.	S.K. Soorma
8.	Devinder Kumar

(The officers included in the Extended Panel may be promoted in lieu of officers at Sl. No. 12,13,23,24,27,28 & 30 in the Regular Panel and Sl. No. 7 in the Extended Panel who have retired in the panel year 2009-10)

RAUV: Recommended Against Unreserved Vacancy

RARV: Recommended Against Reserved Vacancy”.

However, the Respondents have arbitrarily clubbed together all the vacancies of the year 2008-09, 2009-10 and 2010-11.

3. The aforesaid action of the Respondent is absolutely unacceptable in view of the aforesaid judgement in the case of ***Y.V. Rangiah's case*** (supra). According to the unamended Recruitment Rules, the departmental quota being 40% of the vacancies, those vacancies should have been assessed and filled up during the vacancy years 2008-09 itself. When the amendment took place w.e.f. 25.10.2009 and the percentage of vacancies under departmental quota has increased from 40 to 50, the benefits thereof would be available only in respect of the vacancies which were arisen after that date during the year 2009-10. Therefore, there are no valid reasons for clubbing direct recruitment of the year 2010-11.

4. In the above facts and circumstances of the case, we allow this OA. Accordingly, we direct the Respondents to modify

their orders dated 10.05.2011 and 29.07.2011 and to promote the Applicants on regular basis from the crucial date of the vacancy year/date of vacancies against which they have already been appointed on ad hoc basis. Consequently, the seniority list dated 09.01.2012 is quashed and set aside. Respondents shall prepare a fresh seniority list as per the rules and relevant guidelines on the subject.

5. The aforesaid exercise shall be completed within a period of three months from the date of receipt of a copy of this order.” (Emphasis Supplied)

3. The order of the CAT has been challenged by the UOI by way of filing the present writ petition on the ground that the promotions could not be done from the vacancy year as the regular DPCs had not taken place and the promotions had to be given effect to only after Respondents No. 1 to 38 were found fit and were declared successful after the regular DPCs.

4. Written Submissions have been filed on behalf of Respondent Nos. 1 to 38 wherein they have reiterated the stand which they had taken before the CAT. It was further stated that despite the fact that the DoPT agreed with the order passed by the Tribunal, the Petitioners have filed the present writ petition challenging the aforesaid order passed by the Tribunal, thereby demonstrating once again the step-motherly treatment given to promotees vis-à-vis direct recruits, which has been noticed by the Tribunal as well. Respondent Nos. 1 to 38 further submitted that the writ petition is liable to be rejected. Respondent No. 39 is UPSC, and the remaining respondents are direct recruits, who were made parties before the CAT as respondents. Counter affidavits were also filed on behalf of direct recruits. An impleadment application on behalf of more direct recruits is also pending.

5. We have heard the learned counsel for parties. After hearing detailed arguments, it emerges that the reason for not holding regular DPCs cannot be attributed to Respondent Nos. 1 to 38. It is not the case of the Petitioners that there were any disciplinary proceedings pending against the said promotees at any point of time, or that any other impediment was created by Respondent Nos. 1 to 38 in holding the DPCs. The only contention raised for delay in holding the DPCs is that prior to 2008, the quota of the promotees in promotion was 40%, which the Department wanted to revise to 50%. The process of providing for such 50% quota had to pass through different levels/departments and it took considerable time to get the same finally decided, which resulted in delay in conducting the regular DPC by UPSC. In the meantime, in the year 2011 direct recruitment was done and the promotees were put *en bloc* below the direct recruits of 2011, although their vacancies had been available in the years 2008-09 and 2009-10. The consistent stand of the Petitioner for not holding DPCs for 3 years is that the same was due to the amendment of the rules of promotion, and not to any cause attributable to the promotees. There is no justified explanation submitted by the Petitioner as to why Respondent Nos. 1 to 38 should suffer from the delay in conducting the DPCs, which is wholly attributable to the acts of the Petitioner.

6. Another interesting fact to be noticed here is that even the DoPT has rightly agreed with the judgment of the CAT on principle, but nonetheless advised the Department to file the present writ petition. The advice of the DoPT was sought by the Department giving details of the dispute and the

order of the CAT highlighting the prejudice being caused to the promotees if they were clubbed together and placed below the direct recruits of the year 2011.

7. Advice was received from the DoPT on 27th January, 2014. In paragraph 4 of the said note, DoPT agreed with the view of the CAT, but in paragraphs 5 and 6 advised the concerned Department to challenge the said order before the High Court as it was not consistent with the instructions issued from time to time. Relevant paragraphs of the advice of the DoPT are reproduced hereunder:

“3. The observations of the administrative department have been examined. While the DOPT policy unambiguously provides for promotion from a prospective date only, after being recommended by the DPC and approved by the competent authority, the observations of DOPT, in the context of issues raised by CAT in its judgement, are as under:

- a) The DOPT instructions dated 10.4.89 and 8.9.98 have laid down elaborate procedure and timelines (Model Calendar) for filling up of the vacancies through DPC, so that eligible candidates are available for appointment against the vacancies of a recruitment year, prior to the date of occurrence of the vacancies. The DOPT has further reiterated the need for adhering to the time schedules laid down for convening the DPC for the anticipated vacancies in a recruitment year, through its OM dated 11.3.2011 and 24.3.2011 reiterated;
- b) The DOPT has, in its instructions in OM No.28036/8/87-Estt. (D) dated 30.03.1988 and OM No.28036/1/2011-Estt. (D) dated 23.07.2001 (F/‘X’ and F/‘Y’), laid down the exigencies under which ad hoc appointments can be resorted to, the period for which the same can be allowed and approvals required for continuing the same;

- c) The appointments to JTS Grade of ISS are done, subsequent to the initial constitution of the service, under Rule 8 of the ISS Rules 1961, as amended from time to time, which provides for allocation of vacancies in the prescribed ratio, to be filled by direct recruitment through an open competition and by promotion through selection from Subordinate Statistical Service;
- d) In the instant case, the ad hoc promotions have been made against the regular vacancies on 26.09.2008 and 11.06.09 (for inexplicable reasons) and continued for more than two years, without the approval of DOPT. Resorting to ad hoc promotions, continuing them against regular vacancies and, thereafter, regularizing them through DPC after a gap of two years, in contravention of the extant instructions of the DOPT, creates illegitimate expectations for retrospective promotions. The hypothesis extended by MoSPI on delayed DPC and its having no bearing on the promotees has no substantive basis;
- e) While filling up of the vacancies for the year 2008-09 and 2009-10 by direct recruitment, simultaneous action was required to be taken for filling up of the regular vacancies through convening of DPC, in accordance with the time schedule provided in the Model calendar under the extant instruction of DOPT. However, the DPCs were held on 5.04.11 and 12.07.11 (F/'A' and F/'B' respectively) for the vacancy year 2008-09 and 2009-10, respectively, which itself is an admission of the fact that regular vacancies existed against promotion quota for these years and ad hoc promotions were made against regular vacancies;
- f) Whereas, the promotions are to be from prospective dates after DPC was held in 2011, the assignment of seniority for the promotees appointed against the regular vacancies of 2008-09 and 2009-10, would have to be interpolated, for inter-seniority, with the direct recruits appointed against the vacancy years 2008-09 and 2009-10 respectively, irrespective of the date of appointment of the incumbents, as provided in DOPT OM

dated OM No.35014/2/80-Estt.(D) dated 7.2.1986 and OM No.22011/7/86-Estt.(D) dated 03.07.1986;

- g) The comparison drawn with CSS and CSSS for allowing regular promotion from an appointed date in the vacancy year for implementation of CAT Order, has no legal basis, as the eligibility service is determined on the provisions of the statutory recruitment rules. The provisions applicable in the statutory recruitment rules of another service cannot be made applicable *suo moto* unless incorporated in the RRs;
- h) Further, the crucial date of eligibility for promotion from JTS Grade to STS Grade of ISS would be in accordance with provisions of the extant Recruitment Rules for the post and, in its absence, as provided in the executive instructions. In the instant case, while Note 1 of Schedule II of the IIS Rules, 2013 provides for determination of eligibility service for those appointed through examination from the 1st January of the year following the year of the examination through which they are recruited, there is no corresponding provision for promotees for reckoning of eligibility service;
- i) As promotion would have to be effective prospectively, the aforementioned provision of RRs, would apparently be biased against promotees, if DPCs are delayed and held for vacancies of previous years, denying them parity in consideration for eligibility service in relation to direct recruits;
- j) The CAT judgement has been premised on apparent injustice to the promotees in the context of above facts, as the administrative Department has perhaps been unable to substantiate its position on the reasons for ad hoc promotions against regular vacancies for promotion quota and thus denying the subsequently regularized promotees, their due entitlement to eligibility service for promotion to STS vis a vis direct recruits of same vacancy year.

4. While, on the issue of assigning seniority to the promotees, appointed on regular basis, against the vacancy

years 2008-09 and 2009-10, through DPC held in 2011, the DOPT would endorse the directions of the CAT for assigning them seniority through interpolation with corresponding direct recruits appointed against the vacancy year 2008-09 and 2009-10, in the ratio prescribed in the RRs as provided in DOPT OM dated OM No.35014/2/80-Estt.(D) dated 7.2.1986 and OM No.22011/7/86-Estt.(D) dated 03.07.1986.

5. On the issue of appointing them from the crucial date in the vacancy year/date of occurrence of vacancies, the DOPT would reiterate its extant policy that the same is not consistent with the instructions which provides that all promotions would be from a prospective date on assumption of the charge of the post after the recommendations of the DPC has been approved by the competent appointing authority (para 6.4.4 and 17.10 & 11 of DOPT OM dated 10.04.89). The counting of eligibility service or reckoning the date of appointment from the crucial date in the vacancy year is also not supported by the ISS Rules, in the case of promotees. As such this needs to be challenged in the High Court.

6. Accordingly, the MOS&PI is advised to challenge the orders of the High Court, to the extent not admissible under the extant instructions of DOPT (para 5 above), in consultation with DoLA, after having addressed the observations contained in para 3. It may be appreciated that any challenge to the orders of CAT would have to be based on the extant policy of the Government of India and the actions taken there under by the Respondent so as to allay the concerns of the Court on perceived injustice.”

8. During arguments, counsel for Respondent Nos. 1 to 38 submitted this Court has decided another case pertaining to similar circumstances in W.P.(C) No. 11660/2015 on 14th July, 2017 (*Union of India vs. Jai Singh and Anr.*), which was in respect to promotions to SI Grade-I in the same service. The promotees in the said writ petition were promoted from Grade-

II to SSS SI Grade-I on *ad-hoc* basis, and later on their services were regularized. This Court was in the said writ petition pleased to uphold the order of the Tribunal through which it was directed that *ad-hoc* promotions of the promotees be treated as regular promotions from the dates of such *ad-hoc* promotions.

9. Learned counsel for Respondent Nos. 1 to 38 also relied upon another judgment of this Court in W.P.(C) No. 8700/2015 decided on 17th May, 2016 (***Delhi Milk Scheme and Ors. V. Anil Kumar and Anr.***) The relevant paragraph 8 of the said judgment holds as under:

“8. Learned counsel for the Respondents submits that the Petitioners have implemented the order passed by the Tribunal. This being the position, we would not like to interfere with the impugned order. Pertinently and it is apparent that no employee was adversely impacted and affected by the said direction. We are conscious and aware that ad hoc service in all cases is not to be counted for seniority and is normally counted when the initial appointment though ad hoc is made by the same process as applicable to regular appointment and is not a stop gap arrangement. In the present case as noticed, the issue of seniority is not in question. The question pertains to counting ad hoc service as qualifying service for the next promotion. The Respondents were qualified and eligible for promotion, but their consideration for promotion was delayed for administrative and extraneous reasons not attributable to the Respondents. Their ad hoc promotions were made as per the mandate of the rules and on the Respondents meeting the conditions. In these circumstances, we would not like to interfere with the impugned order and directions given therein for the reason recorded by us in the first sentence of this paragraph.”

10. In the aforesaid case also although the promotees were qualified and

eligible for promotion, their consideration for promotion was delayed for reasons not attributable to them. Later on, they were promoted in the regular manner, under which circumstances this Court did not interfere with the order of the CAT.

11. Another judgment to be noticed is ***Debabrata Dash and Anr. v. Jatindra Prasad Das and Ors. (2013) 3 SCC 658*** decided on 11th March, 2013 wherein the Supreme Court was pleased to hold that even if a person was promoted on *ad-hoc* basis to a higher post, his seniority could not be counted until a vacancy was available. In the said judgment, the Supreme Court has considered most of the judgments holding the field in the said arena till that date and had come to the considered conclusion that the existence of vacancies is a *sine qua non* for considering a person promoted on *ad-hoc* basis as having been regularly promoted. Paragraph 51 of that judgment is reproduced hereunder:

“51. We have already indicated above that on 5-1-2002 or 26-4-2002, there was no vacancy in the cadre of Superior Judicial Service (Senior Branch) for being filled up by promotion. Such vacancy in the Senior Branch Cadre of the service occurred on 15-12-2003 and from that date the writ Petitioner has been given benefit of his service rendered in the Fast Track Court. The administrative decision by the Full Court is in accord with the 1963 Rules, the 2001 Rules and the legal position already indicated above. The view of the Division Bench in the impugned judgement is legally unsustainable. The impugned judgement is liable to be set aside and is set aside.”

12. It can be noticed in the above judgment that although the writ Petitioner had worked at the Fast Track Court from 5th January 2002 or 26th April, 2002, but as there was no vacancy in the higher cadre, he could not be given

the benefit of promotion. When one such vacancy arose on 15th December, 2003, the writ Petitioner was given the benefit of services rendered at the promotion post from that date, although he had worked even earlier on *ad-hoc* basis.

13. The genesis of all the judgments pronounced in this field is the decision of Supreme Court in ***P.N. Premachandran v. State of Kerala and Ors. 2003 Supp (5) SCR 342***. The relevant portion of this judgment is quoted hereunder:

“The State of Kerala in its counter affidavit stated that since there was an administrative delay in conducting the D.P.C, Rule 31 (a) (i) of the Rules was resorted to for temporarily promoting the Departmental candidates and they were promoted as Assistant Director on a temporary basis under the said rules pending convening of the D.P.C. the D.P.C. was convened on 5.7.1984 and the promotions made from the year 1964 to 1980 were regularized with effect from 1964.

In view of the aforesaid statements, we do not find any irregularity in the matter of grant to promote the Respondents with effect from 1964 onwards.

...

It is not in dispute that the posts were to be filled up by promotion. We fail to understand how the Appellant, keeping in view the facts and circumstances of this case, could question the retrospective promotion granted to the private Respondents herein. It is not disputed that in view of the administrative lapse, the Departmental Promotion Committee did not hold a sitting from 1964 to 1980. The Respondents cannot suffer owing to such administrative lapse on the part of the State of Kerala for no fault on their part. It is also not disputed, that in ordinary course they were entitled to be promoted to the post of Assistant Directors, in the event, a Departmental Promotion

Committee had been constituted in due time. In that view of the matter, it must be held that the State of Kerala took a conscious decision to the effect that those who have been acting in a higher post for a long time, although on a temporary basis, but were qualified at the time when they were so promoted and found to be eligible by the Departmental Promotion Committee at a later date, should be promoted with retrospective effect.

Such exercise of power on the part of the State is not unknown in service jurisprudence.”

14. Another dispute, which has direct bearing on the problem at hand, is as to whether seniority to Respondent Nos. 1 to 38 should be given from the date on which the vacancies arose or from the date on which the said Respondents started working on *ad-hoc* basis. The Tribunal has directed the present Petitioners to promote Respondent Nos. 1 to 38 on regular basis from dates of the vacancy year/the date of vacancy against which they had already been appointed on *ad-hoc* basis.

15. Even though the vacancies, against which the *ad-hoc* promotions took place, arose on different dates in the years 2008-09 and 2009-10, since the present Respondents were appointed on *ad-hoc* basis against the said vacancies in two tranches, the dates of appointments for the purposes of seniority cannot relate back to the dates when vacancies arose. Instead, seniority had to be counted from the date on which they started functioning on *ad-hoc* basis, provided vacancies existed on said dates. Learned counsel for direct promotees has handed over a chart showing *ad-hoc* vacancies and promotions made against them as well as the direct recruitments done. Same is reproduced as under:

Batch year (vacancy year)	Total strength at JTS level	Post quota		In position as on crucial date		Vacancy as on crucial date		Recruited by UPSC/promoted from feeder grade		
		DR	P	DR	P	DR	P	DR	P (regular)	P (ad-hoc)
2008 (2007-08)	276	166	110	54	NA	112	NA	8 ⁶	14 (11 ¹ +3 ²)	NA
2009 (2008-09)	272	163	109	38	101	125	8	10 ⁷	10 (8 ³ +2 ⁴)	22 ⁹
2010 (2009-10)	269	134	135	50	86	84	49	30 ⁸	42 (40 ⁴ -2 ⁵)	94 ¹⁰
2011 (2010-11)	269	134	135	52	127	825	8	39 ⁸	7 ⁵	6

16. The above table shows that for the year 2008-09 there were only eight vacancies under the promotion quota. Similarly, for the next year i.e. 2009-10 there were forty-nine more vacancies for the promotees. *Ad-hoc* promotion orders were issued on 26th September, 2008 and thereafter on 12th May, 2009/11th June, 2009. It is not in dispute that at the relevant time when these promotees started functioning on *ad-hoc* basis, the earlier Recruitment Rules ('RR') were applicable and they had only 40% quota which was later increased to 50% when the new RRs were duly approved. It is also admitted as the case of the parties that vacancies upto 2007-08 were filled on the basis of the earlier RRs, i.e. with 40% quota for promotees and the said appointments were approved on 19th June, 2008. Thereafter for a period of about three years no DPC was held and the DPC as per the amended RRs i.e. with 50% quota for promotees had taken place on 25th April, 2011 and promotion order dated 10th May, 2011 was issued.

17. During arguments, the counsel for the contesting direct recruits has submitted that he has no objection if out of Respondent Nos. 1 to 38, eight of them were to be given seniority from the date of their *ad-hoc* appointments against the vacancies which arose in the year 2008-09 and the

remaining promotees be adjusted against the forty-nine vacancies in the year 2009-10. That is in fact the spirit of the order of the CAT which is under challenge before this Court. Hence, Respondent Nos. 1 to 38 are to be given seniority from the dates of their respective appointments on *ad-hoc* basis, provided vacancies for promotees in their quota existed on said dates. Otherwise, seniority is to be counted from the dates when vacancies in the promotee quota arose, irrespective of the fact that *ad-hoc* promotion of the promotee had taken place earlier.

18. In view of the above judicial pronouncements, out of which one is in the case of the present organisation itself (*Union of India vs. Jai Singh and Anr.*), which was duly implemented by Petitioner and the judgments of *Debabrata Dash* (supra), *P. N. Premachandran* (supra) and the discussion hereinabove, this Court is of the view that the order of the Tribunal is not liable to be interfered with. The same is hereby upheld with the above clarification. The writ petition is disposed of along with all pending applications.

TAWANT SINGH, J.

S. MURALIDHAR, J.

SEPTEMBER 27, 2019

mr