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

+ **W.P.(C) 6094/2018**

KALAWATI THAKUR AND ORS. Petitioners
Through: Mr. Ankur Chhibber & Mr. Bhanu
Gupta, Advocates.
versus

UNION OF INDIA AND ANR. Respondents
Through: Mr. Ripu Daman Bhardwaj, CGSC
with Mr. Soumava Karmakar,
Advocates for Respondent Nos.1 to 3.
Mr. Vivek Kumar Singh, DC Law &
Mr. Deepak Kumar, SI, CRPF.

+ **W.P.(C) 9345/2018**

NAYAN NANDI Petitioner
Through: Mr. Ankur Chhibber & Mr. Bhanu
Gupta, Advocates.
versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Biji Rajesh with Mr. Kavindra
Gill, Advocates for Respondent Nos.1
to 3.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE I.S. MEHTA

% **ORDER**
11.03.2019

Dr. S. Muralidhar, J.:

1. These two petitions arise out of a common set of facts and seek similar

relief. They are accordingly being disposed of by this common judgment.

2. The central issue in both petitions is whether the Petitioners who joined the Central Reserve Police Force ('CRPF') as female Sub-Inspectors (SIs)/General Duty (GD) are entitled to the same benefit granted to their counterparts and in accordance with the decision dated 24th May, 2013 of this Court in WP(C) No. 8744/2011 (*Bilju A.T. v. Union of India*) as further modified by the judgment dated 16th October, 2014 of the Supreme Court of India in Civil Appeal Nos. 9840-41/2014 (*Union of India v. Inspector GD (Mahila) Bilju A.T*)

Facts in W P (C) 6094 of 2018

3. WP (C) No. 6094 of 2018 has been filed by 21 Petitioners, all female. Each of them applied for the post of SI/GD in the Central Police Organisations (CPOs) and participated in the selection process conducted by the Staff Selection Commission (SSC) in the year 2002. Each of them qualified in the written examination, the Physical Efficiency Test as well as the Medical Examination. They were finally selected in the result declared in December, 2002. Each of the Petitioners was offered appointment as SI/GD by letter dated 27th August, 2003 directing them to report for training by 2nd January, 2004.

4. The advertisement pursuant to which they applied was for a common examination with common selection and did not differentiate between the male and female candidates. It also did not specify that the seniority of female and male candidates would be maintained separately. On completion

of their training, the Petitioners as well as their male counter parts were posted to various Battalions. The grievance of the Petitioners in W.P. (C) 6094 of 2018 is that notwithstanding the Respondents maintaining a combined seniority list of female and male SIs in terms of the judgment of the Supreme Court in ***Union of India v. Inspector GD (Mahila) Bilju A.T*** (*supra*), their further promotions as Inspector and then Assistant Commandants (ACs) is much later than their male counterparts who qualified as SIs along with them in the same exam.

5. The representations made by these Petitioners seeking the same benefit as granted to the female SIs by the decision of this Court in WP (C) No. 8744/2011 (***Bilju A.T. v. Union of India***) as further modified by the judgment of the Supreme Court of India in Civil Appeal Nos. 9840-41/2014 (***Union of India v. Inspector GD (Mahila) Bilju A.T***) was rejected by the Respondents by orders dated 10th March and 10th April 2018. The Petitioners in W.P. (C) 6094 of 2018 have accordingly prayed for directions to the Respondents to grant them the above benefit and further to promote them as Inspectors and ACs “from the date their immediate juniors have been granted promotions as shown in the revised seniority list of SIs.

Facts in W.P. (C) 9345 of 2018

6. As far as WP(C) No. 9345 of 2018 is concerned, it has been filed by Nayan Nandi (NN) who was appointed as Constable (GD) in the CRPF on 27th August, 1998 under the Sports Quota as she was a national level swimmer. On appointment, NN was posted to 103 Battalion (RAF) and attached to the Swimming Team which was based there.

7. NN states that due to her outstanding performance in sports, she was given an out-of-turn promotion as SI in September, 1998. In March, 2007 NN was posted, on paper, to the 135th Battalion. However, she continued with the swimming team.

8. On 5th February, 2007 NN was sent for the pre-promotional course i.e. Senior Sub-Inspector Cadre Course (SSICC), for promotion to the rank of Inspector. On 6th July, 2007, on successful completion of the SSICC, NN's name was shown in the select list for promotion to the post of Inspector. However, as NN had not completed two years' service in a duty Battalion in the rank of SI and her attachment to the swimming team was not treated as physical service in a duty Battalion, her promotion was withheld. Meanwhile, NN's juniors were promoted to the rank of Inspector.

9. NN made a representation seeking relaxation with respect to the non-completion of two years' field service and promotion to the rank of Inspector with effect from the date her juniors were so promoted i.e. 6th July, 2007. However, there was no response to this representation.

10. On 30th October, 2008 the Petitioner ultimately was promoted as Inspector. Although on paper she was posted to the 101 Battalion of the CRPF, in reality she was kept attached to the swimming team. As a result, NN became junior to her batchmates, who had already been promoted as Inspector earlier on 6th July, 2007, as well as her juniors.

11. There was a signal issued by the Directorate General, CRPF on 20th

September, 2016 stating that the period of attachment in respect of officers attached from a duty Battalion has to be counted as field Battalion service for the purposes of the two year mandatory field service required for promotion to a higher rank. According to NN, however, the Respondents failed to consider the above signal in her case.

12. By order dated 4th February 2013, the Respondents promoted NN as Inspector with effect from 6th July 2007, the date when her batchmates and juniors were promoted. However, issue again arose as the Respondents had, by order dated 6th December 2012, granted promotion to the batchmates and juniors of the Petitioner to the post of AC, as a result of which she was once again placed junior to them. Her protests against this were not heeded. NN filed WP (C) No. 4671 of 2014 in this Court. During the pendency of the said petition, NN was promoted as AC with effect from 6th December 2012, the date on which her immediate juniors were promoted. Consequently, on 6th July, 2015 the Petitioner's aforementioned writ petition was allowed by this Court.

13. On 3rd February 2018, NN made a representation to the Respondents to consider her case for promotion as Deputy Commandant (DC) from the date her male counterparts were promoted and further to place her at the correct seniority. By a letter dated 10th April 2018, the Respondents rejected her representation. NN's contention is that if the Respondents had promoted her as Inspector at the right time, she would have undertaken the pre-promotional course along with her batch-mates and would have been promoted to the rank of AC on 6th December 2012. However, the

Respondents due to their own fault did not promote her along with her batch mates and thus, deprived her from the said benefits. NN points out that once the Respondents themselves have corrected their mistake by allowing NN to regain her original seniority in the rank of Inspector, the normal consequence would be that she would be entitled to promotion as AC from the date her juniors were so promoted.

14. Accordingly in W.P. (C) 9345 of 2018 NN has prayed for a direction to the Respondents to promote her as DC from the date her immediate juniors as shown in the combined seniority list were so promoted.

15. In both petitions, the Petitioners have referred to the fact that pursuant to the judgment of this Court in ***Bilju A.T. v. Union of India*** (*supra*) and the further judgment of the Supreme Court in ***Union of India v. Inspector GD (Mahila) Bilju A.T*** (*supra*), it was incumbent on the Respondents to issue a common seniority list for male and female SI (GD). In reply to a contempt petition filed by the Petitioners in that case, an affidavit was filed by the Respondents before the Supreme Court stating that pursuant to the judgment of the Supreme Court, they had already issued a combined gradation list of all SIs (GD) Male and Female as on 1st April, 2005.

16. It is pointed out that in terms of the said seniority list, the seniority of the original Petitioners was revised and placed just above their juniors in the original batch. However, consequential benefits were still denied to the original Petitioners by not promoting them to the other ranks from the date their immediate juniors were so promoted as per their revised seniority list.

On 5th January, 2018 the Respondent issued an order which stated in para 5 as under

“5. Though a Combine Gradation List of SI/GD (Male & Female) was published on 1/12/2015, the petitioner’s names were not available in it as they have already been promoted to the rank of Insp/GD. They subsequently moved a contempt petition No.525, 526/2015 in C.A No.9840-9841 before the Hon’ble Supreme Court. The contempt petition was heard on 1/12/2017 and the Hon’ble Supreme Court disposed the contempt proceedings directing respondents to file an affidavit to the effect that the judgment of this Court will be complied with within two weeks and the benefits of revised seniority in terms of the Judgment will be given to the petitioners. Though the petitioners have to claim the consequential benefits separately as per judgment dated 16/10/2014, considering the affidavit filed by the Department before Hon’ble supreme Court on 13/12/2017, the benefits are hereby released to the petitioners.”

17. Pursuant to the above order, the Respondents issued another order dated 30th January 2018 informing that Bilju A T and others had been granted their revised seniority pursuant to the revised seniority list and would be promoted to respective ranks from the date their immediate juniors were promoted. However, as noted hereinbefore the representations of the present Petitioners for being granted the same consequential benefits was rejected by the order dated 10th April, 2018. This was despite the Supreme Court clarifying in its judgment dated 16th October, 2014 that those belonging to the SI (General Duty) and Inspector (GD) would be guided by that judgment and further that in “the rest of the cadres will also be guided by this judgement from the prospective date.”

Stand of the Respondents

18. In response to both the petitions, the Respondents submit that in ***Union of India v. Inspector GD (Mahila) Bilju A.T (supra)*** the Supreme Court had clarified that “the male cannot be posted against an higher post which is carved out for female and similarly a female cannot be posted to a post which is specifically carved out for male though they may be members of the common cadre.” It is contended, therefore, that although the seniority of the Petitioners in the rank of Inspector (GD) was re-fixed on par with their juniors,

“However, the date of promotion of the petitioners will be the actual date on which their promotion to the rank of Insp/GD(Mahila) was actually released on arising of vacancies of female Insp/GD as mentioned against each. But their date of seniority in the rank of Insp/GD will remain at par with their junior male counterparts, which will enable them to achieve further promotion to the rank of Asstt. Commandant at par with their male counterpart.”

19. It is further pointed out that the gradation lists of SI (GD) which was earlier maintained separately for males and females have since been combined. The position as on 1st April, 2005, 1st August, 2008 & 1st February, 2011 have been indicated in a tabular column as under:

Sl.	Particulars	Male	Female	Total
1	Combined G. List of SI/GD as on 01/04/2005	5088	117	5205
2	Combined G. List of SI/GD as on 01/08/2008	5266	147	5413

3	Combined G. List of SI/GD as on 01/02/2011	6760	152	6912
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20. It is claimed by the Respondents that the female personnel are getting promotions faster than their male counter parts and “majority of Mahila personnel are ahead in career progression”. It is contended that

“the Male and Mahila personnel are being detailed on promotional courses in their turn as per anticipated vacancies in their respective cadres. As such, Mahila personnel can be promoted to the next higher rank only on accrual of a vacancy against the sanctioned strength of Mahila personnel in the higher rank.”

21. It is further submitted that

“whereas their vacancy of female in the promoted rank i.e. Insp/GD was not arisen at the date of promotion of their male counterparts, hence can't be re-assigned/granted seniority to the 21 Petitioners in the rank of inspector/GD at par with their immediate junior Male SI/GD as per Hon'ble Apex Court verdict.”

22. In sum, the justification provided by the Respondents for not promoting the Petitioners in the various ranks from the date their juniors were so promoted is only on account of the purported absence of vacancies in the female cadre.

23. This Court has heard the submissions of Mr. Ankur Chhibber, learned counsel for the Petitioners and Ms. Biji Rajesh and Mr. Ripu Daman Bhardwaj and, learned counsel for the Respondents. Both parties reiterated what has been stated in the petition and in the counter affidavit respectively.

The decision in Bilju AT's case

24.1 In order to appreciate the above submissions, the Court requires first to examine some detailed facts which resulted in the judgment of this Court in ***Bilju A.T. vs. Union of India*** (*supra*) which in appeal by the Union of India was modified by the Supreme Court in ***Union of India v. Inspector GD (Mahila) Bilju A.T*** (*supra*).

24.2 The Respondents have been maintaining a separate cadre for women up to the rank of Inspectors in the Mahila Battalion. This was in terms of Rule 5 A (d) of the Central Reserve Police Force Rules, 1955 ('CRPF Rules') made under Section 18 of the Central Reserve Police Force Act, 1949. The said Rule 5 A (d) was inserted in the CRPF Rules by an amendment with effect from 23rd August 1989 and reads thus:

"5 (A)(d): There shall be a separate cadre up to the rank of Inspector for Mahila Battalion under the existing rules and regulations."

24.3 A.T. Bilju and three others, who too joined the CRPF as female SIs pursuant to an exam conducted by the SSC in 2000, filed W.P (C) 8744/2011 in this Court challenging the constitutional validity of Rule 5 A (d) of the CRPF Rules. They challenged the action of the Respondents in placing the women SIs/GD in a separate seniority list up to the rank of Inspector and thereafter combining them in the same seniority list with their male counterparts. It was pointed out that the female SIs were not detailed for the Senior Sub-Inspector Cadre Course (SSIC), the successful completion of which was a pre-requisite for promotion to the post of Inspector, whereas their male counterparts were. This resulted in the male

SIs who qualified in the same exam as the female SIs stealing a march over the female SIs by getting accelerated promotions. Two other female SIs filed W.P. (C) 1368 of 2012 raising a similar grievance.

24.4 By a common judgment in *Bilju AT v. Union of India* (*supra*), this Court disposed of both writ petitions. This Court while allowing the writ petition observed as under:

“43. In the instant case, there is neither any discernable nor any disclosed reasons from the conduct or submissions of the respondents for segregating female Sub-Inspector in a separate cadre as against the male employees of the force up to the rank of Inspectors.

44. The discrimination against the petitioners, in fact, against all Mahila personnel is stark. It is an admitted fact that the male Sub-Inspectors selected along with the petitioners and performing the same duties as the petitioners, have been promoted as Inspector much earlier than the petitioners and have even been promoted as Assistant Commandant since 2010. Male Sub-Inspectors have been so promoted to steal a march only on account of gender discrimination premised on the working of Rule 5(A)(d) of the CRPF Rules.

45. There is no justification at all as to why the separate cadre has been created or maintained only till the rank of Inspector and upon earning promotion to the rank of Inspector, they are merged with their male counterparts with their seniority being reckoned from the date they are assigned the rank of Inspector. Those male and female Sub-Inspectors may be appointed on the same date however, their promotion to the Inspector is not after the same years of service.”

24.5 It was further held as under:

“52. We therefore, find substance in the contention of learned

counsel for the petitioner that there is no rationale for the prescription in the rule for maintenance of a separate cadre upto the rank of Inspector for the Mahila Battalion and there is no intelligible differentia for so doing. No explanation for the classification is pointed out. The only discernible objective of this rule appears to be denial of promotion to women Sub-Inspectors on the date when the same became due. As a result, their male counterparts are given promotion though lower in seniority to the Mahila official and are being permitted to steal a march over them. In the next-rank, the seniority is drawn up in common, placing the female candidate permanently below their male counterparts. The same, therefore, is clearly violative of the Article 14 of the Constitution of India. The same also results in hostile discrimination of the Mahila SI/GDs who are denied equal opportunity for promotion. As a result of such arbitrary and unequal treatment, the petitioners are denied promotions when the same is granted to their male counterparts resulting in their being placed juniors or subordinates to them even they were appointed on the same date and, therefore, is also violative of Article 16 and 21 of the Constitution.”

24.6 Detailed directions were issued by this Court in paras 57 to 68 of the said judgment.

24.7 The appeals filed by the Union of India in the Supreme Court against the above judgment of this Court were disposed of by the Supreme Court on 16th October 2014. The significant observations of the Supreme Court were as under:

“The Mahila Battalion consists of both male and female CRPF personnel of different ranks. Certain posts up to the rank of Inspector are marked for male CRPF personnel and certain for CRPF female personnel. The word "Mahila Battalion" used for the Battalion does not mean that the battalion consists of only female CRPF personnel.

“From the facts as noticed above, it is clear that both male and female since its inception belong to the same cadre though certain posts have been earmarked for male and other for the female. In absence of any challenge to the creation of the Mahila Battalion or Notification constituting Mahila Battalion showing strength of male and female personnel, it is not open for any Court to interfere with the general rule constituting separate cadre for female and male till it affects fundamental or constitutional right of any individual.

“The notifications by which the strength of the cadre has been shown, may include male personnel and female personnel, but their common cadre remains the same. If the posts are marked for male and female, then, in absence of any challenge to such a notification, a male cannot be posted against a higher post which is carved out for female and similarly a female cannot be posted to a post which is specifically carved out for male though they may be members of the common cadre.

“In the absence of separate cadres for male and female personnel, it was not open to the appellants (CRPF) to prepare separate seniority lists of male and female. In that view of the matter, if the separate seniority lists are declared to be illegal, we find no merit to interfere with such part of the order passed by the High Court.

“We set aside the paragraphs 57 to 67 of the impugned judgement passed by the High Court wherein the High Court directed the appellant to pass orders and issue notifications with regard to one or other petitioners- respondents herein.

“We uphold Rule 5(A)(1)(d) of CRPF Rules, 1955 enabling the competent authority to create separate cadre for male and female and set aside such part of the judgement passed by the High Court declaring the said rule unconstitutional.”

“Having upheld the part of High Court's judgment, in so far as it

related to seniority list of male and female Sub-Inspectors, we are of the view that the appellants and the competent authority are now free to issue seniority list in accordance with the rules till separate cadres are created.”

24.8 The operative portion of the judgment of the Supreme Court read as follows:

“In effect, we uphold Rule 5(A)(1)(d) of CRPF Rules, 1955 enabling the competent authority to create separate cadre for male and female and set aside such part of the judgment passed by the High Court declaring the said rule unconstitutional. Having upheld the part of High Court's judgment, in so far as it relates to Seniority list of male and female Sub-Inspectors, we are of the view that the appellants and the competent authority are now free to issue seniority list in accordance with the rules till separate cadres are created. In so far as the members belonging to the cadre of Sub-Inspector (General Duty) and Inspector (General Duty) are concerned, they will be guided by this judgment. The rest of the cadres will also be guided by this judgment from prospective date. If any order has already been issued in respect of other lower cadre such as Constable, Head Constable and Assistant Sub-Inspector prior to this order, they will not be affected in absence of any challenge, before any Court of Law. The impugned judgment and order dated 24th May, 2013 passed by the High Court of Delhi at New Delhi in W.P.(C) No. 8744/2011 and W.P.(C) No. 1368/2012 is modified to the extent above. The appeals stand disposed of.”

24.9 The Respondents did not immediately implement the above directions. This led to the filing of Contempt Petition 525 of 2015 by Bilju A T and others in the Supreme Court. On 1st December 2017, the Supreme Court passed the following order in the contempt petition:

"An affidavit may be filed in the course of the day on behalf of the respondent(s) to the effect that the judgment of this Court will be complied with within two weeks and the benefits of

revised seniority in terms of the judgment will be given accordingly.

The contempt petitions are, accordingly, disposed of.”

24.10 It was only thereafter that the consequential orders were issued in terms of the above judgment.

Analysis and reasons

25. A careful perusal of the above judgments of this Court and the Supreme Court reveals that on the fundamental issue of the need for a combined seniority list of female and male SIs the Supreme Court upheld the judgment of this Court. In other words, it was made clear that there cannot be separate seniority lists for male and female candidates in the same post when they had qualified through a common selection process. It was observed by the Supreme Court that if the writ petitioners were entitled “for consequential benefits on the basis of such common seniority list, they may claim the same separately.”

26. The observation of the Supreme Court that “it is not open for any Court to interfere with the general rule constituting separate cadre for female and male till it affects fundamental or constitutional right of any individual” is also significant. In other words, if it is demonstrated that the action of the Respondents on their interpretation of Rule 5 A (d) does result in discrimination, then interference is called for by the Court.

27. The Petitioners have been able to demonstrate how at every stage

because of their not being sent for the SSICC along with their male counterparts, their further promotions first as Inspectors then as AC got delayed. The Respondents mistakenly interpreted Rule 5 A (d) of the CRPF Rules as permitting them to treat the female SIs differently from the male SIs in the matter of promotions, notwithstanding the combined seniority list in which some females might be senior to the males. This resulted in hostile discrimination that was violative of Articles 14 and 16 of the Constitution.

28. The argument on the part of the Respondents that in the absence of any vacancies in the female cadre, it is not possible to grant promotions to the Petitioners as Inspectors or ACs on the date that their juniors were so promoted cannot be accepted for the simple fact that the earmarking of vacancies is done by the Respondents themselves. If a result of such determination, there is denial of promotion as Inspectors and above to female SIs who are senior to their male counterparts in the combined seniority list then it would result in their being discriminated against and that would be impermissible under Articles 14 and 16 of the Constitution. It would permit a junior male SI to steal march over his senior female SI in the combined seniority list only because there is a vacancy against which he can be accommodated whereas there is no vacancy available at that time for the female SI to be promoted as Inspector. This, if permitted, would render the exercise of drawing up a combined seniority list which is based on the merit position in the SI selection exam, meaningless. If the mere creation of separate cadres for female and male SIs gave the licence to the Respondents to discriminate against the female SIs in the matter of promotion to the next higher post of Inspector, notwithstanding that they are senior to the male

counterparts, then such invidious discrimination would be vulnerable to invalidation. It is precisely this situation that the Supreme Court spoke of when it said that even the general rule of creation of separate cadres could be interfered with if it was going to affect “fundamental or constitutional right of any individual officers.”

29. Once the Supreme Court made it clear that the Respondents were bound to prepare a combined seniority list of SIs both female and male, notwithstanding Rule 5 A (d) of the CRPF Rules, then by the same logic the Respondents cannot fall back on the Rule 5 A (d) to deny the future promotions to which the female SIs become eligible for consideration based on their position in the said combined seniority list. The argument that there are not enough vacancies for the females in the promotional posts of Inspector and AC and DC cannot be countenanced as these vacancies are fixed by the Respondents themselves. This cannot be a rigid immutable number but has to be flexible to ensure that a female SI who is up for promotion is not denied that promotion. In other words, it is not permissible for the Respondents to deny a female SI her promotion as Inspector if at the same time they are going to promote her junior in the combined seniority list, who happens to be a male such promotion on the ground that she cannot be appointed to a post reserved for the male. In such event, the male who is junior will make way for his senior female in the combined seniority list. Rule 5 A (d) of the CRPF Rules as interpreted by the Supreme Court in the above decision does not permit the kind of discrimination that has been practised by the Respondents to deny the Petitioners the promotions as and when they became due.

30. The Respondents have to ensure that the male counter parts who are junior to the Petitioners are not able to get promotions earlier than the Petitioners. That is the whole essence of the judgment of the Supreme Court. That would completely defeated if by way of a purported compliance with the judgment of the Supreme Court, the Respondents were to continue to deny grant of promotion to the female officers from the same date when their junior male counter parts were granted promotions. In other words, the Court finds no justifiable reasons for the Respondent to deny to the Petitioners before the Court the same treatment that was afforded to their female counter parts in ***Union of India v. Inspector GD (Mahila) Bilju A.T*** (*supra*)

31. Ms. Biji Rajesh, learned counsel for the Respondents, submitted that the Petitioners in ***Bilju A.T.*** (*supra*) got their promotions only pursuant to the contempt petition filed in the Supreme Court. Therefore, clearly their promotions did not hinge upon the availability of ‘female’ vacancies. When the Respondents were pushed to find a solution at the pain of contempt of orders of the Supreme Court, they did find one. It is trite that once a law is declared by the Supreme Court its judgment is a judgment *in rem*. It should be unnecessary for every person similarly placed to have to separately petition the Court for the same relief.

32. ***In State of Karnataka v. C. Lalitha (2006) 2 SCC 747***, it was held:

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be

treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently. It is furthermore well settled that the question of seniority should be governed by the rules.”

33. In *State of UP v. Arvind Kumar Srivastava (2015) 1 SCC 347*, the Supreme Court, while summarising the legal position as explain in several earlier decisions reiterated that:

“Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

34. In the present cases, this Court finds no justification for the Respondents to deny the Petitioners in W.P. (C) 6094 of 2018 their promotions as Inspectors and then as ACs from the same date as their immediate junior male counterparts in the combined seniority list of SIs. Likewise in the case of NN, the Petitioner in W.P. (C) 9345 of 2018, there is no justification for the Respondents to turn down her request to be considered for promotion as DC from the same date as her immediate junior male counterpart in the combined seniority list of ACs was so promoted. This is particularly because the Respondents have themselves restored to NN her rightful seniority as Inspector and AC.

Directions

35. For the aforementioned reason, the Court sets aside the letters/orders dated 10th March, 2018 and 10th April, 2018 issued by the Respondents rejecting the representation of the Petitioners and NN and issues the following directions:

(i) The Respondents will issue appropriate orders, within twelve weeks from today, fixing the notional dates of promotion of each of the Petitioners in W.P. (C) No. 6094 of 2018 first as Inspector and then successively, subject to their being otherwise eligible, as AC and DC, from the dates that their immediate junior male counterpart in the combined seniority list of SIs was so promoted.

(ii) The Respondents will within twelve weeks from today, take up the case of NN, the Petitioner in W.P. (C) 9345 of 2018 for promotion to the post of DC and if found eligible to promote her as such from the same date as her immediate junior male counterpart in the combined seniority list of ACs was so promoted.

(iii) The Petitioners and NN will not, as a result of the above exercise, be entitled to any back wages or arrears of pay but the above notional fixation of seniority will be relevant for all other purposes including further promotions, fixation of pay, pension etc.

36. The petitions are disposed of in the above terms but, with no orders as to costs.

CM Appl.No. 2723/2019 (delay) in WP(C) No. 6094/2018

37. For the reasons stated in the application, the delay of 21 days in filing the counter affidavit is condoned and the application is disposed of.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 11, 2019

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