IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P.(C) No. 57 of 2015

1. Oinam Dayapati Devi, aged about 27 Years, D/O O. Mani Singh, resident of Oinam Mamang Leikai, P.O. & P.S. Nambol, Bishnupur District, Manipur.

2. Khomdram Sophiya Devi, aged about 32 Years, W/O Nongmeikapam Sursen Singh, resident of Koirou Nongmeikapam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.

3. Thoudam Sarjubala, aged about 28 Years W/O Oinam Inaobi Singh, resident of Yairipok Bishnunaha, P.O. & P.S. Yairipok, Thoubal District, Manipur.

4. Langpoklakpam Muktasana, aged about 26 Years, W/O Chongtham Apamba Meitei, resident of Nambol Kongkham Awang, P.O. & P.S. Nambol, Bishnupur District, Manipur.

5. Maibam Mumtaz, aged about 25 Years, D/O M. Abdul Noor, resident of Thoubal Moijing Mayai Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

6. Khumanthem Sangita Devi, aged about 30 Years, D/O Kh. Yaima Singh, resident of Lamding Khumanthem Leikai, P.O. & P.S. Wangjing, Thoubal District, Manipur.

7. Maibam Sorojini Devi, aged about 33 Years, W/O Pangambam Paras Khuman, resident of Thoubal Haokha Maning Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

8. Akoijam Geeta Devi, aged about 30 Years, W/O Ahongsangbam Bhorot Singh, resident of Athokpam Khunou, P.O. & P.S. Thoubal, Thoubal District, Manipur.

9. Loitaongbam Ranjitasana Devi, aged about 31 Years, D/O (L) L. Khamba Singh, resident of Sagolband Meino Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur.

10. Pravita Khangembam, aged about 31 Years, D/O Kh. Achou Singh, resident of Singjamei Thongam Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur.

11. Yumlembam Pratima, aged about 31 Years, D/O Y. Shyamkisor Singh, resident of Ucheckon Takhok Mapal, P.O. Imphal, P.S. Irilbung, Imphal East District, Manipur.

12. Huirem Danela Devi, aged about 27 Years, W/O R.K. Manjit Singh, resident of Chingamathak Yumnam Leikai Lairembi Manak, P.O. Imphal, P.S. Singjamei, Imphal West District, Manipur.

13. Waikhom Sophia Devi, aged about 28 Years, W/O Okram Bijen Singh, resident of Thoubal Pakhangkhong Leirak, P.O. & P.S. Thoubal, Thoubal District, Manipur.

14. Chanambam Narashini Devi, aged about 24 Years, W/O Thokchom Neeraj Kumar, resident of Keishampat Leimajam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur.

15. Nongthombam Hemolata Devi, aged about 24 Years, W/O Naorem Robin Singh, resident of Mayang Imphal Konchak, P.O. & P.S. Mayang Imphal, Imphal West District, Manipur.

16. D. Pounai, aged about 24 Years, W/O Gumdiyang Pamei, resident of Council Colony Senapati, P.O. & P.S. Senapati, Senapati District, Manipur.

17. Moirangthem Debajani Chanu, aged about 27 Years, D/O M. Amuba Meitei, Kumbi Terakha, P.O. & P.S. Kumbi, Bishnupur District, Manipur.

18. Faikheng Esther, aged about 26 Years, D/O Lallungkham, resident of Saikot Churchandpur, P.O. & P.S. Churchandpur, Churchandpur District, Manipur.

19. Takhellambam Harimati Devi, aged about 27 Years, D/O T.Ibobi Singh, resident of Lamlai Makha Leikai, P.O. & P.S. Lamlai, Imphal East District, Manipur.

20. Oinam Dipikarani Devi, aged about 25 Years, W/O Moirangthem Mirple Meitei, resident Kongba Uchekon

Laimoriba, P.O. Lamlong, P.S. Porompat, Imphal East District, Manipur.

21. Nadira Hassan Phundreimayum aged about 25 Years, D/O Ph. Abdul Jabar, resident of Haoreibi Makha Leikai, P.O. & P.S. Lilong, Imphal West District, Manipur.

22. Lisham Bijeya Devi, aged about 25 Years, W/O Thounaojam Priyobarta Singh, resident of Thoubal Kiyam Siphai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

23. Sinam Maheshori Devi, aged about 26 Years, D/O S. Meghachandra Singh, resident of Lamdeng khunou, P.O. & P.S. Lamshang, Imphal West District, Manipur.

24. Wakambam Thaja Devi, aged about 27 Years, D/o W. Athoisana Singh, resident of Heingang Mayai Leikai, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur.

25. Ng. Saveinai aged about 24 Years, W/O Robinson, resident of Mao Church Colony Senapati P.O. & P.S. Senapati, Senapati District, Manipur.

26. R.D. Lydia, aged about 26 Years, W/O L. Ablel, resident of Senapati Thingbakholea, P.O. & P.S. Senapati, Senapati District Manipur.

27. S.K. Esther, aged about 24 Years, W/O MM. Medarshang, resident of Machi Village Chandel, P.O. & P.S. Chnadel, Chandel District, Manipur.

28. L. Doibila, aged about 28 Years, W/O Leitanthem Maxwell, resident of Thoubal Wangmataba, P.O. & P.S. Thoubal, Thoubal District, Manipur.

29. P.T. Dodoi, aged about 26 Years, D/O Thiauneilal, resident of S. Kotlian Village, P.O. & P.S. Chandel, Chnadel District, Manipur.

30. Roony Rongmei aged about 37 years, W/O John Kamei, resident of Keikhu Kabui Village, P.O. Imphal, P.S. Irilbung, Imphal East District Manipur.

31. Hanjabam Tanubala Devi aged about 27 years, D/O H. Brojendra Singh, resident of Bidyanagar Jiribam, P.O. & P.S. Jiribam, Imphal East District, Manipur.

32. Aruna Sagolsem aged about 28 years, D/O S. Kunjabihari Singh, resident of Naoremthong Laishram Leirak, P.O. & P.S. Lamphel, Imphal West District, Manipur.

..... Petitioners

-Versus-

1. The State of Manipur through the Principal Secretary (Home), Government of Manipur, Imphal, Manipur.

2. The Director General of Police, Manipur.

3. A.Manao Devi

4.T.Tualngai Paite

5. L. Kumari Devi

6. S. Memtombi Devi

7. S. Heladini Devi

8. O. Roma Devi

9. S. Sobita Devi

10. O. Achoubi Devi

11. M. Pramodini Devi

12. Ch. Bimola Devi

13. L. Landhoni Devi

14. L. Ibetombi Devi

15.Th. Premila Devi

16. Y.Nalini Devi

17. K. Shakhitombi Devi

18. Y. Inaotombi Devi

19. Th. Reemabati Devi

20. Y. Memtombi Devi

21. Ch. Thagoi Devi

22. N. Manishang Devi

23. K. Memcha Devi

24. R.T. Etola Anal

25. Themkhoneng Kuki

26. L. Hringwar Anal

27. P.C. Ringpuii

28. S.T. Melory Anal

29. M. Ninglumla TKL

30. P.S. Shining Rose

31. Hatneichong

32. A. Tamubi Devi

33. P. Jeevanmala Devi

34. L. Kananbala Devi

35. Kh. Bimola Devi

36. N. Kamalini Devi

37. A. Leimaton Devi

38. A. Romila Devi

..... *Respondents*

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the petitioners :: Mr. M. Devananda, Advocate.

For the Respondents :: Mr. Ch. Momon, Advocate,
Mr. Lenin Hijam, Addl.AG.

Date Hearing :: 27.01.2020

Date of Judgment & Order :: **26.02.2020**

JUDGMENT AND ORDER
(CAV)

The petitioners have filed the present writ petition praying for issuing a Writ of Certiorari for quashing the inter-se seniority list dated 10.3.2014 and for mandamus directing the respondents to prepare final inter-se seniority list of Assistant Sub-Inspector (Female) according to seniority rules by putting the petitioners as en-bloc after the name of U. Ibemnungshi Devi.

2. The case of the petitioners is that they have been appointed as Assistant Sub-Inspector of Police (Female) (in short, "*ASI*") on 10.2.2010 through the Selection Board under direct recruitment quota of the vacancy prior to 2006-2007 vide notification/advertisement dated 27.11.2008 by following the recruitment rules in the Manipur Police Department. The private respondents are promotees and they have been promoted under the promotion quota of ASI (Female) from Head Constable (Female) on 29.9.2010 after completion of 5 years regular service to the grade after the recommendation of the Class-III DPC held on 27.8.2010. As such the petitioners are one year senior to the private respondents.

3. The second respondent issued a tentative draft seniority list of ASI (Female) as on 27.9.2013 inviting objections within 15 days from the date of receipt with a condition that further any omission/commission in the dram seniority list may also be intimated to the office on or before 27.10.2013. The private respondents whose promotion was issued on 29.9.2010 were placed above the petitioners without following the seniority rules. Being aggrieved, on 18.10.2013, the petitioners have submitted objections to the concerned Superintendent of Police to place them above the promotees. However, on 10.3.2014, the second respondent notified the final seniority list placing the private respondents above the petitioners. Hence, the petitioners have filed the instant writ petition with the aforesaid prayer.

4. The second respondent filed affidavit-in-opposition stating that the DPC was held for filling up 10 vacancies in the rank of ASI (Female) which was the direct recruitment quota upto the end of 21.2.2008. However, during the process of the DPC, the Government created 627 additional new posts in different ranks to strengthen the women police in Manipur Police Department. It included 68 posts in the rank of ASI (Female). By taking into 28 anticipated vacancies, 96 vacancies arose upto the end of 26.11.2008 and as per recruitment rules, 25% of 96 vacant posts i.e., 24 posts were meant for direct recruitment.

5. It is stated that the Government vide order dated 25.9.2009 created one Mahila Battalion and including 18 posts in the rank. Taking into account of 11 resultant vacancies, total vacancies comes up 29 upto the end of 21.12.2009 and as per the recruitment rules, 25 of 29 posts, 7 post was meant for direct recruitment. Hence, a total of 41 for direct posts of ASI (Female) were recommended by the DPC and the year wise vacancies will be 10 posts as on 21.2.2008; 24 posts as on 26.11.2008 and 7 posts as on 21.12.2009 respectively.

6. It is also stated that consequent upon the circulation of draft seniority list, objections were received from 33 direct ASI (Female) of 2010 batch stating that promotee ASI (Female) who are junior to them have been placed above them in the seniority list and after due consideration of the objections and in accordance with the existing rules, seniority of 80 ASI (Female) were notified vide the impugned order. As per the recruitment rules, the reservation for promotion and direct recruitment is 75% and 25% respectively.

7. According to the second respondent, as per the recruitment rules adopted by the DPC for promotion from Head Constable (Female) to ASI (Female) held on 12.8.2010, the prescribed number of years is 3 years regular service and not 5 years. All the vacancies of the said DPC were accrued before the

framing of new recruitment rules. Further, the rotation of vacancies between the direct and promotee are on calendar year and mode of direct recruitment is done on calendar year.

8. Reiterating the vacancy position as stated by the second respondent in his affidavit-in-opposition, the private respondents filed affidavit-in-opposition contending that after due consideration of the objections in accordance with the existing recruitment rules, seniority of 80 ASI (Female) were notified vide impugned order. It is stated that where 75% of the vacancies are reserved for promotion, 25% for recruitment shall be ranked in seniority below 3 promotees. Where the quotas are 50% each, every direct recruit shall be ranked below a promotee. If for any reason, a direct or a promotee ceases to hold the appointment in the grade, the seniority list shall not be rearranged for the purpose of ensuing the proportion. Since the inter-se seniority finalised vide the impugned order is as per the rules, there is no necessity to interfere with the same and thus, prayed for dismissal of the writ petition.

9. Assailing the impugned seniority list, the learned counsel for the petitioners submitted that the recruitment year of the petitioners falls under the recruitment year of vacancy of 2009-2010, whereas the private respondents promotion falls under the

recruitment year of 2010-2011. As such the petitioners are one year senior to the private respondents. He would submit that as per the general principles of seniority rules, the direct recruits quota will be placed en-bloc just after the promotees of the previous recruitment year.

10. The learned counsel further submitted that being two different of the recruitment year of the petitioners and the private respondents, the question of dovetailing between the direct recruits and promotees does not arise. Thus, the second respondent, without considering the objection to the tentative seniority list submitted by the petitioners, published the final inter-se seniority list of ASI (Female) by dovetailing between the direct recruits and promotees, which is not in accordance with law and the same is liable to be set aside and the petitioners have to be placed above the promotees.

11. Per contra, the learned counsel for the respondent State contended that as per the recruitment rules, the seniority was drawn up and for promotion from Head Constable (Female) to ASI (Female), the prescribed number of years is 3 years regular service and not 5 years as alleged by the petitioners. Further, all the vacancies were accrued before framing of new recruitment rules

and therefore, there is no question of arbitrariness in preparing the impugned seniority list.

12. Adopting the arguments of the learned counsel for the respondent State, the learned counsel for the private respondents argued that the seniority list impugned in this petition shall not be rearranged as the same was prepared based on the vacancy position and the percentage of vacancies reserved for promotion and for direct recruitment.

13. I have considered the submissions made by the learned counsel for the parties and also perused the materials available on record.

14. The petitioners were appointed to the post of ASI (Female) on 10.2.2010 vide notification dated 27.11.2008; which is the vacancies of 2006 -2007 and their appointment is meant for the recruitment year of 2009 under the direct recruitment. The private respondents were promoted to the post of ASI on 29.9.2010 with the recommendation of DPC held on 27.8.2010, which is meant for the recruitment year 2010. Thus, from the pleadings produced by the parties, it is clear that the petitioners are quite senior to the persons appointed on subsequent dates. However, in the impugned seniority list, the private respondents were placed above the petitioners and the same is questioned by the petitioners.

15. According to the petitioners, the private respondent Nos. 3 and 4 were appointed to the post of Head Constable only on 12.8.2005 and respondent Nos.5 to 38 were appointed to the post of Head Constable on 29.7.2006. As per the recruitment rules for the post of ASI (Female) in the Manipur Police Department for promotion from Head Constable to the ASI is 5 years regular service. As such the private respondents 3 and 4 were eligible for promotion to the post of ASI only on 12.8.2010 and the other respondents viz., respondent Nos.5 to 38 were eligible for promotion only on 20.7.2011. However, the competent authority without any relaxation, promoted the private respondents 5 to 38 on 29.9.2010 without completion of 5 years regular service.

16. Though said plea of the petitioners has been denied by the second respondent by contending that as per the recruitment rules dated 15.1.2004 adopted by the DPC, for promotion from Head Constable (Female) to ASI (Female) held on 12.8.2010, the prescribed number of years is 3 years regular service and not 5 years, nothing has been placed by the official respondents to establish the same. Further, nothing on record to show that the official respondents adopted recruitment rules as on 15.1.2004, while preparing the draft seniority list as well as the final seniority list. In fact, after notifying the draft seniority list, the petitioners have submitted their objections through their Superintendent of Police

and in their objections they have clearly stated their date of appointment with merit list number. Despite objections submitted by the petitioners, the second respondent issued the impugned notification notifying the seniority list of ASI (Female) in the Police Department as on 1.2.2014.

17. On a perusal of the impugned seniority list, this Court finds that the Final inter-se seniority list was prepared in the ratio D1 : P3, as the post of ASI are to be filled up 25% by direct recruitment and 75% by promotion. In the seniority list, the petitioners names appeared at Serial Nos.3, 7, 8, 12, 16, 20, 24, 28, 32, 36, 40, 43, 47, 49 etc. and the private respondents names appeared at Serial Nos.4, 5, 6, 9, 10, 11, 13, 14, 15, 17, 18, 19, 21, 22, 23, 25, 26, 27, 29, 30, 31, 33, 34, 35, 37, 38, 39, 41, 42, 44, 45, 46, 48. As rightly argued by the learned counsel for the petitioners, the said placement made by the official respondents is not in accordance with the general principles of seniority rules, as the private respondents were appointed to the post of ASI (Female) against the promotees quota of vacancy of 2007-2008 from the feeder post i.e., Head Constable on 29.9.2010.

18. The learned counsel for the petitioners contended that since the publication and enforcement of the recruitment rules of the ASI (Female) in the Manipur Police Department under the

Assam Police Manual Part-III (Manipur 5th Amendment) Rules, 2008, the recruitment year has been the financial years which starts from 1st April of every year and ends on the last day of March of the next year and the said system has been adopted in all the departments in the State of Manipur. He would submit that in this regard, the Deputy Secretary (DP), Government of Manipur has also issued an Office Memorandum dated 29.4.1999, wherein it has been stated that for preparation of a select panel, departments may calculate the vacancies, financial year wise. Therefore, the issuance of the impugned seniority list is arbitrary and in violation of the principles of the seniority rules. In support, the learned counsel for the petitioners has placed reliance upon the decision of this Court in *W.P.(C) No.366 of 2013, decided on 7.7.2017 (Ningam Siro and others v. State of Manipur and others).*

19. On a reading of the judgment in W.P.(C) No.366 of 2013, where the interpretation of the expression "*recruitment year*" as well the issue of inter-se seniority between the direct recruits and the promotees were considered by this Court and in Paragraph 12 onwards, the learned Single Judge of this Court held as under:

> *"12. The present controversy has arisen mainly because of the fact that the rule 28 (iii) of the MPS Rules, 1965 do not lay down the manner as to how the inter-se seniority between the direct*

recruits and the promotees be determined and it simply provides that the relative seniority shall be determined according to rotation of vacancies between the direct recruits and the promotees as determined under rule 5 for that year. Rule 5 of the MPS Rules, 1965 provides for method of recruitment-50% by direct recruitment and 50% by promotion. If the recruitment, both by direct recruitment and by promotion, takes place in the same recruitment year, there will be no difficulty in determining the inter-se seniority. But it does not happen in the present case and the determination of inter-se seniority will depend upon the interpretation of the expression "recruitment year" in the context of the State Government and in particular, in the context of the present case. As regards the interpretation of the expression "recruitment year" the submissions of the learned counsels appearing for the petitioners appear to have some force. The Office Memorandum dated 29.4.1999 contains instructions to be followed by a DPC in matters of holding its meetings towards promotion which is one of the methods of recruitment. Admittedly, the expression "recruitment year" is defined in Section 2(b) of the Reservation Act, 1971 as the "financial year during which a recruitment actually made" which provides provisions for reservation of vacancies in posts and services in order to ensure adequate representation of the reserved categories. It is no doubt true that these two

namely the Office Memorandum dated 29.4.1999 and the Reservation Act, 1971 have nothing to do directly with the determination of inter-se seniority but they do have some relevance indirectly as regards the interpretation of the expression of "recruitment year". The conjoint reading of both makes it very clear that they are somehow related to recruitment either by way of the direct recruitment or the promotion and in other words, both are to be taken into account at the time of recruitment in respect of posts and services in the State. Moreover, the fact that the expression "year" has been defined in Section 2(f) as "calendar year" only by way of an amendment of the MPS Rules, 1965 vide Notification dated 18.12.2009 shows indubitably that the expression "recruitment year" was never intended to mean "calendar year" prior to amendment which was prospective in its operation. From the aforesaid circumstances, it can be safely inferred and held that the expression "recruitment year", prior to amendment, will mean "financial year" so far as the State of Manipur is concerned as aforesaid hereinabove. The various decisions cited by the learned counsel appearing for the private respondents and in particular, the decisions rendered in Amarjeet Singh & ors. Vs. Devi Ratan & ors., reported in (2010) 1 SCC 417 and Jogendra Sethi Vs. Rabindranath Behura & ors., reported in 1995 Supp (3) SCC 693 as regards the interpretation of the expression "recruitment

year" will have no application for the reason that the expression "recruitment year" has been defined in the relevant rules mentioned therein.

13. Having held that the expression "recruitment year" would mean "financial year", the facts of the present case would be required to be examined to find out as to whether the inter-se seniority between the petitioners and the private respondents has been properly and correctly determined in the impugned seniority lists. The petitioners were appointed on promotion to the post of MPS Grade-II vide order dated 01.03.2007 issued by the Department of Personnel and Administrative Reforms, Government of Manipur on the recommendation of a duly constituted DPC associated with the Manipur Public Service Commission and therefore, it can definitely be said that they were appointed in the recruitment year 2006-07. On the other hand, the fact that the private respondent Nos.3 to 32 were appointed to the post of MP5 Grade-II vide order dated 14.08.2007 issued by the Department of Personnel and Administrative Reforms, Government of Manipur while the private respondent No.33 was appointed vide order dated 24.11.2007 has shown that they were appointed in the recruitment year, 2007-08. Since both the petitioners and the private respondents are not appointed in the same recruitment year, the principles of dovetailing cannot be applied while determining the inter-se seniority between

the petitioners and the private respondents, as has been erroneously done by the State Government in the present case. The final seniority lists dated 17.05.2013 and 20.01.2014 are bad in law and consequently, all actions taken pursuant thereto including the orders issued by the State Government granting promotions to the post of MPS Grade-I are rendered null and void so far as the petitioners and the private respondents are concerned. However, it is made clear that till the directions given by this Court herein-below being complied with by the State Government, status quo as on date shall be maintained as regards the actions taken by the State Government pursuant to the said seniority lists.

14. For the reasons stated herein above, the writ petitions being WP(C) No.366 of 2013 and WP(C) No.120 of 2014 are allowed and consequently, the Government orders dated 17.05.2013, 20.01.2014 and 19.02.2014, impugned herein, in respect of the petitioners and the private respondents are quashed and set aside with the following directions:

(a) The State Government shall prepare a seniority list afresh in respect of the MPS Officers, after taking into account the observations made by this court hereinabove, within a period of three months from the date of receipt of a copy of this judgment and order;

(b) While preparing the seniority list of MPS Officers, the State Government shall follow the guidelines/instructions contained in the Office Memorandum dated 07.02.1986 which is adopted by the State Government vide its Office Memorandum dated 13.11.1987 as directed vide order dated 18.02.2013 passed by the Hon'ble Gauhati High Court in WP(C) No.235 of 2012. There shall be no order as to costs."

20. It appears that aggrieved by the said decision of the learned Single Judge, writ appeals have been filed and the same were dismissed by the Hon'ble Division Bench of this Court. Further, the aforesaid case went upto the Hon'ble Supreme Court in Civil Appeal Nos.8833-8835 and 8838 of 2019. By the judgment dated 19.11.2019, the Hon'ble Supreme Court, upheld the decisions of the learned Single Judge and the Division Bench. In paragraphs 47, 48, 49 and 50 the Hon'ble Supreme Court held as under:

"47. As earlier discussed, the Rule 28 of the MPS Rules, 1965 shows that seniority in the service shall be determined based on the date of appointment to the service. In particular Rule 28(i) of the MPS Rules, 1965 which is applicable to both promotees and direct recruits, provides that seniority shall be determined by the order in which the appointments are made to the service. If seniority under Rule 28(i)

is to be determined based on the date of appointment, it cannot be said that for the purpose of Rule 28(iii), the seniority of direct recruits should be determined on the basis of the date of initiation of the recruitment process. The term "Recruitment Year" does not and cannot mean the year in which, the recruitment process is initiated or the year in which vacancy arises. The contrary declaration in N.R.Parmar, (2012) 13 SCC 340, in our considered opinion, is not a correct view.

48.In view of the foregoing, let us now consider the Government order (29. 06.201 9) produced by the Manipur Advocate General in the Contempt Case. As it appears the seniority list published on 29.06.2019 could not be an independent exercise but its purpose should be to give effect to the judgments passed by the High Court. Since the judgment of the learned single judge was affirmed by the division Bench, the seniority list must be prepared in accordance with the High Court's direction. It is certainly not permissible to prepare a fresh seniority list as an independent exercise, without reference to the decisions of the Court. When we test the validity of the list (29.06.2019), there is no escape from the conclusion that the list ignores the decision of the single Judge as affirmed by the Division Bench. It is declared so accordingly.

49. In consequence, the appeals arising out of SLP(C)No.19565-67 of 2019 filed by the direct recruits are dismissed. ON the same reasoning, the appeals arising out of SLP(C)No.19568-69 of 2019,

filed by the State of Manipur are not entertained and the same shall stand dismissed. With the above finding on the Contempt Case No.224 of 2018 and quashment of the 29. 06.2019 proceeding produced in that case before the High Court, the appeals arising out of SLP (C) No.17007 of 2019 filed by Ningam Siro against the High Court's order in the Contempt Case no.224/2018 is disposed of.

50. In view of the foregoing, the orders of the High Court in the Writ Petition and the Writ Appeal are upheld. The State of Manipur is accordingly directed to prepare a revised inter-se seniority list in the MP5 Grade-II cadre in the light of the above discussion and the High Court's orders. This shall be done within 8 weeks from today. All consequential actions will follow from this judgment. It is ordered accordingly."

21. The present case is similar to that of the decision in W.P.(C) No.366 of 2013 and its appeal. As stated supra, the recruitment year of the petitioners falls under the recruitment year of vacancy 2009-2010 and for the private respondents, promotion falls under the recruitment year of 2010-2011. As such the private respondents and the petitioners cannot be dovetailing in the inter-se seniority list of direct recruits and promotees by taking the same recruitment year.

22. At this juncture, it is to be mentioned that the Joint Secretary (DP), Government of Manipur, vide Office Memorandum dated 13.11.1987 adopted the Office Memorandum of the Ministry of Personnel, Public Grievances and Pension, Government of India, dated 7.2.1986, which was issued qua the general principles for determining seniority of various categories of persons employed in Central service. The Official Memorandum dated 7.2.1986 provides that in future while the principle of rotation of quotas will still be followed for determining the inter-se seniority of direct recruits and promotees, the present practice of keeping vacant slots for being filled up by direct recruits of later years thereby giving them unintended seniority over promotees who are already in position would be dispensed with. Thus, if adequate number of direct recruits do not become available in any particular year, rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. In other words, to the extent direct recruits not available, the promotees will be bunched together at the bottom of the seniority list, below the last position upto which it is possible to determine seniority on the basis of rotation of quotas with reference to the actual number of direct recruit vacancies would however be carried forward and added to the corresponding direct recruitment vacancies of the next year. Thereafter, in that year while seniority

will be determined between the direct recruits and promotees to the extent of the number of vacancies for direct recruits and promotees as determined according to the quota for that year and the additional direct recruits selected against the carried forward vacancies of the previous years would be placed on en-block below the last promotees. Therefore, the preparation of the final inter-se seniority list of the ASI (Female) by way of dovetailing principles is wrong as the said principles is not applicable to the present appointment of direct recruits and promotees in their different year.

23. The petitioners were appointed to the post of ASI (Female) on 10.2.2010 against the notification dated 27.11.2008, which is vacancies of 2006-2007 and their appointment is meant for the recruitment year 2009 under the direct recruitment, whereas the private respondents were promoted to the post of ASI on 29.9.2010, which is the recruitment year 2010. Thus, it is clear that the petitioners are quite senior to the persons appointed on subsequent dates.

24. The admitted position is that selection to the post of ASI (Female) for direct recruits and promotes were not held together, but separately. The petitioners, who are direct recruits were earlier appointed on 10.2.2010 while the private respondents were appointed on promotion on 29.9.2010. Being appointed at an

earlier point of time, the petitioners will naturally have seniority over the private respondents as they had entered the cadre of ASI (Female) earlier before the private respondents were born in the cadre. Thus, having regard to the facts and circumstances of the case and the decisions of the Hon'ble Apex Court, supra, this Court is of the view that the seniority of the petitioners will have to be counted from the date of their appointment to the post.

25. It is settled that earlier appointed persons would be seniors to the persons appointed later to the same grade. Since the private respondents were promoted on 29.9.2010 i.e., in the year 2010-2011, one year after the appointment of the petitioners and in view of the rules of the general principles of the seniority, the private respondents have to be placed en-bloc junior to the appointees made in the same year, as their appointments were made later to the petitioners. Therefore, the second respondent without considering the aforesaid aspects and also objections of the petitioners to the tentative seniority list, published the impugned final inter-se seniority list of ASI (Female) by dovetailing between the direct recruits and promotees. In view of the above, the impugned inter-se seniority list is not in accordance with the rules applicable and therefore, the same is bad in law so far as the petitioners and the private respondents are concerned. Resultantly, the official respondents, particularly, the second respondent

necessarily to redo the exercise of preparing fresh seniority list of ASI (Female) in question in the light of the decisions supra and also in the light of the discussions held in this order.

26. For the foregoing discussions, the writ petition is allowed and consequently, the impugned final inter-se seniority list dated 10.03.2014 issued by the second respondent in respect of the petitioners and the private respondents is set aside and the matter is remitted back to the second respondent to redo the seniority list of ASI (Female) as on 01.2.2014 in the light of the decisions of this Court as well as the Hon'ble Supreme Court (supra). The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

JUDGE

FR/NFR

Sushil

WAIKHOM TONEN MEITEI
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