IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P.(C) No. 1122 of 2018

1. Md. Sikander, aged about 42 years, s/o (Late) Md. Heshamuddin, a East District, Manipur – 795149.
2. Y. Guneswor Singh, aged about 44 years, s/o Y. Manihar Singh, a resident of Yumnam Huidrom Thiyam Leishangkhong, B.P.O. Yumnam Huidrom thiyam Leishangkhong, P.S. Wangoi, Imphal West District, Manipur – 795009
3. Thoidingjam Bijoychand Khuman, aged about 37 years, s/o (Late) Th. Khomei Meitei, a resident of Top Makha Leikai, P.O. & P.S. Porompat, Imphal East District, Manipur -795005.

Petitioners

-Versus-

1. The State of Manipur, represented through its Chief Secretary (Home), Government of Manipur, Manipur secretariat, Imphal, Manipur - 795001
2. The commissioner / secretary (DP), Government of Manipur, Manipur Secretariat, Imphal, Manipur - 795001
3. The Director General of Police, Government of Manipur, Police Headquarters, Babupara, Imphal west District, Manipur 795001
4. M. Muhindro Singh, Naik No. 9187, presently Havildar
5. A. Lokhendro Singh, Naik No. 55733, presently Havildar
6. Tomba Maring (ST), Naik No.13578, presently Havildar
7. L. Brojendro Singh, Naik No.14005, presently Havildar
8. N. Gokulchandra Singh, Naik No.9647, presently Havildar
9. Th. Dilip Singh, Naik No.61197, presently Havildar
10. W. Biren Singh, Naik No.60154, presently Havildar
11. Goutam Thankur, Naik No.5785, presently Havildar
12. M. Ramu Singh, Naik No.14655, presently Havildan

13. Y. Premjon Singh, Naik No.7551 , presently Havildar
14. M. Jayenta Singh, Naik No.9022, presently Havildar
15. K lbomcha Singh, Naik No.9833, presently Havildar
16. O. Dwijamani Singh, Naik No. 61109, presently Havildar
17. Ksh. Rajen Singh, Naik No. 8130, presently Havildar
18. T. Jugindro Singh, Naik No.60262, presently Havildar
19. Dil Bahadur,NaikNo. 13080, presently Havildar
20. Joy Jacob, Naik No.60963, presently Havildar
21. W. Somorendro Singh, Naik No.61540, presently Havildar
22. P. Tiken Singh, Naik No. 61509, presently Havildar
23. Lal Mohamad,NaikNo.22966, presentlyHavildar
24. Y. Manglemjao Singh, Naik No. 9540, presently Havildar
25. H. Birbabu Singh, Naik No. 61506, presently Havildar
26. Ng. Dayannanda Singh, Naik No. 9873, presently Havildar
27. N. lndra Singh, Naik No. 22340, presently Havildar
28. L. Yaiskul Singh, Naik No. 61105, presently Havildar
29. K. Binod Singh, Naik No. 60684, presently Havildar
30. N. Borajao Singh, Naik No. 60715, presently Havildar
31. A. Kumar Singh, Naik No. 7456, presently Havildar
32. Y. Surchand Singh, Naik No. 9026, presently Havildar
33. D. Sheila Khumancha, Naik No. 55879, presently Havildar
34. A. Meghachandra Singh, Naik No. 9040, presently Havildar
35. H. Chaothoi Singh, Naik No. 40158, presently Havildar
36. Th. lbobi Singh, Naik No. 5988, presently Havildar
37. Md. Majib Ali, Naik No. 8312, presently Havildar
38. N. Pakchao Singh, Naik No. 60494, presently Havildar
39. Yangkhosei (ST), Naik No. 9221, presently Havildar
40. Surju Narayan, Naik No. 55286, presently Havildar
41. L. Sanjoy Singh, Naik No. 8567, presently Havildar
42. A. Megha Singh, Naik No. 9325, presently Havildar
43. O. lbotomba Singh, Naik No. 55980, presently Havildar
44. Gopalan, Naik No. 5661, presently Havildar
45. M. Gopeshwor Singh, Naik No. 8428, presently Havildar
46. M. Amuthoi Singh, Naik No. 7440, presently Havildar
47. Y. Surendra Singh, Naik No. 9513, presently Havildar
48. R. James Tangkhul (ST), Naik No. 23132, presently Havildar

49. K. Ojit Singh, Naik No. 61410, presently Havildar
50. K. Sashikumar Singh, Naik No. 9141, presently Havildar
51. Ng. Nilkamal Singh, Naik No. 22774, presently Havildar
52. L. Nabachandra Singh, Naik No. 8403, presently Havildar
53. L. Bijendro Singh, Naik No. 23181 , presently Havildar
54. Ph. Dey Singh, Naik No. 14623, presently Havildar
55. L. Suranjoy Singh, Naik No. 9726, presently Havildar
56. Birendra Pratap, Naik No. 8047, presently Havildar
57. M. Chinglen Singh, Naik No. 23160, presently Havildar
58. L. Deven Singh (ST), Naik No.55926, presently Havildar
59. M. Ronel Singh, Naik No. 9110, presently Havildar
60. K. Meghachandra Singh, Naik No. 908, presently Havildar
61. L. Momon Singh, Naik No. 14557, presently Havildar
62. L. Joykumar Singh, Naik No. 22572, presently Havildar
63. Sitoklung Rongmei (ST), Naik No. 13357, presently Havildar
64. A. Ingochanbi Singh, Naik No. 23085, presently Havildar
65. T. Debendro Singh, Naik No.8536, presently Havildar
66. A.S. Benjamin (ST), Naik No. 8194, presently Havildar
67. Th. Rajendro Singh, Naik No. 60756, presently Havildar
68. Y. Premananda singh, Naik No.9653, presently Havildar
69. M. Jagat Singh, Naik No. 9753, presently Havildar
70. Y. Deven Singh, Naik No. 55306, presently Havildar
71. Holkholun Kuki (ST), Naik No. 60913, presently Havildar
72. Md,Azizulah,Naik No. 8037, presently Havildar
73. Th. Dhemo Singh, Naik No. 22766, presently Havildar
74. A. Kennedy Singh, Naik No. 8408, presently Havildar
75. Thangkholam (ST), Naik No. 9257, presently Havildar
76. I. Tomba Singh, Naik No. 60321, presently Havildar
77. Y. Hemkholun Kuki (ST), Naik. No. 60860,presently Havildar
78. Y. Ibungo Singh, Naik No. 55791, presently Havildar
79. L. Brojendro Singh, Naik No. 14622, presently Havildar
80. Y. Brojen Singh, Naik No.9699, presently Havildar
81. G. Basudev Sharma, Naik No. 22997 , presently Havildar
82. O. Ibomcha Singh, Naik No. 8023, presently Havildar
83. Sh. Ilen Singh, Naik No. 55792 presently Havildar

84. K. Ibopishak Singh, Naik No. 8062, presently Havitdar
85. S. Padma Singh, Naik No. 5648, presently Havildar
86. Th. Dharma Singh, Naik No. 8546, presently Havildar
87. P. Langbanjao Kabui, Naik No. 14680, presently Havildar
88. O. Yaima Singh, Naik No. 61428, presently Havildar
89. Kh. Ibohal Singh, Naik No. 9032, presently Havildar
90. N. Mangoljao Singh, Naik No. 60559, presently Havitdan
91. Th. Ibopishak Singh, Naik No. 8136, presently Havildar
92. Z.A. Ningshok (ST)',Naik No. 61058, presently Havildar
93. Th. Ratan Singh, Naik No. 9721, presently Havildar
94. T. Brojen Singh' Naik No. 23083, presently Havildar
95. Th. Pheiiao Singh,Naik No. 55356, presently Havildar
96. M. Lokeshore Singh, Naik No. 61001, presently Havildar
97. H. Gope Singh' Naik No. 55433, presently Havildar
98. N. Gopimohon Singh, Naik No. 23093, presently Havitdar
99. S. Sanahal Singh, Naik No. 8078, presently Havildar
100. L. Kesho singh, Naik No. 60914, presently Havildar
101 . Ch. Nongban Singh, Naik No. 61023, presently Havildar
102. K. Bijen Singh, Naik No. 8426, presently Havildar
103. Th' Brojen Singh, Naik No. 9651, presently Havildar
104. Y. Bhogendro Singh, Naik No. 8421, presently Havildar
105. W. Rameshore Singh, Naik No. 61438, presently Havildar
106. Md. Nazir Ahmad, Naik No. 8436, presently Havildar
107. Ram Prasad Chhetry, Naik No. 60819, presently Havildar
108. L. Lukhoibabu Singh, Naik No. 22742, presently Havildar
109. Ng. Tikendro Singh, Naik No. 7096, presently Havildar
110. Kh.Chadra Singh, Naik No.7569, presently Havildar
111. Bhadra Bahadur, Naik No. 8086, presently Havildar
112. O. Kesho singh, Naik No.9627, presenyly Havildar
113. Md. Faiur Rehman, Naik No.7473, presently Havildar
114. Y. Mangijao Singh, Naik No. 14646, presently Havildar
115. Shivjal Das, Naik No.14624, presently Havildar
116. U. Ashokumar Singh, Naik No.61388, presently Havildar
117. Md. Syed Ahmad, Naik No.8430, presently Havildar
118. L. Paokhothang (ST), Naik No.8473, presently Havildar

119. Ram Bahadur Chhetry, Naik No.13919, presently Havildar
120. A, S. Samson Tkl (ST), Naik No.22964, presently Havildar
121. P. Naba Singh, Naik No.7080, presently Havildar
122. Lhunkholet Haokip (ST), Naik No.55503, presently Havildar
123. N. Achou Singh, Naik No.7098, presently Havildar
124. N. lbomcha Singh, Naik No,7011, presently Havildar
125. W. Rajen Singh, Naik No.5977, presently Havildar
126. L. Sanajaoba Singh, Naik No.14559, presently Havildar
127. W. Birdhaja Singh, Naik No.7305, presently Havildar
128. M. Nabachandra Singh, Naik No.8142, presently Havildar
129. K. Sunil Singh, Naik No.9293, presently Havildar
130. Thantlung Hmar (ST), Naik No.61040, presently Havildar
131. M. Biren Singh, Naik No.8425, presently Havildar
132. L. lnao Singh, Naik No.14556, presently Havildar
133. R.K. Johnstone Longma (ST), Naik No.9749, presently Havildar
134. Ch. Joykumar Singh, Naik No.8407, presently Havildar
135. K. Nando Kom (ST), Naik No.14660, presently Havildar
136. Y. Manihar Singh, Naik No.7022, presently Havildar
137. M. lboyaima Singh, Naik No.13835, presently Havildar
138. H. Manglemba Singh, Naik No.23220, presently Havildar
139. N. Kumar Singh, Naik No.60942, presently Havildar
140. M. Roben Singh, Naik No. 9552, presently Havildar
141. Th. Binoy Singh, Naik No. 14219, presently Havildar
142. Md. Murkirnuddin, Naik No.61221, presently Havildar
143. Md. Islanruddin, Naik No. 61389, presently Havildar
144. A. Manglem Singh, Naik No.55419, presently Havildar
145. Y. Yaiskul Singh, Naik No. 8069, presently Havildar
146. A. Beikul Singh, Naik No. 9304, presently Havildar
l47. W.BhumeshworSingh,NaikNo. 9575,presently Havildar
148. K. Shyamo Singh, Naik No. 60842, presently Havildar
149. Th. Bijoy Singh, Naik No. 22728, presently Havildar
150. W. Bobocha Singh, Naik N.9012, presently Havildar
151. H. Jiban Singh, Naik No. 9564, presently Havildar
152. T. Angoucha Singh, Naik No. 60925, presently Havildar
153. M.A. Warish Ali, Naik No.55715, presently Havildar

154. Md. Salim, Naik No. 8045, presently Havildar
l55. H.Sunildutta Singh,NaikNo. 23075,presently Havildar
156. Hrimsong Monsang(ST),NaikNo.7058,presently Havildar
157. Th. Rajen Singh, Naik No. 22670, presently Havildar
158. M. Khamba Singh, Naik No.7005, presently Havildar
l59. S.Manglemjao Singh,NaikNo. 5893, presently Havildai
160. Md. Jalal Khan, Naik No. 7051, presently Havildar
161. Md. Nijamuddin, Naik No. 7405, presently Havildar
162. N.KumarSingh, NaikNo.9011, presently Havildar
l63. W.Rupachandra Singh,NaikNo. 9626,presently Havildar
164. S.Yaima Singh, Naik No.7043,presently Havildar
165.S.Bishambhor Singh,NaikNo. 14039,presently Havildar
166. N. lbomcha Singh, Naik No. 60906, presently Havildar
167. Kh.Nilababu Singh,NaikNo.22639,presently Havildar
168. R.K. Muktasana singh, Naik No.14141, presently Havildar
169. L. lbotombi singh, Naik No.7041, presently Havildar
170. Ginsuanpao Paite (ST), Naik No.60615, presently Havildar
171. Lalsiamlian (ST), Naik No. 55479, presently Havildar
172. Mahipal Gurung,Naik No.55276, presently Havildar
173. W.TombaSingh,Naik No. 8096,presently Havildar
174. Y. Jiban Singh, Naik No.9035, presently Havildar
175. M. Deben Singh, Naik No.14560, presently Havildar
176. O.Ranjit Singh, Naik No.9609,presently Havildar
177. S.JuginSingh, NaikNo. 60550,presently Havildar
178. S. Bishambhorsingh, Naik No.8109, presently Havildar
179. L. Yaima Singh, Naik No.22325, presently Havildar
180.Md.ldrish Ali,NaikNo.13903,presently Havildar
181. T.TombaSingh,NaikNo.7079,presently Havildar
182. Dev Ranjan, Naik No.55387, presently Havildar
183' Th. Gouro Singh, Naik No.9668, presently Havildar
184. K. Kalanjoy Singh, Naik No. 7557, presently Havildar
185. O. Nilamani singh, Naik No.61443, presently Havildar
186. P. Maipaksana singh, Naik No.14645, presently Havildar
187. Md. Warish Ali, Naik No.55717, presently Havildar
188. M.BrojenSingh,NaikNo. 9130, presently Havildar

189. N. Goroba Singh, Naik No.7085, presently Havildar
190.L.GulapiSingh,NaikNo. 22778, presently Havildar
191 . Y. Shyam Singh, Naik No.9112, presently Havildar
192. P. Devchand Singh, Naik No.7165, presently Havildar
l93.JangveiLamkhang(ST),NaikNo.l4402, presently Havildar
l94.M.SanajaobaSingh,NaikNo. 9030, presently Havildar
195. Y. Muhindro Singh, Naik No. 9023, presently Havildar
196. Nungshithoi Singh, Naik No.9068, presently Havildar
197. N. lbomcha Singh, Naik No.60791, presently Havildar
198. M. lbochou Singh, Naik No.55340, presently Havildar
199.S.BesoMao(ST),NaikNo. 60690, presently Havildar
200. Md.Helaluddin,NaikNo. 60552, presently Havildar
201. L. Ningthouren singh, Naik No.60643, presently Havildar
202. Kh. Khelendro singh, Naik No.9764, presently Havildar
203.J.Rangtong(ST),NaikNo. 23109, presently Havildar
204.Ch.ShyamSingh,NaikNo. 60948, presently Havildar
205, A. Labango Singh, Naik No.8454, presently Havildar
206. Kh. sanatomba singh, Naik No.60807, presently Havildar
207, Th. Rajmani Singh, Naik No.60602, presently Havildar
208.Md.NajirAli,NaikNo.60570, presently Havildar
209. Bholanath Singh, Naik No.60076, presently Havildar
210. L. Romesh Singh, Naik No.61398, presently Havildar
211. S. Babudhon Singh, Naik No.60733, presently Havildar
212. L. Bihari Singh, Naik No'61174, presently Havildar
213. Ch. Merajao singh, Naik No.60946, presently Havildar
214. L. Brajamani singh, Naik No.22435, presently Havildar
215. A. Pishak Singh, Naik No. 22667, presently Havildar
216. H.BrojendroSingh,NalkNo. 23079,presently Havildar
217. Ngamkhohen Kuki (ST), Naik No.60539, presently Havildar
218. Md. Apik, Naik No.60938, presently Havildar
219. H. Bishorjit Singh, Naik No.9768, presently Havildar
220. Sh. Dineshore Singh, Naik No.60558, presently Havildar
221.Th.KunjoSingh,NaikNo.22627,presently Havildar
222, Th. Meghachandra Singh, Naik No. 9711, presently Havildar

(Respondent Nos. 4 to 222 may kindly be allowed to be served through Respondent No. 3)

... Respondents

B E F O R E
HON'BLE MR. JUSTICE MV MURALIDARAN

For the Petitioner	::	Mr. RK. Deepak, Adv.
For the respondents	::	Mr. H. Samarjit, GA.
Date of Hearing	::	25.11.2019
Date of Judgment & Order	::	23.01.2020

JUDGMENT & ORDER

(CAV)

[1]. Mr. RK. Deepak, learned counsel appears for the petitioner and Mr. H. Samarjit, learned GA appears for the respondents.

[2]. This writ petition has been filed by the petitioners seeking to quash the final seniority list of Havildars in Police Department as on 29.8.2013 and other earlier final seniority list issued without inviting objections and to make the direct recruits including the petitioners who were appointed in the recruitment year 2000-2001 en bloc senior to 219 promotees who were appointed by promotion vide order dated 14.11 2001 in the recruitment year 2001-2002 and also to direct the respondents to make necessary changes/modifications to the position or status of the

private respondents by making necessary changes in the seniority of the private respondents vis-a-vis the direct recruits including the petitioners.

[3]. The case of the petitioners is that they were appointed to the post of Havildar along with 40 others by way of direct recruitment vide order dated 18.1.2001. On the other hand, respondent Nos.4 to 222 were appointed by promotion vide order dated 14.11.2001. Some of them may have retired, expired or further promoted to Jemadars since the time they were initially appointed on 14.11.2001.

[4]. Further case of the petitioners is that they recently came to know the existence of final seniority list of Havildars as on 29.8.2013 issued by the third respondent and a draft seniority list as on 1.10.2002 issued on 22.10.2002. In the said seniority lists, the direct recruits including the petitioners who were appointed by direct recruitment in the recruitment year 2000-2001 were dovetailed with those who were appointed by promotion in the recruitment year 2001-2002. Since the petitioners were not aware of the circulation or publication of any tentative seniority list, calling claims or objections to any such list which may have been issued any time after their initial appointments, they were aggrieved by the issuance of final seniority list of Havildars as on 29.8.2013.

[5]. According to the petitioners, they have submitted representations dated 20.10.2018 and 26.11.2018 to the DGP, Manipur to review and modify the final seniority list of 2013 and the said

representations have not been considered by the said authority. The Government of Manipur is contemplating to promote several Havildars to the posts of Jemadars shortly on the basis of the final list dated 29.8.2013 and they are aggrieved that if any promotion is made on the basis of the said list, they will be prejudiced. Hence, the present petition with the relief aforesaid.

[6]. Respondent No.3 filed affidavit-in-opposition stating that the final seniority list of Havildars was issued on 28.8.2013 after the draft list issued on 5.6.2013 thereby invited objection from all quarters. It is stated that the Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes & Scheduled Tribes) Act, 1976 as amended from time to time is not related with the inter-se seniority involved in the present case. The seniority list was compiled as per the prevailing rules and norms. The recruitment year with reference to inter-se seniority is no where defined either in the State or Centre Rules. Calendar year is normally adopted for inter-se seniority in the Manipur Police Department and hence the seniority list was compiled as per the relevant rules applicable. Therefore, there is no merit in this writ petition and prayed for dismissal of the same.

[7]. Assailing the impugned final seniority list dated 29.8.2013, the learned counsel for the petitioners submitted that the petitioners who are direct recruits cannot be dovetailed with the promotees and therefore, the final seniority list of Havildars in the police Department as on 29.8.2013

is in violation of the existing rules and the principles of service jurisprudence and therefore, the same is liable to be set aside.

[8]. Per contra, the learned counsel for the State submitted that after publishing draft seniority list and after inviting objections from all quarters, the final seniority list of Havildars was issued on 28.8.2013 and the petitioners all along keeping quite, suddenly cannot seek to reopen the seniority already settled. He would submit that the seniority list of 2013 was published as per relevant rules and therefore, at the distant point of time, the petitioners have no right to question and/or reopen the impugned seniority list of 2013.

[9]. I have considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

[10]. The petitioners were appointed as Havildars by way of direct recruitment on 18.1.2001 and the private respondents were appointed by promotion on the recommendation of Class III DPC held on 10.9.2001 to the post of Havildars on 14.11.2001 by the third respondent. The next higher promotional post of Havildars is the Jemadars. The post of Jemadar is a selection post and the method of recruitment is 50% by promotion and 50% by direct recruitment. The said 50% promotional quota is to be filled up on the basis of the following method:

(1) 10% of the sanctioned posts for promotion quota to be filled from Havildars of Manipur Rifles who are declared outstanding sportsmen by All India Police Sports Control Board/Recipients of President's Police Medal for Gallantry.

(2) 40% of the sanctioned posts for promotion quota to be filled from Havildars of Manipur Rifles (MR/IRBs) having passed the pre-promotion selection test prescribed by the IGP and having regular service of:

(i) 2 years in case of personnel having passed graduation or above;

(ii)3 years in case of personnel having passed PUC/ equivalent examination;

(iii)5 years in case of personnel having passed Metric/ HSLC examination.

[11]. According to the petitioners, they came to know recently the existence of final seniority list of Havildars as on 29.8.2013, where they were placed at Serial Nos.203, 213 and 218 respectively. The case of the petitioners is that they were appointed by direct recruitment in the recruitment years 2000-2001 i.e., 1.4.2000 - 31.3.2001 and were

dovetailed with those who were appointed by promotion on 14.11.2001 in the recruitment year 2001-2002 i.e., 01.4.2001 to 31.03.2002.

[12]. It is admitted by the petitioners that a draft seniority list as on 1.10.2002 was published, wherein their names appeared at Serial Nos. 485, 497 and 505 respectively. According to the petitioners, the seniority lists as on 1.10.2002 and 29.8.2013 published were not known to them and after knowing the same, they have submitted representations on 20.10.2018 and 26.11.2018 respectively to the third respondent to review and modify the senior list of 2013. According to the petitioners, the said representations have not been considered by the third respondent till date.

[13]. On the other hand, the learned counsel for the respondents, by placing reliance upon the Office Memorandum dated 04.3.2014 of the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and training, Government of India, submitted that seniority already settled with reference to the applicable interpretation of the term availability, cannot be reopened.

[14]. It would be pertinent to extract the Office Memorandum dated 04.3.2014 for reference:

No. 20011/ 1/2012-Estt. (D)

Government of India

Ministry of Personnel, Public Grievances & pension

Department of Personnel & Training

North Block, New Delhi,

Dated the 4th March, 2014

OFFICE MEMORANDUM

Subject: Inter se seniority of direct recruits and promotees - instructions thereof

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The undersigned is directed to refer to the subject mentioned above and to say that the fundamental principles of inter se seniority of direct recruits and Promotees in Central Civil services/posts were laid dawn in the Department of Personnel & Training (DOPT) O.M. No. 9/11/55-RPS dated 29.12.1959 which provided, inter alia, that the relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees, which shatl be based on the quotas of vacancies reserved for direct recruitment and promotion respectively, in the Recruitment Rules.

2. The carrying forward of unfilled slots of a vacancy year, for being fitted up by direct recruits of later years, was dispensed with through modified instructions contained in DoPT O.M. No.35014/2/80- Estt.(D) dated 7.2.1986 which provides that rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. The unfilled direct recruitment/promotion quota vacancies would be carried forward and added to the corresponding direct recruitment/promotion quota vacancies of the next year (and to subsequent years where necessary) for taking action for the total number of direct recruitment/promotion according to the usual practice. Thereafter, in that year, while seniority will be determined between 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, the additional direct recruits/promotees selected against the carried forward vacancies of the previous yearl would be placed en-bloc below the last promotee/direct recruit, as the case may be, in the seniority list, based on the rotation of vacancies for that year.

3. All the existing instructions on seniority were consolidated by DoPT through a single O.M. No. 22011/7/86-Estt(D) dated 03.07.1986.

4. In view of divergent stance taken by different Ministries/Departments on interpretation of 'available direct recruits and promotees' in the context of OM dated 7.2.86, the DoPT had issued O.M. No. 20011/1/2006-Estt.(D) dated 3.3.2008 which provided that the actual year of appointment, both in the case of direct 1 recruits and promotees, would be reckoned as the year of availability for the purpose of rotation and fixation of inter se seniority.

5. The matter has been examined pursuance of Hon'ble Supreme Court Judgment in on 27.11.2012, in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar vs. U01 & Ors in consultation with the Department of Legal Affairs and it has been decided, that the manner of determination of inter-se-seniority of direct recruits and promotes would be as under:

a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as nonexistent/withdrawn ab initio;

b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;

c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;

d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;

e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.

f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be

deemed to be the initiation of recruitment process for the other mode as well;

g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filing up of the vacancies for a Recruitment Year;

h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. U01 & Ors 2

i) The cases of seniority already settled with reference to the applicable interpretation of the term availability as contained in DopT O.M. dated 7.2.86/3.7.86 may not be reopened.

7. As the conferment of seniority would be against the Recruitment Year in which the recruitment process is initiated for filling up of the vacancies, it is incumbent upon all administrative authorities to ensure that the recruitment process is initiated during the vacancy year itself. While requisition for filling up the vacancies for direct recruitment

should be sent to the recruiting agency, complete in all respects, during the vacancy year itself, the timelines specified in the Model Calendar for DPCs contained in DoPT O.M. No.22011/9/98-Estt(D) dated 8.9.98 and the consolidated Instructions on DPCs contained in O.M. No.22011/5/86-Estt(D) dated April 10, 1989 should be scrupulously adhered to, for filling up the vacancies against promotion quota. " (emphasis supplied)

[15]. Adopting the aforesaid office Memorandum dated 04.3.2014, the Government of Manipur issued Office Memorandum dated 21.12.2017. The Office Memorandum dated 21.12.2017 published in the Manipur Gazette dated 29.12.2017 reads thus:

"*No.23/42/17-MISC/DP: Reference is invited to the communication from the Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide O.M.No.20011/1/2012-Estt.(D) dated 4th March 2014 whereby general principles for determining inter-se seniority of direct recruits and the promotees of various Central services/posts have been laid down.*

2. Having due regard to the principles as laid down and the need to address the issues of inter-se seniority of officers in various organized services, the State Government decides to adopt the above referred O.M.No.20011/1/2012 Esst. (D) dated 4th March, 2014 of the DoPT in respect of all services/posts under the State Government of Manipur. The existing Recruitment Rules of all services/posts under the State Government shall be deemed to be amended accordingly.

3. All the criteria/pre-requisites as laid down in the aforesaid O.M. shall be taken into consideration for fixation of inter-se seniority for, all the appointment (Direct recruits or the Promotees) made hereafter. Appointments/promotions made before the issue of this O.M. will not be covered by this O.M.

4. <u>The Seniority already fixed as per the existing rules followed earlier in the State prior to the issue of this O.M. may not be reopened.</u>

5. This O.M. will come into effect from 01.01.2018 with a publication in the Gazette." (emphasis supplied)

[16]. Thus, it is clear that the seniority already fixed as per the existing rules followed earlier in the State of Manipur prior to the issuance of the Office Memorandum dated 21.12.2017 cannot be reopened. The petitioners, for the first time in 2018, have submitted representation requesting to revisit and review the final seniority list of Havildars in Manipur Police Department as on 29.8.2013. As stated supra, before publishing the final seniority list, a draft seniority list was issued on 5.6.2013 calling for objections from all quarters. At that time the petitioners have not submitted any objection qua seniority list and after a lapse of nearly 6 years, they have come up with the present petition seeking to review the seniority list by contending that they should not have been dovetailed with the promotees since they were appointed a year ahead of the promotees i.e., private respondents. The excuse sought to be condoned by the petitioners is only for the purpose of filing the present writ petition. This Court is of the view that at the distant point of time, the final seniority list published on 29.8.2013 cannot be reviewed and the ground on which the petitioners seeking to review the seniority list of 2013 is unsustainable in law. Moreover, the seniority already fixed/settled as per the then existing rules followed by the State cannot be reopened.

[17]. For the foregoing discussions, this Court is of the view that no valid ground has been made to interfere with the final seniority list of 2013 issued by the third respondent and the petitioners having failed to

challenge and/or question the seniority list of 2013 at the relevant point of time, cannot challenge the same in 2018 and therefore, the writ petition is liable to be dismissed on the ground of delay and laches, apart from being devoid of merits.

[18]. In the result, the writ petition is dismissed. No costs.

JUDGE

FR/NFR

Lynda

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