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

% Judgment delivered on: 03.11.2022

+ W.P.(C) 5384/2019 & C.M. No. 23658/2019

VIJAY RAJ ANAND

..... Petitioner

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Mr. Ajay Verma, Advocate.

For the Respondent: Mrs. Avnish Ahlawat, Standing Counsel with Mr. Nitish Kumar Singh, Advocate for GNCTD
Mr. Varun Mudgil, Mr. Rakesh Kumar, Mr. Vijay Kumar and
Mr. Mohit Mudgal, Advocates for R-2, 3 & 4.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns judgment dated 20.12.2018 whereby the Original Application filed by the petitioner has been dismissed.
2. Petitioner was appointed as a Senior Scientific Officer (SSO) in the Forensic Science laboratory by way of direct recruitment. Petitioner was thereafter promoted to the post of Assistant Director on 27.02.2012. The issue raised by the petitioner is with regard to the seniority list prepared by the respondent No.1 for consideration for promotion to the post of Deputy Director.
3. In the final combined eligibility list of Assistant Directors,

name of the petitioner figures at serial No.15. Petitioner raised a grievance with regard to respondents 2, 3 & 4 who figured at serial Nos.11,12 and 14 respectively. Respondent Nos.2 & 3 are promotee officers who joined as SSOs on 25.05.2006 based on an order of promotion. Respondent No.4 is a direct recruit who joined as SSO on 29.06.2006. Admittedly petitioner joined as SSO on 01.09.2006. The contention of the petitioner is that the appointment of the petitioner by way of direct recruitment was through an order which was passed earlier in point of time than the orders of appointment of respondent Nos.2 to 4 to the post of SSO.

4. Learned counsel for the petitioner places reliance on the judgment of the Supreme Court in *Union of India vs. N.R.Parmar*, (2012) 13 SCC 340.

5. It is noticed that the judgment in *N.R.Parmar* (Supra) has subsequently been overruled by a judgment of a larger bench of the Supreme Court in *K.Meghachandra Singh & Ors Vs. Ningam Siro & Ors*, (2020) 5 SCC 689.

6. In *Meghachandra Singh* (Supra) the Supreme Court has held that the seniority of direct recruits is to be declared only from the date of appointment and not from the date of initiation of recruitment process.

7. Supreme Court has further held that no one can be identified as being a selected candidate on the date when the process of recruitment

had commenced, as a body of persons aspiring to be appointed to the vacancy intended for direct recruits could not be in existence on the said date. Persons who respond to an advertisement cannot have any service-related rights, not to talk of rights to have their seniority counted from the date of advertisement. It is only on completion of the process that the applicant morphs into a selected candidate. Supreme Court has further held that for determination of seniority, under service jurisprudence cannot be claimed from a date when the incumbent is yet to be borne in the cadre.

8. A caveat has been mentioned by the Supreme Court in the said judgment that the judgment is prospective and *inter se* seniority already based on *N.R.Parmar* (Supra) is protected. Said caveat would not be applicable to the facts of the present case for the reason that petitioner had himself impugned the seniority list as soon as the same was circulated and as such it cannot be treated as a seniority list that is settled in terms of the judgment of *N.R.Parmar* (Supra).

9. Admittedly in the present case petitioner joined as a direct recruit to the post of SSO on 01.09.2006. Respondent Nos.2 & 3 joined on 25.05.2006 on promotion and respondent No.4 joined as SSO on 29.06.2006 as a direct recruit over two months before the petitioner.

10. Since the sole reliance of the petitioner was on the judgment of *N.R.Parmar* and said judgment has subsequently been overruled in *K.Meghachandra Singh* (Supra) and for the reasons aforesaid, we find no merit in the petition.

11. The petition is consequently dismissed.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

NOVEMBER 03, 2022/rk

