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WPA 8088 of 2022

Subrata Ray Karmakar
Vs.
The University of Calcutta & Ors.

Mr. Krishnendu Bera
Ms. Debolina Chakraborty
... For the petitioner.

Mr. Victor Chatterjee
Mr. Sandip Dasgupta
Mr. Saaquibe Siddique
... For University.

The petitioner alleges his supersession in the promotion to the post of Junior Superintendent. The petitioner was appointed at Calcutta University as Junior Assistant on May 2, 2002. Upon completion of nine years of service, he was promoted as Senior Assistant on May 2, 2011. The petitioner became Junior Superintendent on May 2, 2018, upon completion of seven years of service as a Senior Assistant. These promotions were given to the petitioners in terms of an order dated 17th October, 1985 issued by the Government of West Bengal, Education Branch.

The promotion of the petitioner as Senior Superintendent is contingent upon the completion of further five years of service commencing from the date of his appointment as Junior Superintendent.

The petitioner alleges that during the pendency of the writ petition respondent nos.11 to 13 have been given promotions as Senior Superintendents thereby superseding his seniority.

The backdrop in which the respondent nos.11 to 13 have been promoted as Senior Superintendents needs to be noted first.

It is not in dispute that respondent nos.11 to 13 were appointed as Cash Pool employees. The affidavit filed by the University clarifies that in the University service, there are various cadres and posts but there has never been any compartmentalised pool like Cash Pool. Holders of posts placed in various departments dealing with cash under the mother department of accounts section were identified as the Cash Pool employees only for convenience. The Cash Pool is not a separate pool or section.

The university adopted a resolution on December 24, 2019, whereby the various posts of Cash Pools were redesignated in General Cadre of non-teaching staff with existing service conditions and respective scales of pay with the designation of General Cadre.

The following chart will show how the Cash Pool employees were again merged with the General Cadre of the university with their respective posts.

Existing Designation under Cash Pool	Rationalized/nomenclature designation in General Pool
Cashier	Jr. supdt.
Asstt. Cashier	Sr. asstt.
Cash Asst.	Jr. Asst.
Chief Cashier	Sr. supdt.
Sr. Cash Sarkar	Record Keeper
Jr. Cash Sarkar	Record supplier

It is not in dispute that respondent nos. 11, 12 and 13 were appointed to the posts of Cash Assistant on May 20, 1999; May 24, 1999 and May 28, 1999, respectively. The merger resolution was adopted on December 24, 2019, with effect from July 16, 2019.

Learned advocate appearing for the petitioner submits that the respondent nos. 11 to 13 by dint of such resolution became junior superintendents only with effect from July 16, 2019, whereas the petitioner had been appointed as junior superintendent on May 02, 2018. Therefore, the appointment of respondent nos. 11 to 13 to the posts of senior superintendent is a supersession of the petitioner, since the petitioner was senior to respondent nos. 11 to 13 in the position of junior superintendent. He further submits that the relevant resolution of the University makes it clear that it would be operative from July 16, 2019. Therefore, respondent nos. 11 to 13 became junior superintendents only on July 16, 2019.

Learned advocate of the petitioner had drawn attention to this Court to the West Bengal Services (Determination of Seniority) Rules, 1981. By referring to Rule 5, it has been contended that the seniority of persons appointed on promotion to any post, cadre or grade should be determined from the date of joining such post, cadre and grade.

The University, on the other hand, submits that the object of the merger was not to alter the seniority of respondent nos.11 to 13, which was to be reckoned from their initial date of appointment. The initial date of appointments of the private respondents would make it clear that they had seniority over the petitioner in terms of length of their service and therefore, there has been no illegality in promoting them to the post of senior superintendents prior to the petitioner.

After considering the arguments presented by both parties, I am disinclined to interpret the resolution adopted by the University on December 24, 2019, in a manner that would upset the seniority of the Cash Pool staff and General cadre staff based on their initial date of appointment.

In my opinion, the intention of the University, while making the resolution effective from July 16, 2019, was not to diminish the seniority of the general cadre non-teaching staff employees. Although the

resolution did not explicitly specify that the seniority of general cadre non-teaching staff employees for the purpose of promotion should be counted from their date of initial appointment, this omission does not imply that seniority of respondent nos. 11 to 13 should be reckoned from July 16, 2019 in the post of Junior Superintendent. The inclusion of the said date in the resolution was meant to give effect to the resolution itself, and not to alter the inter se seniority of the merged employees. In my opinion, the University has rightly reckoned their seniority from the date of initial appointments. The stand put forth by the University is that there was no real distinction between the Cash Pool staff and general cadre non-teaching staff. The difference was in nomenclature only. Hence, the University's decision to promote all the non teaching staff based on their initial date of appointment is justifiable.

Based on the aforementioned considerations, it is my opinion that no intervention is necessary. Consequently, **WPA 8088 of 2022** is dismissed.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)