



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: July 24, 2023

+ W.P.(C) 1736/2007 & CM APPL. 3194/2007

BASANT KUMAR & ORS.

..... Petitioners

Through: Ms. Meenakshi Arora, Sr. Adv. with
Mr. Venkata Subramoniam T.R. and
Mr. Rahat Bansal, Advs.

versus

ELECTION COMMISSOIN OF INDIA
& ANR.

..... Respondents

Through: Mr. Sidhant Kumar, Adv. for ECI
Ms. B. S. Rajesh Agrajit, Mr. Priya
Nagar and Mr. Siddharth Goswami,
Advs. for R-3 to R-11

+ W.P.(C) 4762/2007

DEVESH KUMAR & ANR.

..... Petitioners

Through: Ms. B. S. Rajesh Agrajit, Mr. Priya
Nagar and Mr. Siddharth Goswami,
Advs.

versus

ELECTION COMMISSIONER OF INDIA
& ORS.

..... Respondents

Through: Mr. Sidhant Kumar, Adv. for ECI



CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

1. Vide this order/judgment; we shall decide the aforesaid two writ petitions which arise from an order dated August 30, 2006 passed in Original Application being O.A. 2785/2004 ('O.A', for short) and order dated October 16, 2006 passed in Review Application being RA 152/2006 (' RA', for short) in OA 2785/2004.
2. For convenience, the petitioners in W.P.(C) 1736/2007 shall be referred to as *ad hoc* appointees and the petitioners in W.P.(C) 4762/2007 shall be referred to as *direct recruits*.
3. Vide W.P. (C) 1736/2007, the *ad hoc* appointees have challenged the aforesaid order dated August 30, 2006, of the Tribunal to the extent that the Tribunal has set aside the seniority list issued by the Election Commission of India/respondent No.1 ('ECI', for short) in the grade of Lower Division Clerk ('LDC', for short) with a further direction to the respondent No.1 to re-determine the seniority of the applicants in the O.A., who are the direct recruits/respondent Nos. 3 to 12 in W.P.(C) 1736/2007 and also the petitioners in W.P.(C) 4762/2007.
4. The O.A. was filed by direct recruits before the Tribunal challenging the final seniority list dated June 11, 2004 issued by the ECI wherein *ad hoc* appointees were shown senior to the direct recruits. It is that seniority list, which has been set aside by the



Tribunal by directing the ECI to re-determine the seniority of the *ad hoc* appointees/direct recruits in the light of the principles of law, rules, instructions and the observations made by it.

5. To appreciate the issue which arises for consideration it is necessary to delineate the facts, in paragraph 7 onwards.

6. At this stage, it is necessary to state that the direct recruits who succeeded before the Tribunal had also challenged the impugned order of the Tribunal dated August 30, 2006 to the extent that the Tribunal has upheld the order of regularisation of the *ad hoc* appointees (petitioners in W.P.(C) 1736/2007) and declined to disturb the order(s) of promotion which is already issued in favour of the *ad hoc* appointees to the post of Upper Division Clerk ('UDC', for short).

7. On August 26, 1988, the ECI /the respondent No.1 introduced the Election Commission (Group C and Group D posts) Recruitment Rules, 1988. The Rules provides that 90% of the posts of LDC to be filled by direct recruitment, failing which by transfer / deputation. The Rules also contemplate that 10% of the vacancies shall be filled by Group D employees (borne on regular establishment) of the ECI in the following manner:-

- a. 5% of the vacancies shall be filled through departmental examination to be held by ECI confine to such Group D employees who fulfill the requirement of minimum education qualification namely matriculation or equivalent.
- b. 5% of the vacancies shall be filled by promotion on the basis of seniority cum fitness basis from amongst the Group D employees who fulfill the requirement of minimum education



qualification namely matriculation or equivalent.

8. It was the case of the *ad hoc* appointees that the ECI had appointed them as LDCs on *ad hoc* basis through Employment Exchange in view of the Lok Sabha Election and Presidential Election in the year 1991. It was also their case that the ECI had approached the Staff Selection Commission ('SSC', for short) for 20 dossiers for appointment as LDC and the SSC has sent only five dossiers in the year 1993 and the five dossiers were returned by the ECI. It was also their case that, as they were having sufficient experience in the conduct of elections, the ECI regularised their appointment in temporary capacity w.e.f., October 11, 1993 with probation of two years.

9. In 1993, the SSC has sent 15 dossiers which were also returned by the ECI. It is also stated that the ECI in 1993 appointed the *ad hoc* appointees on temporary basis with probation for two years. On completion of probation period during 1995, they were made permanent.

10. That on August 28, 1996, the ECI decided to fill 25 vacancies of LDCs and accordingly approached the SSC vide letter dated August 28, 1996 for sending dossiers of selected candidates. Pursuant thereto the direct recruits were appointed as LDC in ECI between November, 1998 and May, 1999. Pursuant thereto, on September 09, 1999, a seniority list was circulated after considering the representation/objection to the draft seniority.

11. On March 24, 2003, the ECI again circulated a draft seniority list in the grade of LDC against which the representation was made. Finally, a final seniority list was issued on June 11, 2004 wherein the



ad hoc appointees were shown senior to the direct recruits.

12. Ms. Meenakshi Arora, learned Senior Counsel, appearing for the *ad hoc* appointees would submit that the Tribunal has erred in setting aside the impugned seniority list issued by the ECI as the *ad hoc* appointees were appointed / regularised on temporary basis on probation for two years, which they cleared between 1995-98, when their services were confirmed, i.e., much before the direct recruits were appointed as LDCs in the year 1998-1999, so, they have to seniority above direct recruits. In other words, it is her submission that, when the *ad hoc* appointees were regularised / confirmed, the ECI had not even the called for dossiers from SSC for making appointments to the post of LDC which they did only in the year 1996, and made appointments in 1998-1999, after the appointment / regularisation / confirmation of the *ad hoc* appointees, and as such the direct recruits cannot seek their seniority over and above *ad hoc* appointees.

13. She submitted that, in fact, the ECI was disappointed with the inaction of the SSC in not providing required dossiers of LDCs and that it decided to appoint LDCs through the Employment Exchange in view of the impending General and State elections. She also submitted that the Recruitment Rules provide for appointment of LDCs on *ad hoc* basis through the Employment Exchange. The *ad hoc* appointees having requisite qualification were appointed through the Employment Exchange on *ad hoc* basis after passing the requisite test.

14. It is her submission that, in view of the experience gained by the petitioners on various aspects of conduct of elections, and as ECI was not getting the required dossiers from the SSC, it decided to



regularise the *ad hoc* appointees in temporary capacity w.e.f. October 11, 1993 onwards by putting them on probation for two years. The same was followed by confirming the services. In fact, some of the *ad hoc* appointees were also promoted as UDC on *ad hoc* in the year 1997, 1998, 2002 etc., through an examination conducted by the SSC. Therefore, it is apparent that the SSC had also approved the appointment / regularisation / confirmation of the *ad hoc* appointees as LDCs in the ECI, having permitted them to appear in the examination.

15. According to her, it is only thereafter that the ECI decided to fill 25 vacancies through SSC and had called for dossiers, pursuant to which the direct recruits joined service in the ECI between November, 1998 and May, 1999. She submitted that the seniority list for the post of LDCs was circulated in the year 2004 giving seniority to all the *ad hoc* appointees as they were regularised prior to the appointment of direct recruits i.e., before November 1998.

16. She submitted that, direct recruits had made representation to the seniority list by stating that 100% of LDC appointments are to be made through SSC and if qualified staff is not available through SSC, the ECI shall fill the posts through Employment Exchange on short term basis but in no case on regular basis and hence they cannot be senior to the direct recruits. The ECI rejected the representation and approved the seniority list placing the *ad hoc* appointees over the direct recruits.

17. She stated that the appointment / regularisation / confirmation of *ad hoc* appointees is valid as they were appointed as per the statutorily permissible procedure, albeit an alternative method was



followed at the time of their appointment / regularisation. In fact, she heavily relied upon Recruitment Rules to contend that the Recruitment Rules provides for appointment through Employment Exchange in case of any exigencies and the ECI had to regularise the *ad hoc* appointees for valid reasons. She submitted that there is no arbitrariness in the appointment / regularisation / confirmation of the *ad hoc* appointees.

18. According to her, the *ad hoc* appointees were appointed on *ad hoc* basis in 1991-94, when some of the direct recruits were not even eligible for appointment as LDC in the ECI. The *ad hoc* appointees have been rightly granted the seniority on the post of LDC, when admittedly; the direct recruits were not even born in the cadre. She also stated that the contention of the direct recruits that the *Uma Devi (supra)* will not apply to the *ad hoc* appointees is completely misplaced argument.

19. She also stated that the judgment in *Uma Devi (supra)*, contemplates regularisation to those who had completed 10 years of service and it has a retrospective operation. She contested the finding of the Tribunal that, no methodology or direction is provided in *Uma Devi (supra)* for regularisation of illegal appointments. She stated the finding is erroneous because the judgment is a code by itself and it is held that, those who had completed 10 years of service are entitled to regularisation which shall also include seniority.

20. She in support of her submissions has relied upon the judgments in the cases of *Pratap Kishore Panda and Others v. Agni Charan Das and Others, (2015) 17 SCC 789; Ashok Kumar Uppal v.*



State of J&K, (1998) 4 SCC 179; State of U.P. v. Ashok Kumar Shrivastava, (2014) 14 SCC 720; and Direct Recruit Class II Engineering Officers Assn v. State of Maharashtra, (1990) 2 SCC 715.

21. She submitted that the Director of Department of Personnel & Training ('DoP&T', for short) had in the reply seeking relaxation to the Recruitment Rules wrote to the Joint Secretary, Legislative Department vide D.O. No.29018/4/92-Estt(B), dated June 09, 1995, that any proposal requiring relaxation /amendment of the RRs for the posts of Assistant in ECI require approval of the DoP&T as well as UPSC whereas in respect of UDC, such approval would not be necessary as Ministry / Departments have already been delegated the power to frame /amend /relax the rules for Group C & D posts.

22. She stated that from the perusal of the Rules of 1988, it is clear that the power to relax is available and it is a fact that ECI regularised the LDC's in a phased manner from 1993 to 1996 after satisfying the work experience and performance of the *ad hoc* appointees.

23. In her submissions, Ms. Arora highlighted the fact that the *ad hoc* appointees fulfilled all the qualifications required for the appointment and that the ECI has categorically stated that the *ad hoc* appointees were regularised after relaxation of the Rules in view of the special circumstances. She in support of this contention has relied upon the judgment of the Supreme Court in the case of **Pratap Kishore Panda and Others (supra)** and stated that it is a valid / regular appointment through an alternative method.

24. She stated that the Tribunal has failed to consider Rule 5 of the



Recruitment Rules, which provides relaxation of the Rules by the Central Government and the Central Government vide Joint Secretary's letter had granted ECI the power to relax rules for UDC which is also applicable to LDCs. Hence, the regularisation of the petitioners is legally valid and within the rules as prescribed in the Recruitment Rules, 1988.

25. She has stated that all the *ad hoc* appointees were appointed through Employment Exchange with Group-D qualifications to hold the post of LDCs and the ECI constituted a panel including one Officer from Rajya Sabha and one from Lok Sabha for conducting the Open Typing Test and Interview.

26. Ms. Arora stated that the Tribunal has erroneously interpreted the decision of the Constitution Bench in ***Direct Recruit Class II Engineering Officers Assn (supra)*** inasmuch as, in the said case the Supreme Court held that, when an *ad hoc* appointment is *de hors* the Rules but uninterrupted followed by regular appointment, the seniority would be reckoned from the date of regular appointment. This principle has been followed in ***R. K. Barwal v. State of H.P., (2017) 16 SCC 803*** and ***Sudhir Kumar Atrey v. Union of India, (2022) 1 SCC 352***. She has argued that, in the case in hand, the ECI had counted the seniority from the date of their regular appointment and has not given any benefit of seniority from the initial date of appointment.

27. Furthermore, she stated that the direct recruits can only claim seniority from the date of their regular appointment and not from a date when they were not born in service. She stated that the contention of the direct recruits that they are to be given seniority ahead of the *ad*



hoc appointees, is without substance because none of the direct recruits were of eligible age when the petitioners joined the service or when the petitioners service were regularised.

28. In support of her above contention she has relied upon the judgments of the Supreme Court in *K. Meghachandra Singh v. Ningam Siro & Ors.*, (2020) 5 SCC 689; *Pawan Pratap Singh & Ors. v. Reevan Singh & Ors.*, (2011) 3 SCC 267; *A. Janardhana v. Union of India* 1983 3 SCC 602; *P. Sudhakar Rao and others vs. U. Govinda Rao* 20 and others, (2013) 8 SCC 693; *Ganga Vishan Gujrati And Ors. Vs. State of Rajasthan*, (2019) 16 SCC 28; *Shitla Prasad Shukla vs. State of UP*, (1986)(Supp.) SCC 185 and *State of Bihar v. Arbind Jee*, 2021 SCC OnLine SC 821 ; *Suraj Parkash Gupta v. State of J&K*, (2000) 7 SCC 561.

29. She stated that the direct recruits have no *locus standi* to challenge the regularisation made by the ECI, as their appointment into the cadre as LDC was made much after the regularisation of the *ad hoc* employees. She also stated that, some of the *ad hoc* appointees have qualified the test conducted by the SSC and have become UDCs/Section Officers even Under Secretaries and if the seniority is changed at this point of time the entire staff will be affected as the Government/Rules are changed now, i.e., fixing of reservation quota, seniority quota, compassionate quota, group 'D' quota, and even date for fixing the seniority has also been changed. She seeks the prayers as made.

30. Mr. Siddhant Kumar, the learned Counsel for the respondent No.1/ECI stated that the *ad hoc* appointees were appointed due to the



premature dissolution of Lok Sabha resulting in conduct of country-wide elections. In such circumstances, the respondent No.1 was obligated to fill these vacancies by invoking Rule 5 of the Recruitment Rules and appoint the *ad hoc* appointees as LDCs. Later on, respondent No.1 in public interest had regularised the services of the *ad hoc* appointees since the *ad hoc* appointees had already been in service and have gained requisite experience.

31. He stated that the initial appointment and regularisation of the *ad hoc* appointees has already been affirmed by Tribunal in the Impugned Judgment and, as such the seniority of the persons has to be determined from the date of the regular appointment. In support of his submission, he had relied upon *Santosh Kumar v. G.R. Chawla, (2003) 10 SCC 513, P.P.C. Rawani & Ors. v. Union of India & Ors., (2008) 15 SCC 332* and *Rashi Mani Mishra v. State of Uttar Pradesh, 2021 SCC OnLine SC 509*.

32. Mr. B.S. Rajesh, learned counsel for the direct recruits stated that the appointments through Employment Exchange were made in contingency and is valid till the regular appointments through SSC are made. He also stated that the ECI has not produced any order of the government exercising the relaxation under Rule 5 of the Recruitment Rules. Hence, the regularisation / appointment is illegal and their seniority cannot be reckoned from their initial or from the date of regularisation / regular appointment.

33. He also stated that the *ad hoc* appointment of the Group-D employees was in excess of 5% quota as fixed in the Recruitment Rules; as such they cannot be treated as regular appointees. He also



stated that the regularisation of *ad hoc* appointees, who were not appointed initially in accordance with rules, violates the principle of equality enshrined in Article 14 of Constitution of India and the seniority cannot be bestowed on such illegal appointments.

34. He stated that, it is a settled law that, appointments made contrary to rules are merely fortuitous and do not confer seniority that too over and above regular/substantive appointees to the service. In support of his submissions, he has relied upon the judgments in *Secretary, State of Karnataka v. Uma Devi, 2006 (4) SCALE 197; Secretary to Government School Education Department, Chennai v. R. Govindaswamy and others, 2014 [4] SCC 769; State of Tamil Nadu through Secretary to Government, Commercial Taxes and Registration Department, Secretariat and another v. A. Singamuthu, 2017 (4) SCC 113 ; State of Rajasthan v. DayaLal, (2011) 2 SCC 429: (2011) 1 SCC (L&S)340]; Padma Sundara Rao and Others v. State of Tamil Nadu and others, (2002) 3 SCC 533; B.N. Nagarajan & Ors v. State of Kamataka & Ors., (1979) 4 SCC 507; State of Orissa v. Sukanti Mohapatro, 1993(2)SCC 486; MA. Haque (Dr) v. UOI, 1993 (2) SCC 213; Sanjay K Sinha-II and others v. State of Bihar & Ors., 2005 SCC L&S 169 and State of Bihar v. Devendra Sharma, Civil Appeal No.7879/2019.*

35. Having heard the learned counsel for the parties and perused the records, the issue which arises for consideration in both the writ petitions is, whether the Tribunal was justified in setting aside the impugned seniority list dated June 11, 2004 with the direction to the ECI to recast the seniority list in terms of the observations made by it



or whether the direct recruits are entitled to the reliefs as prayed for in their petition for setting aside the regularisation of the *ad hoc* appointees as LDCs.

36. There is no dispute that the regularisation / appointment with probation of two years of the *ad hoc* appointees was undertaken much before the direct recruits were appointed between November, 1998 to May 1999. In that sense, the direct recruits were not even working as LDCs in the ECI when the *ad hoc* appointees were regularised. It is also the case that, since the date of their regular appointment between the years 1993-1996, the *ad hoc* appointees are working in the ECI and in fact have been promoted to the posts of UDCs/Section Officers and even Under Secretary.

37. The question would be, whether the direct recruits have *locus standi* to challenge the regularisation / regular appointment of *ad hoc* appointees, when they were not even on the rolls of the ECI. The answer to this question which would have a bearing on the issue of seniority, which was the subject matter of the challenge before the Tribunal has to be in the negative. This we say so because when the direct recruits were not even appointed in the ECI/Service, surely they could not have challenged the regularisation of *ad hoc* appointees, as no rights of their were affected at the relevant time. Moreover, the petition cannot be construed as a Public Interest Litigation challenging the regularisation of the *ad hoc* appointees, as the same was filed before Tribunal.

38. Even otherwise, it is a fact that the *ad hoc* appointments were made in 1991-94 and regularisation / regular appointment made



between 1993-1996, whereas the direct recruits have been appointed in the ECI/Service in 1998-1999 and they had not initiated any litigation till the seniority list was issued wherein *ad hoc* appointees were shown senior to the direct recruits i.e., in the year 2004. So, in that sense, the challenge to the regularisation / regular appointment of *ad hoc* appointees was barred by limitation also.

39. In any case, there is no dispute to the proposition of law that seniority in the grade shall be from the date when the regular appointment has been made and there is no doubt that seniority to the *ad hoc* appointees is given in the grade of LDC from the date of regularisation / regular appointment between the years 1995-1998.

40. No doubt, heavy reliance has been placed by the counsel appearing for the direct recruits on the recruitment rules to contend; (1) that the regularisation of the *ad hoc* appointees was not in terms of the recruitment rules, as it contemplates that *ad hoc* appointment must be till the period of regular appointment is made through SSC and (2) the Rules do not stipulate the process of regularisation of *ad hoc* appointees and hence the *ad hoc* appointees could not have been regularised.

41. The submission looks appealing on a first blush but on a deeper consideration it must be stated that, after a lapse of 27 to 30 years, the regularisation of the *ad hoc* appointees cannot be set aside, on the asking of the direct recruits who were appointed much after the regular appointment, only because the *ad hoc* appointees have been made senior to them in the Seniority List dated June 11, 2004 in the grade of LDC.



42. We are afraid such a relief, in the facts of this case, more so in exercise of jurisdiction of this Court under Article 226 of the Constitution of India cannot be granted.

43. Having said that, in so far as the final conclusion of the Tribunal in setting aside the seniority list dated June 11, 2004 is concerned, we are of the view that the Tribunal could not have set aside the seniority list dated June 11, 2004, when it did not interfere with the regularisation of *ad hoc* appointees. The regularisation shall determine the seniority in a grade, which according to this Court would be the date when the *ad hoc* appointees were regularised in temporary capacity in the years 1993-1996 with two years of probation, which they cleared before the appointment of the direct recruits.

44. The Tribunal has clearly overlooked this pertinent aspect. Even the subsequent direction of the Tribunal for recasting of the seniority list in terms of the observations made by it is also unsustainable in view of our finding above.

45. The counsel for the direct recruits has relied upon the following judgments for the following propositions :-

- a. ***R. Govindaswamy and others (supra)***, wherein Supreme Court held that the Court should not issue any direction for regularisation of an employee unless the employee claiming the regularisation had not been appointed in accordance with relevant rules. The said judgment is distinguishable in the facts of this case, more so in view of our finding above.
- b. ***The State of Tamil Nadu through Secretary to***



Government, Commercial Taxes and Registration Department, Secretariat and Another Vs. A. Singamuthu, 2017 (4) SCC 113, wherein the issue was of regularisation of part time employee on completion of ten years of his service. The Supreme Court held that the G.O.Ms.No. 22 P &AR Dept. dated February 28, 2006 is applicable only to full-time daily wage employees and who had completed ten years of continuous service as on 01.01.2006 and not to part-time employees. The said proposition has no applicability to the facts of this case.

- c. ***Daya Lal (supra)***, wherein the Supreme Court held that Service for a period of one or two years or continuation for some more years by virtue of final orders under challenge, or interim orders, will not entitle them to any kind of relief either with reference to regularization nor for payment of salary at par with regular employees of the Department. It is not such a case here. Rather it is a case of seniority list issued in 2004. Hence, the Judgment is distinguishable.
- d. ***Padma Sundara Rao and Others (supra)***, the Supreme Court held that the Courts should not place reliance on the decisions without discussing as to how factual situation fits in with the fact situation of the decision on which the reliance has been placed. There is no dispute on the proposition of law. The Judgment is distinguishable in the facts.
- e. ***B.N. Nagarajan & Ors (supra)***, the Supreme Court held



that, the relevant period the promotees held appointments as Assistant Engineers in a non-substantive capacity i.e. either on an officiating or a temporary basis, they would all rank junior to the direct recruits who, from the very start, held appointments made “substantively in clear vacancies”. The said judgment is distinguishable in the facts of the case and in view of our finding above.

- f. ***State of Orissa (supra)***, wherein the Supreme Court held that, though the power of relaxation stated in the rule was in regard to "any of the provisions of the rules", this did not permit relaxation of the rule of direct recruitment without consulting the Commission and the entire *ad hoc* service of a direct recruit could not be treated as regular service. The facts of the said case are at variance with the facts and circumstance of this case and hence no applicability.
- g. ***M.A. Haque (Dr) (supra)***, in the said judgment the petitioner/ *ad hoc* appointee was appointed as stop gap arrangement while there is pending appointment by UPSC, hence Supreme Court held that the seniority given to the petitioner/applicant will have to be below the seniority of the outsiders / directly recruited through the UPSC. The Judgment has no applicability.
- h. ***Sanjay K Sinha-II and others (supra)***, wherein, it was held that appointments made contrary to the rules are merely fortuitous and do not confer benefit of seniority on the appointees over and above the regular/substantive



appointees to the service. The Judgment has no applicability to the facts of this case and also in view of our conclusion above.

- i. ***Jammu and Kashmir, Public Service Commission v. Dr. Narinder Mohan (1994) 2 SCC 630***, wherein it was held that the power of relaxation exercised by the Government is ultra vires the Rules and the High Court is right in holding that Government cannot relax the rules of recruitment made by the PSC. Government have no power to make regular appointment under the Rules without selection by the Public Service Commission under Section 133(1) read with Rule 5 and Schedule-III of the Rules. The Judgment is clearly distinguishable on facts and hence no applicability.
- j. ***Dr. Arundhati Ajit Pargaonkar v. State of Maharashtra, 1994 Suppl (3) SCC 380***, wherein the Supreme Court held that the eligibility and continuous working for howsoever long period should not be permitted to overreach the law. Requirement of rules of selection through Commission cannot be substituted by humane considerations.
- k. ***Dr. Surinder Singh Jamwal v. State of J & K (1996) 9 SCC 619***, the Supreme Court held that the *ad hoc* appointee shall to continue till the appointment of direct recruit and the department shall allow the *ad hoc* appointee age relaxation enabling them to apply for and seek recruitment through PSC, as the same shall be in accordance with the Rules.



l. Devendra Sharma (supra), wherein the Supreme Court held that, appointments were made without any sanctioned post, without any advertisement giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment. Such appointments were backdoor entries, an act of nepotism and favoritism and thus from any judicial standards' it cannot be said to be irregular appointments but are illegal appointments in a wholly arbitrary process.

m. Suraj Parkash Gupta (supra), wherein the Supreme Court has held that the recent decisions of this Court requires strict conformity with the Recruitment Rules for both direct recruits and promotees. The view is that there can be no relaxation of the basic or fundamental rules of recruitment. The words "may consult PSC" were held to be read as "shall consult PSC" and the Rule was treated as mandatory. Suffice to state, the above Judgments have no applicability to the facts.

46. In view of our above discussion, we are of the view that the order of the Tribunal is liable to be set aside. Accordingly, the writ petition *W.P. (C) 1736/2022* is allowed.

47. In so far as the prayers of the Direct Recruits in *W.P. (C) 4762/2007* are concerned, the same are devoid of merit and are liable to be rejected. It is ordered accordingly. The petition being *W.P.(C) 4762/2007* is dismissed. No costs.



CM APPL. 3194/2007 in W.P.(C) 1736/2007

In view of our conclusion above, this application has become infructuous and dismissed as such.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J.

JULY 24, 2023/ds/jg