



2024:DHC:8774-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 12.11.2024*

+ W.P.(C) 789/2024

MINI STANLY

.....Petitioner

Through: Mr. Chinmaya K. Bhatt, Ms.
Amrita Pandey, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Srivats Kaushal, Adv. for
Mr. Ajay Pal, AC (CRPF)**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****SHALINDER KAUR, J (Oral)**

1. This petition has been filed by the petitioner, who had joined the service of the respondents under the Sports Quota as a Constable on 25.01.1996. She was given accelerated promotions, and reached the rank of Assistant Commandant (in short, 'AC') on 22.03.2014.

2. It is the case of the petitioner that she continues to serve as an AC, even though her juniors have been granted promotion to the rank of Deputy Commandant (in short, 'DC') prior to her and that her seniority has been ignored. The petitioner submits that the respondents did not promote the petitioner with her batchmates and thus, deprived her of the promotional benefits. It is contended that the action of the respondents in promoting candidates junior to the petitioner by 2 years

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or more is discriminatory and against the principles of natural justice.

3. It is the case of the petitioner that both, male and female candidates, were selected through a common examination and selection process, with no distinction made in the recruitment advertisements regarding seniority being maintained separately based on gender. However, the respondents created separate seniority lists for male and female personnel, resulting in the female officers being overlooked for promotions as well as courses compared to their male counterparts. Consequently, while male officers were promoted, the female officers remained at the same rank.

4. The said discrimination led to the female officers remaining in the same rank, while their male batchmates were promoted to the next rank. This open discrimination compelled certain female officers to file a writ petition titled *Bijlu A.T. v. Union of India & Ors.*, (W.P.(C) 8744/2011), before this Court, and they were successful in getting their grievances redressed *vide* Judgment dated 24.05.2013. Being aggrieved by the Judgment of this Court in the said writ petition, the respondent challenged the decision before the Supreme Court by way of Civil Appeal No.9840/2014. The same was disposed of by the Supreme Court *vide* its Judgment dated 16.10.2014, by making certain modifications in the Order of this Court, however, directing that until the respondents create a separate cadre, they would maintain a common seniority list for the post of SI/GD and give consequential benefits to all similarly situated persons.

5. The learned counsel for the petitioner submits that the respondents were not complying with the Judgment dated 16.10.2014,



thus, a Contempt Petition was filed before the Supreme Court and thereafter, the respondents filed an affidavit in the Contempt Petition, informing the Supreme Court that they have already made a combined gradation list of all SIs (GD), male and female, as on 01.04.2005. However, despite revising the original seniority list, the respondents deliberately did not give the consequential benefits to the original petitioners, which was a fact put forth before the Supreme Court. Subsequently, the Contempt Petition was disposed of *vide* Order dated 01.12.2017, by directing the respondents to grant benefits of the revised seniority in terms of the Judgment, within two weeks.

6. The learned counsel for the petitioner submits that even though the respondents were duty bound to re-cast the combined seniority list of SI (GD), male and female, as on 01.04.2005, and grant them the consequential promotion from the date their juniors were promoted, the said benefit was not extended to the similarly situated female officers.

7. The learned counsel for the petitioner submits that on 01.01.2017, a seniority list of ACs was released by the respondents, wherein the petitioner was placed at a senior rank to one AS Minimol, who was shown to be given promotion to the rank of AC with effect from 30.03.2015, while the petitioner was shown to be promoted to the corresponding rank with effect from 22.03.2014.

8. The learned counsel for the petitioner submits that the petitioner is similarly situated to the female officers being the original petitioners in W.P.(C) 6094/2018 titled ***Kalawati Thakur & Ors. v. Union of India & Anr.***, 2019 SCC OnLine Del 7534, and W.P.(C)



9345/2018 titled *Nayan Nandi v. Union of India & Ors.*, 2019 SCC OnLine Del 7534, but has not been granted benefits in accordance with the directions passed by this Court and by the Supreme Court. The learned counsel further submits that, therefore, the petitioner should be granted the same promotional benefits as the petitioners in the aforementioned writ petitions.

9. The learned counsel for the petitioner submits that the respondents, *vide* order dated 18.07.2022, granted notional promotion and retrospective seniority only to the petitioners of the aforementioned writ petitions, which resulted in a grave anomaly inasmuch as the officers significantly junior to the petitioner were granted the benefit of retrospective seniority, which was not extended to the petitioner herein. The learned counsel further submits that, for instance, A S Minimol, who was much junior to the petitioner and was appointed at a much later point of time, was given notional promotion to the rank of AC with effect from 14.12.2009, whereas the rank of the petitioner as AC remained unchanged with effect from 2014, and she was, in fact, made five years junior to her juniors.

10. The learned counsel for the petitioner further submits that the petitioner, aggrieved by the aforesaid action, preferred a representation dated 12.10.2022, thereby seeking the extension of same benefit as had been granted to her immediate juniors. As the respondents failed to extend the benefits of the Judgment of this Court as well as of the Supreme Court to the petitioner, she filed the present writ petition before this Court.

11. *Per contra*, the learned counsel for the respondents submits that



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the Judgement of this Court in ***Kalawati Thakur***(supra) has been challenged by one of the affected personnel before the Supreme Court in the form of Special Leave Petition (C) Diary No. 2949/2022, titled ***Prajeet Singh &Anr. v. Kalawati Thakur & Ors. Etc.,*** and the same has been tagged with another Special Leave Petition, being SLP(C) No.754/2022 titled ***Union of India & Ors v. Manorama Singh and Ors.*** He submits that as the issue is pending before the Supreme Court, the relief as claimed by the petitioner should not be granted.

12. The learned counsel for the petitioner contends that in ***Kalawati Thakur*** (supra), there is no order staying the operation of the judgement passed by this Court. In fact, the respondents have accepted the said judgement and have not challenged the same. As far as ***Manorama Singh*** (supra) is concerned, the learned counsel for the petitioner submits that the same raised another issue and, therefore, is not applicable to the facts of the present case.

13. We have considered the submissions made on behalf of the parties and, perused the record as well as the judgments relied upon at bar.

14. In pursuance to the Judgment of this Court in ***Bijlu A.T. v. Union of India*** (supra) and the Judgment of the Supreme Court in ***Union of India v. Inspector GD (Mahila) Bijlu A.T.,*** it was mandatory for the respondents to issue a common seniority list for male and female officers in the rank of SI(GD). By virtue of an affidavit filed by the respondents before the Supreme Court, they have stated therein that they have already issued a combined gradation list of all SIs(GD) male and female as on 01.04.2005.



15. In ***Kalawati Thakur*** (supra), and ***Nayan Nandi*** (supra), this Court by its Judgment dated 11.03.2019, reiterated the same position of law as under:-

“34. A careful perusal of the above judgments of this Court and the Supreme Court reveals that on the fundamental issue of the need for a combined seniority list of female and male SIs the Supreme Court upheld the judgment of this Court. In other words, it was made clear that there cannot be separate seniority lists for male and female candidates in the same post when they had qualified through a common selection process. It was observed by the Supreme Court that if the writ petitioners were entitled "for consequential benefits on the basis of such common seniority list, they may claim the same separately."”

16. A careful review of the decisions of this Court and the Supreme Court reveals that on the fundamental issue of the need of a combined seniority list of male and female SIs, the Supreme Court upheld the Judgment of this Court. It was observed that there cannot be a separate seniority lists for male and female candidates in the same post when they had qualified for the said post through a common selection process. Moreover, the original petitioners who were entitled to consequential benefits on the basis of such common seniority could have claimed the same separately.

17. We are, therefore, of the opinion that the present petition deserves to be disposed of with similar directions as contained in ***Kalawati Thakur***(supra). The respondents are directed to act accordingly.



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18. The petition is disposed of with the above directions.

SHALINDER KAUR, J

NAVIN CHAWLA, J

NOVEMBER 12, 2024

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Click here to check corrigendum, if any

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