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

+ **W.P.(C) 12224/2024**

HEMANT SHARMA & ORS.

.....Petitioners

Through: Mr. Harpreet Singh, Ms. Suhani Mathur, Mr. Jatin Kumar and Mr. Iqbal Singh Bedi, Advocates.

versus

**PRINCIPAL DISTRICT AND
SESSIONS JUDGE (HQS)**

.....Respondent

Through: Mrs. Avnish Ahlawat, Standing Counsel with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **03.09.2024**

CM APPL. 50859/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 12224/2024

3. This writ petition has been preferred by the Petitioners under Articles 226 and 227 of the Constitution of India, laying challenge to an order dated 24.05.2024, by which the representation of the Petitioners for fixing their seniority correctly has been rejected *albeit* after giving an opportunity of personal hearing to the representationists of the Petitioners. Direction is also sought to the Respondent to forthwith issue a fresh seniority list according correct seniority position to the Petitioners *inter se* Lower Divisional Clerks (LDCs) who joined the Respondent in the year 1992.



4. Case of the Petitioners is that they had joined the establishment of the Respondent on various dates ranging between 22.05.1983 to 23.12.1989 on *ad hoc* basis on the post of LDCs. Following a host of litigations pertaining to regularisation and fixation of seniority of the Petitioners and after the seniority issue gained a quietus before the Supreme Court, Respondent passed an order dated 17.10.2022 whereby appointments of the Petitioners as LDCs was regularised from the respective dates of their initial joining on *ad hoc* basis. However, while passing the said order, the seniority of the Petitioners was not determined and despite an order of this Court in the earlier round of litigation in W.P. (C) No. 5349/2024 directing the Respondent to treat the writ petition as a representation and decide the same, Respondent has rejected the representation by a sketchy, non-speaking and unreasoned order. It is urged by the Petitioners that no reason is forthcoming in the impugned order as to why the Committee recommended that the present seniority position of the Petitioners has been correctly fixed.

5. Issue notice.

6. Mrs. Avnish Ahlawat, learned Standing Counsel accepts notice on behalf of Respondent.

7. There is merit in the contention of the Petitioners that the impugned order dated 24.05.2024 is a non-speaking and unreasoned order. Petitioners have repeatedly represented against fixation of their seniority, which according to them, has been incorrectly fixed. In W.P. (C) No. 5349/2024, this Court had vide order dated 15.04.2024 directed the Respondent to treat the writ petition as a representation and decide the same in accordance with Rules and Regulations. In the writ petition, a number of grounds were highlighted by the Petitioners to assail their seniority positions, however, the



impugned order contains no reason why the Committee did not find any merit in the grievances ventilated by the Petitioners and it is simply recorded that a Notification has already been issued on 05.07.2023 whereby the seniority list was circulated placing the Petitioners at the seniority positions on the basis of their joining, overlooking the fact that it is the placement in the seniority list which is the cause of grievance. Therefore, in my view, it would be appropriate at this stage to direct the Respondent to re-consider the matter and take a fresh decision in accordance with law within a period of eight weeks from the date of receipt of the order. Needless to state that the Respondent shall pass a reasoned and speaking order indicating the reasons/factors forming the basis of the decision. The order will be communicated to the Petitioners within one week of the decision and it will be open to Petitioners to take recourse to legal remedies in case of any surviving grievance and if so advised.

8. Petition stands disposed of.

JYOTI SINGH, J

SEPTEMBER 3, 2024/DU/shivam