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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11373/2016, & CM APPL. 44620/2016,
CM APPL. 26486/2017, CM APPL. 5720/2019

UNION OF INDIA & ORS

..... Petitioners

Through: Mr. Ruchir Mirshra, Mr. Mukesh Kr.
Tiwari and Ms. Reba Jena Mishra,
Advocates

versus

RAJ BALA KASHYAP & ORS

..... Respondents

Through: Dr. M.P. Raju and Mr. Krishna
Kumar Mishra, Advocates for R-16,
LRs of R-18 and R-20

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

22.04.2024

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1. The present petition under Article 226 and 227 of the Constitution of India, seeks to assail the order dated 01.09.2016 passed by the learned Central Administrative Tribunal in O.A. No.2459/2015. Vide the impugned order, the learned Tribunal has allowed the original application preferred by respondent nos.1 to 9, thereby quashing the seniority list dated 18.06.2015 issued by the petitioners. Consequently, the Tribunal has directed that the inter se seniority of those *ad hoc* senior translators who were regularized be granted by taking in to account their service from the date of their respective regularization as against from the date of their initial appointment.

2. The sole submission of the learned counsel for the petitioner is that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that the Apex Court had already passed in Civil Appeal No.6202 of 2012, decided this dispute of seniority between the direct recruits and the



promotees of the same Department vide its order dated 28.08.2012 in Civil Appeal No. 6202/2012. to which appeal some of the respondents are employed. He contends that the Apex Court had specifically directed the petitioners to fix *inter se* seniority of direct recruits and promotees from the respective dates of their ad hoc appointment. He, therefore, prays that the impugned order be set aside.

3. While learned counsel for respondent nos.1 to 9 submits that he is not receiving any instructions from his clients, learned counsel for the respondents no. 16, 18 and 20 adopts the stand taken by the petitioners and submits that since all the parties are bound by the directions issued by the Apex Court in its order dated 28.08.2012, the petition be allowed by directing the petitioner to re-fix the seniority as per the aforesaid decision of the Apex Court.

4. Having considered the submissions of the learned counsel for the parties, we find that the sole submission of the learned counsel for the petitioners as also of the learned counsel for respondent nos. 16, 18 and 20 is that the directions issued by the learned Tribunal regarding the manner of fixation of *inter se* seniority of the direct recruits and promotes is contrary to the directions issued by the Apex Court in Civil Appeal No. 6202/2012.

5. In order to appreciate this plea of the parties, we may first note the relevant extracts of the decision of the Apex Court in Civil Appeal No.6202 of 2012 dated 28.08.2012. The same reads as under:

“In our opinion, the case of the respondents is squarely covered under category ‘B’ and they were rightly held to be entitled to seniority from the dates they had been initially appointed even though the order of regularization was issued on 2.11.1994.(emphasis supplied) The appellants were also



entitled to the seniority from the date of initial appointment under the same clause even though the appellants claimed to have succeeded in the examination held in 1988 and appointed upon consultation with the U.P.S.C. Practically, it appears that there is absolutely no difference in the manner in which the initial appointment was made of the appellants as well as the respondents. They were all appointed without the consultation with U.P.S.C. Furthermore, it is a matter of record that all of them have continued in service without any break.”

6. We may now note the relevant extracts of the directions issued by the Tribunal in its impugned order. The same reads as under:

“5. We are of the considered view that the impugned seniority list has not been issued in accordance with the directions of the Hon'ble Supreme Court dated 28.08.2012 and 01.08.2013. This OA is accordingly allowed with the following directions:

(a) The impugned seniority list dated 18.06.2015 is hereby set aside and quashed.

(b) The official respondents are directed to re-arrange the seniority of the direct recruits and promotes whose ad hoc period has been regularised, in the ratio of 30:70 as per the recruitment rules.

(c) The direct recruits recruited in a particular calendar year would rank senior to the regularised ad hoc Senior Translators, who were regularised in that year.

*(d) The inter sc seniority of ad hoc regularised Senior Translators would be from the date of their respective regularisation. **(emphasis supplied)**. However, it will not affect the direct recruits who were appointed directly through UPSC and they would be inducted in their respective slots in the years of their recruitment above regularised Senior Translators, notwithstanding their date of initial appointment on ad hoc*



basis.”

7. When the aforesaid directions issued by the Tribunal in its impugned order, thereby directing the petitioners to accord seniority to the adhoc regularized Senior Translators from the date of their respective regularization are considered in the light of the directions issued by the Apex Court, we are inclined to agree with the petitioners that the directions issued by the Tribunal are contrary to the directions issued by the Apex Court and that too in the same lis between the parties. We fail to appreciate as to how, in the light of categorical directions issued by the Apex Court directing the petitioners to fix the seniority of the concerned Senior Translators with effect from the date of their ad hoc appointment, the learned Tribunal could have issued directions to grant them seniority only from the date of their regularization. We, therefore, have no hesitation in setting aside the impugned order and restoring the seniority list dated 18.06.2015, which was quashed by the learned Tribunal.

8. The writ petition is accordingly allowed by directing the petitioners to work out the benefits accruing to the respondents in terms of the seniority list dated 18.06.2015 within a period of 12 weeks. However, taking into account that some of the employees who were beneficiaries of the impugned order may have already superannuated during the pendency of the present petition, it is directed no recoveries, if found due, will be made from any of the employees after restoration of the seniority list dated 18.06.2015.



9. The writ petition, along with the pending applications, is allowed in the aforesaid terms.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

APRIL 22, 2024/ns