

GAHC020004672023

2025:GAU-NL:324-DB



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**  
**KOHIMA BENCH**

**Case No. : WA/10/2023**

SMTI. SASHILA LONGKUMER  
UBSI, WOMAN POLICE,  
INSPECTOR GENERAL OF POLICE (INT),  
ESTABLISHMENT , NAGALAND, KOHIMA

VERSUS

THE STATE OF NAGALAND AND 6 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF  
NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
NAGALAND

PERSONNEL AND ADMINISTRATION REFORMS DEPARTMENT  
NAGALAND  
KOHIMA

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
NAGALAND

HOME DEPARTMENT  
NAGALAND  
KOHIMA

4:THE DIRECTOR GENERAL OF POLICE

NAGALAND  
KOHIMA

5:THE INSPECTOR GENERAL OF POLICE (HQRS)

NAGALAND  
KOHIMA

6:THE DEPUTY INSPECTOR GENERAL OF POLICE (HQ)

NAGALAND  
KOHIMA

7:SMTI. HENYILE KENT

UBSI  
WOMAN POLICE

C/O THE DIRECTOR GENERAL OF POLICE

NAGALAND  
KOHIMA

**Advocate for the Petitioner** : T. B. JAMIR, KILEM JAMIR, I JAMIR

**Advocate for the Respondent** : GOVT ADV NL,

**::: B E F O R E :::**

**THE HON'BLE MR. JUSTICE BUDI HABUNG  
THE HON'BLE MRS. JUSTICE SHAMIMA JAHAN**

Date of hearing : 16.07.2025

Date of judgment : 22.07.2025

**J U D G M E N T & O R D E R (CAV)**

***(Shamima Jahan, J)***

This writ appeal is preferred against the common Judgment & Order dated 11.08.2022 passed in WP(C) No. 85/2016 and other analogous petitions, by which the learned Single Judge was pleased to reject the

grievance of the appellant/petitioner along with other similarly situated persons, mainly on the ground of delay and laches in approaching the Court to ventilate their grievances. The appellant however has confined the challenge to the said Judgment & Order only in respect of three prayers i.e., prayer Nos. 10, 13 & 14 of the writ petition. The appellant/petitioner had challenged the order dated 4.10.2013 passed by the DGP, Nagaland by which 50 numbers of ASIs including the petitioner were declared to have passed the Central Promotion Test and were kept in the Fit List for promotion to the posts of Unarmed Branch Sub-Inspector on the ground that she was eligible for promotion by way of her placement in the Fit List way back in 2008. The appellant had also challenged the impugned order dated 30.03.2015 by which respondent No. 7 was promoted to the rank of UBSI instead of the petitioner. The appellant had further prayed for her promotion to the rank of UBSI by giving retrospective effect. The said three prayers are reproduced below:-

*“10. Impugned Office Order No. PHQ(B-II)2/CPT/GEN/2013, dated 04-10-2013, (Annexure-25) passed by the Director General of Police, Nagaland, Kohima. Central promotion Test was conducted from 25/26.09.2013 and on the recommendation of the Board 50 (fifty) ASIs were declared pass and kept in the Fit List for promotion to UBSI, particularly inclusion of petitioner’s name.*

*13. Impugned Office Order No. PHQ(B-II)2/GEN/CPT/2013/1214, dated 30.03.2015 passed by the Director General of Police, Nagaland, Kohima, promoting from CPT Fit List as many as 10 (ten) ASI to the rank of UBSI namely:*

*(1) Renthungo Humtsoe*

*(2) Janbemo Patton*

*(3) Khekhato Jakhalu*

*(4) T. Abenla Ao*

*(5) Rhinilo Keppen*

*(6) Punyu-u Angami*

***(7) Hinyele Kent***

*(8) Imlimadong Chang*

*(9) Dhomong Enyieo*

*(10) Nribemo Humtsoe*

*14. To promote the petitioner to the rank of UBSI (W.P) with retrospective effect as per CPT Fit List dated 31.03.2008 with all benefits."*

## **FACTS**

**2.** The petitioner was appointed on 03.12.1988 on the recommendation of the Selection Board along with 8 others as Assistant Sub-Inspector (Female) by the Director General of Police, Nagaland, Kohima. The seniority of all the Assistant Sub-Inspectors were stated to be in order of their placement in the Appointment Order as per recommendation of the Selection Board. The petitioner was placed at Serial No. 4 whereas the respondent No. 7 was placed at Serial No. 8 in the said List.

**3.** Thereafter, on 28.09.2007 by an Office Memorandum, the final seniority list of the ASI was published wherein, the appellant/petitioner was placed at Serial No. 8 and the respondent No. 7 was placed at Serial No. 16. Subsequent thereto, on 05.02.2008, the petitioner/appellant along with 9 other ASIs were sent for Central Promotion Test (CPT) for promotion to the rank of UBSI. The petitioner qualified in the said Test along with others and the DGP, Nagaland on the recommendation of the Selection Board promoted the senior most ASIs to the rank of UBSI keeping the petitioner/appellant along with others in the Fit List for promotion to the rank of UBSI. The appellant was kept in Serial No. 5 of the said Fit List. Thereafter, the first 2 ASIs enlisted in the Fit List were promoted to the rank of UBSI on 24.10.2008 and 01.04.2011 respectively. In the said Fit List the name of the respondent No. 7 was not present.

**4.** On 30.09.2009, the office of the DGP, Nagaland published the combined tentative seniority list of both male and female in various ranks. However, in the said list the name of the appellant did not find place whereas the name of the respondent No. 7 was shown at Serial No. 47. However, the said tentative Seniority list was superseded and another tentative seniority list was published in which the appellant was shown at Serial No. 101 and respondent No. 7 was shown at Serial No. 82. Thereafter, another tentative seniority list of UBSI and ASI was published wherein the name of the appellant was shown at Serial No. 104 and the respondent No. 7 was shown at Serial No. 89.

**5.** Consequently, due to the promotion of 15 numbers of UBSI to UBI six vacant post of UBSI occurred to which the appellant submitted

representation for her promotion. However, the same was not considered by the authorities concerned.

**6.** Thereafter, another CPT of ASI was conducted from 25.09.2013 to 26.09.2013 and in the said test, 50 numbers of ASIs both male and female were declared to have passed and were kept in the Fit List for promotion to the higher rank of UBSI on 04.10.2013. In the said order, it was mentioned that the ASI in the Fit List will be given promotion as per the sequence in order of seniority cum merit to the rank of UBSI. In the said Fit List, the name of the appellant was at Sl. No. 44 and the name of respondent No. 7 was shown at Sl. No. 33.

**7.** The appellant being aggrieved by the said Fit List dated 04.10.2013 on the ground that she was already in the Fit List of 2008, she submitted representation to the DGP, Nagaland which was however not considered. The appellant thereafter filed a writ petition before the Hon'ble High Court challenging the said Fit List and with other reliefs. During the pendency of the said writ petition, respondent No. 7 was promoted to the post of UBSI on 30.03.2015. The appellant withdrew the said writ petition with a liberty to file afresh which was allowed by the High Court.

**8.** The appellant thereafter filed the subsequent writ petition being WP(C) No. 85(K)/2016 challenging the promotion order of respondent No. 7 dated 30.03.2015 with a further prayer to promote the appellant with retrospective effect as per CPT Fit List dated 31.03.2008 along with other reliefs. The learned Single Judge after hearing the petitioner/appellant as well as other similarly situated writ petitioners passed the common

Judgment & Order dated 11.08.2022 by holding inter alia that although the petitioner along with others have passed the CPT and was kept in the Fit List, the same do not entitle them for promotion without there being any vacancy or good ACRs for the past 5 years in respect of the petitioners. The learned Single Judge also held that the petitioners including the appellant did not challenge the Seniority List of male and female personnel as well as the Final Seniority List and the appointments in time and that in 2014, the petitioners for the first time approached this Court by filing writ petitions. The learned Single Judge also held that after the appellant/petitioner withdrew the petition she filed the subsequent petition after three months. As such, the learned Single Judge held that no writ could be issued as regards the reliefs sought for in the said writ petitions due to delay and laches on the part of the petitioners. Against this Judgment and Order, the instant appeal is filed.

### **Submissions**

9. Mr. T.B. Jamir, learned counsel appearing for the appellant submits before this Court that he has confined his prayers in this writ appeal only to the extent that the appellant having qualified CPT on 05.02.2008 should not have been shown again in Fit List on 04.10.2013 and that the promotion of respondent No. 7 to the rank of UBSI from the Fit List on 30.03.2015 instead of the appellant is bad in law and that to promote the petitioner/appellant to the rank of UBSI with retrospective effect as per Fit List dated 31.03.2008. The counsel placed the said order in which the appellant was shown in Sl. No. 5 and it was written in the order that the list is prepared as per seniority cum merit and the promotion to be given

as and when vacancy arises subject to of course good ACRs for the preceding 5 years. He further submitted that when the subsequent CPT was conducted by which 50 numbers of ASIs were declared successful and were kept in the Fit List for promotion to higher rank, the appellant objected to the same as she has cleared the said test in the year 2008. The Ld. Counsel further submits that the appellant submitted her representation to the DGP, Nagaland, Kohima, however, in reply to her representation the DGP stated about encadrement of post and maintenance of common seniority list. He submitted that the grievance of the appellant that she was left out from consideration of her promotion to the higher post was not dealt with in the said reply.

**10.** In this connection, he placed the Nagaland Police Manual promulgated under Article 309 of the Constitution of India. He placed the notification dated 08.03.2010 by which the Nagaland Police Manual containing 6 parts was notified by the Govt. of Nagaland. The notification reads as under:

“NOTIFICATION

*NO.POL-1/ESTT/99/2003 :: In exercise of the powers conferred under the Article 309 of the Constitution of India, the Governor of Nagaland is pleased to notify the Nagaland Police Manual containing 6 (six) parts for regulating the recruitment and conditions of the service of personnel appointed to the Nagaland Police Force.*

*Sd/-  
SASHINARO*

*Deputy Secretary to the Govt. of Nagaland*

**11.** The learned counsel placed Rule 34 of the Nagaland Police Manual wherein it was provided that the office of the Inspector General and Director General of Police will conduct the CPT for promotion to various posts including the UBSI. It is further provided that the concept of merit cum seniority is to be applied in all the promotion tests and that an officer has to qualify the basic minimum test (CPT) required for the promotion to the next higher rank. It further provided that no junior batch will supersede the senior batch basing on the result of the promotion test unless the senior fails. It also provided that the concerned authority will conduct the CPT every year or well ahead of the exhaustion of those in the Fit List. The counsel as such submits that in the instant case, the said provision was not followed inasmuch as, before exhaustion of the ASIs from promotion to the higher rank as enumerated in the Fit List, the concerned authority conducted another CPT and published a new Fit List wherein the appellant was included in the list down below respondent No. 7. As such, the counsel submits that in view of the same, a patent error crept in the Judgment of the learned Single Judge which requires interference. To substantiate his argument, the counsel for the appellant relied on the following Judgments:-

(1) Starline Agency Vs. Nobajit Das & Ors reported in 2011 SCC OnLine Gau 657.

(2) Mota Mandir Trust & Ors. Vs. State of Maharashtra & Ors reported in 2006 9 SCC 379.

(3) Prabhat Ranjan Singh Vs. R.K. Kushwaha reported in (2018) 18 SCC 1.

**12.** Ms. V. Soukhrie, learned Addl. Advocate General on the other hand submits that there are no statutory rules for regulating recruitment and other conditions of service of ASI/UBSI/ABSI and that recruitment to these posts is done as per notification dated 24.09.2004 issued by the Government by which the power of recruitment to the said post is delegated to the DGP. She also submits that a common seniority list of male and female officers in UBSI/ASI was published way back in 2011 and that the petitioner did not challenge the same in time. She also submits that the seniority lists were also not challenged for years altogether and that placement of the petitioner in the Fit List for promotion, does not give the petitioner any indefeasible right for promotion. As such, she submitted that there are delay and laches on the part of the appellant. She further relied on the findings of the learned Single Judge to the effect that being in the Fit List will not entitle the petitioners for promotion unless there are vacancies and good ACRs for the last five years.

**13.** Further, there is no representation on behalf of Respondent No. 7 although notices were served upon the said Respondent. The office note dated 16.08.2024 reflects that the notice upon Respondent No 7 was issued on 29.05.2024 and on tracking the receipt from the Indian Postal Website, it showed the item as delivered. Since there was no representation and it is almost a year since the notice was served, the hearing of the present appeal is taken up for the ends of justice.

**14.** In the back dropped of these submissions, this Court is called upon to look into the grievance of the appellant especially in view of Rule 34 of the Nagaland Police Manual.

## **ANALYSIS**

**15.** It is not in dispute that the petitioner had passed the CPT, conducted on 11.02.2008 and she was kept in the Fit List for promotion to the rank of UBSI at Sl. No. 5 vide order dated 31.03.2008. In the said order, it was reflected by the Director General of Police, Nagaland that the list is prepared as per seniority cum merit and that the promotion will be given as and when vacancy arises subject to good ACRs for the preceding 5 years.

**16.** Thereafter, on 24.10.2008, the ASI ranked at Sl. No. 1 in the fit list dated 31.03.2008 was promoted to the rank of Sub-Inspector against the existing vacancy. Thereafter, again on 01.04.2011, the ASI ranked at Sl.No. 2 in the Fit List dated 31.03.2008 was promoted to UBSI against the resultant vacancy. It be stated herein that on 22.01.2008, 11 numbers of UBSI (female) were directly appointed to the said post which according to the Rule should be filled up in the ratio of 50:50 by promotion and direct recruitment. In the meanwhile, on 30.09.2009, a tentative seniority list was published without showing the appellant in the said list whereas the name of the respondent No. 7 was shown at Sl. No. 47. Thereafter, 2 numbers of tentative seniority lists were published in 2010 and 2011 wherein, the appellant was shown junior to respondent No. 7. Thereafter, on 15.09.2010, the DGP, Nagaland issued an order by which 11 ASIs were said to have qualified the CPT and were given promotion to the rank of UBSI. Thereafter, again on 14.04.2011, another 13 ASIs who cleared the CPT were given promotion to the rank of UBSI.

**17.** On 05.07.2011, an Office Memorandum was issued by which it was intimated that the Home Department has encadred all posts of Women

Police Unarmed Branch Inspectors with the General Unarmed branch Inspectors (Male) to allow a common channel of promotion for both male and female. Thereafter, on 21.09.2011 as many as 15 UBSIs were promoted to the rank of UBI out of which 6 of them were women police which resulted in 6 numbers of vacancies in UBSI and by applying the ratio of 50:50 between direct recruits and promotees, 3 post of UBSI was to be filled from serving ASI who had cleared the CPT. As such, on arising of the vacancies the petitioner submitted a representation to the Director General of Police on 14.10.2011 for her promotion to the rank of UBSI. However, before considering the representation, the DGP appointed 3 UBSIs by way of direct recruitment on 29.11.2011.

**18.** Thereafter on 04.10.2013 an order was passed by which it was declared that CPT was conducted on 26.09.2013 and on the recommendation of the Board, 50 numbers of ASIs were declared successful and were kept in the Fit List. In the said Fit List, respondent No. 7 was shown at Sl. No. 33 and the appellant was shown at Sl. No. 44 and she was shown as exempted. It was further stated in the said order that the ASIs in the Fit List will be given promotion in the sequence mentioned therein in order of seniority cum merit to the rank of UBSI as and when vacancy arises subject to good ACRs for the last 5 years. The appellant was not sent for CPT, 2013 as she has cleared and kept in Fit List on 31.03.2008 itself. Thereafter, on 09.10.2013, 13 numbers of ASIs were promoted to the rank of UBSIs and these 13 numbers of UBSIs were in the Fit List of 2013.

**19.** Being aggrieved by the said promotions, the appellant in continuation of earlier representation submitted to the DGP, further prayed

for her promotion ahead of her juniors on 26.10.2013 which was not again considered in the proper prospective. The appellant thereafter filed a writ petition before the Hon'ble High Court which was numbered as WP(C) No. 9(K)/2014 on 27.01.2014. During the pendency of the aforesaid writ petition, on 30.03.2015, 10 numbers of ASIs including respondent No. 7 were promoted to the rank of UBSI out of which 3 of them were women police. In view of the said promotion, the appellant withdrew the writ petition with the liberty to file a fresh petition. The appellant thereafter filed writ petition No. 85/2016 which was heard along with the other analogous writ petitions and the impugned judgment was delivered.

**20.** During the appeal, a new law point was raised by the counsel appearing for the appellant. The appellant relied upon the Nagaland Police Manual. It be stated here that prior to coming into force of the Nagaland Police Manual, the Assam Police Manual was adopted in the State of Nagaland. The said Nagaland Police Manual was promulgated in exercise of the powers conferred under Article 309 of the Constitution and the same is published in the Nagaland Gazette on 31.08.2018. Under Rule 34 of the Nagaland Police Manual, it is provided that an officer, for promotion to the next higher rank, should qualify the CPT and that no junior batch will supersede the senior batch. It is also provided that the office of the Director General of Police should conduct the CPT every year or well ahead of the exhaustion of those in the Fit List. Rule 34 is reproduced herein below:-

***“34. Central Promotion Tests for Promotions.***

*(a) The Office of the Inspector General and Director General of*

*Police will conduct the Central Promotion Test for promotions to the rank of Inspector (both the Armed Branch and the Unarmed Branch), the Sub Inspector (both the Armed Branch and the Unarmed Branch), the Assistant Sub Inspector, the Head Constable in the Unarmed Branch and the Havildars in the Armed Branch.*

- (b) The respective Units shall conduct promotion test for all the ranks subordinate to the above ranks.*
- (c) The concept of 'merit cum seniority' is to be applied in all the Promotion Tests conducted by the department to the extent that an officer has to qualify the basic minimum test (CPT) required for the promotion to the next higher rank. No junior batch will supersede the senior batch basing on the result of the Promotion Test, unless the senior fails to appear or fails to pass three such consecutive Test or, before the senior passes the Tests, vacancy arise and the junior, is in the fit list, and promotion affected already.*
- (d) The Office of the Inspector General and Director General of Police will conduct the Central Promotion Test every year or well ahead of the exhaustion of those in the fit list. The subordinate Units shall also conduct the promotion test for all other subordinate ranks in a similar manner."*

**21.** A bare perusal of the said provision makes it clear that the promotion would be on the basis of merit cum seniority and that one has to qualify the CPT before the said promotion and no junior would

supersede a senior unless the senior fails to pass the exam. It was also provided that the CPT would be conducted every year or well ahead of the exhaustion of the employees who were in the Fit List and who were appointed. In the instant case, it is noticed that the appellant was put in the Fit List on 31.03.2008 at Sl. No. 5 and thereafter, many vacancies arose and the appointments given but she was not accommodated.

**22.** The learned Addl. Advocate General by relying on the affidavit in opposition filed by her, had stated that there is no statutory rules for regulating recruitment and other conditions of service of ASI, UBSI and ABSI. It be stated herein that the period when the appellant was appointed or kept in the Fit List, Nagaland Police Manual was not in force. The Assam Police Manual was in force being adopted in the State of Nagaland which provided the criteria of seniority cum merit during promotion. In 2018, the Nagaland Police Manual was published in the Gazette and since then it is in force.

### **FINDINGS**

**23.** It is apposite to deal with the issue as to whether a new law point can be raised in the appellate stage. The provision aforesaid was not placed during the writ proceedings. In this connection, the decision rendered by the Supreme Court in Chittoori Subbanna Vs. Kudapa Subbanna reported in AIR 1965 SC 1325 may be referred to, wherein it was held that pure question of law not depending on facts can be allowed for the first time in appeal or even at a later stage. The relevant portion may be reproduced below:-

*“.....It is urged before us for the appellant that the High Court was*

*in error in not allowing the appellant to have raised the objection based on the provisions of Order 20 Rule 12 CPC. We agree with this contention. The question sought to be raised was a pure question of law and was not dependent on the determination of any question of fact. The first appellate court ought to have allowed it. Such pure questions of law are allowed for the first time at later stages too."*

*Further Lord Watson, in Connecticut Fire Insurance Company v. Kavanagh, 1892 A.C. 473 stated the law thus :*

*11"When a question of law is raised for the first time in a Court of last resort upon the construction of a document or upon facts either admitted or proved beyond controversy, it is not only competent but expedient in the interest of justice to entertain the plea. The expediency of adopting that course may be doubted when the plea cannot be disposed of without deciding nice questions of fact in considering which the Court of ultimate review is placed in a much less advantageous position than the courts below. But their Lordships have no hesitation in holding that the course ought not in any case to be followed unless the court is satisfied that the evidence upon which they are asked to decide establishes beyond doubt that the facts if fully investigated would have supported the new plea."*

**24.** It is therefore no res integra that question of law can be raised in the appellate stage for the first time.

**25.** It will not be out of context to mention herein that the procedural laws are retrospective in nature meaning thereby that they can apply to pending cases unless the law explicitly states otherwise. The principle is

based on the understanding that procedural laws governs the process of legal proceedings and their application to existing cases does not create new obligations or rights. The Honble Supreme Court has time and again had observed in many decisions with regard to the said principle. In T. Kalliamuthi Vs. Five Gori Thaikal Wakf, reported in (2008) 9 SCC 306, the Apex Court had held in the following terms:-

*“.....It is well settled that no statute shall be construed to have a retrospective operation until its language is such that would require such conclusion. The exception to this rule is enactments dealing with procedures.....”*

**26.** Further, in the order dated 31.03.2008 by which the appellant was put in the Fit List, two more riders were put therein viz., the incumbent would be promoted to the rank of UBSI only on arising of vacancies as well as good ACRs for the preceding 5 years. It is nowhere in the record of the case, neither it was raised by the Govt. Advocate that there were no vacancies after 2008 to accommodate the appellant or the ACRs of the appellant for the past 5 years were not good. Rather it was noticed and as stated above, many vacancies arose in the rank of UBSI after 2008 where appointments were made. In absence of the averments that no vacancies were available to accommodate the appellant or the appellant had bad ACRs, there appears no impediment to consider the appellant for promotion to the post of UBSI.

**27.** Further, as far as the issue of delay and laches in respect of the appellant is concerned, it is noticed that the appellant was put in the Fit List in the year 2008 and thereafter, on arising of vacancies, two of her seniors were accommodated in the year 2008 and 2011 and thereafter,

when post of UBSI fell vacant, she submitted representation which was not considered and thereafter, in 2013 when another Fit List was published where she was placed junior to respondent No. 7, she again submitted her representation in the year 2013 which was again not considered in the proper sense of the term. Thereafter, she filed the writ petition, which was withdrawn due to the fact that during the pendency of the same, respondent No. 7 was promoted and filed a fresh writ petition thereafter.

**28.** In view of the facts and law narrated above, this Court therefore holds that the appellant should have been considered for promotion to the post of UBSI on the criteria as well as by following Rule 34 of the Nagaland Police Manual.

**29.** The prayer of the appellant is for promoting her to the rank of UBSI with retrospective effect i.e., as per CPT Fit List dated 31.03.2008 with all the consequential benefits. It is well settled that being in the list, does not entitle the employee for promotion. The Hon'ble Supreme Court has laid down the above principle in a catena of Judgments.

**30.** In A.N. Sehgal And Ors. Vs. Raje Ram Sheoram and Ors reported in 1992 Supp (1) SCC 304, the Hon'ble Apex Court had held in the following terms;

*“18. It is settled law that appointment to a post in accordance with the rules is a condition precedent and no one can claim appointment to a post or promotion, as of right, but has a right to be considered in accordance with the rules. Appointment by promotion or direct recruitment, therefore, must be in accordance with the rules so as to become a member of the*

*service in a substantive capacity. Seniority is to be fixed in accordance with the principles laid down in the rules.”* Although it is a settled position, yet there should not be any violation of Article 14 and 16 of the Constitution of India.

## **CONCLUSION**

**31.** It is an admitted fact that appellant as well as respondent No. 7 were appointed vide order dated 03.12.1998 and in the said appointment order, the appellant was placed at Sl. No. 4 and respondent No. 7 was placed at Sl. No. 8. The order also provides that the inter-se-seniority of the ASIs shall be in the order arranged therein, which shows that the petitioner was senior to the respondent No. 7.

**32.** In the final seniority list of ASI, Women Police published on 28.09.2007, the appellant was placed at Sl. No. 8 and respondent No. 7 was placed at Sl. No. 16. However, later in the seniority list, respondent No. 7 was shown senior to the appellant.

**33.** It is also an admitted fact that the petitioner had passed the CPT and was put in the Fit List in 2008 whereas, the respondent No. 7 had passed the CPT and was put in the Fit List in the year 2013 as mentioned above. However, leaving the appellant, the respondent No. 7 was promoted in view of the Fit List dated 31.03.2015. As such, it is noticed that the appellant was senior to the respondent No. 7 and without there being any adverse remarks in the ACRs and without there being any findings that vacancies were not available, the appellant should have been considered for promotion. As such, it is directed that the Director General of Police, Nagaland should reconsider the seniority position of the

appellant and others in its proper perspective and award consequential benefits to the appellant in accordance with law, even to the extent that the competent authority/DGP may consider creation of supernumerary post to accommodate the appellant.

**34.** The appeal is disposed of as partly allowed. No Order to costs.

**JUDGE**

**JUDGE**

*Dika*

**Comparing Assistant**