

27.01.2025
(D/L-1)
Ct. No.4
(Naba)

W.P.C.T. 179 of 2015

**Santosh Kumar Thakur & Ors.
Vs.
Comptroller & Auditor
General of India & Ors.**

Mr. S.K. Datta,
Mr. Barun Chatterjee

...for the Petitioners

Mr. Pinaki Bhattacharyya

...for the Respondent Nos.1 to 4

1. Supplementary Affidavit filed on behalf of the respondents is taken on record.
2. Heard the learned counsel for the petitioners and the learned counsel for the respondents.
3. The parties are *ad idem* that the issue attained finality, which is evident from an affidavit filed by the respondents. Paragraphs 6 to 8 of the same are relevant in this regard and are thus being reproduced herein:

“6. That, in compliance of the directions passed by this Hon'ble Court in the aforesaid orders, Respondent nos. 1 to 4 vide the present affidavit it is submitted that a recent development has taken place but prior to addressing said submissions, it is imperative to revisit the essential aspects of previous litigation relevant to the contents of this affidavit.

i) Briefly stated, in the matter of *Deepak Sharma & Ors. v. CAG of India & Ors.*, O.A. No. 125 of 2025, the *Ld. Central Administrative Tribunal, Chandigarh Bench*, *inter alia*, directed that inter-se seniority of the Applicants be determined from their date of initial appointment and not from their date of confirmation into service. The final order was challenged before the *Hon'ble High Court of Judicature for Himachal Pradesh at Shimla*, which, *vide its judgment dated 06.11.2023* decided against the present Respondents and upheld the final order passed by the *Ld. Central Administrative Tribunal, Chandigarh Bench.*, The judgment passed by the *Hon'ble High Court at Shimla* was challenged before the *Hon'ble Supreme Court* by way of SLP No. 12997 of 2024. The *Hon'ble Supreme Court vide its final order dated 17 May 2024* dismissed the SLP.

In compliance thereof, the present Respondents are in the process of the implementation of the judgment pronounced by the *Hon'ble High Court at Shimla* in the above matter in respect of petitioners. Since, the SLP was dismissed in limine, it was observed that certain important legal questions were unheard, wherefore, the implementation of the judgment passed by the *Hon'ble Shimla High Court* in said matter was implemented in personam and subjected to the outcome of the decision in SLP (Dy.) No. 54457 of 2024- CAG of India

& Ors. Vs. Biltu Saha & Ors and ongoing legal proceeding / contemplated by the Department / DRAAOs at other stations/promoted AAOs at various judicial forums.

ii.) The matter of CAG of India & Ors. v. Biltu Saha was heard by The Hon'ble Supreme Court on 02nd January, 2025 wherein, Their Lordships were pleased to dismiss said matter by passing the following order-

“3. We are not inclined to interfere with the impugned orders passed by the High Court. However, the question of law, if any, involved is kept open.”

Briefly stated, SLP in the matter of CAG of India & Ors. v. Biltu Saha & Ors, had arisen from the judgment pronounced by the Hon'ble Tripura High Court in the matter of CAG of India & Ors. v. Biltu Suha & Ors. on similar footing with the judgment pronounced by Hon'ble Shimla High Court in the matter of Deepak Sharma's case.

iii) Now, vide the present affidavit, the present Respondents most respectfully submit that The Indian Audit & Accounts Department, Headquarters at New Delhi, is actively and steadily considering the issue of implementation of the judgment passed by the Hon'ble Shimla High Court in CAG of

India & Ors. vs. Deepak Sharma & Ors, And judgement passed by Tripura High Court in Biltu Saha & Ors. vs Union of India & Ors. Supra upheld by The Hon'ble Supreme Court, in respect of other similarly placed officials in the department and its modalities in view of following intricate issues involved:

iv) That, AAO cadre in IA&AD is decentralized, managed by Cadre Controlling Authorities (for short "CCAs") at the level of AGs/PAGS/PDS/DGs. Total Person-in-Position (PIP) in AAOs and SAOs cadre combined together is 15798, which spreads across 79 Cadre Controlling Authorities pan-India out of which 3442 (approx. 22 percent) are directly recruited as SO/AAO and 12356 (approx. 78 percent) are departmentally promoted. Revision of seniority in AAO cadre on the basis of the judgment will have consequential chain effect on subsequent promotion to higher cadres of Sr.AO and induction into IA & AS cadre necessitating review DPC of the affected panels of promotion in these cadres. Since the principle of fixation of seniority enshrined in para 5.6.2 has been set aside by the Hon'ble High Courts of HP and Guwahati, it will impact the entire AAO cadres spread across 79 CCAs. It is most respectfully submitted that present judgments have far reaching consequences in respect of similarly situated officials and

for those as well who have already been promoted.

v) That, the individual judgments have allowed benefit to specific individuals. However, when implemented for the cadre as a whole, the benefit will have to be given since the DRAAOs were recruited in the Department from 1992 onwards.

vi) That, thus the administrative challenge of revising seniority is enormous, with potential disruptions in upcoming promotion panel to SAO cadre and the induction of personnel into the Indian Audit and Accounts Service. The judgment would lead to significant administrative issues, including the disruption of settled seniority and promotions within the IA&AD, especially in the AAO and SAO cadres. The judgment's implementation will affect seniority and promotion panels, requiring a review of past promotions and creating a ripple effect in subsequent years.

7. That it is submitted that in view of the aforesaid facts and circumstances it is most respectfully prayed that Your Lordships may most graciously be pleased to grant reasonable period of 6 months time to the Respondents to finalize all the modalities for conduct of DPCs to implement changes as mentioned hereabove and to comply the order of the Hon'ble High Court.

8. *That it is humbly submitted that the respondents needs at least a period of 6 months time to fix the seniority of the petitioners as per law fixed by the apex court and to give promotion and other allied benefits to the petitioners from the date when they would have been promoted as per law laid down by the Hon'ble apex court for ends of justice."*

4. The learned counsel representing the respondents, however, submits that to work out the relief for the petitioners in view of the enormity of the exercise required to be undertaken, a reasonable time is required for finalising their seniority *inter se*.
5. We consider six months to be a reasonable and sufficient time.
6. Recording the stand of the respondents as stated in their supplementary affidavit today, we direct that the entire exercise of grant of *inter se* seniority with effect from petitioners' initial appointment and consequential benefits be completed by the respondents within six months from date.
7. The Writ Petition stands disposed of in the above terms.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)