IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268-1 CWP No.11258 of 2019 (O&M)
Date of Decision: 12.05.2026

BHUPINDER SINGH AND ORS
.....Petitioners

Versus

CENTRAL ADMINISTRATIVE TRIBUNAL AND ORS
.....Respondents

268-2 CWP No.11885 of 2020 (O&M)

UNION OF INDIA AND OTHERS
.....Petitioners

Versus

DHIRENDRA KUMAR BHAKTA AND OTHERS
.......Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Dinesh Kumar, Advocate and
Mr. Arvind Galav, Advocate,
for the petitioners in CWP-11258-2019.

Mr. Saurabh Goel, Advocate,
Senior Panel Counsel and
Ms. Himanshi Gautam, Advocate,
for the petitioners in CWP-11885-2020.

Mr. Vikas Chatrath, Senior Advocate with
Ms. Yaashica, Advocate,
for respondents No.6, 13, 17 and 20 in CWP-11885-2020.

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HARSIMRAN SINGH SETHI, J. (Oral)

1. By this common order, both the aforementioned petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.

2. In both the present petitions, the challenge is to the impugned order dated 05.02.2019 (Annexure P-7) passed by respondent No.1-Central

Administrative Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') by which, seniority list dated 23.04.2018 (Annexure A-2) framed by the department i.e. Union of India in the cadre of Inspectors/Tax Assistants on the basis of office memorandum dated 04.03.2024 of D.P.T. has been quashed, being contrary to the judgment passed by the Hon'ble Supreme Court of India in ***Union of India and others Versus N.R. Parmar and others, 2012 (13) SCC 340*** and further Clause 5 (h) of the office memorandum dated 04.03.2014 has been set aside being contrary to the judgment in ***N.R. Parmar's case*** (supra) as the said memorandum restricted the benefit of said judgment by ignoring office memorandums dated 07.02.1986 and 03.03.1986 and further direction was given by the Tribunal to the Union of India to frame seniority list in accordance with the direction given in ***N.R. Parmar's case*** (supra), which direction was complied with by reframing the seniority in the cadre of Inspectors/Tax Assistants in May, 2019.

3. Certain facts need to be noticed for the correct appreciation of the issue in hand.

4. As per the rules governing the issue of seniority in the cadre of Inspectors/Tax Assistants, the appointment in said cadre can be made by way of either direct recruitment or by way of promotion. In case, the appointment in said cadre is to be made from the feeder cadre by way of promotion, the seniority to such a promottee is to be granted from the date such promotion is made, whereas, in case, the appointment in said cadre is to be made by way of direct recruitment, the seniority to such a recruitee is to be granted from the date when such post was advertised to be filled up. Keeping in view the said rule governing the service, certain grievances were raised by the Inspectors/Tax Assistants, who were appointed to said post by way of

promotion that the appointment to said post which has been made by way of direct recruitment and which direct appointment is subsequent to their appointment by way of promotion, such direct recruitees are being considered senior to them only on the basis that the post against which they have been appointed by way of direct recruitment, were advertised prior to the date they were appointed by way of promotion.

5. The said issue qua *inter se* "seniority" came for consideration before the Hon'ble Supreme Court of India in ***N.R. Parmar's case*** (supra) and vide judgment reported as ***2012 (13) SCC 340***, the said rules was upheld by holding that even if a direct recruit joins in the service after a promote officer had already joined the cadre but in case, such post against which direct recruitee has been appointed had already been advertised on or before the day when appointment to such post by promotion was made, such direct recruitee will be treated as a senior to such promottee in the cadre of Inspectors/Tax Assistants.

6. The said rule continued to be in operation and seniority was being fixed as per judgment in ***N.R. Parmar's case*** (supra) but when, the said issue again came up for consideration again before the Hon'ble Supreme Court of India in ***K.Meghachandra Singh Versus Ningam Siro, 2020 (5) SCC 689***.

7. In the said judgment, the law laid down in ***N.R. Parmar's case*** (supra) was held to be bad, and operation of same was put to halt prospectively from 19.11.2019 the date when said judgment was passed. While passing the judgment in ***K.Meghachandra Singh's case*** (supra), Hon'ble Supreme Court of India held that any seniority in the cadre of Inspectors/Tax Assistants upto the date of judgment which is yet to be finalized, the same will be finalized as per the law laid down in judgment in

K.Meghachandra Singh's case (supra) but any seniority in said cadre which has been finalized prior to the said date already, the same will not be disturbed even if the same has been done on the basis of law stated in ***N.R. Parmar's case*** (supra).

8. In the present case, the seniority of the petitioners in the cadre of Inspectors/Tax Assistants was framed by the department, which was in contravention to the proposition laid down in ***N.R. Parmar's case*** (supra). The said seniority fixed by the department was challenged by the aggrieved direct recruitees before the Tribunal and the Tribunal by placing reliance upon the judgment in ***N.R. Parmar's case*** (supra) held that such seniority fixed by the department is bad in law and a direction was given to finalize such "*inter se*" seniority again in terms of the direction given by the Hon'ble Supreme Court of India in ***N.R. Parmar's case*** (supra). The impugned order was passed by Tribunal on 05.02.2019. It may be noticed that upto the said date, the judgment in ***K.Meghachandra Singh's case*** (supra) had not come into being and the relevant law at that point of time, according to which, such "inter se" seniority could be finalized was only as per the judgment in ***N.R. Parmar's case*** (supra).

9. Keeping in view the direction given by the Tribunal vide impugned order dated 05.02.2019, by which, even Clause 5 (h) of the office memorandum dated 04.03.2014, which was held to be in contravention to the direction given in ***N.R. Parmar's case*** (supra), was also set aside and the respondent-department was directed to re-look into the issue and prepare a fresh seniority list, keeping in view the settled principle of law laid down in ***N.R. Parmar's case*** (supra).

10. The respondent-department, herein, complied with the said directions and issued a fresh seniority list in the cadre of Inspectors/Tax

Assistants in May, 2019, which seniority was fixed prior to the date when judgment was passed in ***K.Meghachandra Singh's case*** (supra).

11. Though, the impugned order passed by the Tribunal was complied with but still, the direction given by the Tribunal to set aside the seniority list dated 23.04.2018 was challenged by the promotees as well as Union of India by filing the present writ petitions, which are pending before this Court for the around last seven years.

12. During the pendency of the writ petitions, certain developments took place. First development was that the law settled in ***N.R. Parmar's case*** (supra) came up for consideration before the Hon'ble Supreme Court of India again in ***K.Meghachandra Singh's case*** (supra) and vide judgment dated 19.11.2019, the law laid down in ***N.R. Parmar's case*** (supra), which law was made the basis of passing the impugned order by the Tribunal whereby the Clause 5(h) of office memorandum dated 04.03.2014 and seniority fixed was set aside, was held to be bad, though, the direction given in ***K.Meghachandra Singh's case*** (supra) qua fixation of seniority in the cadre of Inspectors/Tax Assistants which were yet to be finalized was specifically stated to be implemented prospectively.

13. It may be noticed that even if the judgment in ***K.Meghachandra Singh's case*** (supra), is taken into consideration, the impugned order passed by the Tribunal cannot be treated as incorrect as, while complying with the direction given by the Tribunal to frame a fresh seniority list keeping in view the law laid down in ***N.R. Parmar's case*** (supra), the same was framed by the department in May, 2019 which was much before when the judgment in ***K.Meghachandra Singh's case*** (supra) was pronounced, operation of which judgment was to be implemented prospectively. Thereafter, another development came into being wherein, a Larger Bench of the Hon'ble

Supreme Court of India again considered the said issue in ***Civil Appeal No.3968 of 2009*** titled as ***B.S. Murthy and others Versus A. Ravinder Singh and others, decided on 15.03.2022,*** and in the said case also, the issue involved was qua the governing seniority dispute in the same cadre. By considering the judgment in ***K.Meghachandra Singh's case*** (supra), which involved same issue but restricted its implementation prospectively from Nov, 2019 onwards, the Larger Bench of Hon'ble the Supreme Court of India while deciding said ***B.S. Murthy's case*** (supra) held that the *inter se* seniority in said cadre with regard to the appointment through direct recruitment will be considered from the date of appointment in service only and not from the date when such vacancy arose. While applying said law, the seniority list in the cadre of Inspectors/Tax Assistants which list though had already been finalized prior to Nov, 2019 i.e. before the judgment in ***K.Meghachandra Singh's case*** (supra) was pronounced, was directed to be redetermined by taking into consideration the law settled in ***B.S. Murthy's case*** (supra) that any person appointed in the cadre by way of direct recruitment, such a recruitee's seniority will be considered from the date of appointment and not from the date of advertisement of the vacancy.

14. Another development qua said issue took place, where the Hon'ble Supreme Court of India in ***SLP (C) No.16161-2018 titled Hariharan and others Versus Harsh Vardhan Singh Rao and others, decided on 14.12.2022***, considered the same issue and in the said case, a Division Bench of Hon'ble two Judges of the Hon'ble Supreme Court of India referred the matter to the Larger Bench for adjudication of the said issue, which adjudication is still pending consideration.

15. The question which now arises for consideration before this Court is whether, as of now, the judgment in ***K.Meghachandra Singh's case***

(supra) upheld by a Larger Bench in ***B.S. Murthy's case*** (supra) directed that seniority framed prior to ***K.Meghachandra Singh's case*** (supra) are also to be as per the judgment in ***B.S. Murthy's case*** (supra) is to be made applicable for the purpose of fixing the seniority in said cadre and whether, the doubts raised by two Judges Bench of the Hon'ble Supreme Court of India in ***Hariharan's case*** (supra) qua ***K.Meghachandra Singh's case*** (supra) needs to be adopted for deciding the present issue qua the framing of seniority in the cadre of Inspectors/Tax Assistants.

16. Learned senior counsel appearing on behalf of the respondents submits that the question which arises for consideration now is whether, as of now, the seniority in the cadre of Inspectors/Tax Assistants in the GST Department is to be framed as per the judgments in ***N.R. Parmar's case*** (supra), or ***K.Meghachandra Singh's case*** (supra), or ***B.S. Murthy's case*** (supra) or as per the judgment in ***Hariharan's case*** (supra) according to which, the judgment in ***N.R. Parmar's case*** (supra) should be made applicable. Learned senior counsel appearing on behalf of the respondents further submits that based upon the judgment in ***N.R. Parmar's case*** (supra), some of the High Courts have already quashed the seniority framed based upon the judgment in ***K.Meghachandra Singh's case*** (supra) and therefore, the view taken by the Tribunal based upon the judgment in ***N.R. Parmar's case*** (supra) needs to be sustained and the writ petitions filed by the petitioners are liable to be dismissed.

17. We have heard the learned counsel for the parties and have gone through the record with their able assistance.

18. It is a conceded position that as of now, keeping in view the various judgments passed by the Hon'ble Supreme Court of India on the same issue qua framing of seniority in cadre of Inspectors/Tax Assistants by

considering interpreting the same rule, divergent views have been taken. This Court while deciding the issue, has to follow either of the decisions taken and that too by giving due reasons for the same.

19. The view taken in ***N.R. Parmar's case*** (supra) was by two Hon'ble Judges of the Hon'ble Supreme Court of India, which judgment was reversed in ***K.Meghachandra Singh's case*** (supra) again by Hon'ble two Judges of the Hon'ble Supreme Court of India. Further, the view taken in ***Hariharan's case*** (supra) that the judgment in ***N.R. Parmar's case*** (supra) is to be followed is also by two Hon'ble Judges of the Hon'ble Supreme Court of India but, the judgment passed in ***B.S. Murthy's case*** (supra) is by three Hon'ble Judges of the Hon'ble Supreme Court of India wherein same issue has been dealt with by interpreting the same rule and that too as latest as in 2022. In ***B.S. Murthy's case*** (supra) which is by a Larger Bench, the view taken therein is that in case of direct recruitment cadre, for the purpose of framing the seniority of the appellants the date of the advertisement of the post will not be considered rather same will be considered from the date of their actual appointment.

20. Learned senior counsel appearing on behalf of the respondents does not dispute the said fact but, submits that subsequent to judgment passed in ***B.S. Murthy's case*** (supra), by placing reliance upon a judgment of the Constitution Bench, while deciding ***Hariharan's case*** (supra), directions have been given by the Hon'ble Supreme Court of India in the year 2023 to follow the law laid down in ***N.R. Parmar's case*** (supra).

21. It may be noticed that while giving such direction in ***Hariharan's case*** (supra), the view taken by a Larger Bench in ***B.S. Murthy's case*** (supra) qua same issue and by considering the same rules, has not been noticed. Once, a Larger Bench had already given a view qua how

seniority in case appointment is by way of direct recruitment in the cadre of Inspectors/Tax Assistants interpreting same Rule, is to be framed, and how a directly recruited Inspectors/Tax Assistants is to be given seniority, the view taken by a Larger Bench of the Hon'ble Supreme Court of India is to be given preference over a subsequent decision which is by two Judges Bench and that too when the view of a Larger Bench in ***B.S. Murthy's case*** (supra) was not brought to the notice of two Judges Bench which passed order in ***Hariharan's case*** (supra).

22. It is a well settled principle of law that in case there are two divergent views by the Hon'ble Supreme Court of India regarding the same issue, the view taken by Larger Bench is to be followed. The Hon'ble Supreme Court of India in ***Modern Dental College and Research Centre and others Versus State of Madhya Pradesh and others, (2009) 7 SCC 751***, has held as under:

> *"8. The aforesaid decision of the eleven-Judge Bench of this Court in T.M.A. Pai Foundation was no doubt considered in Islamic Academy case and Inamdar case, but those latter two decisions were of smaller Benches and hence cannot be deemed to have overruled or laid down anything contrary to the eleven-Judge Bench decision in T.M.A. Pai Foundation. It is well-settled that a Larger Bench decision prevails over the decision of a smaller Bench."*

Further, the Hon'ble Supreme Court of India in ***Trimurthi Fragrances Private Limited through its Director Shri Pradeep Kumar Agrawal Versus Government of NCT of Delhi through its Principal Secretary (Finance) and others, (2024) 20 SCC 709***, has held as under:

> *"19. The view of Bhat, J. was expressly concurred by Rao, J. (Para 196) and Gupta, J. (Para 227). There was*

no dissent to the view. In view of Article 145 (5) of the Constitution of India concurrence of a majority of the judges at the hearing will be considered as a judgment or opinion of the Court. It is settled that the majority decision of a Bench of larger strength would prevail over the decision of a Bench of lesser strength, irrespective of the number of Judges constituting the majority."

23. Keeping in view the totality of facts and circumstances, the position which remains as of now is that as per the view taken by the Larger Bench in ***B.S. Murthy's case*** (supra) on the same issue, which judgment was of the year 2022, will prevail over all the other views taken by the Smaller Bench of Hon'ble Supreme Court of India especially the Smaller Bench was not informed of a Larger Bench's judgment in ***B.S. Murthy's case*** (supra) which fact is clear from the judgment in ***Hariharan's case*** (supra). Hence, judgment in ***B.S. Murthy's case*** (supra) which is of Larger Bench needs to be followed. Once, said view is being taken by this Court, the impugned order passed by the Tribunal directing that the seniority list should be framed as per the view taken in ***N.R. Parmar's case*** (supra), in which judgment the law laid down has subsequently undergone a change in view of the fact and circumstances mentioned hereinbefore, cannot be upheld and is accordingly set aside. The seniority framed in the cadre of Inspectors/Tax Assistants in pursuance to the direction given by the Tribunal cannot be sustained and is also set aside.

24. The seniority of direct recruitees and promottees in said cadre is to be framed as per the view taken by a Larger Bench of the Hon'ble Supreme Court of India in ***B.S. Murthy's case*** (supra) according to which, a person appointed in said cadre by way of direct recruitment, his seniority can only be considered from the date of his/her appointment and not from the

date the vacancy for said post arose. Hence, the Union of India is directed that in case, the seniority which, has been framed as per ***N.R. Parmar's case*** (supra) keeping in view the direction given by the Tribunal in the impugned orders be not given effect to being in contravention to law laid down by Larger Bench in ***B.S. Murthy's case*** (supra) and a fresh seniority list will be prepared in the cadre of Inspectors/Tax Assistants as per the law settled by the Hon'ble Supreme Court of India in ***B.S. Murthy's case*** (supra).

25. Any such promotions made on the basis of seniority framed as per the judgment in ***N.R. Parmar's case*** (supra) in May, 2019, will be reviewed by the Union of India, but only after framing a fresh seniority in accordance with law and as per the judgment in ***B.S. Murthy's case*** (supra), by giving due opportunity of hearing to the affected party.

26. It may be noticed that before such direction given by this Court in this order qua re-determination of a fresh seniority list in terms of the judgment in ***B.S. Murthy's case*** (supra) or qua review the promotions already made as per seniority finalized in May, 2019, which was done by taking into consideration the judgment in ***N.R. Parmar's case*** (supra), any other view taken by the Hon'ble Supreme Court of India comes qua the same issue comes into operation, same will be made applicable so as to ignore the present direction given by this Court and to follow the dictum of the Hon'ble Supreme Court of India given after the passing of the present order.

27. The present writ petitions are allowed in the above terms.

28. Civil miscellaneous application pending, if any, is also disposed of.

29. A photocopy of this order be placed on the files of the connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
12.05.2026 **JUDGE**
Sandeep

Whether Speaking/Reasoned : Yes
Whether Reportable : No