IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4099 of 2022
Reserved on 11.12.2025
Date of Decision: 19.12.2025

Abhinandan Kalia and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.

For the Petitioners: Mr. Ajay Sharma, Senior Advocate with Mr. Atharv Sharma, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General, Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the respondents-State.

Mr. Goldy Kumar, Advocate, for respondents No.5 to 7.

Sandeep Sharma, J.

Precisely, the question, which needs to be determined in the case at hand is "*whether inter-se seniority between direct recruits and promotees shall be determined on the basis of the appointment or the date of initiation of recruitment process*".

2. Precisely, the facts of the case as emerge from the pleadings adduced on record by the respective parties are that in the year 2014, a requisition for filling up of 9 posts of Principal (ITI) was sent to Himachal Pradesh Public Service Commission (in short "*Commission*"), but subsequently, in the year 2015, afore requisition was revised by including 33 posts of Principal (ITI). Commission by

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clubbing all these posts advertised 42 posts of Principal (ITI). Recommendation of Commission for these posts was received in the year 2016 and after completion of codal formalities, appointments were offered to 39 incumbents on 3.6.2016 including the petitioners.

3. Simultaneously, proposal to fill up the vacant posts of Principal (ITI) by way of promotion from the feeder category i.e. Group Instructor (ITI) was sent to the Commission for holding the meeting of Departmental Promotion Committee and to recommend suitable officials for the post of Principal ITI as per provisions of the Recruitment & Promotion Rules of the post in question.

4. Respondent department vide order dated 15.10.2015 and 16.6.2016 promoted the private respondents. Though respondents No. 1 & 2 immediately ought to have issued combined seniority list in year 2016 itself, taking note of memorandum dated 16.5.2014 (Annexure P-9), whereby it came to be decided that inter-se seniority between direct recruits and promotees shall be maintained in terms of office memorandum dated 4.3.2014, whereby Government of India slightly revised the instructions regarding seniority of direct recruits and promotees in pursuance to judgment rendered by Hon'ble Apex Court on 27.11.2012 in CA No. 7514-7515 of 2005 in case **N.R. Parmar v. Union of India and Ors**., wherein it came to be ruled that seniority will be determined between the direct recruits and promotees, to the extent of number of vacancies for direct recruits and

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promotees, as determined according to the quota for that year, the additional direct recruits and promotees selected against the carried forward vacancies of the previous years would be placed en-bloc below the last promotee/direct recruit, as the case may be, based on the rotation of vacancies for that year.

5. In nutshell, pursuant to office memorandum dated 4.3.2014, it came to be notified that rotation of quota based on available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DoPT O.M. dated 7.2.1986/3.7.1986 would continue to operate for determination of inter-se seniority between the direct recruits and promotees; The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees, who are appointed against the vacancies of a Recruitment Year; Recruitment Year would be the year of initiating the recruitment process against a vacancy year; Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date; The Initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process

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for the other mode as well; Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year; The above principles for determination of inter-se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors; And the cases of seniority already settled with reference to the applicable interpretation of the terms availability, as contained in DoPT O.M. dated 7.2.1986/3.7.1986 may not be reopened.

6. As per aforesaid notification, seniority of direct recruit/promotee would be determined from the date of initiation of recruitment process. In the case at hand, respondents issued provisional seniority list on 30.6.2020 (Annexure P-5), wherein names of the petitioners came to be incorporated from the date of issuance of their appointment letters dated 25.7.2016 (Annexure P-3). Though petitioners as well as other similarly situate persons filed objections to the aforesaid provisional seniority list dated 30.6.2020, but same were rejected and respondents proceeded to issue final seniority list on 29.2.2021, (Annexure P-7) by applying the principles of law laid down in judgment dated 19.11.2019, passed by the Hon'ble Apex Court in CWP No. 8835-8855 of 2019 (arising out of SLP(C) No. 19565-19567 of

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2019), titled as **K. Meghachandra Singh and Ors.** v. **Ningam Siro and Ors.**, wherein it came to be ruled that seniority of direct recruit would be declared from the date of appointment not from the date of initiation of recruitment process.

7. On 13.8.2021, Government of India issued office memorandum with regard to fixation of inter-se seniority of direct recruits and promotees, which subsequently came to be adopted by Government of Himachal Pradesh vide office memorandum dated 28.1.2022. Careful perusal of notification dated 13.8.2021, if perused in its entirety, reveals that same has been issued taking note of the judgment passed by the Hon'ble Apex Court in **K. Megachandra Singh** (supra). As per the afore notification, though it came to be provided that seniority of direct recruits shall be determined from the date of appointment not from the date of initiation of recruitment process, but it also came to be clarified that in case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 28.11.2019 and in which case, inter-se seniority could not be finalized by 28.11.2019, shall also be governed by the provisions of O.M. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.

8. Though in the instant case, petitioners by way of representation dated 9.7.2020 (Annexure P-6) pointed out that

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tentative seniority list has not been provided in accordance with criteria laid down in the memorandum dated 16.5.2014, issued by the Department of Personnel and Training, vide which the manner of determination of inter-se seniority of direct recruits has been elaborately described, but fact remains that such prayer of them was not considered, as a result thereof, they have approached this Court in the instant proceedings, praying therein for following main reliefs:

> i) In view of the submission made hereinabove the present petition may kindly be allowed and Seniority list dated 21.09.2021 may kindly be quashed and set-aside in the interest of justice and fair play.
>
> ii) that respondents may kindly be directed to re-fix /re-determine the sonority list in view of the principles laid down in OM dated 16.05.2014 and in as much as provision 7 (iii) of the OM dated 13.08.2021 adopted by the respondent State vide Office Memorandum dated 28.01.2022.

9. Careful perusal of reply filed by respondents No. 1 and 2, and 5 to 7, if read in conjunction, nowhere suggests that there is dispute, if any, with regard to facts as have been noticed herein above. In nutshell, claim of the petitioners has been refuted on the ground that in terms office memorandum dated 13.8.2021, issued by the Government of India, revising therein guidelines for inter-se seniority of direct recruits and promotees in terms of mandate contained in the judgment passed by Hon'ble Apex Court in **K. Meghachandra Singh** (supra), inter-se seniority of direct recruits is determined from the date of appointment and not from the date of initiation of recruitment

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process. It is not in dispute that prior to issuance of notification dated 13.8.2021, inter-se seniority between direct recruits and promotees was being considered in light of office memorandum dated 7.2.1986 and 3.7.1986, which was further revised vide office memorandum dated 16.5.2014, wherein admittedly seniority of direct recruits was determined on the basis of recruitment year, but subsequently, judgment passed by the Hon'ble Apex Court in **N.R. Parmar's** case (supra) came to be reviewed by the Hon'ble Apex Court in its subsequent judgment rendered in **K. Meghachandra Singh's** case, wherein it categorically came to be clarified that seniority of direct recruits shall be determined from the date of appointment, not from the date of initiation of the recruitment process. Taking note of the aforesaid law laid down by the Hon'ble Apex Court, Government of India issued revised guidelines vide notification dated 13.8.2021, which was further adopted by the Government of Himachal Pradesh on 22.1.2022.

10. It is not in dispute that as of today, inter-se seniority between direct recruits and promotees is to be governed by way of provisions contained in the office memorandum dated 13.8.2021, which have been adopted by the State on 22.1.2022. As per office memorandum, inter-se seniority between direct recruits and promotees shall be determined on the basis of date of appointment, not from the date of initiation of recruitment process. If the prayer

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made by the petitioners for ranking them senior than the private respondents, who admittedly were promoted to the post of Principal on the basis of recommendation made by DPC, is considered in light of afore office memorandum, learned Additional Advocate General is right in contending that mere initiation of recruitment process for filling up the post of Principal by way of direct recruitment, cannot be made basis to rank petitioners higher than the private respondents. Though having carefully perused office memorandum dated 13.8.2021, which has been further followed by State of Himachal Pradesh, one thing is apparent that inter-se seniority of direct recruits shall be determined on the basis of year of appointment, not year of recruitment, but at this juncture, it would be apt to take note of some of the exceptions carved out in notification dated 13.8.2021, which read as under:

> "7. Based on the above, it has been decided to modify the instructions relating to determination of seniority between promotees and direct recruits as under:
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> (i) DoPT's O.M. No. 20011/1/2012-Estt. (D) dated 4.3.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f. 19.11.2019.
>
> (ii) As the Order dated 19.11.2019 is prospective, cases of Inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Esti(D) dated 4.3.2014, shall not be disturbed, i.e. old cases are not to be reopened.
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> (iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012

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> and 18.11.2019 and in which case inter se seniority could not be finalized by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.
>
> (iv) For cases where the recruitment process has been initiated by the administrative Department/Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees."

11. Though as per aforesaid office memorandum dated 13.8.2021, OM dated 4.3.2014 issued in pursuance of order dated 27.11.2012 and 18.11.2019 in **N.R. Parmar's** case, stands withdrawn w.e.f. 19.11.2019, but cases of inter-se seniority of direct recruits and promotees already decided in terms of OM dated 14.3.2014, which was issued on the basis of findings given in **N.R. Parmar**'s case shall not be disturbed. Similarly in case of direct recruits and promotees, appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalized by 18.11.2019, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, which was based upon judgment passed in **N.R. Parmar's** case.

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12. Admittedly, in the case at hand, inter-se seniority dispute between petitioners and private respondents could not be finalized by 18.11.2019. As per reply filed by respondents No. 1 & 2, provisional seniority list was circulated vide office memorandum dated 30.6.2020 (Annexure P-5), wherein names of the petitioners came to be incorporated from the date of issuance of their appointment letters dated 25.7.2016, however, at that juncture, names of the petitioners were to be incorporated in the seniority list from the date of initiation of recruitment process. Afore tentative seniority list was finalized on 29.9.2021 (Annexure P-7) applying the principle laid down in **K. Meghachandra Singh (supra).**

13. Since inter-se seniority dispute between petitioners and private respondents arose between 27.11.2012 and 18.11.2019 and inter-se seniority could not be finalized by 18.11.2019, Mr. Ajay Sharma, learned Senior counsel appearing for the petitioners is right in contending that case of the petitioners and private respondents is required to be governed by the provisions of OM dated 7.2.1986 and 3.7.1986 read with OM dated 14.3.2014, meaning thereby, inter-se seniority dispute between petitioners, who are direct recruits and private respondents, shall be determined on the basis of date of initiation of recruitment process and not on the basis of the date of appointment. If it is so, claim of the petitioners for being shown higher in the seniority than the private respondents deserves to be allowed.

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14. At this stage, it may be noted that in N.R. Parmar (supra), it was held that inter-se seniority of direct recruits and promotees appointed in a year, shall be determined on the basis of recruitment year. The law laid down by Hon'ble Apex Court in N.R. Parmar, continued to govern the field, but thereafter, Hon'ble Apex Court in K. Meghachandra Singh (supra) ruled that the inter-se seniority of direct recruits and promotees would be determined on the basis of their dates of appointment. Thus, the law that inter-se seniority of direct recruits and promotees shall be determined on the basis of recruitment year, came to be changed. Besides this, it may be noted that vide Notification dated 13.8.2021, some exceptions were carved out, viz. conditions Nos. (iii) and (iv), as reproduced in earlier part of this judgment, where appointment was made during the period 27.11.2012 and 18.11.2019, but seniority could not be finalized, fixation of inter-se seniority in such cases would be governed by provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, where recruitment year is the key factor. Thus, in the present case, the inter-se seniority of petitioners and private respondents is to be determined on the basis of recruitment year and not date of appointment. The question so framed is answered accordingly. In view of above, the inter-se seniority of petitioners and private respondents is to be governed by law laid down in N.R. Parmar (supra) and OMs dated 7.2.1986/3.7.1986 and 4.3.2014. Since, in the

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present case, inter-se seniority of petitioners and private respondents has not been determined on the basis of the recruitment year, therefore, the petition at hand deserves to be allowed.

15. Consequently in view of the above, this Court finds merit in the present petition and accordingly, same is allowed. Seniority list dated 21.9.2021, is quashed and set aside in as much as petitioners herein have been shown junior to the private respondents. Respondents are directed to re-fix /re-determine the seniority of petitioners in view of the principle laid down in OM dated 16.5.2014 and provision 7 (iii) of the OM dated 13.8.2021, adopted by the State vide office memorandum dated 28.1.2022 expeditiously, preferably, within two months.

16. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.

December 19, 2025 **(Sandeep Sharma),**
(manjit) **Judge**

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