
(2008) 05 J&K CK 0011
In the Jammu And Kashmir High Court

Ab. Rashid Bhat	Vs	APPELLANT
State and Others		RESPONDENT

Date of Decision : 16-05-2008

Acts Referred:

Constitution of India, 1950 — Article 226
Constitution of Jammu and Kashmir, 1956 — Section 103

Citation : (2009) 2 JKJ 338

Hon'ble Judges : Hakim Imtiyaz Hussain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hakim Imtiyaz Hussain, J.—This petition under Article 226 of the Constitution of India read with Section 103 of the Constitution of Jammu

& Kashmir has been filed by 5 petitioners namely Abdul Rashid Bhat, Bashir Ahmad Khan, Ghulam Rasool Dar, Rafiq Ahmad Vakil and Abdul

Razak Khan for a writ of certiorari for quashing PHQ Orders No. 531 of 2008 dated 13.2.2008 and Order No. 886 of 2008 dated 15.3.2008

issued by respondent No. 2 Director General of Police Jammu & Kashmir, Srinagar/Jammu. The petitioners have also prayed for a writ of

mandamus directing the respondents not to alter their seniority in the cadre of Inspectors and not to show private respondents 3 to 42 senior to the

petitioners in such cadre. The facts in brief relevant for the disposal of this petition are that the petitioners were appointed in the State Police

Department as Sub Inspectors of Police in the J & K Armed Police in terms of Order dated 7.8.1982. In the year 1987 they were brought on

promotion list (F) and were on completion of their pre-promotion course, promoted to the rank of Inspectors of Armed Police vide order dated

19.9.1987. A final seniority list of the Inspectors was issued on 30.7.1993 in which the petitioners were shown at Section No. 115, 116, 117, 118

and 120. The petitioners were promoted as Dy. Superintendent of Police in the pay scale of Rs. 7500-12500 vide Government Order No. Home-

129(p) of 1998 dated 15.4.1998 and in the year 2006 they were given selection grade of Rs. 9000-14100 vide Govt. Order No. Home 88(p) of

2006 dated 17.3.2006.

2. On the recommendations of the Jammu and Kashmir Public Service Commission the petitioners were accorded promotion to the rank of

Superintendent of Police in the pay scale of Rs. 10000-15200 vide Govt. Order No. Home-79(P) of 2007 dated 27.2.2007.

3. Respondents 3 to 42 were directly appointed as Sub Inspectors of police (Executive) on 25.4.1979. They had inter-se seniority dispute with

some other Sub Inspectors and to resolve the same they approached this Court through writ petitions SWP No. 1208/86 and SWP No. 3586/97.

Both these writ petitions were decided in their favour by this Court. On an appeal the judgment of the Id. Single Judge in these two petitions was

set aside by a Division Bench of this Court. The petitioners challenged the order of Division Bench in SLP in which the Apex Court set aside the

order of Division Bench and thus the order of the Id. Single Judge was restored.

4. The petitioners state that on the pretext of the judgment of the Learned Single Judge the official respondents have changed seniority of private

respondents and vide two different orders No. 531 of 2008 dated 13.2.2008 and No. 886 of 2008 dated 15.3.2008, impugned in the present

petition, the private respondents have been placed ahead of the petitioners due to which the petitioners seniority also gets disturbed. The

petitioners grievance is that they were neither parties to the writ petitions filed by the private respondents nor to the appeals filed before the

Division Bench of this Court or in the Supreme Court of India. They did not know about the orders passed in the writ petitions or else in the

appeals. They came to know about the order of the Apex Court only when respondent No. 2 issued PHQ Order No. 531 of 2008 dated

13.2.2008 where under seniority of the respondents and their opponents has been redrawn and recast. The Order dated 13.2.2008, according to

the petitioners required all the concerned to file their objections thereto within a

week's time from the date of issue of the order, however, the same was not circulated at all within the said period as a result of which no objections could be filed by the petitioners. The petitioners further grievance is that respondent No. 2 has in pursuance to PHQ Order No. 531 dated 13.2.2008 issued another order (No. 886 of 2008 dated 15.3.2008) where under seniority of the petitioners/non-petitioners issued earlier by PHQ vide order dated 30.7.1992 was deemed to have been redrawn and it has been ordered that the respondents 3 to 42 would figure in the said seniority list below Inspector Ghulam Rasool Ward No. 431/NGO, now retired and above private respondents (in the earlier writ petitions from Section No. 1 to 131 in the order given by the respondent No. 2.

5. Petitioners state that the placement of the petitioners as shown by the respondents in the order dated 15.3.2008 has disturbed the placement of the petitioners in the seniority list of Inspectors. They state that seniority is a condition of service and it cannot be changed arbitrarily and capriciously by respondents 1 & 2. Since impugned orders dated 13.2.2008 and 15.3.2008 have been issued by the respondents without hearing the petitioners and without giving them a chance to show cause against the proposed alteration in the seniority list, the same are liable to be set aside. The petitioners, therefore, seek quashment of the same.

6. The Respondents have filed their separate objections. In the objections filed by the official respondents, it is admitted that the petitioners were appointed as Sub Inspector in J & K Armed Police and the private respondents were appointed as Sub Inspector in the Executive Police. They have also admitted that the petitioners were not parties to the writ petitions/appeals filed by the private respondents but they have denied that the petitioners did not possess knowledge of the orders passed in these petitions. The respondents have further stated that in the seniority list of the Inspectors private respondents have been placed in the seniority of Inspectors below Inspector Gh. Rasool Wani who figured at Section No. 62 of the said list. All officers who figured above said Ghulam Rasool in the seniority list of Inspectors including said Ghulam Rasool have since retired from service as such the seniority of private respondents commenced from Sr. No. 1 instead of Sr. No. 63, which otherwise has no effect on the positions assigned to the private respondents and other officers figuring in the

said list. They state that the private respondents had no dispute with the petitioners in terms of their seniority as Sub Inspectors. Seniority of these officers was required to be maintained separately as the petitioners and the private respondents belonged to different cadres of police service. After having re-fixed the seniority of the private respondents in compliance to the judgment of the Apex Court, they were entitled to consequential benefits also by treating the position assigned to them while re-fixing their seniority to have existed when the seniority list was initially drawn and subsequently challenged by the private respondents. The seniority of the petitioners in the rank of Inspectors has been fixed by considering the date on which they would have been promoted as such have they been assigned the same position in the initial seniority list as has been assigned to them in the redrawn seniority. The respondents state that the order dated 15.3.2008 having been issued in compliance to the judgment of the Hon'ble Supreme Court does not suffer from any legal infirmity as is being wrongly alleged by the petitioners.

7. Private respondents have in their objections submitted that the exercise/order/action of the respondent No. 2 in the form of orders dated 13.2.2008 and 15.3.2008 is no more but to restore the legitimate position of the private respondents in order of seniority in the Sub Inspector of Police cadre of services (Executive Police) viz-a-viz private respondents in SWP No. 1208/86 and SWP 3586/97 to which the respondents have been lawfully found entitled to by the High Court and the Supreme Court.

8. The respondents further state that the exercise made by the respondent No. 2 in the form of Orders dated 13.2.2008 & 15.3.2008, impugned in the present petition, has no bearing at all on the seniority positions assigned to the petitioners in order of seniority in the Sub Inspector cadre of service (Armed Police) nor does it have or can be said to have any prejudicial effect on the seniority position assigned to the petitioners in order of seniority in the cadre of services of Inspectors of Police.

Heard. I have considered the matter.

Mr. Qayoom Learned Counsel for the petitioner has referred to various annexures placed on file to show that the petitioners were appointed as

Inspectors in the year 1987 and have with the passage of time got various promotions on the basis of their seniority and are presently working as

Superintendent of Police while as private respondents are still working as Dy. SP of Police and were promoted as Inspectors after the appointment

of petitioners as such. He has referred to various provisions of Police Manual particularly Rule 382, 390 & 393, to show that there is a well settled

procedure prescribed for promotion and appointment of the officers in the service and that under Rule 14 of the J & K Police Gazetted Rules the

petitioners have the right to hold the post but the respondents have without providing an opportunity of hearing, changed their placement in the

seniority list. He has referred to S.K. Ghosh and Another Vs. Union of India (UOI) and Others, , Kaushal Kishore Singh Vs. Dy. Director of

Education and Others, & R. Sulochana Devi v. D.M. Sujatha 2005 AIR SCW 3320 and also Haridayal v. State of J & K : AIR 1977 J & K 1

and in support of his plea that the respondents cannot change the seniority list without giving opportunity of hearing to the parties who are likely to

get affected with such change.

9. In S.K. Ghosh v. Union of India (supra), it was held by the Apex Court that an arbitrary order, which affects the civil rights of the employees in

respect of future promotion, is violative of Article 16 of the Constitution. The Court observed:

8. The principles for appointment to the posts of Directors of Postal Services were initially laid down by the Home Ministry's Memorandum dated

24th May, 1948, to which we have already referred. As indicated earlier, it was laid down that appointments to Grade II of the Directors of Postal

Services were to be made by promotion by selection of the best officers in the senior time scale of the Indian Postal Services Class I, seniority

being regarded only where other qualifications were practically equal From the very first stage, therefore, appointments to the posts of Directors of

Postal Services were to be made on the basis of merit and not on the basis of seniority. Seniority was to be taken into account only if other

qualifications were practically equal. It appears that, after the two grades of Directors of Postal Services were amalgamated, some fresh rules were

promulgated. The relevant Rules have been brought to our notice by placing before us extracts from Posts and Telegraphs Manual Volume IV 4th

Edn. in which paragraph 153 mentioned that the rules for recruitment to the grade of Directors of Postal Services in the Indian Postal Service Class

I in the Post's and Telegraphs department are given in Appendix 6-A copy of Appendix 6-A has also been placed before us. The Appendix hears

the heading 'Rules for recruitment to the grade of Directors of Postal Services in the Indian Postal Services, Class I in the Posts and Telegraphs

Department' Rule 2 in this Appendix lays, down the scale of pay of the post in the grade which is admittedly Rs. 1300-60 1600 Rule 3 prescribes

the method of recruitment and as follows:

Recruitment to posts in the grade shall be by selection from among the officers of the Senior Time Scale of the Indian Postal Service, Class I, one

post being reserved for promotion of Presidency Postmasters, on the basis of selection.

This Rule also makes it clear that appointment to the grade of Directors of Postal Services is made by selection and not on the basis of promotion

in accordance with seniority The presumption exists that the promotion of the petitioners and respondents 3 to 7 to the grade of Directors must

have been made in accordance with these instructions and rules, so that the appointment of all these concerned parties as Directors was based on

merit to be taken into account at the time of selection and not on seniority in the time scale of Class I Service Once a member of the Class I

Service in the time scale was selected for promotion to the grade of Director and given seniority over another officer selected later, the seniority so

determined as a result of selection could not be made dependent on the seniority in the time scale. It is clear that, in these circumstances, even if

there was justification for revising the seniority inter se of the petitioners and respondents 3 to 7 in the time scale of Class 1 Service that revision of

seniority could not in any way affect their order of seniority in the grade of Directors to which they were promoted on the basis of selection in

accordance with the rules It is, therefore, clear that even if it be held that the order of the Government dated 5th June, 1965 revising the seniority of

these officers in the junior time scale was valid the order dated 17th January 1966 revising the seniority in the grade of Directors of Postal Services

is not valid and justified. The seniority in the grade of Director of Postal Services was not dependent on the inter se seniority in the junior time scale

and any alteration in the seniority in the latter could not form the basis for revising the seniority in the former grade. No other justification for the

revision of the seniority in the grade of Directors of Postal Services was put forward on behalf of any of the respondents. It is, thus, clear that the

revision of seniority in the grade of Directors of Postal Services by the order dated 17th January, 1966 was not based on any rule or appropriate

principle applicable to determination of seniority in that grade, and must, therefore be held to be totally arbitrary. Such an arbitrary order, which

affects the civil rights of the petitioners in respect of future promotion must therefore be struck down as violating Article 16 of the Constitution.

Once this order dated 17th January, 1966 is quashed, the petitioners will no longer be affected in future by the revision of their seniority in the time

scale of the Service by the order dated 5th June, 1965 and consequently.

10. In *Kaushal Kishore Singh v. Dy. Director of Education* (supra) it was held that the claim of seniority of the employee is always determined in

any particular Grade or Cadre and it is not the law that seniority in one Grade or Cadre would be dependent on the seniority in other Grade or

Cadre.

11. In *R. Sulochana Devi's Case* (supra) it was held that an order passed in violation of the principles of natural justice renders an order invalid.

Likewise, an order made without hearing the party affected is also bad in law.

12. In *Haridayal v. State of J & K*, (supra) this Court relying on *The Keshav Mills Co. Ltd. and Another Vs. Union of India (UOI) and Others*,

held that compliance with the Rules of Natural Justice is required not only in cases of quasi-judicial orders but also in cases of administrative orders

from which civil consequences or penal consequences flow. The objective behind the compliance with the Rules of Natural Justice is to prevent

miscarriage of justice and arbitrariness as well as to secure a fair and impartial order from the concerned authorities.

13. Mr. Rathore, AAG appearing for the official respondents has produced the service record of the petitioners and private respondents and has

also placed on file seniority list of Sub Inspectors. He has referred to the various pleas raised by the official respondents in their reply to show that

the respondents have issued the orders impugned in strict compliance to the judgment of the Learned Single Bench of this Court which has now

been upheld by the Apex Court.

14. Mr. Rajan and Mr. M.H. Attar appearing for the private respondents have

relied on Col. D.D. Joshi and Others Vs. Union of India (UOI) and Others, , A. Janardhana Vs. Union of India (UOI) and Others, , Ram Chandra Tripathi Vs. U.P. Public Services Tribunal IV and Others, and M. Venkateswarlu and Others Vs. Govt. of A.P. and Others, in support of their contentions that there was no requirement to issue a show a notice to the petitioners or provide them an opportunity of hearing, while directing placement of the private respondents above the respondents in the earlier petitions in the seniority list, in compliance to the Court orders. The Learned Counsels have referred to the judgment of the Learned Single Judge of this Court and submitted that since the judgment has been upheld by the Apex Court, the respondents had to fix the placement of the private respondents in the seniority list above the respondents of the said petitions and that the respondents have got only what was due to them and what has been allowed in their favour by this Court in the petitions filed by them. The Learned Counsels state that under the judgment of this Court the respondents had to give the private respondents all the consequential benefits after their placement at the proper serial number and that with this process the seniority position of the petitioners of the present petition has not been disturbed as such they have got no locus standi to challenge the Orders dated 13.2.2008 & 15.3.2008.

15. In D.D. Joshi v. Union of India, (supra) the Court held that absence of those who may get adversely affected with the order of the case need

not be necessarily a party in the case. The Court in para 23 observed:

23. On behalf of the respondents, it was urged that if the contention of the petitioners is accepted which could compel the 1st respondent to

resettle the seniority list, those over whom petitioners and those similarly situated would score a march should have been impleaded as respondents

and in their absence, no relief can be given to them. We would not accept this contention for two reasons: (i) that the decision in G.M., South

Central Railway, Secunderabad would permit us to negative the contention, this being not a case of individual claim or claim of seniority by one

person against specifies others, but a question of interpretation of a provision and which interpretation could be given because it would be binding

on the Union of India, the presence of others is unnecessary. Union of India would have merely to give effect to the decision of this Court.

Therefore, the absence of those who may by our interpretation be adversely affected in the facts and circumstances of the case need not be

necessarily here and if the relief could have been granted, the same would not have been denied on the ground that proper parties were not before

the court. But the second reason why we should not examine this contention is that we are not inclined to grant any relief and the matter ends there.

16. In *M. Venkateswarlu v. Govt. of A.P.*, (supra), the Supreme Court in para 11 & 12 held:

11. The question then is: whether notice to all the persons who are likely to be affected is required before exercising the power under Rule 47? The

rule *ex facie* does not contemplate any notice being given. It is not a case of considering *inter se* claim of any particular individuals. It is a case of

relaxing the eligibility of a single individual as against many. Under these circumstances, we do not think that the rule envisages notice to all the

affected persons. It is true that in the cadre of Senior Assistant, the respondents were seniors to the appellant. But by operation of Rule 22 read

with Articles 16(1), 16(4) and 16(4-A), the appellant by promotion as reserved candidate would steal a march over his seniors in the lower cadre

and would become senior as Deputy Tehsildar.

12. By operation of protective discrimination, a junior officer belonging to Scheduled Castes or Scheduled Tribes, by operation of Article 16(1)

read with Articles 16(4) and 16(4-A) would steal a march over his erstwhile seniors in the lower cadre and get promotion. Thereby, the appellant

becomes senior in the promotional post, namely, Deputy Tehsildar. By operation of Rule 33(a) of the General Rules, his seniority would be

determined with reference to the date on which he discharged the duties in the post of Deputy Tehsildar. The consequence is inevitable due to

application of Rule 22 of the General Rules read with Rule 6 of the Special Rules. Therefore, it is not necessary to give any notice to all the

affected parties before exercising the power under Rule 47 of the General Rules.

17. *A. Janardhana v. Union of India*, (supra) is a case dealing with the seniority of promotees and direct recruits. The Supreme Court while

expressing concern over the injustices caused to the promotees in certain circumstances observed:

Shorn of all service jurisprudence jargon let us bluntly notice the situation that a

primary school student when the promotee was a member of the service, barged in and claimed and got seniority over the promotee. If this has not a demoralising effect on service we fail to see what other iniquitous approach would be more damaging. It is therefore, time to clearly initiate a proposition that a direct recruit who comes into service after the promotee was already unconditionally and without reservation promoted and whose promotion is not shown to be invalid or illegal according to relevant statutory or non-statutory rules should not be permitted by any principle of seniority to score a march over a promotee because that itself being arbitrary would be violative of Articles 14 and 16. Mr. Ramamurthi, Learned Counsel for some of the direct recruits, in this connection urged that if at the time when the promotee was recruited by promotion, his appointment/promotion was irregular or illegal and which is required to be regularised, any subsequent direct recruit coming in at a later date can seek relief and score a march over such irregular or illegal entrant. We find it difficult to subscribe to this view. Though we have dwelt at some length on this aspect any enunciation of general principle on the lines indicated by us would require a reconsideration of some of the decisions of this Court. We say no more save that we have solved the riddle in this case in accordance with the decisions of this Court and interpretation of relevant rules.

18. In *Ram Chandra Tripathi v. U.P. Public Services Tribunal IV*, (supra), it was held that where confirmation was made in violation of the court orders, no notice is required to be given to the employees while deconfirming them. The Court, however, held:

The employer has discretion under the conditions of service, but such discretion has to be exercised in accordance with reason and fair play and not capriciously. Arbitrary invocation or enforcement of a service condition terminating the service of a temporary employee may itself constitute denial of equal opportunity and offend the equality Clause in Articles 14 and 16(1) of the Constitution.

19. These facts of the cases cited by the Learned Counsels for the private respondents would show that the law down in these cases is not applicable to the facts of the present case.

20. The facts of all these cases cited by the Id. Counsel for the private respondents would show that these authorities are not applicable in the

present case. However, on going through the pleas raised and the reliefs prayed. I find the present petition cannot be allowed....

21. Order No. 531 of 2008 dated 13.2.2008 has been passed by the official respondents in compliance to the Apex Court Judgment. The Apex

Court has upheld the judgment of this Court in SWP No. 1208/86 and SWP No. 3586/97 titled Sheikh Abdul Rashid and Ors. v. State of J & K

decided on 29.11.2004. Learned Single Judge of this Court, while allowing the petitions directed as under:

In the premises aforesaid, I allow the writ petitions and quash the impugned order dated 3.12.1985 passed by respondent-2. The official

respondents are directed to place the petitioners of both the writ petitions in seniority list of Sub-Inspectors ahead of private-respondents in both

the writ petitions who have been appointed by promotion to the posts of Sub-Inspectors after 25th April, 1979 and, accordingly redraw the

seniority list giving them all consequential benefits.

22. This judgment was set aside by a Division of this Court but on SLP, the Apex Court has allowed the appeal and set aside the judgment of the

Division Bench thus restored the judgment of the Single Bench.

23. The order impugned dated 13.2.2008 would show that the petitioners in these petitions have been given slots in the seniority list of Sub

Inspectors above one Ab. Gani 594 and Ors. who were respondents in the petitions. The order, however, states as under:

With the place of the petitioners over and above private respondents in the manner mentioned above the resultant claims for retrospective

promotion in consequence to re-fixing of their inter-se-seniority will be determined/fixed through a normal procedure by holding a Special

Departmental Promotion Committee after obtaining the objections within stipulated time. As such, the order will be circulated to all the concerned

for obtaining objections if any within a weeks time from the date of issuance of the order.

24. The order dated 13.2.2008 was followed by another order dated 15.3.2008 which reads as under:

In pursuance to PHQ Order No. 531 of 2008 dated 13.2.2008 issued in compliance to the Hon'ble Apex Court judgment dated 5.12.2007

passed in Civil Appeal No. 23347-23350 of 2005 and 5632-35 of 2007 titled

Sheikh Abdul Rashid and Ors. v. State and Ors. and in terms of the Judgment dated 29.11.2004 of Hon'ble Single Bench of J & K High Court at Srinagar, the seniority of petitioners/non-petitioners issued earlier by PHQ vide order endorsement No. M-451 /92-30748-800 dated 30.7.1992 shall be deemed to have been redrawn wherein they would figure below Inspector Gh. Rasool Wani No. 431/NGO (Now Retired) and above private respondents from serial No. 01 to 131 in the following order:

S. No. Name NGO No

1. Mahadeep Singh 1290
2. Ghulam Nabi Pathan 1242
3. Gh. Mohi-ud-din 108
4. Khalid Muzaffar 344
5. Abdul Rashid 668
6. Ropinder Kumar 83
7. Javed Iqbal Farooqi 62
8. J.B. Singh 371
9. Ram Rattan 945
10. Varinder Kumar 733
11. Sheikh Abdul Rashid 416
12. Shah Din 297
13. Nazir Ahmad Sheikh 453
14. Gh. Mohd. Wadoo 571
15. Fareed Ahmad 456
16. Mohd. Yousuf 412
17. Farooq Ahmad Kirmani 892
18. Ghulam Jeelani Dar 902
19. Sheikh Abdul Rehman 451
20. Kailash Chander 480
21. Zakir Hussain 63
22. Mohd. Amin Bulbul 67
23. Abdul Majid Rather 666

24. Abdul Gani 757
25. Abdul Rashid Lone 485
26. Saif-ud-dinShah 57
27. Ghulamjeelani 138
28. Sham Sunder Sharma 231
29. Abdul Hamid 64
30. Dev Raj 833
31. Gh. Hyder Badana 191
32. Piaraya Lal Bhat 415
33. Sohan Lal Koul 146
34. Abdul Haq Bhat 340
35. Gh. Hassan Shah 182
36. Mir Mohd. Choudhary 370
37. Des Raj Bhagat 819
38. Mushtaq Ahmad Mir 680
39. Mohd. Shafi 907
40. Punchok Wangchok 578

However, the following non-petitioners shall not exist in the above redrawn seniority of Inspectors because of the reasons shown against each

below:

- 1 Mushtaq Ahmad Kenu 979 Inducted in KPS
- 2 Noor Mohd Khan 673 Expired as SI
- 3 Sheikh Mehmood 66 Inducted in KPS
- 4 AijazKhan 84 Resigned as SI
- 5 Paramjeet Singh 139 Resigned as SI
- 6 Prabhat Singh 114 Promoted as Inspector

retrospectively on 8.10.1982

25. On perusal of both these orders it would show that the official respondents have placed the private respondents above the respondents (of the earlier writ petitions) in the seniority list of Sub Inspectors. These orders do not show the names of the petitioners which would mean that so far

the placement of petitioners in the seniority list of Inspectors dated 30.7.1993 is concerned it has not been disturbed. With the orders impugned

the placement of the private respondents may have changed vis-a-vis the respondents in the earlier petitions as they have got higher slots in the

seniority list of Sub Inspectors but it has not effected the placements of the petitioners as Inspectors.

26. It cannot be disputed that seniority has a great significance and plays an important part in the service career of an employee. Seniority is an

important condition of service as on seniority, depends promotion general promotions to the higher ranks are made on the basis of seniority list.

This requires that an employer must maintain a seniority list of its employees so that they are aware of their placement in the cadre.

27. An employer cannot unilaterally change the placement of an employee in the seniority list if it is likely to cause prejudice to him. If any need

arises to do so due to clerical mistake or for any other ground an employee who is likely to get adversely effected has got a right of hearing in this

behalf. In the present case since the present petitioners were not parties in the earlier petitions, the respondents cannot change the placements of

petitioners viz-a-viz the private respondents in the seniority list of Inspectors. In case with the change in the placement of the private respondents

in the seniority list of Sub Inspectors it becomes imperative to change the placement of the petitioners also, this can be done only after the

petitioners and all those officers who fall between the respondents in the earlier petitions and the private respondents in the present petition are duly

heard and given full opportunity to present their stand. Without providing opportunity of hearing to the petitioners and other similarly placed

officers, their position in the seniority list cannot be altered. It is expected that in case such a change is required, while re-drawing the seniority list

of Inspectors the official respondents would follow the principles of natural justice.

28. The placement of private respondents in the seniority list of Sub Inspectors is not likely to affect the petitioners as admittedly the respondents

belong to Executive wing while as the petitioners belong to Armed wing. They had separate seniority in the class of Sub Inspectors. Their seniority

got combined with their appointment as Inspectors. When the petitioners were promoted, the private respondents who were pursuing their cases

against the respondents in the earlier writ petitions, did not feel aggrieved of the seniority and the placement of the petitioners in the present

seniority list as they have neither filed any representation to it nor have they challenged it. The placement of the petitioner above the private

respondents does not get changed with the orders, under challenge in the present petition.

29. In the seniority list of Inspectors dated 30.7.1993 date of promotion as Inspectors of the petitioners has been shown as 19.9.1987 while as

date of promotion of the private respondents has been shown as 8.8.1991 and 8.2.1992. Thus on the basis of settled law, seniority of the

Inspectors will be measured by length of continuous officiating service and on this ground the petitioner would rank senior to the private

respondents. The date of appointment of the petitioners and the private respondents as shown in the seniority list of 30.7.1993 has not been

changed so on the facts shown in the list, the petitioners would rank senior to the private respondents and this status of the petitioners does not get

altered with the orders dated 13.2.2008 and 15.3.2008 impugned in the present petition.

30. Judgment of the Learned Single Judge of this Court in the earlier petitions upheld by the Apex Court provides only placing of the private

respondents ahead of the respondents (in the said petitions). It does not deal with the cases of the petitioners as such the orders dated 13.2.2008

and 15.3.2008 would remain restricted to the cases of the present private respondents and the respondents in the said petitions only and these will

not effect the placement of the present petitioners in the seniority list. The judgment of the Single Judge or the Apex Court in SLP could not be

pressed into service to the detriment of the rights of the petitioners. The law on the issue is settled that a judgment/order of a Court binds only the

parties of the case. The judgment will not bind the petitioners and it is in this context that order dated 15.3.2008 states that 'the seniority of

petitioners/non-petitioners issued earlier by PHQ vide order endorsement No. M-451/92-30748-800 dated 30.7.1992 shall be deemed to have

been redrawn. The list will be taken to have been redrawn only so far the private respondents and respondents in the earlier petitions are

concerned, it does mean that the seniority of the present petitioners has not been redrawn. This fact gets support even from the objections of the

respondents also. As noticed above in their reply official respondents have stated that re-fixation of seniority otherwise has no effect on the

positions assigned to the private respondents and other officers figuring in the said list as the private respondents had no dispute with the petitioners

in terms of their seniority as Sub-Inspectors. In view of this discussion I find the orders impugned have not effected the placement and seniority of

the petitioners vis-a-vis the private respondents. They will continue to rank senior to the private respondents. As such I do not find the petitioners

have any cause for filing the present petition.

31. With these observations the present petition is dismissed.