
(2005) 08 GAU CK 0020
In the Gauhati High Court

Case No : Writ Petition (C) No's. 83 (K) of 2003 and 70 (K) of 2004

Angauithou

APPELLANT

Vs

State of Nagaland and Others

RESPONDENT

Date of Decision : 23-08-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 309
Nagaland Civil Service (Class- I) Rules, 1967 — Rule 3, 6

Citation : (2005) GLT 366 Supp

Hon'ble Judges : I.A. Ansari, J

Bench : Single Bench

Advocate : R. Iralu and V. Theyo, for the Appellant; Y. Longkumer and T. Koza, for the Respondent

Judgement

I.A. Ansari, J.—By this common judgment and order, I propose to dispose of W.P. (C) Nos. 70(K) of 2004 and 83(K) of 2003, for both these writ petitions, on the request of the learned Counsel for the parties, have been heard together inasmuch as both these writ petitions are based on almost identical facts, involve same questions of law and the same are capable of being disposed of by a common judgment and order.

2. The two Petitioners in W.P.(C) No. 83(K) of 2003, namely, (1) Sri Sachopra Vero and (2) Sri Mikha Lomi and also the Petitioner in W.P.(C) No. 70(K) of 2004, namely, Smti Angau I Thou aforementioned are all members of the Nagaland Civil Service. These three Petitioners as well as the private Respondents, i.e., Respondent Nos. 3, 4, 5, 6 and 7 in the said two writ petitions appeared in the selection process, which was conducted by the Nagaland Public Service Commission in the year 1981, and, on being selected, they were all appointed as Circle Officers. The post of Circle Officer was earlier recognized as Class-H Gazetted post, but this post was abolished sometime in the year 1986. It is the Nagaland Civil Service (Class- I) Rules, 1967 (in short, "the 1967 Rules"), which govern the service conditions of the Petitioners as well as Respondents. The 1967

Rules have been framed in exercise of powers under Article 309 of the Constitution of India. Schedule-I to the 1967 Rules, originally, had two categories of posts, the post of Senior Grade, which included the posts of Deputy Commissioner, Additional Deputy Commissioner, Secretary, Joint Secretary and Deputy Secretary to the Government, and the post of Junior Grade, which included the posts of Extra-Assistant Commissioner, Sub-Divisional Officer and Under Secretary to the Government. In course of time, the post of Circle Officer was upgraded to Class-I Gazetted post and re-designated as Extra- Assistant Commissioner, Junior Grade. By a Notification, dated 16.8.1990, published by the Government of Nagaland, Department of Personnel and Administrative Reforms (Personnel "A" Branch), the Government made it compulsory for all officers to pass departmental examination in higher standard to be eligible for confirmation in service making it clear that unless the officer concerned passes departmental examination in the higher standard, his confirmation in the service will not be considered and that those officers, who have already been confirmed in Class-I Junior Grade, but have not yet passed the departmental examination in higher standard, shall not be considered for promotion to higher grade nor shall they be entitled to regularization of their officiating promotion unless they pass the departmental examination in the higher standard. The Petitioners passed, in April, 1991, the departmental examination in higher standard conducted by the Nagaland Public Service Commission. The averments, made in the writ petition at para 4(a) to the effect that the Petitioners had passed, in the month of April, 1991, the higher standard examination, have not been disputed by the Respondents. By an order, dated 21.3.1991, published by the Government of Nagaland, Department of Personnel and Administrative Reforms (Personnel "A" Branch), Government of Nagaland, the Petitioners as well as the Respondent Nos. 5 and 6 were granted officiating promotion to Class-I Junior Grade higher scale.

3. By Notification, dated 18th February, 1993, issued by the Department of Personnel and Administrative Reforms (Personnel "A" Branch), Government of Nagaland, the services of the present three Petitioners as well as of the private Respondent Nos-. 3, 4, 5 and 6 were regularized in the promotional post of Class-I Junior Grade higher scale, though as on 18.2.1993, none of the private Respondents had passed the higher standard departmental examination aforementioned.

4. By Notification, dated 31.1.1997, issued by the Department of Personnel and Administrative Reforms (Personnel "A" Branch), all the present three Petitioners were promoted to the Nagaland Civil Services (Senior Grade). On 31st of July, 1997, the private Respondent Nos. 3, 4, 5 and 6, namely, Shri N. Hangsingh, Shri Rentsamo Ngully, Shri Zachive Thele and Shri C.K. Nihokhu also passed the higher standard departmental examination and, thereafter, vide Notification, dated 20.10.1997, the private Respondents received officiating promotion to the post of Nagaland Civil Services (Senior Grade) with effect from 4.10.1997. However, by yet another Notification, dated 16.3.1998, the private Respondent

Nos. 3, 4, 5 and 6 aforementioned were granted officiating promotion with effect from 13.1.1997, though on 13.1.1997, none of them had, admittedly, passed the higher standard departmental examination.

5. By Notification, dated 14.3.2003, the private Respondent Nos. 3 and 7 were granted selection grade, though Respondent No. 7 passed the higher standard departmental examination as late as on 27.9.1991 as per the Notification, dated 18.11.1991. While granting, as indicated hereinbefore, retrospective promotions, though officiating, to the private Respondent Nos. 3, 4, 5 and 6, the State Respondents had acted contrary to the order contained in Memorandum, dated 30.9.1977, published by Department of Personnel and Administrative Reforms, Government of Nagaland, whereby retrospective promotions has been banned. By Notification, dated 31.3.1998, the Respondent No. 7 was given officiating promotions to the post of Senior Grade with retrospective effect from 4.10.1997 and by yet another Notification, dated 16.4.1998, the Respondent No. 7 was given retrospective promotion, though officiating, from 13th of January, 1997, i.e., the dated on which the Petitioners had also received their officiating promotion to the posts of Senior Grade, though on 13.1.1997, the Respondent No. 7 had not passed the requisite departmental examination. By Notification, dated 21.4.1998, the Respondent No. 7 was confirmed in the post of Junior Grade with retrospective effect from 5.6.1990.

6. Based on the above facts which are not in dispute, the Petitioners have sought for, inter alia, issuance of appropriate writ or writs setting aside and quashing the impugned Notifications, dated 21.3.1991 and 18.2.1993, in so far as the same relate to the Respondent Nos. 3 to 6, and also the orders, dated 31.3.1998, 16.4.1998 and 14.3.2003 aforementioned, on the grounds, inter alia, that at the time, when the private Respondents were promoted as Nagaland Civil Service Class-I Junior Grade (higher Scale), they were not eligible for promotion, for, they had not passed the higher standard departmental examination and that all the private Respondents having passed the said examination, after the Petitioners had already cleared the said examination, ought to have been treated as juniors to the Petitioners in all the promotional posts, namely, Junior Grade (higher scale) as well as Senior Grade; but ignoring the lawful claims of the Petitioners, the private Respondents have been, contrary to the law, given promotion, as indicated hereinabove, with retrospective effect.

7. I have heard Mr. R. Iralu, learned Counsel for the Petitioners, and Ms. Y. Longkumer, learned Government Advocate, appearing on behalf of the State Respondents. I have also heard Mr. T. Koza, learned Counsel for the private Respondents.

8. Presenting the case on behalf of the Petitioners, Mr. R. Iralu, learned Counsel for the Petitioners, has submitted that for the purpose of promotion to the post of Junior Grade (higher scale) passing of the higher standard departmental examination was compulsory in terms of the Office Memorandum, dated 16.8.1990, aforementioned and while the Petitioners, in terms of the

requirements of the said Office Memorandum, had passed the said examination in April, 1991, the private Respondent, namely, Respondents Nos. 3, 4, 5 and 6 passed the said examination on 31st July, 1997 and the Respondent No. 7 passed the examination as late as on 27th September, 1991. Having not passed the examination aforementioned, the private Respondents, according to Mr. Iralu, learned Counsel for the Petitioners, were not entitled to officiating and/or regular promotion to the posts of Junior Grade Higher Scale prior to the receiving of promotion by the Petitioners to the posts of Junior Grade (higher scale); However, contrary to the conditions of service, which the State Respondents had themselves formulated, the private Respondents were, points out Mr. Iralu, granted retrospective promotion to the post of Junior Grade (higher scale) with effect from 13.1.1997, which was the date on which the Petitioners, having qualified for promotion to the said post, had been granted promotion. Having not even qualified for being considered for promotion to the post of Junior Grade (higher scale) at the time, when the Petitioners had received their promotion to the said post, the private Respondents could not have been treated equal to the Petitioners. However, the State Respondents have made the private Respondents, contends Mr. Iralu, senior to the Petitioners by granting them retrospective promotion, which is contrary to the 1967 Rules and the relevant Notifications, which have been issued from time to time governing the service conditions of the parties concerned. This apart, points out Mr. R. Iralu, that even while granting to the private Respondent Nos. 3 to 7 officiating promotion to the posts of Senior Grade, the State Respondents ignored the fact that the private Respondents had passed the requisite examination long after the said departmental examination had already been cleared by the Petitioners. Mr. Iralu, also points out that while granting to the private Respondent Nos. 3 to 6 retrospective promotion to the posts of Senior Grade with effect from 13.1.1997, it was completely ignored by the State Respondents that on 13.1.1997, none of these Respondents had, admittedly, passed the said departmental examination. Similarly, further points out Mr. R. Iralu, the Respondent No. 7 has also been granted officiating promotion to the post of Senior Grade with effect from 13.1.1997, though even the Respondent No. 7 had passed the said departmental examination long after the said department examination had already been cleared by the Petitioners. In such circumstances, the officiating promotion granted to the private Respondents in respect of the posts of Senior Grade with effect from 13.1.1997 is, according to Mr. Iralu, untenable in law.

9. Resisting the writ petitions, Mr. T. Koza, learned Counsel for the private Respondents, has raised a preliminary objection to the very maintainability of the writ petitions by pointing out that the promotion of the private Respondent Nos. 3 to 6 to the posts of Junior Grade (higher scale) stood regularized by order, dated 18.2.1993, and it is after more than 10 years that this promotion has come to be challenged in the present writ petitions by the Petitioners. Such a belated approach by the Petitioners, if acceded to, submits Mr. T. Koza, will unsettle the settled position and this will neither be in the interest of justice nor

is it permissible under the law. Support for these submissions are sought to be derived by Mr. T. Koza from the decisions in (2002) 10 SCC 703 (Jharkhand Mazdoor Sangh v. Presiding Officer and Ors.) and (1995) 1 SCC 152 (P.S. Sadasivaswamy v. State of Tamil Nadu).

10. It is also pointed out by Mr. Koza, learned Counsel for the private Respondents, that the Notification, dated 16.8.1990, aforementioned, which forms the basis of the entire claim of the writ Petitioners is outside the relevant recruitment rules, for, the recruitment rules do not, accordingly to Mr. T. Koza, prescribe passing of departmental examination in higher standard as a condition precedent for promotion. The insistence of the Petitioners, submits Mr. T. Koza, that the Respondents/authorities concerned ought not to have promoted the private Respondents without their passing the said examination is misconceived in law. It is also submitted by Mr. Koza that the Notification, dated 16.8.1990, aforementioned has no force of law inasmuch as the same is beyond the relevant service rules, which has been framed under Article 309 of the Constitution, and based on this Notification, the private Respondents could not have been denied promotion to the Junior Grade (higher scale). Viewed from this angle, contends Mr. Koza, learned Counsel for the private Respondents, the Respondents/authorities concerned committed no error in promoting the private Respondents. At any rate, submits Mr. Koza, the private Respondents having been granted promotion to the Junior Grade (higher scale) long time back and the same having remained unchallenged so long cannot the promotion granted to the private Respondents, now, be upset. Even the subsequent officiating promotion of the private Respondents of Senior Grade do not, in the facts and circumstances of the present case, warrant interference. So contends Mr. Koza is further submitted by Mr. Koza, learned Counsel for the private Respondents, that the Notification, dated 12.11.1996, whereby the 1967 Rules have been amended is contrary to Rule 6 of the 1967 Rules inasmuch as while incorporating, in the Schedule to the amended Rules, the post of Junior Grade (higher scale), no corresponding amendment has been made either under Rules 9 or Rule 3 of the 1967 Rules and, hence, the amended Rules as well as the Notification, dated 16.8.1990, aforementioned do not have the force of law and the parties to the writ petitions are still governed by the service conditions as, originally, prescribed by the 1967 Rules. It is also pointed out by Mr. Koza that the Notification, dated 16.8.1990, aforementioned is an off-shoot of the Notification, dated 9.5.1970, whereby the Rules for conduct of departmental examination were framed. Since the Notification, dated 9.5.1970, aforementioned as well as the Notification, dated 16.8.1990 aforementioned, had not been published in exercise of powers under Article 309, the Government derived, according to Mr. Koza, no authority under the law to insist on passing of the higher standard departmental examination as a condition precedent for promotion to the post of Junior Grade (higher scale). In support of his submission that the insistence by the Petitioners and/or by the State Government on passing of the Higher Standard departmental examination as a condition precedent for promotion to the post of Junior Grade (higher scale)

is contrary to the relevant recruitment rules and, therefore, not sustainable in law, Mr. Koza has place reliance on 2004 (1) GLJ 122 (Agni Taboh and Ors. v. State of Arunachal Pradesh).

11. As far as Ms. Y. Longkumer, learned Government Advocate, is concerned, she has pointed out that by judgment and order, dated 31.3.2005, passed in W.P. (C) No. 4(K)/ 2004, this Court has already held the amended Rules published vide Notification, dated 12.11.1996, as valid. While seriously not disputing that passing of the higher standard departmental examination is a condition precedent for promotion to the post of Junior Grade (higher scale), Ms. Y. Longkumer has submitted that since the Petitioners have approached the Court belatedly, the settled position of inter se seniority between the parties may not be unsettled.

12. Repelling the submissions made on behalf of the Respondents, particularly, the challenge posed to the maintainability of the writ petition on the ground of the belated approach to this Court by the Petitioners, Mr. R. Iralu, learned Counsel for the Petitioners, has referred to Ramchandra Shankar Deodhar and Others Vs. The State of Maharashtra and Others, and G.P. Doval and Others Vs. Chief Secretary, Government of U.P. and Others,

13. Before entering into the merit of the writ petitions, let me determine if the objection raised, on behalf of the private Respondents, with regard to the maintainability of the present writ petitions on the ground of delay, which has crept in filing the writ petitions, has any force and if so, the extent to which this objection can be sustained.

14. While considering the question of delay or lapses, what is imperative to bear in mind is that the principle that the Court shall not enquire into belated and stale claims is not really a rule of law, but a rule of practice. There is no inviolable rule, as observed the Apex Court in Ramchandra Shankar Deodhar (supra), that whenever there is delay, the Court shall refuse to entertain the writ petition. The principle that the Court shall not entertain belated claims really depends on the facts of each case and is resorted to for the purpose of ensuring that reopening of the belated claims does not lead to unsettling of settled position.

15. Bearing in mind the above aspect of the law, when I come to the case of P.S. Sadasivaswamy Vs. State of Tamil Nadu, which Mr. T. Koza, learned Counsel for the private Respondents, has relied upon, I notice that the Apex Court, in this case, has held that a person aggrieved by an order promoting a junior over his head should approach the Court, at least, within six months or, at the most, a year of such promotion. While taking note of this aspect of the law laid down in P.S. Sadasivaswamy (supra), it is also equally important to take note of the further observations made in the case of P.S. Sadasivaswamy (supra), whereby the Apex Court has clarified that while invoking Article 226, there can be no case, where the Court cannot interfere in a matter after the passage of a certain

length of time, but it would be sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of a person, who does not approach the Court expeditiously for relief and who stands by and allows things to happen and, then, approach to Court to put forward stale claims and try thereby to unsettle settled matters.

16. In the face of what has been pointed out in the case of P.S. Sadasivaswamy (supra), it is clear that in a case in which the person, who approaches the Court belatedly, does not assign or unable to assign reasons for belatedly approaching the Court, the writ Court, in an appropriate case, may decline to interfere with the settled claims, particularly, when entertaining of such a writ petition would lead to unsettling of settled positions.

17. In the case at hand, the Respondent Nos. 5 and 6 were granted officiating promotion to the post of Junior Grade (higher scale) as far back as on 21.3.1991. This apart, the private Respondent No. 7 received her regular promotion to the post of Junior Grade (higher scale) as far back as on 22.12.1992 and the services of private Respondent Nos. 3, 4, 5 and 6 were regularized in the promotional post of Junior Grade (higher scale) by as early as on 18.2.1993. The present two writ petitions have been instituted after a lapse of more than ten years thereafter. For approaching the Court so belatedly, there is no explanation offered by the Petitioners nor is there any convincing explanation discernible, in this regard, from the materials on record,

18. Situated thus, it will not be, in the firm opinion of this Court, proper on the part of this Court to re-open the question of regularization/promotion of the private Respondent No. 7 to the post of Junior Grade (higher scale), which took place as far back as on 22.12.1992 or the question of regularization/ promotion of the private Respondent Nos. 3 to 6 to the post of Junior Grade (higher scale) granted as early as on 18.2.1993.

19. Though reliance has been placed by Mr. R. Iralu on the case of Ramchandra Shankar Deodhar (supra) to show that even a belated writ petition can be entertained by the Court, what needs to be noted, in this regard, is that in Ramchandra Shankar Deodhar (supra), the Apex Court has laid down that the question as to whether a writ Court shall or shall not entertain a belated writ petition shall depend on the facts of each case.

20. It is, no doubt, true that in Ramchandra Shankar Deodhar (supra), the writ petition was entertained and the reliefs were granted after about ten years of granting of the promotions, which formed the subject-matter of challenge in the writ petition. What is, however, extremely important to note is that the case of Ramchandra Shankar Deodhar (supra) is a case, wherein the promotion was provisional and the provisional promotions had not been finalized. In such a situation, no right could have been said to have accrued in favour of the persons, whose officiating promotions were challenged belatedly. This aspect of the matter is clear from the observation made in Ramchandra Shankar Deodhar (supra),

which read thus:

All promotions that have been made by the State Government are provisional and the position has not been crystallized to the prejudice of the Petitioners. No rights have, therefore, accrued in favour of others by reason of the delay in filing the petition. The promotions being provisional, they have not conferred any rights on those promoted and they are by their very nature liable to be set at naught, if the correct legal position, as finally determined, so requires.

21. The case of G.R Deval (supra) on which also Mr. Iralu has placed reliance is a case, where the question of seniority had not been finalized. As against these two cases, namely, Ramchandra Shankar Deodhar (supra) and G.P. Deval (supra), which Mr. Iralu has relied upon, the present one is a case in which so far as Respondent Nos. 3 to 6 are concerned, their promotion to the post of Junior Grade (higher scale) was regularized as far back as on 18.2.1993 and the Petitioners did not express any grievance against the same. Situated thus, I am of the view, if I may reiterate, that the question of re-opening of the promotion of the private Respondent Nos. 3 to 6 to the post of Junior Grade (higher scale) does not arise at all. Similarly, so far as the Respondent No. 7 is concerned, promotion having been granted to her to the post of Junior Grade (higher scale) as far back as, on 22.12.1992, the same also cannot be questioned and re-opened so belatedly.

22. What is, now, of immense importance to note is that the private Respondents, as the facts narrated above clearly indicate, were further promoted, though provisionally, to the posts of Senior Grade. Such promotion having been granted to the private Respondent Nos. 3 to 6 on 20.10.1997 and to the private Respondent No. 7 on 31.3.1998, provisionally, these promotions have still remained provisional and the rights of the private Respondents have not, thus, crystallized to the prejudice of the Petitioners. Hence, if the provisional promotions granted to the private Respondents to the post of Senior Grade is not in conformity with the relevant recruitment rules and the policies connected therewith, there shall be no impediment, on the part of the Court, to interfere with the promotion of the private Respondents and/or with the question of inter se seniority between the Petitioners, on the one hand and, the private Respondents, on the other. The mere fact that these provisional promotions were also granted more than five years back is, thus, of not much importance.

23. The upshot of the discussion held above is that this Court is free to determine if the promotion of the private Respondents to the post of Senior Grade have been in accordance with law. While considering this aspect of the matter, it needs to be noted that under 1967 Rules, as the same stood originally, the post of Junior Grade (higher scale) did not exist. By Notification, dated 9.5.1970, the Rules for conduct of departmental examination were framed. These rules notified, on 9.5.1970, were meant for confirmation in service of the persons, who are governed by the 1967 Rules. These departmental Rules for passing of examination appear to have been prescribed for the purpose of

granting of confirmation under Rule 18 of 1967 Rules. By Notification, dated 16.8.1990, the Government made it, as already indicated hereinabove, compulsory for all officers to pass departmental examination in higher standard for becoming eligible for confirmation in service.

24. It is worth noticing that for confirmation of a person in service, Rule 18 of the 1967 Rules made it a condition precedent that the person concerned shall pass departmental examination. Neither Rule 18 nor the 1967 Rules, as a whole, prescribed as to what shall be the syllabus or contents of the departmental examination; rather, the same were left to be prescribed by the authorities concerned. In a situation, such as the present one, when the Government prescribed the examination, which a person is required to pass for confirmation in service, such a criterion imposed by the Government cannot be said to be contrary to the relevant Recruitment Rules. This apart, 1967 Rules, as already indicated hereinabove, did not have Junior Grade (higher scale) as a post of promotion. This post has been incorporated in the Schedule by Notification dated 12.11.1996. Neither the Notification, dated 16th August, 1990, aforementioned, whereby passing of the higher standard departmental examination has been made compulsory, nor the Notification, dated 12.11.1996, aforementioned incorporating in the Schedule the proof of Junior Grade (higher scale) were ever challenged by the private Respondents. Far from this, the Respondents did appear in the higher standard departmental examination and accepted the promotion, provisional as well as regular, to the post of Junior Grade (higher scale) based on the Notification, dated 16.8.1990, aforementioned as well as Notification, dated 12.11.1996, aforementioned.

25. In the present case, the 1967 Rules provide for the post of Junior Grade (higher scale) as a promotional post from Junior Grade. The 1967 Rules, however, are silent with regard to the conditions, which are required to be satisfied for the purpose of giving promotion. This omission is sought to be filled up by the Government by taking recourse to the Notification, dated 16.8.1990, aforementioned. When the Rules make provisions for promotion to a particular post, but remain silent with regard to the conditions subject to which the promotion can be made, permissible it is for the Government or the authorities concerned to prescribe the conditions for such promotion and unless interfered with, the conditions, which may be so prescribed, have to be abide by. It is only when the relevant Rules prescribed certain qualifications or conditions precedent for appointment or promotion and the executive instructions issued by the Government or the authorities concerned run contrary thereto that the executive instructions can be interfered with. The decisions in Agni Taboh (supra) has to be read in this light. In Agni Taboh (supra), the recruitment rules prescribed the minimum qualification for appointment to the post of lecturer of colleges; but acting upon the recommendations of the University Grants Commission, the Government of Arunachal Pradesh imposed certain conditions for making a person eligible for appointment as lecturer of colleges. Since the executive instructions issued by the Government, acting upon the recommendation of the

UGC, were contrary to, and in conflict with, the relevant recruitment rules, framed under Article 309 of the Constitution, this Court interfered with the matter. The present one is, however, a case, wherein the relevant recruitment rules do not, admittedly, lay down any criteria and/or conditions subject to which promotion to the post of Junior Grade (higher scale) has to be granted. In such a situation, when the Government prescribed passing of the departmental examination in higher standard as a condition precedent for promotion to the post of Junior Grade (higher scale) and the same remains unchallenged, such a condition imposed by the Government even by executive instructions cannot be said to have no force of law.

26. Bearing in mind what has been indicated above, when I revert to the present case, what becomes glaringly noticeable to the eyes is that the private Respondents received provisional promotion to the post of the Senior Grade vide order, dated 20.10.1997; but subsequent thereto, by yet another Notification, dated 16.3.1998, they have been given retrospective promotion, though provisionally, to the posts of Senior Grade with effect from 13.1.1997. In view of the fact that the private Respondent Nos. 3 to 6 had not passed the requisite examination on 13.1.1997, they could not have been promoted to the post of Senior Grade by a mere executive fiat, such as, Notification, dated 16.3.1998, aforementioned. Since the promotions, so granted, are provisional in nature, it has not crystallized any right in favour of the private Respondents aforementioned and/or a right contrary to the interest of the Petitioners. So far as the Respondent No. 7 is concerned, she is shown to have passed the requisite examination on 27.9.1991. Though she has been promoted provisionally to the post of Senior Grade with effect from 13.1.1997, for fact remains that her promotion has not been regularized and she, having passed the requisite examination after the same was cleared by the Petitioners, can also not steal a march over the Petitioners unless specific reason(s) is/are assigned therefore by the State Respondents.

27. For what have been pointed above, it is hereby made clear that though, at this stage, the provisional promotions of the private Respondents to the posts of Senior Grade are not interfered with, the retrospective effect of the provisional promotion given to the private Respondents is hereby set aside and quashed.

28. Considering further the matter in its entirety and in the interest of justice, the State Respondents, particularly, Respondent No. 1 are hereby directed to place the matter of promotion of the parties to the two writ petitions before the Departmental Promotion Committee for consideration in the light of what have been observed hereinabove. The Departmental Promotion Committee, to be so constituted by the Respondent No. 1, shall look into the question of promotion of the parties concerned to the posts of Senior Grade, regularization thereof and also fix their inter se seniority in accordance with law and in the light of what have been observed above. The whole exercise, so directed, shall be completed within a period of three months from today.

29. The private Respondents shall continue to hold the post of Senior Grade until the time effective decision, in terms of directions given hereinbefore, is taken by the DPC and accordingly acted upon by the State Respondents.

30. With the above observations and directions, these two writ petitions shall stand disposed of.

31. No order as to costs.