

(2016) 05 GAU CK 0102
In the Gauhati High Court
Case No : W.P.(C) No. 70 of 2014

Sh. Lalrinsanga

APPELLANT

Vs

State of Mizoram

RESPONDENT

Date of Decision : 05-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 6 GauLJ 657 : (2017) 1 GauLR 208

Hon'ble Judges : Michael Zothankhuma, J.

Bench : Single Bench

Advocate : M. C. Ialamzauva, Sr. Advocate, M.A.R. Malhotra, Mr. K.Laldinliana and Mrs. K. Lalramnghaki, Advocates, for the Respondent Nos. 5 to 13; Mr. Samuel Vanlalhriata Chhangte, Advocate, for the Respondent Nos. 1 to 4; Mr. N. Sailo, Sr. Advocate Mrs. Dinari T.A

Final Decision : Allowed

Judgement

Michael Zothankhuma, J. (Oral) - Heard Mr. N. Sailo, senior counsel assisted by Ms. Vanhmingliani, counsel for the petitioners. Also heard Mr. Samuel Vanlalhriata Chhangte, Govt. Advocate for the respondent Nos. 1 to 4 and Mr. C.Lalramzuava, senior counsel for the respondent Nos. 5 to 13 assisted by Mr. Benjamin Lalthlamuana.

2. Mr. N.Sailo, senior counsel for the petitioners submits that the case relates to inter-se-seniority between the petitioners and the private respondents in the post of Data Entry Operators (DEO for short).

3. The petitioners counsel submits that the petitioner Nos. 1 & 2 were engaged in the Accounts & Treasuries Wing of the Finance Department, Govt. of Mizoram as Data Entry Operators on muster roll basis on 1.4.2011, petitioner Nos. 3 to 5 on 20.11.2012 and petitioner No.6 on 27.11.2012. On the other hand, the respondent Nos.5 to 13 were appointed as Computer Operators on muster roll basis between the period from 17.2.2000 to 29.3.2010.

4. The petitioners counsel also submits that in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Mizoram was pleased to make Rules for Regulating the method of recruitment to the post of Data Entry Operator called the Mizoram Data Entry Operator (Group "C" posts) Recruitment Rules, 2011, herein after referred to as Data Entry Operator Rules, 2011. The petitioners counsel also submits that another set of Rules for Regulating the method of recruitment to the post of Computer Operator was also made under the proviso to Article 309 of the Constitution of India, called the Mizoram Computer Operator (Group "B" posts) Recruitment Rules 2011, herein after referred to as the Computer Operator Rules, 2011.

5. The petitioners counsel submits that with the enactment of the Data Entry Operator Rules, 2011 and the Computer Operator Rules, 2011, which both came into force with effect from 2.2.2012, the private respondent Nos. 5 to 13, who were engaged as Computer Operators on muster roll basis and who did not have the required educational qualification necessary to be holding the post of Computer Operators as per the Computer Operator Rules, 2011 were to be redesignated as Data Entry Operators (DEO). In this respect, the Department of Personnel & Administrative Reforms (Administrative Reforms Wing), (DP & AR, ARW in short) issued Office Memorandum dated 15.10.2012, which was to the effect that Computer Operators who did not have the prescribed qualification for the post of Computer Operator as per the Computer Operator Rules, 2011 should be stepped down from Skilled-I to Skilled-II and to be re-designated as Data Entry Operator, if they were having the prescribed qualification as required under the Data Entry Operator Rules, 2011. The Office Memorandum dated 15.10.2012 also provided for qualified Computer Operators under various departments to exercise their option on or before 30.11.2012, i.e., whether they would like to be re-designated as Data Entry Operators, in view of the fact that Data Entry Operators, which was a Group "C" post, could be considered for regularization as per the Regularization of Muster Roll Employees Mizoram Scheme, 2000. The Office Memorandum dated 15.10.2012 also stipulated that the inter-se-seniority of Data Entry Operators who are already in existence in the departments would be placed above the newly re-designated Data Entry Operators.

6. The learned senior counsel for the petitioners submits that though the private respondents have been appointed on Muster Roll basis as Computer Operators in the Accounts and Treasuries Wing of the Finance Department, Govt. of Mizoram, prior to the appointment of the petitioners as Data Entry Operators, the private respondents having opted to be re-designated as Data Entry Operators on the basis of the Office Memorandum dated 15.10.2012, the private respondents were to be placed junior to the petitioners, who were already existing as Data Entry Operators prior to the re-designation of the private respondents. The Office Memorandum dated 15.10.2012 is reproduced here under :-

"OFFICE MEMORANDUM

Attention of all Administrative Departments/Heads of Departments is hereby

drawn that with the framing of new Recruitment Rules for the post of Computer Operator and Data Entry Operator vide Notification No.A.12018/70/2008-P&AR(GSW) dated 31.1.2012 and Notification No. A.12018/80/2011-P&AR(GSW) dated 31.1.2012, all existing Muster Roll Computer Operators who do not have the prescribed qualification for the post of Computer Operator shall be stepped down from Skilled-I to Skilled-II (if any), and re-designated as Data Entry Operator where they are qualified henceforth. However, in respect of those Computer Operators having the prescribed qualification there is no objection for retaining their based post and shall remain in the capacity of Skilled-I.

Furthermore, in view of the provisions of the "Regularisation of Muster Roll Employees Mizoram Scheme, 2000", which provides for regularization of Group "C" & "D" only; those qualified Computer Operators under various Departments may also exercise an option for which they are willing to be placed or retain the based post on or before 30.11.2012 positively so as to open equal opportunity under the said Scheme since the post of Computer Operator had been classified as Group "B" post carrying PB 9300-34800+4400 GP subject to stepping down from Skilled-I to Skilled-II as a result of exercising such option.

As a result of such exercised, it may be noted that the inter-se-seniority of such employees may be rearranged (if already published) as follows :-

(i) If Muster Roll Skilled-II Data Entry Operator already existed in the Department prior to 30.11.2012, they will be placed senior to other employees who were newly re-designated following this Office Memorandum and the new group will be placed junior to them accordingly the chronological order of the date, month and year of engagement. If there are more than one employees engaged on the same date simultaneously, the eldest one shall be placed senior most to the others and vice-versa.

(ii) And if there is no existing Muster Roll Skilled-II Data Entry Operator in the Department, problem may not arise and their inter-se-seniority be arranged in chronological order as mentioned at (i) above.

All authorities concerned, are, therefore, instructed to re-arrange the inter-se-seniority lists of Muster Roll Computer Operators (who opted to remain as Computer Operator) and Data Entry Operator (if already published by this Department) and send to this department for further re-publication on or before 30.11.2012 positively."

7. The learned senior counsel also submits that subsequent to the Office Memorandum dated 15.10.2012, another Office Memorandum dated 16.7.2013 was issued by the Department of Personnel & Administrative Reforms (ARW), which is to the following effect:

"OFFICE MEMORANDUM

Attention to all Administrative Departments/Head of Departments is hereby drawn to this Department's Office Memorandum issued vide No.A.11019/4/08-

P&AR(ARW)/III dated 15.10.2012, relating to the framing of New Recruitment Rules for the Computer Operator and Data Entry Operator vide Notification No.A.12018/70/2008-P&AR(GSW) dated 31.1.2012 and Notification No. A.12018/80/2011-P&AR(GSW) Dated 31.1.2012.

The date which appeared in the above cited Office Memorandum No. Para (i) as "30.11.12", is hereby substituted as, "15th October, 2012", i.e.-

(i) If Muster Roll Skilled-II Data Entry Operator already existed in the Department prior to 15.10.2012 they will be placed senior to other employees who were newly redesignated following this Office Memorandum and the new group will be placed junior to them accordingly the chronological order of the date, month and year of engagement. If there are more than one employees engaged on the same date simultaneously, the eldest one shall be placed senior most to the others and vice-versa.

All authorities concerned, are, therefore, instructed to re-arrange the inter-se-seniority lists of Muster Roll Computer Operators (who opted to remain as Computer Operator) and Data Entry Operator (if already published by this Department) and send to this Department for further re-publication on or before 24th July 2013 positively."

8. The respondent No.4 vide a common notice dated 16.11.2012 requested the Computer Operators to exercise their option whether they would like to remain as Computer Operators and be re-designated as Data Entry Operators. In response to the notice, the private respondent Nos. 5 to 13 submitted their options to be re-designated as Data Entry Operators. Consequently, the respondent No.4 issued Office Order dated 11.12.2012 redesignating the private respondents as Data Entry Operators in pursuance to the Office Memorandum dated 15.10.2012.

9. The private respondents on being re-designated as Data Entry Operators on the basis of the Office Memorandum dated 15.10.2012 thereafter submitted a representation requesting the authorities to count their period of service as Computer Operators in their newly re-designated post of the Data Entry Operators.

10. Thereafter, on the basis of the private respondents representation, the Under Secretary, Department of Personnel & Administrative Reforms (ARW) issued a letter dated 19.7.2013 to the respondent No.4 stating that "as the private respondents had been working as Computer Operators Skilled-II on Muster Roll basis, with their wages and nature of duties being the same as that of Data Entry Operators, the Office Memorandum dated 15.10.2012 may not be applicable to the private respondents. As such, the private respondents claim for fixation of seniority as per the date of joining as Computer Operators was found to be justified and reasonable."

11. The learned counsel for the petitioners submits that in pursuance to the

letter dated 19.7.2013 issued by the Department of Personnel & Administrative Reforms (ARW), a provisional seniority list of Data Entry Operators dated 6.8.2013 and provisional seniority list dated 23.8.2013 was issued by the respondents in which the petitioners were made junior to the private respondents.

12. Subsequent to the provisional inter-se-seniority lists, the Under Secretary to the Govt. of Mizoram, Department of Personnel & Administrative Reforms (ARW) issued Office Memorandum dated 18.9.2013, wherein the final inter-se-seniority position of Data Entry Operators under the Accounts & Treasuries Department was published. In the said final inter-se-seniority list dated 18.9.2013, the private respondents were placed at Sl.Nos.1 to 9 and the petitioners were placed at Sl. Nos. 10 to 15.

13. The petitioners counsel submits that the petitioners did not have any knowledge of the issuance of the provisional seniority lists dated 6.8.2013, 23.8.2013 and final seniority list dated 18.9.2013.

14. The petitioners counsel submits that the petitioners came to know of the 3 (three) seniority list some-time in the month of June, 2014, wherein they immediately submitted a representation dated 5.6.2014 and 16.6.2014 to the authorities to re-consider the seniority position fixed by the State respondents.

15. The petitioners counsel submits that the State respondents have not made any reply to the petitioners representation and in the meanwhile, the respondent No.4 has issued Office Order No.27 of 2014-15 dated 19.6.2014 wherein the respondent Nos.5 to 8 have been regularized as Data Entry Operators as per the Regularisation of Muster Roll Employees Mizoram Scheme, 2000.

16. The petitioners counsel submits that the petitioners were unable to submit any representation regarding their grievances in being placed below the private respondents in the provisional and final seniority lists mentioned above, within the permissible time limit, as copies of the same were not furnished to them. The petitioners counsel submits that the petitioners were not made aware of the issuance of the provisional and final seniority list and as such, the petitioners cannot be faulted for submitting a late representation against the final seniority list.

17. The counsel for the petitioners submits that the private respondents having given their option to be re-designated as Data Entry Operators as per the Office Memorandum dated 15.10.2012 and the private respondents having been re-designated Data Entry Operators on 11.12.2012, on the basis of the said Office Memorandum, the seniority position of the private respondents would have to be made in conformity with the contents of the said Office Memorandum. The petitioners counsel submits that the Office Memorandum dated 15.10.2012 cannot be allowed to be applied in parts. The petitioners counsel submits that the private respondents having opted to be governed by the Office Memorandum dated 15.10.2012, they cannot be allowed to turn around and challenge parts of

the Office Memorandum dated 15.10.2012. The petitioners counsel submits that the post of Computer Operator is a Group "B" post as per the Computer Operator Rules, 2011, while the post of Data Entry Operator is a group "C" post as per the Data Entry Operator Rules, 2011. He submits that these 2 (two) posts are 2 (two) different distinct posts. In view of the fact that the Regularization of Muster Roll Employees Mizoram Scheme, 2000 envisages regularization of only Group "C" and "D" employees, the private respondents, who were initially Computer Operators, could not have been considered for regularization as per the Regularization Scheme. The sum and substance of the petitioners counsel's submission is that the private respondents cannot be made senior to the petitioners as they were re-designated Data Entry Operators on the basis of the Office Memorandum dated 15.10.2012 by counting their past service as Computer Operators in their newly designated engagement/posts as Data Entry Operators and in this regard, the learned counsel has cited the case of Kumod Kumar and another v. State of Jharkhand and others reported in 2015 4 SCC 646 para 25,32 & 33. The counsel for the petitioners has also submitted that the private respondents cannot be allowed to blow hot & cold, approbate and re-probate and in support of this submission, he has cited the case of M/s New Bihar Biri Leaves Co. and others v. State of Bihar and others reported in 1981 (1) SCC 537 (para 48 & 49).

18. Mr. Nelson Sailo, counsel for the petitioners also submits that the private respondents having gone into the stream of Data Entry Operators on the basis of the Office Memorandum dated 15.10.2012, the State respondents have to apply the Office Memorandum dated 15.10.2012 fully and not in parts.

19. Mr. Samuel Vanlalhriata Chhangte, Govt. Advocate submits that the Department of Personnel & Administrative Reforms (ARW) examined the grievances of the private respondents and concluded that even though the private respondents were engaged as Computer Operators, their wages and nature of work were the same as that of Data Entry Operators. He also submits that there was no stepping down of the private respondents from Computer Operator Skilled-I to Skilled-II as they were never given the wages of Skilled-I workers. The Govt. Advocate submits that the Government allowed the past service as Computer Operator Skilled-II of the private respondents to be counted for the purpose of seniority in the post of Data Entry Operators in view of the above reasons.

20. The Govt. Advocate submits that there is no record of the signatures of the petitioners while issuing the seniority lists to the petitioners, as no such practise of obtaining signatures has been followed by the Department. He however, submits that the provisional and final seniority were issued to the petitioners. The Govt. Advocate also submits that as no complaint was received from any quarter with regard to the provisional inter-se-seniority lists dated 6.8.2013 and 23.8.2013, the final inter-se-seniority list was issued on 18.9.2013. The Govt. Advocate thus submits that the petitioners cannot be now allowed to challenge

the final seniority list without having made a challenge to the provisional seniority lists.

21. Mr. C. Lalramzauva, counsel for the respondent Nos. 5 to 13 submits that the petitioners not having made a challenge to the provisional inter-se-seniority lists dated 6.8.2013 and 23.8.2013, the petitioners cannot be allowed to challenge the final inter-se-seniority list dated 18.9.2013. The private respondents counsel also submits that the private respondents have been working as Computer Operators Skilled-II prior to the engagement of the petitioners as Data Entry Operators. He thus submits that the State respondents did not commit any legality in counting the past service of the private respondents as Computer Operator in their length of service as Data Entry Operator, as Computer Operator Skilled-II and Data Entry Operators are given the same wages and have the same nature of duties. The private respondents counsel also submits that even after the promulgation of the 2 (two) Recruitment Rules on 2.2.2014, the respondent Nos. 5 to 13 continued to be engaged as Computer Operators Skilled-II, till their redesignation as Data Entry Operators on 11.12.2012. He thus submits that the change in the nomenclature of Computer Operator to Data Entry Operator is of little significance and that equity demands that the past services of the private respondents as Computer Operator Skilled-II should be counted for the purpose of seniority while being engaged as Data Entry Operator.

22. The private respondents counsel also submits that the petitioners have no locus standi to challenge the Government decision to count the past services of the private respondents as Computer Operator Skilled-II as no prejudice is caused to them. He also submits that no vested or legal right of the petitioners has been violated by the Government decision to count the past service of the private respondents.

23. The learned senior counsel for the private respondents also submits that in view of the fact that the private respondents were engaged as Computer Operator Skilled-II, which has the same pay and nature of duties as Data Entry Operators, the question of stepping down does not arise. He thus submits that the O.M. dated 15.10.2012 is not applicable in the case of the private respondents. The private respondents counsel also submits that the petitioners do not have any legal right to deny the private respondents to count their past services for the purpose of seniority. In this regard he has relied upon the judgments of the Apex Court in the case of Ayaubkhan Noorkhan Pathan v. State of Maharashtra and Others reported in 2013 4SCC 465 (Para- 9,10,13 & 17) and in the case of Rajasthan State Industrial Development and Investment Corporation and Another v. Diamond & Gem Development Corporation Limited and Another reported in 2013 5SCC 470 (Para- 21 & 22).

24. The petitioners counsel submits that the nature of duties of the petitioners and the private respondents are different. The petitioners counsel submits that the private respondents were engaged for the purpose of LDC work and routine computer work, such as Typing, while the private respondents were engaged for

the purpose of recording data and they are all well acquainted with various computer software applications.

25. I have heard the learned counsel for the parties. The dates of engagements of the petitioners and the private respondents as per their dates of joining as Computer Operators and Data Entry Operator are as follows:

"List of Muster Roll Employees under Accounts Treasuries

(2.5.2013)

Sl. No.

Name

Designation

Date of Birth

Date of Joining

Present Place of Posting

1

2

3

4

5

6

COMPUTER OPERATORS

1.

R.Vanlalpari (Respondent No.5)

Computer Optr.

21.06.1975

17.02.2000

Aizawl North

2.

K. Vanlalzawni (Respondent No.6)

"

10.06.1976

03.08.2001

Saiha

3.

Lalpiangthari Zote (Respondent No.7)

"

18.10.1980

08.08.2005

A & T

4.

Lalremruati (Respondent No.8)

"

16.10.1978

01.03.2006

A & T

5.

Jerry Malsawmdawngliana(Respondent No.9)

"

06.06.1990

12.03.2008

A & T

6.

C.Darthanchama (Respondent No.10)

"

24.07.1982

13.03.2008

Aizawl South

7.

Mary Lalnunpuii Tlau (Respondent No.11)

"

13.02.1987

13.03.2008

Lunglei

8.

Malsawmpari Pautu (Respondent No.12)

"

04.01.1980

17.03.2008

Finance

9.

J.Lalawmpuia (Respondent No.13)

"

11.07.1985

29.03.2010

A & T

DATA ENTRY OPERATORS

1.

Lalchhandami (Petitioner No.2)

DEO

11.07.1985

01.04.2011

Aizawl South

2.

Lalrinsanga (Petitioner No.1)

"

09.03.1987

01.04.2011

A & T

3.

H.Zohmangaiha (Petitioner No.4)

"

28.02.1983

19.11.2012

A & T

4.

S.Lalmuanpuia (Petitioner No.5)

"

19.11.2012

A & T

5.

P.C.Zahmingliani (Petitioner No.3)

"

19.11.2012

A & T

6.

H.Zonunmawii (Petitioner No.6)

"

29.11.2012

A & T

26. A perusal of the official records does not show that the said provisional seniority list dated 6.8.2013 had been issued to any person. There is also not document showing that the petitioners have been given a copy of the said provisional seniority lists or the final seniority lists.

27. In respect of the provisional seniority list dated 23.8.2013, the O.M. dated 23.8.2013 shows at "copy to" that the Chief Controller of Accounts was requested to circulate the O.M. to each Muster Roll Employees of the Department. However, a perusal of the official records does not show that the provisional seniority list dated 23.8.2013 was circulated to any of the Muster Roll employees. There are no signatures of the petitioners or any document or notings in the file to show that they had received the O.M. dated 23.8.2013. Similarly, there is no document or notings in the official records to show that the final inter-se-seniority list dated 18.9.2013 has been circulated and given to the Muster Roll employees including the petitioners. In view of the above, it has to be inferred that the petitioners were not given copies of the provisional and final inter-seniority lists and that they were not in the knowledge of the same till a few days prior to the filing of their representation dated 5.6.2014.

28. The service of the respondent Nos. 5 to 13 as Data Entry Operators has to be

counted from the date of their re-designation as Data Entry Operators. The respondent Nos. 5 to 13 were never Data Entry Operators prior to their re-designation as Data Entry Operators vide Office Order dated 11.12.2012. However, the petitioners have been engaged as Data Entry Operators prior to the private respondents. Though the private respondents having been re-designated as Data Entry Operators on the basis of the Office Memorandum dated 15.10.2012, the private respondents service as Computer Operators have been counted for the purpose of seniority as Data Entry Operators. Even assuming that the wages and nature of duties of the private respondents were the same as the petitioners even before their re-designation as Data Entry Operators, this does not take away the fact that the private respondents were Computer Operators prior to their re-designation. Thus, the respondents could not have made the private respondents senior to the petitioners on their re-designation from Computer Operators to Data Entry Operators. There being no challenge to the Office Memorandum dated 15.10.2012, the Office Memorandum dated 15.10.2012 has to be complied with. With respect to the Office Memorandum dated 16.7.2013, it is noticed that the petitioner Nos. 1 & 2 will still have to be treated as senior to the private respondents as per the O.M. dated 16.7.2013. However, with respect to the petitioner Nos. 3 to 6, the Office Memorandum dated 16.7.2013 takes away the past service of the petitioner Nos. 3 to 6, while the past service of the petitioner Nos. 1 & 2 remain intact, in view of the substitution of the date "30.11.2012" to "15.10.2012". This taking away of the past service of the petitioner Nos. 3 to 6 by the State respondents on the basis of the Office Memorandum dated 16.7.2013 is arbitrary and discriminating. No reasons have been given for taking away the past service of the petitioner Nos. 3 to 6 while keeping intact the past service of the petitioner Nos. 1 & 2. No reason has been given by the State respondents why an artificial line has been drawn. Accordingly, the substitution of the date "30.11.2012" by the date "15.10.2012" in the Office Memorandum dated 16.7.2013 cannot be allowed and is accordingly set aside.

29. The Apex Court in the case of Kumod Kumar and another v. State of Jharkhand and others reported in 2015 4 SCC 646 has held that an employee on transfer in the exigency of service or in public interest, is entitled for determination of his seniority, to count the period of service rendered by him against the erstwhile post. However, the above general proposition cannot be applied if the appointment is neither in public interest nor in the exigency of service. Though the present is not regarding transfer, the ratio of the case can be applied. In the present case, it is not the case of the State respondents that the re-designation of the private respondents was made in public interest or in the exigency of service.

The petitioners having been in service as Data Entry Operators for a longer period than the private respondents, the State respondents have committed a mistake by placing the private respondents above the petitioners in the seniority list. The private respondents having been re-designated as Data Entry Operators

only on 11.12.2012, the past service of the private respondents as Computer Operators cannot be counted for the purpose of seniority in their subsequent engagement/service as Data Entry Operators. The respondent Nos. 5 to 13 having been re-designated on the basis of the Office Memorandum dated 15.10.2012, as has been reflected in the Office Order dated 11.12.2012, the State respondents could not have given seniority to the private respondents vis-a-vis the petitioners. The Apex Court in the case of M/s New Bihar Biri Leaves Co. and others (supra) has held that one who approbates cannot reprobate. The Apex Court in the above case has also held that "It is a fundamaental principle of general application that if a person of his own accord, accepts a contract on certain terms and works out the contract, he cannot be allowed to adhere to and abide by some of the terms of the contract which proved advantageous to him and repudiate the other terms of the same contract which might be disadvantageous to him."

30. The Apex Court in Rajasthan State Industrial Development and Investment Corporation and Another (supra) and Ayaubkhan Noorkhan Pathan v. State of Maharashtra and Others (supra) has held that a writ does not lie to create or to establish a legal right but to enforce one that is already established. In the present case, the petitioners have been appointed as Data Entry Operators prior to the private respondents. However, as the private respondents have been placed senior to the petitioners in the seniority list after being re-designated as Data Entry Operators in pursuance to the Office Memorandum dated 15.10.2012 vide Office Order dated 11.12.2012, I find that the petitioners legal right have been violated. I also find that the respondent Nos. 5 to 8 have been regularized as Data Entry Operators vide Office Order No. 27 of 2014 dated 19.6.2014 despite they not having completed 7 years of service as Data Entry Operators as required by the Regularization of Muster Roll Employees Scheme, 2000. Thus the Office Order dated 19.6.2014 is also liable to be set aside. Accordingly, the above 2 (two) judgments cited by the private respondents counsel is not applicable to the present case.

31. I also find that the petitioners have locus standi to file this writ petition inasmuch as the seniority position in their services as Data Entry Operators would have a huge bearing while being considered for regularization under the Regularization of Muster Roll Employees Mizoram Scheme, 2000. Due to the reasons stated above, the provisional seniority list of Data Entry Operators dated 6.8.2013, 23.8.2013 and additional seniority list dated 18.9.2013 are set aside. The respondents should publish a fresh seniority list placing the petitioners above the private respondents. Consequently the regularization order dated 19.6.2014 issued in favour of the private respondent Nos. 5 to 8 is also set aside and the respondents are directed to consider afresh the regularization of Data Entry Operators as per the Regularization of Muster Roll Employees Scheme, 2000 and the fresh seniority list to be made by the respondents.

32. Writ petition is accordingly allowed.