

(2004) 08 GAU CK 0006

In the Gauhati High Court

Case No : Civil Rule No's. 1547 and 1575 of 1999

Suren Patowary and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 30-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 1 GLT 483

Hon'ble Judges : B.K. Sharma, J

Bench : Single Bench

Advocate : P.C. Deka, N. Deka and M.D. Choudhury, for the Appellant; V.M. Thomas and B. Banerjee, for the Respondent

Final Decision : Allowed

Judgement

B.K. Sharma, J.—The issues involved in both the writ petitions are same and based on same set of facts. Thus, they were heard analogously and are being disposed of by this common Judgment and Order.

2. The writ Petitioners are aggrieved by the judgment dated 18.07.88 passed by the Assam Administrative Tribunal, Guwahati in case No. (19 ATA (Misc.)/97)/(35ATA/96) directing determination of seniority of the Respondent No. 4 from a particular date which has affected the seniority of the Petitioners in the cadre of LDA. The Petitioners were not party to the proceeding before the Tribunal.

3. Out of the four writ Petitioners in W.P.(C) No. 1575/99, the first three writ Petitioners were appointed as Lower Division Assistant (hereinafter referred as LDA) in the office of the Director of Elementary Education, Assam on 17.06.82. The 4th writ Petitioner was appointed as Typist on 09.07.92. The lone Petitioner in W.P.(C) No. 1547/99 was appointed as LDA on 09.10.82. On the other hand, the Respondent No. 4 was first appointed as Steno-Typist by an order dated 07.06.82 for a limited period of three months which was further extended for three months each by orders dated 15.09.82 and 20.12.82.

4. The first three Petitioners in W.P.(C) No. 1575/99 were appointed as LDA in the office of the Director of Elementary Education, Assam in the pay scale of Rs. 300-575/ -, whereas the 4th Petitioner was appointed as Typist in the scale of pay of Rs. 275-475/ - in the same office. The lone Petitioner in W.P.(C) No. 1547/99 was appointed as LDA in the pay scale of Rs. 300-575/ -. The temporary appointment of the Respondent No. 4 as steno-Typist was made in the pay scale of Rs. 275-475/ - and he was so appointed in the M.E. Cell of the Directorate.

5. By an order dated 04.12.87, a gradation list of LDAs of the Directorate prepared on the basis of Service records was published placing the Petitioners at serial Nos. 15, 16, 17, 19 and 21 showing their aforesaid respective dates of appointment as LDA. It will be pertinent to mention here that the 4th Petitioner in W.P.(C) No. 1575/99 although was appointed as Typist, but he was treated to be in the cadre of LDA as indicted in the said gradation list. The Respondent No. 4 was not included in the gradation list, which according to the Petitioners was rightly so, he having not been in the cadre of LDA in the Directorate.

6. The four Petitioners in W.P.(C) No. 1575/99 were promoted as Upper Division Assistant (hereinafter referred as UDA) w.e.f. 01.09.93, 25.08.94 and 31.10.94 (Petitioners Nos. 3 and 4) respectively. The lone Petitioner in W.P.(C) No. 1547/99 was also allowed to officiate as UDA by an order dated 08.01.99. By an order dated 13.04.95, the Respondent No. 4 was absorbed as LDA specifying that his seniority in the cadre of LDA would be from the date of joining as LDA as per the said order, meaning thereby that he was to count his seniority w.e.f. 13.04.95 in the cadre of LDA.

7. By Annexure-10 order dated 22.07.96 the provisional gradation list of the Ministerial Staff of the Directorate prepared on the basis of the available records including the service books, etc. was published showing the names of the Petitioners at serial Nos. 24, 25, 26, 27 and 28 respectively as against the name of the Respondent No. 4 appearing at serial No. 59 indicating his date of appointment as LDA w.e.f. 04.05.95.

8. In the meantime, the Respondent No. 4 instituted proceedings before the Assam Administrative Tribunal, Guwahati, registered and numbered as Case No. 19 ATA (Misc,)/97/35 ATA/96 making a prayer for counting of his past service from 07.06.82 as Steno-Typist up to the date when he was absorbed in the cadre of LDA by order dated 13.04.95. However, the Petitioners were not made party Respondents in the said proceedings. The Tribunal by the impugned judgment and order dated 18.07.98 allowed the appeal directing the official Respondents to count the past services of the Respondent No. 4 as Steno-Typist in the cadre of LDA and further directed that his seniority as LDA in the office of the Director of Elementary Education, Assam would count from 07.06.82 entitling him to all service benefits like promotion, pay protection etc.

9. Pursuant to the aforesaid Judgment and order of the Tribunal, the Director of

Elementary Education, Assam issued the impugned order dated 20.03.99 promoting the Respondent No. 4 as UDA w.e.f. 01.09.93, i.e. the date on which the first Petitioner in W.P.(c) No. 1575/99 was so promoted. Pursuant thereto a revised order of promotion as UDA was issued on 20.03.99 indicating and revising the date of promotion of the Respondent No. 4 as UDA to be on 01.09.93 and that of the Petitioners in W.P.(c) No. 1575/99 to be w.e.f. 25.08.94, 31.10.94 and 30.12.98 respectively. As regards the Petitioner in W.P.(c) No. 1547/94, his promotion w.e.f 08.01.99 stood cancelled with the remark that his promotion would be determined on the strength of his seniority. It was further provided in the order that with the revised date of promotions, the amount drawn by the incumbents as salary in the promotional posts would be realized in due course. Thus, by the said order dated 20.03.99, not only seniority of the Petitioners was assigned below the Respondent No. 4, but the promotion already earned by them was also disturbed with threat to recover all the amount drawn by the Petitioners consequent upon their promotion as UDA.

10. It is in the aforesaid backdrop, the present writ proceedings have been initiated making a prayer for setting aside the impugned Judgment and order dated 18.07.98 passed by the Tribunal and the consequential orders passed by the official Respondents.

11. I have heard Mr. N. Deka, learned Counsel led by Mr. P.C. Deka, learned Sr. counsel for the Petitioners in W.P.(c) No. 1575/99. I have also heard Ms. M.D. Choudhury, learned Counsel for the Petitioner in W.P.(c) No. 1547/99. Mr. V.M. Thomas, learned Standing Counsel Education Department, Assam made submissions on behalf of the official Respondents and Mr. B. Banerjee argued on behalf of the Respondent No. 4.

12. Mr. N. Deka, learned Counsel for the Petitioner firstly attacked the propriety of the jurisdiction assumed by the Tribunal in the proceedings initiated by the Respondent No. 4 on the ground of non-joinder of necessary parties. He submitted that the Tribunal could not have ordered granting of seniority to the Respondent No. 4 adversely affecting the seniority of the Petitioners without hearing them. Placing reliance on various decisions, he submitted that the Respondent No. 4 could not have been assigned the seniority from the date of his initial fortuitous appointment. He submitted that the Respondent No. 4 was appointed as an under qualified Steno-Typist and that too by way of stop gap arrangement and outside the cadre of LDA. In this connection, he referred to the provisions of the Assam Directorate Establishment (Ministerial) Service Rules, 1973 to show that the cadres of LDA and typist are distinct and different. He submitted that the long settled seniority of the Petitioner with the change of their positions by way of promotion to the cadre of UDA could not have been disturbed by the Tribunal and that too without any reasons assigned in the impugned judgment.

13. Ms. M.D. Choudhury, learned Counsel for the Petitioner in W.P.(c) No. 1547/99, submitted that the Respondent No. 4 who was appointed in M.E. Cell of

the Directorate and that too by way of stop gap arrangement as under qualified Steno-Typist could not have been allowed to score a march over the Petitioners in the manner and method in which the Tribunal has so done. Referring to the stand of the Govt. and various documents produced before the Tribunal, she strenuously argued that under no circumstance the settled seniority of the Petitioner could be disturbed with the unjustified reasonings assigned in the impugned Judgment and Order. She submitted that there has been gross violation of the principles of natural justice in not affording any opportunity to the Petitioners to have their say in the matter and that the Tribunal adopted a mechanical approach to the whole matter.

14. Mr. Thomas, learned Standing Counsel, Education Department, Assam referring to the stand of the Govt. before the Tribunal and the documents produced before the Tribunal including the parawise comments furnished, submitted that under no circumstances the settled seniority of the Petitioners could have been disturbed by the Tribunal and that too without affording any hearing to the Petitioners.

15. Mr. B. Banerjee, learned Counsel for the Respondent No. 4, on the other hand supported the impugned Judgment and Order of the Tribunal. He submitted that although the Respondent No. 4 was appointed on temporary basis for a temporary period, but he continued in his service uninterruptedly till he was absorbed in the cadre of LDA and thus, the Tribunal rightly provided the seniority from the date of his initial appointment. Referring to the provisions of the Assam Directorate Establishment (Ministerial) Service (Amendment) Rules, 1987, Mr. Banerjee submitted that as per the amendment, the Typists who were appointed on or after 01.01.81 shall be deemed to have been in the cadre of LDA on the dates of their appointment as Typist and thus, even otherwise also the Respondent No. 4 is entitled to count his seniority from the initial date of his appointment as Steno-Typist.

16. Mr. Deka placed reliance on the following decisions to bring home his argument that the period of service rendered by the Respondent No. 4 prior to his absorption in the cadre of LDA being on ad hoc and/or by way of stop gap arrangement cannot count towards seniority and that his seniority would count only from the date of his regular absorption in the cadre of LDA. Mr. Deka placed reliance on the following decisions.

- a) A.K. Bhatnagar and Others Vs. Union of India (UOI) and Others,
- b) State of Gujarat Vs. C.G. Raiyani,
- c) Chief of Naval Staff and another Vs. G. Gopalakrishna Pillai and others, Pillai and Ors.
- d) Y.H. Pawar Vs. State of Karnataka and another,
- e) Ram Ganesh Tripathi and others Vs. State of U.P. and others, Pradesh and Ors.

f) Registrar General of India and Another Vs. V. Thippa Setty and Others,

17. All the decisions are on the principle that the ad hoc/stop gap appointment followed by regular appointment cannot give rise to the claim for counting seniority from the date of ad hoc/stop gap arrangement. In the case of Registrar General of India (supra) the Apex Court held that regularization of service followed by ad hoc service should be prospective and not retrospective as the chances of upsetting the seniority of other incumbents cannot be overlooked. The Apex Court observed:

If the ad hoc service is regularized from the back date in this manner, it will disturb the seniority of regularly appointed employees in the cadre and, therefore, ordinarily the regularization must take effect prospectively and not retrospectively. It must also be borne in mind that ad hoc appointees, casual labour and daily-rated persons are not subject to strict discipline of service and it is a matter of common experience that their attendance is very often not regular and at times they do not even meet the qualification for appointment since they are taken on ad hoc basis. These deficiencies are overlooked by way of granting of relaxation and, therefore, care must be taken to see that they do not upset the seniorities of regular appointees. Whether they qualify in a given case or not is not relevant but what is relevant is that regularization should be prospective and not retrospective as the changes of their upsetting the seniorities cannot be overlooked. The Tribunal must take care to see that when they pass orders of regularization from retrospective dates, those who are likely to be affected on account of that order are not before that court and unwittingly their cares are not adversely affected. Ordinarily, therefore, the regularization must be prospective.

18. In the case of C.G. Raiyani (supra), the Apex Court held that the Civil Courts as well as the High Court committed grievous error of law in fixing the seniority of the Respondent in that case from the initial date of fortuitous appointment. I need not refer and discuss all the decisions inasmuch as all the decisions are pertaining to the proposition of law which is by now too well settled that the stop gap/ad hoc appointment de hors the rules cannot count towards seniority.

19. Let me now examine the reasons assigned by the Tribunal towards counting the seniority of the Respondent No. 4 from his initial date of appointment. It is not the findings of the Tribunal that the Respondent No. 4 was appointed on the basis of any selection. It formulated the question as to whether the past service of the Respondent No. 4 as Steno-Typist is to be considered equivalent to the service as an LDA. It was on that basis the Tribunal proceeded in the matter towards granting the benefits to the Respondent No. 4. It proceeded on the premises that the job of Steno-Typist is equivalent to that of LDA. The Tribunal answered the formulation of the question in favour of the Respondent No. 4 on the following grounds.

a) The Respondent No. 4 continuously work without any break from his initial date of appointment from 07.06.82 till his regular absorption in the cadre of LDA.

He continued as such in the same pay scale equivalent to that of LDA.

b) In terms of minimum entry qualification for the post of LDA the Respondent No. 4 fulfilled the same.

c) The Respondent No. 4 was granted pay protection while observing him in the cadre of LDA.

d) In terms of enormous stress and strain of the job the duties of a Steno-Typist cannot be considered to be inferior to that of the LDA. It was fair to treat both the jobs to be equivalent.

20. The Tribunal on the basis of the aforesaid formulation of points answered the question in favour of the Respondent No. 4 providing counting of his seniority from his initial date of fortuitous appointment from 07.06.82 with all consequential benefits of promotion, pay protection etc.

21. The Tribunal adopted the strange procedure towards fixation of seniority of the Respondent No. 4 unmindful of the fact that his initial appointment was only for a period of three months by way of stop gap/adhoc arrangement. In the present proceedings, the Respondent No. 4 could not even produce the order of his initial appointment. What is available on record is the order dated 20.12.82 (Annexure-VII in W.P.(C) No. 1575/99) by which the service of the Respondent No. 4 in M.E. Cell of the Directorate was extended for a further period of three months and the order was passed in reference to an earlier order dated 07.06.82. Thus, admittedly, the Respondent No. 4 was initially appointed for three months, which was further extended for another three months. Although there was no further extension in favour of the Respondent No. 4, after expiry of the term indicated in the order dated 20.12.82, he continued in his service as an under qualified Steno-Typist till he was regularly absorbed as LDA by an order dated 13.04.95. In the order of absorption, it was clearly indicated that his seniority in the cadre of LDA would count from the date of joining as per the said order.

22. It is nobody's case that the Respondent No. 4 was appointed pursuant to any selection. He was appointed by way of stop gap arrangement and he continued in this service on that basis till the order dated 13.04.95 was passed absorbing him in the cadre of LDA on regular basis providing counting of his seniority from the date of joining pursuant to the said order.

23. The Tribunal without attending to the most crucial and relevant issues like appointment on regular basis, point of selection of the Respondent No. 4 and the Petitioners, whether the Respondent No. 4 and the Petitioner belonged to the same cadre, whether the fortuitous service rendered by the Respondent No. 4 would count towards seniority, whether regularization of the service of the Respondent No. 4 can only be perspective as was provided in the order itself etc., went on to discuss the irrelevant issues and upon answering the same provided that the Respondent No. 4 would be entitled to count his seniority from his initial date of stop-gap appointment as Steno-Typist.

24. The Tribunal undertook the job which is normally entrusted to the expert bodies, like evaluation of duties, functions and responsibilities of a Steno-Typist with that of an LDA and held that it would be fair to treat both the jobs to be equivalent, without, however, assigning any reasons as to how both the jobs are equivalent. Even otherwise also, seniority of two incumbents in two different cadres cannot be determined on evaluation of duties, responsibility and status attached to two different posts belonging to two different cadres. Similarly pay protection at the time of regularization of service taking into account the past ad hoc service cannot be a ground for assigning seniority from the initial date of ad hoc appointment. The reasoning that the Respondent No. 4 had fulfilled the requisite entry qualification is also equally fallacious. It is one thing to have entry qualification for a job, but it is another thing to have entered in to a particular service with that qualification. Admittedly, the Respondent No. 4 was not appointed as LDA, but was appointed, as was argued by the learned Counsel for the Petitioners to ex-cadre post of Steno-Typist describing him to be under qualified.

25. The Tribunal also lost sight of the fact that determination of the seniority of the Respondent No. 4 from his initial date of appointment would affect the seniority positions of many and that such settled seniority positions could not have been unsettled after a long lapse of time and that too without hearing the parties likely to be affected. There is no dispute that the Petitioners were not made party Respondents to the proceedings initiated by the Respondent No. 4 before the Tribunal and yet he claimed the seniority over the Petitioners and the same was granted by the Tribunal.

26. The Apex Court in the case of Prabodh Verma and Others Vs. State of Uttar Pradesh and Others, dealing with the question of non-joinder of necessary parties and the decision of the High Court in absence of the parties affected by the judgment held that a High Court ought not to decide a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as Respondents or at least by some of them before it as Respondents in a representative capacity if their number is too large. The Apex Court found fault with the High Court in proceeding to hear and dispose of the writ petition without insisting upon to make the persons or at least some of them party Respondents who were affected by the judgment of the High Court.

27. The Apex Court way back in 1963 in the case of Udit Narain Singh Malpaharia Vs. Additional Member, Board of Revenue, Bihar, the Apex Court pointed out that a party whose interest is directly affected is a necessary party to a proceeding. In the instant case the impugned Judgment and Order of the Tribunal has affected the settled right of the Petitioners so much so that not only their seniority positions have been affected by way of placing the Respondent No. 4 above them, but even their promotions to the cadre of UDA have been disturbed. They were not arrayed as party Respondents in the proceedings before the Tribunal. On this score alone the impugned Judgment and Order of the Tribunal is

not sustainable.

28. It has been noticed above that the seniority of the Petitioners in the cadre of LDA was finally determined way back in 1987 when the gradation list was published by an order dated 04.12.87. In the said gradation list, as against the assigned positions of the Petitioners, the name of the Respondent No. 4 was not even included and naturally so when he was yet to be born in the cadre of LDA. In the seniority list of 1996 by which time the Respondent No. 4 was absorbed in the cadre of LDA by the aforesaid order dated 13.04.95, his seniority was assigned at serial No. 59 as against the assigned seniority of the Petitioners at serial Nos. 24 to 28. The Tribunal lost sight of these facts and passed the impugned order of certain hypothetical considerations which is impermissible in law.

29. The Tribunal, even otherwise also could not have unsettled the settled positions of seniority. I may gainfully refer to the decision of the Apex Court in the case of Government of Andhra Pradesh and Others Vs. M.A. Kareem and Others, In that case, dealing with a similar claim for counting of seniority w.e.f. the initial date of appointment, the Apex Court held that the Courts and Tribunals should be slow in disturbing the settled affairs in a service. While saying so, the Apex Court also noticed that in the application before the Tribunal, the Respondents did not implead their colleagues who had been prejudicially affected by the impugned judgment. The Apex Court dismissed the petition before the Tribunal apart from on the ground of non-joinder of necessary parties and unsettling the settled affairs but on merit also. I may also gainfully refer to another decision of the Apex Court as reported in B.S. Bajwa and Another Vs. State of Punjab and Others, in which the Apex Court observed in paragraph 7 of the judgment as follows:

7. Having heard both sides we are satisfied that the writ petition was wrongly entertained and allowed by the single Judge and, therefore, the Judgments of this single Judge and the Division Bench have both to be set aside. The undisputed facts appearing from the record are alone sufficient to dismiss the writ petition on the ground of laches because the grievance made by B.S. Bajwa and B.D. Kapoor only in 1984 which was long after they had entered the department in 1971-72. During this entire period of more than a decade they were all along treated as junior to the other aforesaid person and the rights inter se had crystallized which ought not to have been re-opened after the lapse of such a long period. At every stage the others were promoted before B.S. Bajwa and B.D. Kapoor and this position was known to B.S. Bajwa and B.D. Kapoor right from the beginning as found by the Division Bench itself. It is well settled that in service matters the question of seniority should not be re-opened in such situations after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under Article 226 and to reject the writ petition.

30. The Petitioners were appointed at earlier point of time in the cadre of LDA than the Respondent No. 4. They also earned their further promotion to the cadre of UDA before the Respondent No. 4 was brought to the cadre of LDA by way of absorption. Thus, not only their seniority in the cadre of LDA stood settled, but there was change of their positions by way of earning promotions. The Respondent No. 4 never made any grievance against the fixation of the seniority of the Petitioners way back in 1987. He had also no grievance against the promotions of the Petitioners to the cadre of UDA. However, taking recourse to the proceedings before the Tribunal in which not to speak of making the Petitioners party Respondents, he also did not even make any one of the incumbents who were placed above him in the cadre of LDA, in the gradation list published on 22.07.96. He claimed seniority from his initial date of appointment knowing it fully well that if such a prayer was granted, same would effect the seniority of not only the Petitioners but also all the incumbents who were above him in the said gradation list. The Tribunal also unmindful of that vital aspect of the matter proceeded to grant the prayer of the Respondent No. 4 on the basis of the untenable reasonings assigned in the impugned judgment and order.

31. I now proceed to deal with the argument advanced by Mr. B. Banerjee, learned Counsel for the Respondent No. 4 that in view of the amendment to the Service Rules of 1987 providing that the Typist appointed after 01.01.81 should be deemed to have been encadred as LDA on the dates of their appointment as Typist and thus even otherwise also, the Respondent No. 4 is entitled to count his seniority from his initial date of appointment in June, 1982 which will naturally entail seniority over the Petitioners, his date of appointment being prior to the respective dates of appointment of the Petitioners. It is true that the Assam Secretariat Establishment (Ministerial) Service Rules, 1973 as published by notification dated 06.05.87 provides for encadrement of the Typist (Ordinary Grade) with that of LDA from their initial date of appointment as Typist. The amended provision is quoted below:

Encasement of Typists (Ordinary Grade)

1) Typists of ordinary grade who were appointed on or before December 31, 1980 and were borne in the service on January, 1, 1981 shall be deemed to have been encadred as Lower Division Assistants on January 1, 1981.

2) Typists of ordinary grade who have been appointed on or after January 1, 1981 but before the publication of the Assam Directorate Establishment (Ministerial) Service (Amendment) Rules, 1987 shall be deemed to have been encadred as Lower Division Assistants on the date of their appointments as Typists ordinary in the service.

32. As per the said amendment, the ordinary grade Typist shall be deemed to have been encadred as LDA on the date of their appointments as Typists (Ordinary Grade). Such a provision has been made for those Typists who had been appointed after 01.01.81. But the question is, can the amended provision

take into its fold even the Typist who were appointed de hors the rules by way of stop gap/ad hoc appointment? It has already been noticed that the Respondent No. 4 was appointed by way of stop gap/adhoc measure and he was never appointed on regular basis. The amended provision would certainly mean the encadrement of only those Typist with that of the LDA from their initial date of appointment, who were regularly appointed in the cadre of Typist. The Respondent No. 4 was not even appointed as Typist, but was appointed as an under qualified Steno-Typist for a limited duration of three months which was extended for a further period of three months. It is another thing that he was allowed to continue on that basis even without any order of extension. Eventually he was absorbed in the cadre of LDA by the aforesaid order dated 13.04.95 clearly stipulating that his seniority would be counted from the date of joining as LDA pursuant to the said order.

33. From the aforesaid narration of facts, there is no manner of doubt that the fortuitous service rendered by the Respondent No. 4 till passing of the order dated 13.04.95 by which he was regularly absorbed in the cadre of LDA, cannot count towards seniority of the Respondent No. 4 in the cadre of LDA as has been provided by the Tribunal in its impugned Judgment and Order. Thus, the aforesaid amended provisions of the Rules do not come to the rescue of the Respondent No. 4.

34. The Respondent No. 4 will have to establish that he was regularly appointed as an ordinary grade Typist which he has failed to do so. He was appointed as a stop gap measure and that too not as a Typist, but as an under qualified Steno-Typist in the ME Cell of the Directorate, unlike the Petitioners who were regularly appointed in the office of the Directorate itself. It was only by the order dated 13.04.95 he was brought to the cadre of LDA by counting his seniority from the date of his joining as LDA. It was rightly done and the action of the official Respondents finds support from the aforesaid decisions of the Apex Court by which the settled legal position relating to seniority has been reiterated that the fortuitous service rendered by an incumbent does not count towards seniority and that the regularization of ad hoc/stop gap service, should normally be perspective.

35. The Tribunal also has not also provided seniority to the Respondent No. 4 placing reliance on amended provisions of the Rules, but has assigned the reasons as discussed above, which have already been held to be not sustainable. The Tribunal assigned seniority to the Respondent No. 4 not on any of the recognized principles towards determination of seniority, but by way of adopting its own methodology which is unknown to service jurisprudence relating to seniority.

36. For the foregoing reasons and discussions, I have no hesitation to set aside and quash the impugned Judgment and Order dated 18.07.98 passed by the Assam Administrative Tribunal, Guwahati in case No. (19 ATA (Misc.)/97)/ 35 ATA/96 and all consequential orders passed by the official Respondents on that

basis. Consequently, the orders dated 20.03.99 (Annexure XII and XIII) also stand set aside and quashed. The seniority positions of the Petitioners as LDA and UDA get restored with the declaration that the Respondent No. 4 would be entitled to count his seniority w.e.f. the date of his regular absorption in the cadre of LDA as per order dated 13.04.95.

37. Both the writ petitions stand allowed, without, however, any order as to cost.