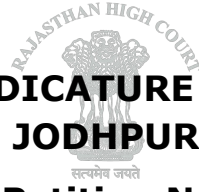




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Civil Writ Petition No. 17805/2019

1. Kharta Ram S/o Shri Durga Ram, Aged About 51 Years, R/o 107/9 K.K. Colony, Basni, Jodhpur, Rajasthan.
2. Ashok Kumar S/o Shri Shivnarayan, Aged About 49 Years, R/o Gram Chirai, Tehsil Tinvri, Jodhpur, Rajasthan.
3. Dayal Singh S/o Shri Devi Singh, Aged About 55 Years, R/o Brij Baori, Lalsagar, Jodhpur, Rajasthan.
4. Karna Ram S/o Shri Hira Ram, Aged About 54 Years, R/o 15, Balaji Nagar, Bhadu Market, Pal Road, Jodhpur, Rajasthan.
5. Gajendra Singh S/o Shri Banne Singh, Aged About 54 Years, R/o Gram Dhanali Khurd, Tehsil Boari, District Jodhpur, Rajasthan.
6. Mohd. Aslam S/o Shri Roshan Khan, Aged About 55 Years, Presently Working As Inspector (Land Records) Sujangarh, District Churu.
7. Shaitan Singh S/o Shri Manohar Singh, Aged About 55 Years, R/o Rajputo Ka Bass, Osiyan, District Jodhpur.
8. Aasuram Choudhary S/o Shri Dungarram, Aged About 52 Years, R/o Punia Ki Basni, Tehsil Baori, District Jodhpur.
9. Bhopat Singh S/o Shri Ganga Singh, Aged About 52 Years, R/o Mangeria, Tehsil Bhopalgarh, District Jodhpur.
10. Devaram S/o Shri Prahaladram, Aged About 55 Years, R/o Gram Post Salodi, Tehsil And District Jodhpur, Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Land Revenue, Secretariat, Jaipur, Rajasthan.
2. The Board Of Revenue, Ajmer, Through Its Registrar, Revenue Board, Ajmer, Rajasthan.
3. Ashok Sharma S/o Shri Bholu Ram Sharma, Aged About 45 Years, Presently Working As Inspector (Land Records), Alwar City, Alwar.
4. Rakesh Chandra Sharma S/o Shri Banwari Lal, Aged About 47 Years, Presently Working As Inspector (Land Revenue) In The Office Of District Collector, Dausa, Rajasthan.





5. Ramniwas Godara S/o Shri Peeru Ram, Aged About 49 Years, Presently Working As Inspector (Land Revenue) In The Office At District Collector, Nagaur, Rajasthan.
6. Shailendra Narain S/o Bhuvnesh Narain Mathur, Presently Working As Office Quanungo, Tehsil Baori, District Jodhpur.
7. Vishan Singh S/o Shri Apsingh, Presently Working As Office Quanungo Ramsar, Tehsil Ramsar, District Barmer.
8. Pappa Ram S/o Shri Gudar Ram Jat, R/o Jato Ki Dhani, Dangiyawas, District Jodhpur.
9. Tola Ram S/o Shri Varada Ram, Presently Working As Office Quanungo, Sumerpur, District Pali.

-----Respondents

For Petitioner(s) : Dr. Sachin Acharya, Sr. Counsel assisted by Mr. Dharendra Singh Sodha

For Respondent(s) : Mr. Vikas Balia, Sr. Counsel assisted by Mr. Mahaveer Bishnoi & Mr. Jayram Saran for respondent nos. 10 and 11. Mr. Baljinder Singh Sandhu for respondent nos. 5 to 9. Mr. Mrigraj Singh for respondent - State.

JUSTICE DINESH MEHTA

JUDGMENT

REPORTABLE

Reserved on : 27.04.2023

Pronounced on : 02.05.2023

1. The petitioners captioned above have joined hands to challenge final seniority list dated 01.11.2019, particularly qua the persons mentioned between serial number 1835 to 1964 of the seniority list as on 01.04.2015, out of whom, seven persons have been impleaded as party respondents in the representative capacity.



2. For the purpose of laying the factual canvass, the particulars of petitioner no.1 Kharta Ram are being taken into account.

3. Petitioner no.1 – Kharta Ram was appointed as Patwari on 29.09.1987, whereafter he was promoted to the post of Inspector Land Records (hereinafter referred to as 'ILR') in the meeting dated 14.01.2015 of the Departmental Promotion Committee (for short 'DPC') for the year 2014-2015.

4. Rule 284 of the Rajasthan Land Revenue (Land Records) Rules, 1957 (hereinafter referred to as the 'Rules of 1957'), provides for two channels of promotion for admission to the training school; one by seniority cum merit (by way of DPC) and other being Competitive Examination or Accelerated Promotion. The petitioners have been promoted by first method whereas the respondent No.3 to 9 were promoted by the second process.

5. For the group of private respondents, facts relating to respondent no.3 Ashok Sharma, who was appointed as Patwari on 04.08.1997 are being noted. An advertisement for holding Competitive Examination was firstly published on 17.06.2011 for 93 posts, but for some reasons, the examination could not take place and a fresh advertisement with increased seats (155) was published on 28.01.2013. Many inservice Patwaris including the private respondents appeared in the examinations, which were held on 21.04.2013. When the result was declared on 16.05.2013, the private respondents were declared successful and were sent to school for training on 31.12.2013. The training was complete on 04.03.2014.



6. After completion of the training, 136 person including the private respondents were allocated districts by way of order dated 31.03.2014 with a further stipulation that the place of posting would be provided by the concerned Divisional Commissioner. This group of 136 ILRs are jointly mentioned by the respondents in the seniority list as Batch No.24 and thus, referred hereinafter as ILRs of Batch No.24.

7. On 28.08.2019, final seniority list came to be published by the Board of Revenue in which the petitioners and other similarly situated persons who were promoted in the DPC held on 14.10.2014 were placed at serial no. 1403 to 1997 and the private respondents (batch No.24) were placed at serial no. 1998 to 2131.

8. On 24.10.2019 a provisional seniority list again came to be issued by the Secretary (Land Records), Board of Revenue while cancelling the earlier final seniority list dated 28.08.2019. and inviting objections of all concerned.

9. The petitioners submitted their objections against the said provisional seniority list dated 24.10.2019 *inter-alia* contending that the private respondents have joined in the financial year 2014-15, in the same year in which the petitioners were promoted (2014-15) and hence, the petitioners should be given precedence over them as per Rule 299 of the Rules of 1957.

10. On 01.11.2019, The State Government / Board of Revenue published final seniority lists of ILRs for three years (as on 01.04.2015, 01.04.2016 and 01.04.2017) in which the ILRs of batch No. 24 – the respondents were ranked senior to the petitioners.



11. Feeling aggrieved of the above final seniority list dated 01.11.2019, the petitioners have preferred the present writ petition, apprehending that if the promotions for the vacancy year 2020-21 are given on the basis of said seniority list (dated 01.11.2019) their rights would be prejudicely affected.

12. The premise for which the writ petition has been preferred is, that the seniority list published by the Board of Revenue / State Government is contrary to law, more particularly, Rule 171-A of the Rules of 1957 and the judgment dated 21.08.2019 of Hon'ble the Supreme Court rendered in the case of Ganga Vishan Gujarati vs. State of Rajasthan & Ors., reported in (2019) 16 SCC 28.

13. While hearing the present petition for admission, a co-ordinate Bench of this Court on 15.02.2021 orally directed the counsel for the respondents not to convene the DPC for the post of Naib Tehsildar for persons mentioned after serial no. 321 of the list of eligible candidates for promotion. During the proceedings of 15.02.2021, while maintaining such oral directions, the respondents were permitted to convene DPC for the candidates upto 321, however with a stipulation that the promotions would remain subject to the outcome of the writ petition.

14. The aforesaid liberty to consider the case of the persons mentioned upto serial no. 321 was given as the petitioners did not have any grievance or grudge against the persons enumerated upto serial no. 321 and the concern expressed by them was only qua the ILRs of batch No. 24 or the private respondents, whose names were mentioned after serial no. 321.



15. That is a different matter that the respondents have not convened the meeting of the DPC, despite the liberty granted by this Court, ostensibly in order to ward off further litigation. All the counsel representing rival parties prayed that the present case out of the bunch of writ petitions, which involves fate of hundreds of ILRs be decided, so that the clouds of doubt are steered clear.

16. Dr. Sachin Acharya, learned Senior Counsel appearing for the petitioners opened his argument by informing that on 28.08.2019, the State had published a final seniority list of ILRs, wherein, the petitioners were placed at serial no. 1403 to 1997 and the respondents were placed at serial no. 1998 to 2131. He expressed his surprise by stating that when the final seniority list had been published (after dealing with all the objections), how could the respondent – State recall it and issue new provisional seniority list on 24.10.2019?

17. He contended that though the petitioners had lodged their objections qua such action of the Board of Revenue, but no heed was paid and a final seniority list confirming the order of seniority given in the provisional seniority list has been published on 01.11.2019.

18. The action of the respondents and seniority list dated 01.11.2019 was assailed on following three counts:

(i) the State has no power to review the seniority list dated 28.08.2019, which had attained finality;

(ii) that even if such power does exist, there was no reason assigned in taking the detour from the earlier view and



issuing yet another provisional seniority list dated 24.10.2019; and

(iii) the impugned final seniority list dated 01.11.2019 is contrary to Rules and more particularly the judgment of Hon'ble the Supreme Court rendered in the case of *Ganga Vishan Gujarati* (supra).

19. In order to lend support to his stand, learned Senior Counsel read the judgment of Hon'ble the Supreme Court in the case of *Ganga Vishan Gujarati* (supra) in its entirety and argued that Hon'ble the Supreme Court has clearly negated the respondents' stand and held that they cannot be given seniority over the petitioners or like ILRs, who have been promoted against 80% quota after being screened by the DPC.

20. Mr. Acharya, invited Court's attention towards expression used in the provisional seniority list dated 24.10.2019 and submitted that the same simply refers to some "direction", without even indicating whose direction! He argued that the Board of Revenue is the final authority and it cannot act at the instance of or under the directions of the State Government or any other authority. It was also argued that neither at the time of recalling the seniority list dated 28.08.2019 nor in its reply the State has assigned any plausible reason for doing so.

21. Learned Senior Counsel underscored the fact that the private respondents joined as ILRs on 04.04.2019 or on other dates in the financial year 2014-15 and argued that since the date of joining of the private respondents is in the same financial year during which



the petitioners were promoted as ILRs, they are required to be placed below the petitioners in the seniority list.

22. Mr. Mrigraj Singh, learned counsel appearing for the respondent – State submitted that the private respondents had appeared in the departmental examinations that were held pursuant to the advertisement dated 28.01.2013 for the vacancies of the year 2008-09, 2009-10 and 2010-11. He submitted that all these private respondents, who were provided posting on 31.03.2014 obviously, in the year 2013-14 are to be treated as having been promoted in the year 2013-14. Maybe they have joined in the financial year 2014-15, but their year of promotion has to be reckoned as 2013-14.

23. Mr. Singh, highlighted that not only the result of written examination in which they appeared was declared in the year 2013-14 (on 16.05.2013) even their training was over (on 04.03.2014) in the same year and argued that on completion of training, they automatically became ILRs and hence, their year of promotion should be considered as 2013-14, as against the petitioners who were promoted in the DPC held on 14.10.2014 admittedly, for the year 2014-15.

24. Learned counsel for the State submitted that in the first seniority list published on 28.08.2019, due to inadvertence the private respondents were shown as Direct Recruiters (DRCT) and placed below the petitioners. While emphasizing that the private respondents were promotees and not Direct Recruiters, he submitted that when such error was brought to the notice of the State, the earlier seniority list dated 28.08.2019 was recalled and



a fresh provisional seniority list was issued inviting objections of all concerned.

25. In relation to State's power to review, he submitted that since the final seniority list dated 28.08.2019 was *ex-facie* erroneous, the respondent – State has rightly reviewed the same in order to bring it in conformity with law.

26. Learned counsel asserted that the final seniority list was reviewed after following principles of natural justice and affording opportunity to the petitioners or persons concerned. He submitted that while recalling the earlier seniority list dated 28.08.2019, the respondents again issued a provisional seniority list on 24.10.2019 and then, after consideration of the objections or representations, the final seniority list was prepared and published on 01.11.2019. He submitted that since principles of natural justice have been observed, the State's action cannot be faulted with.

27. It was further contended by the State that the petitioners' stand on the basis of earlier litigation is absolutely misconceived inasmuch as on the earlier occasion, the private respondents having cleared the Competitive Examination or having availed Accelerated promotion had approached the Court with a stand that as they had been promoted against the vacancies of ILR for the year 2008-09 to 2010-11, hence, they should be given notional seniority from 2008-09 and consequential precedence over the ILRs, who have been promoted by DPC.

28. He submitted that such contention of the private respondents was repelled by Hon'ble the Supreme Court by holding that Competitive Examination is also a mode of promotion and the



persons having availed Accelerated promotion cannot be given seniority from the date anterior to the date they were born in the cadre.

29. It was also argued on behalf of the respondent – State that final seniority list dated 01.11.2019 is in complete conformity with the law, given that the private respondents were promoted in the financial year 2013-14 whereas the petitioners have not only been promoted later (on 14.10.2014) even their year of promotion is 2014-15.

30. Mr. Vikas Balia, learned Senior Counsel appearing for the private respondents argued that the writ petition proceeds on a wrong presumption and premise that the private respondents are Direct Recruittees. He invited Court's attention towards Page No. 11 and other parts of the pleadings in a bid to establish that the petition is misconceived.

31. He then proceeded to point out that firstly an advertisement was issued on 17.06.2011 (which was later modified on 28.01.2013) to fill up the vacancies of ILRs out of 20% quota of Competitive Examination; written examinations were held on 21.04.2013; the result was declared on 16.05.2013; whereafter the private respondents were sent for the training on 31.12.2013 and the training was complete on 04.03.2014 and finally appointment / posting order was issued on 31.03.2014.

32. Reading rule 287 of the Rules of 1957, Mr. Balia submitted that mode of promotion for Competitive Examination is written examination followed by the training and therefore, on clearing the written examination (16.05.2013) or alternatively on



completion of the training (on 04.03.20214), the respondents who have cleared the written examinations / training should be treated to have been promoted as ILR.

33. He alternatively argued that in any case on 31.03.2014, when the State Government passed a formal order of allotting districts to the private respondents, they are required to be considered as promoted on the post of ILRs. He argued that by any stretch of imagination, the answering respondents cannot be said to have been promoted after 31.03.2014 or after the completion of financial year 2013-14.

34. He argued that simply because the state, due to inadvertence or incorrect understanding of law, had considered the ILRs of batch No.24 as Direct Recruittees and placed them lower to the petitioners – promoted in the year 2014-15, his clients' rights cannot be jeopardized.

35. While maintaining that answering respondents should be treated to have been promoted on 04.03.2014 on completion of training, if not on the date of declaration of the result (16.05.2013), learned Senior Counsel argued that merely because of the reasons beyond their control some of the respondents gave joining in the financial year 2014-15, the petitioners cannot claim their seniority over them, more particularly when the contesting respondents were promoted against 20% quota of the vacancies upto year 2010-11.

36. Learned counsel argued that maybe the stand of his clients that they should be conferred seniority from the respective year(s) of vacancies, did not find favour of the Apex Court but



nevertheless their right to claim promotion on the declaration of result or on completion of training cannot be taken away by taking the extreme view that has been canvassed by the petitioners.

37. Elaborating his argument, he submitted that the private respondents have taken birth into the cadre as soon as the result of Competitive Examination was declared or least, when they completed the training. Learned counsel submitted that merely because the order of posting took some time, their seniority cannot be altered or reckoned as prayed by the petitioners.

38. Inviting Court's attention towards Para No. 19 and 41 of the Division Bench judgment dated 06.08.2018 in the case of Prakash Chand & Anr. vs. Ganga Vishan Gujarati & Ors. (D.B. Special Appeal (Writ) No.852/2018), learned Senior Counsel argued that their date of birth in the cadre is definitely during financial year 2013-14, may it be 16.05.2013, when the result of written examination was declared or 04.03.2014 – when the training was complete.

39. Addressing the Court on the effect of amendment in rule 171-A of the Rules of 1957 brought into force by the Notification dated 08.10.2014, Mr. Balia, argued that taking into account the unamended provisions or the amended provisions of rule 171-A of the Rules of 1957, the answering respondents are to be considered senior to the petitioners, inasmuch as, their year of promotion is 2013-14, while petitioners' year of promotion is 2014-15.

40. He submitted that for the purpose of *inter-se* seniority, the person who has been appointed or promoted first is to be



considered senior and since the answering respondents were promoted at least eight months before the petitioners, they are senior to the petitioners.

41. Heard learned counsel for the parties and perused the record.

42. Before dilating upon the submissions made by the rival parties, it would be apt to keep the relevant provisions handy, for which they are being reproduced hereunder:-

Rule 284:

“284. Selection of candidates for admission to the school in the respective cadre strength shall be made):—

(i) by promotion of Patwaris of the Revenue and Land Records Departments, on the basis of seniority-cum-merit, for 80% of the vacancies;

(ii) on the basis of a competitive examination which shall be restricted to serving Patwaris of Revenue (Land Records) Department who fulfill the conditions of eligibility as given in Rules 286, for 20% of the vacancies. Provided that the minimum age limit for such patwaris shall be 45 years.”

Rule 286:

“286. Qualifications - Candidates intending to apply for selection must possess the following qualification: -

(i) That he is a patwari of Revenue (Land Records) Department and has five years of service experience as patwari;

(ii) That he has passed Secondary Examination or any other equivalent examination recognised by Government;

(iii) That he is not above 45 years of age on the first day of January, next following the last date fixed for receipt of application for admission to the said school;



(iv) That he is patwar diploma holder or he is exempted from this diploma as per rules."

Rule 171-A prior to amendment:

"171-A. Seniority. - (1) The seniority of Inspectors, Land Record working in the various districts will be interlaced by the Board of Revenue and the Secretary (Land Records) Revenue Board will maintain an up-to-date list of seniority of the Inspectors. Land Records working in the Department.

(2) The seniority of the Inspector, Land Records will be determined from the date of their continuous officiation on the post of Inspector Land Records in the Land Records Department and/or Inspector in the Settlement / Consolidation / Colonization Department or any other equivalent post in such Departments provided such officiation was not fortuitous or ad hoc in nature and subject to the condition that they possess a diploma of having passed the Girdawar Qanungo Examination..."

Rule 171-A substituted by amendment reads thus:

"(2) The seniority of Inspector, Land Records shall be determined on the basis of recruitment year of promotion on the post of Inspector, Land Records in the Land Records Department and Inspector in the Settlement Department, Colonisation Department and Consolidation Department."

43. The Rule, which has a direct bearing on the *inter-se* dispute between the petitioners and the respondents being ILR from batch No.24, is Rule 171-A of the Rules of 1957. It is to be noted that prior to the amendment brought into force w.e.f. 08.10.2014, Rule 171-A, particularly sub-rule (2) thereof provided that the seniority of the Inspector, Land Records will be determined from the date of their officiation on the post of ILRs. If the position prior to 08.10.2014 is to be considered, then, the petitioners, who were promoted on 15.10.2014 cannot by any stretch of imagination be



treated to be senior to the private respondents (ILRs of batch No.24), who had been promoted on 31.03.2014 and joined as ILR latest on 04.04.2014.

44. If the amended Rules is held applicable as the impugned seniority list came to be firstly issued on 28.08.2019 and thereafter on 01.11.2019, then also, the position remains the same. Because, sub-Rule (2) of the amended Rule 171-A of the Rules of 1957 in unequivocal terms provides that the seniority of Inspector, Land Records shall be determined on the basis of recruitment year or promotion on the post of Inspector, Land Records.

45. It is to be noted that the private respondents, who had cleared the competitive exams held on 21.04.2013 were declared successful on 16.05.2013. If the relevant Rule relating to promotion by way of competitive exams is to be searched, it is the Rule 287, which is substantive provision for promotion by way of competitive exams. Said Rule (287 of the Rules of 1957) provides that a competitive exam shall be held by the Board of Revenue for recruitment or admission to the training school. Thereafter, the persons having cleared the written examination are required to undergo training in the school.

46. Rule 287 of the Rules of 1957 gives an impression that on the publication of the result of the written examination and admission in the school of training, a person should be treated promoted on the post of ILR, particularly in the light of Rule 296 of the Rules of 1957, which provides thus:



"296. Salary during Training.-The patwari who is selected for admission to Training School and joins the same, shall be treated as on duty and he shall receive his salary during the period of training."

47. In any case, on simple reading of the Rules, it is on the declaration of the result of competitive examination or on the declaration of result of training, a person should be treated to have been promoted on the post of ILR. Leaving this intricate question open to be decided in appropriate case, having regard to the facts peculiar to the present case, this Court holds that in any case, on issuance of order dated 31.03.2014, whereby the State Government / Board of Revenue directed all the successful candidates (while allocating them districts) to report at the concerned district Collector, the ILRs of Batch No. 24 have been promoted on the post of ILRs.

48. The fact that it took three to four days for joining cannot be used against the private respondents or ILRs of batch No.24 to contend that they were promoted in the financial year 2014-15.

49. In the opinion of this Court, post amendment in the sub-rule (2) of rule 171-A of the Rules of 1957 also, the petitioners whose promotion year is admittedly 2014-15, cannot claim precedence over the respondents or ILRs of batch No.24, whose promotion year is 2013-14. In this view of the matter, the petitioners' claim that they should be considered senior to the ILRs of batch No.24 is absolutely untenable.

50. The petitioners' case that since the petitioners and the ILRs of batch No.24 were promoted in the same financial year, they



should get precedence, cannot be countenanced. Basis of petitioners' such claim is Rule 299 of the Rules of 1957. In the opinion of this Court, the petitioners' argument is untenable and misconceived on the face of it; both Rule 171-A and Rule 299 of the Rules of 1957 do not support the argument canvassed by Dr. Acharya.

51. Rule 299 of the Rules of 1957 is reproduced hereinfra:-

"299. Completion of probation.- On completion of one year of probation the I.L.Rs/Office Qanungo and Assistant Sadar Qanungo shall be eligible for being confirmed. Promotees of the same year shall however rank senior to the direct recruits from serving patwaries of the same year."

Rule 299 provides that the promotees of the same year shall rank senior to the direct recruitees. Firstly, the petitioners and the respondents are not promotees of the same year and secondly, the respondents are not direct recruitees.

52. Much emphasis was laid by Dr. Acharya on the conclusion drawn by Hon'ble the Supreme Court in the case of *Ganga Vishan Gujarati* (supra) to contend that the respondents' rights have been finally determined by Hon'ble the Supreme Court and on the basis of observation made therein, the petitioners are entitled to be placed ahead of private respondents. But such contention of the petitioners too is liable to be repelled.

53. On perusal of the judgment in the case of *Ganga Vishan Gujarati* (supra), in the backdrop of the controversy involved, this Court has no hesitation in holding that said judgment of Hon'ble the Supreme Court has no bearing on the issue in hands.



54. A simple look at the facts of the case of *Ganga Vishan Gujarati* (supra) makes it abundantly clear that the private respondents have contended that their year of promotion should be considered as 2008-09 to 2010-11, which has been negated by Hon'ble the Supreme Court, essentially for the reason that a person cannot be given seniority from the date when he did not even born in the cadre. Whereas, the present controversy is entirely different – simply because Hon'ble the Supreme Court has negated their contention for allocating seniority from the year 2008-09 to 2010-11, respondents' right of claiming seniority from the year 2013-14 cannot be foreclosed or denied.

55. It was argued on behalf of the petitioners that the respondent State / Board of Revenue has committed an error of law in annulling the final seniority list published on 28.08.2019 and substituting the same by the seniority list dated 01.11.2019. At the first look, the argument of Dr. Acharya appears to be attractive that sans any power of review, the Board of Revenue could not have reviewed the seniority list dated 28.8.2019 that was published after inviting all objections and considering rival stand. But a deeper probe and analysis of legal position suggests otherwise.

56. According to this Court, the publication of seniority list is a statutory function. Normally, once a final seniority list has been published, it should not be changed or reviewed. But in the instant case, when the final seniority list published on 28.08.2019, was apparently incorrect and upon considering the objections that were submitted by the respondents (Annexure-R5/9), it transpired



that the same was not in tandem with law, it has been rightly annulled. The record reveals that upon publication of seniority list, the private respondents made a representation on 03.09.2019 and requested the Principal Secretary of Revenue Department to review the final seniority list for the year 2013-14. It is in furtherance of such representation, the Board of Revenue has been directed to re-draw the seniority list and the Secretary, Land Records, Board of Revenue, Rajasthan, Ajmer has yet again published a provisional seniority list dated 24.10.2019 while annulling the seniority list dated 28.08.2019 (as on 01.04.2017).

57. It is, therefore, clear that the Secretary, Land Records, Board of Revenue has reviewed the seniority list in pursuance of the directions given by the State Government. The State Government does have the power under Section 83 to revise the order passed under the Act and Rules. Since, the preparation of seniority list is a statutory functions under rule 298 and 299 of the Rules of 1957, the State Government can pass appropriate order, including direction to the Secretary, Board of Revenue to issue fresh seniority list in accordance with law.

58. In this regard, gainful reference of the judgment of Hon'ble the Supreme Court in the case of **State of Andhra Pradesh & Ors. Vs. K. Ranganathan & Ors. (1990) 4 SCC 636** can be made. Relevant extract of para 14 and 17 of the said judgment is being reproduced hereunder:-

14.

.....



..... To do it, it was not necessary for the government to reserve any power, for it had inherent power to do so.

17. With respect, we are also unable to accept the reasoning of the High Court that since the Board had no power to change the seniority list, it could not be said that the Government had the said power. As a first proposition, it is well-settled that there cannot be a right without a remedy. Law abhors such vacuum. But, as pointed out earlier, there are two periods with respect to which the power to alter seniority has to be examined. The first period is upto October 1, 1973 and the second commences thereafter. In the first period there was a relationship of employer-employee between the Government and the transferred employees. Hence, the government had every right to correct or amend the seniority of the employees upto that date. If, therefore, the government had advertently or inadvertently committed any error in preparing the seniority list upto October 1, 1973, or because of the decisions of the courts it had to amend the said seniority list, not only it had power to do so but it was the only authority which could do it. The seniority list which was corrected by the government was the seniority list as on or before October 1, 1973."

59. If the illegality is writ large, the petitioners cannot insist upon the same to be perpetuated and deprive the respondents of their legal rights.

60. That apart, this Court cannot but ignore one important aspect of the matter. What has been reviewed is, the seniority list dated 28.08.2019 (as on 01.04.2017). The petitioners have not placed on record and challenged the subsequent seniority lists viz. the seniority list as on 01.04.2018, 01.04.2019 and more particularly, the seniority list as on 01.04.2021 on the basis whereof the promotion for the year 2020-21 would be given, though they have admitted the fact that exercise for promotion for





the year 2019-20 has been undertaken. Persons promoted in the year 2019-20 are not affected by the issue raised in the present petition.

61. Petitioners' contention that without any power of review, the Secretary, Land Records, Board of Revenue could not have reviewed the seniority list, thus becomes academic, so far as petitioners' grievance qua the promotion for the year 2020-21 and onwards are concerned. Said argument is available only qua the seniority list dated 01.11.2019 of ILRs (as on 01.04.2015, 01.04.2016 and 01.04.2017) and the same cannot be applied for the subsequent seniority list as on 01.04.2020 and 01.04.2021. The promotion (if any) being given to the private respondents are not on the basis of impugned seniority lists. Hence, petitioners argument has been rendered academic and thus, deserves to be rejected.

62. Without laying challenge to the seniority list of ILRs as on 01.04.2020 and succeeding in such challenge, the petitioners cannot claim that the respondents or ILRs of batch No.24 be not given promotion before them.

63. Viewed from all the angles – individually or collectively, the petition merits rejection.

64. The writ petition is, therefore, dismissed.

65. Stay application and all interlocutory applications stand disposed of.

(DINESH MEHTA),J

9-Mak/-