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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 19th September, 2025

Pronounced on: 15th October, 2025

+ CONT.CAS(C)1098/2024 & CM APPL. 62483/2024, CM APPL. 39342/2025

SHANTI MAHENDRAN

.....Petitioner

Through: Mr. Sanjay Kumar Dubey, Mr. Rajesh Pathak and Mr. Sumit Kumar and Mr. Ujjwal Kumar Dubey, Advocates.

versus

DR. RAJENDER KUMAR & ORS.

.....Respondents

Through: Mr. Hanu Bhaskar, Sr. CGSC with Mr. Jai Bhardwaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Section 12 of the Contempt of Courts Act, 1971 has filed seeking the following prayers: -

“A. Initiate contempt proceeding against the alleged contemnor for wilfully and deliberately disobeying this Hon'ble Court's dated 18.03.2024 Writ Petition (Civil) no. 14434 of 2023 And /or

B. Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”



2. The petitioner herein is alleging non-compliance of directions passed by Hon'ble Division Bench of this Court *vide* common judgment dated 18.03.2024 in ***W.P.(C) 14434 of 2023*** & other connected petitions. The directions passed *vide* the said judgment reads thus: -

“46. Since the impugned lists were not final and under a cloud, they are not protected in terms of the saving paragraph in *K. Meghachandra (supra)*. Even the tribunal had directed that any promotion made would be subject to outcome of the said Application and in fact promotions made thereafter were made by ESIC also subject to outcome of the Application. Thus, there is no merit in the contention on behalf of the Petitioner that the lists are protected.

47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade – II/Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in *K. Meghachandra Singh (supra)* and the instructions & guidelines issued by the Department Of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks.”

3. The aforesaid writ petition, W.P.(C) 14434 of 2023, was filed by the Employees State Insurance Corporation (for short, “ESIC”) assailing the judgment dated 22.03.2023 passed by learned Central Administrative Tribunal in OA No. 1234 of 2022, filed by the petitioner herein. *Vide* the said judgment dated 22.03.2023, learned Tribunal had issued directions to ESIC to redraw the seniority list issued on 15.03.2016, 24.06.2016 and 04.03.2022 for the post of Social Security Officer/Branch Manager Grade-II/Superintendents of ESIC. Learned Tribunal had disposed of the aforesaid OA filed by the petitioner herein on the basis of an order passed in OA No.141/2017. Relevant



paragraphs of the order passed by learned Tribunal reads as under: -

“2. The applicant has put to challenge the seniority list of Social Security Officer/Branch Managers Grade-II/Superintendents issued by the respondents on 15.03.2016 and 24.06.2016. It is stated that the applicant preferred a representation against the said seniority lists and the same has been rejected by the respondents vide order dated 04.03.2022.

3. Learned counsel for the applicant draws attention to Annexure A1 which is the impugned order dated 04.03.2022 (page 63 of the O.A.) wherein the following has been mentioned:-

“She had given representation to the Administration and to the National Litigation Committee against the final seniority dated 15.03.2016 on 27.04.2016. The said seniority is already under challenge before the Hon’ble Tribunal, Principal Bench, Delhi vide OA No. 141/2017, OA No. 1715/2017 and OA NO. 235/2017 and the outcome shall be binding to all once the cases are decided.”

4. Learned counsel for the applicant states that the said O.A., as referred to above, has already been disposed of by the Tribunal on 30.08.2022. He has supplied a copy of the same to us which is taken on record.

5. In view of the specific averments made in the impugned order and the fact that the issue, facts and circumstances in the present case have already been decided by a Coordinate Bench of this Tribunal in another O.A., the present O.A. is also disposed of in similar terms. For the sake of better understanding and clarity the order passed by the Tribunal in O.A. No. 141/2017 is reproduced verbatim below:-

“The applicants by virtue of the present Original Application have put a challenge to the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents issued by the respondents on 15.03.2016, 24.06.2016 and 08.11.2016.



2. *Brief facts of the case are that the applicants by way of participation in Limited Departmental Competitive Examination (LDCE) got promoted to the aforesaid post and were accordingly assigned a place each in the impugned seniority list. While challenging the same, they seek the following relief(s) :*

“a. Quash and set aside the impugned seniority lists/orders placed at Annexure A/1, A/2 and A/3and;

b. Direct the respondent No. 1 to recast the seniority list of SSOs/Branch Managers Grade-II/Superintendents applying DoPT OM dated 24/06/1978 on year wise basis.

c. Accord all consequential benefits.

d. Award costs of the proceedings; and

e. Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicants.”

3. Although a large number of grounds to assail the said seniority list have been taken in the Original Application, however, during the course of the arguments, the learned counsel for the applicants draws attention to two orders passed recently by this Bench of the Tribunal in OA No. 1545/2020 on 12.07.2022 and OA No. 2586/2019 on 02.08.2022.

4. Learned counsel points out that the facts and issues involved in the present Original Application have been discussed and examined in great detail in the aforementioned Original Applications. Accordingly, there is no cause to deviate from the position already taken in the instant OA.



5. The primary grounds for the challenge to the impugned seniority lists is that many of the direct recruits have been assigned seniority with effect from the date they were not even borne on the cadre. Accordingly, they have been placed above the applicants as also several other promoted officials despite the fact that these were appointed to the said post on a much earlier date. Drawing attention to the detailed judgment passed by the Hon'ble Apex Court in ***K. Meghachandra Singh & Ors. vs Ningam Siro & Ors. case (2020) 5 SCC 689***, learned counsel argues that in view of the clear and unambiguous law laid down by the Hon'ble Apex Court, these seniority lists deserve to be set aside. The relevant direction of the Hon'ble Apex Court reads as under :-

“The term “recruitment year” does not and cannot mean the year in which, the recruitment process is initiated or the year in which, vacancy arises. The contrary declaration in *N.R. Parmar* in our considered opinion, is not a correct view.”

Further, the said judgment holds that “the law is fairly well settled in a series of cases, that a person is disentitled to claim seniority from a date he was not borne in service. Persons cannot be said to have been recruited to the service only on the basis of initiation of process of recruitment but he is borne in the post only when, formal appointment order is issued.”

7. On the other hand, learned counsel for the respondents traces the history of the aforesaid judgment of the Hon'ble Supreme Court and points out that the impugned seniority lists are squarely based on the earlier judgment rendered by the Hon'ble Supreme Court in ***N.R. Parmar vs. Union of India & Ors., (2012) 13 SCC 340*** case. She also points out that although the principles laid down in the *N.R. Parmar* case (supra) were later on set aside by the ***K. Meghachandra Singh's*** case judgment (supra), however, the actions taken pursuant to the *N.R. Parmar* case judgment (supra) which had attained finality were to be protected and, hence, the seniority



lists impugned in the present O.A. cannot be put to challenge. She points out that the principle laid down in the **N.R. Parmar** case judgment (supra) was clear that the seniority whether of direct recruits or the promotees shall be determined with reference to the year on which such vacancy accrues, be it for the direct recruit quota or the promotion quota. She particularly draws attention to para 28, 34, 52 and 53 of the **N.R. Parmar's** case judgment (supra) and argues that there is no scope for any other interpretation, except, for the fact that the right of a direct recruit for assignment of seniority shall accrue from the date of requisition of the vacancy for a particular year. Although, she concedes that this principle has later been turned aside in the **K. Meghachandra Singh** case but in view of a specific stipulation which also finds mention in the DOP&T Office Memorandum, the seniority list already drawn based on the principles of **N.R. Parmar's** case judgment (supra) would remain protected.

8. We have heard learned counsels for the parties and have also gone through the documents on record. We have also carefully perused the judgment rendered by the Hon'ble Supreme Court in the **N.R. Parmar** case (supra) on which the learned counsel for the respondents rests her case. We have time and again given a careful reading to the specific paras to which our attention has been drawn. The **N.R. Parmar** case judgment (supra) was translated into an Office Memorandum by the DOP&T on 04.03.2014. It would be pertinent to quote from para 5 of the said Office Memorandum to clarify the matters:

"5. The matter has been examined in pursuance of Hon'ble Supreme Court Judgment on 27.11.2012, in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar vs. UOI & Ors in consultation with the Department of Legal Affairs and it has been decided, that the manner of determination of inter-se-seniority of direct recruits and promotes would be as under:

a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent/ withdrawn ab



initio;

b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;

c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;

d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;

e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.

f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;

g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;



h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors. The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened.”

9. We do not find that the action of the respondents in assigning an ante dated seniority to the direct recruits finds any justification in the law laid down in the **N.R. Parmar** case judgment (supra). While passing an order in O.A. No. 1545/2020, we had discussed this issue at great length. We are not inclined to agree with the interpretation very emphatically put forth by the learned counsel for the respondents because nowhere does the Hon'ble Supreme Court in **N.R. Parmar's** case (supra) nor the DOP&T's Office Memorandum referred to above, which was an outcome of the said case, mentions anywhere that seniority is to be assigned in the vacancy year in which the recruitment is made or in the year requisition is sent. The said judgment and the DOP&T OM merely say that the inter-se seniority is to be assigned with reference to the year. Subsequently, it has been categorically laid down in the **K. Meghachandra Singh's** case judgment (supra) that a right cannot accrue to an official with effect from a date when he had not even entered into service or was not into the cadre. 10. Learned counsel for the applicant has drawn attention to several names in the impugned seniority lists, who have been placed above the officials, who were actually appointed/promoted to the said post much earlier. For the sake of illustration in the seniority list dated 24.06.2016 which is for the period 01.04.2006 to 31.03.2009, there is one Sunny Kumar at Sl. No. 2080. The said official was only 19 years & three months as on 01.04.2006 and did not even enjoy the basic eligibility to



hold the said position. Similarly, at Sl.No. 296, 297 and 299 are the names where the anomaly is glaring. While one Sh. Anil Katiyal at Sl. No. 299 was appointed on 30.11.2007, the officials at Sl. Nos. 296 and 297, who got appointed in 2009 and 2008, have been placed above him.

11. Without further commenting or dwelling upon the reasons given to draw the seniority lists, we find this position to be unacceptable in view of the law laid down in the ***K. Meghachandra Singh*** case judgment (supra) which has been subsequently incorporated in the detailed guidelines issued by the DOP&T vide Office Memorandum dated 13.08.2021. Moreover, the limited protection of the actions already taken subsequent to the ***N.R. Parmar (supra)*** case judgment is also not available in the instant case.

12. In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority lists (A-1, A-2, & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs

13. All associated MAs stand disposed of accordingly.”

6. Learned counsel for the respondents states that in view of the fact that the said impugned order itself reflects that the representation of the applicant would meet the same fate as that to the applicants in O.A. No. 141/2017 and the same has been decided the respondents be accorded some time to examine the matter and process the case of the applicant accordingly.



7. Heard the learned counsel for the parties.

8. In view of the fact that the O.A. No. 141/2017 mentioned in the impugned order has been decided (quoted herein above), this O.A. is also disposed of in similar terms. The impugned orders/seniority lists dated 04.03.2022, 15.03.2016 and 24.06.2016 are quashed and set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a period twelve weeks from the date of receipt of a certified copy of this order. It is made clear that the in-situ promotions shall be effected from the date the same has been granted to the juniors of the applicant.

There shall be no order as to costs.”

4. In pursuance of the directions passed by Hon’ble Division Bench of this Court *vide* judgment dated 18.03.2024, ESIC issued a Memorandum dated 17.05.2024 whereby, the Competent Authority decided to issue the draft seniority list of Social Security Officer/Branch Managers Grade-II/Superintendents in pay band PB-2. *Vide* the said Memorandum, objections/representations against the provisional seniority list, if any, were called within 3 weeks. The petitioner herein, *vide* letter dated 21.05.2024 submitted a representation against the said draft seniority published on 17.05.2024 and a request was made to withdraw the said seniority list.

5. ESIC, subsequently, issued another Memorandum dated 28.06.2024 with the approval of competent authority in respect of Revised Draft Provisional Gradation/Seniority List of Social Security Officers/Branch



Managers Grade-II/Superintendents promoted/appointed/recruited during the period from 01.04.2006 to 31.03.2009 thereby finalising the said seniority list.

6. Thereafter, the present petition was filed by the petitioner and on 22.07.2024, learned Predecessor Bench of this Court passed the following order: -

“CONT.CAS(C) 1098/2024

3. The petitioner is seeking initiation of contempt proceedings against the respondents for wilful disobedience of the directions passed by this Court dated 19.03.2024 in W.P.(C) 14434/2023.

4. Learned counsel for the respondents is present on advance notice.

5. Learned counsel for the petitioner has alluded to the operative portion of the aforesaid judgment and *vide* paragraph (47), it is pointed out that the seniority list has not been drawn within the prescribed period of eight weeks as per law.

6. At this stage, learned counsel for the petitioner has further shown the hard copy of the O.A. No. 100/141/2017-E.I. dated 18.07.2024, whereby, the respondents have proceeded to re-draw the seniority list, which, *prima facie* appear to be in violation of the directions of this Court. Let a hard copy of the same be placed on the record and let the same be digitized.

7. Learned counsel for the respondents requests for some time to seek instructions.

8. Issue notice. Notice is accepted. Let reply be filed within four weeks from today.

9. In the meanwhile, the respondents shall not implement the revised seniority list in terms of the order dated 18.07.2024 till the next date of hearing.



10. At this stage, learned counsel for the respondents has urged that no interim application has been moved on behalf of the petitioner seeking any stay against the operation of the aforesaid order dated 18.07.2024 since *prima-facie*, the respondents appear to be in violation of the directions of this Court and this Court has *suo-moto* powers to pass appropriate directions. Accordingly, the order dated 18.07.2024 is hereby stayed till the next date of hearing.”

7. Subsequently, an application, **C.M. No. 62483/2024**, was filed by the respondents on 25.09.2024 seeking vacation of the stay order granted *vide* order dated 22.07.2024. Reply was filed on behalf of the petitioner to the aforesaid application on 20.11.2024. The said application has since been pending.

8. Learned counsel for the petitioner has submitted that the respondents have not complied with the directions passed by Hon’ble Division Bench of this Court *vide* judgment dated 18.03.2024. It is the case of the petitioner that the draft seniority list issued by the respondents on 17.05.2024 is not based on the principle laid down by the Hon’ble Supreme Court in **K. Meghachandra Singh v. Ningam Sigro & Ors.**¹, for determination of *inter se* seniority of direct recruits and promotees as adopted by the respondents *vide* Office Memorandum dated 13.08.2021 wherein, instructions relating to determination of *inter se* seniority between the promotees and direct recruits were modified. The relevant portion of the O.M. dated 13.08.2021 reads as under: -

¹ 2019 INSC 1260: (2020) 5 SCC 689



“6. The determination of *inter se* seniority of direct recruits and promotees, as laid down by the Hon'ble Supreme Court of India, in its Order dated 19.11.2019 in K. Meghachandra Singh case, has been carefully examined in consultation with the Department of Legal Affairs, and the following principles have emerged:-

(i) The rotation of quota, based on the percentage of vacancies allocated to direct recruitment and promotion in the notified recruitment rules/service rules, shall continue to operate for determining vacancies to be filled by the respective quotas in a recruitment year. The term "recruitment year" shall mean the year in which the vacancy arises. However, *inter se* seniority between direct recruits and promotees, who are appointed against the vacancies of respective quota, would be reckoned with reference to the year in which they are appointed i.e. year in which they are borne in the cadre or formal appointment order is issued.

(ii) The terms 'recruitment' and 'appointment' have to be read harmoniously and the determination of seniority for recruits would depend on their actual appointment and not the initiation of recruitment process itself. It thus follows that the seniority of direct recruits and promotees henceforth stands delinked from the vacancy/year of vacancy.

(iii) The source of legitimacy of determination of seniority would be with reference to the date of joining of a person against a vacancy, irrespective of the fact that it may have arisen in the previous years) and not being a carried forward vacancy of any quota.

(iv) If adequate number of direct recruits (or promotees) do not become available, "rotation of quotas" for the purpose of determining seniority, would stop after the available direct recruits and promotees are assigned their slots on joining in a particular year.

(v) The term available, both in the case of direct recruits as well as promotees, for the purpose of rotation and fixation of seniority, shall be the actual year of appointment after declaration of results/selection and completion of pre-appointment formalities as prescribed.



(vi) Thus, appointees who join in the concerned recruitment year and those who join in subsequent years, would figure in the seniority list of the respective years of their being appointed. To that extent it may not be necessary to go into the question of quota meant for direct recruits and promotees to find out as to the year in which the vacancy arose against which the recruitment is made.

7. Based on the above, it has been decided to modify the instructions relating to determination of *inter se* seniority between promotees and direct recruits as under:

(i) DoPT's O.M. No. 20011/1/2012-Estt.(D) dated 4.3.2014. issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case. is treated as non-est/withdrawn w.e.f. 19.11.2019.

(ii) As the Order dated 19.11.2019 is prospective, cases of interse seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 4.3.2014, shall not be disturbed. i.e. old cases are not to be reopened.

(iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case *inter se* seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.

(iv) For cases where the recruitment process has been initiated by the administrative Department/Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019. the *inter se* seniority of direct recruits and promotees. shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees.



(v) For recruitments initiated on or after 19.11.2019 as well as for future recruitments, in addition to cases where the recruitment process has been initiated by the administrative Department/ Cadre Authority before 19.11.2019, but where all appointments, subsequent to the initiation of recruitment process, could be made only on or after 19.11.2019 i.e. date of order of Apex Court, the *inter se* seniority of direct recruits and promotes shall be determined in the following manner-

(a) The rotation of quota based on the percentage of vacancies allocated to direct recruitment and promotion in the notified recruitment rules/service rules, shall continue to operate for determination of vacancies to be filled by the respective quotas in a recruitment year.

(b) Determination of *inter-se* seniority between direct recruits and promotees, who are appointed against the vacancies of respective quota, would, however, be reckoned with reference to the year in which they are appointed i.e: year in which they are borne in the cadre or formal appointment order is issued. In case, where the recruitment year is the same as the year of appointment, the appointees shall be given seniority of that year.

(c) Where in case of promotees or direct recruits, the year of appointment is the next year or any year subsequent to the recruitment year, the seniority of such promotees and direct recruits would be determined with reference to the year of their actual joining/appointment to the post, since they were not able to join in the said recruitment year in which the vacancy arose. Thus, they would get seniority of the year in which they actually join i.e. year in which formal appointment order is issued or they are borne in the service/cadre and that they shall not get seniority of any earlier year (viz. year of Vacancy/panel or year in which recruitment process is initiated).

(d) In terms of OMs dated 7.2.1986/3.7.1986, rotation between promotees and direct recruits for the purpose of determination of *inter-se* seniority, would be undertaken only to the extent of available direct recruits and promotees in a particular year. The term available direct recruits or promotees appearing in these OMs dated 7.2.1986/3.7.1986,



for the purpose of rotation of quota in fixation of *inter-se* seniority, shall mean the actual number of direct recruits and promotees appointed during the year after declaration of results/selection and completion of pre-appointment formalities as prescribed.

(e) As per (d) above, if adequate number of direct recruits (or promotees) do not become available in a particular year. the "rotation of quotas" for the purpose of determining *inter-se* seniority, would stop after the available direct recruits and promotes are assigned their slots on their appointment/joining in that year.

(f) If no direct recruit is available in a particular year. available promotees would be bunched together in accordance with their position in the panel approved for promotion. Similarly, if no promotee is available in that year, available direct recruits would be bunched together, as per their position obtained in the selection process.

(g) In case. where direct recruits or promotees, as the case may be, belonging to two more selections/panel approved for promotion, join in the same year, then those who have been appointed/joined as a result of earlier selection/panel would be placed senior in the seniority list to those been appointed/joined as a result of a subsequent selection/panel.

(h) Instructions contained in OMs dated 7.2.1986 and 3.7.1986, stand modified to the extent indicated in above paragraphs.”

Attention of this Court has been drawn towards the Memorandum dated 17.05.2024 issued by the respondents, particularly, towards the following portion to show that the aforesaid principles modified *vide* O.M. dated 13.08.2021 were not followed while re-drawing the seniority list published on 17.05.2024 in pursuance of the directions passed by the Hon'ble Division Bench *vide* judgment dated 18.03.2024: -



“After considering the aforesaid judgement of Hon’ble High Court of Delhi, DoP&T O.M. dated 13.08.2021, DoP&T O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle:

(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year.

(b) As per order dated 15.09.2022 of Hon’ble Tribunal in O.A. No. 1715/2022 in Krishna Murari case, the candidate appointed by operating reserved panel may be placed in the redrawn seniority list in the order of consolidated merit list as per DoP&T O.M. No. 20011/1/2008-Estt.(D) dated 11.11.2010.

(c) The seniority position of officials recruited through sports quota needs to be assigned to the respective Recruitment year/deemed Recruitment year to which the vacancy has been identified. The vacancies identified for Sports Quota for the year 2006-07, 2007-08 & 2008-09 were 04, 02 and 01 respectively. Accordingly, the seniority of 04 candidates recruited through sports quota against the vacancies of recruitment year 2006-07 may be placed at bottom of the recruitment year 2006-07 by applying rota-quota with corresponding promotee of the recruitment year 2006-07. In the same manner, the seniority of remaining 02 & 01 sports quota candidate recruited against the vacancy of recruitment year 2007-08 & 2008-09 may be fixed respectively.

On the basis of aforesaid principle, the draft/provisional seniority list of Social Security Officer (SSO)/Branch Managers Grade-II/Superintendents appointed/promoted/recruited during the year



the period from 01.04.2006 to 31.03.2009 is circulated for information.

The objections/representations against this provisional seniority list, if any, may please be intimated to Hqrs. (by name to the undersigned) within 03 weeks from the date of issue of this memorandum through e-mail at dpc-elhq@esic.nic.in. Representations received after 03 weeks will not be considered in any circumstance and the seniority list will be treated as final.

This is issued with the approval of Competent Authority.”

9. Thus, it has been argued on behalf of the petitioner that the respondents have changed the principles for determination of the seniority as provided by its Office Memorandum dated 13.08.2021 and the same has adversely affected the future prospects of the petitioner as in the new draft/provisional seniority list issued on 17.05.2024, the seniority of the petitioner has been dropped from 507 to 590 and she has been placed below the direct recruits who joined the cadre of Social Security Officer on 30.05.2009 as well as those who joined in 2010 and 2011 in contrast to her joining date of cadre on 29.12.2008. Therefore, it is submitted that the respondents have wilfully disobeyed the directions passed by Hon’ble Division Bench for re-drawing of the Seniority List for the post of Social Security Officer/Branch Managers Grade – II/Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in **K. Meghachandra Singh (supra)** and the instructions & guidelines issued by the Department Of Personnel & Training (DOP&T) on the subject.

10. *Per contra*, learned counsel for the respondents have submitted that the



directions of the Hon'ble Division Bench *vide* the judgment dated 18.03.2024 were to the effect that the latter were directed to comply with the directions issued by learned Tribunal and re-draw the Seniority List for the post of SSO/Branch Managers-II/Superintendents with ESIC in accordance with applicable principles of DoP&T on the subject. It further submitted that the respondents *vide* its Memorandum dated 17.05.2024 had prepared a draft seniority list with the approval of the Competent Authority whereby the seniority was determined in pursuance of the directions passed by Hon'ble Division Bench, learned Tribunal and DOP&T O.M. dated 04.03.2014. Regarding the O.M. dated 13.08.2021 relied on by the petitioner, it is submitted that it has been mentioned in the said O.M. that it shall come into effect from 19.11.2019 onwards. It is the case of the respondents that objections/representations against the said provisional/draft seniority list were also invited within 3 weeks of its issuance and same were decided by the Competent Authority by way of a speaking order dated 12.07.2024 in accordance with the principles applicable as mentioned in the Memorandum issued on 17.05.2024. Therefore, it is submitted that if the petitioner is aggrieved by the decision of Competent Authority given *vide* order dated 12.07.2024 then she has alternate remedy with respect to the same before the Court of competent jurisdiction as permissible under law.

11. Heard learned counsels for the parties and perused the record.

12. The learned Division Bench *vide* the judgment dated 18.03.2024 had directed the respondents/ESIC to comply with the directions issued by the



Tribunal and re-draw the seniority list for the post of SSO/Branch Managers Grade-II/Superintendents in ESIC in accordance with the law laid down by Hon'ble Supreme Court in **K. Meghachandra Singh (supra)** and instructions and guidelines issued by the DOP&T on the subject.

13. The respondents *vide* Memorandum dated 17.05.2024 had issued a draft/provisional seniority in respect of the aforesaid posts appointed/promoted/recruited during the period from 01.04.2006 to 31.03.2009. The case of the petitioner is that the principles adopted by the respondents while formulating the aforesaid draft/provisional seniority are different from its earlier Officer Memorandum dated 13.08.2021 and thus, the respondents are in wilful disobedience of the directions passed by Hon'ble Division Bench *vide* the judgment dated 18.03.2024.

14. It is pertinent to note that the petitioner herein *vide* a letter dated 21.05.2024 addressed to Director General, ESIC, had submitted her representation/objection against the draft/provisional seniority list issued by the respondents in pursuance of the Memorandum dated 17.05.2024. The petitioner has also addressed a letter dated 23.05.2024 to Director General, ESIC (Establishment-I), raising objection to seniority list published on 17.05.2024 for the post of SSO/BM/OS for the period 2006-2009. *Vide* this letter, intimation regarding the filing of the present contempt petition was also given to the respondents.

15. The respondents *vide* a speaking order dated 12.07.2024 has decided



the objections submitted by 39 officers, including the petitioner herein, to its draft/provisional seniority list issued on 17.05.2024. The relevant portion of the said order in respect of the objections raised on behalf of the petitioner herein reads thus: -

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		2008 and placed in the year 2008-09 but all my juniors have been placed above me in the year 2007-08. Whereas, recruitment year concept is to be followed and there is no concept of deemed recruitment year in any of the DoPT circulars. Instead, recruitment year is linked directly with availability. So, any officer joined in the year is eligible only for that year's seniority but not before that as also agreed by Hon'ble High Court of Delhi vide its judgement referring to CAT judgement in the case 1234/2022 (Shanti Mahendran case) along with direction for promotion from the date when their juniors are promoted.	
3.	Ms. Santhi Mahendran (590)	I outrightly and strongly condemn the seniority list published by ESIC on 17.05.2024. This list again unfairly favours direct recruits and adversely affects my career prospects. The List as published by the ESIC on 17.05.2024 is in complete contravention of the Orders of the Hon'ble High Court and the Ld. Central Administrative Tribunal, Principal Bench, New Delhi. The Hon'ble High Court of Delhi, vide its order dated 18.03.2024 (copy enclosed), while dismissing the appeal filed by ESIC, directed ESIC to comply with the directions issued by the Tribunal. The Hon'ble High Court categorically direct ESIC to re-draw the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh and the instructions & guidelines issued by the Department of Personnel & Training (DoP&T). This exercise was to be completed within eight weeks. Relevant Paragraph of the Order of the Hon'ble High Court of Delhi is reproduced herewith below "47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employee State	The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under: <i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade - II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"</i> Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), <i>inter-alia</i>, directed as under:



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<i>Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"</i> The Ld. Central Administrative Tribunal, Principal Bench, New Delhi while deciding the OA 1234/2022 titled Shanti Mahendran v. Employees' State Insurance Corporation & ors. gave a categorical finding in my favour vide Judgement dt. 22.03.2023 holding as follows- 9. We do not find that the action of the respondents in assigning an ante dated seniority to the direct recruits finds any justification in the law laid down in the N.R. Parmar case judgement (supra). While passing an order in O.A. No. 1545/2020, we had discussed this issue at great length. We are not inclined to agree with the interpretation very emphatically put forth by the learned counsel for the respondents because nowhere does the Hon'ble Supreme Court in N.R. Parmar's case (supra) nor the DOP&T's Office Memorandum referred to above, which was an outcome of the said case, mentions anywhere that seniority is to be assigned in the vacancy year in which the recruitment is made or in the year requisition is sent. The said judgement and the DOP&T OM merely say that the inter-se seniority is to be assigned with reference to the year. Subsequently, it has been categorically laid down in the K. Meghachandra Singh's case judgement (supra) that a right cannot accrue to an official with effect from a date when he had not even entered into service or was not into the cadre. 11. Without further commenting or dwelling upon the reasons given to draw the seniority lists, we find this position to be unacceptable in view of the law laid down in the K. Meghachandra Singh case judgement (supra) which has been subsequently incorporated in the detailed guidelines issued by the DOP&T vide Office Memorandum dated 13.08.2021. Moreover, the limited protection of the action already taken subsequent to the N.R. Parmar (supra) case	<i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i> Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post. Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Nigam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		judgment is also not available in the instant case. 12. In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority lists (A-1, A-2 & A-3) are set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority lists strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than twelve weeks from the date of the order. No costs. 8. In view of the fact that the O.A. No. 141/2017 mentioned in the impugned order has been decided (quoted herein above), this O.A. is also disposed of in similar terms. The impugned orders/seniority lists dated 04.03.2022, 15.03.2016 and 24.06.2016 are quashed and set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made herein above and the instructions & guidelines issued by the DOPT on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a period twelve weeks from the date of receipt of a certified copy of this order. It is made clear that the in-situ promotions shall be effected from the date the same has been granted to the juniors of the applicant. The list as published by the ESIC is a clear and specific case of contempt of not one but two orders i.e. the Order dated 18.03.2024 of the Hon'ble Court and Order dt. 22.03.2023 Id. Tribunal. DoPT Guidelines vide OM dated 13.08.2021 clearly lays down the procedure for making of a Seniority List in accordance with the judgement of K. Meghachandra Case. Para 6 provides for the guiding principles for ESIC to follow while publishing the Seniority List. The same is as follows – *6. The determination of inter se seniority of	and their inter-se seniority. The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below. "(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019. (ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened. (iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court. (iv) For cases where the recruitment process has been initiated by the administrative



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		direct recruits and promotes, as laid down by the Hon'ble Supreme Court of India, in its Order dated 19.11.2019 in K. Meghchandra Singh case, has been carefully examined in consultation with the Department of Legal Affairs, and the following principles have emerged:- (i) The rotation of quota, based on the percentage of vacancies allocated to direct recruitment and promotion in the notified recruitment rules/service rules, shall continue to operate for determining vacancies to be filled by the respective quotas in a recruitment year. The term 'recruitment year' shall mean the year in which the vacancy arises. However, inter se seniority between direct recruits and promotes, who are appointed against the vacancies of respective quota, would be reckoned with reference to the year in which they are appointed i.e. year in which they are borne in the cadre or final appointment order is issued. (ii) The terms recruitment' and appointment' have to be read harmoniously and the determination of seniority for recruits would depend on their actual appointment and not the initiation of recruitment process itself. It thus follows that the seniority of direct recruits and promotes henceforth stands delinked from the vacancy/year of vacancy. (iii) The source of legitimacy of determination of seniority would be with reference to the date of joining of a person against a vacancy. Irrespective of the fact that it may have arisen in the previous year(s) and not being a carried forward vacancy of any quota. (iv) If adequate number of direct recruits (or promotes) do not become available, "rotation of quotas" for the purpose of determining seniority, would stop after the available direct recruits and promotes are assigned their slots on joining in a particular year. (v) The term 'available &. Both in the case of direct recruits as well as promotes, for the purpose of rotation and fixation of seniority, shall be the actual year of appointment after declaration of results/selection and completion of pre-appointment formalities as prescribed.'	Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotes, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees" The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under. " a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio; b) The rotation of quota based on the available direct recruits and promotes appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotes; c) The available direct recruits and promotes, for assignment of inter se seniority, would refer to the direct recruits and promotes who are appointed against the vacancies of a Recruitment Year; d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year; e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		(vi) Thus, appointees who join in the concerned recruitment year and those who join in subsequent year(s), would figure in the seniority list of the respective years of their being appointed. To that extent it may not be necessary to go into the question of quota meant for direct recruits and promotes to find out as to the year in which the vacancy arose against which the recruitment is made" Thus, the Seniority List dated 17.05.2024 published by the ESIC is in complete contravention of Guidelines laid down by DoPT, law as laid down by the Hon'ble Apex Court in K. Meghachandra. ESIC's actions have caused immense harassment and hardship to me. I have been constrained to fight for my due rights for more than 14 years now. Due to the colourable actions of ESIC, despite express guidelines from the DoPT, I have suffered immensely in the professional sphere. Since 2009, my promotion has been stalled due to the colourable action of ESIC. ESIC's action to again publish a seniority list in contravention of the law laid down in K. Meghachandra is in express contempt of the Orders of the Hon'ble High Court and Ld. Tribunal. Both the forums have upheld my case and directed ESIC to follow the DoPT guidelines and law in terms of K. Meghachandra. The core issue for consideration before both the Hon'ble High Court and the Ld. Central Administrative Tribunal, Principal Bench, New Delhi was that the Direct Recruits who joined on 30.05.2009 could not gain seniority for earlier years. The Seniority List for the period 2006-09 shall be governed in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh and instructions & guidelines issued by the Department of Personnel & Training (DoP&T) on the subject. This seniority list not only includes direct recruits who joined on 30.05.2009 but also those who joined in 2010 and 2011, thereby violating all relevant instructions and court/tribunal directions. By doing so, the administration has demonstrated a blatant disregard for the instructions on	<i>direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</i> <i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i> <i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i> <i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i> <i>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i> In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		seniority and the directions of the Hon'ble Court/Tribunal, showing insensitivity and bias. The impact of this is that even though I have a judgment passed by the Hon'ble High Court of Delhi and Ld. Tribunal in my favour, my seniority position remains adversely affected. I was previously listed at Item No. 507 in the quashed seniority list, but in the purported draft seniority list, I have been brought down drastically to Sl. No. 590. This places me below direct recruits who joined the cadre of Social Security Officer on 30.05.2009, as well as those who joined in 2010 and 2011, whereas I joined the cadre on 29.12.2008. Importantly, the appeal was based on the argument that the impugned seniority list were prepared in accordance with the law laid down in N.R. Parmar and were thus protected as per K. Meghachandra. This argument was presented by the Additional Solicitor General, Sh. S. V. Raju, who is currently on the panel of the Enforcement Directorate Department. Despite this, the appeal was dismissed on its merit. The published seniority list also erroneously states that direct recruits who joined in 2009, 2010 and 2011 have been placed in the seniority for 2006-09 based on a legal consultation from well-versed lawyers. It must be emphasized that the decision of the Division Bench of the Hon'ble High Court of Delhi prevails over any individual legal opinion/consultation. The administration must understand that a legal opinion/consultation is subjective and cannot override the authoritative judgement of the Division Bench of the High Court and Tribunal. In view of above, I request your immediate attention to withdraw the seniority list dated 17.05.2024, as it clearly violates the principles laid down by the court/tribunal/instructions. The seniority should be re-cast not to favour the direct recruits, but in strict accordance with the Meghachandra judgement and DOP&T instructions on the subject.	appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated. After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year. The applicant was promoted to the post of Social Security Officer before 19.11.2019 and she was promoted through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007 and recruitment year was 2007-08. However, she may not be placed against the recruitment year 2007-08 since she was ineligible for holding the said post against the vacancies of recruitment year 2007-08. Therefore, she has been placed in the seniority list against the recruitment year 2008-09 by applying rota quota in ratio 2:1:1 (DPC:LDCE:DR) as per DoP&T OM dated 04.03.2014.



Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		I hope for a prompt and favourable response within a week. If not, I will have no option but to file a contempt petition under Section 10 and 12 of the Contempt of Courts Act.	

16. In view of the aforesaid speaking order, the case of the respondents is that the principles regarding the *inter se* seniority of the direct recruits and promotees as modified *vide* O.M. dated 13.08.2021 will be applicable w.e.f. 19.11.2019 and the said OM is applicable prospectively and the cases of *inter se* seniority in terms of O.M. dated 04.03.2014 shall not be reopened. Further, as per the aforesaid order, the petitioner herein was appointed in 29.12.2008 and promoted to the post of SSO before 19.11.2019 through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007 and recruitment year was considered to be 2007-08 and thus, she has been placed in seniority list against the recruitment year 2008-09 by applying the principle as per O.M. dated 04.03.2014 issued by DoP&T. It is further pointed out other similarly placed individuals have challenged the aforesaid speaking order in OA No. 2936/2024 and same is pending before the learned CAT.

17. The directions given by learned Division Bench of this Court *vide* judgment dated 18.03.2024 was to re-draw the seniority list in accordance with the law laid down by the Supreme Court in **K. Meghachandra Singh** (*supra*) and the instructions & guidelines issued by the Department Of



Personnel & Training (DOP&T) on the subject. The respondent has redrawn the seniority list with the approval of the Competent Authority. The petitioner cannot challenge the decision taken by the Competent Authority in the present contempt petition. The submission on behalf of the petitioner with regard to the applicability of the principles for determination of the *inter se* seniority between the direct recruits and promotes, cannot be adjudicated by this Court in the present contempt jurisdiction as held by Hon'ble Supreme Court in **J.S. Parhihar v. Ganpat Duggar and Others**², wherein in paragraph 6, it has been observed and held as under: -

“6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. **The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of**

² (1996) 6 SCC 291



judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it may not be necessary for the State to file an appeal in this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench.”

(emphasis supplied)

18. In view of the above, this Court in the present contempt jurisdiction cannot consider the case on merits. In case, the petitioner is aggrieved by the aforesaid speaking order dated 12.07.2024, the same can be challenged by taking recourse to the other legal remedies in accordance with law.

19. Needless to state that the petitioner is also at liberty to challenge the decision of the Competent Authority with respect to the principles adopted in re-drawing of the *inter se* draft/provisional seniority list which was subsequently, finalized *vide* Memorandum dated 18.07.2024, in accordance with law, before the Court of competent jurisdiction/appropriate forum.

20. With the aforesaid directions the present petition is disposed of.

21. Interim order dated 22.07.2024 stands vacated.



22. Pending application(s), if any, also stand disposed of accordingly.
23. Judgment be uploaded on the website of this Court *forthwith*.

AMIT SHARMA
JUDGE

OCTOBER 15, 2025/bsr/ns