



2025:DHC:6278-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of decision: 31.07.2025***

+ W.P.(C) 10825/2024 & CM APPL. 44564/2024  
UNION OF INDIA & ANR.

.....Petitioners

Through: Mr.Nitinjya Chaudhary, SPC  
with Mr.Vedansh Anand, GP &  
Mr.Rahul Mourya & Ms.Vidhi  
Gupta, Advs

versus

DILPREET SINGH NAGI (GROUP B) & ORS.

.....Respondents

Through: Mr.Padma Kumar S., Adv for  
R-1 to R-4  
Ms.Pallavi Awasthi, Adv for  
Impleader

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the order dated 24.03.2023 passed by the learned Administrative Tribunal, Principal Bench, New Delhi (in short, 'Tribunal'), in O.A. no. 1236/2021, titled ***Dilpreet Singh Nagi & Ors. v. Union of India & Ors.***, disposing the O.A. filed by respondent nos.1 to 4 herein, with the following directions:-



*“13. In the light of what has been detailed and discussed above, the present OA is allowed and the seniority list dated 25.05.2021 accompanied by order dated 24.05.2021 is quashed and set aside. Further, the seniority list dated 20.04.2017 stands restored to the extent that the respondents shall be at liberty to issue a subsequent seniority list after assigning appropriate place to the direct recruits including the private respondents, however, strictly in accordance with the directions and observations contained in this order read with the instructions of the DOP&T as are in vogue on date. The aforesaid directions shall be complied with as expeditiously as possible, and in no case later than a period of 12 weeks from the date of receipt of a copy of this order.”*

2. The learned counsel for the petitioner submits that the learned Tribunal has erred in placing reliance on the Judgment of the Supreme Court in ***K. Meghachandra Singh and Others v. Ningam SIRO and Others***, (2020) 5 SCC 689.

3. The learned counsel appearing on behalf of the officers, who have been impleaded in the present petition *vide* Order dated 03.12.2024, while supporting the petitioner, further submits that these are officers who were appointed against the available vacancies of the Senior Scientific Assistants (in short, ‘SSA’) in the Director General of Aeronautical, Quality Assurance (DGAQA) of the year 2015-16. 77 out of these vacancies were advertised by the UPSC on 25.04.2016. They were appointed during the years 2017 to 2020 and got finalised in the year 2020. A final seniority list was issued by the Department on 20.04.2017, which contained only the names of the promotees



SSAs of the year 2015-16. Finally, on the impleaders joining, another seniority list dated 25.05.2021 was issued wherein, the names of the impleaders were mentioned as seniors to the promotee officers based on the vacancies and on basis of a rota quota system. Reliance for the same was placed on the DoPT OM dated 04.03.2014 and 13.08.2021. She submits that as the impleaders had been appointed in service before the Judgment of the Supreme Court in **K. Meghachandra** (supra), they would continue to be governed by the Judgment of the Supreme Court in **Union of India and Others v. N.R. Parmar and Others**, (2012) 13 SCC 340.

4. The above submission is disputed by the learned counsel for respondent nos.1 to 4, who submits that as the seniority list has been published post the Judgment of the Supreme Court in **K. Meghachandra Singh** (supra), and in the seniority list that already stood published on 25.04.2017, the impleaders were not even shown as they were not even borne in the cadre, the case would not fall within the exception carved out by **K. Meghachandra Singh** (supra).

5. We have considered the submissions made by the learned counsels for the parties. In **K. Meghachandra Singh** (supra), the Supreme Court, emphasising that the date of seniority cannot be prior to the officers joining the services, has observed as under:-

*“28. Before proceeding to deal with the contention of the appellants' counsel vis-à-vis the judgment in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711], it is necessary to observe 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. For example, in Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] the Court considered the question whether the year in which the vacancy accrues can have any bearing for the purpose of determining the seniority irrespective of the fact when the person is actually recruited. The Court observed that there could be time-lag between the year when the vacancy accrues and the year when the final recruitment is made. Referring to the word “recruited” occurring in the Orissa Service of Engineers Rules, 1941 the Supreme Court held in Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] that person 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.*

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*37. When we carefully read the judgment in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711], it appears to us that the referred OM's (dated 7-2-1986 and 3-7-1986) were not properly construed in the judgment. Contrary to the eventual finding, the said two OM's had made it clear that seniority of the direct recruits be declared only from the date of appointment and not from the date of initiation of recruitment process. But surprisingly, the judgment while referring to the illustration given in the OM in fact overlooks the effect of the said illustration. According to us, the illustration extracted in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] itself, makes it clear that the vacancies which were intended for direct recruitment in a particular year (1986) which were filled in the next year (1987) could be taken into consideration only in the subsequent year's seniority list but not in the seniority list of 1986. In fact, this was*



*indicated in the two OMs dated 7-2-1986 and 3-7-1986 and that is why the Government issued the subsequent OM on 3-3-2008 by way of clarification of the two earlier OMs.*

*38. At this stage, we must also emphasise that the Court in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] need not have observed that the selected candidate cannot be blamed for administrative delay and the gap between initiation of process and appointment. Such observation is fallacious inasmuch as none can be identified as being a selected candidate on the date when the process of recruitment had commenced. On that day, a body of persons aspiring to be appointed to the vacancy intended for direct recruits was not in existence. The persons who might respond to an advertisement cannot have any service-related rights, not to talk of right to have their seniority counted from the date of the advertisement. In other words, only on completion of the process, the applicant morphs into a selected candidate and, therefore, unnecessary observation was made in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] to the effect that the selected candidate cannot be blamed for the administrative delay. In the same context, we may usefully refer to the ratio in Shankarsan Dash v. Union of India [Shankarsan Dash v. Union of India, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] , where it was held that even upon empanelment, an appointee does not acquire any right.*

*39. The judgment in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] relating to the Central Government employees cannot in our opinion, automatically apply to the Manipur State Police Officers, governed by the MPS Rules, 1965. We also feel that N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S)*



711] had incorrectly distinguished the long-standing seniority determination principles propounded in, *inter alia*, *Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156]*, *Suraj Parkash Gupta v. State of J&K [Suraj Parkash Gupta v. State of J&K, (2000) 7 SCC 561 : 2000 SCC (L&S) 977]* and *Pawan Pratap Singh v. Reevan Singh [Pawan Pratap Singh v. Reevan Singh, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481]*. These three judgments and several others with like enunciation on the law for determination of seniority makes it abundantly clear that under service jurisprudence, seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre. In our considered opinion, the law on the issue is correctly declared in *Jagdish Ch. Patnaik [Jagdish Ch. Patnaik v. State of Orissa, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156]* and consequently we disapprove the norms on assessment of *inter se* seniority, suggested in *N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711]*. Accordingly, the decision in *N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711]* is overruled. ...”

6. The only exception carved out by the Supreme Court in ***K. Meghachandra Singh*** (Supra) on its non-application was to cases where the seniority list stood settled prior to the date of the said Judgment, that is, 19.11.2019. We may quote from the Judgment as under:-

“39. ...However, it is made clear that this decision will not affect the *inter se* seniority already based on *N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711]* and the same is protected. This decision will apply



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*prospectively except where seniority is to be fixed under the relevant rules from the date of vacancy/the date of advertisement.”*

7. In the present case, the seniority list was published on 20.04.2017. In the said list the intervenors did not appear as they were not even borne in the cadre. The intervenors joined service between 2017 and 2020 and got finalised only in 2020. In the seniority list published on 25.05.2021 they were sought to be inter-placed amongst officers otherwise their senior, by placing them on basis of year of vacancy and rota-quota.

8. The general rule is that the seniority has to be reckoned from the date of joining service and not retrospectively, unless the rules otherwise require this to be done.

9. As, in the present case, the seniority list has been published on 25.05.2021, that is, after the passing of the Judgment in **K. Meghachandra Singh** (supra), it has to be governed by the principles laid down by the said Judgment. Merely because the impleaders were appointed in services prior to the said Judgment, would make no difference to the same.

10. Accordingly, we find no infirmity in the Impugned Order. The petition, along with the pending application, is dismissed.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**JULY 31, 2025/rv/ik**