



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

Date of decision: 10th DECEMBER, 2025

IN THE MATTER OF:

+ **W.P.(C) 9693/2017, CM APPL. 17201/2025, CM APPL. 7202/2025**

CHANDRA PAL SINGH AND ORS

.....Petitioners

Through: Mr. Naushad Alam Advocate.
Mr. Vijay Kumar, Mr. Vidhik Kumar,
Advocates for applicants in CM
APPL. Nos. 17201-02/2025.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Chiranjiv Kumar, Mr. Pawan
Kawrani, Mr. Mukesh Sachdeva,
Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The Petitioners have preferred the present Writ Petition under Article 226 of the Constitution of India for quashing of 'Directorate General Border Security Force: Communication and IT Directorate Seniority List of Assistant Sub Inspector (Radio Mechanic) as on 31.12.2016' and a Reply dated 24.04.2015 given by the BSF, and also seeking direction to the Respondent No. 1 to amend the Seniority List of 2016 and grant the consequential benefits/promotions, if applicable, on account of such amendments in the Seniority List.

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- a. The Petitioners belong to the Communication Cadre of the Border Security Force (*hereinafter referred as 'BSF'*). The Respondent No. 1 is the Union of India being represented by Director General, BSF; Respondent No. 2-57 are private Respondents who also belong to the Communication Cadre of the BSF.
- b. The BSF published a Seniority List in 2011, 'Directorate General Border Security Force: Communication and IT Directorate Seniority List of Assistant Sub Inspector (Radio Mechanic) as on 15.11.2011'. In the said list, the Petitioners fell under Seniority No. 675 to 693. Whereas, the Respondents were placed below the Petitioners at various Seniority No. ranging from 750 to 810.
- c. The BSF again published a Seniority List in 2016, 'Directorate General Border Security Force: Communication and IT Directorate Seniority List of Assistant Sub Inspector (Radio Mechanic) as on 31.12.2016' (hereinafter referred as "Impugned Seniority List). In the said list the Petitioners who were placed above the Respondents in the 2011 list were now placed below the Respondents. In the Impugned Seniority List of 2016, the Petitioners were placed at seniority no. 441 to 459, whereas, the Respondents were placed at seniority no. 380, and 382 to 440.
- d. Petitioner No. 1 sent a representation to the BSF requesting for correction in the 2016 list to which the Impugned Reply dated 24.04.2015 was communicated to the said Petitioner, which stated that the seniority has been fixed in accordance with the existing rules.

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e. It is the case of the Petitioners that the stand of the BSF is arbitrary and not in accordance with the law. Hence, the Petitioners have filed the present Writ Petition assailing the Impugned Seniority List of 2016, and the Impugned Reply 24.04.2015 given by the BSF. The Petitioners seek amendment in the Impugned Seniority List and grant of consequential benefits/promotions, if applicable.

3. The Petitioners are promotees who qualified the Limited Departmental Competitive Exam – LDCE (ASI/RM) whereas the Private Respondents are Direct Entry candidates - DE (ASI/RM). It is stated by the Counsel for the Petitioners that the Petitioners – LDCE (ASI/RM) belonging to the communication cadre of BSF are placed below the private Respondents – DE (ASI/RM) in the Seniority List of 2016, in contravention of the Recruitment Rules.

4. It is the case of the Petitioners that the Communication Cadre of the BSF inter alia consists of Assistant Sub Inspectors/Radio Mechanic (*hereinafter referred as 'ASI/RM'*) – entry grades. It is submitted by the Counsel for the Petitioner that the date of qualifying the mandatory Grade-III course is the sole criteria to determine the seniority in the communication cadre of the BSF irrespective of the mode of appointment/selection. The personnel qualifying the said course prior in time and in prior batch will be senior to personnel qualifying the said course later in time and in the later batch. The Counsel for the Petitioners place reliance on Rule 8(3) of the

Ministry of Home Affairs, Border Security Force, Radio Operator and Radio Mechanic (Non-Gazetted) Cadre Recruitment Rules, 2018.

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5. The Counsel for the Petitioners submits that the Petitioners qualified the Grade-III course for ASI/RM on 08.01.2000 (96 batch). Whereas, the Private Respondents qualified the Grade-III course on various dates – 21.07.2002, 19.03.2002, and 23.03.2002 (101 batch). The Petitioners were enrolled with the BSF since 1986-87, whereas, the Private Respondents were enrolled on various dates, all of them being later than 08.01.2000. In the Impugned Seniority List of 2016, Petitioners (falling between seniority no. 357 to 372) are placed below to the Respondent No. 2-57 (placed between seniority no. 298 to 355). According to the Counsel for the Petitioners, the Private Respondents were not even born in the cadre when the Petitioners successfully qualified the Grade-III course.

6. It is the case of the Petitioners that for Radio Operator belonging to the same communication cadre, the date of qualifying Grade-III course was the sole criteria to determine the seniority on the basis of same Rule cited above irrespective of mode of appointment/selection. The Counsel for the Petitioner points out that BSF itself has determined/corrected the seniority list of other personnel of same communication cadre on the basis of date of qualifying the Grade-III course. The relevant extract of the Order dated 25.09.2018 released by the Respondent/BSF for correction in the seniority list, reads as under:-

***“1. As approved by the Competent Authority, following amendment is hereby made in central seniority of ASIs (KM) circulated on 01.01.2018, in accordance with the merit of final examination result Grade-III course from the date of qualifying the examination/ actual date of promotion.*”**

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a) No. 05009232 ASI(RM) Pawan Kumar (Sen. No. 692) of 88 Bn BSF whose date of qualifying RM



Grade-III course is 07/08/2010 instead of 10/01/2009 is hereby placed in the Masroor Alam (Sen. No. 702) arid above the name of No. 04006504 ASI/RM Ashok Kumar Prajapati (Sen. No. 703).

b) No. 890067048 ASI/Ftr (Now ASI/RM) B K Barman; (Sen. No. 543) of SHQ BSF BLA whose date of promotion as ASI(Ftr) is 27/12/2006 is placed just below the name of No. 003650019 ASI(RM) Anand Ballabh Joshi (Sen. No: 599)

2. Amend seniority lists of effected personal accordingly.”

(emphasis supplied)

7. The Counsel for the Petitioners submits that a person is borne in the cadre when he reports for the training. In the present case though, Rules provide for the date of successful completion of training (Grade-III Course) as the criteria to determine the seniority. Further, the financial benefits/upgradation under ACP/MACP are being given to the Petitioners w.e.f. date of reporting the training (Grade-III) provided since the successful completion of Grade-III course.

8. The Counsel for the Petitioners submits that the Petitioner's training (Grade-III course) started on 05.10.1998 and completed on 08.01.2000. Thus, Petitioners were born in the cadre on 05.10.1998 when he reported for training.

9. The Counsel for the Petitioner relies on the law laid down by the Apex Court in Rohitash Kumar &Ors. vs. Om Prakash &Ors., (2013) 11 SCC 451, wherein the seniority has been determined on the basis of date of reporting the training irrespective of mode of selection or appointment as per

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Applicable rules.

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10. *Per contra*, the Learned Counsel for the Private Respondent submits that the Petitioners were enrolled in BSF as Constable (Radio Operator) – CT(RO), which is a lower grade than the ASI/RM post and they further got higher grade of ASI/RM post by applying in the LDCE Conversion Test w.e.f. 23.02.2000. On the other hand, the Respondents were directly recruited as Assistant Sub Inspector (RM) in the month of January, 2000 on various dates under the provision of Recruitment Rules, 1999. It is the case of the Respondents that the inter-se seniority is determined in accordance with merit of their final examination of the Grade-III Course followed by the date of the Remustration Order, which is, the date of assignment of a recruit to a cadre, branch, or duty. The Counsel for the Respondent tenders the judgment of the Apex Court in K. Meghachandra Singh &Ors. v. Ningam Siro & Ors., (2020) 5 SCC 689; Rohitash Kumar and Ors. v. Om Prakash Sharma &Ors., (2013) 11 SCC 451 and a Judgment dated 01.07.2025 passed by a Division Bench of this Court in K.K. Soni and Ors. vs. Union of India Through Secretary Ministry of Civil Aviation and Ors., LPA 228/2025.

11. The Learned Counsel for the Respondents states that the date of remustration of the Petitioner to the post of ASI (RM) is later than the direct entry of the Respondent No. 3 to 57 in the present matter which establishes the fact that the Respondents were already senior to the Petitioners and were in a higher pay scale at the time of the conversion of the Petitioners as ASI (RM).

12. The Counsel for the Respondents placing reliance on states that as per the Rule 8 (1) and (2) of the Recruitment Rules, 1999, Rule 7 (1) and (2) of the Recruitment Rules, 2012, and Rule 9 (1) and (2) of the Recruitment

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officiating or substantive capacity shall be senior to the person holding a lower rank and seniority in any rank is determined on the basis of continuous regular appointment in that post.

13. The Counsel further submits that even in the latest seniority list dated 01.03.2021, the Respondents are placed at in between serial no. 33 to 81, which is above the Petitioners, who are placed at serial no. 82 to 131.

14. The Counsel for the Respondent placed reliance upon Malcom Lawrence Cecil D'Souza vs. Union of India, (1976) 1 SCC 599, and submits that once a person's position in seniority list is settled, the same cannot be reopened after lapse of many years at the instance of a party who has during the intervening period chosen to keep quiet.

15. Heard the Counsels for the parties, perused the material on record.

16. The issue to be decided for adjudication in the present Writ Petition is the interpretation of the relevant rules of the BSF which decide the seniority of its personnel in the Communication Cadre Rule 8 of the Ministry of Home Affairs, Border Security Force, Radio Operator and Radio Mechanic (Non-Gazetted) Cadre Recruitment Rules, 2018, which is applicable to the present case, reads as under:-

“Rule 8 - Seniority

(1) Persons holding a higher rank whether in an officiating or substantive capacity shall be senior to the person holding a lower rank.

(2) Seniority in any rank, shall be determined on the basis of continuous regular appointment in that rank:

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Provided that the seniority of the personnel holding the same rank and on the same day shall be determined in



accordance with the order of selection for appointment to that post.

(3) Subject to the provision of sub-rule (2), seniority in the entry grade post shall be determined in accordance with merit of their final examination of the Grade-III course from the date of qualifying such examination:

Provided that the persons selected for appointment in an earlier batch will be senior to those selected in subsequent batches.

(4) Inter-se-seniority of the incumbents on merger of Cipher trade with Radio Operator Stream and Fitter trade with Radio Mechanic stream will be fixed as per the following criteria:--

(i) Seniority will be fixed in merged trades as per their date of promotion in present rank;

(ii) On merging of trades, junior will be placed below the senior of merged entity;

(iii) In instances where date of promotion in the present rank is same, then date of promotion in immediate lower rank will be considered for fixing their seniority;

(iv) In case where date of promotion in lower rank is also same, then the date of promotion in next lower rank will be considered and if that is also same, then date of appointment in feeder grade of respective trade will be taken into account;

(v) Seniority of Head Constable (Radio Operator) and Head Constable (Ciphers) will be fixed as per their date of appointment as Head Constable/Naik (Radio Operators) because Head Constable (Cipher) have been remonstered from Head Constable (Radio

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Operator) only and for the purpose of ACP/MACP their service is also being counted from their appointment as Head Constable (Radio Operators) or Nail (Radio Operators).”

(emphasis supplied)

17. The rule clearly states that seniority in the entry grade post shall be determined in accordance with merit of their final examination of the Grade-III course from the date of qualifying such examination. Material on record establishes that all the Petitioners qualified the Grade-III Course prior to the Respondents. Therefore, as per rule 8(3) of the Ministry of Home Affairs, Border Security Force, Radio Operator and Radio Mechanic (Non-Gazetted) Cadre Recruitment Rules, 2018, the Petitioners are to be put above the Respondents in the Seniority List. The BSF is directed to rectify the error in the Impugned Seniority List, and provide the eligible Petitioners with consequential benefits in accordance with the applicable law.

18. The judgments of the Apex Court in Meghachandra (*supra*), Rohitash Kumar (*supra*) will not be applicable on the facts of the present case. The Apex Court in Meghachandra (*supra*) observed that the date of appointment in service will determine the inter-se seniority, whereas in Rohitash Kumar (*supra*), the Apex Court observed that the date of determination of inter-se seniority would be the date of commencement of training.

19. It is, however, noted by this Court that the Hon'ble Supreme Court in Meghachandra (*supra*) dealt with officers belonging to the Manipur Police Services Grade-II cadre, while in Rohitash Kumar (*supra*), the individuals concerned were serving as Assistant Commandants (Group-A Officers) in

the BSE. The service rules applicable in those cases are different and the personnel involved here do not hold comparable positions to those in the

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cited decisions. The relevant portion of the judgment passed by the Apex Court in K. Meghachandra Singh & Ors. v. Ningam Siro & Ors., (2020) 5 SCC 689, reads as under:-

“30. We may also benefit by referring to the judgment in State of U.P. v. Ashok Kumar Srivastava [State of U.P. v. Ashok Kumar Srivastava, (2014) 14 SCC 720 : (2015) 3 SCC (L&S) 536] . This judgment is significant since this is rendered after the N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] decision. Here the Court approved the ratio in Pawan Pratap Singh v. Reevan Singh [Pawan Pratap Singh v. Reevan Singh, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481] , and concurred with the view that seniority should not be reckoned retrospectively unless it is so expressly provided by the relevant Service Rules. The Supreme Court held that seniority cannot be given to an employee who is yet to be borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime. The law so declared in Ashok Kumar Srivastava [State of U.P. v. Ashok Kumar Srivastava, (2014) 14 SCC 720 : (2015) 3 SCC (L&S) 536] being the one appealing to us, is profitably extracted as follows : (SCC p. 730, para 24)

“24. The learned Senior Counsel for the appellants has drawn inspiration from the recent authority in Pawan Pratap Singh v. Reevan Singh [Pawan Pratap Singh v. Reevan Singh, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481] where the Court after referring to earlier authorities in the field has culled out certain principles out of which the following being the relevant are produced below : (SCC pp. 281-82, para 45)

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‘45. (ii) Inter se seniority in a particular service has to be determined as per the service rules. The date



of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one officer or the other or between one group of officers and the other recruited from different sources. Any departure therefrom in the statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution.

(iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.’
”

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34. The judgment in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] is now to be considered in some detail as this is heavily relied on by the appellants' counsel. At the outset, it must however be cleared that the cited case had nothing to do with the MPS Rules, 1965 and that litigation related to the Income Tax Inspectors who were claiming benefits of various Central Government OMs (dated 22-12-1959, 7-2-1986, 3-7-1986 and 3-3-2008). The judgment was rendered in respect of the Central Government employees having their own Service Rules. The applicable Rules for the litigants in the present case however provide that the seniority in the service shall be determined by the order in which appointments are made to the service. Therefore, the

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memorandums concerned referred to in N.R. Parmar [Union of India v. N.R. Parmar, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] which deal with general principles for determination of seniority of persons in the Central Government service, should not according to us, have any overriding effect for the police officers serving in the State of Manipur.”

(emphasis supplied)

20. In Meghachandra (supra), the inter-se seniority was decided under Rule 28 of the Manipur Police Service Rules, 1965, whereas in Rohitash Kumar (supra), Rule 3 of the Border Security Force (Seniority, Promotion, and Superannuation of Officers) Rules, 1978, were applicable. The relevant extracts of the MPS Rules, and the BSF Rules are as follows:

“

Rule 28 of the MSP Rules

28. Seniority :- *The Governor shall prepare a list of members of the Service arranged in the order of seniority as determined in the manner specified below :-*

(i) In the case of persons appointed on the result of competitive examination or by selection under clause (b) of sub-rule (1) of rule 5, seniority in the Service shall be determined by the order in which appointments are made to the Service :

Provided that —

(a) persons recruited on the results of the competitive examination in any year shall be ranked inter-se in the order of merit in which they are placed at the competitive examination on the results of which they are recruited, those recruited on the basis of an earlier examination being ranked senior to those recruited on the basis of a later examination;

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(b) the relative inter-se seniority of persons recruited by selection shall be determined on the basis of the order in which their names are arranged in the list prepared under rule 14

(c) The seniority of persons recruited by selection under sub-rule (2) of rule 16 shall be determined as follows :—

If the name of the eligible person is included in the fresh substantive list, his seniority shall be determined on the basis of order of merit in that list. If the Selection Committee which has prepared the fresh substantive list has recommended his name for officiating appointment, he shall be accorded seniority below all persons whose names are included in the fresh substantive list; if there is more than one eligible persons so recommended for officiating appointment, the inter-se seniority of such eligible persons shall be determined on the basis of the order of merit in the fresh list of officers recommended for officiating appointment. If the name of the eligible persons has not been considered by the Selection Committee which has prepared the fresh substantive list, or even though the name of the eligible person has been considered by the Selection Committee, no fresh officiating list has been prepared, he shall be accorded seniority immediately above all persons junior to him whose name are included in the fresh substantive list; If there is more than one such eligible person, the inter-se-seniority of such eligible persons shall be determined on the basis of the order of merit in the first officiating list.

(ii) The seniority of members of the Service appointed at the initial constitution of the Service in accordance with the provisions of Part VI of these rules, shall be determined ad-hoc by the Governor in consultation with the Commission, due regard being had to the posts

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previously held by them under the Government concerned and the length of service rendered by them therein :

Provided that in the case of persons appointed under the proviso to sub-rule (1) of rule 17, if two or more persons belong to the same parent service of Department are thus appointed, they shall be ranked inter-se in the order of their relative seniority in the parent service or Department, as the case may be.

(iii) The relative seniority of direct recruits and promotees shall be determined according to the extent of the number of vacancies for direct recruitment and promotees as determined under rule 5 for that year and the additional direct recruits selected against the carried forward vacancies of the previous year would be placed on-block below the last promotees(or direct recruits as the case may be”

“Rule 3 of the BSF Rules

“(3) Subject to the provisions of Sub-Rule (2) inter - se seniority amongst officers holding the same rank shall be as follows namely:

(i) Seniority of Officers promoted on the same day shall be determined in the order in which they are selected for promotion to that rank.

(ii) Seniority of direct entrants shall be determined in accordance with the aggregate marks obtained by them before the Selection Board and at the passing out examination conducted at the Border Security Force Academy.

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(iii) Seniority of temporary officers subject to the provisions of clauses (i) and (ii) shall be determined on



the basis of the order of merit at the time of their selection and officers selected on an earlier batch will be senior to officers selected in subsequent batches.

(iv) Seniority of officers subject to the provisions of clauses (i) (ii) and (iii) shall be determined according to the date of their continuous appointment in that rank.

Provided that in case of direct entrants the date of appointment shall be the date of commencement of their training course at the Border Security Force Academy.”

21. The law laid down by the Apex Court in Meghachanda (supra) establishes that in cases of recruitment, inter-se seniority in a department can only be decided under the applicable law governing that specific recruitment. With respect to the present case, the Service Rules referred to in Meghachandra (supra) and Rohitash Kumar (supra) cannot be relied upon to determine the seniority of the personnel involved in this Writ Petition. In contrast to the applicable rules in the said cases, the Petitioners and Respondents herein are governed by Rule 8(3) of the Ministry of Home Affairs, Border Security Force, Radio Operator and Radio Mechanic (Non-Gazetted) Cadre Recruitment Rules, 2018.

22. The present Writ Petition is accordingly allowed in the above-mentioned terms.

SUBRAMONIUM PRASAD, J

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DECEMBER 10, 2025/MT

VIMAL KUMAR YADAV, J

