

***Before Augustine George Masih & Sandeep Moudgil, JJ.***

**RAJNEESH BANSAL AND ORS. —Petitioner**

*versus*

**STATE OF HARYANA AND OTHERS—Respondents**

**CWP No. 16863 of 2015**

September 09, 2022

***Punjab Superior Judicial Service Rules, 1963—Determination of seniority among the judges appointed from different sources—Direct recruits/promotees accelerated on the basis on having passed the departmental competitive examinations/promotees on the basis of seniority cum merit/judges of the fast track court who have been absorbed in service—Seniority of fast track judges—They form a separate category for which a special selection process of conceived on the basis of the observations made by the Honorable Supreme Court in Brij Mohan Lal case—It is only after they become a part of the cadre after being absorbed can try claim themselves as part of cadre of direct recruits—They have to firstly exhaust the statutory source—Seniority of the promotee judges falling in the category of accelerated promotion for seniority—They would not be entitled to the benefit of seniority over and above the direct recruits in the light of Rule 10.Rule 10(iii) where it has been mentioned that an officer promoted on ad hoc basis against a roster point earmarked for an officer belonging to the other categories shall have no right to the post nor would he be entitled to add the period of such service to regular service for the purpose of seniority.***

*Held*, that the only aspect, which need to be highlighted here, is that the inter-se seniority position of the officers appointed in the service under Rule 6 shall be as given in the roster annexed and also the aspect that a person recruited to the service under clauses (a), (b) and (c) of Rule 6 shall take his position in the seniority list as shown in the roster annexed irrespective of the date on which he actually joins the service.

(Para 39)

*Further held*, that as regards the contention of the learned counsel for the Fast Track Court Judges for their claim of prior consideration and seniority over and above the Direct Recruit Judges is concerned, it needs to be noted that the statutory rules do not provide

for 'absorption' as a source of appointment. It is only on the basis and because of the judgment of the Hon'ble Supreme Court in Brij Mohan Lal's case-I & II that the claim of Fast Track Court Judges for absorption in the Superior Judicial Service of Haryana had been considered and accepted by the Full Court. They do not have any statutory right and the benefit is by way of concession, which has been bestowed upon them and that too, on the basis of the exercise of powers by the Hon'ble Supreme Court under Article 142 of the Constitution of India in Brij Mohan Lal's-II case.

(Para 43)

Puneet Jindal, Sr. Advocate, with Navroop Jawanda, Advocate, and Sandeep Bansal, Advocate, and Anubhav Bansal, Advocate, *for the petitioners* in CWP No. 16863 of 2015.

Kanwaljit Singh, Sr. Advocate, with Abhinav Aggarwal, Advocate, *for the petitioners* in CWP No. 16839 of 2015.

Puneet Bali, Sr. Advocate, with J.S. Yadav, Advocate, and Nihit, Advocate, *for the petitioners* in CWP-4986-2016 for respondents No. 6 to 8, 10 & 11 in CWP-16863 of 2015, CWP-24263-2016 and CWP-17939-2015.

Salil Sagar, Sr. Advocate, with Sankalp Sagar, Advocate, *for the petitioners* in CWP No. 17939 of 2015.

O.P. Goyal, Sr. Advocate, with Amar Vivek Aggarwal, Advocate, and Parul Aggarwal, Advocate, and Deepika Sood, Advocate, and Pritish Goel, Advocate, *for the petitioners* in CWP No. 24263 of 2016 and for respondent No. 18 in CWP-16863 of 2015 & CWP-17939 of 2015 for respondent No. 2 in CWP No. 14986 of 2016.

Aman Pal, Advocate, *for petitioners* No. 6, 7 & 14 in CWP No. 24263 of 2016.

Sumeet Goel, Sr. Advocate, with Munish Behl, Advocate, and Aarush Neeraj Vaid, Advocate, *for the petitioners* No. 13 to 15 in CWP No. 24263 of 2016, for respondents No. 16, 20 and 31 in CWP Nos. 16863 and 17939 of 2015, for respondent No. 11 in CWP No. 16839 of 2015 and CWP No. 14986 of 2016,

Rajni Gupta, Addl. A.G. Haryana, *for the State*.

Gaurav Chopra, Sr. Advocate, with Ranjit Singh Kalra, Advocate, *for the respondent-High Court*.

Sanjay Kaushal, Sr. Advocate, with Sumeet Goel, Sr. Advocate, with Anurag Goyal, Advocate, and Arjun Shukla, Advocate, and Shelly Arora, Advocate, for respondents No. 16 & 18 to 31 in CWP No. 16839 of 2015.

Puneet Gupta, Advocate, and Kshitiz Goel, Advocate, for respondents No. 33 to 35 in CWP Nos. 16863 & 17939 of 2015 and for respondents No. 25 to 27 in CWP-24263 of 2016.

Amit Agrawal, Advocate, and Radhika Yadav, Advocate, and Himanshu Arora, Advocate, for respondent No. 14 in CWP Nos. 24263 of 2016, 16863 of 2015 and 17939 of 2015.

Arnav Udai Singh, Advocate, for Sunil K. Nehra, Advocate, for respondents No. 17, 21 and 22 in CWP No. 24263 of 2016. Mr. Sanjeev Sharma, Advocate, for respondents No. 3, 7 and 8 in CWP Nos. 16839 of 2015 and 14986 of 2016, for respondents No. 23, 27 and 28 in CWP No. 16863 of 2015 and CWP No. 17939 of 2015.

Teevar Sharma, Advocate, for respondents No. 23, 24 & 29 in CWP No. 17939 of 2015, for respondents No. 23, 24 & 29 in CWP No. 16863 of 2015, for respondents No. 3, 4 & 9 in CWP No. 14986 of 2016, for respondents No. 3, 4 & 9 in CWP No. 16839 of 2015.

Anmol Dutt Sharma, Advocate, for respondents No. 4 & 9 in CWP No. 14986 of 2016, for respondents No. 4 & 9 in CWP No. 16839 of 2015 and *for petitioners* No. 1 & 3 in CWP No. 24263 of 2016.

Rubina Vermani, Advocate, for respondent No. 35 in CWP No. 16863 of 2015.

Gurinder Pal Singh, Advocate, for respondents No. 25 & 26 in CWP No. 24263 of 2016, for respondents No. 33 and 34 in CWP Nos. 16863 and 17939 of 2015.

### **AUGUSTINE GEORGE MASIH, J.**

(1) In this bunch of writ petitions, challenge is to the Minutes of the Meeting of the Sub-Committee dated 12.04.2008 constituted for determining the seniority amongst the Judges appointed from different sources direct recruits, promotees (accelerated) on the basis of having passed the departmental competitive examination, the promotees, as such, on the basis of seniority-cum-merit and the

Fast Track Court, who have been absorbed in service and as a consequence thereof, the tentative seniority list dated 15.01.2013 and the final seniority list dated 22.10.2013 as issued by the High Court.

Challenge has been posed by the Fast Track Court Judges, who have been kept at the tail end of the seniority list and the Promotee Judges (accelerated), who have been initially appointed on ad-hoc basis because of non-availability of posts in their category/quota and are claiming the benefit of the said service, apart from the challenge that the direct recruits have come at a subsequent stage in service and cannot, thus, be given seniority over and above them. Prayer has been, thus, made for re-determination of the seniority by counting their ad-hoc service. The direct recruit Judges are claiming seniority over and above the Promotee Judges (accelerated) on the basis of their date of appointment being earlier to them.

(2) CWP Nos. 16863 and 17939 of 2015 have been preferred by by the Fast Track Court Judges, CWP No. 16839 of 2015 and CWP No. 14986 of 2016 have been preferred by the Promotee Judges (accelerated) and CWP No. 24263 of 2016 has been preferred by Direct Recruit Judges. Keeping in view the nature of the challenge, one writ petition each qua the category of Judges, who had laid challenge to the aforesaid seniority lists and the Minutes of the Meeting is being made as a reference case.

(3) As regards the Fast Track Court Judges, CWP No. 16863-2015 titled as Rajneesh Bansal and another vs. State of Haryana and others, Promotee Judges (accelerated), CWP No. 16839 of 2015 titled as Paramvir Nijjar and another vs. High Court of Punjab and Haryana and others and Direct Recruit Judges, CWP No. 24263 of 2016 titled as Rakesh Kumar Yadav and others vs. State of Haryana and others are being taken as the lead case for the purpose of referring to the pleadings and the respective stands for putting forth such claims.

(4) In CWP No. 16863 of 2015, Rajneesh Bansal's case (supra), it has been pleaded that in pursuance to judgment passed by the Hon'ble Supreme Court in *Brij Mohan Lal versus Union of India*<sup>1</sup>, whereby the Fast Track Courts were directed to be established and the High Courts given the responsibility to make appointments.

(5) Applications were invited vide Notification dated 26.05.2003 for appointment as Presiding Officers in the Fast Track

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<sup>1</sup> AIR 2002 SC 2096

Courts in the State of Punjab and in Haryana. Petitioners applied for the said assignment, wherein the requirement was that the candidate should be a practicing Advocate for more than 10 years between the age group of 35-45 years as on 01.01.2003, the appointment was initially for a period of one year, which could be extended by the High Court from time to time. The rules governing the service would be the Haryana Additional District and Sessions Judges (Ad-hoc) Recruitment and Conditions of Service Rules, 2001 framed for appointment of retired members of the Superior Judicial Services.

(6) Interviews were held on 24.11.2003 to 27.11.2003 by a committee of three senior Hon'ble Judges of the High Court of Punjab and Haryana as constituted by the Full Court. On the basis of the interviews, the select list of six candidates was prepared and put up before the Full Court, which was approved. The case was sent to the Government of Haryana for filling up of the posts. The recommendations were accepted and six Presiding Officers were appointed as Additional District and Sessions Judges (Ad-hoc) in the State of Haryana for a period of one year vide order dated 05.12.2003 by the Government of Haryana. Petitioners and similarly placed appointees joined between 06.03.2004 and 08.03.2004 as Additional District and Sessions Judges (Ad-hoc) Fast Track Courts.

The work and conduct being satisfactory, they were granted extensions from year to year basis.

(7) In the year 2005, five promotee Judges came to be appointed as Additional District and Sessions Judges (Ad-hoc) Fast Track Court on provisional basis vide order dated 30.04.2005. In the said appointment letter, it was clearly mentioned that they shall not be entitled to the benefit of period of officiation for the purpose of seniority.

(8) Punjab Superior Judicial Service Rules, 1963 (hereinafter referred to as '1963 Rules'), as applicable to the State of Haryana, were repealed and the Haryana Superior Judicial Service Rules, 2007 were promulgated which were notified on 10.01.2007 (hereinafter referred to as '2007 Rules'). Rule 6 brought about a change in the recruitment procedure providing for written test and interview by creating another source of appointment to the Superior Judicial Service through accelerated promotions to subordinate judiciary. As a result thereof, the quota for recruitment to the service now became 25% by promotion on the basis of merit through limited departmental competitive examination of Civil Judges (Senior Division) having not less than 5

years qualifying service, 50% by promotion amongst the Civil Judges (Senior Division) on the basis of merit- cum-seniority and passing a suitability test and 25% by direct recruitment amongst the eligible Advocates by holding a test consisting of written examination of 200 marks and viva-voce test of 50 marks to be conducted by the High Court.

(9) Instead of appointing/absorbing the petitioners in the regular cadre, advertisement dated 18.05.2007 for filling up 22 regular posts of Additional District and Sessions Judges through direct recruitment were issued. A representation was submitted on 15.01.2007 by the Fast Track Court Judges praying for their absorption in the regular cadre as Additional District and Sessions Judges as they had been performing their duties as Presiding Officers in the Fast Track Courts. Petitioner No. 2-Jasbir Singh Kundu applied for the said post through proper channel along with some other similarly placed Fast Track Court Judges which request was not acceded to. In the meanwhile, CWP No. 8587 of 2007 was preferred by the Presiding Officers of the Fast Track Courts including petitioners praying for absorption and challenging the above notification dated 18.05.2007, wherein advertisement was issued, for appointment of Additional District and Sessions Judges through direct recruitment. The said writ petition was disposed of vide order dated 30.05.2007 with liberty to the Fast Track Court Judges of Punjab and Haryana to submit a joint representation to the High Court for their absorption in the light of the observations of the Hon'ble Supreme Court in ***Brij Mohan Lal's case (supra)***.

(10) A joint representation dated 19.06.2007 was submitted by all the Fast Track Court Judges, which was considered by the Selection and Appointment Committee in its meeting held on 10.09.2007 and observed that the Fast Track Court Judges were entitled to be considered for absorption against regular vacancies with a rider that their performances must be satisfactory. Since the process of appointment was in progress, views of the Fast Track Court Committee were sought by the Selection and Appointment Committee. The Recruitment and Selection Committee decided to assess the Fast Track Court Judges by way of suitability written test and interview to be conducted by the Selection Committee constituted by the High Court for appointment to the posts of Additional District and Sessions Judges in the State of Haryana in its meeting held on 19.01.2008. It was also decided that the officers, who qualified the test and the interview and are found suitable, would be absorbed against the regular

posts belonging to the quota of direct recruits.

(11) A test was held on 04.02.2008. All six Presiding Officers of the Fast Track Courts participated but five out of them were declared successful in the test and interview. The Selection Committee ultimately, on 18.03.2008, recommended the absorption of these five as Additional District and Sessions Judges, Fast Track Courts. This recommendation of the Selection Committee was accepted by the Full Court in its meeting held on 10.04.2008 and recommendations were made for their appointment on the regular cadre of Additional District and Sessions Judge against the regular vacancies of direct quota. Appointment letters were issued on 19.05.2008 and in pursuance thereto, petitioners joined the service as regular Additional District and Sessions Judges.

(12) It is alleged that these Fast Track Court Judges, subsequently came to know that they have been absorbed wrongly and illegally against the newly created post and not on the posts, which were in existence earlier, resulting in depriving the petitioners their right to consideration and appointment from their initial date of appointment on ad-hoc basis. Posting orders were given to them. Tentative seniority list was circulated on 15.01.2013 along with minutes of meeting of the Recruitment and Promotion Committee whereby objections were called. Petitioners submitted their objections. The Committee proceeded to decide the objections after giving hearing in person/or through counsel and recommendations were made on framing the final seniority list by the Committee on 12.04.2008. The Full Court proceeded to take these recommendations into consideration and took a decision thereon. The final seniority list was notified on 22.10.2013. It is these Minutes of the Meeting dated 12.04.2008, which have been held by the Recruitment and Promotion Committee followed by the tentative seniority list dated 15.01.2013 as well as the final seniority list dated 22.10.2013 which have been challenged by the petitioners, who are the Fast Track Court Judges, by way of these writ petitions.

(13) As regards CWP No. 16839 of 2015 titled as Paramvir Nijjar and another vs. High Court of Punjab and Haryana and another is concerned, the petitioners were appointed as Civil Judge (Junior Division)- cum-Judicial Magistrate, Ist Class. They were promoted as Additional District and Sessions Judge (Ad-hoc) against the existing temporary posts of Additional District and Sessions Judge (Ad-hoc) for Fast Track Courts in the State of Haryana. On their promotion as

Additional District and Sessions Judge in the year 2009, they claim seniority from their initial date of promotion on ad-hoc basis. Prior thereto, in accordance with the Haryana Superior Judicial Service Rules, 2007 (hereinafter referred to as '2007 Rules'), which were notified on 10.01.2007 to regulate the recruitment and conditions of service of the persons appointed to the Haryana Superior Judicial Service, a suitability test followed by viva-voce had been prescribed. The said test was held in the month of November/December, 2007 and they cleared the said test and appointed as Additional District and Sessions Judge (Ad-hoc) Fast Track Court. Subsequently, on 18.04.2009, they were again called for the suitability test which was also cleared by them leading to their appointment as Additional District and Sessions Judges on 20.07.2009. In the seniority list, which was notified on 22.10.2013, which has been challenged in the other writ petitions also, they have not been granted the benefit of ad-hoc service which they had rendered as Additional District and Sessions Judges (Ad-hoc) of the Fast Track Courts.

(14) Under the Right to Information Act, on an application moved by them, it came out that in the Meeting Note dated 16.12.2008 of the Selection and Appointment Committee, three vacancies were to be filled up under Rule 6 (1) (a) of the 2007 Rules. 4/5 vacancies were actually available. They were initially appointed on 23.02.2008 after having fulfilled the criteria and, thus, were entitled to the benefit of seniority from the initial date of appointment. They were wrongly placed below the direct recruits and, therefore, the same is unsustainable. On a representation having been preferred by them, the same was considered by the Selection and Appointment Committee and recommended rejection thereof. The Full Court of the High Court accepted the said recommendation in its meeting held on 08.07.2014 leading to the challenge to the seniority list dated 22.10.2013 and the order dated 08.07.2014 whereby the representation has been rejected.

(15) In Rakesh Kumar Yadav's writ petition, Direct Recruit Judges have approached the Court with a primary grievance that as they were appointed prior to the Promotee (accelerated) Judges, all of them en bloc are required to be placed above them in the seniority list and thus, the seniority list deserves to be redrawn accordingly.

(16) Upon notice having been issued, reply has been filed by the High Court of Punjab and Haryana as also the private respondents. The stand of the High Court is that the inter-se seniority amongst the members of the Haryana Superior Judicial Service broadly relates to



four categories: (i) The direct recruits; (ii) The Promotee Officers amongst Civil Judge (Senior Division)/Chief Judicial Magistrate /Additional Civil Judge (Senior Division); (iii) The officers promoted by way of accelerated promotion and (iv) The officers absorbed as members of the Haryana Superior Judicial Service, who were working as Presiding Officers, Fast Track Court on ad- hoc basis. The service conditions of the officers of the Haryana Superior Judicial Service were earlier governed by the Punjab Superior Judicial Service Rules, 1963 (hereinafter referred to as '1963 Rules') as applicable to the State of Haryana. The said rules were repealed by the Haryana Superior Judicial Service Rules, 2007. Rule 6 of these 2007 Rules deals with the recruitment and Rule 10 deals with the inter-se seniority.

(17) Rule 6 (1) mentions that 50% of posts would be by promotion on the basis of merit-cum-seniority and passing a suitability test, 25 % by promotion strictly on the basis of merit through limited competitive examination and 25% of the posts to be filled by direct recruitment from amongst the eligible Advocates on the basis of written and viva-voce test to be conducted by the High Court. Sub-rule (2) thereof provides for filling up of the post as per the roster for the various categories i.e. for the three different categories referred to above. Seniority is governed by sub-rule (i) of Rule 10, wherein the details have been given with regard to the inter-se seniority between the members of the Haryana Civil Service (Judicial Branch category-wise as also amongst the categories themselves. Sub-rule (2) refers to the roster to be maintained of the three categories referred to in Rule 6 as annexed irrespective of the date, on which they actually join the service. Sub-rule (3) stipulates that an officer promoted on ad-hoc basis on a post specified in a separate clause than the one to which he belongs to a category separate from the one in which he falls shall have no right to the post and would not be entitled to adding the period of ad-hoc service for the purpose of seniority. Proviso to the said rule protects the seniority already granted prior to the repeal of the Punjab Superior Judicial Service Rules, 1963 by the 2007 Rules.

Rule 32 is a repealing rule. However, anything done or any action taken under the rules repealed would be deemed to have been validly done or taken as per the power conferred by or under the rules as if the rules were in force when such action was taken. Meaning thereby that the actions taken under the Punjab Superior Judicial Service Rules, 1963 were protected.

(18) The factum with regard to the appointment of the petitioners

in Rajneesh Bansal's case (supra) as Presiding Officers in the Fast Track Courts on ad-hoc basis and their continuance has not been disputed nor has it been disputed that they stand absorbed in the regular cadre. However, it has been pointed out that vide Notification dated 18.05.2007, 22 vacancies were advertised for being filled up through direct recruitment as Additional District and Sessions Judges, of which 14 belong to the General Category, 5 to the Scheduled Caste Category and 3 from the Backward Class Category. In the meanwhile, when the process of selection was in progress, 20 posts were created by the Government of Haryana in the cadre, out of which, 5 posts being the 25% quota fell to the share of direct recruits.

(19) Meeting of the Selection Committee was held on 18.03.2008 and it was decided that for absorption in the regular cadre of the Additional District and Sessions Judges from the Fast Track Court Judges, the bench-mark would be 50% or above marks in the aggregate out of the written examination and the viva-voce apart from the grading done by the Judges of the High Court who were members of the Fast Track Court Committee on the basis of the Annual Confidential Reports. These recommendations of the Selection Committee were approved by the Full Court in its meeting on 10.04.2008.

(20) On the basis of this decision of the Full Court, five officers, namely, Rajneesh Bansal (petitioner No. 1 in CWP No. 16863 of 2015), Vimal Kumar (petitioner No. 1 in CWP No. 17939 of 2015), Sandeep Garg (petitioner No. 2 in CWP No. 17939 of 2015), Jasbir Singh Kundu (petitioner No. 2 in CWP No. 16863 of 2015) and Ashwani Kumar Shori, who were working as Presiding Officers in the Fast Track Courts in the State of Haryana, were recommended to the Haryana Government vide this Court's letter dated 22.04.2008 for their absorption/appointment as Additional District and Sessions Judges in the regular cadre against the quota of direct recruits.

(21) Meeting of the Selection/Administrative Committee was held on 11.04.2008 under the chairmanship of the then Chief Justice and in the said meeting, a Sub-Committee of four Judges was constituted to examine the total number of vacancies of Additional District and Sessions Judges of various categories to be filled against 25% from Bar and to examine the issue of absorption of 5 officers who had already been working as ADJs (Ad-hoc), Presiding Officers, Fast Track Courts in the State of Haryana against the regular vacancies.

The Sub-Committee, in its meeting dated 12.04.2008, examined

the total vacancies and proposed for recommendation to the Government of Haryana to appoint 14 qualified candidates from the general category as originally advertised on 18.05.2007 as also 2 scheduled caste and 1 backward class selected out of the posts to be filled up. Against 3 vacancies meant for scheduled caste and 2 for backward class, which remained unfilled, it was proposed that a recommendation be made to the Government of Haryana to fill up those unfilled reserved posts from the general category candidates in order of merit by relaxation of Rule 18 of the 2007 Rules because of the paucity of the officers and in the light of the decision of the Hon'ble Supreme Court in the *State of Bihar and others versus Bal Mukand Sah and others*<sup>2</sup>. These recommendations of the Sub-Committee were considered and approved by the Selection/Administrative Committee in its meeting on 22.04.2008, which was put up before the Full Court.

(22) The Full Court, in its meeting held on 25.04.2008, approved the decision dated 22.04.2008 of the Selection/Administrative Committee. In pursuance thereto, recommendations were made to the Government of Haryana for appointment by direct recruitment from the Bar as Additional District and Sessions Judges vide letter dated 28.04.2008. These recommendations were considered by the Government of Haryana but approved only 16 candidates from the Bar leading to their appointment as Additional District and Sessions Judges by the State of Haryana vide order dated 19.05.2008. Vide the even date but separate order, the Additional District and Sessions Judges working as Presiding Officers in the Fast Track Courts were absorbed in pursuance to the recommendations of the High Court in exercise of powers conferred under Rule 6 (1) (c) of the 2007 Rules.

(23) With this having come into place, the matter regarding fixation of inter-se seniority as per roster of the officers promoted/absorbed/appointed under Rule 6 of the 2007 Rules had to be determined and for that purpose, the same was placed before the Committee for consideration. The tentative seniority list was prepared and was circulated amongst the officers concerned inviting objections within 30 days of the letter dated 15.01.2013. 68 objections were received including that of the petitioners in these writ petitions. Some officers appeared in person before the Committee and some through Advocates, who were heard on 04.05.2013 and 25.05.2013. The Committee, on consideration of their submissions and on going through

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<sup>2</sup> 2000 (4) SCC 640

the objections, took a considered decision dated 23.07.2013 rejecting the said objections to the tentative seniority list. The seniority list was ordered to be finalized and circulated subject to the decision of the Full Court.

The Full Court was held on 05.10.2013, on consideration of the above recommendation, did not accept the same and took a decision, which reads as follows:-

“(i) The seniority of officers promoted/appointed prior to promulgation of Haryana Superior Judicial Service Rules, 2007 i.e. prior to notification dated 10.01.2007 would remain un- affected.

(ii) However, the inter-se seniority of the officers promoted after 10.01.2007 i.e. after promulgation of the new rules shall be governed by the new rules i.e. by Rule 10(i)(d) of Haryana Superior Judicial Service Rules, 2007 as per roster annexed with the aforesaid rules.

(iii)The aforesaid exercise of assigning seniority as per roster system shall be carried out in respect of the officers promoted/appointed/absorbed in the year 2008.

(iv) The directly recruited officers who remain unadjusted at the end of the year 2008 shall be bunched together below the officers adjusted in the manner indicated above, irrespective of their category.

(v) The officers who were working in the Fast Track Courts and were later on absorbed against the quota of direct recruits shall be placed immediately below the directly recruited officers.

Office is directed to prepare the seniority list accordingly. The seniority list so prepared be placed before the Full Court for approval, in the next meeting.”

In pursuance thereto, the seniority list was prepared and put up before the Full Court on 10.10.2013 which approved the same and circulated on 22.10.2013.

(24) It has been stated by the High Court while objecting to the claim of the Fast Track Court Judges, who had been appointed on regular basis, with regard to their claim of seniority from the date of their initial appointment that the scheme against which they were

appointed was for a temporary duration. They had not undergone the regular selection process meant for the direct recruits. Even at the time of their absorption, they have not undergone the same selection process rather the suitability test was meant with the purpose to mitigate their hardships. In any case, they are not entitled to the said benefit in the light of the judgment of the Supreme Court in the case of Brij Mohan Lal (*supra*), where in para-129, where the prayer of the officers of this Court, who had been appointed as Fast Track Court Judges by way of direct recruits from the Bar for regularization of their services and absorption in the regular cadre, had been rejected by holding that they did not have any right to the post as they had not passed the written competitive examination and were appointed solely on the basis of interview and must now undergo the requisite examination. Their appointment being not under the Punjab Superior Judicial Service Rules, 1963 but under Haryana Additional District and Sessions Judges (Ad-hoc) Recruitment and Conditions of Service Rules, 2001, which was purely temporary in nature, their claim is unsustainable and deserves to be rejected.

(25) Similar stand has been taken by the private respondents, wherein an additional plea has been taken that the writ petitions are barred by delay and laches as the seniority list has been finalized and circulated in the year 2013 but the present writ petition has been preferred after a period of almost two years apart from reliance upon the statutory rules with regard to the claim as has been made.

(26) Learned senior counsel for the petitioners Mr. Puneet Jindal, who has led the arguments on behalf of the petitioners, has taken us through the pleadings and has submitted on behalf of the Fast Track Court Judges, who stand absorbed in the regular cadre of Additional District and Sessions Judges, that the seniority, as has been fixed, is unsustainable in the light of the fact that these officers were appointed vide Notification dated 05.12.2003 and joined service between 06.03.2004 and 08.03.2004. Their work and conduct being found to be satisfactory, they were granted extensions from year to year basis and continued as such. There was no impediment as regards the claim of the petitioners for their absorption in the regular cadre and thus, should have been absorbed the moment the posts for direct recruits were become available.

(27) He further submits that the petitioners are not claiming seniority from the initial dates of their appointment but are claiming their placement over and above the officers who have been appointed

in pursuance to the Notification/advertisement dated 18.05.2007 issued for selection and appointment to 22 regular posts of Additional District and Sessions Judges, out of which, 16 were appointed. They should, therefore, be placed above Direct Recruit Judges being already in service. For claiming this benefit, the counsel has placed reliance upon Rule 6 and 10 of the 2007 Rules as the absorption and appointment of the Fast Track Court Judges and the Direct Recruit Judges as also the Promotee (accelerated) Judges is of the same year i.e. 2008. His submission is that with the coming into force of the 2007 Rules, The Fast Track Court absorbed Judges need to be treated against the direct recruitment quota and being already in service should be granted the slots as per the roster point assigned and earmarked for the direct recruits. To substantiate this contention, counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Brij Mohan Lal-I versus Union of India***<sup>3</sup>, to contend that the Fast Track Court officers were appointed in pursuance to the directions issued by the Hon'ble Supreme Court in the above referred to case and in Para No. 10 thereof, it was mentioned that they may be absorbed in regular vacancies, if subsequent recruitment takes place and their performance in the Fast Track Courts is found satisfactory. The initial selection was also directed to be made by the High Court by adopting the methods of selection as are normally followed for the selection of members of the bar as direct recruits to the Superior Higher Judicial Services.

(28) Reliance has also been placed upon the judgment of the Hon'ble Supreme Court in ***Brij Mohan Lal-II versus Union of India***<sup>4</sup>, where in Para No. 180, although the Fast Track Court Judges were denied right of absorption and regularization in the regular cadre but it was observed that they must now undergo the requisite examination. The petitioners having taken the written examination followed by the interview, as per the decision of the Full Court, wherein, on the recommendations of the Committee, they have been found suitable and recommended for appointment by absorption against the direct quota posts, which recommendation of the High Court has also been accepted by the Government and appointment letter issued, they have to be treated at par with the direct recruits and granted seniority over and above them being already working and performing the duties of the Additional District and Sessions Judge. More so, he contends that the date of appointment of the Fast Track Court Judges and the Direct

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<sup>3</sup> 2002 (5) SCC 1

<sup>4</sup> 2012 (6) SCC 502

Recruits as Additional District and Sessions Judges is the same i.e. 19.05.2013. Similarly, he contends that the officers promoted by way of accelerated promotion on the basis of limited departmental competitive examination have been appointed subsequent to the Fast Track Court Judges and the Direct Recruit Judges, therefore, they cannot be treated as senior to them. Prayer has, thus, been made for setting aside the seniority list dated 22.10.2013 as also the order dated 08.07.2014, whereby the representations of the Fast Track Court Judges were rejected and granting them the benefit of rightful seniority as per the statutory rules against the direct quota posts.

(29) Counsel has further pressed into service the fact that the Fast Track Court Judges were absorbed in the cadre and it was not a fresh appointment. Since it was not a fresh appointment, it obviously means that they were already working and were not new to the work as they had, over a period of time, gained experience. Submission has also been made that fresh vacancies, which arose on 10.12.2007 and 04.01.2008, were taken note of by the Full Court and the posts were advertised. The written test of the Direct Recruit Judges was held on 22.02.2008 to 24.02.2008. The viva voce was held in the first week of April up to 08.04.2008 whereas the said process of written test and viva for the Fast Track Court Judges was concluded on 04.02.2008 and decision was taken to absorb them by the Full Court on 18.03.2008. The decision has already been taken by the Full Court of the High Court for adjustment/absorption of the Fast Track Court officers before the process for selection of the Direct Recruit Judges was concluded and, therefore, they had a prior right to be considered and treated against the direct recruit quota.

(30) A further contention of the counsel is that inter-se seniority was never determined on the basis of the availability of posts. Proviso to Rule 10 of the Punjab Superior Judicial Service Rules protects seniority of the existing members of the service. Fast Track Court Judges are, therefore, having a better right than the Direct Recruit Judges and there is no reason to give old vacancies to the new appointees while ignoring the persons already working in the department and performing the duties of the said post. Prayer has, thus, been made for allowing their writ petitions.

(31) Learned counsel for the High Court, on the other hand, has contended that the Full Court, vide its decision dated 05.10.2013 on considering the recommendation of the Committee dated 23.07.2013, did not accept the said recommendation and had finally

proceeded to take a decision that the officers promoted/appointed prior to the promulgation of the Haryana Superior Judicial Service Rules, 2007, which were notified on 10.01.2007, would remain unaffected. The reason for such a decision was that the appointments have taken place of the Direct Recruit Judges, Fast Track Court Judges and the Promotee (accelerated) Judges is in the year 2008. Since the said 2007 Rules had come into effect w.e.f. 10.01.2007, appointments made prior thereto would be protected by proviso to Rule 10(iii) and Rule 32 of these Rules.

Rule 10, which deals with the seniority, would be the determinative factor in relation to the appointments, which have been made subsequent to the coming into force of the 2007 Rules. Rule 10 (i) (d) of the 2007 Rules provides for roster to be maintained which was annexed to the rules and the seniority was, therefore, to be assigned as per the roster system for the year 2008. All directly recruited Judges, who remained unadjusted in the year 2008, were to be bunched together below the officers adjusted as per Rule 10 (i) (d) irrespective of their category followed by the officers absorbed against the direct recruit quota working in the Fast Track Courts. The said decision had been taken while assigning the seniority to the Fast Track Court officers as they had not been appointed against a regular post at the initial stage and that too, under a scheme of temporary duration without undergoing the rigors of the selection process meant for the direct recruits. Even at the time of their absorption, they have not undergone the same selection process rather the suitability test was meant with the purpose to mitigate their hardships.

(32) It is his further contention that a decision has been taken by the Full Court in pursuance to the judgment of the Hon'ble Supreme Court in Brij Mohan Lal's-II case (supra) to absorb them in the regular cadre. It is, on this basis, that the counsel for the High Court has contended that a well- reasoned decision has been taken by the Full Court while finalizing the seniority list keeping in view the statutory rules governing the service especially Rules 6 and 10 of the Haryana Superior Judicial Service Rules, 2007, which govern the promotion/appointment and the seniority respectively. A seniority list has, in pursuance to the decision of the Full Court dated 05.10.2013, been finalized and approved by the Full Court of the High Court in its meeting dated 10.10.2013, which was circulated on 22.10.2013 being the final seniority list. His submission is that once the selection is of a particular year, the posts have to be assigned as per the roster



fixed under Rule 10 (i) (d) and accordingly, seniority has been fixed for the said year. Where the Direct Recruit Judges could not be adjusted, they have been kept above the Fast Track Court Judges, who have been absorbed/appointed against the newly created 20 posts of Additional District and Sessions Judges, out of which, five posts fell in the quota of direct recruits. Since the case of the Fast Track Court Judges has been considered against the posts created and sanctioned later in time, they have been rightly assigned seniority below the Direct Recruit Judges in the cadre having been appointed in the year 2008 and that too, on the same date i.e. 19.05.2008. Prayer has, thus, been made for dismissal of the writ petition.

(33) Learned counsel for the private respondents both the direct recruits as well as the Promotee Judges including the Promotee (accelerated) Judges have primarily contended that the Fast Track Court Judges have no right for claiming seniority over and above the Direct Recruit Judges as well as the Promotee Judges as the statutory rules have been followed. The facts also clearly indicate that the recommendation, which was made by the High Court for their absorption, was against the 5 posts which fell in the quota of Direct Recruit Judges on the sanction of 20 fresh posts by the Government of Haryana.

(34) Another argument, which has been raised and pressed into service qua the Promotee Judges on merit-cum-seniority, is that their seniority has not been challenged. Apart from that, it has been asserted that the persons, who were not even in the cadre, and the rules, which have come into effect subsequent to the promotion and appointment of these Judges and that too, within their specified quota, their seniority cannot be disturbed on the basis of the subsequent rules which have come into effect from 10.01.2007. The rules, which are prospective in operation, cannot be pressed into service against the promotee officers who have been appointed prior to 10.01.2007. Prayer has, thus, been made for dismissal of the writ petition.

(35) We have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the records of the case.

(36) The facts, as have been narrated above in the reply filed by High Court are not disputed by the petitioners and, therefore, are not being referred to in detail herein. The counsel appearing for the Fast Track Court Judges has, in the light of the various judgments of the Hon'ble Supreme Court, given up the prayer in the writ petitions where

the Fast Track Court Judges have claimed re-determination of their seniority by counting their complete service including ad-hoc service as Additional District and Sessions Judges (Ad-hoc) Fast Track Court.

With the giving up of his prayer, the limited question, which requires to be determined, is their seniority viz-a-viz the Direct Recruit Judges as also the Promotee (accelerated) Judges.

(37) For determination of the seniority, the method of recruitment will have to be seen, which has been provided in Part-III of the 2007 Rules. Rule 5 thereof provides that the recruitment to the service shall be made by the Governor by way of (i) promotion from amongst the Haryana Civil Service (Judicial Branch) in consultation with the High Court and (ii) by direct recruitment from amongst eligible Advocates on the recommendation of the High Court on the basis of written and viva-voce test conducted by the High Court.

Rule 6 of the 2007 Rules provide for the mode, source and quota for recruitment to the service as also the roster for fixing seniority from the respective sources which reads as follows:-

**“6 (1) Recruitment to the Service shall be made:-**

a. 50 percent by promotion from amongst the Civil Judges (Senior Division)/Chief Judicial Magistrates/Additional Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority and passing a suitability test.

b. 25 percent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years qualifying service as Civil Judges (Senior Division)/ Chief Judicial Magistrate/Additional Civil Judges (Senior Division); and who are not less than thirty five years of age on the last date fixed for submission for applications for taking up the limited competitive examinations; and

c. 25 percent of the posts shall be filled by direct recruitment from amongst the eligible Advocates on the basis of written and viva voce test, conducted by the High Court.

(2) The first and second post would go to category (a) (by

promotion on the basis of merit-cum-seniority), third post would go to category (c) (direct recruitment from the bar), and fourth post would go to category (b) (by limited competitive examination) of rule 6, and so on.”

(38) A perusal of the above would show that recruitment to the post of Additional District and Sessions Judge was to be made 50% by promotion on the basis of merit-cum-seniority and passing a suitability test, 25% by promotion on the basis of merit through limited competitive examination amongst the judicial officers with the requisite service period and age and the remaining 25% of the posts were to be filled by direct recruits from amongst the eligible Advocates as per the requirement. The first and second post was to be filled from the category of promotion on the basis of merit-cum-seniority. Third post would go to the Direct Recruit from the bar and the fourth post would go to the category Promotee (accelerated) Judge i.e. to the limited competitive examination and so on.

Rule 10 of the 2007 Rules deals with the seniority and, therefore, would be the most relevant and the determinative factor in the present case, which reads as follows:-

**“10. Seniority:**

**10. (i)** (a) The inter-se seniority of the members of the Haryana Civil Service (Judicial Branch) promoted in the same batch under rule 6(a) shall be the same as in the Haryana Civil Service (Judicial Branch)

(b) Inter-se seniority of the members of the Haryana Superior Judicial Service promoted under rule 6(b) shall be in the order of merit determined in the selection process.

(c) Inter-se seniority of the direct recruits to the Service under rule 6(c) shall be on the basis of merit determined by the Selection Committee of the High Court at the time of the recruitment.

(d) Inter-se seniority position of the officers appointed in the Service under rule 6 shall be as given in roster annexed.

(ii) A person recruited to the Service under clauses (a), (b) and (c) of rule 6 shall take his position in the seniority list as shown in the roster annexed irrespective of the date on which he actually join the Service.

(iii) A promoted officer, who is promoted on an ad hoc basis in the vacancy/post against a roster point earmarked for an officer belonging to categories specified in clauses (b) and (c) of rule 6, shall not have any right to the post. He shall not be entitled to add period of his ad hoc service to regular service for the purpose of seniority:

Provided that the existing rules shall continue to govern the matters of seniority of the existing members of the Service.”

(39) The only aspect, which need to be highlighted here, is that the inter-se seniority position of the officers appointed in the service under Rule 6 shall be as given in the roster annexed and also the aspect that a person recruited to the service under clauses (a), (b) and (c) of Rule 6 shall take his position in the seniority list as shown in the roster annexed irrespective of the date on which he actually joins the service.

(40) Another aspect, as provided for in Section 10 (i) (d) (iii), is with regard to the promoted officers on ad-hoc basis as specified in clauses (b) and (c) of Rule 6. The said officers shall have no right to the post and shall not be entitled to add period of ad-hoc service to regular service for the purpose of seniority.

(41) These three aspects, when seen, make it amply clear that the inter-se seniority of the officers on promotion/appointment from their respective source would be governed as per the roster annexed and the dates of their appointment and actual joining of the service would not make any difference. Similarly, an officer promoted on ad hoc basis in a vacancy/post against a roster point earmarked for an officer belonging to categories specified in clauses (b) and (c) of rule 6 shall not have any right to the post nor is he entitled to count the said service to regular service for the purpose of seniority. With this being the statutory dictate, the claim of seniority of Promotee Judges over the Direct Recruit Judges, even if appointed earlier, being on ad hoc basis would not sustain.

(42) Similarly, the claim, if any, for seniority against the Promotee (accelerated) Judges would also not be of any use on the basis of their date of appointment or actual joining of service as the determinative factor would be the roster point. Similarly, a Promotee Judge, who had worked on ad-hoc basis in a vacancy against a roster point earmarked for a specified category, shall have no right to claim

the period of ad-hoc service to regular service for the purpose of seniority. The claim, therefore, of the Promotee (accelerated) Judge viz-a-viz the Direct Recruit Judge and vice versa cannot be accepted in the present case as Rule 10 has been given effect to by the High Court while issuing the final seniority list on 22.10.2013.

(43) As regards the contention of the learned counsel for the Fast Track Court Judges for their claim of prior consideration and seniority over and above the Direct Recruit Judges is concerned, it needs to be noted that the statutory rules do not provide for 'absorption' as a source of appointment. It is only on the basis and because of the judgment of the Hon'ble Supreme Court in Brij Mohan Lal's case-I & II that the claim of Fast Track Court Judges for absorption in the Superior Judicial Service of Haryana had been considered and accepted by the Full Court. They do not have any statutory right and the benefit is by way of concession, which has been bestowed upon them and that too, on the basis of the exercise of powers by the Hon'ble Supreme Court under Article 142 of the Constitution of India in Brij Mohan Lal's-II case (*supra*), where in para No. 207.9, it has been stated as follows:-

“207.9 All the persons who have been appointed by way of direct recruitment from the Bar as Judges to preside over FTCs Scheme shall be entitled to be appointed to the regular cadre of the Higher Judicial Services of the respective States only in the following manner:

- a. The direct recruits to FTCs who opt for regularization shall take a written examination to be conducted by the High Courts of the respective States for determining their suitability for absorption in the regular cadre of Additional District Judges.
- b. Thereafter, they shall be subjected to an interview by a Selection Committee consisting of the Chief Justice and four senior most Judges of that High Court.
- c. There shall be 150 marks for the written examination and 100 marks for the interview. The qualifying marks shall be 40% aggregate for general candidates and 35% for SC/ST/OBC candidates. The examination and interview shall be held in accordance with the relevant Rules enacted by the States for direct appointment to Higher Judicial Services.
- d. Each of the appointees shall be entitled to one mark per

year of service in the FTCs, which shall form part of the interview marks.

e. Needless to point out that this examination and interview should be conducted by the respective High Courts keeping in mind that all these applicants have put in a number of years as FTC Judges and have served the country by administering justice in accordance with law. The written examination and interview module, should, thus, be framed keeping in mind the peculiar facts and circumstances of these cases.

f. The candidates who qualify the written examination and obtain consolidated percentage as afore-indicated shall be appointed to the post of Additional District Judge in the regular cadre of the State.

g. If, for any reason, vacancies are not available in the regular cadre, we hereby direct the State Governments to create such additional vacancies as may be necessary keeping in view the number of candidates selected.

h. All sitting and/or former FTC Judges who were directly appointed from the Bar and are desirous of taking the examination and interview for regular appointment shall be given age relaxation. No application shall be rejected on the ground of age of the applicant being in excess of the prescribed age.”

(44) A perusal of the above would show that the Hon'ble Supreme Court had laid down the process which was required to be followed for determining the suitability of the Fast Track Court Judges for absorption in the regular cadre of Additional District Judges. The members of the Selection Committee were also specified and so were the marks for the written examination and interview separately. The qualifying marks i.e. 40% aggregate for general candidates and 35% for SC/ST/OBC candidates were provided. Even one mark per year of service in the Fast Track Courts was assigned to be granted depending upon the length of service forming a part of the interview. Observations were also made giving an indication that the particular facts and circumstances of their cases were to be kept in mind while carrying out the exercise. Even provision of age relaxation was made. This clearly indicates the dilution of the norms, as provided for in the statutory rules for appointment to the post of Additional District Judge in the

regular cadre where the marks for the written examination, interview and even the qualifying marks in aggregate for both the general category and the reserved category candidates are higher than what were laid down by the Hon'ble Supreme Court. Above all, only the suitability of the candidates had to be assessed and there was no competition as only the Fast Track Court Judges were to absorb in the same. Marks were also assigned to the services rendered by them as Fast Track Court Judges. This exercise was to be carried out in the peculiar facts and circumstances. In this view of the matter, the Fast Track Court Judges, who have been absorbed by following this procedure, cannot be equated with and compared to the directly recruited Additional District Judges in the regular cadre. This, we state, in the light of the observations of the Hon'ble Supreme Court in this very judgment of Brij Mohan Lal-II's case (*supra*), where in Para No. 180, while dealing with the prayer of the Fast Track Court Judges for regularization of their services and absorption in the regular cadre as well as continuation of the Fast Track Court scheme till their absorption of State of Punjab and Haryana was declined. It was also categorically stated therein that they have no right to the post and having not passed the requisite examination, were required to do so followed by the above-referred to procedure for their suitability to be considered by the High Court.

It requires to be mentioned here that the initial appointment of the Fast Track Court Judges was not in accordance with the then prevalent and applicable 1963 Rules governing the service at the time of their initial appointment but was under the Haryana Additional District and Sessions Judges (Ad-hoc) Recruitment and Conditions of Service Rules, 2001 framed for appointment of retired members of the Superior Judicial Services, whereby the appointment was for a period of one year which could be extended by the High Court from time to time. It may be added here that these Judges continued on year to year basis at the recommendation of the High Court.

(45) It is apparent from the above that they could not have been appointed but for the above directions of the Hon'ble Supreme Court. The process of appointment of the Additional District and Sessions Judges (Direct Recruitment) in pursuance to advertisement /Notification dated 18.05.2007 had been followed, applications received and the selection was completed, although the Fast Track Court Judges had put forth their representation for absorption against the said post but the said claim was never accepted. It is during

the continuation of the said process that the cases of the Fast Track Judges were also considered for absorption but their cases for appointment/absorption were recommended not against the advertised 22 posts but the newly created 20 posts of Additional District and Sessions Judges, out of which, 5 posts fell to the quota of direct recruits. Since their claims were recommended against these posts, which were subsequently created, the High Court was right in putting them below the officers whose claims have been considered against the already available posts according to their statutory rights from the recognized sources of recruitment as per the 2007 Rules. The appointment of the Fast Track Court Judges being based upon a concession, which had been conferred upon them taking a sympathetic view and to mitigate their hardships against the post meant for direct recruits, they have been rightly assigned the seniority at the bottom of three categories as per the decision of the Full Court dated 05.10.2013.

(46) The Fast Track Court Judges form a separate category, for which a separate selection process was conceived on the basis of the observations made by the Hon'ble Supreme Court in Brij Mohan Lal's-II case (supra). They were appointed in pursuance to a special procedure and that too, against the post which came into existence subsequently. It is after they have now become a part of the cadre that they can claim themselves to be falling in the cadre of direct recruits as they have been appointed against the post of said quota. Their appointment being beyond the statutory source, they can only be granted the benefit after the statutory source has been exhausted, which has been so granted to them and rightly so by the High Court.

(47) As regards the claim of the Promotee Judges falling in the category of accelerated promotion for seniority above the Direct Recruit Judges, suffice it to say that they would not be entitled to the benefit of seniority over and above the direct recruits in the light of Rule 10 (iii), where it has been clearly mentioned that an officer promoted on ad hoc basis against a roster point earmarked for an officer belonging to the other categories shall have no right to the post nor would he be entitled to add the period of such service to regular service for the purpose of seniority. Rule 10 (ii) also would deny them the benefit of seniority where it has been clearly stated that each category of employee, as provided for in Rule 6 (2), shall take his position in the seniority list as shown in the roster annexed irrespective of the date on which he actually joins the service. Rule 10 (i) (d)



also would dis-entitle them to the benefit of seniority, where it is mentioned that inter-se position of the officers appointed in the service under Rule 6 shall be given in roster annexed, which has been provided for under Rule 6 (2) of the 2007 Rules. The claim, thus, of the accelerated promotee Judges, as projected in the writ petition, stands rejected.

(48) As regards the claim of seniority by the direct recruit Additional District Judges over and above the other category of officers is concerned, suffice it to say that they would also not be entitled to the benefit of same according to Rules 6 and 10, which have been referred to above, especially with reference to accelerated promotee Judges, where their claim has been rejected for promotion above the other categories. Rules 6 and 10 (i) (d) and 10 (ii) would disentitle them to the said claim as the seniority has to be fixed as per the roster annexed with the 2007 Rules. The claim of the direct recruit Judges for seniority over the other categories, therefore, stands rejected.

(49) An argument was projected by the counsel for the petitioners that the Promotee Judges falling in the category of seniority-cum-merit cannot be granted seniority above the remaining categories but this plea has no legs to stand on as all these Promotee Judges were promoted in the year 2006 or prior thereto in their own quota as per the then prevalent 1963 Rules. The 2007 Rules, which provided for the roster points, came into force w.e.f. 10.01.2007. The scope, ambit, applicability and field of operation has been already dilated above while dealing with Rules 6 and 10 respectively. Rule 10 deals with seniority of different categories as well as their placement in the seniority list. Proviso to this Rule 10 protects the seniority of the existing members of the source as it existed under the 1963 Rules on the coming into force of the 2007 Rules. Rule 32 of 2007 Rules is the repealing Rule which reads as follows:-

“32. The Punjab Superior Judicial Service Rules, 1963, as applicable to the State of Haryana are hereby repealed. Notwithstanding such repeal, anything done or any action taken under the rules so repealed shall be deemed to have been validly done or taken in exercise of the powers conferred by or under these rules as if these rules were in force on the day on which such thing was done or action taken.”

The above rule makes it clear that the actions taken under the 1963 Rules stood protected. Factually the Promotee Judges (seniority-

cum-merit) were members of the service prior to 10.01.2007 when the 2007 Rules came into effect and thus, their seniority stood protected and cannot be questioned by the members of the service who became a part of it in the year 2008 and that too, under the different set of Rules i.e. the 2007 Rules. All these officers, who are questioning the seniority granted to the Promotee (seniority-cum-merit) Judges, were not the part of the cadre when these Promotee Judges were inducted in the cadre under the old Rules of 1963. The 2007 Rules are admittedly prospective in operation and cannot be thus, pressed into service against these Promotee Judges. In any case, the quota rule came into force with the 2007 Rules and prior thereto, there was no such provision. The argument, therefore, stands rejected.

(50) In the light of the above, we have come to the conclusion that the seniority of the Additional District Judges as finalized by the High Court in its Full Court Meeting dated 05.10.2013 leading to the preparation, approval and issuance of the Final Seniority List dated 22.10.2013 by the High Court is in accordance with the statutory Rules and, therefore, is upheld.

(51) The challenge in these writ petitions resultantly must fail leading to their dismissal.

(52) Ordered accordingly.

In view of the dismissal of the main writ petitions, all the pending applications have been rendered infructuous and the same are disposed of as such.

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*Dr. Payel Mehta*