



2025:JKLHC-JMU:411

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 26.09.2025

Pronounced on : 12.12.2025

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Case:- **LPASW No. 113/2012**
c/w
CCP(D) No. 4/2020

Pyare Lal Bhat and others

.... Appellants

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Anirudh Sharma, Advocate

Vs

State of J&K and others

..... Respondents

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Nazia Fazal, Assisting Counsel.
Mr. S. S. Ahmed, Advocate.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

सत्यमेव जयते

Per: Rahul Bharti-J

01. Thematic reading between the lines of this case is that the appellants fought for justice, got justice and then lost justice to find themselves back to square one to be in situation no better than of year 1986 when they, joined by similarly aggrieved others, had commenced an original litigation in this court with a writ petition aimed and meant only to salvage their respective seniority as April 1979 direct recruit Sub Inspectors of J&K Police vis-à-vis pre-1978 Assistant Sub Inspectors (ASIs) granted retrospective promotion in 1985 w.e.f April 1978 as Sub Inspectors (SIs).

02. Present letters patent appeal (*in short "LPA"*) No. **113/2012** is by fourteen (14) appellants who, along with some others, commonly figured



in long array of respondents named in two writ petitions **SWP No. 1620/2008 & SWP No. 3065/2010.**

03. Before proceeding further, this Court would like to set out the respective dates of retirement of the appellants to highlight the end objective which adjudication of this **LPA No. 113/2012** is going to serve to the appellants all of whom are now retired long back but having shouldered the burden of this litigation without abandoning their cause and yearning for the justice done to their cause.

Appellant No.	Name	Date of Retirement
1.	Pyare Lal Bhat	04/2012
2.	Varinder Kumar	01/2014
3.	Sheikh Abdul Rashid	05/2012
4.	Fareed Ahmed Khan	03/2014
5.	Mohd. Yousaf Mir	03/2013
6.	Farooq Ahmed Kirmani	04/2013
7.	Kailash Chander	12/2011
8.	Abdul Rashid Lone	11/2013
9.	Saif-ud-Din Shah	08/2013
10.	Sham Sundar Sharma	05/2010
11.	Ghulam Haider Badhana	09/2013
12.	Ghulam Hassan Shah	01/2014
13.	Mir Mohd. Chowdhary	10/2016
14.	Mohd. Shafi Mir	01/2013

04. Said two writ petitions **SWP No. 1620/2008 & SWP No. 3065/2010** came to be disposed of by learned writ court vide its common judgment dated **22/12/2011** against which present LPA **No. 113/2012** originated awaiting its final adjudication now taking place in passing of this judgment.

05. Writ petition titled **SWP No. 1620/2008** titled **Shakti Pathak & Ors Vs State of J&K & Ors** is the first one in point of time being filed on **18/11/2008** by seventeen **(17)** petitioners naming sixty-two **(62)**



respondents which included fourteen **(14)** appellants herein figuring at serial number 36, 15, 16, 19, 20, 21, 24, 29, 30, 32, 35, 39, 40 & 42 respectively.

06. In 2nd writ petition **SWP No. 3065/2010** titled **Anita Sharma & Ors Vs State of J&K & Ors.**, filed on **30/12/2010** by seven **(7)** other petitioners, fourteen **(14)** appellants herein figured in array of forty-nine **(49)** respondents at serial number 25, 8, 9, 12, 13, 14, 17, 20, 21, 22, 24, 28, 29 & 30 respectively.

07. The petitioners, totaling 24 figuring in both writ petitions **SWP No. 1620/2008** & **SWP No. 3065/2010**, are the ones being direct recruits of the time as Deputy Superintendents of Police (in short **Dy.SP**) in the Jammu & Kashmir Police (Gazetted) Service in terms of selection process which though had originated in year 1995 but finalized in year **1999** when finally a batch of **Seventy-eight (78)** selected candidates came to be appointed as Dy.SP and the writ petitioners of two writ petitions being of said pool of year 1999 direct recruit and appointed **Dy.SP**.

08. On the other hand, the private respondents, in both the writ petitions **SWP No. 1620/2008** & **SWP No. 3065/2010** which included the appellants herein figuring in common as respondents No. 6 to 62 and 6 to 49 respectively, happened to be **Dy.SP** by promotion mode having arisen from the original rank of **Sub Inspector**.

09. The writ petitioners of said two writ petitions **SWP No. 1620/2008** & **SWP No. 3065/2010** and the appellants herein originally obtaining were not in any conflict of situation against each other.

10. The situation which actually evolved and brought the writ petitioners of two writ petitions **SWP No. 1620/2008** & **SWP No. 3065/2010** and the appellants along with co-writ respondents pitted against each other in adversarial standing and eventually locked in said two writ



petitions **SWP No. 1620/2008 & SWP No. 3065/2010** compulsively needs to be referred in essential chronological details.

11. The appellants are of batch of **41** directly recruited and appointed Sub Inspectors (in short **SIs**) of April, 1979 in Jammu & Kashmir Police in terms of respective **PHQ Orders No. 398/1979, 316/1979 & 429/1979** as an outcome of selection process set into effect in **1978**.

12. Before the appellants' appointments as **SIs** in **1979**, a promotion list "**E**" under Rule 390 of J&K Police Rules, of **72 & 30** Assistant Sub-Inspectors (*in short "ASIs"*) of Jammu & Kashmir Police was prepared vide **PHQ Order No. 282 & 283 dated 28th April 1978** which was meant to be operative for prospective purpose of operation of 50% quota for promotion to next post of Sub-Inspector.

13. Some of the ASIs in this Promotion List "**E**" came to be promoted in a routine course in **1978** itself and were, thus, to be held seniors to the appellants in the cadre of **SI** to which direct recruit SIs of 1979 had no issue whatsoever.

14. On the other hand, some of ASIs out of said promotion list "**E**" came to be promoted as SIs later in due course after 1979 following appointment of the appellants as direct recruit SI and were thus obviously to count as juniors to the direct recruit SIs of 1979.

15. On **19/10/1984**, **SRO 549/1984** promulgating **J&K Police Gazetted Service Rules, 1984** came to be issued but same came to be kept in abeyance vide **SRO 166 dated 22/04/1985** thereby reviving the continuity of **SRO 33 of 1977** dated **19/01/1977** to govern the J&K Gazetted Police Service.

16. In the year **1985**, some **38** odd posts of Inspectors (Executive) cadre were available for promotion quota.



17. In **March 1985**, twenty-eight (**28**) numbers of SIs came to be made as Inspectors (Executive Cadre) on an officiating basis in which some of the SIs junior to the appellants came to be so made as Inspectors on officiating basis by neglecting the appellants' seniority status as SIs.

18. Precipitating event occurred when, vide **PHQ's Order No. 1263 of 1985** dated **03/12/1985**, a number of pre-1979 appointed ASIs, otherwise already promoted in course of time as SI after the appointment of the appellants as SI, came to be accorded promotional benefit to posts of Sub-Inspector with retrospective effect from **25/04/1978** thereby not only making them purportedly overnight seniors as SI to the appellants, direct recruit SI of 1979, but also poised for promotion as Inspectors ahead of 1979 directly appointed SIs.

19. This development came to be challenged by set of direct recruit SIs of 1979, which included the appellants No. 1, 3 & 9 to be in an array of eight (8) petitioners in a writ petition **SWP No. 1208/1986** titled "**Sheikh Abdul Rashid & Ors Vs State of Jammu & Kashmir and Ors**" filed on **28/11/1986** before this court. In this writ petition SWP No. 1208/1986, respondents No. 3 to 134 were the ones with respect to whose purported retrospective promotion as being cause of action led to filing of writ petition SWP No. 1208/1986.

20. While the aforesaid writ petition **SWP No. 1208/1986** was pending, simultaneous and subsequent important developments of importance having bearing were taking place which are highlighted herein next.

21. In **August 1991**, 42 SIs of 1979 had come to be promoted as Inspectors and followed by framing of Seniority List of Inspectors issued vide **PHQ Endorsement No.M-451/92-30748-800** dated **30/07/1993**. It is



worth mentioning here that by reference to **20/06/1993**, the relative seniority status of Inspectors, which included 1979 direct recruit SIs promoted as Inspectors between **August, 1991 to February, 1992**, and also pre-1979 appointed ASIs who had come to be given retrospective promotion to the post of SIs dating back to 1978 as beneficiaries of **PHQ's Order No. 1263 of 1985** dated **03/12/1985** questioned in SWP No. 1208/1986 and in run of time becoming Inspectors in **1987-1989** came to be reflected.

22. In the cadre and seniority list of Inspectors, the beneficiaries of impugned PHQ's Order No. 1263 of 1985 were being shown senior to 1979 directly appointed SIs. In the seniority list status as of **20/06/1993**, the writ petitioners of SWP No. 1208/1986 were, thus, figuring from **Sr. No. 253 onwards** with date of appointment as Inspectors being **August, 1991** whereas promote ASIs, who were beneficiaries of **PHQ's Order No. 1263 of 1985**, dated **03/12/1985** their appointment as Inspectors being shown from **year 1987** onwards but surely all before **year 1991**.

23. To put in simple context, the appellants were reckoning as promotees to post of Inspector in the year **1991-92** whereas the ASIs who were beneficiaries of **PHQ's Order No. 1263 of 1985** dated **03/12/1985**, shown as appointees to post of Inspectors of **year 1987-1989**.

24. PHQ had come to apprise the General Administration Department (GAD) of State of J&K of vacancy position of posts, promotional as well as direct quota of Dy.SP, for J&K Public Service Commission to advertise 78 posts for selection of Dy.SP, and conducting Exams in 1996 and 1997.

25. After a gap of almost ten years, 2nd writ petition **SWP No. 3586/1997** titled "**Sheikh Abdul Rashid Vs State of J&K and Ors**" by same very set of writ petitioners of **SWP No. 1208/1986**, joined by more



similarly placed direct recruit SIs of 1979, came to be filed thereby questioning subsequent developments like contemplated promotion exercise to the posts of **Dy.SP** acting upon already impugned retrospective ASIs' promotion, seniority list issued by **PHQ vide Order Endorsement No. M-451/92-30748-800** dated **30/07/1997** of the Inspectors having taken place after institution of their first writ petition **SWP No. 1208/1986** and issuance of Govt. Order dated **06/02/1997** of promotion of Inspectors to post of Dy.SPs.

26. Vide a Govt. Order **No. Home-(37)P of 1999** dated **01/02/1999**, one Abdul Gaffar SI, otherwise junior to 1979 direct recruit SIs was accorded retrospective promotion as Inspector w.e.f. **01/11/1986**.

27. During pendency of said two writ petitions **SWP No. 1208/1986** and **SWP No. 3586/1997** which lasted up to **November 2004**, further developments like issuance of Govt. Order **No. 789-GAD of 1999** dated **12/07/1999** with respect to appointment of Dy.SP by direct recruitment took place in which were figuring seventeen petitioners of **SWP No. 1620/2008**.

28. Vide **Circular No. 01-Home(PB-1) of 2003** dated **01/02/2003**, tentative seniority list of Dy.SP was circulated to which the writ petitioners of **SWP No. 1620/2008** are said to have registered their objections only to be over ruled.

29. Vide **Govt. Order No. Home 149(P) of 2004** dated **21/04/2004**, final seniority list of Dy. SP obtaining as on **01/01/2004** came to be declared in which twenty four (24) writ petitioners of **SWP No. 1620/2008** and **SWP No.3065/2010** came to be shown placed at **serial numbers 61 to 137** whereas promotee Dy.SP which included the appellants at **serial number 168 onwards**.



30. It is worth mentioning here that though the writ petitioners of aforesaid two writ petitions are said to have grievance against this seniority list but nevertheless there came forth no challenge from their end in the form of any writ petition and, thus, same became a settled seniority list, in the sense that direct recruit **Dy.SP of 1999** can be said to have no issue whatsoever against promoted Dy.SP which included the appellants as well and this situation came to run its course.

31. By purported misplaced seniority status of SIs having become Inspectors as an after effect of impugned **PHQ's Order No. 1263 of 1985** dated **03/12/1985**, the promotions had come to take place to the rank of Dy.SP in which also 1979 direct recruit SIs were shown junior to the promotee ASIs being beneficiaries of **PHQ's Order No. 1263 of 1985** dated **03/12/1985** in first becoming senior as SI, then as Inspectors and lastly as Dy.SP by sheer exploit of the retrospective promotion as SIs stealing march over 1979 direct recruit SIs.

32. Soon after the issuance of said final seniority list of Dy. SP coming into being in **April 2004**, common judgment dated **29/11/2004** in already long pending said two writ petitions **SWP No. 1208/1986 & SWP No. 3586/1997** came to be passed in favour of direct recruit SIs of 1979 in quashing of **PHQ Order No. 1263/1985** dated **03/12/1985** vide which retrospective promotion as SI w.e.f **25/04/1978** in favour of pre-1979 ASIs had been made and which set of ASIs had by then already progressed ahead of the direct recruit SIs of 1979 in further promotion to the rank of Inspectors in 1989 and then to be Dy.SP in 1999 till coming into being of judgment dated **29/11/2004**.

33. In terms of writ court's common judgment dated **29/11/2004**, a direction for redrawing of the seniority of the writ petitioners of **SWP No.**



1208/1986 & SWP No. 3586/1997 as SIs with all consequential benefits was given.

34. For the facility of reference is reproduced the operative part of the writ court judgment dated **29.11.2004** which reads as under:-

“In the premises aforesaid, I allow the writ petitions and quash the impugned order dated 03/12/1985 passed by the respondent No. 2. The official respondents are directed to place the petitioners of both the writ petitions in the seniority list of Sub. Inspectors ahead of private respondents in both the writ petitions who have been appointed by promotion to the post of Sub. Inspectors after 25th April, 1979 and accordingly, to redraw the seniority list giving them all consequential benefits.”

35. Aggrieved ASIs, otherwise bearing promoted status firstly as Inspector and then Dy.SP being purportedly senior to 1979 directly appointed SIs by the time of passing of judgment dated **29/11/2004**, came to prefer two **LPAs** joined by two more **LPAs** filed by State of J&K all numbering **164/2004, 06/2005, 19/2005 & 20/2005**, before the Division Bench of this court which resulted in a common judgment dated **27/07/2005** setting aside the writ court's common judgment dated **29/11/2004**.

36. The operative part of the Division Bench's judgment dated **27/07/2005** is worth reproducing herein under which is:-

“Be that as it may, as indicated in the beginning, on account of the subsequent recruitment of both appellants and respondents by promotion to the post of Dy. SP in the J&K Police (Gazetted) Service governed by another set of rules, the dispute raised in the writ petition has become infructuous and the direction of the learned Single Judge to redraw the seniority list placing the respondents above the



appellants in the seniority list of SI cannot be implemented. Not such redrawing of the seniority list can undue promotions granted to the appellants on the post of Dy. SP.

The direction and order of the learned Single Judge are, therefore, set aside and these appeals are allowed, but without any order as to costs.”

37. It is pertinent to mention fact here that by the time aforesaid LPAs came to be disposed of vide said judgment dated **27/07/2005** as the writ petitioners and good number of private respondents of **SWP No. 1208/1986 & SWP No. 3586/1997** had become Dy.SP, as even observed by the Division Bench in its judgment dated **27/07/2005**, so said aspect weighed heavily with the Division Bench to hold that in fact dispute in writ petitions **SWP No. 1208/1986 & SWP No. 3586/1997** had become infructuous.

38. Vide a **Govt. Order No. 334 of 2005** dated **16/08/2005**, **Govt. Order No. Home-425 (P) of 2005** dated **26/10/2005**, **Govt. Order No. 21 of 2007** dated **27/04/2007** & **Govt. Order No. Home-449 (P) of 2007** dated **19/09/2007**, a good number of promotee Dy.SP came to be made as Superintendent of Police (SP) though in own Pay & Grade.

39. Division Bench's judgment dated **27/07/2005** came to be assailed by direct recruit SIs of 1979, which included the appellants led by the appellant No. 3 herein namely Sheikh Abdul Rashid, in Special Leave Petitions (SLPs) before the Hon'ble Supreme Court of India entertained and registered as Civil Appeal Nos. **5632-35 of 2007** and resulted in setting aside of Division Bench's judgment dated **27/07/2005** and restoration of writ court's judgment dated **29/11/2004** in favour of direct recruit SIs of 1979.



40. The operative part of judgment dated **05/12/2007** of the Hon'ble Supreme Court of India is reproduced as under:

“Similarly, although the statute provides for grant of officiating promotion, but the same is not conducive in the sense that even after getting officiating promotion, one may be reverted to the original post held by him. We do not mean to say that the seniority would be reckoned from the date of confirmation but we only intend to point out that the Rules having been provided for officiating promotion, the learned Single Judge was correct in taking that factor also into consideration for the purpose of determining the validity of the impugned order before the High Court. The said order dated 03/12/1985 even otherwise appears to be mala fide having been passed for unauthorised purpose. If the said order dated 03/12/1985 is read with the earlier one being dated 01/08/1985, the intention of the Government to favour the private respondents herein becomes explicit. It is not expected of a government to brazenly favour one set of employees so as to defeat the bona fide claim of the other set of employees. We, therefore, are of the opinion, that the impugned judgment cannot be sustained which is set aside accordingly. The appeals are allowed.

However, in exercise of our discretionary jurisdiction under Article 142 of the Constitution of India, we direct that despite this order if any monetary benefit has been conferred upon the private respondents, the same may not be recovered.”

41. Hon'ble Supreme Court of India's judgment dated **05/12/2007** was bearing directions the purport and mandate of which is that pre 1979 ASIs promoted as SIs with retrospective effect vide **PHQ Order No. 1263/1985** dated **03/12/1985** from April 1978 over and above direct recruit SIs of 1979, were to vacate their DySP posts for direct recruit SIs of 1979 otherwise also promoted in due course to be Dy.SP but shown juniors



to ASIs of 1985 then as Dy.SPs, so as to restore seniority status of direct recruit SIs of 1979 vis-à-vis ASIs of 1985 which obviously meant inevitable reset of seniority scenario from SI, Inspector and lastly of Dy.SP.

42. In order to carry out the compliance of the mandate of the Hon'ble Supreme Court of India given in terms of its judgment dated **05/12/2007** which was compulsorily to be carried into compliance as being the final say in the matter settling the controversy once for all with respect to seniority status of direct recruit SIs of 1979 vis-à-vis pre-1979 appointed ASIs promoted as SIs with retrospective effect from 1978, the first requirement was, thus, to redraw the seniority list of SIs, then of Inspectors as with the passage of time because of promotion the same set of direct recruit SIs and retrospectively promoted ASIs to be SIs had come to take place.

43. Accordingly, J&K PHQ vide its **Order No. 531 of 2008** dated **13/02/2008** came to reset the affairs by first re-drawing and re-casting seniority list of SIs reflecting therein **166** number of SIs bearing the respective restored seniority positions including the appellants all figuring in the range of serial numbers **10 to 32**. Interestingly, in this seniority list, while the appellants came to be confirmed with date of appointment as SI in April, 1979 but of some of writ respondents of SWP No.1208/1986 still mentioned as SIs of June, 1978 and but the rest of the respondents of May, 1979 onwards to April, 1980.

44. **Consequently**, vide its **Order No. 886 of 2008** dated **15/03/2008**, J&K PHQ, by reference to Inspectors Seniority List issued way back on 30th July, 1993 vide **PHQ Order Endorsement No. M-451/92-30748-800**, then came to redraw the seniority of Inspectors (Executive/Armed) in which the respective position of the direct recruit SIs of 1979 came to be redrawn in which the appellants, as being direct recruit SIs of 1979, came to be placed next below **serial number 62** placed **Inspector**



Gh. Rasool Wani No. 431/NGO with his date of appointment as Inspector being of March, 1985 to restore seniority as Inspectors.

45. By this revision of seniority list, 40 Inspectors named in **PHQ Order No. 886/2008** were thus meant to occupy from serial number **63 to 102** seniority position thereby displacing originally placed Inspectors at serial number 63 to 102 in which slot were also figuring some of the writ respondents of SWP No. 1208/1986 and SWP No. 3586/1997.

46. As a result of redrawn seniority list of Inspectors, retrospective promotion as Inspectors was conferred vide **PHQ Order No. 1837/2008** dated **03/06/2008** with respect to SIs of 1979 as named therein.

47. Intriguingly, in this very **PHQ Order No. 1837/2008** by an obvious reference to ASIs who were beneficiaries of retrospective seniority and promotion w.e.f 1978 in terms of quashed **PHQ Order No. 1263 of 1985**, the following reproduced mandate came to be directed which surely was not in accord and tune with the mandate of the Hon'ble Supreme Court of India's judgment dated 05/12/2007:-

“Whereas, the respondents shall not be deprived of the benefits including the retirement benefits accruing to them as a result of the actual service they have rendered in the department in various posts as per the stipulations kept in the judgment of Hon'ble Apex Court of India.”

48. The redrawing of seniority list of SIs read with Inspectors came to be challenged by one **Abdul Rashid Bhat** and others in writ petition **SWP No. 471/2008** and as a consequence writ relief sought was not to disturb the existing status and seniority of Dy.SP and SP of the Inspectors, who from the seniority list of Inspectors before being redrawn, had come to so promoted as Dy.SP and SP.



49. This writ petition **SWP No. 471/2008** came to be dismissed by the writ Court vide judgment dated **16/05/2008**.

50. In the backdrop of the circumstances as referred herein before developed so far, the Govt. of Jammu & Kashmir, in order to carry out compliance of the mandate of the Hon'ble Supreme Court of India given in its judgment dated **05/12/2007** in relation to which redrawing of seniority list of SI, who with the passage of time had otherwise become Inspectors and figuring in the pre-revised seniority list of Inspectors and also in the wake of dismissal of writ petition **SWP No. 471/2008** by the writ court vide judgment dated **16/05/2008**, came forward with **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** thereby doing the needful compliance in the following manner which is reproduced as under:-

"Now, therefore, sanction is hereby accorded to the:-

- i. Retrospective promotion of Police Officers detailed in annexure-"A" to this Government order from the rank of Inspector (General Executive Cadre) to the rank of Dy. Superintendents of Police (General Executive Cadre) with effect from 06-02-1997 in the pay scale of Rs. 7500-12000;***
- ii. Re-fixation/fixation of inter-se seniority of Police Officers in the category of Dy. Superintendent of Police detailed in annexure-"B" to this Government order at the serial Nos, shown against each in the final seniority list of Dy. Superintendents of Police as on 01-01-2004 issued vide Government Order No. Home-149(P) of 2004 dated 21-04-2004 read with Government orders No. Home-425(P) of 2005 dated 26-10-2005, No. Home 449(P) of 2007 dated 19-09-2007 and No. Home-165(P) of 2008 dated 13-03-2008;***
- iii. Placement of Police Officers detailed in annexure -"C" to this Government order in the Selection Grade of Dy.***



SsP (Rs. 9000-14100) from the dates shown against each; and

- iv. Promotion of 38 Dy. Superintendents of Police (Selection Grade), detailed in annexure-“D” to this Government order, to the post of Superintendents of Police with effect from 01-03-2002 in the pay scale of Rs. 10000-15200.***

It is further ordered that promotion of such Superintendents of Police who have been promoted on regular basis beyond 01-03-2002 and have now become junior will not get disturbed; but their inter-se seniority with other Superintendents of Police shall be determined under rules.

By order of the Government of Jammu and Kashmir.”

It is this **Govt. Order No. Home-597 (P) of 2008** dated **04/09/2008** to which we are going to reserve our focus and attention in relation to the final outcome of our adjudication of present LPA.

51. **Govt. Order No. Home-597 (P) of 2008** dated **04/09/2008** purportedly restored to the appellants and entire batch of direct recruit SIs of 1979 their due placement in terms of seniority right from the rank of SI to Inspector w.e.f Ist **March 1985** to Dy.SP w.e.f **06/02/1997** and lastly as SP w.e.f **01/03/2002** and, accordingly, the direct recruit **SIs of 1979** including the appellants were meant and supposed to enjoy all the future effects relatable to their respective service status from SP onwards correspondingly by reference to their restored position but it is here where the conflict of claim with direct recruit Dy.SP of 1995 selection process appointed in 1999 of whom were the twenty four **(24)** writ petitioners of **SWP No.1620/2008 & SWP No.3065/2010**, came to set in resulting in institution of first of aforesaid two writ petitions.



52. In Ist writ petition **SWP No. 1620/2008**, seventeen (17) writ petitioners came forward seeking the following reliefs:-

- I) For issuance of an appropriate writ, order or direction in the nature of writ of certiorari whereby seeking quashment of Govt. Order No. 597(P) of 2008 dated 4.9.2008 by virtue of which private respondents No.6 to 43 have been accorded the benefit of (i) promotion as Dy. Ss.P with retrospective effect from 06.02.1997 in General Executive Cadre as per Annexure-A of the order and thereafter further (ii) benefit of re-fixation/fixation of inter-se seniority in the same category as per Annexure-B of the order with pay scales of Rs. 7500-12000 and further (iii) accord of the benefit of placement as selection grade of Dy. Ss.P (Rs. 9000-14100) from the dates shown against each as per Annexure-C of the order and thereafter (iv) promotion to the post of Superintendents of Police w.e.f. 01.03.2002 (in the pay scale of Rs. 10000-15200) as per Annexure-D of the order.**
- II) For the issuance of an appropriate writ, order or direction in the nature of writ of mandamus commanding upon the respondents to adhere and strictly follow the procedure envisaged by the rules in the matter of determination of Inter-se seniority between the direct recruits and the promotes (private respondents) with reference to the relevant rules on 50:50 basis in the General Executive Cadre at Dy.Ss.P levels and make further promotions under rules on the basis of such fixation.**
- III) For issuance of an appropriate writ, order or direction in the nature of writ of mandamus commanding upon the respondents to place the petitioners in the Selection Grade of Dy.Ss.P in the pay-scale of Rs. 9000-14100 w.e.f. 01.07.2004 i.e. the due date on completion of five year service as Dy.Ss.P**



and to further consider their promotion on regular basis against the posts of Superintendents of Police with effect from the date the posts of Superintendents of Police have fallen vacant and upon which petitioners have been ordered to work in their own pay and grade.

IV) Any other relief befitting the occasion may please also be allowed in favour of the petitioners and against the respondents.”

53. The grievance of the seventeen (17) writ petitioners of **SWP No. 1620/2008** was that though they were figuring as seniors from **serial numbers 61 to 137** of the final seniority list issued vide **Govt. Order No. Home-149(P) of 2004** dated **21/04/2004** but nevertheless the promotee Dy. SP figuring junior from **serial number 168** onwards stood promoted as Superintendents of Police by virtue of **Govt. Order No. 597(P) of 2008** dated **04/09/2008** which obviously was issued towards compliance of the final judgment passed in **SWP No. 1208/1986 & SWP No. 3586/1997**. In this regard the seventeen (17) writ petitioners in SWP No. 1620/2008 obviously referred to the promotion as Superintendents of Police of the **writ respondents 6 to 43** which included the appellants.

54. It came to be further objected to by seventeen (17) writ petitioners in SWP No. 1620/2008 that **Govt. Order No. 597(P) of 2008** dated **04/09/2008** is in clear violation of the judgment dated **05/12/2007** of the Hon'ble Supreme Court of India passed in **S.L.P (Civil) No.(s) 23347, 23350/05 and 5632-35 of 2007** stating that the verdict of the Hon'ble Supreme Court of India has not been implemented in letter and spirit.

55. The seventeen (17) writ petitioners in **SWP No. 1620/2008** came up with a specific objection that promotion to the post of Superintendents of Police with effect from **01/03/2002** accorded to the **respondents 6 to 62**



which included the thirteen (14) appellants herein is that being in excess of promotion quota at Inspector, Dy.SP & SP level. In this regard, the writ petitioners pointed reference was with respect to the private **respondents 44 to 62** in the context of their promotion as the Superintendents of Police but surely said set of **respondents 44 to 62** did not include the appellants herein who figured in the set of respondents from **6 to 42**.

56. In their reply submitted on **03/05/2009** to the writ petition SWP No. 1620/2008, the official respondents No. 1 to 3 & 5 came forward in defence of impugned **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** stating therein that the effect given in terms of said order with respect to the promotion to the post of Dy. SP in favour of the **respondents 6 to 43** which included the appellants herein was in due consultation with the Jammu & Kashmir Public Service Commission which had advised to redraw the seniority list of various levels.

57. Following the institution of aforesaid two writ petitions, i.e., **SWP No. 1620/2008** was a writ petition **SWP No. 983/2010** which came to be filed by one **Abdul Gaffar Malik** also rising from rank of ASI pre-1979 having stolen march over direct recruit SIs of 1979 whose seniority position from being figuring at Sr. No. 24 had come to be revised to be Sr. No. 61 in exercise of redrawing of seniority list by reference to **Govt. Order No. Home-597(P) of 2008** issued in compliance to the directions of the Hon'ble Supreme Court of India, the ripple effect of which was carried from redrawing of seniority list of SI to extent of SP vide **Govt. Order No. Home-508 (P) of 2010** dated **29.04.2010**.

58. Said Abdul Gaffar Malik was ASI appointee of 1975, promoted as SI on **26/10/1981** and had become upon promotion as Inspector on **01/11/1986** but with retrospective effect from **02/07/1982**.



59. Redrawing of seniority list of SP in terms of **Govt. Order No. Home-508(P) of 2010** dated **29.04.2010**, being an offshoot of **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** thereby displacing direct recruit Dy.SP who otherwise having become SP in due course of time bearing seniority to those of promotee Dy.SP was seen as an adverse development leading to institution of second of two writ petitions **SWP No. 3065/2010** mentioned in the very opening para of this judgment first of which being **SWP No. 1620/2008**.

60. In 2nd writ petition **SWP No. 3065/2010**, following reliefs came to be sought:-

“A) CERTIORARI:-

- i) *Quashing the Final Seniority List of Superintendents of Police (Executive) notified vide Govt. Order No. Home508 (P) of 2010 dated 29-04-2010 whereby the petitioners have been placed below respondents 6 to 49 despite being senior to them, in contravention of Rule-24 of J&K Classification, Control and Appeal Rules, 1956 and also in the light of the law laid down by the Apex Court in its authoritative pronouncement titled Suraj Prakash Gupta V S State of J&K and Ors; &***
- ii) *Quashing Govt. Order No.597 (P) of 2008 dated 04.09.2008 by virtue of which the private respondents have been accorded the benefit of (a). Promotion as Dy.SPs with retrospective effect from 06 02.1997 in General Executive Cadre as per Annexure-A of the order and thereafter further (b). Benefit of re-fixation of intense seniority in the same category w.e.f different dates shown against each of them as per Annexure-B of the order with pay scales of Rs.7500-12,000 and further (c). Accord of the benefit of placement as selection grade Dy.SPs (Rs.9,000-14,100) from the dates shown against as per Annexure-C of the order and thereafter (d). Promotion to the post of***



Superintendents of Police w.e.f. 01.03.2002 (In the pay-scale of 10,000 15,200) as per Annexure-D of the order.

(B) MANDANUS:-

- i) Commanding the official respondents to issue an updated seniority list of Superintendents of Police (Executive) after placing the petitioners over and above the respondents 6 to 49 so that the petitioners can get their correct placement in the seniority list as the private respondents are required to be pushed down below the petitioners and Dy. SPs of 1999 batch (direct recruits) in view of the fact that the private respondents were adjusted in excess of their quota as provided in J&K Police Gazetted Service Recruitment Rules; &*
- ii) Commanding the respondents 2, 3 and 4 to file a comprehensive affidavit elucidating the full cadre strength of Dy SPs and also the year wise breakup of posts in various quotas particularly promotees/ direct recruits w.e.f. July 1999 when the petitioners became the members of J&K Police (Gazetted) Service; &*
- iii) Commanding the official respondents not to initiate any process of further promotion or induction into IPS unless and until the petitioners are placed over and above the private respondents who are junior to the petitioners; &*
- iv) Commanding the official respondents to disclose against which posts the salaries of 1995 batch, which came to be appointed on 12-07-1999 as Dy SPs, were released after completing their training at SKPA, Udhampur.”*

61. Through **SWP No. 3065/2010**, the writ petitioners came forward with all guns blazing against **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010**, which two orders, in fact, in all intent and purpose were



issued in carrying out the compliance of Hon'ble Supreme Court of India's judgment dated **05/12/2007** read with Single Bench judgment dated **29/11/2004** in **SWP No. 1208/1986 & SWP No. 3586/1997**. The plank on which the challenge was posed in 2nd writ petition SWP No. 3065/2010 was that said two orders were in contravention of J&K Classification, Control & Appeal Rules, 1956 as the adjustment/promotion of private respondents as Dy.SP was alleged to be against the quota of direct recruit Dy.SP.

62. Aforesaid two Govt. Orders **No. Home-597(P) of 2008** dated **04/09/2008** & **No. Home-508(P) of 2010** dated **29/04/2010** were painted as novelty in complying with the Hon'ble Supreme Court of India's judgment dated 05/12/2007 under the garb of which undue benefit was extended to the writ respondents of SWP No. 3065/2010. **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** in particular was assailed as having unsettled the seniority of the direct recruit Dy. SP vis-à-vis the beneficiaries of the Hon'ble Supreme Court of India's judgment dated 05/12/2007 which included the appellants herein, who were alleged not entitled to retrospective promotion as Dy. SP with effect from **06/02/1997**.

63. In both the writ petitions **SWP No. 1620/2008 & SWP No. 3065/2010**, twenty four (24) the writ petitioners, as being direct recruit Dy.SP and stood promoted as SP, finding themselves overnight being made juniors to batch of promotee Dy.SP including the appellants, assailed the **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010** and as a consequence seeking a writ of mandamus unto the official respondents to issue an updated seniority list of Superintendent of Police(Executive) by restoring the writ petitioners' seniority as SP otherwise lost because of the aforesaid two Govt. Orders which were offshoot of compliance of the Hon'ble Supreme Court of India's judgment dated **05/12/2007**.



64. In writ petition SWP No. 1620/2008, from the date of its institution till its disposal by virtue of impugned judgment dated 22/12/2011 there was no interim direction whatsoever operating with respect to the **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008**.

65. In September, 2011 affidavit filed by the then Director General of Police, J&K, the cadre strength of Dy.SP was mentioned to be 258 posts. In this cadre strength, there was reported to be Nil vacancy for promotion quota whereas with respect to direct quota 57 posts were mentioned to be vacant. In addition, leave reserve posts @ 10 % were mentioned to be 26, deputy reserve posts @ 20% - 52 posts and training reserve @ 20 % - 52 posts.

66. The sanctioned strength of Dy.SP in 2000-2001 was mentioned to be 454 with break-up of 202 posts for promotion quota and 252 for direct quota, whereas the duty posts were mentioned to be 336 in terms of the provisions of SRO 2010 of 1994.

67. Reply to the writ petition SWP No. 3065/2010 from the end of the respondents No. 1 to 3 & 5 came to be submitted on 20/04/2011.

68. It is the aforesaid two writ petitions **SWP No. 1620/2008 & SWP No. 3065/2010** which came to earn disposal in the form of **common judgment dated 22/12/2011** returned by the learned Single Bench which is now impugned in the present letters patent appeal **(LPA) No. 113/2012**.

69. The learned writ court came forward with the following conclusion and consequent directions which are reproduced herein next:-

“34. For the reasons discussed, the writ petitions bearing SWP Nos. 3065/2010 and 1620/2008 are allowed. The Government order Nos. Home-597(P) 2008 dated 4th September, 2008 and Home – 508(P) 2010 dated 29th April, 2010, to the extent it gives retrospective promotion to the private respondents with effect from 6th February, 1997 and



the consequent benefits with effect from the dates shown in the said Government Orders, is set aside and so is the Government Order No. Home-508(P) 2010 dated 29th April, 2010, whereby final seniority of Superintendents of Police is fixed, to the extent it relates to the parties to the writ petitions.

35. The respondents 1 to 5 are directed to under make a fresh exercise to fix the date of promotion of the private respondents as Deputy Superintendents of Police, in compliance of writ Court Judgment dated 29th November, 2004, upheld by Supreme Court on 5th December, 2007, consequent thereupon the date of their placement in the selection grade and as Superintendents of Police, after giving a fair and adequate opportunity to the parties to project their stance. The respondents 1 to 5 shall embark on such an exercise on 9th January, 2012. The parties to the petition shall project their stance by 25th January, 2012 and respondents 1 to 5, shall, having regard to the stand projected, on examination of documents, if any, produced by the parties take a decision in the matter by or on 9th February, 2012. The parties shall continue to have the status as on date till 9th February, 2012, i.e. the date the respondents 1 to 5 are to take final decision in the matter and till then further promotions/ induction in Indian Police Service on the basis of the impugned seniority list, shall not be effected.”

70. Institution of the present letters patent appeal (LPA) No. 113/2012 had come to take place on **15/12/2012** in which only thirteen (13) appellants, being batch of direct recruit 1979 SIs, came forward in order to the vindicate and salvage their respective position which they had gained after a prolonged course of litigation starting right from 1986 till attaining of the Hon'ble Supreme Court of India's judgment dated 05/12/2007 which led to the passing of **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29.04.2010**.



71. In terms of an interim order dated **24/08/2017**, operation of impugned judgment dated **22/12/2011** came to be stayed insofar as it related to the seniority status of the appellants as Dy.SP and SP meaning thereby the State Govt. as well as PHQ were supposed not to act any further in the matter to the prejudice of the appellants' as Dy.SP and SP vested in them in terms of the aforesaid two **Govt. Orders No. Home-597(P) of 2008** dated **04.09.2008 & No. Home-508(P) of 2010** dated **29.04.2010**.

72. Before this Court comes to deal with the impugned judgment, some developments of relevance which came to take place during pendency of present letters patent appeal (LPA) No. 113/2012 are required to be set out.

73. PHQ, vide its **Order No. 1434 dated 27/05/2013**, again came to reframe seniority list of Sub Inspectors which obviously referred to 1979 direct recruit SIs as well as pre-1979 ASIs later on becoming SIs.

74. In this reframed seniority list, **Abdul Gaffar Malik**, ASI who had become SI in the course of time came to be reflected at Sr. No. 313 being junior to the appellants and other 1979 direct recruit SIs. The appellants' position in this seniority list figured from Sr. No. 155 onwards.

75. PHQ, vide its **Order No. 1435 of 2013**, dated **27/05/2013** revisited promotions of Inspectors made by reference to the writ petition **SWP No. 1208/1986**.

76. Vide PHQ's **Order No. 1436 of 2013** dated **27.05.2013**, seniority of Inspectors was once again redrawn.

77. Vide **Circular No.18-Home of 2013** dated **24/10/2013**, tentative seniority list of Dy.SP (Executive) obtaining in the cadre as on **01/08/1999** was circulated inviting responses from the stakeholders which led to the issuance of **Govt. Order No. Home-32 of 2014** dated **15/01/2024** to



examine the representations submitted with respect to the tentative seniority list issued vide Circular No. 18-Home of 2013.

78. Vide **Govt. Order No. 128-Home of 2014** dated **11/03/2014**, a committee was reconstituted to examine the representations submitted in respect to the tentative seniority list circulated vide Circular No. 18-Home of 2013.

79. The committee so reconstituted purportedly recommended that **PHQ Order No. 1435 of 2013** with respect to the promotions of Inspectors followed by **PHQ Order No. 1436 of 2013** related to seniority list of Inspectors as on **03/07/1993** needed reconsideration in the light of the representations purportedly submitted by the appellants.

80. Vide **PHQ Order No. 3069 of 2014** dated **01/12/2014**, dates of promotion of Sub Inspectors as Inspectors in three cadres came to be revised leading to issuance of **PHQ Order No. 3074 of 2014** dated **04/12/2014** thereby issuing tentative seniority list of Inspectors as on **31/12/1993**.

81. In this so called **Final Seniority List of 2015**, Abdul Gaffar Malik came to be placed at Sr. No. 79 with his date of promotion as Inspector as **02/07/1992** whereas the appellants came to figure at **Sr. No. 117** onwards thus shown junior to said Abdul Gaffar Malik despite date of promotion as Inspectors related to the appellants allegedly being **14/09/1987** as shown in the order.

82. Vide **PHQ Order No. 259 of 2015** dated **30/01/2015**, Final Seniority List of Inspectors in supersession of earlier **PHQ Order No. 1436 of 2013** dated **27/05/2013** came to be issued in which the appellants' seniority status was again disturbed to their prejudice contrary to **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** issued in compliance to the Hon'ble Supreme Court of India's judgment dated **05/12/2007**.



83. This **PHQ Order No. 259 of 2015** makes a very intriguing reading in juxtaposition to **PHQ Order No. 886 of 2008**.

84. Recital in **PHQ Order No. 886 of 2008** dated **15/03/2008** read with **PHQ Order No. 531 of 2008** dated **13/02/2008** was that in compliance to the Hon'ble Supreme Court of India's judgment dated **05/12/2007** read with judgment dated 29/11/2004 of the Single Bench in **SWP No. 1208/1986 & SWP No. 3586/1997**, the seniority of Inspectors by reference to 1979 direct recruit Sub Inspectors vis-à-vis quashed **PHQ Order No. 1263 of 1985** dated **03/12/1985** granted retrospective seniority as SI to pre 1979 appointed ASIs was being redrawn in terms whereof forty **(40)** Inspectors as named in **PHQ Order No. 886/2008 dated 15/03/2008** including the appellants therein were to have their seniority restored next to **Inspector Gh. Rasool Wani, No. 431/NGO (Retd.)** immediately after him to figure meaning thereby from 63 onwards whosoever was figuring in the original Seniority List issued vide **PHQ Endorsement No.M-451/92-30748-800** dated **30/07/1992** was to pave and vacate place for forty **(40)** Inspectors, including the 14 appellants herein, to come in respective seniority slots and after them the displaced Inspectors, otherwise following next to Ghulam Rasool Wani, No. 431/NGO at serial No. 62, were to figure.

85. Inspector Gh. Rasool Wani No. 431/NGO (Retd.) was figuring at serial number 62 as per 1993 seniority position with his appointment as Inspector being that of 1st March, 1985. Next to him in the seniority slots were the Inspectors bearing date of promotion April, 1985 onwards. Since the 1979 direct recruit Sub Inspectors which included the appellants came to be accorded retrospective promotion as Inspectors from 1st March, 1985, so obviously they were meant to be next to Inspector Gh. Rasool Wani No. 431/NGO (Retd.) but surely ahead of April, 1985 onwards appointed Sub Inspectors.



86. Final seniority list of Inspectors of Police (both Executive & Armed) issued vide PHQ Endorsement **No.M-451/92-30748-800** dated **30/07/1993** but wrongly mentioned as **30/07/1992** in PHQ's **Order No. 886 of 2008** dated **15/03/2008**, referred Inspector Gh. Rasool Wani No. 431/NGO (Retd.) at serial number 62 with his date of appointment as Inspector being 01/03/1985.

87. Before Inspector Gh. Rasool Wani, figuring at serial number 62 were placed the Inspectors – Krishan Lal Trikha, No. 908/NGO figuring at serial number **11** with his date of appointment as Inspector 03/02/1984 who was the respondent No. 16 in writ petition SWP No. 1208/1986. Likewise, Inspector Balwant Raj, No. 388/NGO at serial number 12 with date of appointment as Inspector 03/02/1984, was the respondent No. 12 in said writ petition SWP No. 1208/1986. Inspector Mohan Singh No. 422/NGO at serial number 46 with date of appointment as Inspector as 01/02/1985 was the respondent No. 52 in said writ petition.

88. From serial No.46 placed Inspector Mohan Singh No. 422/NGO with date of appointment as Inspector 01/02/1985 and before Inspector Gh. Rasool Wani at serial number 62 with his date of appointment as Inspector on 01/03/1985 were fifteen (15) Inspectors with their respective date of appointment as Inspectors common being 01/03/1985.

89. Below serial No. 62 placed Inspector Gh. Rasool Wani No. 431/NGO were the Inspectors whose respective date of appointment as Inspectors commenced from April, 1985 onwards.

90. It is for this reason that in terms of PHQ **Order No. 886 of 2008** dated **15/03/2008**, forty (40) direct recruit SIs of 1979 which included the fourteen (14) appellants were directed to be placed in the order of seniority next to serial No. 62 placed Inspector Gh. Rasool Wani 431/NGO.



91. This seniority position vested in terms of PHQ **Order No. 886 of 2008** dated **15/03/2008** came to be reversed by virtue of PHQ **Order No. 259 of 2015** dated **30/01/2015** when Inspector Gh. Rasool Wani No. 431/NGO came to be placed at serial number **53** but next to him were not to be found forty (40) direct recruit SIs of 1979 which included the fourteen (14) appellants herein. In fact the appellants herein came to be placed from **117 to 186** seniority position overtaken again by the same set of writ respondents figuring in SWP No. 1208/1986 & SWP No. 3586/1997 with respect to whom the learned single bench in its judgment dated 19/11/2004 had directed to be below the petitioners of SWP No. 1208/1986 & SWP No. 3586/1997.

92. Vide **Govt. Order No. 331-Home of 2015** dated **07/08/2015**, a committee under the then ADGP – Mr. S. P. Vaid came to be reconstituted to carry forward the work of a committee constituted vide **Govt. Order No. 174-Home of 2015** dated **13/05/2015** with a reference to recommend the final seniority of Dy.SP.

93. This committee recommended revised dates of promotion at Dy.SP level from **01/01/1994** onwards up to **01/08/1999** with submission of a report dated **23/09/2015** taking place which came to be endorsed by the DGP on **31/10/2015**.

94. **Govt. Order No. 451-Home of 2016** dated **02/08/2016** came to be issued constituting **Mr. S. K. Misra** to examine and undertake an exercise with respect to changes in date of regularization of officers **post 1999** upto **Ist January, 2005** which committee came up with an observation that seniority list of Dy.SP upto **31/07/1999** have not been notified and that fresh exercise for determining exact number of vacancies of Dy.SP in promotion quota beyond **01/08/1999** to **31/12/2004** was not



workable till final seniority list of Dy.SP, as it stood on **31/07/1999**, is settled.

95. It is at this stage of development so taking place that in this letters patent appeal (LPA), this Court came to issue interim order dated **24/08/2017** staying the operation of the impugned judgment dated **22/12/2011** with a further direction not to disturb the seniority status of the appellants as Dy. SPs and SPs.

96. Vide Govt. **Order No.534-Home of 2018** dated **19/04/2018**, a committee was reconstituted headed by the then ADGP – Mr. A. G. Mir, IPS with point of reference to suggest a road-map to resolve the issue of seniority of J&K Police (Gazetted) Service in the wake of various orders having originated from this Court in different writ petitions other than those referred in this particular case.

97. Mir Committee came forward with a report dated **08/10/2018** submitted vide communication **No. PHQ/ADGP(HQ) -2018/1254** which came to be submitted to Department of Law, Justice & Parliamentary Affairs ,which came forward with its opinion **No. U.O. No. LD (Lit) 2016/66/Home** dated **12/09/2019**. It is here from onwards that a series of Govt. orders pursuant to **Administrative Council approval No. 25/21/2019** dated **13/09/2019** came to take place which are as under:-

- a) **Govt. Order No. 991-Home of 2019** dated **28.09.2019** with respect to the review of dates of promotion of J&K Police (Gazetted) Service at Dy. SP level,
- b) **Govt. Order No. 992-Home of 2019** dated **28.09.2019**, notifying final seniority list of Jammu & Kashmir Police (Gazetted) Service as on **01/01/2000**,
- c) **Govt. Order No. 993-Home of 2019** dated **28/09/2019**, reviewing the dates of promotion of J&K Police (Gazetted) Service at SP level cadre.



- d) **Govt. Order No. 994-Home of 2019** dated **28.09.2019**, reviewing the dates of promotion of J&K Police (Gazetted) Service at Dy. SP level.
- e) **Govt. Order No. 995-Home of 2019** dated **28.09.2019** regularization of promotion as Incharge Dy. SP as Dy. SP with effect from **01/07/2003** to **02/01/2009**.
- f) **Govt. Order No. 997-Home of 2019** dated **01/10/2019** notifying tentative seniority list of Dy. SPs (direct recruit and promotes) leading to issuance of **Govt. Order No. 63-Home of 2020** dated **28/02/2020** finalizing the seniority list of Dy. SPs.

98. This churning of events post institution of present letters patent appeal (LPA) No.113/2012 dislocated the appellants from their status and position as came to be accorded to them in terms of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** which was issued in compliance to the Hon'ble Supreme Court of India's judgment dated 05/12/2007 but which Govt. Order came to suffer quashment because of the impugned judgment leaving this Bench to wonder as to what for the entire exercise right from 1986 starting from institution of the writ petition **SWP No. 1208/1986** joined by writ petition **SWP No. 3586/1997** resulting in Single Bench judgment dated **29/11/2004** which ultimately got upheld by the Hon'ble Supreme Court of India in its judgment dated 05/12/2007 was meant to be of hallow effect insofar as the appellants are concerned. To put it into simple words what the appellants find themselves to be in situation that they have ended from where they had literally started in 1986 with entire adjudicatory exercise being nothing but of hallow effect and benefit with respect to them and they finding themselves chasing their junior SIs even upto rank of SP and in the circuitry ending up where they would have otherwise ended without filing SWP 1208/1986 and SWP 3586 of 1997.



99. Following tabulated statement would give an overall view of the appellants' plight:

Appellants' Original Position / Promotion from and during pendency of SWP No. 1208/1986 and SWP No. 3586/1997.			
Sub Inspector appointment	Inspector appointment	Dy. SP appointment	SP
April 1979	August, 1991 to February, 1992	December, 2000 – June, 2001	
Appellants' revised position In terms of Govt. Order. No. 597(P) of 2008 dated 04/09/2008: as per Supreme Court Judgment 05/12/2007's compliance.			
Sub Inspectors appointment	Inspectors appointment	Dy. SP appointment	Suptd.of Police appointment
April 1979	Ist March, 1985	February, 1997	March, 2002
Later Position (2013-2018)			
Sub Inspectors' appointment	Inspectors' appointment	Dy. SP's appointment	Suptd.of Police's appointment
April 1979	September, 1987 to April, 1989 as per PHQ Order No. 259 of 2015 dated 30/01/2015	 सत्यमेव जयते	
2019-2020 Position			
Sub Inspectors appointment	Inspectors appointment	Dy. SP appointment	Suptd.of Police appointment
April 1979	September, 1987 to April, 1989 as per PHQ Order No. 259 of 2015 dated 30/01/2015	28/09/2019: <u>Govt Order No. 991-Home w.r.t review of dates of promotion of Jammu and Kashmir Police Gazetted Service at the level of Deputy Superintendent of Police Executive ;</u> Appellant No. 1 Pyare Lal Bhat NGO 415 at S. No. 221 instead of 01/06/2001 as Dy.SP to be 01/04/1999 on notional basis and regular from 01/06/2001. Appellant No.2: Virender Kumar NGO) 733 at S.No. 160 w.e.f 01/12/1997 Appellant No.3:	28/09/2019 <u>Govt Order No. 993-Home reviewing the dates of promotion of Jammu and Kashmir Police Gazetted Service at the level of SP Executive cadre;</u> Appellant No. 1:



		Sheikh Abdul Rashid NGO 416 at S.No.161 wef 01/12/1997. Appellant No.4: Fareed Ahmad NGO 456 at S.No. 187 w.e.f 01/08/1998 Appellant No. 5: Mohd Yousaf Mir NGO 412 at S. No. 188 w.e.f 01/08/1998. Appellant No. 6: Farooq Ahmad Kirmani NGO 892 at S. No.189 w.e.f 01/09/1998 Appellant No. 7: Kailash Chander NGO 480 at S.No.192 wef 10/09/1998 Appellant No. 8 : Abdul Rashid Lone NGO 485 at S.No. 202 wef 10/09/1998. Appellant No. 9: Saif ud Din Shah NGO 57 at S.No.203 wef 10/09/1998. Appellant No. 10: Sham Sunder Sharma NGO 231 at S.No. 145 wef 12/07/1997. Appellant No. 11: Gh. Haider Badana NGO 191 at S.No.158 wef 15/04/1998 Appellant No. 12: Ghulam Hassan Shah NGO 182 at S.No. 228 notionally wef 01/07/1999 and effectively wef 16/04/2003. Appellant No. 13: Mir Mohd Chowdhary NGO 370 at S.No. 178 notionally wef 01/05/1998 and effectively 00/00/1999 Appellant No. 14: Mohd Shafi NGO 907 at S.No. 226 notionally wef 01/06/1999 and effectively wef 01/09/2001.	Pyare Lal Bhat at S. No. 121 from 01/03/2002 to 01/04/2004. Appellant No. 2 : Virender Kumar at S.No. 76 from 01/03/2002 to 01/12/2002. Appellant No. 3: Sheikh Abdul Rashid at S.No. 77 from 01/03/2002 to 01/12/2002. Appellant No. 4: Fareed Ahmad at S.No. 102 from 01/03/2002 to 01/08/2003 Appellant No. 5: Mohd Yousaf Mir at S.No. 103 from 01/03/2002 to 01/08/2003 Appellant No. 6: Farooq Ahmad Kirmani at S.No.105 from 01/03/2002 to 01/09/2002
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			Appellant No. 7: Kailash Chander at S.No. 108 from 01/03/2002 to 10/09/2003 Appellant No. 8 : Abdul Rashid Lone at S.No. 113 from 01/03/2002 to 10/09/2003 Appellant No. 9: Saif ud Din Shah at S.No. 114 from 01/03/2002 to 10/09/2003 Appellant No. 10 : Sham Sunder Sharma at S.No. 118 from 01/03/2002 to 16/02/2004. Appellant No. 11: Gh. Haider Badana at S.No.84 from 01/03/2002 to 16/04/2003. Appellant No. 12: Ghulam Hassan Shah at S.No. 127 from 01/03/2002 to 01/07/2004. Appellant No.
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			13 : Mir Mohd Chowdhary at S.No. 96 from 11/09/2003 to 01/05/2003 notionally and regularly from 11/09/2003. Appellant No. 14 : Mohd Shafi at S.No. 125 from 01/03/2002 to 01/07/2004
		<u>28/09/2019:</u> <u>Govt Order No 992-Home notifying final seniority list of the members of Jammu and Kashmir Police Gazetted Service Dy.SP as on 01/01/2000;</u> Appellant No. 1: Pyare Lal Bhat at S. No. 183. Appellant No. 2: Virender Kumar at S.No. 123. Appellant No. 3: Sheikh Abdul Rashid at S.No. 124. Appellant No. 4: Fareed Ahmad at S.No. 150 Appellant No. 5: Mohd Yousaf Mir at S.No. 151 Appellant No. 6: Farooq Ahmad Kirmani at S.No.152. Appellant No. 7: Kailash Chander at S.No. 155. Appellant No. 8 : Abdul Rashid Lone at S.No. 162. Appellant No. 9: Saif ud Din Shah at S.No. 163. Appellant No. 10 : Sham Sunder Sharma at S.No. 179. Appellant No. 11:	



		Gh. Haider Badana at S. No.137. Appellant No. 12: Ghulam Hassan Shah NGO 182 at S.No. 190. Appellant No. 13 : Mir Mohd Chowdhary NGO 370 at S.No. 144. Appellant No. 14 : Mohd Shafi at S.No. 188. <u>28/02/2020:</u> Govt Order No. 63 -Home finalizing seniority list of DySPs. <u>SWP No. 1208/1986 writ respondents</u> <u>No.17/19/37 to 46/65 to</u> <u>67/70/71/74/75/96/97/126/128/130</u> <u>& 132 shown seniors to many of</u> <u>appellants.</u>	
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100. There is a need for us to recapitulate as to how the journey of the appellants as the writ petitioners in **SWP No. 1208/1986 & SWP No. 3586/1997** came to bear ride by reference to chronology.

101. Being 1979 direct recruit SIs, the appellants as a consequence of the Hon'ble Supreme Court of India's judgment dated **05/12/2007** read with single Bench judgment dated **29/11/2004** came to be given date of appointment as **Inspector** JKP to be **01/03/1985** on the basis of which their next promotion as **Dy.SP** came to be effected with effect from **February, 1997** and lastly their promotion as SP in **March, 2002**.

102. This is the actual position which the appellants had earned by virtue of their litigative efforts culminating in judgment dated **05/12/2007** of the Hon'ble Supreme Court of India taken into compliance vide **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008**. The aforesaid situation is amply confirmed by **Govt. Order No. 508(P) of 2010** dated **29/04/2010**.



103. However, this restored status of the appellants and their co-petitioners was always kept floating by the PHQ as well as the Govt., never giving it a footing to last forever though having premised said position of the appellants to be in compliance to the judgment dated **05/12/2007** of the Hon'ble Supreme Court of India.

104. As per **Govt. Order No. Home 149(P) of 2004** dated **21/04/2004** the respective date of appointment to the post of Dy. SP (Executive) of the appellants herein with their corresponding seniority position is as under:-

Appellant No.	Name	Sr. No. in the Seniority List	Date of appointment to J&K Police Gazetted Service (Dy.SP) Executive
1.	Pyare Lal Bhat	198	01/06/2001
2.	Varinder Kumar		
3.	Sheikh Abdul Rashid	179	19/12/2000
4.	Fareed Ahmed Khan		
5.	Mohd. Yousaf Mir	184	19/12/2000
6.	Farooq Ahmed Kirmani	185	19/12/2000
7.	Kailash Chander	188	01/01/2001
8.	Abdul Rashid Lone	193	01/05/2001
9.	Saif-ud-Din Shah	194	01/05/2001
10.	Sham Sundar Sharma	196	01/05/2001
11.	Ghulam Haider Badhana(ST)	35	15/04/1998
12.	Ghulam Hassan Shah		
13.	Mir Mohd. Chowdhary		
14.	Mohd. Shafi Mir (RBA)	83	12/07/1999

105. In **Govt. Order No. Home 149(P) of 2004** dated **21/04/2004**, final seniority position of Dy. SP (Executive) was declared and settled. In this final seniority list by reference to array of all parties as figuring in **SWP No. 3065/2010**, the respondents **30 to 49** were shown at serial numbers 9 to 47 ahead of 1999 appointed Dy. SP, whereas the respondents 8 to 29 which included the appellants, were shown at serial numbers 168 to 199 being junior to 1999 direct appointed Dy. SP. The respondents 30 to 49 of **SWP No. 3065/2010** figuring at serial numbers **9 to 47** in the seniority list of **Govt. Order No. Home 149(P) of 2004** dated **21/04/2004** of Dy. SP are the



ones who were figuring as respondents in **SWP No. 1208/1986** read with **SWP No. 3586/1997** with respect to whom the judgment dated **29/11/2004** of learned Single Bench directed the placement of the writ petitioners of **SWP No. 1208/1986** and **SWP No. 3586/1997** ahead of them.

106. In **SWP No.1208/86**, the respondents figuring at **serial No. 86 Ghulam Qadir Parray, serial No. 84 Abdul Rashid Khan, serial No. 76 Bashir Ahmad Maqdoomi, serial No. 111 Ghulam Nabi Khan, serial No. 5 Ashaq Masih and at serial No. 80 Makhan Lal Warikoo** had become **Dy.SP** by virtue of **Government Order No. Home (Police) 100 of 1992** dated **31/03/1992**.

107. Similarly, the respondents figuring at **serial No. 82 Abdul Aziz Rather, serial No. 83 Mohd Afzal Khan, serial No. 84 Abdul Rashid Khan** and at **serial No. 85 Ghulam Ahmad Bhat** were accorded officiating promotion as Dy.SP vide **Govt. Order No. Home-30(P) of 1993** dated **25/01/1993**. Respondent No. 55 Om Prakash was also accorded officiating promotion as Dy.SP vide **Govt. Order No. Home-173(P) of 1993** dated **18/05/1993**. Respondents at **serial No. 16 Krishna Lal Trikha** and at **serial No. 50 Triloki Nath Bhat** stood promoted as Dy.SP vide **Govt. Order No. Home (P) 283 of 1994** dated **11/11/1994**. Respondent No. 30 Sansar Chand was promoted as Dy.SP vide **Govt. Order No. 45 Home of 1997** dated **06/02/1997**.

108. When we bear in mind the facts and circumstances which had concretized upon issuance of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010** issued in letter and spirit compliance of the Hon'ble Supreme Court of India's judgment dated **05/12/2007** in terms whereof the seniority status of the appellants herein and the co-petitioners in **SWP No.**



1208/1986 & SWP No. 3586/1997 was meant to settle and last forever till the end of their service bringing the contemporary service benefits accordingly, we are convinced that the learned Single Bench ought not to have disturbed the position which came to be settled in terms of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** at the asking of the writ petitioners of **SWP No. 1208/1986 & SWP No. 3586/1997** as the appellants alongwith co-petitioners of **SWP No. 1208 of 1986 and SWP No. 3586 of 1997** had not litigated against the petitioners of **SWP No. 1620/2008 & SWP No. 3065/2010**. In fact, we are left wondering that when learned Single Bench itself came directing the writ respondents No. 1 to 5 who being the State of Jammu & Kashmir and PHQ in particular to undertake fresh exercise in compliance of writ court judgment dated **29/11/2004** upheld by the Hon'ble Supreme Court of India in terms of its judgment dated **05/12/2007**, how come then the learned Single Judge came to an assured finding to hold that **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** was not in compliance to the Hon'ble Supreme Court of India's judgment dated **05/12/2007** read with Single Bench judgment **29/11/2004**.

109. If **Govt. Order No. Home-597(P) of 2008** dated **04.09.2008** was in any sense bothering the writ petitioners of **SWP No. 1208/1986 & SWP No. 3586/1997**, then the learned Single Bench ought to have referred the petitioners of said two writ petitions to taken recourse to the Hon'ble Supreme Court of India by reference to **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** registering their respective grievance that in compliance of its judgment dated **05/12/2007** their respective seniority was purportedly compromised and undermined rather than agitating the matter in a writ petition before the learned Single Bench to question the very vires of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008**.



110. We have no doubt that in the name of framing and re-framing of seniority list of Dy.SP and SP post **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010**, both Govt. of UT of J&K as well as PHQ have been indulging in jugglery of things being caught in their own self-created accumulating mess. Thus, whatsoever has been done by purported reference to the constitution and reconstitution of committees leading to passing of series of orders in 2019 and in 2020, the same is nothing but a patchwork done to give semblance of amend being made to the situation otherwise it is incomprehensible that even in year 2020, the seniority of Dy. SP and SP as obtaining in **2000** is being purportedly set to correction.

111. We are well conscious that something is better than nothing and therefore whatsoever the exercise has been given effect to in year 2019 and 2020 at the end of the Govt., and PHQ be not undone by us as much water has now flown down the stream but surely with respect to the appellants herein they cannot be left to wonder as to what gain they attained by their marathon run of litigation from 1986 onwards till date only to be told that they would stay wherefrom they had been constrained to fight for their seniority as SI being stolen a march by their juniors who eventually ended up with all service benefits and gains.

112. Thus, we shall not be understood to undermine the purported exercise so done in 2019 and 2020 as we have not examined the same on legal side but surely with respect to the fourteen (14) appellants herein we are inclined to restore justice due to them which is that their service status is to stay to be governed by the position as accorded to them in terms of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010**.



113. We are conscious of the fact that the appellants in particular, and the writ petitioners in **SWP No. 1208/1986 & SWP No. 3586/1997** in general, all had accepted the mandate and effect of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010** and, therefore, they were contended to bear the restorative effect granted in terms of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** related to revision of their seniority with a corresponding promotion accordingly from the rank of Sub-Inspector onwards.

114. We, accordingly, modify the Single Bench judgment to this effect by only holding the appellants, fourteen (14) in number now, to be entitled to the service benefits and effect in its entirety from the position vested and bestowed upon them in terms of **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** read with **Govt. Order No. Home-508(P) of 2010** dated **29/04/2010** till their respective date of retirement and post-retirement corresponding retiral benefits to be accordingly extended.

115. However, the service benefits and effects to be accorded to the appellants by reference to **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** shall be notional in terms of pecuniary benefits till their respective superannuation which otherwise were to coincide with their corresponding promotion, but in terms of the retiral benefits the appellants shall be entitled to actual benefits by their revised service status.

116. We make it clear to the respondents No. 1 to 4 that the benefits, notional as well as actual, to be granted in favour of the appellants by reference to **Govt. Order No. Home-597(P) of 2008** dated **04/09/2008** as hereby directed, shall be if not better but surely in equivalence with likes of Abdul Gaffar Malik with respect to whom **Govt. Order No. Home-305(P) of 2007** dated **04/07/2007** was passed and others who admittedly was/were



junior to the appellants in the cadre of Sub Inspector but availed progression in service ahead of the appellants. In granting aforesaid relief in favour of the fourteen (14) appellants, we are taking due note of the fact that good number of their juniors who figured as respondents in the aforesaid two writ petitions i.e. **SWP No. 1208/1986** & **SWP No. 3586/1997** came to be accorded service status and benefits by reckoning their position as seniors to the appellants. Abdul Gaffar Malik, ASI is one of the examples of said service benefit being accorded to him ahead of the appellants herein despite being junior to them.

117. The relief hereby granted is to be restricted exclusively for the fourteen (14) appellants herein and not to their co-petitioners who figured in **SWP No. 1208/1986** & **SWP No. 3586/1997** who did not choose to come forward with challenge to the learned Single Bench judgment dated **22/12/2011** in **SWP No. 1620/2008** & **SWP No. 3065/2010**.

118. Compliance to be done to the directions hereby being given in favour of the appellants within a period of sixty days from the date of passing of this judgment failing which the respondents No. 1 to 4 shall render themselves answerable and accountable.

119. ***Disposed of*** accordingly.

120. In view of the disposal of the main appeal, contempt proceedings in **CCP(D) No. 4/2020** are also dropped.

(RAHUL BHARTI)
JUDGE

(RAJNESH OSWAL)
JUDGE

JAMMU
12.12.2025
Muneesh

Whether the judgment is speaking : **Yes**