


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 585/2022

Prakash Chandra Kulshreshtha S/o Babulal Kulshreshtha, Aged
About 56 Years, R/o C-86, Ranjeet Nagar, Bharatpur (Rajasthan)

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary
Department Of Law And Legal Affairs, Government
Secretariat, Jaipur (Raj.).
2. Registrar General, Rajasthan High Court Jodhpur, Bench
At Jaipur.
3. District And Session Judge, Bharatpur (Raj.), Tehsil And
District Bharatpur.

----Respondents

Connected With

S.B. Civil Writ Petition No. 13403/2021

Rakesh Kumar Jain S/o Dayachand Jain, R/o E 151-152 Ranjit
Nagar, Bharatpur Presently Working As Reader-I Special Judge,
Dacoity Affected Area Court, Bharatpur (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary
Department Of Law And Legal Affairs, Government
Secretariat, Jaipur (Raj.)
2. District And Sessions Judge, Tehsil And District Bharatpur
(Raj.)
3. Registrar General, Rajasthan High Court Jodhpur, Bench
Jaipur (Raj.)
4. Manoj Kumar Gupta S/o Sh. Suresh Chand Gupta, Aged
About 48 Years, R/o 54, Swarna Jayanti Nagar, Bharatpur
(Raj.) 321001, Working As Personal Assistant And
Executive Assistant, District And Sessions Court,
Bharatpur, Presently Posted In Acd Court, Bharatpur.
5. Mukesh Chandra Sharma S/o Sh. Ramesh Chandra
Sharma, Aged About 49 Years, R/o Near Minarva School,
Moholla Gopalgarh, Bharatpur, 321001, Presently Working
As Stenographer Grade-I, District And Session Court,

Bharatpur.

----Respondents

S.B. Civil Writ Petition No. 3965/2022

1. Ajay Kumar Jain S/o Late Rajendra Kumar Jain, R/o 22, Rajatgarh Colony, Gate No. 1, Nainwa Rd., Bundi (Raj.), Presently Working As Sheristedar-I, Adj Court No. 1, Bundi (Raj.)
2. Firoz Ahmed S/o Abdul Hakim, R/o 33, Mansarovar Colony, Nainwa Rd., Bundi (Raj.) Presently Working As Sheristedar-I, Sc/st Prevention Of Atrocities Cases Court, District Court Bundi (Raj.)

----Petitioners

Versus

1. The State Of Rajasthan, Through Principal Secretary Department Of Law And Legal Affairs, Government Secretariat, Jaipur (Raj.)
2. District And Sessions Judge, Tehsil And District Bundi (Raj..)
3. Registrar General, Rajasthan High Court Jodhpur, Bench Jaipur (Raj.)
4. Naresh Kumar Lakhota S/o Shri Balbhadra Lakhota, Aged 54 years, R/o Guru Nanak Colony, Star Coaching ke Samne, Bundi working as Executive Assistant cum Personal Assistant, in the Office of District Judge, Bundi
5. Sanjeev Kumar Sharma S/o Shri Giriraj Prasad Sharma, age 49 years R/o Professor Colony, Bundi Working as Stenographer-I, Family Court, Bundi
6. Yogesh Kumar Tailor S/o Shri Hari Narayan Tailor aged 51 years R/o Professor Colony, Bundi, working as Stenographer-I, ADJ-1, Bundi
7. Dilip Jain S/o Shri Suresh Chandra Jain, Aged 46 years R/o BR-641, Gayatri Nagar, Bundi working as Steno-I, ADJ-2, Bundi

----Respondents

S.B. Civil Writ Petition No. 12228/2022

1. Satyanarayan Meena S/o Khyaliram Meena, Presently Working As Sheristedar-I In The Court Of Additional District And Sessions Judge No. 2, Gangapur City, District

Sawai Madhopur (Raj.)

2. Vijay Kumar Sharma S/o Rajjanlal Sharma, Presently Working As Reader Grader-I In The Court Of Additional District And Session Judge No. 1, Gangapur City, Dist. Sawai Madhopur (Raj.).
3. Naveen Agrawal S/o Omprakash Agrawal, Presently Working As Reader Grade-I In The Court Of Posco Court, Sawai Madhopur, Dist. Sawai Madhopur (Raj.)

-----Petitioners

Versus

1. The State Of Rajasthan, Through Principal Secretary Department Of Law And Legal Affairs, Government Secretariat Jaipur (Raj.)
2. District And Sessions Judge, District Sawai Madhopur (Raj.)
3. Registrar General, Rajasthan High Court, Jodhpur, Bench Jaipur (Raj.)

-----Respondents

S.B. Civil Writ Petition No. 13233/2022

Giriraj Prasad Sharma Son Of Shri Kishan Gopal Sharma, Aged About 51 Years, Resident Of Plot No. 9, Raj Vihar Colony, Sawai Madhopur (Rajasthan)

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Law And Legal Affairs, Government Of Rajasthan, Government Secretariat, Jaipur(Rajasthan)
2. Learned District And Sessions Judge, Sawai Madhopur-Cum-Judgeship, And Administrative Jurisdiction Of The District And Sessions Judge, Sawai Madhopur(Rajasthan)
3. Learned Registrar General, Rajasthan High Court At Principal Seat, Jodhpur, Office Of Learned Registrar General, Rajasthan High Court, Jodhpur(Rajasthan).

-----Respondents

For Petitioner(s) : Mr. Bipin Gupta
Mr. Iliyas Khan
Mr. Sanjeev Kumar for
Mr. Saransh Saini

For Respondent(s) : Mr. Prateek Kasliwal
Ms. Gauri Jasana
Mr. Vigyan Shah
Ms. Sarah Sharma
Mr. Tanveer Ahamad
Mr. Chandra Vikram Singh for
Mr. R.P. Singh AAG
Mr. Anil Kaushik, Registrar (Writ)
Mr. Shobhit Tiwari
Mr. Pushpendra Singh
Mr. Rohit Tiwari

HON'BLE MR. JUSTICE SUDESH BANSAL

Judgment

31/03/2023

REPORTABLE

1. All these writ petitions have arisen from different judgship of District & Sessions Judge of Rajasthan i.e. Bharatpur, Sawai Madhopur and Bundi, but give rise to a common question of legal importance as to whether under Rule 14(v) read with Rule 5 of the Rajasthan District Courts Ministerial Establishment Rules, 1986 (hereinafter "the Rules of 1986") as amended vide notification dated 19.07.2017, Stenographer Grade-I and Personal Assistant cum Executive Assistant, who belong to Stenographer cadre are excluded from the zone of consideration for promotion on the post of Senior Munsarim in the general cadre? According to petitioners, in Rule 14(v) of the amended Rules of 1986, only Stenographers Grade II & III from the stenographer cadre have been included to be eligible for promotion to the post of Senior Munsarim, which is a post of general cadre and therefore, it should be construed that in the statutory Rules, Stenographer Grade I and Personal

Assistant cum Executive Assistant are not eligible and not entitled for promotion to the post of Senior Munsarim and, with such analogy, it has been jointly prayed by the petitioners in their respective petitions that Stenographer Grade-I and Personal Assistant cum Executive Assistant be declared excluded from the zone of consideration for promotion to the post of Senior Munsarim.

2. In the beginning, it has been pointed out that similar controversy arose in several other judgeships of District & Sessions Judge of Rajasthan and many writ petitions before Rajasthan High Court at Jodhpur came to be instituted, wherein the similar issue cropped up and came up for consideration before the Coordinate Bench of the Rajasthan High Court and bunch of writ petitions were decided vide common judgment dated 24.01.2023 in lead case SBCWP No.3994/2019, *Rajesh Vyas Vs. District and Sessions Court, Jodhpur*. It has been submitted that in the judgment dated 24.01.2023, passed by the Coordinate Bench, a view has been taken that although amended Rule 14(v) of the Rules of 1986 specifies only Stenographers Grade II & III, but the same are mere illustrative and cannot be construed to clear and unambiguous exclusion of the Stenographers Grade-I from the zone of consideration and eligibility for promotion to the post of Senior Munsarim and thus by taking such purposive interpretation of Rule 14(v), all writ petitions were dismissed and the issue has been decided against petitioners. A copy of judgment dated 24.01.2023 has been placed on record. A perusal of judgment indicates that the Coordinate Bench, after adverting to the Rule 14(v) of the Rules of 1986, pre-amended & post-amended, has

decided the issue. In order to see the interpretation and reasoning assigned by the Coordinate Bench to Rule 14(v), to arrive at such a conclusion, it would be better to reproduce the relevant portion of judgment hereunder:

“15. This Court, at the outset, observes that the recommendations made by the Shetty Commission, were for the welfare of the officers/officials of the staff of the Subordinate Courts, and were implemented retrospectively with effect from 01.04.2003, and the related notification was issued on 19.07.2017, and the same was preceded by the notification dated 02.09.2016 pertaining to the revised pay scale(s) for the posts, amongst others, the post in question i.e. Senior Munsarim, in light of the recommendations of the Commission.

15.1 Indisputably, the recommendations, being implemented with retrospective effect i.e. 01.04.2003, enabled the staff of the Subordinate Courts to derive fruits therefrom in the form of, amongst others, financial benefits etc.

15.2 The amendment in the Rules, as per learned Senior Counsel and Additional Advocate General, remained unassailed till date, and such factual submission has not been disputed on behalf of any of the petitioners herein.

16. Apart from the above, this Court is convinced with the thrust of arguments advanced by the learned Senior Counsel & Additional Advocate General that the expression & phrase “including that of Stenographer Grade-II and Stenographer Grade-III” as contained in the aforementioned amended Rule 14(v) of the Rules of 1986, though exhaustive in nature, but at the same time, the posts of Stenographer Grade-II & III are merely illustrative, and the same cannot mean clear and unambiguous exclusion of the Stenographer Grade-I, from the zone of consideration and eligibility, for promotion to the post of Senior Munsarim; more particularly, when the unamended Rule 14(v) clearly states, “including that of “Personal Assistant and Stenographers”.

16.1 Although the amended Rule 14(v) specifies only Stenographer Grade-II & III, but since the same cannot be construed to clearly exclude Stenographer Grade-I, from the zone of consideration for promotion to the post of Senior Munsarim; as, if it is done, the same would result into an unwarranted flood of litigation, more than, that is already pending before this Hon’ble Court, on the issues in question. Moreover, while making such observation, this Court is conscious of the legislative

intent and the prescription of service jurisprudence, which clearly lay down that the person (Stenographer Grade-I – in the present case), who is higher in rank than Stenographer Grade-II & III, shall not be disentitled for promotion on a higher post of Senior Munsarim in question; more so, while applying the Rule of Purposive Interpretation, in regard to the amended Rule in question.

16.2 Thus, without making any observation on the interpretation and construction of the amended Rule 14(v) of the Rules of 1986, as derived by the present petitioners, this Court observes that the purposive interpretation, as made by the official respondents, while undertaking the impugned exercise, cannot, in any way, be said to be against the prescriptions of law (service jurisprudence, in particular).

17. As regards the impugned reversions, this Court observes that as a consequence of the above conclusion arrived at by this Court, the above-numbered writ petitions, which assail there version of the petitioners, on count of Stenographer Grade-I having become eligible/included in the exercise in question, also deserves dismissal, because once the Stenographer Grade-I either becomes eligible or falls within the zone of consideration for promotion, to the post of Senior Munsarim, looking to their merit as per the Rules, then the consequential and automatic reversion/ exclusion of the other persons concerned, would be justified.

18. Furthermore, as regards the non-consideration for promotion, promotion of the private respondents and other ancillary issues and assailments, this Court, on a careful consideration of the averments made in the petitions as well as in the replies so filed, finds that such actions were taken by the officials respondents, while keeping into due consideration the position of Rules in vogue, as also the tenets of law governing the field pertaining the issues in question; this Court also finds that such actions were taken by the official respondents, after due consideration of the material as available in the service record of the concerned person(s), for the said purposes. Thus, in regard to such assailments also, the submissions made by learned counsel for the petitioners do not weigh with this Court.

19. The judgments cited by learned counsel for the petitioners thus, do not render any assistance to the case of the petitioners herein.

20. In light of the aforesaid observations, the present petitions do not merit acceptance.”

3. Learned counsels for respondents, appearing for the High Court, respective District & Sessions Courts as also for private

respondents, are in unison to make a submission that since the issue involved in these writ petitions has already been adjudicated and answered against petitioners by the Coordinate Bench of the Rajasthan High Court vide judgment dated 24.01.2023, therefore, in the light of the same, all writ petitions deserve no other fate than an outright dismissal and it is not required for this Court to hear all writ petitions in detail afresh.

4. Per contra, learned counsels for petitioners have urged before this Court that few points, indicated hereunder, were not raised before the Coordinate Bench and therefore, have not been considered in the judgment dated 24.01.2023; If following points are considered on merits, the issue arising in these writ petitions, may be decided in favour of petitioners. Learned counsels in a humble voice have urged that the judgment dated 24.01.2023 passed by the learned Single Judge has no binding force upon this Court and if this Court is convinced after considering the following additional points to take a different view than taken by the Coordinate Bench, issue may be referred to the Division Bench for final opinion. And therefore, learned counsels for petitioners made a request to hear and decide these writ petitions on merits at least for considering the new points raised by them. Learned counsels for petitioners have argued following points:-

(I) Before amendment in the Rules of 1986, vide notification dated 19.07.2017, they were called as Rajasthan Subordinate Courts Ministerial Establishment Rules of 1986 and the cadre strength of staff, under Rule 5(A) was comprising i) Senior Personal Assistants, for courts of District & Sessions Judge, ii) Personal Assistants, for courts of Additional District & Session

Judge and iii) Stenographers, for other courts than of District & Sessions Judge and Additional District & Sessions Judge. Under Rule 5(B), General Cadre strength was comprising i) Senior Munsarim, ii) Munsarim, iii) Assistants, iv) Readers of District & Sessions Judge and Additional District & Sessions Judge, v) Readers of other Courts, v) Upper Divisional Clerks, vi) Lower Divisional Clerks and another posts. As per Rule 14(v) of the Rules of 1986, which deals with promotion to the post of Munsarim, it was envisaged that selection for promotion to the post of Munsarim shall be made on the basis of merit alone. No person shall be appointed substantively as Munsarim unless he/she has been in service for at least 10 years and during that period has held the post of Upper Divisional Clerk or a higher post including that of Personal Assistant and Stenographer for at least five years and has passed the departmental examination of Munsarim according to the syllabus and instructions given in Schedule IV. As per Rule 14(vii-A), the selection to the post of Senior Munsarim shall be made from Munsarim on the basis of merit and unless he/she has worked as Munsarim for a period of 5 years.

(i) Learned counsels for petitioners has pointed out that under Rule 14(v) of the unamended Rules from the cadre Rule 5(A), Senior Personal Assistant for courts of District & Sessions Judge, were not eligible and not entitled for promotion to the post of Munsarim, in general cadre. And as such, nowhere in any of the District Judgeships of the Rajasthan, Senior Personal Assistant were not promoted to the post of Munsarim, nor any such data have been placed on record by respondents, in the reply to writ petitions.

(ii) Learned counsel has pointed out that in the notification dated 19.07.2017 (Ann.5), Clause 2 deals with amendment in the Rajasthan Subordinate Courts Ministerial Establishment Rule 1986, and as per Clause 2(i), the existing expression "Subordinate Courts" shall be substituted as "District Courts". As per Clause 2(ii) for the existing expression "Senior Personal Assistant", "Personal Assistant" and "Stenographers" wherever occurring shall be substituted respectively "Stenographer Grade-I", "Stenographer Grade-II" and "Stenographer Grade-III". On the strength of such substitution, indicated in the notification dated 19.07.2017, learned counsel for petitioners strenuously submitted that expressions "Senior Personal Assistant" has been substituted as "Stenographer Grade-I" and "Personal Assistant" substituted as "Stenographer Grade-II", as such when under Rule 14(v) of the unamended Rules of 1986, the Senior Personal Assistant were not eligible and not promoted to the post of Munsarim, now after amendment in the Rules of 1986, where expression "Senior Personal Assistant", which has been substituted with "Stenographer Grade-I", and Munsarim has been merged into the post of Senior Munsarim, by carrying the similar analogy as prevailing in practice before the amendment in the Rules of 1986 vide notification dated 19.07.2017, Stenographer Grade-I should not be and cannot be held eligible for promotion to the post of Senior Munsarim after the amendment in Rule 5 and Rule 14(v) of the Rules of 1986. They submit that the post of Personal Assistant cum Executive Assistant is higher in rank to the Stenographer Grade-I, therefore, as a consequential corollary, the Personal Assistant cum Executive Assistant also becomes ousted from

eligibility for promotion to the post of Senior Munsarim, along with Stenographer Grade-I. Learned Counsels have tried their level best to persuade this Court that after amendment in the Rules of 1986, pursuant to recommendations of the Shetty Commission, the post of "Munsarim" has been merged in the "Senior Munsarim" and the expression of post of "Senior Personal Assistant" has been substituted as "Stenographer Grade-I" as indicated in the notification dated 19.07.2017, therefore, the Stenographer Grade-I so also Personal Assistant cum Executive Assistant shall be treated as excluded to be eligible for promotion to the post of Senior Munsarim, similarly as in the unamended Rules of 1986, before amendment vide notification dated 19.07.2017, the Senior Personal Assistant were not eligible and excluded to be considered for promotion to the post of Munsarim.

(iii) Learned counsels for petitioners submit that in the Rules of 1986, after amendment, Rule 5 comprises of two cadres, A) Stenographer Cadre and B) General Cadre. Legislation of statutory Rules of 1986 permits Stenographer Grade-III & Stenographer Grade-II to change their cadre from Stenographer to General and therefore, under Rule 14(v), from the General Cadre, post of Clerk Grade-I or a higher post has been held eligible for promotion, but from the Stenographer cadre, only Stenographers Grade III & II have been included for promotion to the post of Senior Munsarim which is higher post of General Cadre, therefore, if the Stenographer Grade-I so also Personal Assistant cum Executive Assistant, belonging to Stenographer cadre are allowed to be considered for promotion to the post of Senior Munsarim and to change the cadre from stenographer to general, it would be

against Rule 14(v) of the Rules of 1986 and beyond the legislative intent. They submit that the higher Grade Pay of Senior Munsarim cannot be a basis to allow candidates of Stenographer Grade-I or P.A. cum Ex. Asst. for promotion to the post of Senior Munsarim and to change their cadre from stenographer to general when same is not permissible under the statutory Rules of 1986. Thus the sum and substance of arguments made by learned counsel for petitioners is that the post of Stenographer Grade-I and Personal Assistant cum Executive Assistant be treated and declared excluded from consideration for promotion to the post of Senior Munsarim under Rule 14(v), carrying the similar analogy and logic, prevailing under the Rules of 1986 before amendment vide notification dated 19.07.2017, where under Rule 14(v), the Senior Personal Assistant was excluded and not eligible for promotion to the post of Munsarim. Learned counsel for petitioners to support his contentions has referred a judgment of the Hon'ble Supreme Court in case ***Jarnail Singh Vs. Lachhmi Narain Gupta [(2022) 10 SCC 595]*** and invited the attention of this Court to Para Nos. 34 to 37.

5. Learned counsels appearing on behalf of respondents are not able to show from the judgment dated 24.01.2023 that points argued by learned counsel for petitioners and as indicated hereinabove, have been considered and dealt with by the Coordinate Bench in the judgment dated 24.01.2023. Nevertheless they have repelled afore-indicated points and arguments raised from the side of petitioners, by making following contentions:-

(I) It is wrong to contend and construe that under Rule 14(v) of the Rules of 1986, before amendment vide notification dated 19.07.2017, Senior Personal Assistants, from the cadre as described in Rule 5(A), were not eligible and were excluded from consideration for appointment to the post of Munsarim in general cadre, as described in Rule 5(B). It is all together a different thing that at that point of time, the post of Senior Personal Assistant was a post of gazetted rank and the post of Munsarim was of non-gazetted rank and; in addition, since both posts were carrying similar pay scale and grade pay, therefore, most of the Senior Personal Assistants used to not opted to change their cadre and to come in the general cadre of Munsarim, but it would not be the absolute proposition of law as even before amendment to the Rules, in the general cadre (Rule 5-B), post of Senior Munsarim was higher than to that of Munsarim with a higher pay scale and grade pay and the feeder post to the Senior Munsarim was the post of Munsarim. Therefore, in order to get the promotion to the post of Senior Munsarim which was obviously with higher pay scale and grade pay than Senior P.A., the option to change the cadre from Senior Personal Assistant to Munsarim was available and open, so that Senior Personal Assistant may also have an option to get the promotion on the post of Senior Munsarim, along with persons holding the post of Munsarim. It has been pointed out that before amendment in 2017, the grade pay and pay band of Senior Personal Assistant for the Courts of District and Session Judge and for Munsarims were similar i.e. Grade Pay Rs.4800, Pay Band Rs.9300-Rs.34,800, but the Grade Pay of Senior Munsarim, was higher, i.e. Grade Pay Rs.5400 and Pay Band Rs.15,600-

Rs.39,100. The Chart of grade pay and pay band of respective posts, relevant hereunder in the Stenographer cadre and general cadre is reproduced as under:-

(Pre-Amendment)

A. Stenographer Cadre

i. Senior Personal Assistants for the Courts of District and Sessions

Judges- **Grade Pay Rs 4,800 Pay Band-Rs 9,300-Rs 34,800**

ii. Personal Assistants for the Courts of Additional District and Sessions Judges- **Grade Pay-Rs 4,200 Pay Band-Rs.9,300-Rs.34,800**

iii. Stenographers for the Courts other than the Courts of District and Sessions Judges and Additional District and Sessions Judges- **Grade Pay Rs. 3,600 Pay Band-Rs 9,300-Rs 34,800** (direct recruitment was made only on the post of Stenographer, thereafter, upward movement was only through promotion).

B. General Cadre

i. Senior Munsarim- **Grade Pay Rs 5,400 Pay Band-Rs 15,600- Rs 39,100**

ii. Munsarim- **Grade Pay Rs 4,800 Pay Band- Rs 9,300- Rs 34,800**

It has been pointed out that in the light of recommendations of Shetty Commission w.e.f. 01.04.2003 and vide notification dated 19.07.2017 issued by the Department of Personnel, Government of Rajasthan, erstwhile Rules of 1986 have been amended drastically and not only the rank and posts of both cadres under Rules 5(A) & 5(B) have been changed/adjusted/merged/renamed, but the grade pay and pay band of the respective posts have also been upgraded/revised, after due sanction by the Department of Finance, Government of Rajasthan vide notification dated 02.09.2016. In the amended Rules of 1986, after amendment vide notification dated 19.07.2017, revised cadres under Rules 5(A) & 5(B) with their respective grade pay and pay band are as under:

(Post Amendment)

Revised Cadre:-**A. Stenographer Cadre:**

- i. Personal Assistant cum Executive Assistant from the courts of Principal District and Sessions District Judges- **Grade Pay Rs 4,800 Pay Band Rs 9,300-Rs 34,800 (L-12)**
- ii Stenographer Grade I for the courts of District and Sessions Judges and Additional District and Sessions Judges- **Grade Pay Rs 4,800 Pay Band Rs 9,300-Rs 34,800 (L-12)**
- iii. Stenographer Grade II for the courts of Senior Civil Judges and Additional Senior Civil Judges- **Grade Pay Rs 4,200 Pay Band Rs 9,300-Rs 34,800 (L-11)**
- iv. Stenographer Grade III for the courts of Civil Judges and Additional Civil Judges- **Grade Pay Rs 3,600 Pay Band Rs 9,300-Rs 34,800 (L-10)**

B. General Cadre:

- i. Protocol Officer cum Administrative Officer - **Grade Pay Rs 6600 Pay Band Rs 15,600-Rs 39,100 (L-16)**
- ii. Senior Munsarim- **Grade Pay Rs. 5400 Pay Band Rs 15,600-Rs 39,100 (L-14)**

(i) It has been submitted that post amendment to the Rules of 1986, posts of Senior Personal Assistant and Personal Assistant, for courts of District & Sessions Judge and for Additional District & Sessions Judge respectively have been adjusted/merged/renamed to those of "Stenographer Grade-I" and in the same stenographer cadre, higher posts of Personal Assistant cum Executive Assistant for the Courts of Principal District & Sessions Judge have been created to which the feeder post is Stenographer Grade I. In the general cadre, all the posts of Munsarim and Senior Munsarim have been adjusted/merged/renamed as "Senior Munsarim" with a higher grade pay and pay band, than the post of Stenographer Grade-I and Personal Assistant cum Executive Assistant. And further, in general cadre, the highest post of "Protocol Officer cum Administrative Officer" has been created, which carry upper grade pay and pay band even to the Senior Munsarim and for the post of Protocol Officer cum Administrative Officer, the feeder post is Senior Munsarim only.

(ii) It has been submitted that with amendment and revision in the respective posts as also in the grade pay and pay bands, as

indicated above, the disputes arose in various Districts and Sessions judgeships in respect of considering the post of Stenographer Grade I and Personal Assistant cum Executive Assistant for promotion to the post of Senior Munsarim, apparently for the reason that not only the Senior Munsarim carrying higher grade pay and pay band to that of Stenographer Grade-I and Personal Assistant cum Executive Assistant, but the feeder post to the next higher post of Protocol Officer cum Administrative Officer is only from the post of Senior Munsarim.

(iii) In SBCWP No.3965/2022, Ajay Kumar Jain Vs. The State of Rajasthan, private respondents No.4 to 7 in their joint reply to writ petition have provided details in respect of few District and Sessions Judgeships where promotions from the post of Stenographer Grade-I to the post of Senior Munsarim have already been granted. Such details have not been denied or refuted by any of the parties in any manner. For example, (A) In District & Sessions Judgeship, Jaipur District, Jaipur, vide order dated 25.09.2017 (Ann.R/4-2), Sh. Hanuman Prasad Mamodia, Stenographer Grade-I, was promoted to post of Senior Munsarim in the Court of Jaipur District and Sh. Shyam Sundar, Stenographer Grade-I, was promoted to the post of Senior Munsarim in the Family Court No.2, Jaipur. (B) In District & Sessions Judgeship, Jhunjhunu, vide order dated 24.01.2012, Sh. Aravind Shekhwat, Stenographer Grade-I, was granted promotion to the post of Senior Munsarim, extending powers of higher grade pay. (C) In District & Sessions Judgeship, Kota vide order dated 21.03.2018 (Ann. R/4-4), in terms of notification dated 19.07.2017, three Personal Assistants cum Executive Assistants

other than Sh. Rishabh Kumar Jain, Senior P.A. & Stenographer Grade-I, were promoted as Senior Munsarim of a higher grade pay. (D) In District & Sessions Judgeship, Jodhpur, vide order dated 15.12.2017 (Ann.R/4-6), Sh. Rakesh Sharma, Stenographer Grade-I was promoted to the post of Senior Munsarim. (E) In District & Sessions Judgeship, Alwar, vide order dated 18.08.2021, Sh. Mohar Pal Singh, Stenographer Grade-I was promoted as Senior Munsarim. The dispute in respect of few of districts which fall within the jurisdiction of the Principal Seat at Jodhpur, came up by way of SBCWP No.3994/2019, which has been decided vide judgment dated 24.01.2023.

(iv) Learned counsel for respondents urged that petitioners are trying to unrest the issue which has already been set at rest by the judgment dated 24.01.2023 and even have already been implemented in various judgeships of Rajasthan as stated hereinabove, merely on a wrong pretext and notion that in the Rules of 1986, before amendment vide notification dated 19.07.2017, the Senior Personal Assistant for Courts of District & Sessions Judge were not eligible and were excluded to be considered for promotion to the post of Munsarim. Although, on record no illustration is available to substantiate that the Senior Personal Assistants were also eligible and allowed to be considered for the post of Munsarim before the amendment in the Rules albeit, such argument cannot be accepted, being wholly arbitrary, irrational as well as contrary to the literal and purposive interpretation of Rule 14(v) of the Rules of 1986.

(II) Learned counsels for respondents admit that in the notification dated 19.07.2017 (Ann.5), Clause 2(ii) envisages that

for the existing expression "*Senior Personal Assistant*", "*Personal Assistant*" and "*Stenographer*" wherever occurring, the expression "*Stenographer Grade-I*", "*Stenographer Grade-II*" and "*Stenographer Grade-III*" shall be substituted, but as a matter of fact, the expression "Personal Assistant" has not been substituted with the expression "Stenographer Grade II" and in the later part of the notification dated 19.07.2017 itself, in Clause 4, whereunder amendment in Rule 5 of the Rules of 1986 has been indicated, position of both cadres (Stenographer and General cadre) with explanation have been clarified. It is clearly indicated that Personal Assistants for the Courts of Additional District & Sessions Judge have been renamed as Stenographer Grade I. Further in Clause 6, where amendment in Rule 14 of the Rules of 1986 has been promulgated, by virtue of Sub-rule (x) of Rule 14, it stands clear that provisions of Rule 14, along with Rule 5 shall prevail notwithstanding anything contrary contained in any other provisions of this Rule. Thus if there is any anomaly between Clause 2 & 4 of the notification, as sought to be raised by learned counsels for petitioners in respect of expression "Personal Assistant", should be substituted as "Stenographer Grade II", whereas in fact expression "Personal Assistant" has been renamed and adjusted as "Stenographer Grade I", stands clarified by perusal of the amended Rule 5 read with Rule 14 as a whole. The indication under Clause 2 of the notification showing the "Personal Assistant" with substituted expression of "Stenographer Grade II", is required to be ignored/overlooked in view of the Statutory amended Rule 5 read with Rule 14(v) and (x). For ready reference, it would be apposite to reproduce Clause 2 & 4 of the

notification, so that the confusion, incongruity or anomaly, pointed out by learned counsels for petitioners, may be noticed and clarified simultaneously.

2. Amendment. In rule of the Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986, hereinafter referred to as the said rules:-

(i) for the existing expression "Subordinate Courts" wherever occurring, the expression "District Courts" shall be substituted.

(ii) for the existing expression "Senior Personal Assistant", "Personal Assistant" and "Stenographer" wherever occurring the expression "Stenographer Grade-1", "Stenographer Grade-II" and "Stenographer Grade-III" shall be substituted.

4. Amendment in rule 5.- The existing sub-rule (ii) of rule 5 of the said rules shall be substituted by the following-

(ii) The staff shall comprise of Stenographer cadre and general cadre consisting of one or more of the following categories of post shall be as indicated against each post:-

(A) Stenographer Cadre:

| | |
|----|--|
| 1. | Personal Assistant cum Executive Assistant for the courts of Principal District & Sessions Judges. |
| 2. | Stenographer Grade I for the courts of District & Sessions Judges and Additional District & Sessions Judges. |
| 3. | Stenographer Grade II for the courts of Senior Civil Judges and Additional Senior Civil Judges. |
| 4. | Stenographer Grade III for the courts of Civil Judges & Additional Civil Judges. |

(B) General Cadre:

| | |
|----|---|
| 1. | Protocol officer cum Administrative officer |
| 2. | Senior Munsarim |
| 3. | Office Assistant |
| 4. | Reader (a) Reader Grade I for the courts of District & Sessions Judges and Additional District & Sessions Judges. (b) Reader Grade II for the courts of Senior Civil Judges & Additional Senior Civil Judges. (c) Reader Grade III for the courts of Civil Judges and Additional Civil Judges. |
| 5. | Clerk Grade I (a) Senior Clerk (b) Head Copyist |

| | |
|----|--|
| | (c) Record Keeper (d) Civil Clerk, Criminal Clerk & Execution Clerk in the court of District & Sessions Judges & Additional District & Sessions Judges. (e) Sales Amin-cum-Return Clerks (f) Librarian and (g) Nazirs |
| 6. | Clerk Grade II (a) Civil Clerks (b) Criminal Clerks (c) Execution Clerks (d) Assistant Nazirs (e) Assistant Record Keepers (f) Inspection Clerks (g) Typists (h) Copyist (I) Hindi Typist-cum-Copyist (j) Receipt and Dispatch Clerks and (k) Relieving Clerks |
| 7. | Any other posts as may be sanctioned by the Government from time to time. |

Explanation – In the first instance, all the Officials of respective judgship shall be adjusted/merged/renamed in corresponding posts in accordance with the sanction of State Government made in compliance of recommendations of Shetty Commission in following manner

| STENOGRAPHER CADRE | |
|---|---|
| Existing posts which are to be merged/adjusted renamed | Post sanctioned by Government in compliance of recommendation of Shetty Commission in which existing posts are to be merged/adjusted/renamed and the manner in which the posts are to be filled |
| | PA cum Executive Assistant for Court of Principal District & Sessions Judges (To be filled by promotion from Stenographer Grade I) |
| Senior PA for the Courts of District & Sessions Judges and Personal Assistant for the courts of Additional District & Sessions Judges | Stenographer Grade I for the Courts of District & Sessions Judges & Additional District Sessions Judges |
| Senior Most Stenographers for Courts other than District & | Stenographer Grade II for the Courts of Senior Civil Judges & |

| | |
|--|---|
| Sessions Judges and Additional District & Sessions Judges limited upto the number of CJM/ACJM Courts | Additional Senior Civil Judges |
| Remaining Stenographers for courts other than District & Sessions Judges and Additional District & Sessions Judges | Stenographer Grade III for the courts of Civil Judges & Additional Civil Judges |

| GENERAL CADRE | |
|--|---|
| Existing posts which are to merged/adjusted/renamed | Post sanctioned by Government in compliance of recommendation of Shetty Commission in which existing posts are to be merged/adjusted/renamed and the manner in which the posts are to be filled |
| | Protocol Officer cum Administrative Officer (To Be filled p by promotion from Senior Munsarim) |
| Munsarim/Senior Munsarim | Senior Munsarim |
| Assistant | Office Assistant |
| Senior most readers for the Court of District & Sessions Judges and Additional District & Sessions Judges | Reader I |
| Senior Most Upper division Clerks and Readers for Courts other than District & Sessions Judge and Additional District & Sessions Judge limited up to the number of CJM/ACJM Courts | Reader II |
| Remaining Upper Division Clerks and Readers for Courts other than District & Sessions Judge and Additional District & Sessions Judge | Reader III/ Clerk Grade I |
| Lower Division Clerks | Clerk Grade II |

Learned counsel for respondents have submitted that the Senior Personal Assistant for Courts of District & Sessions Judge and Personal Assistant for the Courts of Additional District &

Sessions Judge have been adjusted/merged/renamed as Stenographer Grade-I for the Courts of District & Sessions Judge and Additional District & Sessions Judge. It is incorrect on the part of learned counsel for petitioners that the Personal Assistant for the Courts of Additional District & Sessions Judge have been substituted as Stenographer Grade II. The expression indicated in Clause 2. Amendment, of notification dated 19.07.2017 has to be ignored in order to reach a harmonious construction of the amended Rules of 1986.

(III) Learned counsel for respondents contended that post of Senior Munsarim, being a gazetted post also carries higher grade pay of Rs. 5,400 and pay band of Rs. 15,600-Rs. 39,100 (L-14), than the grade pay of Rs. 4800 and pay band Rs. 9300-Rs. 34800 (L-12) for Stenographer Grade-I and Personal Assistant cum Executive Assistant, therefore, the Rule 14(v) after the amendment vide notification dated 19.07.2017, may not be misconstrued in such a manner that a Stenographer Grade-II and Stenographer Grade-III who are lower in rank and grade pay than the Stenographer Grade-I and Personal Assistant cum Executive Assistant, are eligible and entitled to get promotion on the post of Senior Munsarim and may fetch higher grade pay in a higher pay band, but Stenographer Grade-I and Personal Assistant cum Executive Assistant be treated as ousted from the zone of consideration for promotion to the post of Senior Munsarim, to their detriment of not being entitled to get the grade pay and pay band of Senior Munsarim. Such construction is fundamentally contrary to the literal and purposive interpretation of the Rule. According to learned counsel for respondents, promotion is an

advancement not only to a higher post, but it also included an advancement to a higher pay scale and grade. To buttress such contention, reliance has been placed on the celebrated judgment of the Hon'ble Supreme Court in case of ***Bharat Sanchar Nigam Ltd. Vs. S. Santha Kumari Velusamy [(2011) 9 SCC 510]***. Learned counsel for respondents have drawn attention of this Court to English version as well as Hindi version of Rule 14(v) of the Rules of 1986 to contend that the correct, literal and true interpretation of Rule 14(v) leads such proposition, that the promotion to the post of Senior Munsarim shall be made on the basis of merit alone and no person shall be appointed substantively as Senior Munsarim, unless he has been in service for at least 10 years and during the period of minimum tenure of service of 10 years, he must have necessarily the experience of serving for at least 5 years by holding the post of (a) Clerk Grade I & its higher post, (b) Stenographer Grade-II and III & its higher post. Thus stenographer cadre as a whole and from the general cadre, Clerk Grade I and a higher post to that cadre, are eligible and entitled for consideration for promotion to the post of Senior Munsarim, subject to fulfillment of working experience as contained under Rule 14(v) of the Rules of 1986. For ready reference English as well as Hindi version of Rule 14(v) of the Rules of 1986 reads as under:-

English Version:

Selection for promotion to the post of Senior Munsarim shall be made on the basis of merit alone. No person shall be appointed substantively as Senior Munsarim unless he has been in service for at least 10 years & during that period has held the post of Clerk Grade I or a higher post

including that of Stenographer Grade II & Stenographer Grade III for at least five years.

Hindi Version:

वरिष्ठ मुंसरिम के पद पर पदोन्नति के लिए चयन केवल योग्यता के आधार पर किया जावेगा। किसी व्यक्ति को तब तक वरिष्ठ मुंसरिम के रूप में अधिष्ठायी तौर पर नियुक्त नहीं किया जायेगा, जब तक वह कम से कम 10 वर्ष से सेवा में न हो और उस कालावधि के दौरान उसने कम से कम 5 वर्ष के लिए लिपिक ग्रेड—I का पद या आशुलिपिक ग्रेड-II और आशुलिपिक ग्रेड -III सहित उच्चतर पद धारण न किया हो और अनूसूची-IV में दिए गए पाठ्य विवरण और अनुदेशों के अनुसार वरिष्ठ मुंसरिम की विभागीय परीक्षा उत्तीर्ण न की हो।

Lastly, learned counsel for respondents have submitted that even on the basis of new points as tried to raise by learned counsel for petitioners, it may not be inferred and declared that the Stenographer Grade-I and Personal Assistant cum Executive Assistant are not eligible and are excluded from the zone of consideration for promotion to the post of Senior Munsarim under Rule 14(v) of the Rules of 1986, after amendment vide notification dated 19.07.2017. Thus, these writ petitions are liable to be dismissed, following the judgment dated 24.01.2023 passed by the Coordinate Bench.

6. It may be noted here that in SBCWP No.13233/2022, *Giriraj Prasad Sharma Vs. State of Rajasthan*, petitioner has moved an application No.1/2023 dated 20.03.2023 for withdrawal of the writ petition seeking liberty to file afresh writ petition due to subsequent change in circumstances. But in present writ petition, the same issue in respect of eligibility of Stenographer Grade-I for promotion to the post of Senior Munsarim in judgeship of District and Sessions Judge, Sawai Madhopur has raised. It has been stated that since no interim stay order was passed in this writ petition and in Sawai Madhopur Judgeship, promotions from the post of Stenographer Grade-I to that of Senior Munsarim have been accorded during course of writ petition, hence this writ

petition has been sought to be withdrawn and permission to file fresh writ petition after including the subsequent development and changed circumstances has been prayed for. This Court is of opinion that the basic and fundamental issue, which is involved in connected writ petitions as well would not be changed with the occurrence of subsequent developments and events as alleged. Learned counsel for respondents have also opposed the prayer to withdraw the writ petition more particularly with liberty to file afresh, but has urged that the writ petition be dismissed on merits. This Court is of opinion that petitioner has not prayed a simplicitor withdrawal and this Court is not inclined to grant any permission to file fresh writ petition to the petitioner, therefore, when in the similar and peculiar facts and circumstance, where the issue involved in other connected writ petitions is being considered and decided on merits, prayer for withdrawal of this writ petition is declined and the application No.1/2023 is hereby dismissed. This writ petition has also been heard and being decided on merits.

7. Heard. Considered.

8. To begin with, it may be recalled that the Apex Court, in case of **All India Judges' Association Vs. Union of India** in **Writ Petition (Civil) No.1022/1989**, constituted a Commission of Justice Shetty and entrusted the work to the Commission to inquire about service conditions of the staff members of Subordinate Courts and to suggest ways to improve it. In pursuance thereof, the Shetty Commission, after accorded opportunity of being heard to representatives of various Associations of the High Courts and State Government/UTs,

suggested measures for effective administration of Courts as also made recommendations for grant of various allowances, pay scales and other benefits etc. for the welfare of Officers/Officials of the staff of the Subordinate Courts. The Apex court issued directions to implement the recommendations made by the Shetty Commission and that too with retrospective effect w.e.f. 01.04.2003. In the State of Rajasthan as well, in the benefit and for welfare of the staff of the Subordinate Courts, recommendations made by the Shetty Commission were implemented, though after some large passage of time and after undergoing through some other judicial interventions and appointment of Committee, for the purpose of implementation but finally the recommendations made by the Shetty Commission, substantially have been implemented in the State of Rajasthan, that too retrospectively w.e.f. 01.04.2003. In the Rajasthan State, the service conditions, pay scales, promotions etc. of staff of the Subordinate Courts are governed by the Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986. These statutory Rules of 1986 have been framed in exercise of powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of the Rajasthan in consultations with the High Court of Judicature for Rajasthan. Although, the Rules were subjected to amendments time to time, but in the present batch of writ petitions, this Court is concerned with amendment to the statutory Rules of 1986, promulgated vide notification dated 19.07.2017 issued by the Department of Personnel, Govt. of Rajasthan, pertaining to restructuring/merging/renaming of Cadres and respective posts, which has preceded by an another notification

dated 02.09.2016, pertaining to the revised pay scales for the posts with due sanction by the Finance Department, Govt. of Rajasthan following the recommendations of the Shetty Commission. After issuance of notification dated 19.07.2017, the erstwhile Rules of 1986 have been renamed and called as "Rajasthan District Courts Ministerial Establishment Rules, 1986". Presently, the issue under consideration revolves around the Rule 5, dealing with cadre strength of the Staff and Rule 14, dealing with the promotion avenues available under the Rules. It would be apposite to take note of one of the recommendations made by the Shetty Commission in Chapter-XA under heading "Whether the Stenographers should be allowed to switch over to Ministerial/Supervisory Cadre" and following recommendations were made:

"We recommend that the Stenographers may be permitted to switch over to Ministerial/Supervisory Cadre after having concluded a minimum period of service as determined by the High Court, subject to the condition that the option once exercised shall not be revoked."

9. After amendment in Rule 5 of the Rules of 1986, vide notification dated 19.07.2017, the strength of staff comprises A) Stenographer Cadre, and B) General Cadre. The categories and rank of posts in both cadres, have been restructured/renamed, after adjustment/merger of few categories and posts as existed in Rule 5, before the amendment, and now after the amendment, the present categories of posts in Stenographer Cadre and in General Cadre have been indicated in the table, as extracted in Para No.5 of this Judgment. The pay scales and grade pay, as revised and upgraded, according to the restructured categories of

posts, pre-amendment & post amendment, in respect of posts in question have also been indicated hereinabove in Para no.5. To this extent, the statutory Rules of 1986, more particularly in respect of restructuring the cadre and category posts under Rule 5 as also revising the pay scales and grade pay, vide notifications dated 19.07.2017 and 02.09.2016 respectively, there is no dispute between parties and the same are not under challenge in present batch of writ petitions.

10. Petitioners have called in question only the intendment and interpretation of Rule 14(v) of the Rules of 1986, to read the Rule in such a manner that although from the General Cadre, persons holding posts of Clerk Grade I or higher posts shall be eligible for promotion to the post of Senior Munsarim, subject to qualifying requisite experience under Rule 14(v), but from the Stenographer cadre, only persons holding the post of Stenographers Grade III & II are eligible and persons holding posts of Stenographer Grade I and post of upper rank/category i.e. Personal Assistant cum Executive Assistant shall be treated eliminated from the zone of consideration for promotion to the post of Senior Munsarim. In the opinion of this Court, if Rule 14(v) is allowed to yield such an intendment and interpretation, as suggested by learned counsel for petitioners, the same would lead to a chaotic, disastrous and hazardous situation which would obviously be exotic and incongruous to the service jurisprudence and therefore, such a purport of Rule 14(v) cannot be inferred to be a legislative intent of Rule making authorities. It is a trite law that under the service law jurisprudence, promotion means advancement in rank, grade or both. Promotion is a step towards an advancement to a higher

position, grade or honour and dignity. Although in the traditional sense, promotion refers only to advancement to a higher post, but in its wider sense, promotion also may include advancement to a higher pay scale even without moving to a different or a higher post.

As per Rule 14(v), Stenographers Grade II & III have specifically been included for consideration to promotion to the post of Senior Munsarim, which is a post of different cadre i.e. General Cadre, but the same may not be and cannot be construed a clear exclusion and elimination of the Stenographer Grade I and the post of Personal Assistant cum Executive Assistant from the zone of consideration for promotion to the post of Senior Munsarim. It may be true that posts of Stenographer Grade I and Personal Assistant cum Executive Assistant, are also of gazetted rank similar to the posts of Senior Munsarim, however, there is a variance in the grade pay and pay scales. The posts of Stenographer Grade I and Personal Assistant cum Executive Assistant, acquire Grade Pay Rs.4800 in Pay Band Rs.9300-Rs.34800 (L-12), the post of Senior Munsarim carries a higher Grade Pay Rs.5400 in Pay Band Rs.15600-Rs.39100 (L-14). It is not in dispute that the next post, higher in rank to Senior Munsarim in the General cadre, is Protocol Officer cum Administrative Officer and that post carries Grade Pay Rs.6600 in Pay Band Rs.15600-Rs.39100 (L-16). As per Rule 14(ix), the selection to the post of Protocol Officer cum Administrative Officer shall be made by promotion from amongst Senior Munsarim on the basis of merit, subject to render services as Munsarim/Senior Munsarim for a period of at least one year. Thus, the feeder post

of Protocol Officer cum Administrative Officer is only from the post of Senior Munsarim. In addition, there is no embargo in the rule, prohibiting the transferability or interchangeability of one incumbent, from the Stenographer Cadre to another General cadre and in that sense Rule 5 postulates common cadre strength of staff of the District Courts. Shetty Commission had also made recommendations to permit the Stenographers to switch over to the Ministerial/Supervisory Cadre. Rule 14(v) ensure such conformity and expressly permits Stenographer Grade II & III, to change their cadre and switch over to the Ministerial Cadre of Senior Munsarim, but simultaneously the higher posts of Stenographer Grade I and Personal Assistant cum Executive Assistant from the Stenographer Cadre may not be excluded but are included with Stenographers Grade II & III, to interchange their cadre and switch over to the ministerial/supervisory cadre and to be eligible & consider for promotion to the post of Senior Munsarim. In such a situation as subscribed in the Rules, if the intendment and interpretation as suggested by petitioners is given effect to or accepted, consequences would lead to a chaotic position, because from the Stenographer Cadre, Stenographers Grade III & II, who are obviously lower in grade pay to Stenographer Grade I and Personal Assistant cum Executive Assistant, would be eligible and entitled for promotion to the post of Senior Munsarim and after obtaining the promotion, would be able to fetch higher pay scale for Grade Pay Rs.5400 in pay band Rs.15400-Rs.39100, upper than the Stenographer Grade I and Personal Assistant cum Executive Assistant, but the Stenographer Grade I and Personal Assistant cum Executive Assistant would not

be eligible to get that grade pay and would turn to lower in rank and grade to that of Stenographers Grade II & III, which is not possible and absolutely such a concept is alien to the law of service jurisprudence. In addition, after obtaining promotion to the post of Senior Munsarim, they may further get chance of consideration for promotion to the post of Protocol Officer cum Administrative Officer, but Stenographer Grade I and Personal Assistant cum Executive Assistant not. Thus by no stretch of imagination, Rule 14(v) may not be read to lead such an inference that Stenographer Grade I and Personal Assistant cum Executive Assistant have been ousted from the zone of consideration for promotion to the post of Senior Munsarim, merely because such posts are not specifically indicated in the rule. If inference as suggested by the petitioners is allowed to be presumed, the outcome would be that this situation would obviously turn service jurisprudence in complete disorder and topsy-turvy. Therefore, it would not be in accordance with the prescription of the service jurisprudence in any way, to infer the elimination of Stenographer Grade I so also of Personal Assistant cum Executive Assistant from the zone of consideration for promotion to the post of Senior Munsarim. Hence, this Court is in absolute concurrence with the view, expressed by the Coordinate Bench to conclude that from the Stenographer Cadre, posts of Stenographer Grade I and Personal Assistant cum Executive Assistant which are higher in rank & grade than Stenographers Grade II & III, shall not be eliminated and excluded for promotion to the post of Senior Munsarim, in general Cadre, for which Stenographers Grade II & III are too eligible, in terms of Rule 14(v) of the Rules of 1986.

As per Rule 14(v), change of cadre from Stenographer to General has been permitted and though the language employed in the Rule, may not be happily worded, however, there is no space for any confusion or room of doubt as sought to be created by petitioners. A perusal of Hindi Version of the Rule, makes it more clear that higher posts, to that of Stenographers Grade II & III, are also included for promotion to the post of Senior Munsarim, subject to attaining experience of working as mandated in the rule itself. Thus, it can safely be observed in unequivocal terms that literal and purposive interpretation of Rule 14(v) of the Rules of 1986, after amendment, derives only one clear meaning and purport that the Stenographer Grade I and Personal Assistant cum Executive Assistant, are not excluded from the zone of consideration for promotion to the post of Senior Munsarim.

11. Coming to another point as pointed out by learned counsel for petitioners in respect of some ambiguity in Clauses 2 & 4 of the notification dated 19.07.2017. From perusal of notification dated 19.07.2017, it discerns from Clause 2, dealing with amendment, where it is stated that expression "Senior Personal Assistant", as existed in the Rules of 1986 before amendment shall be substituted with "Stenographer Grade I" and expression "Personal Assistant" shall be substituted with "Stenographer Grade II" and expression "Stenographer" as "Stenographer Grade III". Simultaneously, in Clause 4, where the amendment in Rule 5(ii) has been suggested, in the Stenographer Cadre, it has clearly indicated that the existing posts, available in Rule 5(ii) before amendment i.e. Senior Personal Assistant for Courts of Districts & Sessions Judge and Personal Assistant for Courts of Additional

District & Sessions Judge, shall be merged/adjusted/renamed after amendment as "Stenographer Grade I" for the Courts of District & Sessions Judge/Additional District & Sessions Judge. In another column, the senior most Stenographers for Courts other than District & Sessions Judge/Additional District & Sessions Judge, limited upto the CJM/ACJM Courts, have been adjusted/renamed as Stenographer Grade II for courts of Senior Civil Judge and Additional Senior Civil Judge. Remaining Stenographers for Courts other than District & Sessions Judge/Additional District & Sessions Judge, have been adjusted/renamed as Stenographer Grade III for the Courts of Civil Judge/Additional Civil Judge. To clear out such an anomaly, that in Clause 2, Personal Assistants have been substituted with Stenographer Grade II, whereas in Clause 4, Personal Assistants have been restructured/adjusted against Stenographer Grade I, Rule 14(x) may be looked into, which envisages that "The provisions of this Rule shall have effect notwithstanding anything to the contrary contained in any other provisions of these rules". Further on comparative study upon the grade pay and pay band between the posts which have been restructured/renamed, post amendment, this Court is convinced with the arguments of learned counsels for respondents that such an ambiguity in Clause 2, in respect of referring post of Personal Assistant to be substituted with Stenographer Grade II whereas in Clause 4, all posts after restructuring the Personal Assistant for the Courts of Additional District & Sessions Judge, have been restructured and renamed as Stenographer Grade I, is required to be ignored/overlooked as in view of the Sub-rule (x) of the Rule 14, the position as

amendment in the statutory Rule 5, by clause 4 of notification shall prevail. Otherwise also, on consideration of the grade pay and pay band of Personal Assistants for the Courts of Additional District & Sessions Judge, to the grade pay and pay band of Stenographers Grade II for the Courts of Senior Civil Judge and Additional Senior Civil Judge, there is no difference. Although *prima facie*, it appears that in Clause 2, Personal Assistant has been substituted with Stenographer Grade II, whereas in Clause 4, Personal Assistants for Courts of Additional District & Sessions Judges have been renamed/restructured as Stenographers Grade I, but such anomaly or ambiguity as highlighted by learned counsels for petitioners, has no nexus with the issue involved herein. Thus as a consequence, confusion sought to be created by the learned counsels for petitioners by highlighting such an anomaly or ambiguity, does not render any support to the case of petitioners, more particularly in respect of seeking exclusion of the Senior Personal Assistant for promotion to the post of Munsarim under Rule 14(v), before amendment and Stenographer Grade I, for promotion to the post of Senior Munsarim after the amendment. Personal Assistants were already included in Rule 14(v) for promotion to the post of Munsarim, before the amendment vide notification dated 19.07.2017.

12. As far as arguments put forth by learned counsels for petitioners that as per Rule 14(v) as was existed before the amendment vide notification dated 19.07.2017, the Senior Personal Assistants were not eligible and excluded to be considered for promotion to the post of Munsarim, this Court does not find any force in such argument. It may or may not be

position, before the amendment to Rule 14(v), that persons holding the posts of Senior Personal Assistant might not have opted to be considered for promotion to the post of Munsarim, for one or another reason like the post of Senior Personal Assistant was of gazetted rank, whereas post of Munsarim was not and the grade pay & pay band for both the posts are similar, but this itself does not lead to an inference and conclusion that the Senior Personal Assistants were not eligible and excluded to get the promotion to the post of Munsarim and were not allowed to change of their cadre to General Cadre. Merely on account of a reason that respondents have not placed on record illustrations or datas of such judgeships, where before the amendment, the Senior Personal Assistants were allowed to change their cadre to the post of Munsarim, the analogy alleged by learned counsels for petitioners does not worth acceptance. The post of Munsarim, existed in General Cadre belong to Ministerial & Supervisory nature of work and further, promotion to the post of Senior Munsarim was available from the post of Munsarim, if the Senior Personal Assistant opts, to switch over to come in the cadre of Ministerial work of Munsarim. It may not be oversight that it is no more res integra that the concept of promotion includes a difference in rank or to higher pay scale. Before the amendment, in the general cadre, there were two posts of Munsarim and Senior Munsarim. The post of Senior Munsarim was carrying Grade Pay Rs.5400 in Pay Band Rs.15600-Rs.39100 which was more than the Grade Pay of Senior Personal Assistant i.e. Rs.4800 in Pay Band Rs.9300-Rs.34800. As per Rule 14(vii-A), the feeder post to the post of Senior Munsarim was only from the post of Munsarim,

subject to acquiring experience for a period of 5 years. Thus the Senior Personal Assistants, by changing their cadre to the post of Munsarim, may avail the opportunity and have an option to put their candidature for consideration for promotion to the higher post of Senior Munsarim with higher pay scale. If the argument advanced by the learned counsels for petitioners is accepted, such avenue of promotion, available to Senior Personal Assistants stood blocked which could not be, because the same again travels contrary to the prescription of service jurisprudence, therefore, the analogy sought to be taken by learned counsels for petitioners from Rule 14(v), before the amendment, does not worth any merit acceptance. It can safely be observed that even before amendment to Rule 14(v) of the Rules of 1986 vide notification dated 19.07.2017, apart from Personal Assistants and Stenographers, Senior Personal Assistants were also eligible and entitled for promotion to the post of Munsarim. Thus, argument put forth by the learned counsels for petitioners in this respect, as discussed hereinabove, is rejected.

13. As far as contentions of learned counsels for petitioners that the higher grade pay and higher pay scale of Senior Munsarim to that of Stenographers Grade I and Personal Assistant cum Executive Assistant cannot be the basis to allow them for promotion, when both posts have not specifically been inserted by the legislation, in the Rule 14(v), this Court deems it just and proper to refer the celebrated judgment of the Apex Court in case of ***Bharat Sanchar Nigam Ltd. (Supra)***. The Apex Court while considering and dealing with the difference between the upgradation and promotion, culled out following principles after

detailed scrutiny of umpteen number of previous judgments of the Apex Court:-

“(i) Promotion is an advancement in rank or grade or both and is a step towards advancement to higher position, grade or honour and dignity. Though in the traditional sense promotion refers to advancement to a higher post, in its wider sense, promotion may include an advancement to a higher pay scale without moving to a different post. But the mere fact that both - that is advancement to a higher position and advancement to a higher pay scale - are described by the common term ‘promotion’, does not mean that they are the same. The two types of promotion are distinct and have different connotations and consequences.

(ii) Upgradation merely confers a financial benefit by raising the scale of pay of the post without there being movement from a lower position to a higher position. In an upgradation, the candidate continues to hold the same post without any change in the duties and responsibilities but merely gets a higher pay scale.”

Thus in view of the legal proposition of law expounded by the Apex Court, arguments made by learned counsels for petitioners cannot be countenanced.

14. As far as judgment of the Apex Court in case of **Jarnail Singh (Supra)**, relied upon by the learned counsels of petitioners is concerned, the Apex court considered the concept of reservation in promotion, to SCs and STs, with respect to their cadre strength and the concept of collection of data on the basis of “groups” wise and not cadre wise, as was approved by the Apex Court in case of *B.K. Pavitra Vs. Union of India [(2019) 16 SCC 129]*, was declared contrary to the law laid down by the Apex Court in case of *M. Nagaraj Vs. Union of India [(2007) 1 SCC (L&S) 1013]* in case of **Jarnail Singh (Supra)**. In the same judgment, the Apex Court, in Para No.35, reiterated to the principle of law, laid down in case of *Union of India Vs. P.K. Choudhary [(2016) 4 SCC 236]* that

transferability and interchangeability of one incumbent to another in the cadre are essential attributes of a common cadre.

The plea of learned counsels for petitioners that Stenographers Grade No. I and Personal Assistants cum Executive Assistants, belong to Stenographer Cadre, if allowed to consider for promotion to the post of Senior Munsarim which is the post in General Cadre, their cadre would be changed and the same would be against law, does not find any support by the judgment of **Jarnail Singh (Supra)**. Under the Rules of 1986, Rule 5 prescribes a common cadre strength of staff of District Courts, comprising Stenographer Cadre and General Cadre and Rule 14(v) does permit officials of Stenographer Cadre, to change their cadre and to switch over in the General Cadre, allowing them to be eligible and participated for selection for promotion to the post of Senior Munsarim. In the statutory Rules of 1986, there is no clear embargo, prohibiting the Stenographers Grade I and Personal Assistants cum Executive Assistants to change their cadre of Stenographer Cadre to General Cadre, therefore, the judgment of **Jarnail Singh (Supra)** relied upon by learned counsel for petitioners does not render any support to the case of petitioners.

15. The upshot of discussions made hereinabove is that even after consideration of other points as put forth by learned counsel for petitioners, to declare the elimination of Stenographer Grade I and Personal Assistant cum Executive Assistant from the zone of consideration to the post of Senior Munsarim, no different view has resulted in favour of petitioners than taken by the Coordinate Bench in the judgment dated 24.01.2023 and thus, finally, following the judgment of the Coordinate Bench passed in case of

Rajesh Vyas (Supra), all writ petitions are hereby dismissed. No costs.

16. Interim stay order(s) passed in favour of petitioner(s), if any, stand(s) vacated accordingly.

17. All pending application(s), if any, stand(s) disposed of.

18. A copy of this Judgment be placed in each file.

(SUDESH BANSAL),J