

HIGH COURT OF ANDHRA PRADESH

* * * *

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI & THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION Nos. 1675, 2707 and 2882 of 2022

W.P.No.1675 of 2022

Between:

Guduri Rajani

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Chief Secretary,
General Administration Department,
A.P.Secretariat, Velagapudi,
Amaravati, Guntur District and 8 others

.....RESPONDENTS

W.P.No.2707 of 2022

Between:

G. Anwar Basha

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Special Chief Secretary to Government,
General Administration Department,
Secretariat Buildings, Velagapudi,
Amaravati, Guntur District and 16 others

.....RESPONDENTS

W.P.No.2882 of 2022

Between:

P. Bhaskara Rao

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Special Chief Secretary to Government,
General Administration Department,
Secretariat Buildings, Velagapudi,
Amaravati, Guntur District and 14 others

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: **26.09.2025**

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM
+ WRIT PETITION Nos. 1675, 2707 and 2882 of 2022**

% 26.09.2025

W.P.No.1675 of 2022

Between:

Guduri Rajani

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Chief Secretary,
General Administration Department,
A.P.Secretariat, Velagapudi,
Amaravati, Guntur District and 8 others

.....RESPONDENTS

W.P.No.2707 of 2022

Between:

G. Anwar Basha

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Special Chief Secretary to Government,
General Administration Department,
Secretariat Buildings, Velagapudi,
Amaravati, Guntur District and 16 others

.....RESPONDENTS

W.P.No.2882 of 2022

Between:

P. Bhaskara Rao

.....PETITIONER

AND

State of Andhra Pradesh,
Rep.by its Special Chief Secretary to Government,
General Administration Department,
Secretariat Buildings, Velagapudi,
Amaravati, Guntur District and 14 others

.....RESPONDENTS

- ! Counsel for the Petitioner : Sri N. Bharath Simha Reddy,
In W.P.No.1675 of 2022 : Appeared for Sri U.D.Jai Bhima Rao
- Counsel for the Petitioner : Sri A. Rajendra Babu
In W.P.No.2707 of 2022
- Counsel for the Petitioner : Sri M. Vijaya Kumar, Senior Advocate
In W.P.No.1675 of 2022 Assisted by Sri C. Srinivasa Baba &
Sri Manoj Kumar Bethapudi
- Counsel for the Respondents : Sri N. Ashwani Kumar,
Standing Counsel for High Court
- Sri Yugandhar,
Rep. by Sri Virupaksha Dattatreya Gouda
For R9 in WP.No.1675 of 2022,
For R6, R7, R9, R10 & R17
in WP.No.2707 of 2022
For R6 & R7 in WP No.2882 of 2022
- No representation for GP for GAD,
GP for Law & Legislative Affairs.

< Gist :

> Head Note:

? Cases Referred:

1. (2020) 5 SCC 689
2. (2004) 6 SCC 465
3. (2012) 13 SCC 340
4. (2010) 5 SCC 349
5. (2014) 16 SCC 187
6. (1992) 1 SCC 119
7. (2002) 6 SCC 127
8. (2007) 13 SCC 320
9. 2024 SCC OnLine SC 2642

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM**

WRIT PETITION Nos. 1675, 2707 and 2882 of 2022

COMMON JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri M. Vijaya Kumar, learned Senior Advocate, assisted by Sri C. Srinivasa Baba & Sri Manoj Kumar Bethapudi, learned counsels for the petitioner in W.P.No.2882 of 2022, Sri N. Bharath Simha Reddy, learned counsel appeared for Sri U. D. Jai Bhima Rao, learned counsel for the petitioner in W.P.No.1675 of 2022 and Sri A. Rajendra Babu, learned counsel for the petitioner in W.P.No.2707 of 2022.

2. Heard Sri N. Ashwani Kumar, learned standing counsel for the High Court of Andhra Pradesh, Sri Yugandhar, learned counsel, representing Sri Virupaksha Dattatreya Gouda, for the respondent No.9 in W.P.No.1675 of 2022, for respondents Nos.6, 7, 9, 10 & 17 in W.P.No.2707 of 2022 and for respondents Nos.6 & 7 in W.P.No.2882 of 2022.

3. No representation for Government Pleader for General Administration, Government Pleader for Law & Legislative Affairs. The Docket Order dated 25.03.2022 records that the learned Advocate General informed that the State Government issued G.O.Ms.No.13 Law (LA&J-SC.F) Department, dated 11.03.2022, notifying the seniority list recommended by the High Court of Andhra Pradesh and the State Government has no stand either in favour of or against the petitioners.

4. No representation by or on behalf of Sri Nikhil Chowdary Guntupalli, learned counsel on record, appearing for some of the other respondents.

5. Writ Petition No.2707 of 2022 was disposed of as against respondent No.7 by Order dated 19.02.2024, as in view of the subsequent development taking place during the pendency of the writ petition, the said 7th respondent ceased to be a necessary party to the */is*.

I. Facts:

A. Case of the Petitioners:

(i). W.P.No.1675 of 2022:

6. The petitioner of this writ petition, namely, Guduri Rajani, was initially appointed as Junior Civil Judge with effect from 16.05.1998 vide G.O.Ms.No.60 dated 07.04.1998. She was promoted as Senior Civil Judge in the year 2008. She had applied for promotion to the post of the District Judge under Limited Competitive Exam Category, 10% quota, pursuant to the Notification dated 31.03.2015. She was also considered under the category of promotion quota of 65%. The declaration and recommendation for her, by the then common High Court was made on 24.11.2015. Her name was shown in both the lists of selected candidates under both 10% & 65% quotas issued on the same date i.e., 24.11.2015. However, in the revised selection list dated 08.12.2015, her name was deleted from the list of promotees under the promotion categories under 65% while retaining her name under Accelerated Recruitment by Transfer category 10% quota and that was done without asking the petitioner to exercise her option as to in which category she wanted to remain. That was

an exercise done *suo motu*. After the revised selection list dated 08.12.2015 as aforesaid, the State issued G.O.Ms.No.5 dated 20.01.2016 for respondents Nos.3 to 7 and 9, and G.O.Ms.No.6, dated 20.01.2016 for respondent No.8 of this writ petition i.e., under 65% quota. However, the appointments under G.O.Ms.No.10 for 10% quota was issued on 08.02.2016. She assumed Office of the District Judge on 24.02.2016. Her seniority was also fixed in the final seniority list published on 04.02.2017 and as per the roster points, her name reflected at Serial No.392. The said seniority list dated 04.02.2017 was final even if it was not notified by the State after being sent to it by High Court as the same was acted upon by granting promotion basing on that list, and still continues in State of Telangana, except for the deleted names who opted for State of Andhra Pradesh, and that list was also saved by the judgment of the Hon'ble Apex Court in ***K. Meghchandra Singh v. Ningma Siro***¹. The further case of this petitioner is that there was no occasion to prepare fresh final seniority list, dated 05.01.2022, in which her grievance is that she was illegally placed below the respondents No.3 to 9 of this writ petition, after illegally rejecting her objections.

7. This writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

“...to issue an appropriate writ order or direction preferably a Writ in the nature of Mandamus declaring the Final Seniority List issued by the 2nd Respondent in Order Roc.No.424/2021-B Spl dated 5.1.2022 in supersession of the Final *inter se* Seniority List of the District Judges issued by the 2nd Respondent on 4.2.2017 and G.O.Ms.No.13 Law (LA&J-SC.F) Dept dated

¹ (2020) 5 SCC 689

11.03.2022 as notified in AP Gazette vide No.416 dated 11.03.2022 as illegal, arbitrary and contrary to law laid down by the Hon'ble Apex Court in K.Meghachandra Singh vs Ningam Siro {(2020) 5 SCC 689} particularly the protection specifically provided in the said case in respect of the positions held by the individuals in the existing seniority list which shall not be touched and their seniority fixed in the existing seniority list which shall not be touched and their seniority fixed in the existing seniority continued to operate for all purposes including for the purpose of next level promotions/elevations and service prospects and consequently set aside the seniority fixed in the Final Seniority List dated 5.1.2022 and G.O.Ms.No.13 Law (LA&J-SC.F) Dept dated 11.03.2022 as notified in AP Gazette vide No.416 dated 11.03.2022 besides directing to adhere and follow the *inter se* seniority of the District Judges as fixed in pursuance of the Final *inter se* Seniority List of the District Judges issued by the 2nd Respondent on 4.2.2017 and pass such order or orders

(ii). W.P.No.2707 of 2022:

8. The petitioner in W.P.No.2707 of 2022 – G. Anwar Basha was appointed as Junior Civil Judge, pursuant to the notification issued in the year 1996 and the selection conducted in the year 1997 after G.O.Ms.No.60 dated 07.04.1998, and after completion of his probation and regularization of service, in the final *inter se* seniority list in the category of Junior Civil Judges, he was shown at Sl.No.25, prepared by the erstwhile High Court of Andhra Pradesh at Hyderabad. The petitioner's claim was that the erstwhile High Court of Andhra Pradesh at Hyderabad by an Order in ROC No.2668/2007-B.Spl. dated 10.09.2008 empanelled his name for promotion as Senior Civil Judge against 24 vacancies notified on 31.03.2007 and by its Order in ROC No.6723/2008-B.Spl dated 22.09.2008, he was posted as Senior Civil Judge. He was continued in the said post up to 2015.

9. While so, the erstwhile High Court of Andhra Pradesh at Hyderabad issued a Notification dated 15.04.2015 inviting applications from the Senior Civil Judges who put in 5 years of service for filling up of 4 posts of District Judges through limited Departmental Competitive Examination (Accelerated recruitment by transfers) for the year 2015. The petitioner applied to the post of District Judge. The written examination was conducted in 2015. He was also called for interview and was provisionally selected having secured 58.20 marks. The 4th respondent/High Court of Andhra Pradesh by D.O.Lr.No.108/2015 RC dated 24.11.2015 and 08.12.2015 sent the merit list to the State Government for appointment. This petitioner was appointed as District Judge vide G.O.Ms.No.10 Law (LA&J.SC.F) Department dated 08.02.2016 and he was working as District Judge at various places.

10. Further case of this petitioner is that the erstwhile High Court of Andhra Pradesh at Hyderabad issued provisional seniority list of the District Judges, appointed pursuant to the notification, on 29.03.2016 inviting the objections from them. In the said provisional seniority list, the petitioner figured at Roster Point No.372 below to Sri Veerapu Nageswara Rao and above to Sri G. Vallabha Naidu/6th respondent, who was a candidate appointed by recruitment by transfer among the Senior Civil Judges under 65% quota. The erstwhile High Court of Andhra Pradesh at Hyderabad on 04.02.2017 finalized the *inter se* seniority among the District Judges who were appointed (1) By direct recruitment (25%), (2) By transfer strictly on the basis of merit through a limited Departmental Competitive Examination (Accelerated recruitment by

transfer 10%), and (3) By recruitment by transfer among the Senior Civil Judges (65%) from the year 2010 as per 40 roster point prescribed in Schedule-A of Rule 13 (a) of the Andhra Pradesh State Judicial Service Rules 2007 (in short 'the Rules 2007'). In the said final seniority list, the name of the petitioner in W.P.No.2707 of 2022 was shown at roster point No.372 above to the respondents 5 to 17 of the said writ petition. The said seniority list dated 04.02.2017, the petitioner's case is, was acted upon by the High Court of Andhra Pradesh and the promotions were effected basing on the said seniority list dated 04.02.2017.

11. The further case of the petitioner is that the 4th respondent-High Court of Andhra Pradesh issued Order in ROC No.424/2021-B.Spl dated 07.09.2021 for fixing up of the common seniority among the District Judges who were appointed from the years 2010 to 2019 and invited objections. The petitioner submitted that his name figured at roster point No.372 and the names of respondents No.5 to 17 of W.P.No.2707 of 2022 were shown above to him at roster points 287 to 320. The petitioner filed objections to the provisional seniority list on 13.09.2021, *inter alia* submitting that the decision relied in **K. Megha Chandra Singh** (supra) by the 4th respondent/High Court of Andhra Pradesh for fixing the seniority was only prospective and the *inter se* seniority already fixed was protected by the said judgment of the Hon'ble Apex Court. The 4th respondent/High Court of Andhra Pradesh further by Order ROC No.424/2021-B.Spl dated 05.01.2022 fixed the final common seniority list in

respect of the District Judges in which the name of the petitioner was at roster point No.142, below to the respondents 5 to 17.

12. The petitioner's contention is that the *inter se* seniority fixed among the District Judges appointed from 2010 to 2019 by Order dated 05.01.2022 showing his name below to respondents 5 to 17 was contrary to Rule 13 (a) and (c) of the Rules 2007, as also in violation of Articles 14 and 16 of the Constitution of India, as well as the pronouncements of the Hon'ble Apex Court. His case is that the High Court of Judicature for the State of Telagana and the State of Andhra Pradesh had prepared the final *inter se* seniority of the District Judges on 04.02.2017 in which the petitioner's name was above to respondents 5 to 17, and that seniority list was acted upon and therefore, there is no reason to disturb that seniority list which was settled long back. The further grievance of the petitioner is that the rejection of the petitioner's objections pursuant to the provisional seniority list to which the petitioner filed objections on 13.09.2021 on the ground that the seniority list dated 04.02.2017 had not been notified and that the judgment of the Hon'ble Apex Court in ***K. Megha Chandra Singh*** (supra) was applicable, was not correct. The ground on which the objection was rejected that the date of appointment is the criteria for fixing the seniority on the principle that who was not borne in the cadre cannot claim seniority and the appointment of the petitioner being subsequent to the appointment orders of the officers under 65% quota, was unsustainable.

13. This writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

“...to issue a Writ order or direction more particularly in the nature of Writ of Mandamus declaring the final seniority list in order ROC No.424/2021-B.Spl, dated 05.01.2022 issued by the 4th respondent by showing the respondents 5 to 17 over to the petitioner by rejecting the objections and altering the *inter se* seniority fixed dated 04-02-2017 is arbitrary, illegal, contrary to law, and violative of Art 14 and 16 of the Constitution of India apart from violation of the provisions of AP State Judicial Service Rules 2007 and to quash or set aside the same and to issue a consequential direction to the respondents 1 to 4 to place the petitioner over and above to the respondents 5 to 17 as per seniority fixed dated 04-02-2017 with all consequential benefits and to pass such order or orders

(iii). W.P.No.2882 of 2022:

14. The petitioner of this writ petition, namely, P. Bhaskara Rao, was initially appointed as Junior Civil Judge on 07.04.1998 on selection by the erstwhile Andhra Pradesh High Court prior to bifurcation of the States and was further promoted as Senior Civil Judge on 23.09.2008. He had applied for promotion to the post of District Judge and was promoted vide G.O.Ms.No.10 Law (LA&J.SC.F) Department, dated 08.02.2016 and as per G.O.Ms.No.12 (LA&J.SC.F) Department, dated 03.02.2016 in the combined State, pursuant to the Notification issued by the then High Court of Andhra Pradesh dated 31.03.2015 after completion of 5 years of service as Senior Civil Judge for filling up of 4 posts of District Judges through limited Departmental Competitive Examination (Accelerated Recruitment by Transfers) for the year 2015. This petitioner was the second candidate among the four candidates provisionally selected having secured 55.30 marks. The grievance of the petitioner is also with respect to the final seniority list vide ROC No.424/2021-B.Spl. dated

05.01.2022 issued by the High Court of Andhra Pradesh. His grievance is that in the said seniority list this petitioner has been placed below to the respondents No.5 to 14 of this writ petition, at roster point No.152. The challenge to the final seniority list dated 05.01.2022 is on the same ground that the previous final seniority list dated 04.02.2017 finalized by the common High Court of Andhra Pradesh was as per Rule 13 (a) of the Rules 2007 and once that seniority list became final, even if not notified by the State, for which it was sent by the then High court, it could not be changed by initiating fresh process and re-framing the seniority vide final seniority list dated 05.01.2022. Further challenge is that even the present seniority list prepared by the present High Court is contrary to Rule 13 (a) of the Rules 2007. This petitioner has further stated that his name was included both in the accelerated quota of 10% as well as 65% promotion quota, but without his knowledge and consent the 4th respondent herein deleted his name from 65% promotion quota without notice and treating him under 10% quota considering the date of the Government Order for appointment dated 08.02.2016 to be after the Government Order issued in the cases of 65% promotion quota, this petitioner has been placed below the persons junior to him. It is his case that any challenge to such change of the petitioner's name from 65% promotion quota to 10% accelerated quota or objection thereto was not raised for the reason that in the then State of Andhra Pradesh the seniority list dated 04.02.2017 was prepared according to law, following Rule 13 (a) of the Rules 2007 and with respect to that list, which, as per the contention, was final as the same was

sent for publication to the State Government by the High Court, there was no objection raised by any of the persons. The position of this petitioner being as per the Rules and placement above the persons junior to him, the petitioner accepted that position i.e., his consideration under 10% quota and not as a candidate under 65% quota. This petitioner has also stated that the seniority list of 04.02.2017 was acted upon by the then common High Court and the State Government as they issued posting orders of 17 Principal District Judges within that final seniority list. So, that was also acted upon and there was no contest by anyone with respect to that list.

15. His further stand is also the same that under the Rules 2007, it was not necessary to notify the seniority list of 04.02.2017 and even if the same was required to be notified as per the practice, its no notification could not affect the seniority position as per that list, as the notification or publication of the seniority list is only a formal exercise or ministerial act, without affecting the determination of the seniority position made as per rules. So, the final seniority list dated 04.02.2017 shall prevail for all purposes and no change could be affected into that list, subsequently by the present High Court, to the extent of the seniority determined vide list dated 04.02.2017, after bifurcation of the State.

16. This petitioner also filed objection, but his objections have also been rejected maintaining the provisional seniority list and finalizing the same vide seniority list dated 05.01.2022.

17. This writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

“...to issue a writ order or direction particularly one in the nature of Writ of Mandamus declaring the final seniority list in order ROC No.424/2021-B Spl dated 05-01-2022 issued by the 4th respondent by showing the Respondents 5 to 14 over and above to the petitioner by rejecting the objections and altering the *inter se* seniority fixed dated 04-02-2017 is arbitrary, illegal, contrary to law and violative of Articles 14 and 16 of the Constitution of India apart from violation of the provisions of AP State Judicial Service Rules 2007, to set aside the Notification vide No.416 dated 11-03-2022 issued by the Government 1st Respondent Law Department (LA&J-SC-F) in the name of Chief Secretary to Government as illegal as it does not show his appropriate placement over and above the Respondents in the Writ Petition and to quash or set aside the same and to issue a consequential direction to the Respondents No.1 to 4 to place the petitioner over and above to the respondents 5 to 14 as per seniority fixed dated 04-02-2017 with all consequential benefits and to pass such other order or orders

B. Case of the Respondents:

(i) Case of the High Court:

18. The respondent/High Court of Andhra Pradesh filed counter affidavit in the aforesaid writ petitions taking the same stand. Its stand is that the respondent/High Court issued ROC No.424/2021-B.Spl dated 07.09.2021 for fixing up the common seniority list among the District Judges who were appointed from the years 2010 to 2019 and sought objections within 15 days. The petitioners submitted objections to the seniority list and on consideration of those objections, proceedings in ROC No.424/2021-B.Spl dated 05.01.2022 were issued. The same were not contrary to Rule 13 (a) and (c) of the Rules

2007 nor in violation of the Articles 14 and 16 of the Constitution of India. Those proceedings were also not contrary to judicial precedents. The further stand of the respondent/High Court is that a comprehensive list for the year 2010 to 2019 was to be prepared. Its stand is that the seniority list dated 04.02.2017 did not attain finality, as the same was not notified. After 04.02.2017, the High Court was bifurcated. The High Court of Andhra Pradesh was constituted on 01.01.2019. The Judicial Officers were allotted to both these States i.e., Andhra Pradesh & State of Telangana. So, it necessitated to fix the final seniority as per the Officers who were allotted to the State of Andhra Pradesh. Consequently, to prepare the final seniority list of District Judges and to notify the same, the provisional seniority list dated 07.09.2021 was prepared and objections were called for. The objections raised were answered and the seniority list was notified. The further stand of this respondent is that the date of issuing notification for selection of the post or even the selection of the candidate do not confer any right of appointment on the candidate. It is only the date of appointment which is the determining factor to fix the seniority among the District Judges. The petitioners were appointed subsequent to the appointment of the respondents in their respective writ petitions and so undoubtedly being junior to those officers could not claim seniority over them. Its stand is that in fact the seniority was not settled long back as the seniority list dated 04.02.2017 was not notified. The criteria to determine the seniority is the date of appointment.

19. This respondent's further case is that the erstwhile High Court of Andhra Pradesh fixed the provisional seniority by virtue of proceedings dated 29.03.2016. One B. S. Jag Jeevan Kumar filed W.P.No.45199 of 2016, which was disposed of on 18.04.2017 i.e., after publication of the final seniority list dated 04.02.2017, clearly observing that the most fundamental rule relating to seniority is that a person cannot get seniority from a date anterior to the date of his appointment to the service and he cannot gain seniority over a person appointed 2 years prior to him, merely on the basis of the roster point. This respondent relied upon the law laid down in ***K. Megha Chandra Singh*** (supra) that the seniority cannot be given on retrospective basis when an employee had not even borne in the cadre.

20. With respect to the seniority list dated 04.02.2017, the further case of this respondent is that the same was not published though it was sent for publication, and so long as it was not published, it could not be said that the seniority list was final. It was submitted that sending the final seniority list to the Government to notify has been an old age practice and the High Court on administrative side before issuing the proceedings dated 05.01.2022 elaborately dealt with the same. The further stand is that in *B. S. Jag Jeevan Kumar* (supra), it was explained by the erstwhile High Court of Andhra Pradesh that as to how the roster under 40 point was to be applied, holding that the roster has to be understood and applied in a manner that would not go contrary to the most fundamental principles governing seniority. It was undisputed that the appointment orders issued by the Government relating to the respondents were

prior to the appointment orders issued by the Government in respect of the petitioners. It was also submitted that the respondent/State vide G.O.Ms.No.13, dated 11.03.2022 notified the revised seniority list dated 05.01.2022, published in the Andhra Pradesh High Court Official Website on 05.01.2022, as per the practice and procedure being followed by the High Court with respect to the final seniority lists of the District Judges. The further stand of this respondent is that though Rule 13 of the Rules 2007 does not specifically speak about notifying the seniority list of the District Judges, but it has been the practice and procedure which is being followed by the High Court with respect to the seniority list of District Judges, and it is mandatory for the State Government being Appointing Authority to notify the seniority list whenever there are any changes and such practice and procedure is being followed from a long period of time to make the seniority list final.

(ii). Case of the other respondents in writ petitions:

21. Learned counsel for the respondents No.6, 9, 10 & 17 in W.P.No.2707 of 2022 filed a memo and thereby adopted the stand of the High Court-respondent in the counter affidavit. Similarly, respondent No.9 in W.P.No.1675 of 2022 and respondent Nos.6, 7 & 14 in W.P.No.2882 of 2022 by filing memo adopted the stand of the High Court taken in the counter affidavit.

III. Arguments:**(i) By Petitioners' Counsels:**

22. Learned counsels for the petitioners submitted that the rejection of the petitioner's objections was unsustainable. It was contrary to Rule 13 (a) of the Rules 2007. They submitted that the seniority of the District Judge has to be determined as per the roster prescribed in the Schedule-A, according to which every 2nd, 12th, 22nd and 32nd posts were meant for Accelerated recruitment by transfer and considering the same, in 40 point roster the final seniority list dated 04.02.2017 was prepared by the High Court itself at Hyderabad.

23. Learned counsels for the petitioners further contended that the notification for recruitment for 10% and 65% were of the same date and considering the process of selection and the selection list for both sent by the High Court to the State for issue of the appointment G.O, if the said G.O(s) were issued on different dates, based thereon, the seniority could not be deserved without applying roster points.

24. Learned counsels for the petitioners submitted that the final seniority list dated 04.02.2017 for publishing by the State Government was communicated to the State Government, but the State Government did not publish the said seniority list. However, that would not render seniority otiose, as the publication / notification of seniority list by the State Government is a formal exercise or ministerial act and not notifying that seniority list would not render the seniority already fixed finally on 04.02.2017 as invalid and subject to

change as was being done by the impugned seniority list, by the High Court of Andhra Pradesh. The said seniority list was also given effect to and acted upon.

25. Learned counsel for the petitioners placed reliance in ***State of Punjab v. Nestle India Ltd.***² to contend that the seniority list of 04.02.2017 which was acted upon for long period, operated as an estoppel to change the same and draw a fresh seniority list contrary to the said list.

26. Learned counsels for the petitioners placed much reliance in ***K. Meghachandra Singh*** (supra) to submit that the judgment in ***K. Meghachandra Singh*** (supra) apply prospectively and therefore, the seniority determined by the seniority list dated 04.02.2017 by the erstwhile High Court was saved. So, even if the submission be that the seniority is to be determined from the date of appointment and not previous thereto unless the relevant rules provided from the date of vacancy and from the date of advertisement, even in the absence of any rule in the Rules of 2007 for determination of the seniority from the date of notification or from the date of vacancy, the seniority list in the cases of the petitioners which was prepared at a time when ***Union of India v. N. R. Parmar***³ judgment was in operation and was holding the field, the petitioner's seniority determined as per the seniority list of 04.02.2017, could not be disturbed subsequently basing on ***K. Meghachandra Singh*** (supra).

² (2004) 6 SCC 465

³ (2012) 13 SCC 340

(ii) By Standing Counsel for High Court:

27. Learned counsel for the High Court also placed reliance in W.P.No.45199 of 2016 ***B. S. Jag Jeevan Kumar v. High Court of Judicature at Hyderabad*** (supra) to contend that the 40 point roster cannot be applied so as to grant seniority to the petitioners over and above 65% appointees, who were appointed prior to the date of petitioners' appointment. The date of appointment would be the criterion to determine the seniority. He pressed the law laid down in ***K. Meghachandra Singh*** (supra).

28. Learned standing counsel for the High Court placed reliance in ***Union of India v. Alok Kumar***⁴ to contend that a practice adopted for a considerable time, which is not violative of the Constitution or otherwise bad in law or against public policy can be termed good in law as well.

29. Learned standing counsel for the High Court, based on the said judgment in ***Alok Kumar*** (supra), submitted that there was practice in past which is continued and which is also not contrary to any legal provisions that the seniority list is to be notified and published by the Government and so long as there is no such notification or publication, it cannot be said that the seniority list of 04.02.2017 attained finality and is binding and a fresh seniority list, cannot be prepared or even if it is prepared should abide by the previous alleged final seniority list dated 04.02.2017, for the period and with respect to the persons it was prepared.

⁴ (2010) 5 SCC 349

30. Learned standing counsel for the High Court also placed reliance in ***Ranjan Kumar v. State of Bihar***⁵ to contend that the petitioner participated in the process of finalization of the seniority list pursuant to the provisional seniority list issued, after bifurcation, and they also filed objections which objections were considered, but not accepted, and the final list was prepared. So, in his submission, once the petitioners participated in the process for the finalization of the seniority list, they cannot question the same on the ground of previous seniority list dated 04.02.2017.

IV. Points for Determination:

31. The following point arises for our consideration and determination:

Whether the impugned seniority list dated 05.01.2022 is contrary to Rule 13 of the Andhra Pradesh State Judicial Service Rules 2007 adversely affecting the petitioners' seniority and deserves to be quashed, along with G.O.Ms.No.13 Law (LA&J-SC.F) Department, dated 11.03.2022 as notified in the A.P.Gazette vide No.416, dated 11.03.2022?

V. Analysis / Consideration:

32. We have heard the learned counsels for the parties and perused the material on record.

33. The petitioners of the aforesaid writ petitions are governed by Andhra Pradesh State Judicial Service Rules 2007 (in short 'the Rules 2007'). The Rules 2007 provide for method of recruitment and other conditions of service. Rule 3 of the Rules 2007 contemplates the service consisting of (1)

⁵ (2014) 16 SCC 187

District Judges, (2) Senior Civil Judges, and (3) Junior Civil Judges. It also provide that 25% cadre strength of those who put in not less than 5 years of service are classified as Selection Grade District Judges and 10% of cadre strength of those who put in not less than 3 years of Selection Grade District Judges shall be classified as super time scale District Judges. Rule 4 of the Rules 2007 provide for appointment, appointing authority, and the method of appointment and Rule 5 prescribe eligibility for direct appointment and for recruitment by transfer. Rule 9 of the Rules 2007 contemplate for period of probation and officiation by the candidates appointed to a service which normally would be for a period of 2 years. Rule 10 of the Rules 2007 prescribes that a person appointed to a service on successful completion of period of probation be confirmed as full member of the service in the category of post to which he had been appointed.

34. Rule 13 of the Rules 2007 provides for seniority of person appointed to the category. Clause (a) of Rule 13 prescribes seniority of a person appointed to the category of District Judges by direct recruitment as well as by transfer that it shall be fixed as per 40 point roster prescribed in Schedule-A. Clause (b) of Rule 13 provides for seniority of persons appointed to the category of Civil Judges by direct recruitment of transfer which shall be fixed as per 20 point roster prescribed in Schedule-B of the Rules. Clause (c) of Rule 13 prescribes *inter se* seniority when two or more persons appointed simultaneously to the service, the appointing authority at the time of passing an order of appointment fix the *inter se* seniority as per the order of merit.

35. Rule 13 of the Rules 2007 reads as under:

“13. Seniority:

- a) **District Judges: Seniority of the persons appointed to the category of District Judges by direct recruitment as well as recruitment by transfer shall be fixed as per the forty point roster prescribed in Schedule-A.**
- b) **Civil Judges:** Seniority of the persons appointed to the category of Civil Judges by direct recruitment as well as recruitment by transfer shall be fixed as per the twenty point roster prescribed in Schedule-B.
- c) **Inter se seniority:** Whenever two or more persons are appointed simultaneously to the service, the appointing authority may at the time of passing, an order of appointment fix the inter se seniority as per the order of merit.

36. Schedule-A is as under:

“SCHEDULE-A:

{ See Rule 13(a) }

(40 Point Roster governing seniority of District Judges)

1. Direct Recruitment
2. Accelerated recruitment by transfer
3. Recruitment by transfer
4. Recruitment by transfer
5. Direct Recruitment
6. Accelerated recruitment by transfer
7. Recruitment by transfer
8. Recruitment by transfer
9. Direct Recruitment
10. Accelerated recruitment by transfer
11. Recruitment by transfer
12. Recruitment by transfer
13. Direct Recruitment
14. Accelerated recruitment by transfer
15. Recruitment by transfer
16. Recruitment by transfer
17. Direct Recruitment
18. Accelerated recruitment by transfer
19. Recruitment by transfer
20. Recruitment by transfer
21. Direct Recruitment
22. Accelerated recruitment by transfer
23. Recruitment by transfer
24. Recruitment by transfer

25. Direct Recruitment
26. Accelerated recruitment by transfer
27. Recruitment by transfer
28. Recruitment by transfer
29. Direct Recruitment
30. Accelerated recruitment by transfer
31. Recruitment by transfer
32. Recruitment by transfer
33. Direct Recruitment
34. Accelerated recruitment by transfer
35. Recruitment by transfer
36. Recruitment by transfer
37. Direct Recruitment
38. Accelerated recruitment by transfer
39. Recruitment by transfer
40. Recruitment by transfer

37. A perusal of the Rules 2007, in particular Rule 13 (a), dealing with seniority of the District Judges mentions that the seniority of the persons appointed to the category of District Judges by Direct Recruitment as well as Recruitment by Transfer shall be fixed as per 40 point roster prescribed in Schedule-A. Schedule-A has already been reproduced, under which in the first 40 point, Points 2, 6, 10, 14, 18, 22, 26, 30, 34 and 38 are the roster points for the Accelerated Recruitment by Transfer. There is no dispute on that aspect.

38. The petitioners in the aforesaid writ petitions were initially appointed as Junior Civil Judges. Subsequently, they were promoted to the post of Senior Civil Judges and upon completion of the requirement of minimum of 5 years of service as Senior Civil Judges, they became eligible to apply for the Accelerated Recruitment to the post of District Judge under the limited competitive Examination category i.e., 10% quota. They qualified in the said examination and they were recommended by the High Court for appointment and government orders were issued in the respective orders.

39. The petitioners of W.P.Nos.1675 & 2882 of 2022 were selected under both, the 10% and 65% quotas, however their cases were considered exclusively under the Accelerated by Transfer category of 10% quota of the High Court of Andhra Pradesh but without obtaining their consent or option to remain in which category. This adopted approach, as per the counter affidavit of the High Court, did not violate any legal provision as, their stand is that any procedure did not require prior consent from those petitioners who had competed for accelerated promotions under 10% quota through a competitive examination as also under 65% quota and were selected in both.

40. On the aforesaid aspect, learned counsels for the petitioners submitted that they have no grievance with respect to consideration of those petitioners' cases under the Accelerated Recruitment by transfer under 10% quota though they had also qualified under 65% quota i.e., recruitment by transfer during the relevant years. On the aforesaid aspect, no challenge was made nor any argument was raised to impugn the procedure adopted by the High Court, to consider those candidates, under 10% quota without their consent or asking for their option. So, that aspect of the matter is now not open, though, if the option had been asked and exercised by those petitioners finding selection in both the categories, to remain under 65% quota, on the principle applied for determination of seniority, as has been applied now in the seniority list dated 05.01.2022 those petitioners' seniority position would have been at a higher place. However, those petitioners being satisfied with the seniority position as in the seniority list dated 04.02.2017 as per Section 13 (a)

applying the roster point did not raise any objection to their retention in list under 10% quota and deletion of their names from the list under 65% quota.

41. The Schedule for appointment to the post of District Judges under 10% accelerated quota and 65% promotion quota was as follows:

Sl.No.		10% Accelerated quota	65% Promotion quota
1.	Date of Notification	31-03-2015	31-03-2015
2.	Process initiated		
	(i) Applications invited on	15-04-2015	List of eligible officers published on 14-08-2015
	(ii) Date of conducting written examination	05-07-2015	No written examination
	(iii) Date of conducting VIVA VOCE	27-10-2015	02-11-2015
3.	Results declared on	14-11-2015	14-11-2015
4.	Selected list sent to the Government for G.O	24-11-2015	24-11-2015
5.	Appointment G.O	G.O.Ms.No.10 08-02-2016	G.O.Ms.No.6 20-01-2016
6.	Posting orders issued	19-02-2016	19-02-2016

42. The contention from the petitioners' side is that the appointment to the post of District Judge under 65% promotion quota as also under 10% Accelerated Recruitment by Transfer quota were made pursuant to the Notifications issued on the same date i.e., 31.03.2015 and after completion of the process under both the categories the results were also declared on the

same date i.e., on 14.11.2015. The list of the selected candidates under both the quotas were sent to the Government on the same date 24.11.2025 for issuance of the Government Order. The posting orders were also issued on the same date i.e., 19.02.2016. So merely because the Government issued G.O.Ms.No.6 dated 20.01.2016 and G.O.Ms.No.7 dated 20.01.2016 for 65%, and with respect to 10% quota later on, vide G.O.Ms.No.10, dated 08.02.2016 i.e., after few days that should not determine the seniority based on the Appointment Order / Government Order and they could not be made juniors to the persons under 65% promotion quota. The seniority of the appointees under both the quotas should have been determined irrespective of the date of appointment, applying the Rule 13 (a) of the Rules 2007. The seniority list should have been prepared applying the roster pointes. The final seniority list which was prepared in the common High Court and sent to the State Government for Notification was as per Rule 13 (a) of the Rules 2007 was correct. The said seniority list was prepared at a time when **N. R. Parmar's** case was operative and the seniority list prepared during that period have been saved by **K. Meghachandra Singh** (supra). So, fresh exercise could not have been done by the High Court of Andhra Pradesh after reorganization and no fresh seniority list with respect to the petitioners could be made or even if made due to the necessity of bifurcation, as some judicial officers opted for State of Andhra Pradesh and the other for the State of Telangana, but their seniority as per the seniority list of 04.02.2017, could not be disturbed.

43. The submission of the learned counsels appearing for the respondents, in particular for the High Court, which has been adopted by the other learned counsels appearing for the other unofficial respondents, is based on issuance of the Government Order in the cases of the appointees under 10% quota and in the case of appointees under 65% quota, since the appointment order is prior in time for 65% promotion quota appointees than the 10% Accelerated Recruitment by Transfer quota appointees, the submission is that there is no illegality in the seniority list prepared by the High Court dated 05.01.2022. The four appointees under 10% quota could not be placed above the appointees under 65% quota, because the seniority could not be given to the petitioners from a date and prior to the date of their appointment, and if that is done that would amount to give seniority to the petitioners from a date when they were not born in the cadre.

44. We are not in agreement with the submission of the learned standing counsel for the High Court. The recruitment year is the same, i.e., the year 2015. The Notifications for both the categories were issued on 31.03.2015 i.e., the same date. After completion of different process for these two categories, the results were declared on the same date 14.11.2015 and the selected list was sent to the Government for issuance of Government Order on the same date i.e., 24.11.2015. However, the Government issued appointment order in the case of 65% promotion quota earlier in point of time than the government order of appointment in the case of 10% accelerated recruitment by transfer quota. However, the posting orders were issued on the same date 19.02.2016.

45. We are of the view that in view of the aforesaid factual situation, the Government was expected to issue the appointment orders on the same date.

46. As per Rule 13 (a) of the Rules 2007, by which the seniority is to be determined of the District Judges of the persons appointed by direct recruitment as well as recruitment by transfer, it is to be fixed as per the roster points given in Schedule-A. When that is the legislative intent, we are of the view that either by its action or inaction, the State / Executive cannot act contrary to the legislative intent and take away the service benefits i.e., seniority position from one category or the other by issuing the appointment orders on different dates, making one category senior to the other. The legislative intent for determination of the seniority under the statute amongst persons appointed from different sources, but under Notifications of the same date, the process completed and recommended by the High Court on the same date, is clearly expressed by applying roster points. It could not be defeated by the State by making one category of persons junior to the other category persons by issuing the appointment orders on different dates, and then taking the date of appointment as the criterion to determine the seniority and thus avoiding fixation of seniority, as per the mandate of Rule 13 (a) of the Rules 2007, by applying the roster points.

47. Learned standing counsel for the High Court placed reliance in the judgment of this Court delivered by the erstwhile common High Court in ***B. S. Jag Jeevan Kumar*** (supra).

48. In ***B. S. Jag Jeevan Kumar*** (supra), a Coordinate Bench of the erstwhile High Court of Judicature at Hyderabad dealt with the contentions as raised therein with respect to the Rule 13 (a) of the Rules 2007 which requires seniority to be maintained in accordance with 40 point roster and in which it was submitted that in view of that Rule and 40 point roster, it was not open to the Registry of the High Court to tamper with the 40 point roster by introducing the concept of year of recruitment. In the said case, in the seniority list impugned therein, the Registry included the names of all persons appointed in the year 2010 as against the roster point which could be fitted. After indicating the seniority of 38 persons recruited in the year 2010, the last of the persons in the said seniority list was shown as Serial No.162. The Registry went to the next portion of the seniority list where all persons recruited in the year 2012 were accommodated from Serial No.163 onwards up to serial No.225. The petitioner therein was promoted under 65% quota in the year 2012 and was accommodated at serial No.163, which was virtually roster point No.3 in the 5th cycle. The contention raised by the 4th petitioner therein was that instead of accommodating the petitioner at Serial No.163 relating to the year 2012, his name ought to have been included at Serial No.3 in the first cycle. The contention was that irrespective of the year in which the person was recruited to the post of District Judge, he should be accommodated against the roster point reserved for the method of recruitment through which he got appointed. The said contention was negated by the High Court. One of the reasons for such negation, given was that the persons recruited by three different methods

of recruitment ought to be accommodated in 40 point roster, if irrespective of the year of recruitment, then the person may gain seniority over and above another person who was appointed 2 years earlier and on which date the former was not even born in the service. This Court reiterated that it is well settled that no person can claim seniority with effect from a date on which he was not even born in the service, observing further that if the contention of the petitioner's counsel therein was accepted and the petitioner was placed at serial No.3 against roster point No.3 in the first cycle of the roster, then the petitioner will be gaining seniority over persons appointed in the year 2010, despite the fact that the petitioner was appointed in the year 2012.

49. In **B. S. Jag Jeevan Kumar** (supra) the erstwhile High Court explained that the only manner in which the ratio laid down in para-29 of **All India Judges' Association v Union of India**⁶ case and Rule 13 (a) of the Special Rules was to be understood was that, as and when a recruitment takes place, persons selected under a particular stream in that selection will be accommodated against the roster points earmarked for that particular stream in the 40 point roster. If all the 3 methods of recruitment take place almost simultaneously and if there are 40 vacancies, all roster points from point No.1 to 40 can get filled up. If the total number of persons appointed at a particular point of time from all the 3 different streams is greater than 40, then the Registry will have to fill up the first 40 roster points and complete the first cycle. Thereafter, the second cycle of the 40 point roster has to be commenced and the person at roster point No.1 in the second cycle will be at serial No.41.

⁶ (1992) 1 SCC 119

50. Insofar as seniority is concerned, it was observed in **B. S. Jag Jeevan Kumar** (supra) that the 40 point roster created under Schedule-A to the Special Rules for A. P. State Judicial Service 2007 and referred to in Rule 13 (a) could not be seen, explained or understood in isolation. The roster had to be applied and understood in a manner that would not go contrary to the most fundamental principles governing seniority and the most fundamental rule relating to the seniority is that a person cannot get seniority from the date anterior to the date of his appointment to the service and he cannot gain seniority over a person appointed 2 years earlier to him, merely on the basis of the roster point.

51. In the present case the factual position is different. The petitioners under 10% quota and those appointed under 65% quota including the unofficial respondents are the appointees of the same recruitment year 2015. In **B. S. Jag Jeevan Kumar** (supra) the dispute was between the appointees of different recruitment years. So, irrespective of the recruitment year, Rule 13 (a) of the Rules 2007 could not be applied by applying 40 point roster. The recruitment year of the appointees becomes a relevant factor.

52. Further, the seniority list dated 04.02.2017 was prepared by the common High Court for the State of Telangana and for the State of Andhra Pradesh as per Rule 13 (a) of the Rules 2007 applying roster point and was sent to the State Government of the then State of Andhra Pradesh, which the petitioners' claim to be final and binding.

53. The contention of the learned standing counsel for the High Court with respect to the seniority list dated 04.02.2017 is, that the same was not notified by the then combined State of Andhra Pradesh and consequently the said seniority list cannot be said to have attained finality. We are of the view that in the counter affidavit, it is not the stand of the respondents, in particular, the High Court, that the said final seniority list sent to notify was not in accordance with Rule 13 (a) of the Rules 2007 or that the same was prepared contrary to the statutory rules. A clear averment has been made in the writ petitions that any objections against the seniority list dated 04.02.2017 was not filed and both the sets of appointees thus felt satisfied, that is why the said seniority list dated 04.02.2017 was also sent to the Government to notify the same. Not only this, a clear stand has been taken by the writ petitioners that the said final seniority list was also acted upon by the combined High Court and the State Government by granting promotions to 17 persons as Principal District Judges, vide para-11 of the Writ Petition No.2882 of 2022, and that there was no contest by anyone. The submission of the learned standing counsel for the High Court is only on the ground that the seniority list dated 04.02.2017 was not notified by the Government and in his submission, though Rules do not provide for final seniority list to be notified, to be affective, but, that is a practice which still continues.

54. On the contrary, the submission of the learned counsels for the petitioners is that to notify the final seniority list is not provided by Rules to become effective and even if it be the practice, to notify is only a ministerial act

and if the ministerial act was not performed, though High Court sent to notify, on that ground the seniority position of the petitioners *qua* 65% promotion quota appointees which attained finality could not be changed after reorganization, by the present High Court. It is again the specific stand of the petitioner in W.P.No.1675 of 2022 that the final seniority list published on 04.02.2017 was in operation from around 5 years. The State Government or the High Court on Administrative side never thought of, to secure a notification to the said seniority list at any point of time, but for the final seniority list dated 05.01.2022 under challenge in W.P.No.1675 of 2022 filed on 18.01.2022, the High Court addressed the letter dated 05.01.2022 to the State Government for notification of the seniority list and in response, the State Government vide letter dated 19.01.2022 sought for further queries, which was responded vide letter dated 20.01.2022 and during the pendency of the writ petition in which the final seniority list dated 05.01.2022 was under challenge, the State Government issued G.O.Ms.No.13 Law (LA&J-SC.F) Department, dated 11.03.2022 notifying the final seniority list dated 05.01.2022.

55. We find force in the submission of the petitioners' counsels. Firstly, any Rule has not been shown to us that the seniority list to become effective is to be notified. Even if, to notify the seniority list, be the practice, once the High Court sent it for notification treating it as the final seniority list (i.e., dated 04.02.2017) and also acting upon that final seniority list, 17 promotions were made to the post of Principal District Judges, it cannot now be said that the said

list did not attain finality merely because it was not notified by the erstwhile State of Andhra Pradesh.

56. The act to notify, in our view, is only a ministerial act and such ministerial act even if not carried, will not affect the final determination of the seniority, vide seniority list dated 04.02.2017 which had already been acted upon by the erstwhile High Court and the State of Andhra Pradesh before it's bifurcation and reorganization.

57. Learned standing counsel for the High Court placed reliance in **Alok Kumar** (supra) paragraphs 63 to 66, which read as under, to contend that to notify the seniority list is the practice not in conflict with any rule.

“63. The circulars have been issued by the Department of Railways, from time to time, to recognise preparation of panels for appointing enquiry officers as per the terms and conditions, including the eligibility criterion stated in those circulars. We may notice here that there is no challenge in any of the applications filed before the Tribunal to any of the circulars despite the fact that they have been duly noticed in the impugned judgments. By passage of time and practice the competent authorities and even the delinquent officers in disciplinary cases have given effect to these circulars and they were treated to be good in law. It is only in the arguments addressed before this Court, where it is suggested that these circulars supersede or are in conflict with the Rules. This part of the contention we have already rejected.

64. It is not opposed to any canons of service jurisprudence that a practice cannot adopt the status of an instruction provided it is in consonance with law and has been followed for a considerable time. This concept is not an absolute proposition of law but can be applied depending on the facts and circumstances of a given case.

65. This Court in *Confederation of Ex-Servicemen Assns. v. Union of India* [(2006) 8 SCC 399 : 2006 SCC (L&S) 2002] was concerned with providing of medicare/medical aid to ex-servicemen and the scheme framed by

the Government to provide ex-defence personnel medical services provided they paid “one-time contribution”, was held not to be arbitrary and based on the practice followed earlier. In such circumstances, this Court held as under: (SCC p. 417, para 35)

“35. In such cases, therefore, the Court may not insist an administrative authority to act *judicially* but may still insist it to act *fairly*. The doctrine is based on the principle that good administration demands observance of reasonableness and where it has adopted a particular practice for a long time even in the absence of a provision of law, it should adhere to such practice without depriving its citizens of the benefit enjoyed or privilege exercised.”

(emphasis in original)

66. A practice adopted for a considerable time, which is not violative of the Constitution or otherwise bad in law or against public policy can be termed good in law as well. It is a settled principle of law, that practice adopted and followed in the past and within the knowledge of the public at large, can legitimately be treated as good practice acceptable in law. What has been part of the general functioning of the authority concerned can safely be adopted as good practice, particularly, when such practices are clarificatory in nature and have been consistently implemented by the authority concerned, unless it is in conflict with the statutory provisions or principal document. A practice which is uniformly applied and is in the larger public interest may introduce an element of fairness. A good practice of the past can even provide good guidance for the future. This accepted principle can safely be applied to a case where the need so arises, keeping in view the facts of that case. This view has been taken by different High Courts and one also finds a glimpse of the same in a judgment of this Court in *Commr. of Police v. Mohd. Khaja Ali* [(2000) 9 SCC 50 : 2000 SCC (L&S) 766 : (2000) 2 SLR 49] .”

58. It is a settled principle of law that practice adopted and followed in the past and within the knowledge of the public at large, can legitimately be treated as good practice acceptable in law. What has been part of the general functioning of the authority concerned can safely be adopted as good practice,

particularly, when such practices are clarificatory in nature and have been consistently implemented by the authority concerned, unless it is in conflict with the statutory provisions or principal document.

59. We are of the view that even if it be taken that a fresh exercise could be done, by the present High Court to prepare the final seniority list, as the previous final seniority list was not notified and hence after bifurcation there was necessity to prepare the final seniority list, in view of the judicial officers opting for the State of Andhra Pradesh or / and for the State of Telangana, the seniority position of the petitioners *qua* 65% promotion quota appointees on the post of District Judge under the notifications for recruitment of the same date, for the same recruitment year, could not be disturbed, by the impugned seniority list of 05.01.2022, violating Rule 13 (a) of the Rules 2007. Even if the seniority list of 04.02.2017 was not notified, preparation of the seniority list dated 05.01.2022 should have been as per Rule 13 (a) of the Rules 2007.

60. In ***Ranjan Kumar*** (supra) upon which learned standing counsel for the High Court placed reliance, the Hon'ble Apex Court held that the petitioner therein who had appeared for the examination without protest and filed petition only after he realized that he would not succeed in the examination, such petitioner should not have been granted any relief by the High Court. In the said judgment, the Hon'ble Apex Court relied upon its previous judgment in ***Chandra Prakash Tiwari v. Shakuntala Shukla***⁷ in which it was held that though the question of any estoppels by conduct would not arise in the contextual facts but the law seemed to be well settled that in the event a

⁷ (2002) 6 SCC 127

candidate appears at the interview and participates in the process, only because the result of the interview is not palatable to him, he could not turn round and subsequently contend that the process of interview was unfair and there was some *lacuna* in the process. The proposition of law is well settled on which there can be no dispute, but the same cannot be applied in the preent dispute of seniority. The person whose seniority is going to be affected or while preparation of seniority list objections are invited and the objections are filed, it cannot be said by applying any principle that on rejection of the objection, such person cannot challenge such rejection or question the final seniority list.

61. The Hon'ble Apex Court has held in ***A. P. Cooperative Oil Seeds Growers Federation Limited, Hyderabad v. D. Achyuta Rao***⁸ that the seniority list confers every valuable right on an employee and his entire future. The seniority may not be a fundamental right but is a valuable civil right.

62. In ***V. Vincent Velankanni v. Union of India***⁹ the Hon'ble Apex Court reiterated that the seniority list should not be reopened after a lapse of reasonable period as it would disturb the settled position which is unjustifiable. Paragraphs-45 to 48 of ***V. Vincent Velankanni*** (supra) read as under:

“45. This Court has time and again dealt with the effect of altering the seniority list at a belated stage and how it may adversely affect the employees whose seniority and rank has been determined in the meantime. In this connection, reference may be made to *Malcom Lawrence Cecil D'Souza v. Union of India*³⁶, wherein this Court held that:—

⁸ (2007) 13 SCC 320

⁹ 2024 SCC OnLine SC 2642

“9. Although security of service cannot be used as a shield against administrative action for lapses of a public servant, by and large one of the essential requirements of contentment and efficiency in public services is a feeling of security. It is difficult no doubt to guarantee such security in all its varied aspects, it should at least be possible to ensure that matters like one's position in the seniority list after having been settled for once should not be liable to be reopened after lapse of many years..... Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties. It would, therefore, appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after lapse of some time.”

46. In *R.S. Makashi v. I.M. Menon*³⁷, this Court observed as follows:—

“33. We must administer justice in accordance with law and principles of equity, justice and good conscience. It would be unjust to deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years.”

47. In *K.R. Mudgal v. R.P. Singh*³⁸, this Court observed in the following terms:—

“2. ... A government servant who is appointed to any post ordinarily should at least after a period of 3 or 4 years of his appointment be allowed to attend to the duties attached to his post peacefully and without any sense of insecurity.”

48. In *B.S. Bajwa v. State of Punjab*³⁹, this Court held that the seniority list should not be reopened after a lapse of reasonable period as it would disturb the settled position which is unjustifiable. The relevant extract is as follows:—

“7. ... It is well settled that in service matters the question of seniority should not be reopened in such situations after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable....”

So, the seniority list dated 04.02.2017 should not have been disturbed in the year 2022.

63. In ***Nestle India Ltd.*** (supra) upon which learned counsel for the petitioners placed reliance, the Hon'ble Apex Court held that superstructure of the doctrine of promissory estoppels was extended to service law and that the Government could not rely on a representation made without complying with the procedure prescribed by the relevant statute, but a citizen might and could compel the Government to do so if the factors necessary for founding a plea of promissory estoppels were established. In the said case, the appellant/State was unable to establish any overriding public interest which would have made it inequitable to enforce the estoppels against the State Government. So, it was held that the State Government was bound by the principle of promissory estoppels.

64. In the present case, the seniority list dated 04.02.2017 was prepared at a time when ***N. R. Parmar*** (supra) was in operation. The judgment ***N. R. Parmar*** (supra) was overruled in ***K. Meghachandra Singh*** (supra). But the Hon'ble Apex Court made it clear that the decision in ***K. Meghachandra Singh*** (supra) will not affect the *inter se* seniority already fixed based on ***N. R. Parmar*** (supra) and the same was protected. The decision in ***K. Meghachandra Singh*** (supra) was to apply prospectively except where seniority was to be fixed under relevant rules from the date of vacancy / from the date of the advertisement.

65. Para-39 of ***K. Meghachandra Singh*** (supra) reads as under:

“39. The judgment in *N.R. Parmar* [*Union of India v. N.R. Parmar*, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] relating to the Central Government employees cannot in our opinion, automatically apply to the Manipur State

Police Officers, governed by the MPS Rules, 1965. We also feel that *N.R. Parmar* [*Union of India v. N.R. Parmar*, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] had incorrectly distinguished the long-standing seniority determination principles propounded in, inter alia, *Jagdish Ch. Patnaik* [*Jagdish Ch. Patnaik v. State of Orissa*, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] , *Suraj Parkash Gupta v. State of J&K* [*Suraj Parkash Gupta v. State of J&K*, (2000) 7 SCC 561 : 2000 SCC (L&S) 977] and *Pawan Pratap Singh v. Reevan Singh* [*Pawan Pratap Singh v. Reevan Singh*, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481] . These three judgments and several others with like enunciation on the law for determination of seniority makes it abundantly clear that under service jurisprudence, seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre. In our considered opinion, the law on the issue is correctly declared in *Jagdish Ch. Patnaik* [*Jagdish Ch. Patnaik v. State of Orissa*, (1998) 4 SCC 456 : 1998 SCC (L&S) 1156] and consequently we disapprove the norms on assessment of inter se seniority, suggested in *N.R. Parmar* [*Union of India v. N.R. Parmar*, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] . Accordingly, the decision in *N.R. Parmar* [*Union of India v. N.R. Parmar*, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] is overruled. However, it is made clear that this decision will not affect the inter se seniority already based on *N.R. Parmar* [*Union of India v. N.R. Parmar*, (2012) 13 SCC 340 : (2013) 3 SCC (L&S) 711] and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant rules from the date of vacancy/the date of advertisement.”

VI. Conclusions:

66. Thus, to sum up, our conclusions are;

- i) The date of notification for the appointment to the post of District Judge under 65% promotion quota as also under 10% accelerated recruitment by transfer quota being of the same date 31.03.2015, for the same recruitment year 2015, the process for both the quotas having been

completed and the result declared on the same date 14.11.2015 and also the selection list by the High Court having been sent to the Government for issuance of the Government Order for their appointment being the same date 24.11.2015 and after issuance of the Government Order, though on different dates, the posting orders also having been issued on the same dated 19.02.2016, merely because in the case of the selectees/appointees under 65% promotion quota, the Government Order was issued on 20.01.2016 whereas in the case of the petitioners under 10% accelerated recruitment by transfer quota, the Government Order was issued later on, on 08.02.2016, the petitioners cannot be made junior to all the 65% quota appointees based on the date of the Government Order for appointment. That would be contrary to the legislative mandate under Rule 13 (a) of the Andhra Pradesh State Judicial Service Rules 2007;

- ii) In such a factual backgrounds, the seniority between the recruitees under different quotas for the same recruitment year must be considered as per Rule 13 (a) of the Andhra Pradesh State Judicial Service Rules 2007, by applying 40 point roster and placing the appointees from their respective categories at the place assigned as per the roster in Schedule-A;
- iii) The seniority list prepared by the erstwhile High Court of Andhra Pradesh dated 04.02.2017 applying that Rule 13 (a) of the Rules 2007 was sent to the Government of the erstwhile Andhra Pradesh to notify. The

seniority list of 04.02.2017 was also acted upon by granting promotion to 17 candidates out of that list to the post of District Judges. Merely because the erstwhile Government of Andhra Pradesh of the common State did not notify, on that ground, it cannot be said that the seniority list of 04.02.2017 was not final and not binding;

- iv) Even if the exercise for preparation of fresh seniority list could be undertaken after bifurcation of the State in view of the changed circumstances, and in view of no notification of the seniority list dated 04.02.2017, and the seniority position of the appointees of the recruitment year 2015, under different quotas, could not be disturbed for that recruitment year, detrimental to their seniority position;
- v) The seniority list and the seniority position of the petitioners under 10% quota and 65% quota of recruitment by promotion, for the same recruitment year 2015 pursuant to the notification of the same date, was prepared at the time when **N. R. Parmar's** judgment (supra) was in operation. So, the said seniority list dated 04.02.2017 would be saved and protected in view of the judgment of the Hon'ble Apex Court in **K. Meghachandra Singh** (supra) which was made only prospective though overruling **N. R. Parmar's** judgment (supra), but specifically providing that **K. Meghachandra Singh** (supra) will not effect the *inter se* seniority already fixed based on **N. R. Parmar's** Judgment (supra).
- vi) The petitioners are entitled to protection of their seniority and disturbing their seniority position after a long period and that too in violation of

Rule 13 (a) of the Andhra Pradesh State Judicial Service Rules 2007 by the impugned seniority list dated 05.01.2022, is unsustainable.

- vii) The seniority list dated 05.01.2022 deserves to be set aside with further directions.

67. Thus considered, we are of the view that the seniority list dated 05.01.2022 cannot be sustained.

VII. Result:

68. In the result,

- (i) All the three writ petitions deserve to be allowed and accordingly, those are allowed. The impugned seniority list dated 05.01.2022 and the G.O.Ms.No.13 Law (LA & J-SC.F) Department, dated 11.03.2022, as notified in A.P.Gazette vide No.416 dated 11.03.2022 are quashed for the recruitment year in question.
- (ii) Consequently, a fresh seniority list with respect to the petitioners under 10% Accelerated Recruitment by Transfer quota and the appointees under 65% quota, of the recruitment year 2015, pursuant to the Notifications dated 31.03.2015, subject matter of the present writ petitions, shall be prepared, applying the roster point under Rule 13 (a) of the Andhra Pradesh State Judicial Service Rules 2007, keeping in view the seniority list dated 04.02.2017, prepared by the erstwhile combined High Court for the State of Telangana and the State of Andhra Pradesh.

(iii) The High Court / State of Andhra Pradesh shall not issue any promotion order based on the seniority list of 05.01.2022 till the revised seniority list is issued, as aforesaid;

(iv) After issuance of the revised seniority list, the promotion to the next higher stage, as and when the occasion arises, should be considered in accordance with law.

(v) The petitioners shall be entitled for all the consequential benefits.

69. Since finalization of the seniority as early as possible is essential and necessary for administration of justice, we provide that such an exercise as aforesaid shall be completed within a period of 4 (four) months from the date of this judgment.

70. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 26.09.2025

Dsr

Note:

LR copy to be marked

B/o

Dsr