



Suzana

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITIONS NO.638, 646 AND 647 OF 2023

WRIT PETITION NO.638 OF 2023

1. Mr. Pravin Fakira Powar,
S/o. Fakira Powar,
Indian National, aged 45 years,
R/o. H. no. 1012/2 Goa Police Housing Society,
Sai Ram Kunj, Zozwaddo, Succorro,
Near Succorro Church,
Bardez, Porvorim, Goa – 403501

2. Mr. Tushar Gurudas Lotliker
S/o. Gurudas Lotliker,
Indian National, aged 43 years,
R/o. H. No. 642/4, St. Anthony Vaddo,
Guirim, Bardez, Goa.

3. Mr. Rahul Tukaram Parab
S/o. Tukaram Parab,
Indian National, aged 43 years,
R/o. H. No. 354/11-A, St. Anns wado,
Near St. Anne High School,
St. Anns Colony, Mapusa,
North Goa - 403507

4. Mr. Ninad Ganesh Deulkar
S/o. Late Ganesh Vithoba Deulkar
Indian National, aged 47 years,
R/o. Madhlawada Salem,
Assonora, North Goa – 403503

5. Mr. Narayan Atmaram Chimulkar
S/o. Atmaram Chimulkar
Indian National, aged 47 years,
R/o. 1502/5, Shantai Madel,
Housing Board Colony,
Tivim, North Goa - 403502

6. Mr. Krishna Purushottam Sinari
S/o. of Purushottam Sinari,
Indian National, aged 46 years,
R/o. H. No. 145, Pimpalwada Amona,
CTC: Amone, PO: Marcela,
Goa - 403107

7. Mr. Navlesh Suresh Shet Dessai
S/o. Suresh Shet Dessai,
Indian National, aged 47 years,
R/o. Flat No. 203, Mandop Plaza,
Navelim, South Goa, Goa – 403707

8. Mr. Paresh Rajanikant Navelkar
S/o. Rajanikant Navelkar
Indian National, aged 46 years,
R/o. H. No. 725, Amaral Wado,
Taleigao, Tiswadi,
Caranzalem, North Goa - 403002

9. Mr. Milind Mangesh Bhuimbar
S/o. Mangesh Bhuimbar
Indian National, aged 44 years,
R/o. H. No. 75/1/2,
Sorvem Vaddo,
Near Kids World School,
Bardez, Guirim, North Goa - 403507

10.Mr. Virenndra Balaram Veluskar
S/o. Balaram Veluskar
Indian National, aged 47 years,
R/o. H. No. 280, St. Inez,
Near Ganesh Temple, Panaji,
St. Inez, North Goa – 403001

... Petitioners

Versus

1. State of Goa,
Through its Chief Secretary,
having Office at Secretariat,
Porvorim-Goa.

2. The Director General of Police,
Goa Office of the Director General of Police,
Goa Police Head Quarters,
Panaji-Goa.

3. P.I. (AP) Damodar Vishwanant Naik
Resident of Romm No.4/A, Montepio Police Quarters,
Vasco-da-Gama, Goa.

4. P.I. (AP) Sachin Narayan Gawas,
Resident of H.No.1/1 Charvane, Thane,
Sattari – Goa.

5. P.I. (AP) Amol Atmaram Harmalkar,
Resident of 209/II/1, MPT Colony, Headland,
Sada, Mormugao – Goa.

6. P.I. (AP) Tushar Vilas Narvekar,
Resident of H.No.674, Sinquerim, Mayem,
Bicholim – Goa.

7. P.I. (AP) Sushant Govind Joshi,
Resident of H.No.366, Kumbharwada, Nirankal,
Ponda – Goa.

8. P.I. (AP) Shama @ Shyam Narayan Dhuri,
Resident of H.No.245, Ward No.1, Dabos, Valpoi,
Sattari - Goa.

9. P.I. (AP) Amit Ramchandra Borkar,
Resident of H.No.274/5, Kateye Bhat, Near Ela Farm,
Old-Goa, Goa.

10. P.I. (AP) Santosh Pandurang Bhaip,
Resident of H.No.27/6, Kalchawada, Sal,
Bicholim - Goa.

11. P.I. (AP) Naresh Purso Mangadkar,
Resident of H.No.312, Mangado, Corlim,
Tiswadi - Goa.

12. P.I. (AP) Prajot @ Prajyot Sunil Bhagat,
Resident of H.No.588, Bhagatwada, Nagarcem,
Canacona - Goa.

13. P.I. (AP) Ramkrishna Arjun Porob,
Resident of H.No.087, Gaonkarwada, Pissurlem, ?
Sattari – Goa.

14. P.I. (AP) Nilesh Naguesh Shirodkar,
Resident of H.No.149, Bhailiphal, Surla,
Sanquelim – Goa.

15. P.I. (AP) Sakharam Suresh Parab And
Resident of Madhlawada, Virnoda,
Pernem - Goa.

16. P.I. (AP) Sudhir Atmaram Redkar,
Resident of New Police Headquarters,
B-11-3, Porvorim - Goa.

... Respondents.

AND
WRIT PETITION NO.646 OF 2023

Mr Brutano Paxito,
Indian National,
Aged 47 years,
Son of Joaquim Peixoto,
Resident of H.No.56/2,
Cavorim, Covatem Chandor,
Salcete-Goa-403714.

Versus

1. The State of Goa,
Through its Chief Secretary,
Secretariat,
Porvorim, Bardez-Goa.

2. The Director General of Police,
Office of the Director General of Police,
Panaji-Goa.

3. P.I. (AP) Damodar Vishwanath Naik,
Resident of Romm No.4/A,
Montepio Police Quarters,
Vasco-da-Gama, Goa.

4. P.I. (AP) Sachin Narayan Gawas,
Resident of H.No.1/1 Charvane,
Thane, Sattari-Goa.

5. P.I. (AP) Amol Atmaram Harmalkar,
Resident of 209/II/1,
MPT Colony, Headland,
Sada, Mormugao-Goa.

6. P.I. (AP) Tushar Vilas Narvekar,
Resident of H.No.674,
Sinquerim, Mayem,
Bicholim-Goa.

7. P.I. (AP) Sushant Govind Joshi,
Resident of H.No.366,
Kumbharwada, Nirankal,
Ponda-Goa.

8. P.I. (AP) Shama @ Shyam Narayan Dhuri,
Resident of H.No.245, Ward No.1,
Dabos, Valpoi,
Sattari-Goa.

9. P.I. (AP) Amit Ramchandra Borkar,
Resident of H.No.274/5,
Kateye Bhat, Near Ela Farm,
Old-Goa, Goa.

10. P.I. (AP) Santosh Pandurang Bhaip,
Resident of H.No.27/6,
Kalchawada, Sal,
Bicholim-Goa.

11. P.I. (AP) Naresh Purso Mangadkar,
Resident of H.No.312,
Mangado, Corlim,
Tiswadi-Goa.

12. P.I. (AP) Prajot @ Prajyot Sunil Bhagat,
Resident of H.No.588,
Bhagatwada, Nagarcem,
Canacona-Goa.

13. P.I. (AP) Ramkrishna Arjun Porob,
Resident of H.No.087,
Gaonkarwada, Pissurlem,
Sattari-Goa.

14. P.I. (AP) Nilesh Naguesh Shirodkar,
Resident of H.No.149,
Bhailiphal, Surla,
Sanquelim-Goa.

15. P.I. (AP) Sakharam Suresh Parab And
Resident of Madhlawada,
Virnoda,
Pernem-Goa.

16. P.I. (AP) Sudhir Atmaram Redkar,
Resident of New Police Headquarters,
B-11-3, Porvorim-Goa.

.... Respondents.

AND

WRIT PETITION NO.647 OF 2023

Mr Sudesh Malu Velip,
Indian National,
Aged 43 years,
Son of Malu Velip,
Resident of F-403,
St. Francis Xavier Residency,
Phase-II, Ella, Old Goa,
Goa-403402.

.... Petitioners.

Versus

1. The State of Goa,
Through its Chief Secretary,
Secretariat,
Porvorim, Bardez-Goa.

2. The Director General of Police,
Office of the Director General of Police,
Panaji-Goa.

3. P.I. (AP) Damodar Vishwanath Naik,
Resident of Romm No.4/A,
Montepio Police Quarters,
Vasco-da-Gama, Goa.

4. P.I. (AP) Sachin Narayan Gawas,
Resident of H.No.1/1 Charvane,
Thane, Sattari-Goa.

5. P.I. (AP) Amol Atmaram Harmalkar,
Resident of 209/II/1,
MPT Colony, Headland,
Sada, Mormugao-Goa.

6. P.I. (AP) Tushar Vilas Narvekar,
Resident of H.No.674,
Singerim, Mayem,
Bicholim, Goa.

7. P.I. (AP) Sushant Govind Joshi,
Resident of H.No.366,
Kumbharwada, Nirankal,
Ponda-Goa.

8. P.I. (AP) Shama @ Shyam Narayan Dhuri,
Resident of H.No.245, Ward No.1,
Dabos, Valpoi,
Sattari-Goa.

9. P.I. (AP) Amit Ramchandra Borkar,
Resident of H.No.274/5,
Kateye Bhat, Near Ela Farm,
Old-Goa, Goa.

10. P.I. (AP) Santosh Pandurang Bhaip,
Resident of H.No.27/6,
Kalchawada, Sal,
Bicholim, Goa.

11. P.I. (AP) Naresh Purso Mangadkar,
Resident of H.No.312,
Mangado, Corlim,
Tiswadi-Goa .;

12. P.I. (AP) Prajot @ Prajyot Sunil Bhagat,
Resident of H.No.588,
Bhagatwada, Nagarcem,
Canacona, Goa.

13. P.I. (AP) Ramkrishna Arjun Porob,
Resident of H.No.087,
Gaonkarwada, Pissurlem,
Sattari-Goa.

14. P.I. (AP) Nilesh Naguesh Shirodkar;
Resident of H.No.149,
Bhailiphal, Surla,
Sanquelim, Goa.

15. P.I. (AP) Sakharam Suresh Parab And
Resident of Madhlawada,
Virnoda,
Pernem-Goa .;

16. P.I. (AP) Sudhir Atmaram Redkar,
Resident of New Police Headquarters,
B-11-3, Porvorim-Goa.

.... Respondents

Mr. Nitin Sardessai, Senior Advocate with Mr Galileo Teles, Mr Siddharth Sardessai and Ms R. Ballari, Advocates for the Petitioners in Writ Petition No.638 of 2023.

Mr Carlos A. Ferreira, Senior Advocate with Mr Dhaval D. Zaveri and Mr Sujay Kamulkar, Advocates for the Petitioners in Writ Petitions No.646 of 2023 and 647 of 2023.

Mr Prashil Arolkar, Additional Government Advocate for Respondents No.1 and 2 in Writ Petition No.647 of 2023.

Mr Deep D. Shirodkar, Additional Government Advocate for Respondents No.1 and 2 in Writ Petitions No.638 of 2023 and 646 of 2023.

Mr Agnelo F. Diniz, Senior Advocate with Mr Parikshit Sawant, Advocate for Respondents No.3, 10, 15 and 16.

Mr Abhijit Gosavi and Mr Gaurang Kerkar, Advocates for Respondents No.4, 6, 8 and 13.

Mr Pavithran A.V., Advocate with Mr Prasad Kholkar, Advocate for Respondents No.7 and 12.

Mr Shirin Naik, Advocate for Respondents No.9 and 11.

Mr Varun Bhandankar, Advocate with Ms Maria Carmel Cota Viegas, Advocate for Respondent No.5.

Mr Bhargav Samant, Advocate for Respondent No.14.

**CORAM : BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

Reserved on : 8th JULY, 2025.

Pronounced on: 22nd JULY, 2025.

JUDGMENT: (Per. Bharati Dangre, J.)

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

The aforesaid ten Petitioners in WP/638/2023(F), WP/646/2023 and WP/647/2023 raise a challenge to the Memorandum dated 23.03.2023 issued by the Superintendent of Police (HQ.), Panaji, Goa, thereby finalising the Seniority List of Police Inspectors of Police Department, Government of Goa, on consideration of the objections received pursuant to the declaration of tentative Seniority List of Police Inspectors and Indian Reserve Battalion (IRBn), to be considered for promotion, published on 15.03.2023.

The Petitioners before us are the Police Sub-Inspectors who, on undergoing the recruitment process of selection found placement in the Selection List displayed on 16.04.2002.

The List comprising of the Petitioners, was subjected to challenge by three unsuccessful candidates namely, Tanveer Khatib, Shankar Kamat, Victor Lobo, who though participated in the selection list did not find themselves in the Select List and through three distinct Writ Petitions bearing No.138, 172 and 180 of 2002, they raised a challenge to the Select List. The thrust of the challenge, in all the Petitions, inter alia, was that after commencement of the selection

process, new criteria was introduced which prejudicially affected them and resulted in their non-selection.

On 04.06.2002, the Division Bench of this Court was pleased to grant stay to the Select List and restrained the Respondents from issuing appointment letters to the selected candidates.

While admitting the Writ Petitions, on 04.06.2002, this Court directed that the appointments made, if any, to the post of Police Sub-Inspector would be subject to the result of the petitions.

This resulted in conditional appointment orders being issued to 31 candidates on 14.06.2002, appointing them on the post of Police Sub Inspectors against the existing vacancies on the pay of Rs.5500/- per month in the scale of Rs.5500-175-9000/- plus other usual allowances with effect from the date when they report for basic training at the Police School, Valpoi. The appointment order, by way of condition no.3 stipulated that their seniority will be fixed in accordance with the existing rules and their appointment shall be on probation of two years.

2. On 12.03.2024, this Court pronounced its judgment in the three Petitions raising a challenge to the Select List dated 16.04.2002 and held that by introduction of the career profile, the Respondent no.1 and 2 have committed an illegality as they permitted some candidates to gain undue advantage over the Petitioners before the

Court, in the matter of selection and as a result, the selection of Respondent No.3 to 33 was set aside. Resultantly, the selection of the 31 candidates, who were issued appointment to the post of Police Sub-Inspector pursuant to the publication of Selection List, was set aside and this included the Petitioners, who filed Special Leave Petitions before the Apex Court.

3. During the pendency of the Petition, since the Petitioners were already issued orders of appointment to the post of Police Sub-Inspector, pursuant to the decision taken in the meeting of the Police Establishment Board (PEB), the Petitioners came to be promoted to the post of Police Inspector, on ad-hoc basis as 52 posts of Sub-Police Inspectors were vacant and it was necessary to have the manpower to keep the Department running. Worth it to note that while effecting promotion in favour of the Petitioners, it was clarified that the same was purely on ad-hoc basis and subject to the outcome of the Special Leave Petition.

4. On 18.12.2013, the Office of the Director General of Police, Government of Goa, confirmed the 29 Police Sub-Inspectors on the post, by ending their period of probation with effect from the date of their appointment, i.e. on 16.06.2004 and 31.07.2004. Once again, even this order made the confirmation subject to the final outcome of the Special Leave Petition filed by Shri Dattaguru Sawant and Others pending before the Apex Court.

5. On 16.08.2017, the Hon'ble Apex Court allowed the appeals filed by the Petitioners and set aside the order of the High Court when it held that the Writ Petitioners before the High Court had also participated in the same process and were tested by the same criteria which provided weightage for better qualification and better performance in the examination and neither of the criteria was held to be irrational or malafide. By specifically recording that the appellants selected in the process have already worked for 15 years and hence, disturbing the selection of the appellants was uncalled for, the Special Leave Petitions filed by the Petitioners were allowed and the judgment of the High Court setting aside the Select List of 16.04.2002, was set aside.

6. At this stage, it is worth to note that between 08.10.2012 and 13.06.2016 several Police Sub-Inspectors were promoted on ad-hoc basis to the post of Police Inspector. Meanwhile, various post of Police Inspectors were filled in from IRBn category on 12.10.2016 and the Petitioners would contest their placement higher in the Seniority List as they were appointed on 12.10.2016.

On 17.01.2019, on recommendation of the Police Establishment Board, several ad-hoc Police Inspectors/Police Sub-Inspectors working on ad-hoc basis were promoted to the post of Police Inspector on regular basis in the Pay Matrix Level -7 (Rs.44900-1,42,400/-) with immediate effect and this included the Petitioners.

However, the promotions were directed to be kept in abeyance on the orders of the Superintendent of Police, Panaji, and ultimately on 10.03.2023, the promotion orders were cancelled with the approval of Director General of Police.

On 23.03.2023, the Final Seniority List came to be published in which the Petitioners are shown to be appointed on 17.01.2019 and found placement below the Respondents who were shown to be regular appointees to the post of Police Inspector on 12.10.2016, the posting being shown in IRBn. As far as the Respondents are concerned, they are found to be placed at Serial No.29 to 42, whereas, the Petitioners are placed at Serial No.43 onwards and it is their placement below the Respondents that has constrained them to approach this Court praying for setting aside the Final Seniority List.

7. We have heard learned Senior Counsel Mr Nitin Sardesai, in Writ Petition No.638 of 2023, learned Senior Counsel, Mr Carlos Ferreira for the Petitioners in the two set of Petitions.

Mr Sardesai has exhaustively taken us through the documents annexed to the Petition and it is his specific submission that promotion of the Petitioners on ad-hoc basis, to the post of Police Inspector in the year 2011 on recommendations of the Police Establishment Board (PEB) was only on account of the pendency of the Special Leave Petition filed by them before the Apex Court, raising a challenge to the

order of the High Court which had set aside their selection and, there was no other reason than this.

According to him, the Minutes of the Meeting of the PEB, preceding their promotion, clearly disclose that since there was shortage of Police Inspectors, the Government was moved to seek opinion of the Law Department, whether the vacancies of the Police Inspectors could be filled in and on the opinion expressed by the learned Advocate General that there was no restraint in considering the Sub-Inspectors for promotion or confirming their services, subject to the result of the Special Leave Petition or any order passed therein, it was decided to consider the Petitioners for promotion. Accordingly, the PEB was constituted comprising Director General of Police as Chairman, Inspector General of Police as Member along with Deputy Inspector General of Police as one of the Members and the assessment statement and service particulars of the eligible Police Sub-Inspectors and their Integrity Certificates were examined in light of the Recruitment Rules for the post of Police Inspector published on 21.01.2000.

The PEB, after going through the Annual Confidential Reports for the relevant period as well as their service records, recommended their names for being promoted to the post of Police Inspectors and, accordingly, the orders were issued indicating that the promotion to the post of Police Inspector is purely on ad-hoc basis and shall not

bestow any claim for regular appointment and it would be subject to the outcome of the Special Leave Petitions pending before the Apex Court.

Pursuant to the order of the Supreme Court dated 16.08.2017, the Petitioners were promoted as Police Inspectors on regular basis on 17.01.2019.

8. In these facts, the submission of Mr Sardesai is, that the nomenclature “ad-hoc” in the order of promotion of the Petitioners is a misnomer, as in fact the promotion was not ‘ad-hoc’ as the order stated that they would be on probation of two years and in fact there were vacancies which were required to be filled in and therefore the Board on adopting the procedure for selection, promoted the Petitioners and definitely the Petitioners being fully eligible to hold the said post, as their appointment was made with approval and consultation of the appropriate Authority, pursuant to the Special Leave Petition filed by them being allowed, their seniority and entitlement to the post shall be computed from the date of actual promotion and not from 17.01.2019, i.e. date from which they were holding the post which is considered as their date of regular appointment to the post of Police Inspector. If they get their due date, that is, the date when they were actually promoted to the post of Police Inspector, they would stand senior to the Respondents who have

entered into the cadre of the Police Department with effect from 12.10.2016.

Mr Sardesai would place reliance upon the decision of the Apex Court in the case of *Rudra Kumar Sain & Ors. v/s. Union of India & Ors*¹. and, in particular, the observations of the Apex Court to the effect that if the appointment order itself indicate that the post is created to meet a particular temporary contingency or for a period specified in the order, then such an appointment can be aptly described as “ad hoc or stop-gap” but it is not possible to lay down any straightjacket formula nor give an exhaustive list of circumstances and situation in which such an appointment (ad-hoc, fortuitous or stop-gap) can be made. He would rely upon the observations of the Apex Court in paragraph 20, which read thus:

“20. In service jurisprudence, a person who possesses the requisite qualification for being appointed to a particular post and then he is appointed with the approval and consultation of the appropriate authority and continues in the post for a fairly long period, then such an appointment cannot be held to be “stopgap or fortuitous or purely ad hoc”. In this view of the matter, the reasoning and basis on which the appointment of the promotees in the Delhi Higher Judicial Service in the case in hand was held by the High Court to be “fortuitous/ad hoc/stopgap” are wholly erroneous and, therefore, exclusion of those appointees to have their continuous length of service for seniority is erroneous.”

¹(2000) 8 SCC 25

9. Mr Sardesai would also rely upon the Rules called as Goa Police Service Rules, 2022 framed in exercise of power conferred by the proviso to Article 309 of the Constitution of India and he has also placed before us the Office Memorandum issued by the Government of India, Ministry of Personnel, Public Grievances & Pensions, with regard to the subject of Departmental Promotion Committees (DPC) and related matters and he is extremely critical about the partial reliance on the said Guidelines by the Respondents.

10. The learned Senior Counsel, Mr Carlos Ferreira, representing the Petitioners in Writ Petition No.646 and 647 of 2023, would adopt the submissions of Mr Sardesai and he would place reliance upon the latest decision of the Apex Court in the case of *P. Rammohan Rao v/s. K. Srinivas & Ors*² in submitting that notwithstanding the nomenclature offered to the appointments of the similarly situated candidates as being temporary, such appointments will neither be restricted by a fixed tenure nor conceived as stop-gap or adhoc arrangement and he would rely upon the specific proposition laid down by Their Lordships in the said decision where it is observed as below:

“It is trite that once the services of employee(s) are regularised, the ad-hoc or stop-gap nature of the appointment does not survive.”

²(2025) 4 SCC 127

Relying upon the said proposition, he would submit that services of the Petitioners were regularised by an order dated 17.09.2019 and since it is not in dispute that the Petitioners discharged their duty as Police Inspector but only because their appointment orders included the word “ad-hoc”, their services were never ad-hoc as they were appointed to fill up regular existing vacancies and after following due process of selection by ensuring that they are qualified to hold the said post, they were allowed to occupy the post of Police Inspector. Mr Carlos thus press for the reliefs in the two Petitions, i.e. Writ Petition No.646 of 2023 and 647 of 2023:

“A. For an appropriate Writ or Order of Declaration that the Order dated 17/01/2019 under No. CA-I /11 (Vol.XI) / Prom.PI / 722/2019; Order dated 29/12/2022 Under No.CA-I/ 11 (Vol. IX)/ Prom. PI / 17904/ 2022; PEB Meeting and the consequent Order dated 10/03/2023 under No.CA-I/11 (Vol. IX)/Prom/ PI/ 2522/ 2023 at Annexure-P-1-Colly to the Petition are illegal and manifestly arbitrary and consequently the same be quashed and set-aside.

B. Consequently, for an appropriate Writ, Order or directions to the Respondent for restoration of the PEB Meeting and the consequent Order dated 22/08/2022 and 29/08/2022 at Annexure-P-14 to the Petition, respectively, declaring the Petitioner to have been promoted to the post of Police Inspectors at Serial No.12 on regular basis with effect from 1/04/2013.

C. For an appropriate Writ, Order or direction to the Respondents for quashing and setting aside the Final Seniority List vide Memorandum dated 23/03/2023 under

No.CA- II / Sen.PI (Vol.III) / 3159 /2023 at Annexure-P-1 Colly to the Petition and for directions to the Respondents to fix the date of appointment as per the PEB Meeting and the consequent Order dated 22/08/2022 and 29/08/2022 at Annexure-P-13 to the Petition.

D. Pending the final adjudication and disposal of the present Petition, the effect and operation of the said Final Seniority List vide Memorandum dated 23/03/2023 under No. CA-II / Sen.PI (Vol.III) / 3159 /2023 at Annexure-P-1 Colly to the Petition be stayed.

E. For ex-parte and ad-interim reliefs in terms of Prayer Clause D above;”

11. Opposing the reliefs in the three Petition, we have heard the learned Senior Counsel Mr Diniz, representing Respondents No.3, 10, 15 and 16 in Writ Petition No.646/2023, who would rely upon the affidavit filed and he would submit that the Petitioners in both the Petitions have failed to raise a challenge to the final Seniority List of the Police Department published vide Memorandum dated 23.11.2020 by the Superintendent of Police, Panaji, Goa and according to him, in the said list also, the placement of the Petitioners is found based on the date of their regular appointment to the post of Police Inspector as 17.01.2019. According to him, this List did not include the officers from IRBn but it is his specific contention that this Memorandum which he has placed on record along with the additional affidavit dated 08.07.2025, is a suppression of material fact at the instance of the Petitioners.

Dealing with the argument that the promotion of the Petitioners was regular and not “ad-hoc”, he would place reliance upon the decision of the Apex Court in the case of *State of West Bengal And Ors. v/s. Aghore Nath Dey And Ors*³, where the Supreme Court has held that merely because the incumbents have worked continuously for a long period, their period of continuous officiation, where the initial appointment is not a regular one, will not be counted towards their seniority.

Submitting that when the initial appointment is only ad-hoc and not according to the Rules and made merely as a stop-gap arrangement, Mr Diniz urge that the officiation of the Petitioners in the post do not deserve consideration for reckoning their seniority, as the regular procedure for promotion was not followed when the Petitioners were promoted but it was merely a stop-gap arrangement to fill up the vacancies, pending the outcome of the Special Leave Petition, the promotion orders were issued which were not in terms of the Recruitment Rules. According to him, as far as promotion to the post of Police Inspector from the post of Police Sub-Inspector necessarily contemplate promotions to be effected by PEB and when the Petitioners were never appointed on regular basis and in fact they could not have been so appointed as their initial appointment was on probation of two years and it is only on 18.12.2013, they were declared

³1993 (3) SCC 371

to have completed their period of probation satisfactorily so as to confirm them on the post of Police Sub-Inspector. It is, therefore, submitted by Mr Diniz that there was no question of promoting the Petitioners to the post of Police Inspector on regular basis while they were not even confirmed in the post of Police Sub-Inspectors upon their appointment in the said post and it is only on 18.12.2013 though, with a retrospective effect, they were declared to have satisfactorily completed the period of probation.

12. Mr Diniz has invited our attention to the Minutes of the PEB meeting held on 29.04.2011, when the Petitioners had not completed their period of probation and, according to him, considering the existing vacancies of Police Inspectors, the Government was moved to seek opinion of the Law Department whether they could fill up the vacancies of Police Inspectors and from the said Minutes of the Meeting, it is evidently clear that the appointment/promotion was merely ad-hoc. By relying upon the Minutes of the PEB held on 22.08.2022 for promotion of ad-hoc Police Inspector/Police Sub-Inspectors to the post of Police Inspector on regular basis and to restore the findings of the PEB Meeting held on 17.01.2019, he has drawn our attention to the date from which the promotion of the Petitioners was given effect to against the date shown in column no.4.

These Minutes, however, according to Mr Diniz, have referred to Rule 6.4.4 of Departmental Promotion Committee (DPC)

Guidelines providing to the following effect: “While promotions will be made in the order of consolidated select list, such promotion shall have only prospective effect even in cases where vacancies relate to earlier year(s)” and this provision was not taken into consideration in the review meeting of PEB held on 22.08.2022, as the promotion order dated 29.08.2022 was issued with retrospective effect. It is for this reason, according to Mr Diniz, the PEB cancelled the findings of Review PEB Meeting held on 22.08.2022 and also promotion order dated 29.08.2022 and recommended to restore the findings of the PEB Meeting held on 17.01.2019 and the promotion order issued on 17.01.2019 in terms of Rule 6.4.4 of the Guidelines of the DPC Guidelines as per the Office Memorandum dated 26.09.1990.

13. According to Mr Diniz, promotion takes effect from the date of promotion and not with retrospective effect and for this proposition, he would place reliance upon the decision in the case of *Nirmal Chandra Sinha v/s. Union of India & Ors*⁴, as well as in the case of *Union of India & Ors v/s. N. C. Murali & Ors*⁵, where it was categorically held that there cannot be retrospective promotions, as it can only be given from the date of vacancy on finding of a candidate suitable to occupy the said post.

⁴2008 14 SCC 29

⁵ (2017) 13 SCC 575

Applying the principle in the present case, Mr Diniz would submit that the vacancies arose in 2012 and therefore there was no question of accommodating the Petitioners in the year 2011 and that is the specific reason that the DPC finding holding the Petitioners entitled to be promoted from retrospective date was set aside by subsequent DPC, as it had granted retrospective promotions.

Mr Diniz has distinguished the decision in case of ***Rudra Kumar Sain***, on which reliance has been placed by Mr Sardesai as, according to him, the facts of the present case would reveal that the Petitioners are appointed on ad-hoc basis and that is the distinguishing factor, as according to him, the principle laid down there, cannot be applied to the case in hand.

14. Mr Gosavi, the learned Counsel representing Respondents No.4, 6, 8 and 13 in Writ Petitions No.646 of 2023 and 647 of 2023, would place reliance in the case of ***Dinesh Kumar Gupta & Ors. v/s. High Court of Judicature of Rajasthan And Others***.⁶ in support of the case of the Respondents by submitting that the principle has been well settled by the Apex Court, when the Judicial Officers were promoted on ad-hoc basis as Additional District and Sessions Judges to man the Fast Track Court in the State and the verdict delivered is, “the seniority is liable to be reckoned from the date when the

⁶2020 19 SCC 604

substantive appointment is made and not from the date of initial ad-hoc appointment or promotion.”

15. According to him, the principle of law laid down in the said decision to the effect that the promotion adopted to man the Fast Track Court, will not allow the seniority to be counted but the seniority will have to be reckoned only from the substantive appointment of the cadre of the District Judge. He would rely upon the order of promotion of the Petitioners, to the post of Police Inspector, purely on ad-hoc basis when the specific clauses enumerated in form of clause No.2 read to the effect that the promotion shall not bestow any right on the promoted officer in claiming for regular appointment and the services shall not be placed in the next higher grade and another stipulation in form of clause 3 that the said promotion shall be subject to the outcome of the Special Leave Petition pending before the Apex Court.

By specifically relying upon the Minutes of the Meeting of PEB held on 29.04.2011, he would submit that the vacancies which were proposed to be filled were only filled on ad-hoc basis and in fact the said decision was justified since the probation period of the Petitioners was declared to have been satisfactorily completed only when an order was passed by the Director General of Police on 18.12.2013, with backdate being mentioned. According to him, as per the DPC Guidelines, the grading of the officers under consideration was not

followed and this is for the reason that the DPC was quite alive of the fact that the consideration of the candidature of the Petitioners was purely on ad-hoc basis and according to Mr Gosavi, the Petitioners were also conscious of this fact and therefore, in the year 2019, they accepted the regularisation without any demur. He would also submit that the Petitioners never raised a challenge to the final Seniority List published in the year 2020, in which their seniority was reckoned from 2019, but only when the Respondents gained an entry in the said Seniority List, they have approached the Court. In any case, it is the submission of Mr Gosavi that the Petitioners came into the cadre of Police Sub-Inspector only in the year 2019, much later than that of the Respondents who entered the cadre in 2016, and accordingly the seniority has rightly been determined.

16. Learned Counsel, Mr Pavithran representing Respondents No.7 and 12 has also placed reliance on the decision in the case of *Chairman, State Bank of India & anr. v/s. M. J. James*, as he would raise an objection that the Petition filed by the Petitioners suffer from delay and laches since the Petitioners had failed to raise a challenge to their placement in the Seniority List published in the year 2020, they have acquiesced of their right and therefore cannot complain just because the Respondents gained entry into the Seniority List. He would submit that since passage of time, the parties have changed their

⁷2022 2 SCC 301

position and the challenge to the Seniority List must meet with lot of resistance, as the challenge suffers from delay and laches. He would submit that as far as the Petitioners are concerned, they were never in the regular service of Police Sub-Inspectors as their probation period was not complete and therefore they had no right to raise a challenge to Seniority List in which the Respondents are placed above them.

We have also heard learned Counsel Mr Shirin Naik, representing Respondent No.9 and 11 in Writ Petition No. 646 of 2023 and Writ Petition No. 647 of 2023, who would submit that the said Respondents are already promoted to the post of Dy. SP in the year 2023 and he would adopt the arguments of learned Senior Counsel Mr Diniz, advanced on behalf of the other Respondents. Similarly, the learned Counsel Mr Varun Bhandankar, representing Respondent No.5 and Mr Bhargav Samant, representing Respondent No.14 has also adopted the arguments advanced by the learned Senior Counsel, Mr Diniz.

17. On behalf of the Respondent No.1 and 2, the learned Additional Government Advocate Shri Deep Shirodkar and Shri Prashil Arolkar have advanced their submissions. They would place reliance upon the affidavit-in reply filed on behalf of Respondents No.1 and 2 in WP/647 of 2023 by the Superintendent of Police which has narrated the sequence of events.

The Respondent No.2 has denied the contentions in the Petition by stating that vide Memorandum dated 10/03/2025, a combined tentative Seniority list consisting of 132 Police Inspectors of Goa Police and Indian Reserve Battalion was prepared as per Order dated 26/04/2022 issued by the Department of Home (General) and Rule 16 of Goa Police Service Rules, 2022 and circulated amongst all Police Inspectors with directions to go through the said tentative seniority list and communicate their objections, if any, in writing along with proof of documents through their Head of Offices duly addressed to the Director General of Police by 15/03/2023.

The Respondent No.2 has annexed the Minutes of the PEB of different dates, when the case of the Petitioners were considered for promotion purely on ad-hoc basis.

18. We have perused the pleadings in the Writ Petitions and carefully noted the rival submissions advanced on behalf of the Petitioners and the Respondents.

In the year 2002, the recruitment process was initiated for filling up the post of Police Sub-Inspectors in the State and on completion of the said process, merit list of the selected candidates was displayed on 16.04.2002. Before the appointment order could be issued, three candidates who had participated in the said process, namely Tanveer Khatib, Shankar Kamat and Victor J.Lobo, filed Writ Petition No.138 of 2002, 172 of 2002 and 180 of 2002, respectively, raising a challenge

to the selection process on the ground that they possessed the requisite qualifications and even cleared the preliminary selection test rendering them eligible for written examination to be conducted on 10.02.2002. However, when the Petitioner appeared with necessary documents before the Superintendent of Police (HQ), Panaji, they were informed about some of the heads for which additional marks were proposed to be allotted. The Petitioners appeared for the oral interview held on various dates, and the list of selected candidates was displayed on the notice board and the Petitioners were shocked to find their names missing.

They raised a challenge to the selection process, which according to them, was not based on the Recruitment Rules but was based on the criteria dehors the Rules as selection process allotted marks for Law graduates or post graduate or giving weightage to the candidates obtaining more than 60% marks at graduation and also giving weightage to the persons who were proficient in computers or possessing NCC Certificate or Sportsmen at national or international level, which was not at all the criteria prescribed in the Recruitment Rules which only required the candidate to be tested based on their performance in written test and oral interview. Alleging that allotment of additional marks was arbitrary and the heads on which the marks were allotted are not germane to the process for which the selection process was initiated, they sought for setting aside the whole selection process, including the publication of the Select List dated 16.04.2002.

When Writ Petition No.138 of 2002 came up for admission before the Division Bench, the Court was pleased to stay the Select List and the Respondents were directed not to issue appointment letter on the basis of the Select List which prompted the Petitioners to move a Miscellaneous Civil Application, praying for vacation of stay. While admitting the three Writ Petitions, the Court clarified that appointment of the candidates whose names are included in the Select List, if made to the post of Police Sub-Inspector, shall be subject to the result of the Petitions.

19. On 14.06.2002, the appointment orders were issued in favour of 30 candidates and the order of appointment stated thus:

“On recommendation of the Departmental Selection Committee, the following candidates are hereby appointed to post of Police Sub-Inspector against the existing vacancies on pay of Rs.5500/- p.m. in the scale of pay of Rs.5500-175-9000, plus other usual allowances admissible from time to time, with effect from the date they report for basic training at the Police Training School, Valpoi”

The order of appointment also clarified that the appointment was made under the Police Act, 1861, and is subject to the terms and conditions specified in the Office Memorandum dated 12.06.2002 and other rules and regulations laid down by the Government from time to time. The period of probation was fixed at two years but clause no. 6 made the appointment subject to the result of Writ Petition no.138 of 2002 and other connected Writ Petitions.

20. The three Writ Petitions filed by Tanveer Khatib and Others were finally decided by the Division Bench of the High Court by Judgment dated 12.03.2004, and the Bench was of the view that by introduction of the career profile, the Respondent no. 1 and 2 have committed an illegality as the successful candidates have gained an undue advantage over the Petitioners in the matter of selection and therefore the selection of Respondents No. 3 to 33 (Respondents No. 4 to 34 in Writ Petition no.172 of 2002) was set aside and the Rule was made absolute accordingly.

21. The aforesaid decision of the High Court was the cause for the Government of Goa filing three Special Leave Petitions before the Apex Court numbered as No.8731/2004, 8679/2004 and 8688/2004 on 21.04.2004 before the Supreme Court.

On 05.05.2008, the Under Secretary (Home), Secretariat, Porvorim, was requested to advise whether the 31 Police Sub-Inspectors whose matter was pending before the Supreme Court could be considered for lifting of period of probation, as their appointment order issued on 14.06.2002 mentioned about them being subjected to probation of two years and as to whether they could be confirmed from due date pending decision of the Supreme Court. In response, the Under Secretary, (Home), Porvorim, by its letter dated 28.10.2008, enclosed a Note from the Law Department, Government of Goa and

requested to take necessary action. Worth it to note that the Law Department opined thus:

"It was not permissible to lift the probation and confirm the P.S.Is till the petition as filed by the State Government as well as by the Petitioners (original Respondents) in W.P.Nos.138, 172 and 180 of 2002, is disposed of by the Supreme Court, or the Supreme Court vacates its interim Order dated 6/5/2004 as passed in SLP (C) No.8380 of 2004 and connected matters. In case, the department desires to fill up post of P.Is., by giving appointment to the candidates holding the post of PSI whose appointment is quashed and they continued due to the interim stay of the Supreme Court, a necessary clarificatory order may be sought from the Supreme Court by moving a Misc. Civil Appln. In SLP as filed by this State Government for filling up the posts of P.Is. at least on adhoc basis till the disposal of the above SLP No. Civil 8380 of 2004 and other connected matters. It is not permissible on the part of the department either treating their probation period satisfactorily and subsequent confirmation, and thereafter to issue necessary order in this regard. If the above SLP as preferred by this State Government is withdrawn, even then, the other SLP which has been preferred by the petitioner (original respondents) in W.P.Nos. 138, 172 and 180 of 2002 will remain pending as well as the interim order dated 6/5/2004 will also continue. If the stay is vacated by the Supreme Court, or any order is passed against them, the net result will be that the PSIs who are presently continuing will have to be removed from service from the post of PSI thereof."

22. Upon the aforesaid note, the Advocate General, State of Goa, on 24.12.2008, commented thus:

"I do not agree with the opinion of the Law Department that clarification is required to be obtained from the Supreme Court. High Court has struck down the appointment of 31 PSI's State as well as some of the aggrieved PSI's have filed Special Leave Petition's (SLP's) before the Supreme Court. Supreme Court has granted interim stay, pursuant to which the said 31 PSI's are continuing in service. SLP's are pending before the Supreme Court. There is no restraint order on the Government to confirm the PSI or to consider them for promotion. The confirmation or promotion should, however, be subject to the result of the SLP's or any orders."

23. The aforesaid opinion prompted the Government of Goa to file an application for withdrawal of the Special Leave Petitions filed by it and by order dated 11.02.2009, the SLPs were dismissed as withdrawn. In the appeal filed by Dattaguru Sawant, leave was granted and the Apex Court permitted the Respondent No.2 to fill the post of Police Inspectors but clarified that any such appointment shall be subject to the final outcome of the appeals.

24. In the wake of the aforesaid development, upon recommendation of the Police Establishment Board, on 18.12.2013, the probation period of 28 of PSIs was declared to be completed w.e.f. 16.06.2004 and in case of one PSI, Sandhya Gupta, it was done w.e.f. 31.07.2004.

This order, however, made it clear that the lifting of probation period and confirmation of the candidates in the post of Police Sub-Inspector is subject to the final outcome of Special Leave Petitions or

any further orders passed in Special Leave Petition filed by Dattaguru Sawant and others being Special Leave Petitions No.8380/2004, No.8687/2004 and No.8689/2004. The above order was passed with the approval of the Director General of Police.

25. Based on the opinion of the learned Advocate General of State of Goa, 27 Police Sub-Inspectors were promoted to the post of Police Inspector purely on ad-hoc basis. Each of the promotion orders, set out as below:

“On the recommendation of the Police Establishment Board, the below mentioned Police Sub-Inspectors are hereby promoted to the post of Police Inspector, purely on ad-hoc basis, in the Pay Band of ₹ 9300-34800 and Grade Pay of ₹4600, with immediate effect”.

The distinct orders of promotion of the Petitioners promoting them clearly provided as under:

“2. The above promotion shall not bestow the promoted officer any claim for regular appointment and the service rendered on ad-hoc basis in the grade will not count for the purpose of seniority in that grade for eligibility for promotion to next higher grade and that they may be reverted to their lower post at any time.

3. Further, the above promotion to the post of Police Inspector on ad-hoc basis is subject to the final outcome of Special Leave Petitions (Civil) or subject to any further orders in the said Special Leave Petitions (Civil) filed by Shri Dattaguru Sawant & others

in the Hon'ble Supreme Court of India, New Delhi which are sub-judice, details of which are as under:-

1. SLP(Civil) No. 8380 of 2004 filed by Dattaguru Sawant & others v/s Tanveer Khatib & ors.
2. SLP(Civil) No. 8687 of 2004 filed by Dattaguru Sawant & others v/s Shankar alias Sameer Kamat & ors ..
3. SLP(Civil) No. 8689 of 2004: filed by Dattaguru Sawant & others v/s Victor J. A. Lobo & ors.”

26. It is important to note that all the 27 Police Sub-Inspectors who were promoted to the post of Police Inspectors on ad-hoc basis were promoted pursuant to the decision taken in the meeting of the Police Establishment Board held on various dates.

Six of the Police Sub-Inspectors came to be promoted in the wake of the decision taken in the meeting of the Police Establishment Board held on 29.04.2011, 15 being promoted in the wake of the decision taken in PEB meeting held on 04.06.2013 whereas two promotions were effected pursuant to the decision in the meeting dated 25.09.2012 and 4 Police Sub-Inspectors were promoted in the wake of the decision in PEB meeting dated 27.08.2014.

The actual dates of promotions in pursuance of the decision of these meetings were 05.05.2011, 17.06.2013, 08.02.2012, 27.08.2014 corresponding to the date of the decision of PEB.

27. The most significant development took place on 16.08.2017 when three appeals filed by Dattaguru Sawant and others were allowed

by the Apex Court by setting aside the judgment of the High Court and specifically recording that disturbing the selection of the appellants was uncalled for.

Following the decision of the Apex Court on 17.01.2019, the Police Sub-Inspectors appointed in the year 2002 and promoted to the post of Police Inspectors on ad-hoc basis were recommended for regular promotion in the meeting of the PEB held on 17.01.2019 and accordingly an order was issued in favour of the Petitioners specifically promoting them on regular basis in the pay band of Matrix Level - 7 (₹ 44,900 - ₹1,42,400/-) with immediate effect.

The candidates in the list were allowed to exercise option for fixation of pay on promotion within a period of one month from the date of issuance of the order.

28. Upon the aforesaid development taking place, 16 Police Inspectors preferred a representation dated 15.03.2023 to consider their promotion from the date of vacancy and therefore a need was felt to review the proceedings in the PEB Meeting held on 17.01.2019 and to promote the eligible ad-hoc Police Sub-Inspectors to the post of Police Inspectors on regular basis by fixing crucial date of DPC as per DPC guidelines contained in OM dated 26.09.1990.

The DPC guidelines issued by the Personnel Department, Secretariat, Porvorim-Goa, which are placed before us clearly provide

for frequency of the Departmental Promotion Committee meetings (DPCs) which were directed to be convened at regular annual intervals to draw panels which could be utilised in making promotion against the vacancies occurring during the course of the year. It is relevant to note that, to fill up the vacancies, the panels were expected to collect relevant documents like ACRs, Integrity Certificate, Seniority List, etc. and the eligibility of candidates to be tested by applying the said parameters.

29. The question that arises for consideration before us is whether, the Petitioners who were considered for promotion to the post of Police Inspectors, though on 'ad-hoc' basis, were tested on merit and whether they were eligible for promotion as per the Recruitment Rules.

30. The appointment of the Petitioners to the post of Police Sub-Inspectors as well as the promotional post is governed by Goa Police Service Rules, 1997 issued in exercise of powers under Section 309 of the Constitution of India in consultation with the Goa Public Service Commission, which had prescribed the mechanism for appointment to the services. The rules also prescribed for eligibility for direct recruitment as well as the qualifications which included the physical standards for male/female and conduct of a competitive examination for direct recruitment.

The Goa Police Services Rules, 1997, were superseded to be substituted by the Goa Police Service Rules, 2022.

31. The conditions and eligibility and procedure for selection contemplate a Departmental Promotion Committee to consider in the month of April of every year the cases of officers eligible and preparation of select list of officers recommended, taking into account actual vacancies at the time of selection. The selection for inclusion in the list is to be based on eligibility and seniority for appointment to the said list. Though the Departmental Promotion Committee is the body to prepare select list of officers taking into account the actual vacancies at the time of selection and the criteria prescribed is seniority-cum fitness in all appointments with respect to the service.

32. The Departmental Promotion Committees which are assigned the task of scanning the candidates including the Police Department, for recommending them for promotions are constituted under the Office Memorandum issued by the Department of Personnel and the functions of the DPC are well recognized for promotions to 'selection' as well as 'non-selection' post and for confirmation in their respective grades/posts by judging the suitability of the officers on the basis of their work and conduct as probationers for the purpose of determining their suitability for retention in service or their discharge from it or extending their period of probation. The DPC is also

instrumental in consideration of cases of government servants for crossing the efficiency bar.

The Office Memorandum published under the signature of Under Secretary (Personnel) dated 26.09.1990, issued various instructions in regards to the constitution and functions of the Departmental Promotion Committee and the procedure to be followed in processing and implementing the recommendations of the DPC and the same have been published under the caption “Guidelines of Departmental Promotion Committees”.

The Guidelines stipulate the frequency of the meetings of the Departmental Promotion Committees and it prescribe that it is essential for the concerned Appointing Authorities to initiate action to fill up existing as well as anticipatory vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificate, Seniority List, etc., for placing before the DPC. The guidelines prescribe that the DPCs should be convened every year, if necessary on a fixed date i.e. 1st April or May and the Department should lay down time schedule for holding DPC under their control after prescribing the schedule and the same should be monitored by making one of the officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. The Guidelines also provide that holding the DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for the post are to be reviewed/amended.

33. Before holding meeting of the Departmental Promotion Committee, it is necessary to assess the existence of the vacancies along with the reservations and concessions which are made available for promotion and confirmation. The guidelines for DPCs clearly stipulate that DPC enjoy full discretion to devise their own methods and procedure for objective assessment of the suitability of the candidates to be considered by them. However, some general guidelines have been provided to regulate the assessment of suitability of the candidates and while judging suitability the confidential rolls considered as basic inputs on the basis of which the assessment is to be made by each DPC. The DPC is expected to consider the overall grading of the candidate in the CRs for the relevant years and shall have due regard to the remarks against column on integrity.

The Office Memorandum dated 26.09.1990 also provide for a contingency when DPC have not met for a number of years for the reasons beyond control and in such case, the mechanism to be followed is clearly set out as it would be necessary to determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.

The guidelines thereafter direct consideration in respect of each of the years, those officers only who would be within the field of choice with reference to the vacancies of each year starting from the

earliest year onwards and preparation of 'select list' by placing the select list of the earlier year above the one for the next year and so on.

Relevant clause no.6.4.3 of the Office Memorandum prescribe that for the purpose of evaluating the merit of the officers, while preparing year-wise panels, the scrutiny of the record of service of the officers should be limited to the records that would have been made available had the DPC met at the appropriate time. If on the date of the meeting of the DPC, departmental proceedings are in progress, sealed cover procedure is directed to be followed and the officer's name is to be kept in sealed cover till the proceedings are finalised. Clause 6.4.4 of the guidelines clearly stipulate as under:

“While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies related to earlier years(s).”

34. We have reproduced the aforesaid guidelines since the Respondents have made reference to the same on more than one occasion, and at an appropriate stage, we will deal with the same.

35. The appointment of the Petitioners in the year 2002 was governed by the Goa Police Service Rules, 1997, which were in existence and the method of recruitment at the relevant time contemplate filling up 50% of the vacancies to be filled in by direct recruitment and 50% of the vacancies to be filled in by promotion by

the officers who substantively held the post of Inspector of Police excluding the post of Inspector of Police (Motor Transport) and Inspector of Police (Wireless) on regular basis for minimum period of five years under the Government of Goa. The eligibility for appointment to the Police service was clearly stipulated with a conduct of competitive examination for direct recruitment by the Commission in the manner notified by the Government from time to time. Upon the recommendation of the Commission, the candidates included in the select list were entitled for appointment to the post of Inspector of Police in the junior scale, the selection being solely based on merit. The Recruitment Rules contemplate appointment on the Junior Scale of Service to be on probation of two years and require a candidate to undergo training and pass during the period of probation, such departmental examination as was specified by the Government in consultation with the Commission. A specific provision in the form of Rule 17 provide for confirmation in the Service on satisfactorily completion of period of probation.

The relative seniority of direct recruits against the promotees was to be determined in accordance with the provisions of Goa Government, (Seniority), 1967, as in force.

36. The Petitioners, who participated in the recruitment process initiated for filling up the post of 'Police Sub-Inspector', in the Police Department, Government of Goa when 31 vacancies were advertised,

to be filled up by recruitment process, 5 amongst which were reserved for female candidates. The qualifications prescribed were in sync with the Goa Police Service Rules, 1997 and the Petitioners participated in the said process. Upon the preliminary selection test being held, the Goa Public Service Commission conducted a written examination to test the general knowledge as well as aptitude of the candidates.

The Petitioners participated in the said process along with the unsuccessful candidates who initiated proceedings before the High Court raising a challenge to the process of selection. The High Court quashed and set aside the selection process upon which three petitions were filed by Dattaguru Sawant and Others before the Supreme Court which ultimately resulted into setting aside the judgment of the High Court finding fault with the select list pursuant to which the Petitioners were issued appointment order on the post of Police Sub-Inspectors.

Perusal of the order of appointment of the 30 candidates, including the Petitioners dated 14.06.2002, clarified that they were appointed against the existing vacancies in the prescribed pay scale of the post and their appointment was made under the Police Act, 1861, on probation of period of two years. However, at the relevant time, since the Writ Petitions challenging the select list published by the Commission, was pending, a clause in the order of appointment stipulated that the appointment shall be subject to the result of the

Writ Petition No.138 of 2002 and other connected Writ Petitions on the subject.

The Petitioners continued to discharge their duties as Police Sub-Inspectors when, vacancies existed in the post of Police Inspectors. The Apex Court by order dated 28.07.2009 allowed the Director General of Police to fill up the post of Police Inspector but clarified that such appointment shall be subject to the final outcome of the appeals.

This order coupled with the necessity to fill in the existing vacancies in the post of Police Inspector triggered the process of filling up the post by considering the candidature of the Petitioners who were working on the post of Police Sub-Inspectors, but, the three Petitions filed by the State of Goa and three Petitions filed by the candidates being aggrieved by the decision of the High Court finding flaw in the select list, were pending before Apex Court.

37. By taking into consideration the opinion expressed by the learned Advocate General in the backdrop of the Special Leave Petition filed by the Government as well as the aggrieved Police Sub-Inspectors, that they could be considered for promotion initially on ad-hoc basis by indicating that their promotion or confirmation in the post shall be subject to the result of the outcome of the SLP. On 11.02.2009, the Government of Goa withdrew the SLP filed by it, and on 20.07.2009/28.07.2009 the Apex Court permitted the vacancies to be

filled in by considering the appointment of the Petitioners working as Police Sub-Inspectors, but such promotion/appointment was made subject to the outcome of the final appeals.

Taking benefit of the said order, on 18.12.2013 on recommendation of the Police Establishment Board, the probation period in respect of 29 Police Sub-Inspectors was lifted, (28 Police Sub-Inspectors from 16.06.2004 and one PSI from 31.07.2004) but this was subject to the final outcome of the pending Special Leave Petition filed by Dattaguru Sawant and others in the Supreme Court.

On receipt of the clarification from the Supreme Court, since the vacancies of Police Inspectors existed, on recommendation of the Police Establishment Board, the Petitioners were promoted to the post of Police Inspectors purely on ad-hoc basis in different batches. The names of the Petitioners were recommended by the Police Establishment Board in the meeting held on 29.04.2011, 29.05.2012, 04.06.2014 and 27.08.2014. The details of the PEB meetings held to recommend the eligible Police Sub-Inspectors to the post of Police Inspectors on ad-hoc basis are given in the table below:

Sr. No.	Name	PEB meeting held	Date of promotion
1.	Shri Pravin F. Pawar	29.04.2011	05.05.2011
2.	Shri Tushar G. Lotlikar	29.04.2011	05.05.2011
3.	Smt. Loveleen Jean Dias	29.04.2011	05.05.2011
4.	Shri Rahul T. Parab	29.04.2011	05.05.2011
5.	Shri Ninad G. Deulkar	29.04.2011	05.05.2011

6.	Shri Brutano Paxito	29.04.2011	05.05.2011
7.	Shri Navlesh S. Dessai	04.06.2013	17.06.2013
8.	Shri Pravin P. Gawas	04.06.2013	17.06.2013
9.	Shri Narayan A. Chimulkar	04.06.2013	17.06.2013
10.	Smt. Sudiksha S. Naik	04.06.2013	17.06.2013
11.	Shri Sanjay G. Dalvi	04.06.2013	17.06.2013
12.	Shri Paresh G. Naik	04.06.2013	17.06.2013
13.	Shri Krishna P. Sinari	04.06.2013	17.06.2013
14.	Shri Sudesh M. Velip (ST)	25.09.2012	08.10.2012
15.	Shri Nilesh K. Dhalgodkar (ST)	25.09.2012	08.10.2012
16.	Shri Dattaguru K. Sawant	27.08.2014	27.08.2014
17.	Shri Virendra Veluskar	04.06.2013	17.06.2013
18.	Shri Shailesh A. Narvekar	27.08.2014	27.08.2014
19.	Shri Milind M. Bhuimbar	04.06.2013	17.06.2013
20.	Shri Ramnath @ Kapil B. Nayak	27.08.2014	27.08.2013
21.	Shri Deepak M. Pednekar	04.06.2013	17.06.2013
22.	Shri Paresh R. Navelkar	04.06.2013	17.06.2013
23.	Shri Rajesh Job	04.06.2013	17.06.2013
24.	Shri Brendan E. F. D'Souza	27.08.2014	27.08.2014
25.	Smt. Anushka A. Pai Bir	04.06.2013	17.06.2013
26.	Shri Prajyot S. Fadte	04.06.2013	17.06.2013
27.	Shri Ravindra D. Dessai	04.06.2013	17.06.2013

38. The above table is reflective of the fact that the Petitioners were promoted to the post of Police Inspectors as and when the vacancies existed, as it can be seen that some were promoted in the year 2011, two of them being promoted in the year 2012 whereas 14 were promoted on 17.06.2013 and the balance on 27.08.2014.

39. It is not in dispute that the promotion of all the 27 Police Sub-Inspectors to the post of Police Inspectors were effected only on the

recommendation of the Police Establishment Board which recommended the promotions because the vacancies for Police Inspectors existed. However, when the Supreme Court on 16.08.2017 allowed the Special Leave Petitions pending before it and set aside the judgment of the High Court, the Minutes of the Meeting of the Board held on 17.01.2019, referred to 52 vacancies and considered the break-up of the 52 vacancies as one vacancy available in the year 2011, 14 vacancies in the year 2012, 9 vacancies in the year 2013, 1 vacancy in 2014 and 2016 each, 2 vacancies in the year 2015, 12 vacancies in 2017 and 12 vacancies in 2018. Since, on the date when the Board conducted its meeting, i.e. on 17.01.2019, it once again on considering the final Seniority List of Police Sub-Inspectors dated 17.07.2013 and the Recruitment Rules for the post of Police Inspector along with the interim orders granted by the Supreme Court permitting the Director General of Police to fill up the post of Police Inspectors and the final verdict of the Apex Court reversing the decision of the High Court dated 12.03.2024, it considered filling up of 52 vacancies which had fallen vacant over a period of 8 years and when 101 officers came into the zone of consideration.

The DPC therefore considered the Seniority List of Police Sub-Inspectors dated 17.07.2013 in which the Petitioners are shown as ad-hoc Police Inspectors, shown to be confirmed on completion of two years of probation from the date of their appointment i.e. on 16.06.2002 and the candidates from Serial No.3 to 30 and the

candidate at Serial No.31, including the Petitioners working on the post of ad-hoc Police Inspectors in the wake of the promotion orders issued to them showing them as 'ad-hoc' but their confirmation was considered on completion of two years period.

Clarifying that the conditional appointment orders were issued to the 31 selected candidates on 14.06.2002 and 29.07.2002 and it was subjected to the outcome of the Petitions, it was noted that in the wake of the interim order of the Supreme Court on 20.07.2009/28.07.2009, the Supreme Court allowed them to be promoted to the post of Police Inspector by making their appointment subject to the outcome of the appeals, 26 Police Sub-Inspectors of Batch XVII recruited in the year 2002 were confirmed to the post of Police Sub-Inspectors in the year 2004 and the PEB observed thus:

“16. Meantime, the Hon'ble Supreme Court on 20.07.2009 & 28.07.2009 granted leave that respondent No.02 i.e. Director General of Police would be at liberty to fill up the posts of Police Inspector but any such appointment shall be subject to final outcome of the appeals.

17. Thereafter, following 26 Police Sub Inspectors of the Batch-XII recruited in the year 2002 were confirmed to the post of PSI in the year 2004 and were promoted to the rank of Police Inspector on ad-hoc basis on subject to the outcome of the Special Leave Petition (Civil) filed by Shri Dattaguru Sawant & Others in the Hon'ble Supreme Court of India, New Delhi in the light of opinion given by the then Id. Advocate General”

The list enlisted 26 candidates including the Petitioners.

40. Thereafter, the DPC considered the candidature of these candidates against the vacancies that existed by recording that the PEB had scrutinised the Annual Performance Assessment Reports of the ad-hoc PI/PSI as per the guidelines contained in OM dated 31.05.2011 and found that they fitted into the benchmark prescribed. Except two of these candidates whose names were kept in sealed envelope in the wake of the pending departmental inquiry, they were declared fit to be promoted to the post of Police Inspector.

41. There is no dispute about the fact that pursuant to the aforesaid meeting, on 17.01.2019, the ad-hoc Police Sub-Inspectors were promoted to the post of Police Sub-Inspectors on regular basis by issuance of the order dated 17.01.2019.

The claim of the Petitioners is that for the purpose of seniority, their date of promotion to the post of Police Inspector shall be considered, as merely because their promotion was shown as 'ad-hoc', they cannot be considered to be promoted w.e.f. 17.01.2019.

42. On 10.03.2023, the Office of the Director General of Police, recommended to restore the findings of the PEB meeting held on 17.01.2019 and the promotion order issued to promote the adhoc Police Inspectors/Police Sub-Inspectors to the post of Police Inspectors on regular basis dated 17.01.2019, 30.01.2019, 12.07.2019 and

14.11.2019 were restored. This included the promotion orders issued in favour of the Petitioners vide order dated 17.01.2019.

Based upon the aforesaid, the Office of the Director General of Police on 23.03.2023 published a tentative seniority list of Police Inspectors of Goa Police and the India Reserve Battalion(IRBn) for promotion to the Junior Scale of Goa Police Service as per Rule 16 of the Rules of 2022 and in the said list the Petitioners are placed below the candidates from IRBn with their date of regular appointment in the post of Police Inspector being shown as 12.10.2016 whereas the date of regular appointment of the Petitioner from Serial No.43 to Serial No.82 is shown as 17.01.2019.

It is this placement of the Petitioners which is objected to by them and they seek relief of their placement above the candidates in IRBn shown to be recorded in the year 2016 as the actual dates of promotion of the Petitioners are to be computed from 2011 and the subsequent years but in any case before 17.01.2019 as by that order they were shown to have been promoted on regular basis but they were actually officiating in the post of Police Inspector from the date of their respective appointments but merely because the order said that they were “ad hoc” is not sufficient to disentitle them continuity of the said service as their appointment/promotion fulfilled the criteria as their names were recommended by the Police Establishment Board and they fulfilled the requisite criteria for promotion but merely because the

SLPs were pending before the Apex Court, their appointments were made subject to the outcome of the SLPs.

43. The meaning to be assigned to the term “ad-hoc” has been supplied by various authoritative pronouncements.

In *O.P. Singla And Anr. v/s. Union of India And Anr.*⁸, it was held that fortuitous adhoc and stopgap appointees cannot claim their seniority and it was held that all appointments made beyond the number of posts available, must assume the character of fortuitous and adhoc or stopgap and therefore, the appointees cannot claim seniority in the cadre.

In *Parshotam Lal Dhingra v. Union of India*⁹, with reference to the question as to whether a temporary employee is entitled for extension of benefits of Article 311(2) came up for consideration and a distinction was drawn between the said employees and the employees holding the post in permanent service.

In *Rudra Kumar Sain & Ors. v/s. Union of India & Ors* (supra), the Apex Court observed thus:

“We are also of the considered opinion that the High Court of Delhi, in drawing up the seniority list, though proceeded to allocate seniority according to the length of continuous officiation, regardless of whether an appointee held a temporary post or a permanent post or whether he was a promotee or a direct recruit, as directed by this Court in Singla case, but committed error by excluding the persons, on

⁸1984 4 SCC 450

⁹1958 SC 36

the ground that they held posts on ad hoc basis or for fortuitous reasons or by way of stop-gap arrangement, even though appointments had been made under Rules 16 and 17 after due consultation with and or approval of the High Court and the appointees satisfied the qualification required under Rule 7 of the Rules. It is on this score, the ultimate seniority list, drawn up, stands vitiated. When the report of the first Committee, on the basis of which ultimately provisional seniority list was drawn up is examined, it would appear that the Committee went on examining the question of a lien against a post and then, recorded a finding that anyone who comes to hold one of those posts, which is subject to a lien, must be held to be holding as an ad hoc arrangement or for fortuitous reasons or as a stop-gap arrangement.”

44. Rejecting the argument advanced on behalf of the High Court of Delhi, that the terminology namely *ad hoc*, fortuitous and stopgap as interpreted in *Parshotam Lal Dingra* (supra) shall be assigned the same meaning, was rejected, as in *Dingra's* case the Court was trying to work out an equitable remedy in a manner which will not disentitle an appointee, the benefit of his fairly long period of Service for the purpose of seniority, even though he possesses the requisite qualification and even though his appointment has been made after due consultation and/or approval of the High Court. While assigning the meaning to the three terms in the absence of definition of these terms in the rules in question, the word ‘ad hoc’ in terms of *P. Ramanatha Aiyar's Law Lexicon (2nd Edition)* the dictionary meaning was adopted as: “For particular purpose. Made, established, acting or

concerned with a particular (*sic*) and or purpose.” In paragraphs 19 and 20, Their Lordships of the Apex Court specifically recorded their conclusion to the following effect:

“19. The meaning to be assigned to these terms while interpreting provisions of a service rule will depend on the provisions of that rule and the context in and the purpose for which the expressions are used. The meaning of any of these terms in the context of computation of inter se seniority of officers holding cadre post will depend on the facts and circumstances in which the appointment came to be made. For that purpose it will be necessary to look into the purpose for which the post was created and the nature of the appointment of the officer as stated in the appointment order. If the appointment order itself indicates that the post is created to meet a particular temporary contingency and for a period specified in the order, then the appointment to such a post can be aptly described as “ad hoc” or “stopgap”. If a post is created to meet a situation which has suddenly arisen on account of happening of some event of a temporary nature then the appointment of such a post can aptly be described as “fortuitous” in nature. If an appointment is made to meet the contingency arising on account of delay in completing the process of regular recruitment to the post due to any reason and it is not possible to leave the post vacant till then, and to meet this contingency an appointment is made then it can appropriately be called as a “stopgap” arrangement and appointment in the post as “ad hoc” appointment. It is not possible to lay down any strait-jacket formula nor give an exhaustive list of circumstances and situation in which such an appointment (ad hoc, fortuitous or stopgap) can be made. As such, this discussion is not intended to enumerate the circumstances or situations in which appointments of officers can be said to come within the scope of

any of these terms. It is only to indicate how the matter should be approached while dealing with the questions of inter se seniority of officers in the cadre.

20. In service jurisprudence, a person who possesses the requisite qualification for being appointed to a particular post and then he is appointed with the approval and consultation of the appropriate authority and continues in the post for a fairly long period, then such an appointment cannot be held to be “stopgap or fortuitous or purely ad hoc”. In this view of the matter, the reasoning and basis on which the appointment of the promotees in the Delhi Higher Judicial Service in the case in hand was held by the High Court to be “fortuitous/ad hoc/stopgap” are wholly erroneous and, therefore, exclusion of those appointees to have their continuous length of service for seniority is erroneous.”

45. The proposition apply with equal force to the present case as we find that it is not the case of the Respondents that the Petitioners did not have requisite qualifications for being appointed to the post of Police Inspectors as they were appointed on recommendation of the Police Establishment Board and continued to hold the said post for period varying from 2011 till their appointment on regular post, i.e. on 17.01.2019 and therefore their appointment cannot be termed as “ad hoc”. There is no shortfall in the appointment of the Petitioners in terms of their qualifications, in terms of service rendered and also as regards availability of vacancies but only because the Petitioners were litigating before the Apex Court, as the High Court had allowed the

Writ Petitions filed by some of the candidates and had set aside the list selecting them to the post of Police Sub-Inspectors.

46. In *P. Rammohan Rao v. K. Srinivas And Others*¹⁰, a similar situation arose when the appellants holding the requisite qualifications were selected and appointed as Work Inspectors in Andhra Pradesh Scheduled Castes Cooperative Development Corporation and since the Government of Andhra Pradesh sanctioned posts of Assistant Executive Engineers (AEEs), for a time-bound project and the posts were directed to be filled in from the list available with the Andhra Pradesh Public Service Commission but since no sufficient candidates were available, the vacancies were permitted to be filled up from the Work Inspectors already serving in the Panchayat Raj Department with a graduation degree in Engineering, i.e. BE/B.Tech. The Appellants who fit into the criteria were appointed as temporary AEEs against these vacancies created for the project.

This was followed by the enactment of the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 to streamline the recruitment process with retrospective effect from 25.11.1993. The Government issued a notification under which the services of all temporary AEEs appointed between 1990 and 1995 and continuing in services on that date were regularised but directed their placement

¹⁰(2025) 4 SCC 127

before the last regularly selected candidate of AEE. Though satisfied with their regularisation but aggrieved by denial of seniority, the Appellants raised a grievance as they were placed below the AEEs appointed during 1997 in order of seniority and this had deprived them of 10 to 15 years of regular service. It is in this background facts, recording that the Appellants and his peers were holding qualifications of BE/B.Tech and regularly appointed as Work Inspectors in the Corporation, but while they are appointed on the post of AEE, their appointment order clarified that their appointment was purely temporary and did not confer any right for regular and they liable to be terminated at any time without prior notice or intimation and without assigning any reasons as the project is temporary. Admittedly, it was noted that Appellants and similarly situated employees continued to serve as AEEs in the Panchayat Raj Department almost for 13 years and though their prayer for regularisation was considered by the State Government, they were directed to be placed after the last regularly selected candidate of AEE in terms of seniority and it is in this background, the Apex Court observed thus:

“47. Thus, this Court is of the view that, notwithstanding the designation of the appointments of the appellants and similarly situated candidates as being temporary, such appointments were neither restricted by a fixed tenure nor conceived as a stopgap or ad hoc arrangement. While characterised as temporary, these appointments were not intended to address a transient or interim requirement, rather,

they were structured to ensure continuity and stability within the workforce.

48. Further, it is an admitted fact that the services of the appellants and other similarly situated candidates employed between 1990-1995 were regularised vide GOM No. 234, dated 27-6-2005, which was not challenged before any forum and has attained finality. It is trite that once the services of employee(s) are regularised, the ad hoc or stopgap nature of the appointment does not survive. In this regard, we may gainfully refer to *Santosh Kumar v. State of A.P.* [*Santosh Kumar v. State of A.P.*, (2003) 5 SCC 511, wherein, while dealing with a similar issue and the self-same Service Rules, this Court upheld the regularisation of services of temporary employees with retrospective effect and granted them seniority from the date of initial appointment holding that their case falls under Proposition (B) of *Direct Recruit Class II Engg. Officers' Assn.* [*Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra*, (1990) 2 SCC 715]. The relevant extract of the said judgment is as follows : (*Santosh Kumar case* [*Santosh Kumar v. State of A.P.*, (2003) 5 SCC 511, SCC pp. 517-18, para 10])

“10. ... The respondent and others were appointed as Sub-Inspectors out of seniority looking to the outstanding merit and record prior to the direct recruits like the appellant. Their services were admittedly regularised by relaxing the Service Rules in the exercise of power available under Rule 47 of the General Rules. The appellant did not challenge the validity of Rule 47 and no mala fides were established against the authorities in exercise of powers of relaxation under the said Rule. The Tribunal has recorded a finding that the Rule relating to the method of recruitment was not relaxed but only the

conditions which had to be fulfilled for the purpose of promotion to the category of Sub-Inspector were relaxed; this finding is not disturbed by the High Court [*Mohd. Ashfaq Ahmed Khan v. State of A.P.*, 1999 SCC OnLine AP 1075]; there was no relaxation as to the basic qualification; the State Government regularised the services of the respondent and others with retrospective effect from the date they were temporarily appointed as Sub-Inspectors (OSSIs). *It is also not disputed that they continued in service uninterruptedly for about 12-13 years till their services were regularised with retrospective effect. This being the factual position it could not be said that the corollary to para 47(A) of the aforementioned Constitution Bench judgment [Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra], applies to the facts of the present case. Once their services were regularised it cannot be contended that their initial appointment was only on ad hoc basis and not according to the rules and made as a stopgap arrangement. On the other hand, para 47(B) supports the case of the respondent.*

(emphasis supplied)”

47. The observations from an earlier decision in the case of *Amarendra Kumar Mohapatra v. State of Orissa*¹¹ was reproduced since the Court was dealing with an issue of grant of seniority to adhoc employees upon regularisation with effect from the date they were appointed on adhoc basis when the adhoc appointment had continued

¹¹(2014) 4 SCC 583

without any interruption till their regularisation and the Apex Court observed thus:

“68. Appearing for the State of Orissa, *Mr Nageswara Rao contended that grant of seniority to ad hoc Assistant Engineers regularised under the legislation w.e.f. the date they were appointed on ad hoc basis was legally permissible especially when the ad hoc appointments had continued without any interruption till their regularisation. ... The case at hand, according to the learned counsel, fell under Proposition B formulated in the said decision. Grant of seniority from the date of initial appointments did not, therefore, suffer from any constitutional or other infirmity to warrant interference from this Court.*

69. Mr Shishodia appearing for some of the parties, on the other hand, contended that seniority could be granted only from the date of regularisation under the enactment and not earlier. The learned counsel for some of the interveners adopted that contention, including Ms Aishwarya appearing for some of the diploma-holder Junior Engineers and urged that ad hoc service rendered by the Engineers appointed otherwise than in accordance with the rules could not count for the purposes of seniority and that even if Section 3(1) of the Validation Act was held to be valid, Section 3(2) which gave retrospective seniority from the date they were first appointed on ad hoc basis must go. ...

71. There was some debate at the Bar whether the case at hand is covered by corollary to Proposition A or by Proposition B. But having given our consideration to the submissions at the Bar we are inclined to agree with Mr Rao's submission that the case at hand is more appropriately covered by Proposition B extracted above. We say so because the initial appointment of ad hoc Assistant Engineers in the instant case was not made by

following the procedure laid down by the Rules. Even so, the appointees had continued in the posts uninterruptedly till the Validation Act regularised their service. There is, in the light of those two significant aspects, no room for holding that grant of seniority and other benefits referred to in Section 3(3) of the impugned Act were legally impermissible or violated any vested right of the in-service Assistant Engineers appointed from any other source.

72. Proposition A, in our opinion, deals with a situation where an incumbent is appointed to a post according to the rules but the question that arises for determination is whether his seniority should be counted from the date of his appointment or from the date of his confirmation in the said service. The corollary under Proposition A, in our opinion, deals with an entirely different situation, namely, where the appointment is ad hoc and made as a stopgap arrangement in which case officiation in such post cannot be taken into consideration for seniority. Be that as it may, as between Propositions A and B the case at hand falls more accurately under Proposition B which permits grant of seniority w.e.f. the date the appointees first started officiating followed by the regularisation of their service as in the case at hand.

...

78. Having said so, there is no reason why a similar direction regarding the writ petitioners degree-holder Junior Engineers who have been held by us to be entitled to regularisation on account of their length of service should also not be given a similar benefit.”

In the wake of the aforesaid, the issue formulated was answered in the affirmative holding that the officiating period (i.e. period between 1990 to 2005) of the Appellants and the batch of AEEs

appointed between 1990-1992 has to be counted as regular service for determining the seniority, entitling them to be placed above the 1997 batch of regularly appointed candidates in the seniority list.

48. An objection raised by Mr Diniz is, the aforesaid principle of law laid down cannot be made applicable to the Petitioners, since despite being appointed in the year 2002, their probation was declared to be completed in the year 2013 and therefore consideration of their candidature for the next promotional post, i.e. Police Inspectors, do not arise as they were not even confirmed in service.

It is relevant to note that the appointment order of the Petitioners mentioned that they shall be on probation for a period of two years and this is in consonance with Rule 15. However, it is not the case of the Government that the Petitioners did not satisfactorily complete the period of probation as when the cause arose for considering their confirmation in service, the pending proceedings before the High Court once again posed an impediment and therefore when the matter was taken up before the DPC and the opinion of the learned Advocate General was sought, he clearly opined that their services could be confirmed and probation period can be terminated subject to the outcome of the proceedings. That is the specific reason that when the period of probation of the Petitioners was declared to be completed it was done with a retrospective effect, i.e. on completion of two years from their date of appointment.

Learned Senior Counsel Mr Carlos has rightly relied upon the observation of the Constitution Bench of the Apex Court in *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra*¹² in paragraph 47 to the following effect:

“47. To sum up, we hold that:

(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted.

It is thus clear that since the Petitioners were appointed as Police Sub-Inspectors after undergoing regular process of selection and their appointment against regular vacancies in the post of Police Sub-Inspectors, merely because of the pendency of the proceedings as the select list under which they were selected was itself subjected to scrutiny, their probation period was not declared to be completed but when it was done so by order dated 18.12.2013, it was done with retrospective effect, i.e. on completion of two years. Hence, this

¹²(1990)2 SCC 715

objection of Mr Diniz is not worth consideration and we reject the same.

49. Mr Diniz has also raised an objection that the seniority consisting of 47 Police Inspectors of Goa Police Department was finalised on 23.03.2016 and thereafter 16 Police Inspectors have been promoted to the post of Deputy Superintendent of Police or retired on superannuation and 48 Police Inspectors were appointed by promotion and this resulted into issuance of a fresh seniority list on 30.04.2020 and this is not challenged by the Petitioners. In the said list, the Petitioners are shown from Serial No.34 onwards but there is no challenge to the said seniority list.

We do not find merit in the said submission as the position of the Petitioners remained same in the said seniority list and ultimately if on final determination of the claim we rule in favour of the Petitioners, their placement in all seniority list by according them the date of promotion as the date on which they were promoted to the post of Police Inspector (adhoc), their placement in every seniority list shall be shown accordingly.

Reliance placed upon the decisions by the learned Senior Counsel Mr Diniz and in particular, the decision of the Apex Court in the case of *West Bengal And Ors. v/s. Aghore Nath Dey And Ors* (supra), is not of any succour to him as it lays down a proposition of law that benefit of adhoc service is not admissible if the appointment

was not in violation of the rules and in the present case before us, the Petitioners came to be promoted because of the contingency that the vacancies to the post of Police Inspectors existed, secondly, they qualified themselves to be promoted as they had completed more than 4 years of services and thirdly, their promotion was on recommendation of PEB which examined their eligibility to be promoted. There can be no dispute about the legal proposition that if an initial appointment is not in accordance with law, howsoever long the period of continuous officiation may be, it shall not yield any benefit to the candidate as the appointment itself is not 'with accordance of rules' and it was only adhoc and a stopgap arrangement dehors the rules. This being not the situation before us, the law laid down in the said decision as well as the decision in the case of *M. K. Shanmugam & Anr. v. Union of India & Ors*¹³ do not apply to the case in hand. Relying upon *Shanmugam* (supra) the Apex Court has followed the same principle while determining the seniority of adhoc/fortuitous appointees/promotees by once again clarifying that the services rendered on adhoc post and adhoc appointment, cannot be reckoned for the purpose of seniority as the appointment was made by the direct recruitment and not recommendation of the PEB and therefore it was not in accordance with the procedure prescribed.

¹³(2000) 4 SCC 476

50. Another argument of Mr Diniz relying upon the decision in case of *Bihar State Electricity Board and Others v. Dharamdeo Das*¹⁴ to the effect that retrospective seniority cannot be granted to an employee from the date when the employee was not borne on a cadre is also not applicable to the present case as we have noted a consistent stand of the Respondents that the Petitioners came to be promoted to the post of PIs because vacancies existed and there was a need to fill up the said post. Accordingly, an application was moved before the Apex Court, seeking liberty to fill up the post with a clarification being received that the posts may be filled in by promotion but shall be subject to the outcome of the pending proceedings.

Even the Advocate General permitted the promotions to be effected but cautioned that they should indicate that the promotions are adhoc and would be subject to the outcome of Special Leave Petitions and accordingly, the order of promotion specified so.

Hence, we do not find merit in the submission of Mr Diniz that this is a case of retrospective promotion as on the other hand we find that the Petitioners have rendered continuous service in the promotional posts from the date of issuance of the promotion order in their favour and it is only on 17.01.2019, their appointment/promotion in the post of Police Inspectors has been regularised and therefore we are of the view that once they have been appointed by following proper procedure and continue to hold the

¹⁴ 2024 SCC OnLine 1768

post from the date of their promotion/appointment till 17.01.2019, they shall not be put to a disadvantaged situation by denying them the counting of their service for the purpose of seniority.

51. In *Dinesh Kumar Gupta and Others v. High Court of Judicature of Rajasthan and Other*¹⁵, relied upon by Mr Gosavi who represent some of the Respondents, the situation was completely different as we find that the Apex Court was considering the case of judges who were appointed on Fast Track Courts and had rendered services in adhoc capacity and they claimed promotion on regular basis. In the background facts, the findings rendered by the Court by relying upon the decision in the case of *Rudra Kumar Sain* (supra), is evidently clear when the Apex Court held that the law on the point is well settled that the seniority of judicial officers must be reckoned from the date substantive appointment is made and not from the date of initial adhoc appointment or promotion. In paragraphs 42 and 52, the Apex Court specifically observed thus:

“42. The decisions in *Debabrata Dash* [*Debabrata Dash v. Jatindra Prasad Das*, (2013) 3 SCC 658 and *V. Venkata Prasad* [*V. Venkata Prasad v. High Court of A.P.*, (2016) 11 SCC 656 were in the context where serving judicial officers were granted ad hoc promotions as Fast Track Court Judges, while in *C. Yamini* [*C. Yamini v. State of A.P.*, (2019) 17 SCC 228 the members of the Bar were appointed as Fast Track Court Judges and these decisions thus completely conclude the issue. As has been held in the said decisions, the

¹⁵ (2020) 19 SCC 604

reckonable date has to be the date when substantive appointment is made and not from the date of the initial ad hoc appointment or promotion. Question 40.1.(A) is, therefore, answered in the negative.

...

52. It is true that as on the date when the 2010 Rules came into effect, there were 83 Fast Track Courts functioning in the State and appropriate mention to that effect was made in Part A of Schedule II to the 2010 Rules. It is also correct to say that the ad hoc promotions granted to the judicial officers concerned were under the 1969 Rules. But such promotions were on ad hoc basis to man the Fast Track Courts and the law on the point is now well settled that the service rendered by such judicial officers as Fast Track Court Judges on ad hoc basis cannot be taken into account while reckoning seniority after such judicial officers were granted promotion on substantive basis and that their seniority has to be reckoned only from the date of their substantive appointment to the cadre of District Judge. The said the 1969 Rules do not in any way confer any right which would be inconsistent with the law so laid down by this Court.”

52. The decision in the case of *Chairman, State Bank of India & anr. v/s. M. J. James* (supra), relied upon by learned Counsel Mr Pavithran, appearing for Respondents No. 7 and 12 in Writ Petition No.638 of 2023 as regards the principle of acquiescence and delay and laches is also not attracted in the said case as we do not find that the Petitioners are in any case at fault as in fact injustice had been caused to them as they have been deprived of the benefit of continuous service despite the fact that they have rendered such service only on the ground

that their appointment orders/promotion orders to the post of Police Inspectors were considered to be adhoc.

53. On appreciating the factual aspects placed before us and in the backdrop of the law that have been cited before us and considered by us, we cannot but observe that the Petitioners, merely because of the stipulations in their order of promotion to the post of Police Inspectors on 05.05.2011, 17.06.2013 and 13.06.2016 was ingrained with a condition that the promotion to the post of Police Inspectors on adhoc basis was subject to the final outcome of the Special Leave Petitions, they could not be denied the benefit of reckoning this period while counting their seniority in the post of Police Inspectors. It is on account of these circumstances which the Petitioners found themselves in, their initial entry into the Police force on the post of Police Sub-Inspector and for the subsequent promotion of Police Inspector, they had to suffer a jolt because the Select List in which their names featured, was subject matter of the litigation before the High Court.

54. "*Actus curiae neminem gravabit*" which translates, an act of Court shall prejudice none. The aforesaid well know principle in law is based upon the fundamental principle of justice and good conscience.

The Petitioners before us are not to be blamed for the proceedings instituted by the candidates who did not find themselves

selected pursuant to this process initiated for recruitment to the posts of Police Inspector and the High Court found merit in the submission and toppled the entire Seniority List. However, the Apex Court granted stay to the decision of the High Court and permitted the appointment orders to be issued subject to the outcome of the proceedings pending before it and even permitted them to be promoted once again by making it subject to final outcome of the Special Leave Petitions pending before it. However, finally, the Apex Court allowed the Special Leave Petitions and set aside the impugned order of the High Court by clearly stating that disturbing the selection of the Appellants is not called for as the Appellants selected in the process have already worked for 15 years.

The word "ad hoc" affixed to the promotion orders of the Petitioners was purely on account of the proceedings which were pending before the Apex Court and finally, the Petitioners before the Apex Court succeeded in getting the judgment/order passed by the High Court, set aside. In contrast to the term "ad hoc" appointment which refers to a temporary appointment made to address an immediate or specific need as such appointments made offer short term solution either for temporary period or for specific purpose by bypassing the usual recruitment process and is given effect to merely as a stopgap arrangement, the Petitioners were duly considered against vacancies of the Police Inspectors by the Police Establishment Board, and they were recommended and thereafter continued on the

promotional post from the date of their promotion described as 'adhoc' with no reason to complain at the end of the day. We can therefore just note that the pendency of the proceedings was the only cause which all the while was responsible for referring their promotion/appointment to the post of Police Inspectors as "adhoc" and not that they lacked the necessary qualifications/experience or that their promotion was not in accordance with the prescribed rules and regulations applicable for their appointment to the said post.

55. Since we are of the view that mere use of the word “ad-hoc” in the promotion order of the Petitioners do not convey that the promotion was either fortuitous or temporary in nature but the term “ad-hoc” was used only to cater to a situation as the Special Leave Petitions were pending before the Supreme Court against the judgment of the High Court setting aside the Select List in which the Petitioners were placed. We find that since the case of the Petitioners was considered by Police Establishment Board by applying the requisite parameters and they were tested on each of the count and since the vacancies existed on the said date when they were promoted on adhoc basis, we deem it appropriate to direct that the Petitioners are liable to have their seniority computed from the date on which the vacancy was available in the cadre of Police Inspector.

56. The three Petitions are therefore made absolute by declaring that the Petitioners are entitled to have their seniority of Police Inspector counted from the date of their actual promotion, ignoring that the promotion was adhoc, as the Special Leave Petitions filed by them were pending before the Apex Court. The order dated 17.01.2019 regularising the services of the Petitioners in the post of Police Inspector from the date of its issuance, therefore, cannot sustain and is set aside.

The Petitioners are entitled for proper placement in the final seniority list published vide Memorandum dated 23.03.2023 and the Respondents shall rectify the said seniority list by assigning appropriate date of promotion to the Petitioners, which shall be the date on which each of the Petitioners were promoted on recommendation of the PEB on the post of Police Inspector. As a result, the existing seniority list dated 23.03.2023 is quashed and set aside, and the Respondent No.2 is directed to revise the seniority list so published within a period of three months from today.

NIVEDITA P. MEHTA, J. BHARATI DANGRE, J.

At this stage, learned Counsel representing the Respondents seeks a stay of the judgment pronounced today, but Counsel for the Petitioner, Mr Teles strongly opposed the prayer as, according to him,

no promotions are in the pipeline and the seniority list has existed since more than five years when the Petitioners and Respondents took their positions in the same.

Since we are of the view that since we have pronounced upon the entitlement of the Petitioners to be promoted to the post of Police Inspector from the date on which vacancy arose and since we have already dealt with the contention of the Petitioners as to why their promotion should be considered 'Adhoc', we refuse to stay the judgment pronounced by us today.

DATE: 22.07.2025

NIVEDITA P. MEHTA, J. BHARATI DANGRE, J.