IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:TRIPURA;
MIZORAM AND ARUNACHAL PRADESH)
SHILLONG BENCH

1. WP(C) No.(SH) 80 of 2010

Smti Gracefield K Sangma,
W/o Shri CC Marak,
R/o Proper Chancmari,
Tura, West Garo Hills District,
Meghalaya.

2. WP(C) No.(SH) 81 of 2010

Smti Serbina R Marak,
W/o Shri Prabhat Ch. Sharma,
R/o Forest Colony, Williamnagar,
East Garo Hills District,
Meghalaya.

3. WP(C) No.(SH) 82 of 2010

Smti Paula Prentis Ch.Momin,
W/o of Shri MK Marak
R/o Akimbri, Upper Chandmari, Tura,
West Garo Hills District,
Meghalaya.

4. WP(C) No.(SH) 87 of 2010

Shri Titalson N Sangma,
S/o Shri Bijon N Marak,
R/o Forest Colony, Forest Tilla,
Tura West Garo Hills District,
Meghalaya.

5. WP(C)No.(SH) 86 of 2010

Smti Clarina A Sangma,
W/o Shri Comford S Marak,
R/o Matchakolgre, Tura,
West Garo Hills District,
Meghalaya.

6. WP(C) No.(SH) 89 of 2010

Smti Pretilla N Sangma,
W/o (L) Shri W Momin,
R/o Balsrigittim, Williamnagar,
East Garo Hills District,
Meghalaya.

7. WP(C) No.(SH)90 of 2010

Smti Suchitra Ch. Marak,
W/o Shri Rakban G. Momin,

R/o Araimile, Tura,
West Garo Hills District,
Meghalaya.

: Petitioners

versus

1. The State of Meghalaya,
represented by Secretary Forest
Department, Shillong.

2. The Principal Chief Conservator of
Forest, Meghalaya, Shillong.

3. The Conservator of Forest,
Government of Meghalaya, Shillong.

4. The Divisional Forest Officer,
Garo Hills Division, Tura,
West Garo Hills, Meghalaya.

: Respondents

B E F O R E
THE HON'BLE MR JUSTICE T VAIPHEI

For the petitioners : Mr AS Siddique,
Mr R Kar,
Mrs S Bhattacharjee,
Miss SG Momin
Advocates.

For the respondents : Mr KS Kynjing, Adv General
Mr ND Chullai, Sr GA

Date of hearing : 18.05.2012

Date of judgment and order : 27.07.2012

JUDGMENT AND ORDER (CAV)

These cases are unfortunate cases. Though the petitioners have been in continuous service for the last about 26 years, their status as to whether they are regular employees or not is still debatable. They are now filing these writ petitions to direct the respondent authorities to count their seniority with effect from 1-4-1994 when they were purportedly confirmed to the respective posts held by them and to fix their seniority accordingly. To simplify the

controversy, I will first deal with WP(C) No. 80(SH) of 2010, decide the same and attempt to apply my decision thereon to the remaining writ petitions.

2. In W.P.(C) No. 80(SH) of 2010, the petitioner was initially appointed as L.D.A. on ad-hoc basis against a sanctioned post vide the order dated 10-2-1986. As the District Selection Committee ("DSC") was yet to be constituted at that time, various Departments of the State Government used to adopt different procedures to appoint their staff which later gave rise to certain anomalies in the matter of fixing their inter-se seniority and regularization. According to the petitioner, the respondent authorities, therefore, issued the Office memorandum dated 22-6-1989 towards that end. It is the case of the petitioner that it was in accordance with this Office Memorandum that she was confirmed as permanent employee with effect from the date of her appointment and against the vacancy indicated against the sanctioned post vide Serial No. 13 of the Office Order dated 19-4-3002 with effect from 1-4-1994. However, much to my chagrin, while she was expecting promotion, she received the communication dated 30-7-2007 issued by the respondent 3 notifying the tentative inter-se seniority list excluding her name therein contrary to the statement of seniority list wherein she found a place in Serial No. 6 with her date of regularization as 10-2-1986. The Chairman of the DSC by his letter dated 7-9-2009 also informed the Under Secretary, Personnel (B) Department, Government of Meghalaya, that the petitioner had already been confirmed in her post by the Forest Department and asked him to clarify as whether regularization of her service was still required.

3. In spite of this, the respondent No. 3 vide his letter dated 17-12-2009 stopped the increment of the petitioner on the ground that her service was not yet regularized thereby adversely affecting her service. It is contended by the petitioner that as she has been confirmed with effect from 1-4-1994

against a sanctioned post, she is entitled to count her seniority with effect from such date. Aggrieved by the decision of the State-respondents, she filed a representation to the State-respondents on 19-8-2009 to restore her seniority with effect from the aforesaid date of confirmation. When no action was taken by the State-respondents, she approached this Court in W.P.(C) No. 21(SH) of 2010 and this Court by the order dated 19-2-2010 directed the State-respondents to consider her representation in the light of the annexures filed by her. The respondent No. 3 by the order dated 13-3-2010 rejected her representation by holding that "she is still an ad-hoc appointee yet to be approved by Government and regularised by the DSC". This prompted her to file this writ petition for quashing the order dated 13-3-2010, the gradation list dated 18-3-2010 and for counting her seniority with effect from 1-4-1994.

4. The writ petition is opposed by the State-respondents by filing their affidavit-in-opposition. It is their case that in anticipation of the approval by the Chief Conservator of Forest, Meghalaya, the Divisional Forest Officer, Garo Hills Division (respondent 3) allowed the petitioner to officiate as temporary LDA with the condition that she might be discharged without notice and without assigning any reason thereof. There is no record to indicate that such approval was accorded by the Chief Conservator of Forest nor is there anything on record to suggest that she was allowed to hold the post in a substantive capacity. The DSC was constituted as early as 26-11-1976 when a notification to this effect was issued, and it is wrong to say that such Committee was constituted only after 1987. The objective of issuing the said Office memorandum was to regularize any appointment made under Regulation 3(f) of Meghalaya Public Service Commission (LOFs) Regulations, 1972 and to regularize any appointment made by the various appointing authorities on ad-hoc basis without recommendation by the MPSC

or the respective District Selection Committee vide the Circular dated 22-6-1989. The petitioner was inadvertently confirmed as LDA w.e.f. 1-4-1994 oblivious of the fact she was not recommended by the DSC, which is in contravention of the Rules and instructions issued by the Department of Personnel & Administrative Reforms and was, therefore, declared irregular in the letter dated 19-11-2009 issued by the Department of Personnel and Admn. Reforms (B) addressed to the Chief conservator of Forest.

5. It is also the case of the State-respondents that the tentative seniority list dated 30-7-2009 was issued in accordance with the Office memorandum, which says that seniority of persons appointed through or after recommendation of DSC shall prevail over any other persons appointed without the recommendation of the DSC. Consequently, ad-hoc appointees like the petitioner, even if appointed earlier, shall rank junior to persons appointed through or after the recommendation of the DSC. With the enactment of the Meghalaya Fundamental Rules and Subsidiary Rules and Assam Service Discipline and Appeal Rules, 1964, the provisions of Forest Department Code relating to appointment, confirmation, suspension, withholding of increment and the like relied upon by the petitioner are no longer applicable to the employees of the Forest Department. The contentions of the petitioner are, therefore, false, mischievous and misleading. The representation of the petitioner has been duly disposed of by the respondent No. 3, which does not call for the interference of this Court. The writ petition, being devoid of merit, is liable to be dismissed with cost.

6. I have carefully gone through the pleadings of the parties. I have also carefully examined the submissions advanced by Mr. R. Kar, the learned counsel appearing for the petitioner and Mr. K.S. Kynjing, the learned Advocate General of Meghalaya, appearing for the State-respondents. The submission of the learned counsel for the petitioner is that once the service

of the petitioner has been confirmed with effect from 1-4-1994, she can no longer be treated as an ad-hoc employee, but a regular employee entitled to count her seniority from such date of confirmation and, as such, the respondent authorities have clearly acted arbitrarily and illegally in treating her as an ad-hoc employee. According to the learned counsel, the petitioner was duly qualified for the post of L.D.A. for which she was initially appointed, that too, against a duly sanctioned post. He explains that prior to 1987, there was no DSC and the petitioner was appointed in accordance with the prevalent practice and procedure, which can no longer be assailed after her confirmation to the post by a competent authority. In support of his contention, the learned counsel relies on the decision of the Apex Court in ***Ashok Kumar Shrivastava v. Ram Lal, (2008) 3 SCC 148, C. Balachandran & ors. V. State of Kerala & ors., (2009) 3 SCC 179 and L. Chandra Kishore Singh v. State of Manuipour & ors., (1999) 8 SCC 287.*** Per contra, the learned Advocate General contends that as the petitioner was never appointed by the DSC by following the procedure consistent with Articles 14 and 16 of the Constitution, she cannot claim the birth mark of a regular employee and her continuous service for more than 22 years on ad-hoc or officiating basis cannot confer upon her the status of a regular employee: she has been rightly declared as an ad-hoc employee. According to the learned Advocate General, the case of the petitioner is squarely covered by ***R.N. Nanjundappa v. T. Thimmaiah, AIR 1972 SC 1767, ICAR v. T.K. Suryanarayan, AIR 1997 SC 3108 and Biswajeet Dey & ors. V. State of Assam & ors., 2011 (5) GLT 751*** and, as such, her service can neither be regularized by this Court nor can she be allowed to count her previous service for the purpose of seniority. Contending that the writ petition is bereft of merit, he strenuously urges this Court to dismiss the writ petition.

7. On perusing the initial appointment order dated 10-2-1986 of the petitioner, which is at Annexure-I to the writ petition, she was undoubtedly appointed to officiate as LDA on temporary basis, which was, however, subject to her discharge without notice and without assigning any reason thereof. Interestingly, the Principal Chief Conservator of forests, Meghalaya issued the order dated 19-4-2002 substantively appointing 34 officiating incumbents as permanent LDAs/RAs with effect from the date and against the vacancy indicated against their names. The name of the petitioner is found at Serial No. 13 therein: she was thus confirmed as LDA with effect from 1-4-1994 against permanent post. In other words, rightly or wrongly, she has been holding a substantive post of LDA since 19-4-1994 against a sanctioned post. According to the respondent authorities, such an order confirming the petitioner was done inadvertently and is irregular inasmuch as the same was done without the recommendation of the DSC. There is no dispute at the bar that the petitioner was never recommended by the DSC for regular appointment. This is the reason for treating the petitioner as an ad-hoc/officiating employee. In ***State of Karnataka v. Uma Devi (3) case***, ***(2006) 4 SCC 1*** a Constitution Bench of the Apex Court held that appointments made without following the due process or the rules relating to appointment did not confer any right on the appointees and the courts cannot direct their absorption, regularization or re-engagement nor make their service permanent continuance, and the High Court in exercise of jurisdiction under Article 226 of the Constitution should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment had been done in a regular manner, in terms of the constitutional scheme; and that the courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities, nor lend themselves to be instruments to facilitate the by-passing of the constitutional and statutory mandates. While holding that a

temporary, contractual, casual or a daily-wage employee does not have a legal right to be made permanent unless he had been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution, an exception was carved out by the Apex Court at para 53 of the judgment, which reads thus:

> *"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in **S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan** and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of the judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned post that required to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date."*

8. On the basis of the aforesaid observations, the Apex Court in ***State of Karnataka v. M.L. Kesari, (2010) 9 SCC 247***, clarifies the legal positions in the following manner:

> *" 7. It is evident from the above there is an exception to the general principles against "regularization" enunciated in **Uma Devi (3)**, if the following conditions are fulfilled:*
>
> *(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.*
>
> *(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the*

prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are irregular.

8. ***Umadevi (3)*** *casts a duty upon the Government or instrumentality concerned, to take steps to regularise the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one-time measure.* ***Umadevi (3)*** *directed that such one-time measure must be set in motion within six months from the date of its decision (rendered on 10-4-2006).*

9. From the paragraphs extracted in the foregoing, what can be seen is that as long as a qualified candidate is appointed against a sanctioned post by a competent authority even without undergoing the process of open competitive selection, such an appointment cannot be held to be an illegal appointment: such appointment will, at the most, be held to be an irregular appointment. In ***ML Kesari case*** (*supra*), the Apex Court allowed regularization of such irregular appointments, which have continued for more than ten years, as a one-time measure subject to the condition that such appointments were not made under cover of orders of courts or tribunals. In the instant case, the facts of the case are somewhat different, in that the petitioner had already been declared permanent in a substantive post of LDA on 19-4-2002 with effect from 1-4-1994: the order was issued by a competent authority while the petitioner was undoubtedly qualified for the post and was confirmed against a sanctioned post. No further regularization of such irregular appointment is thus called for as correctly observed by the Chairman of the DSC in his letter dated 7-9-2009 addressed to the Under Secretary to the Government of Meghalaya, Department of Personnel & Administrative Reforms (B). If the Apex Court in ***ML Kesari case*** (supra) had directed the State Government to regularize the services of irregularly appointed persons, *a fortiori*, I do not find any reason for declaring the confirmation of the petitioner made by the Principal Chief Conservator of

Forest in the substantive post of LDA as illegal: it is at the most irregular. Consequently, the petitioner is entitled to be treated as a confirmed LDA in a sanctioned post with effect from 1-4-1994. The next effect of this finding of mind is that the impugned order dated 13-3-2010, the gradation list dated 18-3-2010 and the consequential order dated 17-12-2009 stopping the increment are liable to be quashed.

WP(C) No. 81(SH) of 2010

In this case, the petitioner was initially appointed as LDA on ad-hoc basis on 4-6-1986 and was confirmed to the post of LDA with effect from 8-1-1991 against a sanctioned post. On the recommendation of the DPC held on 11-12-2007, she was subsequently promoted to the post of UDA by the order dated 19-12-2007. However, her name did not find a place in the inter-se seniority list of Ministerial Staff (LDA). In other words, she has till now been treated as an ad-hoc LDA by the respondent authorities. As in WP(C) No. 80(SH) of 2010, she is entitled to be treated as a confirmed LDA against a sanctioned post with effect from 1-4-1994.

WP(C) No. 82(SH) of 2010

In this case also, the petitioner was appointed as LDA on officiating basis on 18-2-1986 and was confirmed to the post of LDA with effect from 1-4-1994. She has till now been treated as ad-hoc LDA despite the order dated 19-4-2002. Her name did not find a place in the inter se seniority list of LDA though her juniors were given seniority. As in the previous cases, she is deemed entitled to be treated as a confirmed LDA with effect from 1-4-1994.

W(C) No. 86(SH) of 2001

In this case, the petitioner was appointed as Range Assistant on ad-hoc basis on 22-8-1984, and was substantively appointed as permanent Range Officer with effect from 8-1-1991. On the recommendation of the DPC held on 11-12-2007, she was promoted to the post of UDA, but she has not even been treated as a regular LDA till date. She also did not find a place in the inter-se seniority list of LDA, not to speak of the inter-se seniority list of UDA. As in the previous case, she is also entitled to be treated as a regular LDA with effect 8-1-1991 and a regular UDA with effect from 5-2-2009 when she was promoted to this post with effect from 19-12-2007.

WP(C) No. 87(SH) of 2010

In this case, as in the previous case, the petitioner was appointed as Range Assistant on ad-hoc basis on 3-9-1985, and was subsequently appointed as permanent Range Assistant on 15-1-1993 with effect from 8-1-1991. But as in the previous case, he is still treated as ad-hoc Range Officer: he is not allowed to draw increment or any advance or cross efficiency bar vide the letter dated 17-12-2009 issued by the Conservator of Forests, (T & D), Meghalaya. He also did not find a place in the inter-se seniority list of Range Assistant. As the facts in this case are identical to the previous, he is also entitled to be treated as a regular Range Assistant with effect from 8-1-1991 when he was made a permanent Range Assistant.

WP(C) No. 89(SH) of 2010

In this case, the petitioner was appointed as LDA on temporary basis subject to discharge without notice and without assigning any reason on 13-3-1986, and was subsequently appointed substantively as permanent LDA

with effect from 1-4-1994. However, as in the previous case, she is still treated as an ad-hoc LDA. Her name also did not find a place in the inter-se seniority list of LDA. As in the previous cases, she is entitled to be treated as a regular LDA with from 1-4-1994 when she was made a permanent LDA.

WP(C) No. 90(SH) of 2010

In this writ petition, the petitioner was appointed as LDA on officiating basis on 19-6-1986, and was subsequently confirmed as LDA with effect from 1-4-1994. As in the previous case, she is still treated as an ad-hoc LDA till now. Her name also did not find a place in the inter-se seniority list of LDA. As in the previous case, she is entitled to be treated as a regular LDA with effect from 1-4-1994 when she was confirmed to that post.

10. The last common question of law which now calls for consideration is, whether the petitioners in all these cases are entitled to count their seniority with effect from their respective dates of confirmations. The principles for determination of seniority in respect of ad-hoc appointee were laid down by the Apex court in ***Direct Recruits Class II Engineering Officers, Assn. v. State of Maharashtra, (1990) 2 SCC 715*** in the following manner:

> *"(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 adhoc and not according to rules and made as 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 regularization of his service in accordance with the rules, the period of officiating service will be counted."

The Apex Court explained and applied the above principles in ***State of W.B. v. Aghore Nath Dey, (1993) 3 SCC 371*** as follows:

"22. There can be no doubt that these two conclusions have to be read harmoniously, and conclusion (B) cannot cover cases which are expressly excluded by conclusion (A). We may, therefore, first refer to conclusion (A). It is clear from conclusion (A) that to enable seniority to be counted from the date of initial appointment and not according to the date of confirmation, the incumbent of the post has to be initially appointed "according to rules". The corollary set out in conclusion (A), then is, that 'where initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such posts cannot be taken into account for considering the seniority'. Thus, the corollary in conclusion (A) expressly excludes the category of cases where the initial appointment is only ad hoc and not according to rules, being made only as a stop-gap arrangement. The case of the writ petitioners squarely falls within this corollary of conclusion (A), which says that the officiation such posts cannot be taken into account for counting seniority.

23. This being the obvious inference from conclusion (A), the question is whether the present case can also fall within conclusion (B) which deals with cases in which period of officiating service will be counted for seniority. We have no doubt that conclusion (B) cannot include, within its ambit, those cases which are expressly covered by the corollary in conclusion (A), since these two conclusions cannot be read in conflict with each other.

24. The question, therefore, is of the category which would be covered by conclusion (B) excluding there from the cases covered by the corollary in conclusion (A).

25. In our opinion, the conclusion (B) was added to cover a different kind of situation, wherein the appointments are otherwise regular, except for the deficiency of certain procedural requirements laid down by the rules. This is clear from the opening words of the conclusion (B), namely, 'if the initial appointment is not made by following the procedure laid down by the 'rules' and the latter expression 'till regularisation of his service in accordance with the rules'. We read conclusion (B) , and it must so read to reconcile with conclusion (A), to cover the cases where the initial appointment is made against an existing vacancy, not limited to a fixed period of time or purpose by the appointment order itself, and is made subject to deficiency in the procedural requirements prescribed by the rules for adjudging suitability of the appointee for the post being cured at the time of regularization, the appointee being eligible and qualified in every manner for a regular appointment on the date of initial appointment in such cases. Decision about the nature of the appointment, for determining whether it falls in this category, has to

be made on the basis of the terms of the initial appointment itself and the provisions in the rules. In such cases, the deficiency in the procedural requirements laid by the rules has to be cured at the first available opportunity, without any default of the employee, and the appointee must continue in the post uninterruptedly till the regularization of his service, in accordance with the rules. In such cases, the appointee is not to blame for the deficiency in the procedural requirements under the rules at the time of his initial appointment, and the appointment being not limited to a fixed period of time is intended to be a regular appointment, subject to the remaining procedural requirements of the rules being fulfilled at the earliest. In such cases also, if there be any delay in curing the defects on account of any fault of the appointee, the appointee would not get the full benefit of the earlier period on account of his default, the benefit being confined only to the priod for which he is not to blame. This category of cases is different from those covered by the corollary of in conclusion (A) which relates to appointment only on ad hoc basis as a stop-gap arrangement and not according to rules. It is, therefore, not correct to say, that the present case can fall within the ambit of conclusion (B), even though they were squarely covered by the corollary to conclusion (A).

26. In view of the above, it is clear that the claim of the writ petitioners (respondents in all these appeals) for treating their entire period of service prior to February 26, 1980 as regular service for the purpose of seniority, and fixation of their seniority accordingly, is untenable. The submission of Shri Sanghi that their initial ad hoc appointment must be treated as having been made in accordance with the rules since the selection by alternative mode, namely, by a committee of five Chief Engineers was resorted to on account of the emergency, cannot be accepted. Rule 11 of the 1959 Rules provides for appointments to be made during emergency, and lays down that such appointments during emergency can be made only 'by advertisement and interview, through the Public Service Commission, West Bengal'. Admittedly, this express requirement in Rule 11 was not followed or fulfilled subsequently, and, therefore, the initial ad hoc appointments cannot be treated to have been made according to the applicable rules. These ad hoc appointments were clearly not in accordance with the rules, and were made only as a stop-gap arrangement for fixed period, as expressly stated in the appointment order itself."

11. In the instant case cases also, the petitioners were initially appointed as LDAs or RA on ad hoc basis or on officiating basis and were never appointed according to the rules as they were not recommended for regular appointment by the DSC, which was the condition precedent for appointment according to rules. They were somehow "substantively appointed as permanent LDAs/RAs" to their respective posts with effect from 1993 and 2002, as the case may be, with retrospective effect. Admittedly, they were qualified for the posts in question, were appointed against sanctioned posts,

that too, by a competent authority. They had also been uninterruptedly continuing in those posts till their confirmation/regularization. However, they never fulfilled the procedural requirement laid down by the Notification dated 1976 issued by the Government of Meghalya in the Department of Personnel & Administrative Reforms or by the Office Memorandum dated 22-6-1989, both of which require that such recruitment should have to be made on the recommendation of the DSC in accordance with the procedures laid down therein. Consequently, their substantive appointments cannot be treated to have been made according to rules. Their ad hoc appointments were evidently made as stop-gap arrangements subject to their discharge at any time without assigning any reason. Therefore, their cases fall within the sweep of conclusion (A) and not within conclusion (B) of ***Direct Recruit case*** (*supra*). The net effect of this finding of mine is that the petitioners in WP(C) No. 86(SH) of 2010, WP(C) No. 87(SH) of 2010, whose ad hoc/officiating services were regularized by the order dated 15-1-1993, albeit with effect from 8-1-1991, will not be allowed to count their seniority prior to their regularization i.e. 15-1-1993. Similarly, the petitioners in WP(C) No. 80(SH) of 2010, WP(C) No. 81(SH) of 2010, WP(C) No. 82(SH) of 2010, WP(C) No. 89(SH) of 2010, WP(C) No. 90(SH) of 2010, whose ad hoc services were regularized on 19-4-2002, albeit with effect from 19-4-1994, cannot be allowed to count their seniority with effect from 1-4-1994. All of them will be allowed to count their seniority only on the date of the confirmation/regularization as indicated earlier.

12. The result of the foregoing discussion is that these writ petitions are partly allowed. The petitioners in all the writ petitions shall always be treated as regular LDAs and RAs, as the case may be, from the dates of their respective substantive appointments by the orders dated 15-1-1993 and 19-4-2002 respectively, and the State-respondents shall not undertake the

unnecessary exercise of regularizing the services of the petitioners. The petitioners shall not, however, be allowed to count their seniority with retrospective effect. In other words, the petitioners in WP(C) No. 86(SH) and 87(SH) of 2010 shall be allowed to count their seniority with effect only from 15-1-1993 while the petitioners in the remaining writ petitions shall be allowed to count their seniority with effect only from 19-4-2002. The State-respondents are, therefore, directed to correct and modify the impugned Gradation List of Range Assistants and Lower Division Assistants accordingly by inserting the names of these petitioners among the RAs and LDAs in accordance with their due seniority in the light of this judgment within a period of three months from the date of receiving this judgment. It is made clear that none of the petitioners shall be placed below their juniors. No costs.

JUDGE