S.I. Rooplal And Anr vs Lt. Governor Through Chief Secretary ... on 14 December, 1999

Equivalent citations: AIR 2000 SUPREME COURT 594, 2000 (1) SCC 644, 2000 AIR SCW 19, 2000 LAB. I. C. 370, 1999 (7) SCALE 466, 2000 (1) UJ (SC) 252, 2000 UJ(SC) 1 252, 2000 (1) SRJ 354, 2000 (2) SERVLJ 395 SC, 2000 (1) LRI 372, (1999) 9 JT 597 (SC), (2000) 85 FACLR 305, 2000 SCC (L&S) 213, (2000) 1 LAB LN 347, (1999) 4 MAD LJ 125, (2000) 1 SCT 630, (1999) 6 SERVLR 623, (1999) 10 SUPREME 300, (1999) 7 SCALE 466, (2000) 1 ESC 305, (2000) 1 BLJ 910

Bench: S.P. Bharucha, R.C. Lahoti, N. Santosh Hegde

CASE NO.:
Appeal (civil) 5363-64 of 1997

PETITIONER:
S.I. ROOPLAL AND ANR.

RESPONDENT:
LT. GOVERNOR THROUGH CHIEF SECRETARY DELHI & ORS.

DATE OF JUDGMENT: 14/12/1999

BENCH:
S.P. BHARUCHA & R.C. LAHOTI & N. SANTOSH HEGDE

JUDGMENT:

JUDGMENT 1999 Supp(5) SCR 310 The Judgment of the Court was delivered by SANTOSH HEGDE, J. Civil Appeal Nos. 5363-64/97 are preferred against the order dated 28.10.1994 made by the Central Administrative Tribunal, Principal Bench, New Delhi, in O.A. nos. 14145/94. W.P. (C)No. 191/99 filed before this Court under Article 32 of the Constitution of India challenges the constitutional validity of Office Memorandum No. 200020/7/80-Estt. (D) dated 29.5.1986 issued by the Government of India. T.C. (C) No. 56/99 is a transfer case filed seeking transfer of W.P. (C) No. 4128/98 pending on the file of the High Court of Delhi which involves the same question as is involved in the civil appeals referred to above. In all the above cases, the question involved is whether Sub-Inspector who was appointed as such in the Border Security Force (for short `the BSF') when transferred on deputation to Delhi Police in the cadre of Sub-Inspector (Executive) on being permanently absorbed in the transferred post, is entitled to count his substantive service as Sub-Inspector in the BSF for the purpose of his seniority in the Cadre of Sub-Inspector (Executive) in Delhi Police or not.

To appreciate the controversy involved in these cases, it is necessary to note the background of these transfers from various Police Organisations to Delhi Police. A perusal of the letter issued by the Commissioner of Police, Delhi, No. 15413/Est. dated 10.9.1985 shows that in the year 1985 with a view to strengthen the existing security system in the Capital, the Delhi Police has created 12 new Police Stations in Delhi. Consequent to the same and in view of the prevailing conditions, it was felt necessary to fill up the required posts in Delhi Police within the shortest possible time so that there is an immediate impact on the law and order situation in Delhi. In the said letter, the Commissioner noted that in the normal course the recruitment at different levels and training of the recruits would take a longer time and in view of the urgent need of the hour, a decision was taken to take suitable persons on deputation in the ranks of Inspector, Sub-Inspector, Assistant Sub-Inspector, Head Constable, Constable and Drivers (Head Constable and Constable). In the said letter, a request was made to the Director General of the BSE to forward the names of suitable persons desirous of joining Delhi Police on initial deputation for a period of one year. The letter also stated that those officials taken on deputation are likely to be considered for permanent absorption after one year if they are found suitable. From the above letter it is clear that the Delhi Police were in dire need of additional hands to man the twelve newly created Police Stations in Delhi; In this background, certain Sub- Inspectors who were working in the BSF were at first sent on deputation to Delhi Police in the cadre of Sub-Inspector (Executive) and subsequently they were permanently absorbed.

The Delhi Police (Appointment and Recruitment) Rules, 1980 provide for the mode of recruitment in Delhi Police. Rule 5(h) of the said Rules provides that if the Commissioner is of the opinion that it is necessary or expedient in the interest of work to do so, he may make appointments) to all non-Gazetted categories of both Executive and Ministerial cadres of Delhi Police on deputation basis (emphasis supplied) by drawing suitable persons from any other State, Union Territories, Central Police Organisation or any other dismissed by the tribunal by a reasoned order. It held that equal pay-scales was not the sole determinative factor while determining the equivalency of the two posts. It also reiterated its finding that the law laid down by this Court in Madhavan's case (supra) was applicable on all fours to the facts of the case.

On not being satisfied with the order of the Tribunal in the review application also, the respondent filed an SLP before this Court against the original judgment and the order in review vide SLP (C) No. 25 75-75A of 1993. In the said SLP, the respondent specifically contended that the ratio of this Court in Madhavan's case (supra) was not applicable to the case of Antony Mathew, on the ground that the post held by Antony mathew in the BSF was hot equivalent to the post of a Sub-Inspector in Delhi Police, A three- Judge Bench of this Court vide its order dated 22.4.1994 found no merit in the petition filed by the Delhi Administration and dismissed the same. It is worthwhile to note that the above-referred dismissal order of this Court shows that the respondents in the SLP were represented by a counsel and the Court passed an order after hearing the counsel, Strangely enough, the respondent which was the employer of both the originally recruited Sub- Inspectors of Delhi Police as well as subsequently transferred arid absorbed officials was still not satisfied even with this decision of the apex Court and filed a review petition against the said order of dismissal of the SLP, which review petition came to be dismissed by this Court with the following order:-"Apart from the fact that the petitions are delayed by 444 days, even on merits we see no reason to entertain these petitions, Hence the Review Petitions are dismissed." Thus, the first bout of litigation which

originated with regard to a simple question of counting the seniority, in the year 1991 came to an end in February, 1996- But, so fair as the respondent is concerned, it was not prepared to accept the law laid down in Antony Mathew's case. Though it gave the benefit of the order of the Tribunal, as affirmed by this Court, to Antony Mathew, it was not ready to extend the same benefit to the persons similarly situated like the appellants herein. As stated above, the appellants were also originally appointed like Antony Mathew in the BSF as Sub-Inspectors and subsequently transferred and absorbed as such in the Delhi Police Force and, as a matter of fact, the first appellant was even senior to Antony Mathew in the cadre of Sub-Inspectors in the BSF and was also absorbed in the Delhi Police on a date anterior to that of Antony Mathew. The refusal of the Delhi Administration to give benefit of the judgment in the case of Antony Mathew to the appellants despite their repeated representations and consequent denial of their seniority, compelled these appellants to file original applications being O.A. Nos, 1414/94 and 1415/94 before another Principal Bench of the C.A.T. at Delhi.

Surprisingly, even though the case of the applicants before the Tribunal in the above-referred Original Applications from which the present civil appeals arise, was identical to the case of Antony Mathew both on facts and in law, the tribunal in total disregard to the rule of precedence, inspite of having noticed the earlier judgment of a coordinate Bench of the same tribunal and having noticed the fact that the review petition Filed before the tribunal, SLP filed before this Court and review petition filed before this Court were dismissed, it still proceeded to consider the application independent of the law laid down in the previous case and came to an entirely contra conclusion and further held that the judgment in Madhavan's case had no bearing to the facts of the present case. In this process it relied on an Official Memorandum dated 2.5.1986 the existence of which was unknown to all concerned and reference to which was not made by the respondent either as a defence in the Original Application of Antony Mathew's case or in review filed thereafter or before this Court in the SLP or in the review petition filed before this Court, in this second round of litigation, the tribunal came to the conclusion that the post held by the present appellants in the BSF was not an equivalent post of Sub Inspector in Delhi Police and also in view of the language employed in O.M. dated 29.5.1986, held that the appellants herein were not entitled to count the service rendered by them prior to their absorption in Delhi Police for the purpose of their seniority in the cadre of Sub-Inspector (Executive) in Delhi Police. It is against this order of the tribunal that the appellants have preferred SLPs. in which leave to appeal was granted by this Court.

Before us in these matters, Mr. P.P. Rao and Mr. S.K. Dholakia, learned senior counsel appearing for the parties contended that the latter Bench of the tribunal committed a judicial impropriety in taking a contra view from the earlier judgment without Following the rule of precedent They questioned the correctness of the finding of tribunal in the impugned judgment as to equation of the two posts of Sub-Inspector based only on an unequal pay scale. The reliance on the O.M. dated 29.5.1986 was also questioned on the ground that same was not acted upon earlier and the existence of the same was not made known to all concerned at any relevant point of time. It is to be noted that the constitutional validity of the said O.M. is also challenged before us in W.P.No. 191 of 1999. We have heard the learned Additional Solicitor General and Sri Bimal Roy Jad on behalf of the respondents.

At the outset, we must express our serious dissatisfaction in regard to the manner in which a coordinate Bench of the tribunal has overruled, in effect, an earlier judgment of another coordinate Bench of the same tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the tribunal was of the opinion that the earlier view taken by the coordinate Bench of the same tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents. Precedents which enunciate rules of law from the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bounded by the enunciation of law made by the superior courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of Tribhuvandas Purshottamdas Thakar v. Ratilal Motilal Patel, [1968] 1 SCR 455 while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same court observed thus:

> "The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai's case and of Macleod, C.J., in Haridas `s case did not lay down the correct Law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C.J. observed in Lala Shri Bhagwan and Anr, v. Shri Ram Chand and Anr.
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> "It is hardly necessary to emphasis that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be re- considered, lie should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety."

We are indeed sorry to note the attitude of the tribunal in this case which, after noticing the earlier judgment of a coordinate Bench and after noticing the judgment of this Court, has still thought it fit to proceed to take a view totally contrary to the view taken in the earlier judgment thereby creating a

judicial uncertainty in regard to the declaration of law involved in this case. Because of this approach of the latter Bench of the tribunal in this case, a lot of valuable time of the Court is wasted and parties to this case have been put to considerable hardship.

In our opinion, the above error on the part of the tribunal in the normal course should have made us remand this case to the tribunal to be decided by a larger Bench of the tribunal to decide the issue involved in this case, but then taking into consideration the time already consumed by this case and cost and inconvenience suffered by the parties concerned because of the above referred indiscretion of the tribunal we think in the interest of justice we should put to rest the controversies involved in these appeals.

We will now take up the question whether the appellants are entitled to count their service rendered by them as Sub-Inspector in the BSF for the purpose of their seniority after absorption as Sub-Inspector (Executive) in Delhi Police or not. We have already noticed the fact that it is pursuant to the needs of Delhi Police that these officials were deputed to Delhi Police from the BSF following the procedure laid down in Rule 5(h) of the Rules and subsequently absorbed as contemplated under the said Rules. It is also not in dispute that at some point of time in the BSF, the appellants' services were regularised in the post of Sub-Inspectors and they were transferred as regularly appointed Sub-Inspectors to Delhi Police force. Therefore, on being absorbed in an equivalent cadre in the transferred post, we find no reason why these transferred officials should not be permitted to count their service in the parent department. At any rate, this question is not res Integra and is squarely covered by the ratio of judgments of this Court in more than one case. Since the earlier Bench of the tribunal relied upon Madhavan's case to give relief to the deputationists, we will first consider the law laid down by this Court in Madhavan `s case (supra). This Court in that ease while considering a similar question, came to the following conclusion:

> "We may examine the question from a different point of view. There is `not-.much. difference between deputation and transfer. Indeed, when a deputationist is permanently absorbed in the CBI, he is under the rules appointed oh transfer. In other words, deputation may be regarded as a transfer from one government department to another. .It will be against all rules of service jurisprudence, if a government servant holding a particular post is transferred to the same or an equivalent post in another government department, the period of his service in the post before his transfer is not taken into consideration in computing his seniority in the transferred post. The transfer cannot wipe out his length of service in the post from which he has been transferred. It has been observed by this Court that it is a just and wholesome principle commonly applied where persons from different sources are drafted to serve in a new service that their pre-existing total length of service in the parent department should be respected and presented by taking the same into account in determining their ranking in the new service cadre. See R.S. Mokashi and Ors, v. l.M. Menon and Ors., [1982] 1 SCC 379 and Wing Commander J, Kumar V. Union of India and Ors., [1982] 3 SCR 453."

(emphasis supplied) Similar is the view taken by this Court in the cases of K.S. Mokashi and Ors. and Wing Commander J, Kumar (supra) which judgments have been followed by This Court in Madhavan's case. Hence, we do not think it is necessary for us to deal in detail as to the view taken by this Court in those judgments. Applying the principles laid down in the above referred cases, we hold the appellants are entitled to count the substantive service rendered by them in the post of Sub-Inspector in the BSF while counting their service in the post of Sub-Inspector (Executive) in Delhi Police force.

In law, it is necessary that if the previous service of a transferred official is to be counted for seniority in the transferred post then the two posts should be equivalent. One of the objections raised by the respondents in this case as well as in the earlier case of Antony Mathew is that the post of a Sub-Inspector in the BSF is not equivalent to the post of a Sub-Inspector (Executive) in Delhi Police. This argument is solely based on the fact that the pay-scales of the two posts are not equal. Though the original Bench of the tribunal rejected this argument of the respondent, which was confirmed at the stage of SLP by this Court, this argument found favour with the subsequent Bench of the same tribunal whose order is in appeal before us in these cases. Hence, we will proceed to deal with this argument, now- Equivalency of two posts is not judged by the sole fact of equal pay. While determining the equation of two posts many factors other than `Pay' will have to be taken into consideration, like the nature of duties, responsibilities, minimum qualification etc. It is so held by this Court as far back as in the year 1968 in the case of Union of India and Anr. v. P.K. Roy and Ors, [1968] 2 SCR 186. In the said judgment, this Court accepted the factors laid down by the Committee of Chief Secretaries which was constituted for settling the disputes regarding equation of posts arising out of the States Reorganisation Act, 1956. These four factors are : (i) the nature and duties of a post, (ii) the responsibilities and powers exercised by the officer holding a post; the extent Of territorial or other charge held or responsibilities discharged; (iii) the minimum qualifications, if any, prescribed for recruitment to the post; and (iv) the salary of the post. It is seen that the salary of a post for the purpose of finding out the equivalency of posts is the last of the criterion. If the earlier three criteria mentioned above are fulfilled then the fact that the salaries of the two posts are different, would not in any way make the post `not equivalent'. In the instant case, it is not the case of the respondents that the first three criteria mentioned hereinabove are in any manner different between the two posts concerned. Therefore, it should be held that the view taken by the tribunal in the impugned order that the two posts of Sub-Inspector in the BSF and the Sub-Inspector (Executive) in Delhi Police are not equivalent merely on the ground that the two posts did not carry the same pay-scale, is necessarily to be rejected. We are further supported in this view of ours by another judgment of this Court :in the case of Vice-Chancellor, L.N. Mithila University v. Dayanand Jha. [1986] 3 SCC 7 Wherein at para 8 of the judgment, this Court held: "Learned counsel for the respondent is therefore right in contending that equivalency of the pay scale is not the Only factor in judging whether the post of Principal and that of Reader are equivalent posts. We are inclined to agree with him that the real criterion to adopt is whether they could be regarded of equal status and responsibility xxx The true criterion for equivalence is the status and the nature and responsibility of the duties attached to the two posts, xxx"

> Therefore, in our opinion, the finding of the tribunal that the posts of Sub-inspector in the BSF and Sub-Inspector (Executive) in Delhi Police are not equivalent, is

erroneous, and the same is liable to be set aside, This leaves us to consider the Validity of the Office Memorandum which was relied upon by the tribunal in the impugned judgment We have noticed earlier in the judgment that the constitutional validity of this Memorandum is independently challenged by the appellants in W.P.c No. 191/99. There is considerable force in the argument addressed on behalf of the appellants that this Memorandum had neither been made public nor the existence thereof made known to anybody concerned with the controversy in question. We have already referred to this fact. Hence, we do not want to repeat the same in detail. On facts, we are of the opinion that the respondents ought not to have been permitted to rely upon this document because there is no material whatsoever produced by the respondents to shown that this Memorandum which was issued by the Government of India was either ipso facto applicable to the Delhi Police Force or the same was adopted and applied by the Delhi Police Force. It is to be noted that the law in regard to the right of a deputationist to count his service for purpose of seniority in the transferred Department was settled as far back as in the year 1982 itself in the cases of R.S. Mokashi and Ors. and Wing Commander J. Kumar (supra) (if not earlier). Therefore, it is reasonable to expect that a deputationist when his service is sought to be absorbed in the transferred department would certainly have expected that his seniority in the parent department would be counted. In such a situation, it was really the duty of the respondents, if at all the conditions stipulated in the impugned Memorandum were applicable to such person, to have made the conditions in the Memorandum known to the deputationist before absorbing his services, in all fairness, so that such a deputationist would have had the option of accepting the permanent absorption in Delhi Police or not. The very fact that such steps were not taken, shows that this Memorandum was, in fact, never acted Upon. Apart from the above question of equity, the appellants have challenged the constitutional validity of the above Memorandum on the ground that the same violates Articles 14 and 16 of the Constitution. One of the grounds raised is that their vested right of counting the seniority in the deputed Department, after absorption in an equivalent post, is arbitrarily taken away, if the Memorandum in question is applicable to them. Therefore, they had prayed for a declaration that the Memorandum be declared as ultra vires to (he extent it offends their fundamental right.

The relevant part of the Memorandum impugned in the writ petition referred to above, reads thus:

"Even in the type of cases mentioned above, that is, where an officer initially comes on deputation and is subsequently absorbed, the normal principles that the seniority should be counted from the date of such absorption, should mainly apply. Where, however, the officer has already been holding on the date of absorption in the same or equivalent grade on regular basis in his parent department, it would be equitable and appropriate that such regular service in the grade should also be taken into account in determining his seniority subject only to the condition that at the most it would be only from the date of deputation to the grade in which absorption is being

made. It has also to be ensured that the Fixation of seniority of a transferee in accordance with the above principle will not effect any regular promotions made prior to the date of absorption, Accordingly it has been decided to add the following sub-para

(iv) to para 7 of general principles communicated vide O.M dated 22nd December, 1959, "(iv) In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for "Transfer on deputation/Transfer"), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has so ever been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from the date he has been holding the post on deputation, or the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later" (emphasis supplied) A perusal of clause (iv) of the Memorandum shows that the author of this Memorandum has taken inconsistent views in regard to the right of a deputationist to count his seniority in the parent department. While in the beginning part of Clause (iv) :in clear terms he says that if a deputationist holds an equivalent grade on regular basis in the parent department, such regular service in the grade shall also be taken into account in fixing the seniority. In the latter part the author proceeds to say-"subject to the condition that he will be given seniority from the date he has been holding the post or the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department whichever is later." The use of the words "whichever is later" negatives the right which was otherwise sought to be conferred under the previous paragraph of Clause (iv) of the Memorandum. We are unable to see the logic behind this. The use of the words "whichever is later" being unreasonable, it offends Article 14 of the Constitution. It is also argued on behalf of the appellants that this Memorandum is further violative of Articles 14 and 16 of the Constitution inasmuch as it arbitrarily takes away the service rendered by the deputationist when he is absorbed in Delhi Police which right of a civil servant cannot be taken away without authority of law. We have noticed earlier that the petitioners who are the appellants in the civil appeals, were regularly appointed as Sub-Inspectors in the BSF on the date of their deputation. We have also accepted the fact that the post of Sub-Inspector held by them in the BSF is equivalent to the post of Sub-

Inspector (Executive) in the Delhi Police to which they stood deputed. That being the case, in view of the judgment in the cases of R.S. Mokashi, Wing Commander J. Kumar and Madhavan (supra), it is clear that they are entitled to count the service rendered by them in the post of Sub-Inspector in the BSF for the purpose of seniority in the cadre of Sub-Inspector (Executive) in Delhi Police. Therefore, such a right of the petitioners/ appellants could not have been taken away in the garb of an Office Memorandum which is impugned in the above writ petition. This view of ours finds support from a judgment of this Court in the case of K. Anjaih & Ors. v. K. Chandraiah and Ors., [1988] 3 SCC 218.

In that case this Court was considering a statutory regulation which in almost similar terms used in the Office Memorandum with which we are concerned, deprived the civil servants of their past service in the department. The Regulation involved in the said case reads:

> "9. (1) The persons drawn from other departments will carry on their service and they will be treated as on other duty for a tenure period to be specified by the Commission or until they are permanently absorbed in the Commission whichever is earlier.
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> (2) The services of those staff members working in the Commission on deputation basis and who opted for their absorption in the Commission, shall be appointed regularly as the staff in the Commission, in the cadre to which they belong, as per the orders of Government approving their appointments batch by batch and to determine the seniority accordingly. For this purpose the Commission may review the promotions already affected."

The validity of the said Regulation was challenged and the same was struck down by the Administrative Tribunal in that case and when the matter was brought up in appeal before this Court, the argument of the aggrieved persons that the offending regulation did not violate Articles 14 and 16 was repelled by this Court and it upheld the argument of the deputationist which was as follows:

> "xxx that when persons from different sources are drafted to serve in a new service, their pre-existing length of service in the parent department should be respected and preserved by taking the same into account in determining their ranking in the new service cadre and this has been done under Regulation 9(1) that benefit cannot be taken away for determination of the inter se seniority as per Regulation 9(2) and, therefore, the Tribunal was justified in striking down Regulation 9(2). xxx"

However, in that case this Court instead of striking down the said regulation, upholding the contention that a deputationist is entitled to count his seniority when absorbed in the deputed post, observed thus:

> "xxx When the Commission finally takes a decision to permanently absorb these deputationists after obtaining' their option the question of their inter se seniority in the Commission crops up and Regulation 9 (2) deals with the said situation. In the case of R.S. Mokashi v. I.M. Menon this Court had indicated that it is a just and wholesome principle commonly applied to persons coming from different sources and drafted to serve a new service to count their pre-existing length of service for determining their ranking in the new service cadre. The said principle was reiterated by this Court in K. Madhavan case. A three-Judge Bench judgment of this Court in the case of Wing Commander J. Kumar also reiterated the aforesaid well- known principle in the service jurisprudence, xxx"

It is clear from the ratio laid down in the above case that any Rule, Regulation or Executive Instruction which has the effect of taking away the service rendered by a deputationist in an equivalent cadre in the parent department while counting his seniority in the deputed post would be violative of Articles 14 and 16 of the Constitution. Hence, liable to be struck down. Since the impugned Memorandum in its entirety does not take away the above right of the deputationists and by striking down the offending part of the Memorandum, as has been prayed in the writ petition, the rights of the appellants could be preserved, we agree with the prayer of the petitioners/ appellants and the offending words in the Memorandum "whichever is later" are held to be violative of Articles 14 and 16 of the Constitution, hence, those words are quashed from the text of the impugned Memorandum. Consequently, the right of the petitioners/appellants to count their service from the date of their regular appointment in the post of Sub-Inspector in BSF, while computing their seniority in the cadre of Sub- Inspector (Executive) in the Delhi Police, is restored.

Before concluding, we are constrained to observe that the role played by the respondents in this litigation is far from satisfactory. In bur opinion, after laying down appropriate rules governing the service conditions of its employees, a State should only play the role of an impartial employer in the inter-se dispute between its employees. If any such dispute arises, the State should apply the rules laid down by it fairly. Still if the matter is dragged to a judicial forum, the State should confine its role to that of an amicus curiae by assisting the judicial forum to a correct decision. Once a decision is rendered by a judicial forum, thereafter the State should not further involve itself in litigation. The matter thereafter should be left to the parties concerned to agitate further, if they so desire. When a State, after the judicial forum delivers a judgment, files review petition, appeal etc. it gives an impression that it is espousing the cause of a particular group of employees against another group of its own employees, unless of course there are compelling reasons to resort to such further proceedings. In the instant case, we feel the respondent has taken more than necessary interest which is uncalled for. This act of the State has only resulted in waste of time and money of all concerned.

In the light of the view taken by us, the civil appeals and W.P. (C) No. 191/99 are allowed to the extent mentioned above. W.P.(C) No. 4128/98 pending on the file of Delhi High Court which has been registered here as TC (C) No. 56/99 is withdrawn to the file of this Court and the same is dismissed. The respondent (Delhi Administration) shall pay costs in all the above matters.

T.C.NO. 56/99 dismissed.