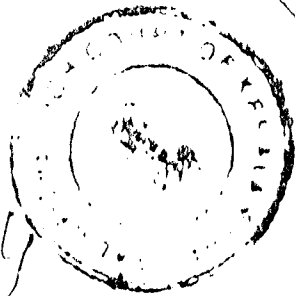


in effect, it directs only the implementation of the directions from the Supreme Court or the earlier direction of the CAT, which has not been impugned by any one. If at all any one else would have been affected that would have been by reason of the pronouncement of the Supreme Court as mentioned above, wherein the Govt. Of India made it clear that the vacancies that had arisen after the enforcement of Annexure-A3 would have been filled up following that order and those arisen prior to that on the basis of Annexure-A1 and A2. After being bound by that pronouncement, the administration cannot any more avoid filling up of the vacancies as directed therein on the ground that it would affect any one else. It was there after, in the same lines a detail pronouncement had been made by the CAS as per the order in O.A.No.1497/96. The impugned order is only a clarification of this pronouncement. Therefore the impugned order as such cannot be stated to be passed without the juncture of the necessary

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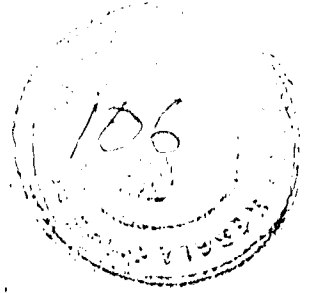


parties.

6. Even during the pendency of these two Original petitions, this court passed an interim order on 21.8.01 directing the writ petitioners to conduct the examination as directed in the impugned orders. The said examination had already been conducted in November, 2003. Later by yet another order dated 11.2.2005, this court directed to effect promotions of the candidates who had come successful in the examination depending upon the vacancies. Pursuant to this Ext.R3 order dated 22.3.2005 had been passed stating that certain incumbents named therein were entitled for promotion. Accordingly, they were promoted but no seniority has been assigned. None has so far challenged this. It is not pointed out to us. Now the administration is taking a stand that they had been absorbed, with effect from 1.10.2000 and will be given seniority only from the date of absorption or only from the date of taking charge. This contention cannot any more be countenanced in the

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light of the order of the Supreme Court and the order in O.A.No.1497/96 and connected cases, because the direction therein was to fill up the vacancies that had arisen before 22.7.1996 based on Annexure-A1. Necessarily, assignment of vacancies based on the examination now conducted shall be to those arisen before 22.7.1996, placing the incumbents concerned over those who had been promoted to the vacancies occurred later than 22.7.1996. Merely because such placing would affect others in the matter of seniority, the petitioners cannot avoid its implementation. They have to give sufficient notice by publication in the news papers inviting the objections if any from the concerned incumbents and shall have to give effect to the order of the Supreme Court and as well as the earlier order of the tribunal in O.A.No.1497/96 giving proper ranking to the incumbents promoted as per Ext.R3(d) in O.P.No.37134/01 assigning them proper vacancies that had occurred before 22.7.1996. In this regard, we make a time bound



direction that, assigning of vacancies shall be done within 2 months from the date of receipt of the copy of this judgment and the publication thereof shall be effected inviting objections in news papers having wide circulation within two weeks, giving three weeks to file objections. The final order of assignment vacancies shall be given to the incumbents promoted as per Ext.R3(d) mentioned above, at any rate within 4 months from the date of such publication.

Original Petitions are disposed of as above.

vi.

sd/-
K.A.ABDUL GAFOOR, JUDGE

sd/-
K.P. BALACHANDRAN, JUDGE

True copy
P A to Judge
Impc

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ANNEXURE P-7

No. 22011/7/86-Estt (D)
Government of India
Ministry of Personnel, Public Grievances
and Pensions
(Department of Personnel & Training)

Dated :- 3-7-86

OFFICE MEMORANDUM

Subject: SENIORITY Consolidated orders on

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The undersigned is directed to say that instructions have been issued by this Department from time to time laying down the principles for determining Seniority of persons appointed to services and posts under the Central Government. For facility of reference, the important orders on the subject have been consolidated in this office Memorandum. The number and date of the original communication has been quoted in the margin so that users may refer to it to understand fully the context in which the order in question was issued.

SENIORITY OF DIRECT RECRUITS AND PROMOTEEES

MH OM No. 2.1 The relative seniority of all direct recruits is determined by
9/11/55-RPS the order of merit in which they are selected for such Dt.
22.12.59 appointment on the recommendations of the U.P.S.C. or
other selecting authority, persons appointed as a result
of an earlier selection being senior to those appointed as
a result of a subsequent selection.