

A.F.R.

Judgment reserved on 10.07.2019

Judgment delivered on 01.08.2019

Court No. - 29

Case :- WRIT - A No. - 17904 of 2018

Petitioner :- Dr. Anupma Mehrotra

Respondent :- The Honble Chancellor Mahatma Jyotiba Phule
Rohilkhand University And 9 Others

Counsel for Petitioner :- In Person

Counsel for Respondent :- Neeraj Tripathi, Arvind
Srivastava, C.S.C., Kshitij Shailendra, Siddharth Khare, Vivek
Verma, Manish Ta

Hon'ble Pankaj Mithal, J.

Hon'ble Saral Srivastava, J.

Under challenge in this writ petition is the order of the Chancellor, Mahatma Jyotiba Phule Rohilkhand University, Bareilly dated 06.08.2018 by which the representation of the petitioner filed under Section 68 of the U.P. State Universities Act (*hereinafter referred to as "Act"*) has been rejected.

The dispute which was referred to the Chancellor under Section 68 of the Act was with regard to the validity/correctness of the order of the Vice Chancellor of the University dated 23.09.2016 in context to *interse* seniority of the petitioner *qua* contesting private respondents No. 8 to 11 who are all teachers in the Dayanand Arya Kanya Mahavidyalaya, Moradabad affiliated to the above university.

Admittedly, the petitioner was duly selected and recommended by the U.P. Higher Education Service Commission (*hereinafter referred to as "Commission"*) on 28.01.1991 as Lecturer (Home Science) and was allotted the above institution. Consequently, the Committee of Management of the institution issued appointment letter to her and the petitioner joined services on 20.06.1991. Thus, she is holding a substantive post of Lecturer, Home Science at the institution w.e.f. 20.06.1991 after due selection by the Commission.

The contesting private respondent Nos. 8 to 11 were appointed on ad-hoc basis by the Committee of Management of the institution

on their selection by the Selection Committee constituted by the institution and approvals of the University granted to their appointments on 10.10.1988, 22.02.1991, 25.02.1991, 11.03.1991 and 22.03.1991 respectively. All of them except respondent No.10 were subsequently regularized on their respective posts on different dates in June, 1992 under Section 31-C (2) of the U.P. Higher Education Service Commission Act (*hereinafter referred to as "Commission Act"*) by the Directorate of Higher Education, U.P., Allahabad.

In view of the above respective joining of the petitioner and the contesting private respondents No. 8 to 11, the Chancellor held that as under Statute 15.08 (e) of the First Statutes of the University, the respondents are entitle to seniority from the date of their initial appointment, they are senior to the petitioner. Secondly, as the representation of the petitioner also disputes the regularization of the contesting private respondents No. 8 to 11, the challenge to the same after more than 26 years is not acceptable and the representation in that regard is barred by limitation.

We have heard Dr. Anupma Mehrotra, petitioner in person, Sri L.K. Tripathi, learned counsel for Chancellor, Sri Rohit Pandey, learned counsel for University, learned Standing Counsel for the State authorities, Sri Kshitij Shailendra, learned counsel for the Committee of Management and the Principal of the institution, Sri Arvind Srivastava, learned counsel for Dr. Jolly Garg, respondent No.8 and Sri Ashok Khare, Senior Counsel on behalf of Dr. Shobha Gupta and Dr. Shubha Goyal, respondent Nos. 9 and 10 (wrongly mentioned as respondent Nos. 8 and 9 in the writ petition). No one has appeared for Dr. Vimal Sharma, respondent No.11 (wrongly mentioned as respondent No.10 in the writ petition).

The petitioner alleges that she was shown as senior to the contesting private respondents No. 8 to 11 in the record of the institution, but in circulating the tentative seniority list on 02.04.1996, the Principal of the institution incorrectly showed her junior to these

persons. Therefore, she objected to the said seniority but without considering her objections, a final seniority list was allegedly notified on 27.07.1996 without any information or copy to her. The petitioner when raised her dispute regarding *interse* seniority, the Registrar of the University vide letter dated 05.06.1999 informed that the said dispute can be raised by her by means of a representation before the Principal of the institution. Accordingly, petitioner represented to the Principal for deciding about her seniority and declaring her to be senior to the above persons vide letters dated 21.06.1999, 28.06.1999 and 08.05.2000 but the Principal of the institution, to the best of her knowledge, never took any decision thereon and informed about her seniority, if any determined thereupon.

The petitioner ultimately filed Writ Petition No. 51034 of 2015 raising her grievance regarding the incorrect determination of her seniority which was disposed off vide order dated 12.10.2015 with the direction to the Vice Chancellor to consider the matter and to decide her representation in that regard.

The Vice Chancellor, in pursuance of the above directions of the Court, considered the matter of *interse* seniority of the petitioner with contesting private respondents No. 8 to 11 vide order dated 23.09.2016 and held them to be senior on the basis of their length of service with effect from the date of their initial joining as ad-hoc teachers.

The aforesaid order was challenged by the petitioner by making a representation under Section 68 of the Act which reference came to be decided by the Chancellor by the impugned order dated 06.08.2018 and the representation of the petitioner has been rejected upholding the order of Vice Chancellor.

The petitioner alleges that she had raised the issue of her seniority before the authorities concerned, right from the Principal to the Vice Chancellor and the Chancellor well within time. The

Principal at no point of time determined her seniority by any speaking order and communicated it to her. She was never communicated with the order, if any taken on her objections filed against the tentative seniority list or the final seniority list alleged to have been finalized on 27.07.1996. The petitioner is senior to the contesting private respondents No. 8 to 11 as her date of substantive appointment is 20.06.1991 and that of the others is June, 1992. The seniority has to be determined from the date of substantive appointment and not from the date of ad-hoc appointment even if ad-hoc appointments/services were later regularized.

All counsel on behalf of respondents contended that the seniority of the petitioner *qua* the other teachers especially private respondents No. 8 to 11 was finally determined vide seniority list dated 27.07.1996. The said seniority list is not liable to be disturbed after such a long gap of more than 20 years. The reference to the said dispute to Vice Chancellor in 2014-15 wherein the order passed on 23.09.2016 by the Vice Chancellor was assailed before the Chancellor, was highly belated and was not maintainable in law. The petitioner has not challenged the order of the Vice Chancellor dated 23.09.2016 and as such is not entitled to any relief. Since the services of the contesting private respondents No. 8 to 11 were regularised, the services rendered by them on ad-hoc basis are also to be counted for the purposes of their seniority.

Sri Kshitij Shailendra and Sri Arvind Srivastava have urged that despite direction of the University to raise the dispute of seniority before the Principal who is the competent authority, the petitioner never raised any such dispute before him and it was only in the year 2003 that she made representation in this regard for the first time and got the matter reopened by obtaining directions from the Hon'ble Court. She cannot be permitted to reopen the stale matter which had attained finality long before.

Sri Rohit Pandey on behalf of Chancellor additionally

submitted that for the purposes of determining seniority of the teachers appointed on ad-hoc basis but subsequently given substantive appointments Statute 15.08 of the Statutes would apply and the entire length of their service is to be counted.

In the light of the aforesaid facts and circumstances and the submissions of the parties, the controversy centers around three points.

The first is regarding inter-se seniority of the petitioner *qua* contesting private respondent Nos. 8 to 11. Secondly, if the seniority list dated 27.07.1996 prepared by the Principal of the institution is liable to be disturbed at this stage when a considerable time has elapsed and the petitioner failed to raise the same before the Principal who was the competent authority at the relevant time despite direction of the University contained in the letter dated 05.06.1999 of the Registrar. Lastly, whether the petitioner is entitle to any relief when she has not challenged the order dated 23.09.2016 passed by the Vice Chancellor.

The dispute of seniority of the petitioner is with contesting private respondent Nos. 8 to 11. The respective joining of all of them in substantive capacity or ad-hoc basis and the date of their regularization is as under:-

Sl. No.	Name	Subject	Date of Ad-hoc appointment	Date of Substantive appointment	Date of regularization
1	Dr. Anupma Mehrotra	Home Science	-	20.06.1991	-
2	Dr. Jolly Garg	Botany	10.10.1988	-	28.06.1992
3	Dr. Shobha Gupta	Chemistry	22.02.1991	-	28.06.1992
4	Dr. Vimla Sharma	Zoology	25.02.1991	-	28.06.1992
5	Dr. Shubha Goyal	Home Science	11.03.1991	-	28.06.1992
6	Dr. Rita Jaitely	Psychology	22.03.1991	-	28.06.1992

In view of the above, it is evident that the petitioner was

substantively appointed on 20.06.1991 whereas the contesting private respondents No. 8 to 11 were appointed on ad-hoc basis prior to the petitioner but their services were regularized in June, 1992 under Section 31-C (2) of the Commission Act.

There is no dispute to the respective dates of appointments of the petitioner and the contesting private respondents No. 8 to 11 as stated above.

The seniority of the teachers of affiliated colleges is required to be determined in accordance with Chapter 15 of the Statutes. Statute 15.01 is relevant and material. It reads as under:-

“15.01 – The following rules shall be followed in determining the seniority of Principals and other teachers of affiliated colleges :-

(a)

(b)

(c) the seniority of Principals and teachers of the affiliated colleges shall be determined by the length of continuous service from the date of appointment in substantive capacity;

(d) service in each capacity (for example, as Principal or as a teacher), shall be counted from the date of taking charge pursuant to substantive appointment;

(e) service in a substantive capacity in another University or another degree or post-graduate college whether affiliated to or associated with the University or another University established by law shall be added to his length of service.”

Statute 15.01 (c) specifically provides that seniority of teachers of the affiliated colleges shall be determined by the length of their continuous service from the date of appointment in substantive capacity. The use of the words *“the date of appointment in substantive capacity”* is very material and relevant. The said phrase leaves no room for determining the seniority of the teachers by adding their past services rendered, if any, prior to their substantive appointment in any form.

In the case at hand, petitioner was substantively appointed on 20.06.1991. Therefore, her seniority has to be reckoned from the said date. On the other hand, contesting private respondents No. 8 to 11 though appointed earlier to the petitioner, their said appointments

were not in substantive capacity rather on ad-hoc basis under Section 16 of the Commission Act. Their services were regularized on 28.06.1992 under Section 31-C (2) of the Commission Act. This is implicit on the plain and simple reading of the regularization order. Therefore, in all fairness, their substantive appointment would be from the date of their regularization/substantive appointment i.e. 28.06.1992.

Now comes the Statute 15.08 which also deals with the seniority of the teachers in general. It provides that the seniority of a teacher shall be determined according to length of his continuous service in his substantive capacity but clause (e) of Statute 15.08 provides that continuous service on a temporary post to which a teacher is appointed after selection, followed by appointed in a substantive capacity under Section 31 (3) (b) of the Act, shall be counted towards seniority.

The said Statute 15.08 (b) and (e) are reproduced hereinbelow:-

“15.08 – The following rules shall be followed in determining the seniority of teachers :-

(a)

(b) In the same cadre, seniority of a teacher shall be determined according to the length of his continuous service in a substantive capacity in such cadre :

Provided that where more than one appointment to posts in a cadre have been made at the same time, and an order of preference or merit was indicated by the Selection Committee or by the Management, the seniority of the persons so appointed shall be governed by the order so indicated.

(c)

(d)

*(e) Continuous service in a temporary post to which a teacher is appointed after reference to a Selection Committee, if followed by his appointment **in a substantive capacity to that post under Section 31 (3) (b)** shall count towards seniority.”*

A bare reading of the aforesaid provision would make it crystal clear that ordinarily the seniority of a teacher is to be determined on the basis of continuous service in substantive capacity but where a teacher is appointed after reference to selection committed in a

temporary capacity and is followed by regularization under Section 31 (3) (b) of the Act, the service rendered prior to his substantive appointment shall also be counted in his length of service for the purposes of determination of seniority.

The above benefit of service rendered prior to substantive appointment would be available where the regularization is under Section 31 (3) (b) of the Act not where the regularization is under a different provision or Section 31-C (2) of the Commission Act.

The provisions of Section 31 (3) (b) of the Act and Section 31-C (2) of the Commission Act operates in completely different situations. Section 31 (3) (b) of the Act applies where the appointment is on a temporary post and is subsequently regularized. On the other hand, Section 31-C (2) of the Commission Act applies where the appointment is on ad-hoc basis and not a temporary post.

Section 31 (3) (b) of the Act reads as under:-

“31 – Appointment of Teachers:-

(1)

(2)

(3)

(a)

(b) Where before or after the commencement of this Act, any teacher is appointed (after reference to a Selection Committee) to a temporary post likely to last for more than six months, and such post is subsequently converted into a permanent post or to a permanent post in a vacancy caused by the grant of leave to an incumbent for a period exceeding ten months and such post subsequently becomes permanently vacant or any post of same cadre and grade is newly created or falls vacant in the same department, then unless the Executive Council or the management, as the case may be, decides to terminate his services after giving an opportunity to show cause, it may appoint such teacher in a substantive capacity to that post without reference to a Selection Committee:

Provided that this clause shall not apply unless the teacher concerned holds the prescribed qualifications for the post at the time of such substantive appointment, and he has served continuously, for a period of not less than one year after his appointment made after reference to a Selection Committee:

Provided further that appointment is a substantive capacity under this clause of a teacher who had served, before such appointment,

continuously for a period of less than two years, shall be on probation for one year which may be extended for a period not exceeding one year, and the provisions of sub-section (2) shall apply accordingly.”

Section 31-C of the Commission Act is as follows:-

“31-C. Regularisation of other ad hoc appointments. - (1) Any teacher, other than a principal who -

(a) was appointed on ad hoc basis after January 3, 1984 but not later than [November 22, 1991] on a post -

(i) which after its due creation was never filled earlier, or

(ii) which after its due creation was filled earlier and after its falling vacant, permission to fill it was obtained from the Director; or

(iii) which came into being in pursuance of the terms of new affiliation or recognition granted to the College and has been continuously serving the College from the date of such ad hoc appointment up to the date of commencement of the Uttar Pradesh Higher Education Services Commission (Amendment) Act, 1992;

[(b) was appointed on ad hoc basis under sub-section (1) of Section 16 as it stood before its omission by the Act referred to in clause (a), whether or not the vacancy was notified by the Commission.]

(c) possessed on the date of such commencement, the qualifications required for regular appointment to the post [or was given relaxation from such qualification] under the provisions of the relevant Statutes in force on the date of such ad hoc appointment;

(d) [* * *]

(e) has been found suitable for regular appointment by a Selection Committee constituted under sub-section (2);

may be given substantive appointment by the Management of the College, if any substantive vacancy of the same cadre and grade in the same department is available on the date of commencement of the Act referred to in clause (a).

(2) The Selection Committee consisting, the following members namely -

(i) a member of the Commission nominated by the Government who shall be the Chairman;

(ii) an officer not below the rank of Special Secretary, to be nominated by the Secretary to the Government of Uttar Pradesh in the Higher Education Department;

(iii) the Director;

shall consider the cases of every such ad hoc teacher and on being satisfied about his eligibility in view of the provisions of sub-section (1), and his work and conduct on the basis of his record, recommended his name to the Management of the College for appointment under sub-section (1).

(3) Where a person recommended by the Commission under Section 13 before the commencement of the Act referred to in sub-section (1) does not get an appointment because of the

appointment of another person under sub-section (1) in the vacancy for which he was so recommended, the State Government shall make suitable order for his appointment in a suitable vacancy in any College and the provisions of sub-sections (5) and (6) of Section 13 and of Section 14 shall mutatis mutandis apply.

(4) A teacher appointed on ad hoc basis referred to in sub-section (1) who does not get a substantive appointment under that sub-section and a teacher appointed on ad hoc basis who is not eligible to get a substantive appointment under sub-section (1) shall cease to hold the ad hoc appointment after [June 30, 1992],

[(5) Notwithstanding anything to the contrary in sub-section (4), the selection committee constituted under sub-section (2), shall in view of the amendments made in clauses (b) to (d) of sub-section (1), of the Uttar Pradesh Higher Education Service Commission (Amendment) Act, 1997 reconsider the case of every teacher who ceased to hold appointment under sub-section (4) and if as a result of reconsideration any such teacher is found suitable for substantive appointment, he may be given substantive appointment as provided in sub-section (1), and shall be deemed never to have ceased to hold appointment.]”

A comparison of the above provisions reveals that they operate in different situations. The regularization under Section 31-C (2) of the Commission Act can not be compared with that under 31 (3) (b) of the Act. Statute 15.08 (e) of the Statutes is applicable only where the regularization is under Section 31 (3) (b) of the Act and not to cases where the regularization is done by invoking any other provision of law.

Admittedly, the regularization of the contesting private respondents No. 8 to 11 is not under Section 31 (3) (b) of the Act rather the regularization order clearly spells out that it is under Section 31-C (2) of the Commission Act. Therefore, clause (e) of Statute 15.08 would not apply for determining the continuous length of service of the respondents and their seniority. The Chancellor failed to make out this distinction in according the benefit of past services rendered by the contesting private respondents No. 8 to 11 for the purposes of seniority. He simply applied the general proposition to add the services rendered prior to the substantive appointment to their substantive services as their services were subsequently regularized ignoring the fact that general proposition is not applicable where the statutory rule provides otherwise.

Sri Arvind Srivastava has placed reliance upon *Secretary, Minor Irrigation Department and R.E.S. vs. Narendra Kumar Tripathi*¹ and has argued that the past services rendered by ad-hoc appointee before regularization are to be counted in the length of his service so as to determine his seniority.

The aforesaid case was in relation to the appointment of an engineer in the Department of Minor Irrigation of the State of U.P. His services were regularized under the U. P. Regularization of Ad Hoc Appointments (On Posts Within the Purview of the Public Service Commission) Rules, 1989, as amended from time to time. The said Rules specifically provided that the persons regularized under the said Rules shall be entitled to seniority from the date of the order of appointment. It was in context with the above Rules that the Hon'ble Supreme Court held that as the Rule provides that ad-hoc appointments have to be regularized and the seniority is to be counted from the date of the appointment, they cannot be deprived of the benefit of the past service rendered by them before the date of regularization.

The aforesaid decision was rendered in context with the aforesaid Rules and not in connection with the Rules which specifically provides that the seniority has to be counted as per the date of substantive appointment as in the present case. Therefore, in our opinion, the aforesaid decision in no way helps.

No doubt, in *Direct Recruit Class-2 Engineering Officers' Association Vs. State of Maharashtra*², the Hon'ble Supreme Court has held that as a general rule, once a person is appointed to a post according to Rules, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation, but this again would not apply where the Statutes specifically provides otherwise to the contrary.

¹ 2015 (11) SCC 80

² AIR 1990 SC 1607

In *Keshav Chand Joshi and others vs. Union of India and others*³, the 3 judges of the Hon'ble Supreme Court with reference to the U.P. Forest Service Rules, 1952 in the matter of seniority held that for the purposes of computing seniority, the length of service has to be counted only from the date of substantive appointment. It was further held that if ad-hoc appointment is not in accordance with the Rules and was made as a “*stop gap arrangement*”, the period of officiation on such post cannot be considered for computing seniority.

The aforesaid decision is sought to be distinguished by Sri Khare, Senior Counsel on the ground that the appointment of all the respondents was after selection in accordance with the Rules and as such the criteria laid down in the above decision would not apply to the case of the respondents.

Even if the above criteria is not applied or that the appointment of the contest private respondents No. 1 to 8 on ad-hoc basis is treated to be in accordance with the Rules, their working as ad-hoc teachers would not be counted for determining their seniority for the simple reason that it cannot be determined contrary to the statutory provision. The Statute 15.01 (c) and 15.08 (b) clearly provides that the seniority of the teachers has to be determined from the date of their substantive appointment, meaning thereby services rendered by any teacher on ad-hoc basis whether irregularly appointed or appointed in accordance with the Rules would not be counted except in cases covered by Statute 15.08 (e) of the Statutes.

The Statute 15.08 (e) as applied by the Vice Chancellor is not applicable to the case of the contesting private respondents No. 8 to 11 for determining their seniority as their services were never regularized under Section 31 (3) (b) of the Act rather their regularization was under Section 31-C (2) of the Commission Act.

The submission of the petitioner that initially she was shown

³ AIR 1991 SC 284

senior to the contesting private respondents No. 8 to 11 and that it was only for the first time by the tentative seniority list dated 02.04.1996 circulated by the Principal that she was shown junior to the contesting private respondents No. 8 to 11 does not stand established from the record of the writ petition.

There is no material or document on record which may show that the petitioner was ever shown senior to the contesting private respondents No. 8 to 11. The letter of the Principal of the institution dated 04.03.1997 reveals that on account of the dispute of the Committee of Management of the institution, the entire records of the institution have been misplaced and are not available. The submission that the said record is presently available has no bearing inasmuch as despite it nothing has been brought on record to establish that the petitioner was ever shown senior to the contesting private respondents No. 8 to 11 prior to the circulation of the tentative seniority list dated 02.04.1996 or the final seniority list dated 27.07.1996.

There is no dispute to the fact that against this tentative seniority list dated 02.04.1996, petitioner had raised objections on 04.06.1996 in writing before the Principal whereupon she was required to submit certain documents vide letter dated 24.06.1996. The record reveals that as the petitioner kept on taking time, the Principal proceeded and finalized the seniority list on 06.05.1996 whereupon final seniority list dated 27.07.1996 was issued. There is no material on record to show that the order finalizing the *interse* seniority or the final seniority list of the teachers was supplied to the petitioner. The said order and the seniority list was sent to the Vice Chancellor/University and not to the petitioner at any point of time.

As far as the copy of the order finalizing the seniority list is said to have been endorsed to the petitioner in the absence of any document or averment that it was sent to the petitioner, it does not mean that it was actually served upon her to enable her to dispute it.

Even if it is accepted that the seniority was finally determined as per the aforesaid list, the petitioner had represented to the Principal who is the competent authority under Statute 15.05 to reconsider the same vide her representations dated 21.06.1999, 28.06.1999 and 08.05.2000, copies of which are on record as enclosures to the rejoinder affidavit. All these representations were submitted by the petitioner pursuant to the reply of the University dated 05.06.1999 to the seniority dispute raised by her before the Vice Chancellor. The University had informed the petitioner to raise the dispute before the competent authority i.e. the Principal. There is no denial at any stage that such representations were not made by the petitioner or that they were not received by the Principal.

In view of the above, it can hardly be said that the petitioner had not raised the dispute of her seniority before the competent authority within time. Thus, the dispute of seniority was raised by her but it was not decided and if decided no order thereof was communicated to her.

None of the respondents have brought on the record any material to show that subsequent to the direction of the University and the petitioner's representations to redetermine her seniority, the Principal ever took any decision in the matter and communicated it to the petitioner.

The cause of action for the petitioner to file this petition arose with the decision taken by the Chancellor on 16.08.2018 rejecting her representation under Section 68 of the Act.

The said representation of the petitioner was directed against the order of the Vice Chancellor dated 23.09.2016. The representation under Section 68 was made promptly within 3 months of the said order and as such was not beyond time as prescribed under Section 68 of the Act.

There is no averment or material that the representation under

Section 68 of the petitioner regarding her *interse* seniority was not made by her within 3 months from the date of the decision of the Vice Chancellor.

In view of the aforesaid facts and circumstances, the cause of action regarding the seniority of the petitioner was surviving and was alive all through till the decision of the Vice Chancellor and the Chancellor.

The contention that the direction of the High Court dated 12.10.2015 disposing off writ petition No. 51034 of 2015 would not confer any right upon the Vice Chancellor to revive the stale matter of seniority is neither here nor there as no time limit is provided for raising such a claim before the Vice Chancellor.

Moreover, the cause of action for deciding the matter of seniority is a recurring cause of action which survives till the person or the persons with whom a seniority is disputed retires or leaves the job.

This apart, the Vice Chancellor took the decision on the representation of the petitioner on the directions of the Court and once he has so passed the order it means that the authorities were alive to the controversy and have not allowed it to have died down otherwise the Vice Chancellor would have rejected it as barred by limitation. The said order of Vice Chancellor had certainly revived the cause of action of the petitioner regarding her seniority even if it had become stale.

In view of the aforesaid facts and circumstances, in our opinion, the claim of the petitioner to seniority would not stand defeated and it would be too harsh not to disturb the seniority list if it is not otherwise legally tenable in law.

The last aspect for our consideration is the relief to which the petitioner is entitle as she has not specifically challenged the order dated 23.09.2016 passed by the Vice Chancellor.

The Vice Chancellor by the order dated 23.09.2016 has decided the inter-se dispute of seniority of the petitioner qua contesting private respondents No. 8 to 11. The petitioner was not satisfied by the said order and as such has preferred a reference under Section 68 of the Act before the Chancellor. The Chancellor answered the reference against the petitioner.

The order of the Vice Chancellor as such stood merged in the order of the Chancellor. Therefore, the challenge to the order of the Chancellor is sufficient and it is not legally necessary to challenge the order of the Vice Chancellor independently.

The submission of Sri Khare, Senior Counsel that the doctrine of merger would not apply with regard to administrative orders is bereft of merits for the reason that the decision of the Vice Chancellor and the Chancellor are not orders of administrative nature but *quasi-judicial* orders adjudicating valuable rights of the parties.

In view of the aforesaid facts and circumstances, in our opinion, the order of the Chancellor as well as that of the Vice Chancellor are unsustainable in law and the petitioner is entitled to her seniority from the date of her substantive appointment i.e. 20.06.1991 whereas the contesting private respondents No. 8 to 11 are entitled to their seniority from the date of the regularization of their services i.e. 28.06.1992 and not with any other interior date as their regularization was not under Section 31 (3) (b) of the Act so as to attract Statute 15.08 (e) of the Statute.

All the respondents are accordingly directed to amend the seniority list qua the petitioner and contesting private respondents No. 8 to 11 only and to proceed accordingly for the purposes of seniority and for ancillary purposes.

The writ petition is **allowed** with no order as to costs.

Order Date :- 01.08.2019
Nirmal Sinha