A.P. COOPERATIVE OIL SEEDS GROWERS FEDERATION LTD. HYDERABAD, ANDHRA PRADESH

v.

D. ACHYUTA RAO AND ORS.

MARCH 15, 2007

[B.P. SINGH AND ALTAMAS KABIR, JJ.]

Service Law.

Seniority List—Federation registered as cooperative society adopting 3 tier structure with Regional Unions in second tier—Many employees of Federation transferred to Regional Unions—Transfer of employees from federation to Unions not regulated by rules or norms laid down by management—Employees transferred getting promotions in Unions—Decision taken to close down Unions and revised staffing structure of Federation finalized—Voluntary Retirement Scheme offered to surplus employees—Common seniority list of employees of federation and Unions prepared indicating surplus employees—Seniority list challenged by some employees declared surplus—Held, promotions granted not governed by any promotion policy and also arbitrary and unreasonable—Determination of seniority by reference to promotions not governed by any rule not justified—In the facts and circumstances, held, seniority to be reckoned by reference to length of service in the Federation by reference to date of initial appointment—Constitution of India, 1950—Articles 14 and 16.

Appellant—Federation registered as cooperative society under the A.P. Cooperative Societies Act adopted a 3 tier structure with the Federation at top and two Regional Unions in the second tier and cooperative societies at village level in the third tier. Many employees of Federation transferred to the Regional Unions. High Court on 6.6.2000 in petition filed by some of such transferred employees had held that they continued to be employees of the Federation and entitled to all service benefits. In view of mounting losses, a decision was taken in the year 2001 to restructure the Federation and to close down both the Unions and a revised staffing structure of the Federation of manpower of 159 employees based on a broad Five Year Business Plan was finalized resulting in many of the employees being rendered surplus. It was also resolved to offer Voluntary Retirement Scheme (VRS) for the surplus

A manpower of the Federation and the Unions as per the approved pattern. A common seniority list indicating surplus employees was prepared. Majority of employees declared surplus accepted VRS Scheme.

Respondent were also declared surplus employees and they along with some other employees filed various writ petitions challenging order of B Federation declaring them surplus. Single Judge dismissed the writ petitions *inter alia* holding that employees transferred to Regional Unions continued to be employees of Federation and their services in the Union must be treated as on deputation only; that Federation was right in consolidating and issuing a common seniority list of its employees; and that the principles applied by C Federation for determination of seniority were not arbitrary. Respondents filed writ appeals challenging the order of the Single Judge. Division Bench allowed the appeals inter alia holding that criteria fixed for determining *inter-se* seniority was not just and reasonable; that only the relative seniority in the respective cadres of the Federation of employees sent on deputation to the Unions could be taken into consideration, and their promotion in the ex-D cadre post in the Unions had nothing to do with their seniority in their parent cadre under the Federation; that there was no clear cut promotion policy either in the Federation or the Unions and since the promotions were granted in an irrational manner, not much importance could be attached to the promotions granted in the Unions; and that seniority of employees had to be E determined by reference to date of their initial appointment. Hence the present appeals by the Federation.

Appellant-Federation inter alia contended that some hardship, inconvenience or injustice is bound to result to some members of the service even when a rule is framed with care, objectivity and foresight ; and that in F working the VRS the principle followed was the rule of seniority determined by reference to length of service in the grade and such a rule cannot be said to be unreasonable.

Respondent inter alia contended that norms applied for reckoning seniority were arbitrary and unreasonable based on promotions which were G granted without reference to rules or norms ; and that in declaring surplus employees the principle of last come first go must be applied.

Dismissing the appeals, the Court

H HELD: 1. It is no doubt true that service rules, however, meticulously

framed, there is always a chance of some hardship being caused to a particular section of the employees, but as long the rules are just, fair and reasonable, even if two views are possible, the mere fact that some hardship, inconvenience or injustice results to some members of the service, is not a ground to strike down the rule. It is not safe to test the constitutionality of a service rule on the touchstone of fortunes of an individual. If the rule otherwise appears to be fair, just and reasonable and does not suffer from the vice of Articles 14 and 16 of the Constitution or any constitutional guarantee, the mere fact that some little hardship or injustice is caused to someone, is no ground to strike down the rule altogether. [Para 31] [17-E-F]

Kamal Kanti Dutta and Ors. v. *Union of India and Ors.*, [1980] 4 SCC 38 and *Reserve Bank of India and Ors.* v. *C.N. Sahasranaman and Ors.*, [1986] Supp. SCC 143, referred to.

2. The transfer of employees from the Federation to the Unions was not regulated by rules framed or norms laid down by the Management. The transfers were made on *ad hoc* basis in the absence of rules and similarly promotions were also granted without reference to rules or norms. No rules were framed governing the grant of promotions on transfer of employees from the Federation to the Union, or from one Union to another. All the employees with whom this Court is concerned were appointed to posts in the Federation and, therefore, it was rightly contended that they were employees of the Federation and no distinction could be made merely because they were officiating against posts in one or the other Union. The matter was put beyond controversy by a decision of the High Court which attained finality holding that all the employees must be treated as the employees of the Federation and not the Unions. They, therefore, belonged to the same service under one employer namely the Federation and their inter-se seniority had to be determined on that basis. So far as the inter-se seniority in the Federation is concerned, though not formally determined, it must be held, in the absence of rules, that seniority must be reckoned by reference to the length of service in the Federation. This is precisely what the High Court has held.

[Paras 40 and 41] [21-E-H; 22-A-B]

3.1. It is no doubt true that even in the absence of rules promotions may be granted, but it must be shown that the promotions granted are just and fair and that they do not offened Articles 14 and 16 of the Constitution of India or any other constitutional guarantee. If promotions are granted arbitrarily without following norms or Guidelines, such promotions will have

A to be ignored in determining the seniority of the employees concerned, firstly for the reason that there are no rules governing grant of promotion, and secondly because the grant of promotions are arbitrary and violative of the principles enshrined in Articles 14 and 16 of the Constitution of India.

[Para 42] [22-C-D]

B 3.2. Admittedly no seniority rules had been framed when promotions had been granted in the Unions. The management acted in exercise of its authority to grant promotions. The action of the Management in granting promotions must be determined on the touchstone of Articles 14 and 16 of the Constitution of India. If the grant of promotions is found to be arbitrary C or unreasonable it must be held that such promotions will not affect the right of seniority of the persons concerned, since the promotions were granted neither in accordance with any rule nor by following norms consistent with principles incorporated in Articles 14 and 16 of the Constitution of India. The High Court has very critically analysed the facts of the case. I has found as a fact that there was no clear cut promotion policy either in the Federation D or in the Unions. An Operator was promoted as Shift Supervisor; a Chemist was promoted as Assistant Grade-1; a Driver was promoted as Senior Assistant and another Chemist was promoted as Executive Quality Control and also Quality Control Officer. Thus, the High Court concluded that the employees had been promoted to various posts without there being any E stipulated of promotion and without following any procedure prescribed by rules of promotion. Thus determination of their seniority by reference to promotions which were not governed by any rule and were at best fortuitous could not be justified. Where promotions are not granted in accordance with the rules or fair and reasonable norms laid down for the purpose, and the promotions are at best fortuitous, such an uncertain event cannot be made F the basis for determining seniority which is a valuable right of an employee. Seniority, therefore, must be determined by rules validly framed or norms enunciated and/or followed which are consistent with the principles enshrined in Articles 14 and 16 of the Constitution of India.

[Para 43] [22-E, F, G, H; 23-A, B, D]

G *S.B. Patwardhan and Anr.* v. *State of Maharashtra and Ors.*, [1977] 3 SCC 399, relied on.

4. While the employees were transferred to the Unions much earlier and were granted promotions in due course in the Unions, the question of their seniority inter-se and the principles to be applied in determining H seniority were evolved for the first time when the closure of the Union was

being considered necessitating retrenchment of surplus employees. It was at this stage that the cadre strength was first determined and thereafter norms were sought to be evolved in the light of which seniority was to be determined and junior employees in excess of the determined cadre strength to be given the benefits of VRS. It was really a process of working backwards. Rules and norms were sought to be evolved later governing promotions which were granted much earlier without reference to such rules or norms, but which were to determine the *inter-se* seniority of the employees for the purpose of retrenchment. [Para 44] [23-E-F]

5. The High Court was right in holding that the promotions earlier granted in the Unions and the norms later laid down by the Federation could not be applied to determine the inter-se seniority of the employees of the Federation. The only rule which in the facts of the case, could be safely applied to determine seniority was to reckon seniority by reference to length of service in the Federation. As a necessary corollary, the date of initial appointment in the Federation was decisive in determining seniority. Thus applied, seniority must be determined by reference to the date of initial appointment and not by reference to dates of promotion granted in the Unions unguided by rules framed of norms declared which could be said to be fair and reasonable applying the test of Articles 14 and 16.

[Para 45] [23-G-H; 24-A-B]

Commissioner of Commercial Taxes, Board of Revenue, Madras and Anr. **v.** *Ramkishan Shrikishan Jhaver,* **[1968] 3 SCR 1; AIR (1968) SC 59,** *R.L. Gupta and Anr.* **v.** *Union of India and Ors.,* **[1988] 2 SCC 250;** *Krishan Lal* **v.** *State of J & K,* **[1995] 4 SCC 422;** *Sub-Inspector Rooplal and Anr.* **v.** *Lt. Governer through Chief Secretary, Delhi and Ors.,* **[2000] 1 SCC 641;** *Chairmen, Puri Gramya Bank and Anr.* **v.** *Ananda Chandra Das ans Ors.,* **[1994] 4 SCC 301;** *Bimlesh Tanwar* **v.** *State of Haryana and Ors.,* **[2003] 5 SCC 604;** *P. Srinivas* **v.** *M. Radhakrishna Murthy and Ors.,* **[2004] 2 SCC 459;** *G. Varandani* **v.** *Kurukshetra University and Anr.,* **[2003] 10 SCC 14 and** *The State of Punjab* **v.** *Jagdip Singh,* **[1964] 4 SCR 964 = AIR (1964) SC 521 and** *Hussain Sasan Saheb Kaladgi* **v.** *State of Maharashtra,* **[1988] 4 SCC 168, cited.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1391 of 2007.

From the Judgment and Order dated 27.4.2004 of the High Court of Judicature of Andhra Pradesh at Hyderabad in W.A. Nos. 1786-1787/2003.

WITH

A Civil Appeal Nos. 1392-1398/2007.

P.P. Rao, M.N. Rao, K. Subba Rao, T.V. Ratnam, Y. Ramesh and Y. Raja Gopala Rao for the Appellants.

H.S. Guraraja Rao, Ranjit Kumar, K. Maruthi Rao, K. Radha, Anjani
B Aiyagari, S.U.K. Sagar, T. Sudhakar Reddy, Bina Madhavan, Hemal K. Sheth for M/s. Lawyer's Knit & Co. for the Respondents.

The Judgment of the Court was delivered by

B.P. SINGH, J. Special leave granted.

C

1. In this batch of appeals the common judgment and order of the High Court of Judicature of Andhra Pradesh at Hyderabad dated April 27, 2004 has been assailed. The High Court by its aforesaid common judgment and order allowed several writ appeals against which the appellant, A.P. Cooperative Oil Seeds Growers Federation Ltd. (hereinafter referred to as 'the Federation') has
D preferred appeals. The respondents whose writ appeals were allowed by the High Court are D. Achyuta Rao, Mohd. Anwar Ali, M. Seshagri Rao, K.V.N. Rao, Shekhar Goud and U.S. Rao. They shall hereinafter be referred to as the 'contesting respondents'.

E 2. D. Achyuta Rao had preferred Writ Petition Nos. 9565 and 13985 of 2003 which were dismissed by the learned Single Judge but the writ appeals being Nos. 1786 and 1787 of 2003 were allowed by the High Court against which the Federation has preferred the appeals arising out of SLP (c) Nos. 15912-15913 of 2004.

F 3. Mohd. Anwar Ali had preferred Writ Petition Nos. 9669 and 13941 of 2003 which were also dismissed by the learned Single Judge but the writ appeals preferred by him being Writ Appeal Nos. 1784 and 1785 of 2003 were allowed by the impugned common judgment and order of the High Court. The appeals arising out of SLP (C) Nos. 15923 and 15924 of 2004 have been preferred by the Federation against the aforesaid judgment allowing the
G appeals of Mohd. Anwar Ali..

4. M. Seshagri Rao preferred Writ Petition Nos. 9671 and 13172 of 2003 which were also dismissed by the learned Single Judge but the writ appeals being Nos. 1791 and 1794 of 2003 preferred by him were allowed by the impugned common judgment and order of the High Court. The cross-objections
H

had been preferred by the Federation which were dismissed by the High Court. The appeals arising out of SLP (c) Nos. 15046 to 15051 of 2004 have been preferred by the Federation challenging the impugned judgment and order of the High Court allowing the writ appeals. The Federation has also filed appeals arising out of SLP (c) No. 15926 and 15927 of 2004 against the order dismissing its cross-objections. A B

5. K.V.N. Rao had preferred Writ Petition Nos. 9670 and 13163 of 2003 which were dismissed by the learned Single Judge. The appeals preferred being writ appeals being Nos. 1795 and 1792 of 2003 were allowed by the impugned common judgment and order of the High Court. The cross-objections preferred by the Federation were also dismissed. The appeals arising out of SLP (c) Nos. 15920 to 15921 of 2004 have been preferred by the Federation against the impugned judgment and order of the High Court. C

6. Shekhar Goud has preferred Writ Petition Nos. 10039 and 15270 of 2003 which were dismissed by the learned Single Judge. The writ appeals preferred by him being Nos. 1793 and 1796 of 2003 were allowed. The Federation has impugned the common judgment and order of the High Court in the appeals arising out of SLP (c) Nos. 15918 and 15919 of 2004. D

7. Lastly U.S. Rao has filed similar Writ Petitions being No. 9633 of 2003 which was dismissed by the learned Single Judge. The writ appeal preferred by him being No. 1801 of 2003 was allowed. The Federation has impugned the judgment and order of the High Court in the appeal arising out of SLP (c) No. 15917 of 2004. E

8. The questions that arise for consideration in these appeals relate to the Voluntary Retirement Scheme (hereinafter referred to as 'the VRS') offered by the Federation to its employees having regard to the reduced cadre strength. It is the case of the Federation that only those of the employees were retained who came within the cadre strength determined in accordance with the norms enunciated by the Federation and the remaining employees were offered the benefit of the VRS. The six contesting respondents in these appeals had challenged their inclusion in the list of surplus employees whose services were to be discontinued. Initially a large number of writ petitions were filed but the factual position as it emerges today is that the strength of the cadre is 159 and, therefore, 163 employees out of 322 had to be declared surplus. Out of those declared surplus 137 accepted the VRS while 26 went to court. The contesting respondents before us are amongst those who challenged the order of the Federation declaring them surplus. When these F G H

A appeals came up before us we were informed that the writ appeals preferred by 20 others were still pending before the High Court and, therefore, we had directed that those appeals may also be disposed of so that all the matters could be heard together, if necessary. Accordingly those writ petitions have been heard and disposed of by the High Court and the aforesaid 20 writ petitioners have also accepted the VRS pursuant to the order of the High Court dated 14th September, 2005. Thus the dispute is confined to the 6 contesting respondents before this Court whose writ appeals were allowed by the High Court.

9. Shorn of unnecessary details the facts of the case are as follows:-

C The appellant-Federation was registered as a cooperative society under the A.P. Cooperative Societies Act with the object of bringing about increase in production of oil seeds. The appellant-Federation started its operation in the year 1983 with a 2 tier structure, namely the Federation at the State level and cooperative societies at the village level. The vegetable oil project was D funded by the National Dairy Development Board (for short 'NDDB') with a view to promote the Primary Cooperative Societies and the establishment of processing units. On its suggestion the appellant-Federation adopted a 3 tier structure with the Federation at the top and two Regional Unions in the second tier. In the third tier, were the cooperative societies at village level. It appears from the record that many of the employees of the appellant-Federation E were transferred to the Regional Unions. This was challenged by 21 employees who filed Writ Petition No.24907 of 1996 contending that they were not the employees of the Regional Unions but were employees of the Federation. The Unions were distinct legal entities since they were also independently registered as cooperative societies. They had been transferred to those Unions against their wishes and without their consent. The aforesaid writ petition was allowed F by judgment and order of June 6, 2000. It was held that the writ petitioners continued to be the employees of the appellant-Federation. There was no contract of employment between them and the Management of the Regional Unions. The employer-employee relationship had not been severed and, therefore, in law, they continued to be the employees of the appellant-G Federation. There was no employer-employee relationship between them and the aforesaid two Regional Unions. Accordingly the appellant-Federation was directed to treat them as their employees and extend to them all service benefits.

10. The appellant-Federation preferred Writ Appeal No. 798 of 2000. H The said appeal was later dismissed as having become infructuous in view

of the changed circumstances. This fact has been noticed by the High Court in its impugned judgment and order. A

11. After the re-organization, the Federation looked after the marketing and oil palm development activity while the Regional Unions were entrusted with the management of the processing facilities of conventional oil seeds. All the assets and liabilities of the facilities were transferred to the Regional Units. It is not disputed that the Regional Unions suffered huge losses. Having regard to the mounting losses, a Joint Committee Meeting of the appellant-Federation and the two Regional Unions was held on April 13, 2001 to consider the restructuring of the appellant-Federation and the two Regional Unions. A decision was taken to close down both the Unions and to take necessary steps in that direction. A time bound programme for closing down of the Unions was prepared and a revised staffing structure of the Federation based on a broad Five Year Business Plan was to be finalized. With this in view a plan of action was agreed upon and the Federation appointed a Consultant for the purpose of valuation of the assets of the two Regional Unions. The Board of Directors of the Federation in its 74th Meeting held on May 13, 2002 approved the decision taken by the Joint Committee for the closure of the two Regional Unions and the manpower of 161 employees for the restructured Federation was worked out based on the Five Year Business Plan. The NDDB vide its letter dated July 2, 2002 agreed in principle to the closure of the two Regional Unions without prejudice to their invoking the Government guarantees for recovery of their outstanding loans. In the Board Meeting of May 13, 2002 it was also resolved to offer VRS for the surplus manpower of the Federation and the Unions as per the approved pattern. The Federation submitted its proposal to the Government for financial assistance to implement this scheme. The Government vide its G.O. dated July 23, 2002 exercising its power conferred by Section 3 of the A.P. Cooperative Societies Act appointed the Principal Secretary, Public Enterprises Department, and conferred upon him the necessary powers for privatization/restructuring, winding-up under the Public Sector Reforms Programme and also conferred powers of the Registrar under the A.P. Cooperative Societies Act and the Rules made therein. The Government also appointed liquidators for the aforesaid two Regional Unions vide its letter dated September 25, 2002. So far as the restructuring of the Federation was concerned, cadre strength of 159 employees was proposed resulting in many of the employees in different categories being rendered surplus. A Circular was issued by the appellant-Federation on December 12, 2002 recording the fact that a common seniority list of the employees had been prepared for the appellant-Federation and the B C D E F G H

A Regional Unions. The norms laid down in the said Circular were as follows:-

"(a) The principle adopted for fixing the seniority cadre-wise is on the basis of date of joining of the employee in the previous immediate lower cadre.

B (b) In the case of employees who were recruited as Field Officers and where ranking was prescribed during the recruitment, the same ranking is maintained for the seniority in the present cadre.

(c) Wherever employees from various designations have been promoted to a common single care, seniority is fixed, based on the difference in the pay scales of these various designations i.e. C the designation carrying higher pay scale is made senior.

(d) Wherever the date of joining is same, the date of birth is taken into account i.e., the employee with more age is placed as senior.

(e) This seniority list is fixed for the regular/permanent employees D only.

(f) This seniority list is subjected to the final settlement of the disciplinary cases/court cases (pertaining to promotions only or these having a bearing on seniority only) pending, if any, against any employee."

E 12. The employees were invited to submit their objections, if any, to the said seniority list. Later the norms were slightly modified on January 3, 2003 when the Board resolved as follows :-

"The Board approved norms adopted for preparing the final common F seniority list of all the employees except that in case of promotions, when the date of joining is the same, the seniority of the employees as per the feeder channel is to be protected rather than fixing the seniority on the date of birth. Wherever, the date of joining is different, on promotion, the seniority is to be fixed depending on the date of joining in the promoted cadre."

G 13. After considering the objections filed by some of the employees the appellant-Federation prepared a common seniority list indicating surplus employees and proposing to offer VRS benefits to them. On May 7, 2003 the VRS was announced giving option to the employees likely to be affected thereby to accept the benefits under the VRS. The scheme was made effective H from July 1, 2003. The cut-off date for VRS benefit was June 30, 2003.

14. On May 19, 2003 the staffing pattern was approved by the Registrar of Cooperative Societies. The total revised cadre strength was determined as 159 consisting of about 29 categories of posts, many of them promotional posts and some posts to which recruitment was made both by promotion and direct recruitment. All the posts were treated as selection posts.

15. This gave rise to a large number of writ petitions being filed before the High Court including the writ petitions filed by the contesting respondents.

16. Several issues were raised before the learned Single Judge who heard the writ petitions. One of the submissions urged on behalf of the writ petitioners was that all the employees appointed by appellant-Federation whose services had been transferred to the two Regional Unions continued to be the employees of the Federation and, therefore, they could not be treated as employees of the two Regional Unions which were separate cooperative societies under the A.P. Cooperative Societies Act. The appellant-Federation and the two Regional Unions being three separate incorporated bodies, they were independent of each other and, therefore, by mere deputation of the employees of the Federation to work in the Regional Unions, the employer-employee relationship which existed between the writ petitioners and the appellant-Federation was not severed. Despite their transfer to the Regional Unions, they continued to be the employees of the appellant-Federation.

17. The appellant-Federation contested the claim of the writ petitioners and submitted that many of the employees transferred to the two Regional Unions had been given promotion to the higher posts in the Unions and, therefore, they could not be treated as deputationists. The Unions were also part and parcel of the appellant-Federation and, therefore, the promotions made by the Unions must be considered in that light. Those promoted in the Unions could not compare their cases with their seniors working in the appellant-Federation.

18. The submission urged on behalf of the writ petitioners was upheld by the learned Judge who held that in view of the earlier decision in Writ Petition No. 24907/1996 holding the transferred employees to be the employees of the appellant-Federation, it could not contend otherwise as long as the judgment held the field. (As noticed earlier that judgment has since attained finality). The learned Judge also held that the three cooperative societies, namely, the Federation and the two Regional Unions were three separate

A bodies incorporated as cooperative societies under the A.P. Cooperative Societies Act with separate regulations, bye-laws and separate governing bodies. It was, therefore, not correct to contend that the two Regional Unions were part and parcel of the Federation. In the facts and circumstances of the case the employees of the appellant-Federation continued to be its employees and their services in the Unions must be treated as on deputation only. They B had a lien on their posts in the Federation and their service conditions, seniority, pay-scale etc. were also protected as employees of the appellant-Federation.

19. The learned Judge further held that the Circular and the Notification C dated May 7, 2003 were valid. He held that though the seniority list of the employees of the Federation and the two Regional Unions had been published and approved by the Registrar of Cooperative Societies, the same was never acted upon. The Federation was, therefore, right in consolidating and issuing a common seniority list of the Federation employees consisting of three lists of the employees of the Federation and inviting objections. He also held that D the staffing pattern approved by the Registrar which took effect from May 5, 2003 was authorized under Section 116-C of the A.P. Cooperative Societies Act and the mere fact that the approval was granted on May 19, 2003 with effect from May 5, 2003 did not invalidate the approval given.

E 20. The learned Judge rejected the submission urged on behalf of the writ petitioners that the service regulations and the bye-laws of the Federation did not prescribe any rule for determination of seniority of its employees. He held that since the Board of Directors of the appellant-Federation approved uniform procedure regarding the determination of seniority which were reflected in the tentative seniority list as well as the final seniority list, which it was F authorized to do, the same could not be faulted unless it was shown to be discriminatory, unjust or inequitable. He held that the principles applied by the Federation for determination of seniority were not arbitrary. He also rejected the contention urged on behalf of the writ petitioners that since they have been promoted to higher posts and were on probation, they could not G be deemed to be confirmed against that post till their probation was declared. Factually their probation was never declared and they were never confirmed against the promotional post in accordance with the regulations. Thus they continued to retain a lien on the lower post from which they were promoted. He held that the transferred employees had held the promotional post for over 2 years while the maximum period of probation was 2 years. They had, H therefore, to be treated as confirmed. It did not matter whether their probation

was declared formally. Such a question could only arise in the case of new entrants and not those promoted on probation. In this view of the matter he rejected the contention of the writ petitioners that they should be considered for appointment against the lower post over which they held a lien and which post they held before promotion. The learned Judge thereafter considered the individual cases of the writ petitioners but it did not find any merit in them except in the writ petition filed by one K. Ranga Rao. However, while dealing with 19 promotions between 1994 to 1999 the learned Judge held that on equitable considerations if the promotions given by the Unions are ignored and the cases of the employees working in the Unions are treated on par with the Federation employees taking into account that they were also promoted on par with the Federation employees w.e.f. July 21, 1999, there will be no chain reaction or any change for upsetting the entire exercise made by the Federation. The learned Judge prepared a list which showed that by treating July 21, 1999 as the deemed date of promotion, very few employees would be rendered surplus.

21. Accordingly the writ petitions preferred by the contesting respondents herein and many other writ petitions were dismissed by the learned Single Judge.

22. The judgment and order of the High Court was challenged in writ appeals by some of the writ petitioners.

23. It was submitted in the appeals by the contesting respondents herein that the appellant-Federation gave a complete go bye to the service regulations and fixed the seniority in a most arbitrary and illegal manner. As a result, employees who entered the service of the Federation earlier were declared surplus while persons junior to them were retained. The service conditions of the employees had not been approved by the Registrar of Cooperative Societies as required under Section 116-C of the Cooperative Societies Act. The regulations framed by the appellant-Federation did not contain the method and manner of fixation of seniority and in fact no seniority list had been published. The employees who had been transferred to the Unions were promoted at different times and all this was beyond the knowledge of the employees concerned. No promotion rules had been framed for promotion from one category to another. The appellant-Federation submitted in reply that the Managing Committee of the Society was fully empowered to take decision in respect of fixation of seniority since it had powers to frame service conditions. It further submitted that once the initial service regulations are

A approved by the Registrar, Cooperative Societies, the subsequent changes in the services rules and regulations need not be approved by him. Thus when the decision was taken by the Board of Management of the Federation with regard to principles to be applied to determine seniority, it did not require approval of the Registrar of Cooperative Societies. The Board had in its 76th Meeting fixed the criteria for determination of seniority.

B

24. The High Court in the Writ Appeals negatived the contention that as and when the existing service rules are amended or additional service rules are framed, the approval of the Registrar, Cooperative Societies is not necessary. It held that if the interpretation as contended by the appellant-Federation C were to be accepted the very purpose of getting approval of the rules relating to service conditions by the statutory authority shall be frustrated because in that even after getting the approval initially, the Federation may amend the rules in whatever way it liked and completely defeat the very purpose for which Section 116-C was framed. The learned Judges of the appellate Bench, therefore, did not agree with the finding of the learned Single Judge, but D having regard to the developments that had taken place in the meantime, they did not consider it advisable to direct the appellant-Federation to seek approval of the Registrar of Cooperative Societies afresh. The Unions were lying closed for several years and, therefore, it was not advisable to resort to the time consuming process of seeking fresh approval of the Registrar of E Cooperative Societies. The learned Judges, therefore, considered it advisable to decide the matter themselves.

25. The High Court considered the provisions of the Service Regulations which came into effect on June 1, 1983. After considering the various provisions contained therein it was observed that in the instant case a very different F situation emerged on account of the fact that the employees who were initially appointed in a particular cadre were transferred to the two Regional Unions where they were again promoted to the higher posts. It was not clear as to whether the employees were promoted to higher posts on the basis of channels created or on the basis of any criteria determined by the respective Unions. It was also not discernible from the material placed on record whether any G proper selection committee had been constituted for promoting the employees on the basis of merit. The fact remained that the employees were promoted to higher posts both at the level of the Federation and the two Regional Unions. In view of the fact that they were to be reintegrated and seniority had to be fixed for the purpose of determining which of the employees were H rendered surplus, the appellant-Federation was required to undertake an

exercise. While the learned Single Judge had found that the criteria fixed for assessing the inter-se seniority was just and reasonable and did not require any interference, the learned Judges of the appellate bench, however, found it otherwise. It was found that the promotions were granted without reference to any channel of promotion determined by the Management. The same applied to employees who were sent to the Unions and were promoted there. The High Court was of the view that so far as the employees of the appellant-Federation are concerned, who were sent on deputation to the two Regional Unions, their promotion in the Unions had nothing to do with their position in the appellant-Federation. Their service in the Unions must be considered as service in ex-cadre posts since it was unrelated to his status as an employee of the appellant-Federation. There was no material whatsoever to establish that the promotions were made to posts approved by the Registrar of Cooperative Societies. The employees had to be treated as the employees of the appellant-Federation in view of the judgment in Writ Petition No.24907 of 1996. Thus only their relative seniority in the respective cadres of the appellant-Federation could be taken into consideration, and their promotion in the ex-cadre post in the Unions had nothing to do with their seniority in their parent cadre under the appellant-Federation. Thus it could not be said that such of the employees who were promoted in pursuance of the interim directions of the High Court were treated as probationers and consequently they were deemed to have been confirmed on those posts. On the other hand their transfer from the appellant-Federation to the Unions and their positions at the relevant time in their parent cadre had relevance. If any of the employees of the appellant-Federation was promoted who was junior to the transferred employee, it became imperative that the promotion and seniority of such transferred employee ought to be protected irrespective of their promotion in the Union. The fact that promotions were not challenged for many years could not be a ground for rejecting their claim since such promotions granted in the Unions could not be treated as promotions in the parent cadre in the appellant-Federation. Such promotions, therefore, could not affect their service conditions in the appellant-Federation. The High Court, therefore, concluded that the writ petitioners were entitled to challenge the promotions given to junior employees while working on transfer in the Regional Unions.

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26. The High Court took the view that for the purpose of determining inter-se seniority of the employees in the parent cadre of the appellant-Federation, their date of entry into service in their respective cadres in the appellant-Federation only had to be taken into consideration. However, the

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A seniority lists of the employees borne in the cadre of the appellant-Federation including those who were sent on transfer to the Unions were never prepared and circulated. It was only when the surplus manpower was being worked out in view of the approved strength that the exercise was undertaken to determine seniority and to evolve principles of determination of seniority. The employees B had no opportunity to protest against the grant of promotion to other employees who may be junior to them.

27. The other important finding recorded by the appellate Bench is that there was no clear cut promotion policy either in the appellant-Federation or in the Unions. After appreciating the material on record, the High Court in its C impugned judgment and order has observed as follows :-

> "It is also further noticed that there was no clear cut promotion policy either in the OILFED or in the Unions as is seen from the seniority list, an Operator was promoted as Shift Supervisor, a Chemist was promoted as Assistant G-1, Driver was promoted as Senior Assistant. D Similarly a Chemist was promoted as Executive Quality Control and also Quality Control Officer. Thus, it is seen that the employees have been promoted to various posts without there being any stipulated channels beyond procedure of promotions. Under those circumstances, fixing the seniority on any of the modes excepting the seniority as E available as on the date of their entry in the initial cadre will be the safe method which would ensure the principle of lost come first go and first come last go."

28. The High Court, therefore, held that in the absence of any rules governing such mattes and in the absence of approved channels of promotion F and particularly in view of the fact that promotions were granted in an irrational manner, as found by it, not much importance could be attached to the promotions granted in the Unions. Since all the employees were held to be employees of the appellant-Federation their seniority had to be determined by reference to norms which were reasonable and not discriminatory. Thus G in the absence of rules, applying the principle of seniority by reference to date of initial appointment, the High Court held that the cases of the contesting respondents must be considered by reference to the dates of their appointment in the parent cadre having regard to the category to which they belonged.

29. Shri P.P. Rao, learned counsel appearing on behalf of the Appellant- H Federation submitted that there was no justification for the High Court to

interfere when the majority of the employees had accepted the scheme of voluntary retirement. He relied upon the decision in [1980] 4 SCC 38 : *Kamal Kanti Dutta and Ors* v. *Union of India and Ors.*, and submitted that where service rules operate, more than one view is always possible to take without sacrificing either reason or common sense, but the ultimate choice has to be necessarily conditioned by several considerations ensuring justice to as many as possible and injustice to as few. He submitted, relying upon the aforesaid decision, that no matter with what care, objectivity and foresight a rule is framed, some hardship, inconvenience or injustice is bound to result to some members of the service. The paramount consideration is the reconciliation of conflicting claims. He also brought to our notice the decision of this Court in 1986 Supp. SCC 143 : *Reserve Bank of India and Ors.* v. *C.N. Sahasranaman and Ors.*, wherein it was held that in matter of service conditions, it is difficult to evolve an ideal set of norms governing various conditions of service. Reiterating the principles laid down in *Kamal Kanti Dutta and Ors* (supra) this Court held that the constitutionality of any service rule has to be judged by considering whether it is fair, reasonable and does justice to the majority of the employees and fortunes of some individuals is not the touchstone. In judging whether a rule is just, fair and reasonable, it must be seen that the rule does not suffer from the vice of Articles 14 and 16 of the Constitution or any other constitutional guarantee.

30. It is no doubt true that service rules, however, meticulously framed, there is always a chance of some hardship being caused to a particular section of the employees, but as long as the rules are just, fair and reasonable, even if two views are possible, the mere fact that some hardship, inconvenience or injustice results to some members of the service, is not a ground to strike down the rule. It is not safe to test the constitutionality of a service rule on the touchstone of fortunes of an individual. If the rule otherwise appears to be fair, just and reasonable and does not suffer from the vice of Articles 14 and 16 of the Constitution or any constitutional guarantee, the mere fact that some little hardship or injustice is caused to someone, is no ground to strike down the rule altogether.

31. We may, however, notice at the threshold that in relation to the promotions granted in the two Unions, no rules were brought to our notice which were followed while granting promotions. It is on the basis of such promotions that the inter-se seniority of the employees was determined which led to some of them being retained and others being declared surplus having

A regard to the total cadre strength determined for carrying on the activities of the Federation after the closure of the Unions.

32. Shri Rao also contended that in the instant case in working the VRS the principle followed was the rule of seniority determined by reference to length of service in the grade. Such a rule cannot be said to be unreasonable
B and has judicial sanction. In particular he referred to the judgment of this Court in [1977] 3 SCC 399 : *S.B. Patwardhan and Anr.* v. *State of Maharashtra and Ors.* It is no doubt true that in the aforesaid decision this Court held that seniority determined on the sole touchstone of confirmation was indefensible having regard to the fact that the confirmation is one of the glorious
C uncertainties of government service depending neither on efficiency of the incumbent nor on the availability of substantive vacancies. While appreciating the principles laid down by their Lordships, one cannot lose sight of the facts of the case which demonstrated that the directs recruits and the promotees drawn from two different sources constituted a single integrated cadre discharging identical functions and bearing similar responsibilities and yet
D clause (iii) of Rule 8 provided that probationers recruited during any year shall in a bunch be treated as senior to promotees confirmed in that year. The plain arithmetic of this formula was that the direct recruit appointed on probation even later was regarded as senior to a promotee who was appointed as an officiating Deputy Engineer much earlier, but was confirmed later than the
E direct recruit. Such a formula gave a direct recruit even the benefit of his one year's period of training and another year's period of probation for the purposes of seniority and denied to the promotees the benefit of their long and valuable experience. This differentiation could not be justified on an intelligible ground bearing nexus with efficiency in public service. It will thus be seen that counting the period of officiation and probation in the case of direct recruits
F and not counting such officiation in the case of promotees, was held to be arbitrary and unreasonable and was, therefore, violative of Articles 14 and 16 of the Constitution of India because it left the valuable right of seniority to depend upon the mere accident of confirmation.

33. Mr. Rao also contended that the High Court was wrong in holding
G that the probation of the employees had not been declared. The normal rule was of one year probation and the maximum period of probation was 2 years. So an employee on probation must be deemed to have been confirmed after the completion of two years of probation. He placed reliance on decisions of this Court reported in [1968] 3 SCR 1 = AIR (1968) SC 59 : *Commissioner of*
H *Commercial Taxes, Board of Revenue, Madras and Anr* v. *Ramkishan*

Shrikishan Jhaver; [1988] 2 SCC 250 *R.L. Gupta and Anr.* v. *Union of India and Ors.,* and [1995] 4 SCC 422: *Krishan Lal* v. *State of J & K.* A

34. In any event he submitted that the learned Single Judge had deferred the date of promotion of candidates to 21st July, 1979 on equitable consideration as that was the date which least affected the parties. B

35. On the other than Shri Gurumurthy, learned senior counsel appearing on behalf of some of the respondents, submitted that no principles whatsoever were adhered to while granting promotions in the two Unions. He referred to the facts of the case to make good his submission. He highlighted the finding of the High Court that in the two Unions promotions were granted without adhering to any rule, regulations or norms. Only on the basis of expediency, and without any rational basis, promotions were granted and the persons promoted were not necessarily senior to those not promoted. No channel of promotion was prescribed by rules and employees of one branch were promoted to higher posts in another branch wholly unrelated to the branch from which he was promoted. Promotions were granted in higher posts in other departments even though the work of that department was unrelated to the work of the employee concerned in his lower post. He criticized the appellant-Federation for not being fair to its employees as a model employer should be, and drew our attention to the observations of this Court in paragraph 24 of the judgment reported in [2000] 1 SCC 641 *Sub-Inspector Rooplal and Anr.* v. *Lt. Governor through Chief Secretary, Delhi and Ors.* He also contended that when candidates are selected in the same process of selection and a merit list is prepared, the date on which the candidate actually joined the post is not determinative of his seniority. It is his position in the merit list which determined his seniority. In support of this proposition which is well accepted, he relied upon the decisions of this Court in [1994] 4 SCC 301 : *Chairman, Puri Gramya Bank and Anr.* v. *Ananda Chandra Das and Ors*; [2003] 5 SCC 604 : *Bimlesh Tanwar* v. *State of Haryana and Ors.,* and [2004] 2 SCC 459 : *P. Srinivas* v. *M. Radhakrishna Murthy and Ors.* C D E F

36. According to Shri Gurumurthy, the employees of the Federation transferred to two Unions could claim a lien only on the posts to which they were appointed in the Federation because their transfer to the Unions were not regulated by rules nor were any rules framed for promotions within the Unions. According to him all the appointments and promotions granted were *adhoc* in nature. No rules governed such matters and no norms were laid G H

A down or followed by the Management while granting promotions. He relied upon the decision of this Court in [2003] 10 SCC 14 : *G. Varandani* v. *Kurukshetra University and Anr.*, and supported the decision of the High Court which held that the seniority of the employees concerned must be determined by reference to their dates of appointment in the Federation since they were not holding any regular or permanent posts in the Unions and were B merely working on deputation. The earlier decision of the High Court holding that all the employees were the employees of the Federation further strengthened his submission.

37. It is also his submission that a valid appointment pre-supposes the C existence of a vacancy or anticipated vacancy against which an appointment may be made. Reliance was placed on a decision of this Court in [1964] 4 SCR 964 = AIR (1964) SC 521 : *The State of Punjab* v. *Jagdip Singh.* He also submitted that a direct recruit could not be reverted to a lower post and he relied on a decision of this Court in [1988] 4 SCC 168 : *Hussain Sasan Saheb Kaladgi* v. *State of Maharashtra.*

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38. Applying these principles to the cases of the six respondents before this Court he submitted that the Division Bench of the High Court rightly allowed the appeals and granted relief to the contesting respondents having regard to the peculiar facts of each case after thoroughly considering their cases in the light of the well-settled principles of law.

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39. Mr. Ranjit Kumar, learned senior counsel, appearing for some of the respondents submitted that two principal questions arose for consideration of the Court. Firstly, whether the principles laid down for declaration of surplus employees were valid and legal. Secondly, whether they are not F arbitrary and unreasonable since they lead to retention of juniors while declaring seniors as surplus. He submitted that when the Unions were formed and the option of the employees was sought, they did not opt to go to the Unions and wanted to be retained in the Federation. However, they were sent to the Unions against their wishes. In any event in the year 1996 the High Court in the writ petition had clearly declared the legal position that all the G employees continued to be the employees of the Federation and, therefore, a common seniority list had to be prepared. Such a seniority list was never prepared till June, 2003. In the course of hearing before the learned Single Judge the so-called seniority list was prepared. Several writ petitions were filed challenging the seniority list and the declaration of surplus employees. He objected to the chart which is incorporated in the judgment of the learned H

Single Judge contending that such a chart was not given to the Court, and in any case, was never given to the parties so that they could object to the same. He also submitted that in declaring surplus employees the principle of last come first go must be applied. The Federation was under a legal obligation to prepare a common seniority list even if the VRS was to be implemented. Unfortunately the declaration of the VRS was of May 7, 2003 whereas the purported final seniority list was given to the Court on June 26, 2003 to which they had no opportunity to object. However, the Court had given opportunity to the parties to object to the seniority list. The norms applied for reckoning seniority were arbitrary and unreasonable and based on promotions which were granted without reference to rules or norms. He also commented that since there was no seniority list of the lower cadre, it was not possible to prepare seniority list of the higher cadre. He also drew our attention to the finding of the Division Bench of the High Court that no channels of promotion had been created nor was any criteria determined for promotion to the higher posts in the two Unions. It was not discernable from the material placed on record whether any proper selection committee had been constituted for promoting the employees on the basis of merit. Though all the posts are said to be selection posts, there is no indication as to how the merit of the candidates was judged.

40. The respondents are right in their contention that the transfer of employees from the Federation to the Unions was not regulated by rules framed or norms laid down by the Management. Since a three tier structure was envisaged, many of the employees of the Federation were transferred to the two Unions. It may be that not much thought was given to such matters as it was believed that in due course, the employees working in the Unions may be absorbed in those Unions and disputes of this nature may not arise. However, that never happened. The Federation continued as an independent cooperative society while the two Unions also functioned as two independent cooperative societies. The transfers were made on ad hoc basis in the absence of rules and similarly promotions were also granted without reference to rules or norms. No rules were framed governing the grant of promotions on transfer of employees from the Federation to the Union, or from one Union to another. We cannot lose sight of the fact that the Federation and the two Unions were three distinct legal entities. All the employees with whom we are concerned were appointed to posts in the Federation and, therefore, it was rightly contended that they were employees of the Federation and no distinction could be made merely because they were officiating against posts in one or the other Union. The matter was put beyond controversy by a decision of

A the High Court which attained finality holding that all the employees must be treated as the employees of the Federation and not the Unions. They, therefore, belonged to the same service under one employer namely the Federation and their inter-se seniority had to be determined on that basis.

41. So far as the inter-se seniority in the Federation is concerned, B though not formally determined, it must be held, in the absence of rules, that seniority must be reckoned by reference to the length of service in the Federation. This is precisely what the High Court has held.

42. The question is whether upon their transfer to the Unions and upon promotions being granted in the Unions the seniority of the employees inter- C se was affected. It is no doubt true that even in the absence of rules promotions may be granted, but it must be shown that the promotions granted are just and fair and that they do not offend Articles 14 and 16 of the Constitution of India or any other constitutional guarantee. If promotions are granted arbitrarily without following norms or guidelines, such promotions will have D to be ignored in determining the seniority of the employees concerned, firstly for the reason that there are no rules governing grant of promotion, and secondly because the grant of promotions are arbitrary and violative of the principles enshrined in Articles 14 and 16 of the Constitution of India.

43. The High Court in its impugned judgment has considered the matter E in great detail and we agree with its finding that in the grant of promotions within the Unions no rule whatsoever was followed. Admittedly no seniority rules had been framed when promotions had been granted in the Unions. The management acted in exercise of its authority to grant promotions. The action of the Management in granting promotions must be determined on the F touchstone of Articles 14 and 16 of the Constitution of India. If the grant of promotions is found to be arbitrary or unreasonable it must be held that such promotions will not affect the right of seniority of the persons concerned, since the promotions were granted neither in accordance with any rule nor by following norms consistent with principles incorporated in Articles 14 and 16 of the Constitution of India. The High Court has very critically analysed G the facts of the case. It has found as a fact that there was no clear cut promotion policy either in the Federation or in the Unions. An Operator was promoted as Shift Supervisor ; a Chemist was promoted as Assistant Grade-I; a Driver was promoted as Senior Assistant and another Chemist was promoted as Executive Quality Control and also Quality Control Officer. Thus, the High Court concluded that the employees had been promoted to various H

posts without there being any stipulated channels of promotion and without following any procedure prescribed by rules of promotion. Thus determination of their seniority by reference to promotions which were not governed by any rule and were at best fortuitous could not be justified. We fully endorse the view of the High Court. Where promotions are not granted in accordance with the rules or fair and reasonable norms laid down for the purpose, and the promotions are at best fortuitous, such an uncertain event cannot be made the basis for determining seniority which is a valuable right of an employee. This is fully consistent with the principles laid down in *S.B. Patwardhan and Anr* (supra). Even the learned Single Judge was hesitant in accepting seniority by reference to dates of promotion granted in Unions. The learned Judge, therefore, ingeniously worked out a chart and identified a date which, if taken as the date of promotion, would cause least inconvenience to the employees. Unfortunately such a principle cannot be followed in service matters where seniority confers a very valuable right on an employee and his entire future career is at times dependent upon such seniority. Seniority, therefore, must be determined by rules validly framed or norms enunciated and/or followed which are consistent with the principles enshrined in Articles 14 and 16 of the Constitution of India.

44. The instant case has another facet. While the employees were transferred to the Unions much earlier and were granted promotions in due course in the Unions, the question of their seniority inter-se and the principles to be applied in determining seniority were evolved for the first time when the closure of the Unions was being considered necessitating retrenchment of surplus employees. It was at this stage that the cadre strength was first determined and thereafter norms were sought to be evolved in the light of which seniority was to be determined and junior employees in excess of the determined cadre strength to be given the benefit of VRS. It was really a process of working backwards. Rules and norms were sought to be evolved later governing promotions which were granted much earlier without reference to such rules or norms, but which were to determine the inter-se seniority of the employees for the purpose of retrenchment.

45. We are, therefore, satisfied that the High Court was right in holding that the promotions earlier granted in the Unions and the norms later laid down by the Federation could not be applied to determine the inter-se seniority of the employees of the Federation. The only rule which, in the facts of the case, could be safely applied to determine seniority was to reckon seniority by reference to length of service in the Federation. As a necessary corollary,

A the date of initial appointment in the Federation was decisive in determining seniority. Thus applied, seniority must be determined by reference to the date of initial appointment and not by reference to dates of promotion granted in the Unions unguided by rules framed or norms declared which could be said to be fair and reasonable applying the test of Articles 14 and 16.

B 46. The High Court has thereafter considered the individual cases of the appellants applying the test of seniority by reference to length of service in the Federation.

47. In the case of Anwar Ali (respondent in SLP (c) Nos. 17299-17306 of 2004 and SLP (c) Nos. 15923-15924 of 2004) the facts reveal that Anwar Ali C was appointed as a Field Officer on July 11, 1983. The petitioner M. Ramesh was appointed as a Field Officer on July 13, 1983. Another person, namely Tirupathi Reddy was appointed to the same post on July 11, 1983. Since Anwar Ali was senior most in age, he was given seniority over Tirupathi Reddy. All the three were promoted as Executives by order dated July 15, 1989 D but they joined on different dates. Anwar Ali could join only on August 4, 1989 because he was not relieved of his duties by the authorities having regard to the exigencies of service. In the next higher post Anwar Ali was promoted on July 21, 1999 whereas the other two were promoted pursuant to orders passed by the High Court on July 23, 2001 with retrospective effect from July 21, 1999. The High Court has rightly come to the conclusion that E since Anwar Ali was the senior-most amongst the three, he could not be declared surplus.

48. Similarly in the case of Achyuta Rao (respondent in SLP (c) Nos.15912-15913 of 2004) the High Court found that he was appointed as F Field Officer on November 29, 1983. He claimed seniority over Ramesh Kumar Reddy, who was appointed Field Officer on December 5, 1983. So far as their promotions to the post of Executive (Agriculture) in the Unions are concerned, while Achyuta Rao was promoted on September 18, 1989, Ramesh Kumar Reddy was promoted on March 15, 1989. The facts, therefore, disclose that Achyuta Rao when initially appointed to the post of Field Officer was senior G to Ramesh Kumnar Reddy, but if the promotion granted in the Union is ignored, he must be declared senior to Ramesh Kumar Reddy and ought not to be included in the surplus list. The High Court, therefore, rightly upheld the contention of Achyuta Rao.

49. In the case of Seshagiri Rao (respondent in SLP (c) Nos.15926-15927

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of 2004 and SLP (c) Nos. 15046-15051 of 2004) it is not disputed that he was appointed as a Chemist in the Federation on May 11, 1987. Later the other officers (respondents 3 to 8) in the writ petitions had been appointed to the same post. It so happened that Seshagiri Rao was transferred to the Union where he was later promoted as Executive, Quality Control. The High Court upheld his contention. Since he was the first entrant in the category of Chemist, he could not be deprived of his seniority in the parent department. Accordingly his appeals were allowed and he was declared as non-surplus.

50. The case of K.V. Nageshwara Rao (respondent in SLP (c) Nos. 15920 - 15921 of 2004) stands on the same footing as that of Seshagiri Rao. He was appointed to the post of Chemist in the Federation on May 12, 1987 and was, therefore, senior to the other officers (respondents 3 to 8 in the writ petitions), who were appointed later.

51. In SLP (c) Nos. 15918-15919 of 2004 and SLP (c) No. 15917 of 2004, though the appellant-Federation has challenged the decision of the High Court, the parties likely to be adversely affected if its contention is upheld by us, have not been made parties in the appeals. We must, therefore, refuse to interfere with the order of the High Court.

52. We, therefore, find no merit in these appeals and they are accordingly dismissed. Parties to bear their own costs.

A.K.T. Appeal dismissed.