

relative seniority direct of recruits and date of joining

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The next question is whether the Rules regulating the **recruitment, seniority** etc. Of Sub-Inspectors of Police in the Calcutta Police make any departure from the general principle laid down in the whole series of cases commencing with Patwardhan to which we have already referred. Earlier we have set out in great detail all the relevant rules in force from time to time. We do not find anything in any of the rules indicating an intention to depart from the general principle. Shri S. N. Kacker, learned counsel for the **direct recruits** invited our attention to Rule 6 of the West Bengal Services (Determination of **Seniority**) Rules, 1981 and asked us to read it in the light of Rule 3 (vi) which defines '**date of joining**' and stipulates that **date of joining** shall be reckoned from the **date** of continuous officiation in a post/cadre or grade. Rule 6 (1) provides that **relative seniority** between a promotee and a **direct recruit** shall be determined by the year of appointment or promotion of each in the post, cadre or grade irrespective of the **date of joining** and Rule 6 (2) provides that the promotees shall be en-block senior to the **direct recruits** of the same year. The submission of Shri Kacker was that '**date of joining**' as defined in Rule 3 (vi) was expressly made irrelevant by Rule 6 (1) for the purpose of determining **Seniority** between a promotee and a **direct recruit** and it meant that the period of continuous officiation was not to be taken into account in determining **relative seniority** between promotees and **direct recruits**. The argument though superficially attractive lacks substance. A perusal of Rule 4 and 5 makes the position clear. Rules 4, 5 and 6 constitute a single scheme. Now Rule 4 which deals with **seniority** amongst **direct recruits**, broadly, provides that their **relative seniority** shall be according to the cadre of merit when they are selected at the same examination persons appointed on the basis of an earlier examination taking precedence over those appointed on the basis of a later examination. Rule 4 further provides that where **seniority** has not been previously determined it shall be determined according to the actual **date of joining** Rule 5 deals with determination of **seniority** of promotees and broadly again, provides that **seniority** of person appointed to any post, cadre or grade shall be determined from the **date of joining** such post, cadre or grade. which we know from Rule 3 (vi) means the **date** of continuous officiation in the post, cadre or grade. Then comes Rule 6 which prescribes that the **relative seniority** between a promotees and a **direct recruit** shall be determined by the year of appointment or promotion of each in the post, cadre or grade irrespective of the **date of joining** and that the promotees shall be en-block senior to the **direct recruits** of the same year Now, if Rules 4, 5 and 6 are read together the scheme becomes clear. While **date of joining** is important to decide, the question of **seniority** amongst promotees, it is the year of **joining** that is relevant when the question of **relative seniority** is to be determined between promotees and **direct recruits**. If **direct recruits** are appointed and promotees are promotee in the same year, all promotees are to take precedence over the **direct recruit**, irrespective of the actual **date** of their **joining** but as amongst the promotees themselves, the **seniority** is to be based on the **date of joining**. That according to us is the true and appropriate construction of Rules 4, 5 and 6. We are indeed very happy to note that this is precisely what the West Bengal Government wanted to do and it was done with a view to give effect to the judgments of this Court. Paragraph 5 (II) the affidavit of Nirupom Som, Commissioner of Police, Calcutta, is worth extracting and it is as follows :-

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