

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 4<sup>th</sup> day of Apr 2010 6

**Original Application No. 1643 of 2001**  
(U/S 19, Administrative Tribunal Act, 1985)

**Hon'ble Dr. K.B.S. Rajan, Member (J)**  
**Hon'ble Mr. D. C. Lakha, Member (A)**

1. Subhash Pal son of Late Bihari Pal.
2. Hari Lal Yadav son of Shri Ram Raj Yadav
3. Harish Chandra son of Shri Ram Dhani.
4. Ram Raj Yadav son of late G.S. Yadav
5. Natthu Ram son of Late Dashrath.
6. Rajeshwari Prasad Son of Shri Radhey Shyam/

All are posted on the post of Upper Division Clerk, in the office of Employees Provident Fund, Sub Regional Office, Varanasi-2.

..... Applicants

By Adv. : Shri B.N. Singh

**V E R S U S**

1. Union of India through the Secretary, Ministry of Labour, Government of India, New Delhi.
2. The Central Board of Trustee, through its Chairman, Ministry of Labour, Government of India, Shram Shakti Bhawan New Delhi.

3. The Regional Provident Fund Commissioner, U.P., Nidhi Bhawan, Sarvodaya Nagar, Kanpur.

4. The Regional Provident Fund Commissioner, U.P., Sub Regional Office, Pahariya, Ashok Vihar, (Phase-I), Varanasi.

..... Respondents

By Adv. : Shri N.P. Singh

### ORDER

(Delivered by Hon'ble Dr. K.B.S. Rajan, Member-Judicial)

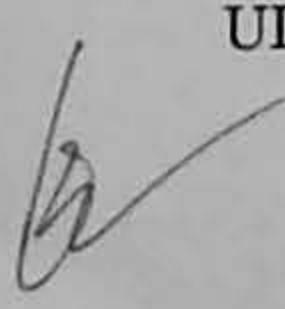
1. The applicants had all been appointed as LDC in 1982, vide order dated 04-11-1982 of the Assistant Provident Fund Commissioner. Later on, they were confirmed in the same post. In 1987 after selection by the DPC they were promoted as UDC vide Annexure 3 on ad hoc basis. In 1992, a scheme called time bound promotion scheme for clerical cadre of the Employees Provident Fund organization was introduced. UDCs with 17 years of service in clerical cadre or who will complete 17 years will be placed in the next higher grade of Ra 1400 – 2300 on non-functional basis vide Annexure 4. Clerical cadre means combined service of LDC and UDC. The pay scale was later revised to Rs 5000 – 8000. Annexure 5 refers. All the applicants had been appointed in 1982 as LDCs and promoted as UDCs in 1987 and they have all completed 17 years of service in August/October, 1999. There is no circumstance to come in the way of their time



bound promotion. As no action was taken, representation dated 14-03-2000 was given individually by all the applicants. The Union also made a separate request in this regard. As no response was forthcoming, OA No. 385 of 2001 was filed which was disposed of with a direction to the respondents to decide the representation. The Regional Provident Fund Commissioner, in pursuance of the said order, rejected the representation vide Annexure A-1 order dated 31-05-2001. The reasons for rejection are as under:-

- (a) Only UDCs who are regular in the UDC cadre are to be considered.
- (b) These UDCs must have completed 17 years of clerical services in EDF Organization.
- (c) Non Matriculate UDCs are not to be given promotion under this Scheme.
- (d) There is no reservation in Time Bound Promotion Scheme.

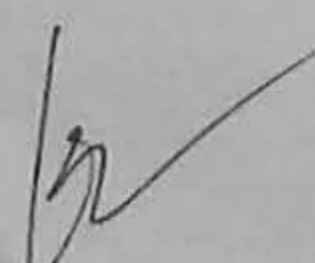
2. Since the officials are working on ad hoc basis in the cadre of UDC against the posts meant for examination quota and have not been regularized as UDC due to non-availability of posts under the D.P. Quota, these are not eligible for upgradation to the post of UDC/SG. Hence this O.A. on the following grounds:-



- (a) All the UDCs were promoted only after following procedure prescribed for regular promotion. Adhoc promotion is made only for a short period and that too if made without following procedure. The applicants deserve regularization in the grade of UDCs and thus, they fulfill the first condition.
- (b) The applicants have combined services of 17 years as LDCs and UDCs. Thus, the second condition is also fulfilled.
- (c) All the applicants fulfill the third condition.
- (d) None requires reservation under the scheme.

3. Annexure A-15 is the order of regularization of various Ad hoc UDCs out of whom a few had already been granted one time bound promotion after 17 years of clerical service. As such, there is no justification to deny the same benefits to the applicants.

4. Respondents have contested the O.A. According to them, the promotion of the applicants as ad hoc has been fastened with the following conditions –

- (a) The incumbents will be liable to reversion at any time without assignment of any reason.
  - (b) The appointment being on purely ad hoc basis, will not confer any right on them to claim any seniority or promotion to the post of U.D.C. on long-term regular basis.
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(c) The ad hoc period of officiation will not count towards probation in the event of their promotion to the posts of Upper Division Clerk on long term (regular basis).

(d) Reversion would, if made, start from the junior most.

5. Thus, it is crystal clear from the bare perusal of the promotion order dated 27-02-1987-the subject captioned "temporary and ad hoc promotion to the post of Upper division Clerk" and against the above order without any protest all the applicants have submitted the joining report. Thus, rejection of representation is fully justified.

6. Written arguments were filed. These together with the pleadings considered. The order relating to time bound promotion inter alia reads as under:-

- (i) The Scheme is effective from 01.01.92.
- (ii) All Upper Division Clerks who have completed 17 years clerical service in each region as on 31.12.91 will be placed in the next higher grade i.e. Rs.1400-2300 on non- functional basis. The Number of Upper Division Clerks to be placed on higher grade in your region is furnished in column 3 of the Annexure 'A' on the basis of the information supplied by your region.
- (iii) The upgradation of Upper Division Clerk posts has been agreed upon subject to generation of matching savings by way of surrendering certain no. of clerical posts in each region. The No. of clerical posts to be surrendered by your region is furnished in column 4 of the Annexure 'A'.
- (iv) The no. of posts of Upper Division Clerks to be upgraded and the number of clerical posts to be surrendered will be



reviewed every year. For this purpose each region will submit a return to Central Office by 31<sup>st</sup> Jan. of each year as per proforma Annexure 'B'.

- (v) The Upper Division Clerks who will be placed in the scale of Rs.1400-2300 will be designated as Head Clerk (non-functional) and the existing incumbent of the post of Head Clerk as Section Supervisor.
- (vi) The effective date of promotion to all those upper division clerks who had completed 17 years clerical service as on 31.12.91 would be 01.01.92 and to those who are to complete 17 years clerical service after 31.12.91 would be with effect from the date on which they would complete 17 years clerical service. The composition of the D.P.C for this purpose would be the same as that of Head Clerk (now redesignated as Section Supervisor) as per the recruitment rules. The function of D.P.C. would be the assessment of fitness for promotion on the basis of service records. Special efforts would be made at all levels to take quick and prompt action so that the DPC formalities are completed and promotion orders issued by 31.5.92. A copy of the DPC proceedings may be sent to Central Office by 30<sup>th</sup>, April, 1992 for vetting before the promotion is made effective. This will be a one time exercise to ensure the error free implementation of the scheme on All India basis.

7. The above order does not indicate that ad hoc UDCs are not eligible for consideration for time bound promotion. The term UDC has to be interpreted without any qualification regular or ad hoc. For, there are twin conditions to be fulfilled apart from educational qualifications i.e. UDC and 17 years of combined service. It is trite that an ad hoc UDC with less than a few years of service would not fulfill the other condition of 17 years of clerical service. In the case of the applicants their services as ad hoc UDC is not less than 11 years. Curiously, the upgradation order at Annexure A-13 dated 12-03-1997 contains inter alia the following

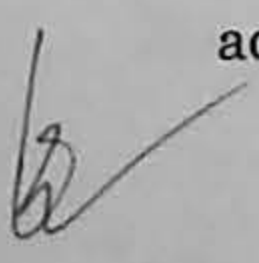
names, which do figure in Annexure A-15 in the list of regularization as UDCs effective from 29-12-2000:-

	Name	D.O.P.	Sl No. in Annexure 15
1.	A.P. Bhatnagar	24-05-96	15
2.	Smt. Sushma Chakravorty	16-07-96	17
3.	Ravindra Kumar Gupta	10-08-96	18
4.	S.N. Yadav	24-09-96	21
5.	Vinod Kumar Jha	24-12-96	24
6.	Jag Mohan Kalra	25-02-97	25

8. Similarly, order dated 09-03-1999 by which upgradation of UDCs under the time bound promotion scheme was granted contains inter alia the following names, and these have also not been regularized at the time of grant of promotion, as admitted in para 24 of the counter.

Sl No	Name	D.O.P.
1	Satya Prakash Singh	28-05-98
2	Gauri Shankar Prasad	28-05-98
3	Prem Chandra Singh	12-06-98
4	Mahendra Pratap Singh	04-06-98
5	Smt Archana Shukla	19-08-98
6	Gopal Ram	03-02-99
7	Satish Kumar Srivastava	30-01-99
8	Guru Prasad Maurya	01-02-99

9. Again, in the clarificatory order there has been no reference to ad hoc UDCs, which meant that such a doubt of distinguishing ad hoc and regular UDCs did not arise.



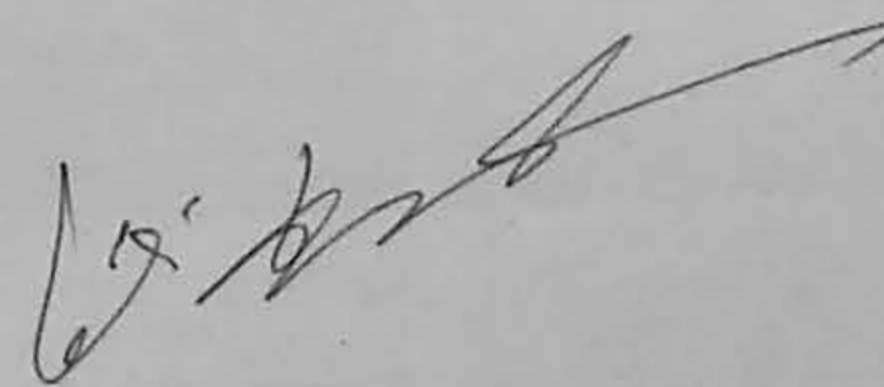


10. From the above it is clear that the respondents have meted hostile discrimination to the applicants by denying them the one time bound promotion on the misconceived ground that they have not been regular UDCs.

11. The OA thus, succeeds. Order dated 31-05-2001 is quashed and set aside. It is declared that the applicants were eligible to be considered for upgradation under the one time bound promotion from the date they completed 17 years of clerical service or from the date of implementation viz 01-01-1992 whichever is later. Since this is only a time bound upgradation, no additional responsibilities are fastened to the upgradation. Hence, the applicants who are found fit for such upgradation in accordance with the scheme would also be entitled to the financial benefits arising therefrom. Respondents are directed to issue suitable orders accordingly after following the procedure for such upgradation. This drill shall be completed within a period of two months from the date of receipt of a copy of this order.

12. No cost.

  
( D.C.Lakha )  
Member (A)

  
( Dr.K.B.S.Rajan )  
Member (J)

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