



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2194 of 2020

Orders reserved on : 06.09.2021

Orders pronounced on : 04.10.2021

(Through Video Conferencing)

**Hon'ble Mr. A. K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Manjit Singh, UDC, Group 'C',
Aged about 56 years,
S/o Late Sh. Baldev Singh,
R/o H. No. 530, Gali No. 4, Haryana.
2. Shri Mam Raj, UDC, Group 'C',
S/o Shri Bali Ram,
Vill – BerkheriMajra
PO – Godhouli, The – Naraingarh, Ambala (Haryana).
3. Brijesh Kumar Pandev, UDC, Group 'C',
Aged about 58 years,
S/o Late Sh. P.C. Pandey,
R/o New Gandhi Nagar, Colhua, Mujjafarnagar, Bihar.
4. Ajay Kumar, UDC, Group 'C'
Aged about 58 years,
S/o Latae Sh. Purshottam,
R/o VPO Shahpur, Kangra, Himachal Pradesh
5. Veerbhan, UDC, Group 'C'
Aged about 56 years,
S/o Late Shri Harya,
R/o VPO Kailana, Sonipat, Haryana.
6. Dharmi Ram Meena, UDC, Group 'C'
Aged about 57 years,
S/o Shri G.R. Meena,
R/o VPO OundMeena, Tehsil Mahwa, Distt. Dausa,
Rajasthan.



7. Shiv Kumar Sharma, UDC, Group 'C'
Aged about 57 years,
S/o Late Shri Ramji Sharma
R/o VPO Bharasara, Distt. Bhojpur, Bihar.
8. Iqbal Singh, UDC, Group 'C'
Aged about 51 years,
S/o Shri Ajit Singh,
R/o H. NO.92, V&PO Jamalpur, Karnal, Haryana.
9. Manju Tomar, UDC, Group 'C'
Aged about 51 years,
W/o Shri S.K. Tomar,
R/o H.No.RZ-42C, Gali No.5B,
Kamal park, Kailash Puri Road, Sagar Pur, New Delhi.
10. Sanjay Kumar, UDC, Group 'C'
Aged about 52 years,
S/o Late Shri S.L. Gupta,
R/o H.No.428, Housing Board Colony,
Sector-7 Extension, Gurgaon, Haryana.
11. Sushila Kumar Ravi, UDC, Group 'C'
Aged about 54 years,
R/o Tower 23, Type-III,
A-6, East Kidwai Nagar, New Delhi.
12. Shakuntala Devi, UDC, Group 'C'
Aged about 56 years,
W/o Late Shri Sh. Jamna Dass
R/o H.No. 9245, Vasant Kunj, 9-Block 'B', New Delhi.
13. Ramesh Chander, UDC, Group 'C'
Aged about 56 years,
S/o Shri Inder Mani,
R/o 177, Banga Colony, Bissing, Jalandhar,
Punjab.

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Applicants

(through Advocate Shri M.K. Bhardwaj)

Versus

1. Union of India,
Through its Secretary,
Ministry of Defence,
South Block, New Delhi-110011.



2. The Quarter Master General,
IHQ, MoD (Army),
DHQ, P.O., New Delhi-110011.
3. The Dy. Director General,
QMG's Branch, IHQ of MoD (Army),
West Block-III, R.K. Puram,
New Delhi-110066.

... Respondents

(through Advocate Shri R.K. Jain)

O R D E R

Hon'ble Mr. R. N. Singh, Member (J):

The applicants, 13 in number, have approached this Tribunal by way of the present OA, filed under Section 19 of the Administrative Tribunals Act, 1985, to challenge the order dated 27.10.2020 (Annexure A-1) vide which the applicants have been informed that their request for promotion to the post of Office Superintendent (hereinafter referred to as 'OS'), cannot be acceded to on account of closure of the Military Farms and all the civilian staff having been declared as surplus, posts have been abolished and the applicants had already been re-deployed/posted on being so surplus. The applicants have prayed for the following reliefs:-

- “(i) To quash and set aside the order dated 27.10.2020 and issue appropriate directions to the respondents to promote the applicants to the post of Office Superintendent as per the concluded DPC



held on 30.06.2020 and grant all consequential benefits of promotion including arrears of pay.

- (ii) To direct the respondents to promote the applicants to the post of Office Superintendent with all consequential benefits including arrears of pay.
- (iii) To allow the OA with cost.
- (iv) to pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. This is the second round of litigation. In the first round, the applicants have approached this Tribunal by way of OA 1472/2020 and the said OA was disposed of vide Order dated 08.10.2020 with directions to the respondents to consider the applicants' pending representations and to dispose of the same by passing a reasoned and speaking order. Pursuant to the said Order dated 08.10.2020 of this Tribunal, the respondents have passed the impugned order dated 27.10.2020 (Annexure A-1).

3. Pursuant to notice from this Tribunal, the respondents have filed their reply and the applicants have filed the rejoinder.

4. It is not in dispute that the applicants had initially been under the service of the respondents as Lower



Division Clerk in the Military Farms Department, Ministry of Defence, Government of India and they were subsequently promoted to the post of Upper Division Clerk (UDC) in the said department. However, the respondents have taken a conscious decision vide order dated 20.7.2017 vide which the Military Farms Department had been dispended completely. The DPC was constituted and the meeting of such DPC was held on 30.6.2020 for considering promotion to the posts of OS. However, the recommendations of the said DPC was not acted upon.

5. Shri Bhardwaj, learned counsel appearing for the applicants, has submitted that though the DPCs were conducted for various in the past and the recommendations of such DPCs were acted upon by the respondents, however, the respondents have not acted upon the recommendations of the DPC held on 30.6.2020 for promotion of the UDCs, the applicants herein as well to the post of OS. He has further submitted that such action of the respondents is illegal, arbitrary and even if the applicants have been redeployed in other departments, they could have been given the promotion to the post of OS by accepting the recommendations of the DPC of which



meeting was held on 30.6.2020, as that could have saved the career progression of the applicants.

6. *Per contra*, Shri Jain, learned counsel appearing for the respondents, with the assistance of the averments made by the respondents in their counter reply as well as in the Additional Affidavit filed on 18.8.2021, has submitted that during the period from 14.3.2016 to 01.10.2019, DPCs were held for considering promotions to various posts, i.e. from Manager to Farm Officer, LDC to UDC, MT Driver Grade-I to MT Driver Special Grade, UDC to OS, etc. Though the recommendations of such DPCs have been acted upon by approving the same and resulting into promotions, however, keeping in view the policy decision of the respondents taken on 20.7.2017 regarding closure/abolition of Military Farms Department in phase manner, the competent authority had not approved the recommendations of the DPC in respect of promotion of the applicants from the post of UDC to OS. He has further submitted that vide order dated 10.08.2020, the competent authority abolished all the vacant posts of civilian staff in Military Farms Department and all the civilian staff, including the applicants had been declared as surplus and most of them had already been



posted out to other units vide order dated 31.08.2020 (Annexure R2). He has invited our attention to letter dated 06.01.2021 (Annexure R4) of the applicant No.1 vide which the applicant has given his willingness to accept his appointment/deployment as LDC in response to letter dated 15.12.2020 of the respondents.

7. In rejoinder, Shri Bhardwaj, learned counsel for the applicants, has submitted that though he does not dispute closure of the Military Farms Department, abolition of the civilian posts and/or re-deployment of the surplus staff(s) to appropriate position in other units of the Government, however, in view of the Govt. of India OM dated 10.4.1989 (Annexure A-7) issued by the Department of Personnel and Training on the subject 'Departmental Promotion Committee and related matters – consolidated instructions on', the respondents are obliged to accept the recommendations of the DPC meeting held on 30.6.2020 and to promote the applicants from retrospective date to save the career progression of the applicants.

8. We have heard the learned counsels for the parties and we have also perused the pleadings on record. We have also perused the relevant Office Memorandum of the



DoP&T (Annexure A-7) referred to and relied upon by the learned counsel for the applicants.

9. Once it is not in dispute that in view of conscious policy decision of the Government, the Military Farms Department in which the applicants have joined, promoted and has been continuing, has been completely closed in phase manner and civil posts therein have been abolished and various employees who have been declared surplus have been deployed elsewhere, no enforceable right had accrued to the applicants to claim promotion as a matter of right. For promotion, availability of sanctioned post(s) is/are necessary. Once it is within the knowledge of the competent authority that the Military Farms Department has been closed and posts have been abolished and the employees working on the civil posts have been declared surplus, the competent authority is not required to accept the recommendations of the DPC meeting held on 30.06.2020 regarding promotion of the applicants from the post of UDC to the post of OS. Moreover, even the Office Memorandum dated 10.4.1989 does not provide any retrospective promotion. Para 6.4.4. of the said OM reads as under:-



“6.4.4. While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies related to earlier year(s).”

10. In the aforesaid facts and circumstances, we are of the considered view that the OA is devoid of merit and accordingly the same deserves to be dismissed. Therefore, the OA is accordingly dismissed.

11. However, in the facts and circumstances, no order to cost.

(R.N. Singh)
Member (J)

(A. K. Bishnoi)
Member (A)

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