

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.100/3362/2015

New Delhi this the 20th day of October, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

1. Atma Prakash Dixit, SFA (M)
S/o Lt. Om Prakash Dikit
Aged about 51 years,
0/0 The Area Organiser SSB,
Lakhimpur Kheri (UP)
R/0 VPO-Bakewar The Bharthana,
Distt. Etawah (UP)-206124
2. Gajraj Singh, SFA (M)
S/o Lt. Ram Chandra Singh
Aged about 46 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill. Chandpur Post-Agriculture School,
Teh & Dt. Bulandshahar (UP)-20300
3. Raj Kumar, SFA (M) S/o Lt. Baljit Singh
Aged about 52 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill-Shekhwala Post-Ibrahimpur,
Teh & Dt. Haridwar, Uttarakhand-247667
4. Saish Kumar Nautiyal, SFA (M)
S/0 Lt.Sacidanand Nautiyal
Aged about 45 years,
0/0 The Director SSB Academy Srinagar Distt.
Pauri Garhwal-246174
R/o Doctorgunj Post-Vikasnagar Dt.Dehradun
Uttarakhand 248198
5. Ganesh Chndra Ghidiyal, SFA (M)
S/o Sh. S.N. Ghidiyal
Aged about 47 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill- Bayella Tella Post- Rikhinikhal
Dist. Pauri Garhwal Uttarakhand-246170
6. Ved Prakash Sharma, SFA (M)

S/o Lt.Babu Ram Sharma
Aged about 49 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 A-1/116 OmVihar Phase-V,
Gali No.6, Uttam Nagar,
New Delhi-100059

7. Pawan Kumar Sharma, SFA (M)
S/o Chhagan Lal Sharma,
Aged about 42 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Dheard Colony Near Sukhwant Palace,
Sriganganagar Rajasthan-335001
8. Nag Chand Ramola,AFO (M)
S/o Karam Chand Ramola
Aged about 55 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill-Masol Post Gewala (Brahmkhal),
Teh-Duda Dt. Uttarkashi,
(Uttarakhand)-249152
9. Har Vinay Singh, AFO (M),
S/o Late Sh. Ranjeet Singh Butola
Aged about 49 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill- San Post-Jakhdhar,
Teh & Dt.Rudraprayag,
Uttarakhand.
10. Gopal Singh Sajwan,AFO (M)
S/o Late Sh. Dhan Singh Sajwan,
Aged about 54 years,
0/0 The Director SSB Academy
Srinagar Distt. Pauri Garhwal-246174
R/0 Vill. Ghingari Post-Diwalikhet,
Teh-Ranikhet, Dt. Almora
Uttarakhand.
11. Manohar Chand,AFO (M)
S/o Shri Baldev Chand,
Aged about 51 years,
0/0 The Commandant T.C,
SSB, Shamshi Distt. Kullu (HP)
R/o Village-Bari, PO-Bhwarna,
Teh-Palampur, Distt. Kangra, H.P.

12. M.R. Thakur, SFA (M),
S/o Sh, N,R, Thakur,
Aged about 47 years,
O/O The Commandant T.C,
SSB, Shamshi Distt. Kullu (HP)
R/O Village- Paplehra, PO-Marathu,
Teh & Distt. Mandi, HP.
13. Surendra Kumar, SFA (M)
S/o Sh. Narpat Ram,
Aged about 52 years,
O/O The Commandant T.C,
SSB, Shamshi Distt. Kullu (HP)
R/o Village-Bharoon, PO Dudar,
Teh & Distt. Mandi, H.P.
14. Tara Chand, SFA (M)
S/O Sh. Bala Ram
Aged about 45 years,
O/O The Commandant T.C,
SSB, Shamshi Distt. Kullu (HP)
R/o Village-Pawanang, PO Bhutti
Teh & Distt. Kullu, (HP).
15. Karam Chandra, AFO (M)
S/o Late Sh. Jagto Ram
Aged about 49 years,
O/O the DIG CTC, SSB, Sapri (HP)
Post & Teh. Jwalamukhi,
Dist. Kangra (HP)-176031
R/O Vill-Drahla, PO-Malunda,
Teh-Bhattiyat, Distt.-Chamba, (HP).
16. Smt. Kiran Kumari, SFA (M)
W/O Sh.N.R.Sharma,
Aged about 47 years,
O/O the DIG CTC, SSB, Sapri
Post & Teh Jwalamukhi,
Dist. Kangra (HP)-176031
R/O Village-Kheri, PO-Mehal,
Teh-Bhoranj, Distt.- Hamirpur, HP.
17. Vinod Kumar Sharma, SFA (M)
S/O Late Shri Om Prakash Sharma,
Aged about 52 years
O/O the DIG CTC, SSB, Sapri
Post & Teh Jwalamukhi,
Dist. Kangra (HP)-176031
R/O VPO- Samshi, Distt. & Teh- Kullu (HP).

18. Inderjeet Singh, SFA (M)
S/o Late Sh, Jaswant Singh,
Aged about 52 years,
0/0 The DIG CTC, SSB, Sapri
Post & Teh Jwalamukhi,
Distt. Kangra (HP)-176031
R/o VPO-Lodhwan, Teh-Nurpur,
Distt. Kangra, HP.
19. Smt. Simro Devi, SFA (M)
W/o Sh. S.K.Parashar,
Aged about 49 years,
0/0 the DIG CTC, SSB, Sapri
Post and Teh-Jwalamukhi,
Distt. Kangra (HP)-176031
R/o Amtrar, PO-Lilly,
Teh & Distt. Kangra, HP.
20. V.K.Sood,AFO (M)
S/o Late Bard Pal Sood,
Aged about 58 years,
0/0 The DIG CTC, SSB, Sapri
Post and Teh Jwalamukhi,
Distt. Kangra (HP)-176031
0/0 VPO Kotlu, Teh.Jaisinghpur,
Distt. Kangra, HP.
21. Sahib Singh, AFO (M)
S/o Sh. Budhi Singh,
Aged about 54 years,
0/0 The DIG CTC, SSB, Sapri
Post & Teh Jwalamukhi,
Distt. Kangra (HP)-176031
R/0 VPO- Gaggal, The & Fisstt.Kangra, HP.
22. Sarvjeet Singh, SFA (M),
S/o Late Shri Dhani Kumar,
Aged about 49 years,
0/0 The DIG CTC, SSB, Sapri
Post & Teh Jwalamukhi,
Distt. Kangra (HP)-176031
R/o Village- Siddhapur, PO Tatwani,
Teh. Shahpur, Distt. Kangra, HP.
23. Khazana Ram, AFO (M)
S/o Shri Phaganu Ram,
Aged about 51 years,
O/0 The DIG CTC, SSB, Sapri

Post & Teh. Jwalamukhi,
Distt. Kangra (HP)-176031
R/O Village- Luhakhar (Kapahi)
PO Kapahi, Teh. Sadar,
Distt. Mandi, H.P.

24. Ashitava Basu Mazumdar
S/O Late Santi Ranjan Basu Majumdar
Aged about 40 years,
O/O The Area Organiser, SSB,
Madhubani Bihar.
R/o 113 Costad, Amir Khand Sarani,
Kolkata, WB.
25. Subodh Sinha, SFA (M),
S/o Late Sudhansu Sinha,
Aged about 45 years,
O/O The Area Organiser, SSB,
Madhubani Bihar.
R/o New Town Jalpaiguri,
PO & Distt. Jalpariguri, WB.
26. Pradip Kumar Dey, AFO (M)
S/o Late J.N.Dey,
Aged about 52 years
O/O The I.G. Frontier Head Quarter,
SSB, Siliguri,
Distt. Darjeeling (W.B)-734006
R/o Village- East Rabindra Nagar,
PO Rabindra Sarani, Siliguri,
Distt. Darjeeling, West Bengal.
27. Jayant Kumar Sarkar, AFO (M)
S/o Late Naresh Chandra Sarkar,
Aged about 51 years,
O/O The Sub Area Organiser under Area
Organiser, SSB, Birpur,
Distt. Supaul (Bihar)
R/o Village Santi Para, PO & Distt.Jalpaiguri,
West Bengal.
28. Sumit Poddar, SFA (M)
S/o Late Sachidra Nath Poddar
Aged about 45 years
O/O The Area Organiser, SSB, Birpur,
Distt. Supaul (Bihar)-854340
R/o Village Asharampara,
PO & Distt. Jailpaiguri, West Bengal.
29. Bikash Chandra Dutta, SFA (M)

S/o Sh. Jitendra Nath Dutta,
Aged about 47 years,
0/0 The Area Organiser, SSB, Birpur,
Distt. Supaul (Bihar)-854340
R/o Sukanta Nagar, PO Rabindra Sarani,
Siliguri, Distt. Darjeeling, WB.

30. Pratap Kumar Banarjee, AFO (M)
S/o Late Sushil Kumar Banarjee
Aged about 54 years,
0/0 The Sub Area Organiser, SSB,
Thakurganj under Area Organiser,
SSB, Kishanganj (Bihar).
R/o 58/9, Bakshara Road,
Distt. Howrah, WB.
31. Gajendra Singh Pawar, SFA (M)
S/o Shri Meharwan Singh Panwar,
Aged about 53 years,
CI & JW School, SSB, Gwaldam,
Distt. Chamoli (Uttarakhand)-246441
Vill & Post- Gwaldam Teh- Tharali,
Distt-Chamoli (UP).
32. Bhagat Singh Rawat, SFA (M)
S/o Sh.Hayat Singh Rawat,
Aged about 49 years,
CI & JW School, SSB, Gwaldam,
Distt. Chamoli (Uttarakhand)-246441
Vill & Post- Gwaldam Teh-Tharali,
Distt- Chamoli (UP).
33. Jagdish Chandra Arya, SFA (M)
S/o Late Jaint Ram,
Aged about 53 years,
CI & JW School, SSB, Gwaldam,
Distt. Chamoli (Uttarakhand)-246441
R/o Village- Bhumkiya PO &
Teh Dwarahati, Distt- Almora (UP)
34. Pradeep Kumar Sharma, SFA (M)
S/o Shri Harish Chandra Sharma,
Aged about 54 years,
CI & JW School, SSB, Gwaldam,
Distt. Chamoli (Uttarakhand)-246441
R/o Vill Kamoli Post- Suyalrari,
Distt- Nanital (UP).
35. Hem Kumar Gurung, AFO (M)
S/o Shri Bishnuman Gurung,

Aged about 51 years,
0/0 The SAO, SSB, Darap (Geyzing)
Under A.O SSB, Sikkim Post. Geyzing
Distt. West Sikkim
R/o Chamong TE, Kothi Gaon,
PO Pokhriabong, Distt. Darjeeling, WB.

36. Binay Bebnath, SFA (M)
Late Bindu Bhushan Debnath
Aged about 50 years
0/0 The SAO, SSB, Darap (Geyzing)
Under A.O SSB, Sikkim Post. Geyzing
Distt. West Sikkim
R/o VPO-Baragadaikhora,
Distt. Coochbihar, West Bengal.
37. Ramani Kant Baruah, SFA (M)
S/o Late Tankeswar Baruah,
Aged about 39 years,
0/0 The SAO, SSB, Darap (Geyzing)
Under A.O SSB, Sikkim Post. Geyzing
Distt. West Sikkim
R/o Patalshing Para Post-Aulachowka,
Distt. Darrang (WB).
38. Nikhil Kumar Sarkar, SFA (M)
S/o Sh. Sushil Kumar Sarkar
Aged about 48 years,
0/0 The SAO, SSB, Darap (Geyzing)
Under A.O SSB, Sikkim Post. Geyzing
Distt. West Sikkim
R/o Vill-Ambika Nagar,
Post & Dt. Jalpaiguri (WB)
39. Sanjeeb Dolai, SFA (M)
S/o Sh. Haldar Ch Doloi,
Aged about 41 years,
0/0 The AO, SSB, Sikkim, PO-Gangtok,
Distt, East Sikkim R/o Vill-Paschim Baita
Post-Bhagirathpur Distt. Maidinipur (W.B)
40. Mrs. Chhaya Rani Das, AFO (M)
D/o Late Nani Gopal Saha
Aged about 52 years
0/0 The AO, SSB Darjeeling
R/o Vill- Ghela Bari Post.Shrusutnagar,
Distt.Darjeeling (WB).
41. Kaushik Dey, SFA (M)
S/o Late Kanailal Dey

Aged about 52 years,
O/o The AO, SSB, Darjeeling,
R/o VPO- Oodalabari,
Distt. Jalpaiguri, WB.

42. Indrajit Roy Basunia
S/o Late J.N.Roy Basunia
Aged about 52 years,
O/o The AO, SSB, Darjeeling,
R/o Village Jadavpally,
Post Falakata, Distt. Alipurdwar, WB.
43. Chandan Singh Gusain, AFO (M)
S/o Late Lakhmal Singh
Aged about 49 years
O/o The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o Vill- Seul Post-Pudiyal Gaon,
Teh & Distt Tihri Garwal.
44. Grish Chandra Joshi, SFA (M)
S/o Jagdish Chandra,
Aged about 49 years,
O/o The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o VPO & Distt. Almora (UP).
45. Ramesh Chander Kabadwal, SFA (M)
S/o Hari Dutta,
Aged about 54 years,
O/o The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o Vill & Post-Maisi Dt-Almora.
46. Kalam Singh Rawat, SFA (M)
S/o Lal Singh Rawat,
Aged about 51 years,
O/o The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o Vill-Jugju Post-Rani the Joshi Math
Dt-Chamoli (UP).
47. Om Prakash Sriwastav, SFA (M)
S/o Late Bhola Nath
Aged about 55 years
O/o The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o Plot No.-11 Shivalik Enclave
Pandit Purwa Indra Nagar,
Lucknow (UP).

48. Ram Pratap Singh, SFA (M)
S/o Jai Dev Singh
Aged about 48 years,
0/0 The I.G. Frontier Hqrs, SSB,
Lucknow (UP)
R/o Vill-Baghawn Post-Salempur Baghain
Distt-Ghazipur (UP)
49. Kuldip Chanda, AFO (M)
S/o Late Hansraj Sharma
Aged about 52 years
0/0 The A.O, SSB, Bhinga (UP)
R/o VPO-Muhal Teh-Dehra
Distt-Kangra H.P.-177117
50. Puran Chandra Upreti, SFA (M)
S/o Late Hari Ballabh Upreti,
Aged about 49 years,
0/0 The A.O. SSB, Pithoragarh
(Uttarakhand).
R/o Vill-Paithana Post-Syalde,
Dt. Almora (UP).
51. Kumar Kishore Naha, SFA (M)
S/o Lt. Anil Kumar Naha,
Aged about 48 years,
ATC, SSB, Ranidanga (W.B)
R/o Post & Vill-Phansidewa,
Distt. Darjeeling, PIN-734434
52. Sh. Sandip Chatterjee, SFA (M)
S/o Late S.K.hatterjee
Aged about 46 years,
ATC,SSB, Ranidangag,
Dt-Darjeeling (W.B)
R/o 4/Aryasamity Lance, Deshbandhu Pura,
Distt.Darjeeling, Siliguri-734004
53. Sh. Amitava Roy, SFA (M)
S/o LT. Ashim Kumar Roy,
Aged about 40 years
ATC, SSB, Ranidangag,
Dt-Darjeeling (W.B)
R/o South Bandhu Para,
P.O- Siliguri Town,
Distt- Jalpaiguri, Pin-734004
54. Biswajit Roy, AFO (M)
S/o Late Indubhusan Roy

O/O The D.I.G,S.H.Q, SSB,
Muzaffarpur, Near S.K.M.C.
P.O : Umanagar, Dt: Muzaffarpur,
Bihar., Pin-842004
R/9 Ward No.9, PO: Mathabhanga,
DT: Coochbehar.

55. Smt. Kanchan Sarkar, SFA (M)
W/o Sh.Biswajit Roy,
Aged about 47 years
O/O The D.I.G,S.H.Q, SSB,
Muzaffarpur, Near S.K.M.C.H
P.O : Umanagar, Dt: Muzaffarpur,
Bihar., Pin-842004
R/o Ward No.9, PO: Mathabhanga,
DT: Coochbehar.
56. Anjana Das, SFA (M)
D/O Lt. Sachindra Ch.Das
Aged about 43 years
O/O The SAO, SSB, Naxalbari
Under Darjeeling Area Dt- Darjeeling (WB)
R/O Harendra Narayan Road,
Bye Lane, Lichutala,
PO & Distt-Cooch Behar, Pin-736101
57. Tapas Thakur, SFA (M)
S/o Lt.Sachindra Nath Thakur,
Aged about 47 years
O/O The SAO, SSB, Naxalbari
Under Darjeeling Area
Dt. Darjeeling (W.B)-735221
R/O Mal North Colony,
PO- Mal, DT- Darjeeling (W.B).
58. Dinesh Kumar Sharma,AFO (M)
S/o Sh. B.D.Sharma
Aged about 49 years
O/O The AO, SSB, Rangia
DT. Kamrup (Assam)
R/O C-8/46A Keshavpuram,
Delhi-110035.
59. Y.P.Singh, SFA (M)
S/O Sh. Bir Pal Singh,
Aged about 47 years
O/O AO, SSB, Pilibhit, U.P.
R/O J-213, Pratap Vihar,
Sec-12, Ghaziabad, UP

60. C.P.Singh, AFO (M)
 S/O Late Sh.Harendra Singh,
 Aged about 54 years,
 O/O AO, SSB, Pithoragarh,
 Uttrakhand,
 R/O Village Adra Post Khulsari,
 Distt. Chamoli, Uttrakhand-246481. ..Applicants

(Argued by: Mr. M.K.Bhardwaj, Advocate)

VERSUS

Union of India & Ors through:

1. The Secretary,
 Ministry of Home Affairs,
 North Block, New Delhi.
2. The Director General,
 Sashastra Seema Bal,
 East Block, RK Puram,
 New Delhi.
3. The Secretary,
 Govt. of India,
 Ministry of Personnel, Public Grievances
 & Pension,
 North Block, New Delhi. ... Respondents

(By Advocate: Mr. D.S.Mahendru)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The sum and substance of the facts and material, which needs a necessary mention for deciding the core controversy involved in the instant Original Application (OA), and emanating from the record, is that applicants, Atma Prakash Dixit and Others (Civilians) are working as Senior Field Assistant Medical [SFA(M)] and Assistant Field Officer Medical [AFO(M)] in paramedic cadre in Sashastra Seema Bal (SSB). The next promotional post of SFA (M) is

AFO(M) and of AFO(M) is Deputy Field Officer Medical [DFO(M)]. They were stated to have been meted out with hostile discrimination in the matter of promotional avenues as compared to Telecommunication and General Cadre without any justification. It was alleged that in combatised cadre, an individual who joins as Constable may go upto the level of Commandant in the Grade Pay of Rs.8700/-, whereas the applicants' promotional avenues have been restricted upto the level of DFO (M), i.e., Grade Pay of Rs.4200/-. They filed the representations dated 21.03.2011 (Annexure A-2), dated 02.06.2011 and 22.07.2011 (Annexure A-5 Colly) but in vain, even despite the recommendations of Parliament Standing Committee Report dated 27.02.2007 (Annexure A-10).

2. The applicants' have preferred the instant OA under Section 19 of the Administrative Tribunals Act, 1985, challenging the impugned action of the respondents, in not reviewing and implementing cadre review of SFA (M) and claimed consequential promotions to the level of Deputy Director (M) with all consequential benefits on the parity of combatised personnel.

3. The respondents have refuted the claim of the applicants and filed their reply, wherein it was pleaded as under:-

"That the cadre review is to be conducted after every five years as per instruction of DOP&T. The administrative control of SSB was shifted from Cabinet Secretariat to Ministry of Home Affairs (MHA) in the year

2001 and assigned the role of Border Guarding Force. After shifting of administrative control of SSB, a policy decision was taken by MHA that no recruitment will be made in the Force against any civilian post(s) in any cadre. The civilian cadres will be phased out in due course of time as and when the present incumbents vacate such posts and the vacancies in these cadres will be filled in by the combatised personnel at the initial recruitment level. However, as per restructuring of SSB, the remaining non-combatised posts i.e. 2765 posts shall continue to remain non-combatised and the incumbents of these posts will continue as per the existing terms and conditions of the relevant Recruitment Rules as per MHA letter No. 42/SSB/Pers-V/2011/Pers.III dated 19.12.2011.

That as far as the claim of the applicant to create separate channel for promotion of AFO (M) to DFO (M) is concerned, it is to mention here that as per the Statutory Recruitment Rules notified by Govt. of India, the AFO(M), Pharmacist and Lab. Technicians with 5 years service in the grade are eligible for promotion to the post of DFO(M).

That on promotion as DFO(Medic), it is the responsibility of the Department to utilize their service in organization's interest. Therefore, the claim of the applicants to create separate channel for promotion to the rank of DFO(M) (excluding the feeder post of Lab Technician and Pharmacist) is not justifiable and rational as per the existing Recruitment Rules duly notified by Govt. of India."

4. Virtually acknowledging the factual matrix and reiterating the validity of the above mentioned policy decision as per MHA letter No.42/SSB/Pers-V/2011/Pers.III dated 19.12.2011, the respondents have stoutly denied all other allegations and grounds contained in the OA and prayed for its dismissal.

5. Controverting the pleadings of the reply of the respondents and reiterating the grounds contained in the OA, the applicants have filed their rejoinder. That is how we are seized of the matter.

6. Having heard the learned counsel for the parties and having gone through the records with their valuable help, we are of the firm view that there is no merit in it and as such the instant OA deserves to be dismissed for the reasons mentioned hereinbelow.

7. Ex-facie, the argument of learned counsel for the applicants that since they (the applicants) are entitled to get promotion upto the level of Deputy Director (M) on the parity with members of combatised, general and telecom cadre, is not only devoid of merit but misplaced as well.

8. As is evident from the records that applicants are civilian and holding the posts of SFA(M) and AFO (M) and the promotional hierarchy in their cadre is as under:-

General Cadre	Telecom	Medical
Field Assistant	Field Assistant	
Sr. Field Assistant	Sr. Field Assistant	Sr. Field Assistant
Assistant Field Officer	Assistant Field Officer	Assistant Field Officer
Dy. Field Officer	Dy. Field Officer	Dy. Field Officer
Field Officer	Field Officer	Channel Block
Sr. Field Officer	Sr. Field Officer	
Assistant Director/JAO	Assistant Director/JAO	
	Dy. Director	

9. According to the hierarchy, the next promotional post of Field Assistant is Sr. Field Assistant, then Assistant Field Officer, then Deputy Field Officer, then Field Officer, then Sr. Field Officer and Assistant Director/JAO in case of General Cadre and upto Deputy Director in Telecom Cadre, whereas in the case of SFA (Medical), there is no post of Field Officer and above. They are directly appointed as Sr. Field Assistant. Their next promotional posts are of (i) Assistant Field Officer (M) and (ii) Deputy Field Officer (M). The applicants claim that they are also entitled to the same

channel of promotion as in the case of General and Telecom Cadres.

10. On the contrary, the specific case of the respondents is that after shifting of administrative control of SSB from Cabinet Secretariat to Ministry of Home Affairs (MHA), a policy decision was taken by MHA that no recruitment will be made in the Force against any civilian post(s) in any cadre. The civilian cadres will be phased out in due course of time as and when the present incumbents vacate such posts and the vacancies in these cadres will be filled in by the combatised personnel at the initial recruitment level. However, as per restructuring of SSB, the remaining non-combatised posts shall continue to remain non-combatised and the incumbents of these posts will continue as per the existing terms and conditions of the relevant recruitment rules as per MHA's letter dated 19.12.2011. The respondents have specifically explained that as per statutory recruitment rules notified by the Government of India, the AFO(M), Pharmacist and Lab. Technicians with 5 years service in the grade are eligible for promotion to the post of DFO (M).

11. Therefore, once a policy decision was taken by the MHA that no recruitment rules will be made in the Force against any civilian post(s) in any cadre, the civilian cadres will be phased out in due course of time as and when the

present incumbents vacate such posts, such vacancies will be filled up by the combatised personnel at the initial recruitment level as per recruitment rules and the present civilian incumbents on the posts would work as per existing rules. In that eventuality, the claim of the applicants (dying cadre) to create separate channel for promotion, indeed cannot legally be accepted, albeit contrary urged on their behalf.

12. There is yet another aspect of the matter which can be viewed entirely from a different angle. It is not a matter of dispute that the Government has taken a definite policy decision to phase out the civilian posts in due course of time, which will be filled in by combatised personnel at the initial recruitment level under the relevant recruitment rules. Therefore, this Tribunal has no jurisdiction to interfere with the policy decision taken by the Government. It is now well settled principle of law that the scope of judicial review in policy matters is very limited. The correctness of the reasons which prompted the government in decision making, taking one course of action instead of another is not a matter of concern in judicial review and the court is not the appropriate forum for such investigation.

13. Equally it is now well recognised that while exercising the power of judicial review of administrative action, the court is not the appellate authority and the Constitution

does not permit the court to direct or advise the Executive in matters of policy or to sermonise on any matter, which under the Constitution lies within the sphere of the Legislature or the Executive as the case may be. The court can only interfere in such policy decisions, if the same are against any statutory provision or in violation of fundamental right of a citizen and not otherwise, which are totally lacking in the present case. The court has no jurisdiction to substitute its own decision in place of the Executive's decision. Reliance in this regard can be placed to a celebrated judgment of Apex Court in **Ekta Shakti Foundation Vs. Government of NCT of Delhi (2006) 10 SCC 500.**

14. Therefore, neither the applicants have locus standi to challenge nor this Tribunal has jurisdiction to interfere, in the indicated policy decision of the Government. The contrary arguments, of the learned counsel for the applicants *stricto sensu* deserve to be and are hereby repelled. The ratio of law laid down in the indicated judgment of Hon'ble Apex Court is *mutatis mutandis* applicable in the present controversy and is a complete answer to the problem in hand.

15. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

16. In the light of the aforesaid reasons, as there is no merit, the instant OA is hereby dismissed. However, the parties are left to bear their own costs.

(K.N. SHRIVASTAVA)
MEMBER (A)
20.10.2016

(JUSTICE M.S. SULLAR)
MEMBER (J)
20.10.2016

Rakesh