

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

M.A. No. 350/00418/2018
O.A. No. 350/00835/2018

Date of Order: 14.06.2018

Present: Hon'ble Mrs. Manjula Das, Judicial Member

1. Asish Mukherjee, son of Sri Satyanarayan Mukherjee, aged about 41 years, residing at 21, A.D. Pal Road, Flat No. 5D (4th Floor), Uttarpara, District – Hooghly, Pin – 712258.
2. Tapan Kumar Sarkar, son of Pranesh Chandra Sarkar, residing at Sreenagar, Garia, P.O.– Dhalua, P.S. – Sonarpur, District – 24-Parganas (South), Kolkata – 700152.
3. Debjit Das, son of Narayan Chandra Das, residing at M.A. Sarani, Siliguri Ashrampara, Darjeeling, Pin – 734001.
4. Bidyut Dhar, son of Sri Badal Baran Dhar, residing at 37, Jogendra Basak Road, Baranagar (M), District – North 24-Parganas, Pin – 700036.
5. Rajeev Kumar, son of Sahadeo Kumar, residing at A-4, 102/A/56, Haradhan Chandra Banerjee Lane, Konnagar, Uttarpara, District – Hooghly, Pin – 712235.
6. Amitava Choudhury, son of Late Amulya Chowdhury, residing at G-42/2, G.T. Road, Baranilpur More, P.O.– Sreepally, District – Burdwan, Pin – 713103.
7. Debasish Bala, son of Dinabandhu Bala, residing at Gopalganj Road, North Barrackpore (M), Bengal Enamel, District – 24-Parganas (North), Pin – 743122.
8. Rajib Pal, son of Bibhas Chandra Pal, residing at Chinsurah Farm Side Road, P.O.– Chinsurah, P.S. Vidyabhaban Pally, Pin – 712102.
9. Kartick Chandra Defadar, son of Netai Chandra Dafadar, residing at Tantipara, P.O.– Katwa, District – Burdwan, Pin – 713130.
10. Murari Mohan Das, son of Narendra Nath Das, residing at Boro Badamtala, Chandannagore, District – Hooghly, Pin – 712136.

11. Subhas Chandra Das, son of Subodh Chandra Das, residing at Chakdaha, Chanduria, District – Nadia, Pin – 741248.
12. Rabin Naskar, son of Binanda Naskar, P.S. – Bishnupur, District – 24-Parganas (North), Pin – 743503.

All are working as Assistant under the respondents.

.....Applicant.

-vs-

1. Union of India, represented through the Secretary to the Government of India, Ministry of Labour & Employment Department, Rafi Marg, Shramshakti Bhawan, New Delhi – 110001.
2. The Director, Employees State Insurance Corporation, Panchadeep Bhawan, C.I.G. Road, New Delhi – 110002.
3. Additional Commissioner & Regional Director, Employees State Insurance Corporation, Regional Office, Kolkata – 700012.

.....Respondents.

For the Applicant : Mr. A. Chokraborty

For the Respondents : None



ORDER (ORAL)

Per Mrs. Manjula Das, Judicial Member:

M.A. No. 350/00418/2018 filed by 12 applicants seeking permission to move the O.A. No. 350/00835/2018 jointly as per Rule 4(5)(a) of the CAT (Rule) 1987 is allowed.

2. Being aggrieved, the applicants have filed the instant petition under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“8.(a) An order do issue directing the respondents to restore the seniority of the applicants considering as UDC from the date of their joining in West Bengal Region in case of non-availability of such post on that date, supernumerary vacancy may be created.

(b) An order do issue directing the respondents to re-fix the pay notionally from the date of their joining in West Bengal Region as UDC and to give monetary benefit from the date of their actual joining as UDC in the Region.

(c) An order do issue directing the respondents to convene Review DPC for the post of Assistant considering the applicants as UDC w.e.f. the date of their joining in West Bengal Region and to give notional/actual benefit according to their revised promotional fixation in the cadre of Assistant.

(d) An order do issue directing the respondents to grant benefit of the Judgment passed by Hon'ble Apex Court in CAN 4611 of 2013.

(e) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper.”

3. The facts in a nut shell as per Mr. A. Chokrabarty, learned counsel for the applicants are that the applicants were initially appointed as LDC outside West Bengal Region. They were promoted to the post of UDC on regular basis with effect from 2004. According to learned counsel, all the applicants applied for Inter-Regional Transfer for West Bengal Region and the competent authority also approved Inter-Regional Transfer by posting them as LDC in the West Bengal Region.

4. Learned counsel submits that at the time of transfer, the applicants were working as UDC in different Regions other than West Bengal Region. When the Inter Regions Transfer was to be effected, the applicants had already become

UDC but inspite of that, they were sought to be transferred to West Bengal Region as LDC. After joining as LDC, they again appeared in Limited Departmental Competitive Examination for promotion to the post of UDC and they were declared successful. The applicants being accepted the post of LDC in West Bengal Region awaiting promotion inasmuch as after being successful in the Department Examination, they become entitled to get promotion.

5. To substantiate the case, the learned counsel for the applicants relied the decision of Hon'ble Apex Court passed in the case of **The Regional Director, Employees State Insurance Corporation & Anr. S. Soumitra Sengupta & Ors. in Civil Appeal No. 4611 of 2013**, para 6 and submits that in the light of the said decision, applicants' case can be considered by directing the respondents to consider and dispose of the representations made by the applicants as the nature of grievance and relief of the applicants is similar with the aforesaid case.



6. I have heard the learned counsel for the applicants. Perused the pleadings and decision relied upon. I have gone through the decision of Hon'ble Apex Court rendered in the case of **Soumitra Sengupra (supra)** where the Hon'ble Court at Para 6 held as under:-

“6. Subject to the above modification, the appeal is dismissed. The consequential orders shall be passed within a period of three months from today. For the purpose of passing the order, if required, a supernumerary post in the cadre of UDC will be treated as created from the date of transfer of the first respondent to Orissa till he actually became UDC through route. For removal of any other difficulty, it is made clear that the actual monetary benefits will be accrued to the first respondent only from the date of his actual promotion to the UDC in the year 2011. Till such time, the benefit will

only be notional in the sense that the first respondent will get restoration of seniority and refixation of pay and such other benefits except the monetary benefits.

7. As the learned counsel for the applicants' prays that the applicants' case can be considered in the light of the para 6 of the aforesaid case by directing the respondents to consider and dispose of the representations made by the applicants as the nature of grievance and relief of the applicants is similar, by accepting the said prayer and without going into the merit of the case, I direct the respondent authorities to consider and dispose of the representations made by the applicants on various dates within a period of three months from the date of receipt copy of this order.

8. It is made clear that, whatever decision to be arrived by the respondent authorities, shall be a reasoned and speaking and shall be communicated to the Applicant forthwith.



9. With the above observation and direction, O.A. stands disposed of accordingly. No order as to costs.

(Manjula Das)
Member (J)