



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

Original Application No. 040/00271/2016

Date of Order: This, 26th day of September, 2019

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

1. Sri Prasanjit Poddar, son of Sunil Baran Poddar, aged about 41 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block – CP, Sector – V, Salt Lake City, Kolkata – 7000091, residing at EB-217, CPWD Quarter, Salt Lake City, Kolkata – 700091.
2. Sri Chuni Gopal Sankar, son of Late Monomahan Sarkar, aged about 43 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block-CP, Sector – V, Salt Lake City, Kolkata – 700091, residing at Vill. Shaktipur, P.O. Agarpara, Dist. 24-Paraganas (North), Kolkata – 700109.
3. Sri Sajal Sarkar, son of Late Sumantra Sarkar, aged about 52 years, working for gain as Upper Division Clerk, Office of the Director, national Test House (ER), Block – CP, Sector – V, Salt Lake City, Kolkata – 700091, residing at JC – Block, Qtr. No. 565, P.O. I.B. Market Lake City, Kolkata – 700106.

4. Smt. Bijaya Biswas, daughter of Late Kamal Ranjan Kirtania, aged about 49 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at EB - 227, Sector - I, Type - II, Salt Lake City, Kolkata - 700064.
5. Sri Kamal Kanta Das, son of Late Ananta Kumar Das, aged about 46 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at C/O, Late Pannalal Seth, Dharsa Chowdhury Para, G.I.P. Colony, Howrah - 711112.
6. Sri Jayanta Deb Saha, son of Late Ranajit Kumar Saha, aged about 41 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at 202/2/A, Aawini pally School Road, P.O. & P.S. Barasat, Kolkata - 700124.
7. Smt. Tanushri Saha, daughter of Late Haradhan Adak, aged about 42 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at vill. Bagati, P.O. & P.S.

Mogra, Dist. Hooghly, Pin - 712148.

8. Smt. Sabita Das, daughter of Late Ananda Haldor, aged about 46 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at 16 - Bagmari Lane, Block - 12, Flat - 20, Industrial, Kolkata - 700054.
9. Shri Dhiman Mandal, son of Late Dharendra Nath Mandal, aged about 50 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at 579, Swaranika, Sreepally, Palta, P.O. Bengal Enamel, P.S. Nea para, Dist. 24 - Parganas (North), Pin - 743122.
10. Shri Dhruba Munshi, son of Shri Nandadulal Munshi, aged about 40 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt Lake City, Kolkata - 7000091, residing at 19, Netaji Lane, Badra North, P.O. Italgacha, P.S. - Dum Dum, Kolkata - 700079.
11. Smt. Ruma Yadav, daughter of Late Ranbindra Nath Basu, aged about 43 years, working for gain as Upper Division Clerk, Office of the Director, National Test House (ER), Block - CP, Sector - V, Salt



Lake City, Kolkata - 7000091,
residing at EB - 144, CPWD
Quarter, Salt Lake City, Kolkata -
700064.

12. Shri Parnundu Shekar Sarkar, son
of Shri Ganesh Chandra Sarkar,
aged about 47 years, working for
gain as Upper Division Clerk,
Office of the Director, National
Test House (ER), Block - CP,
Sector - V, Salt Lake City, Kolkata
- 7000091, residing at Ambedkar
Park (Rupnagar North), P.O. &
P.S. - Senarpur, Kolkata - 700150.
13. Shri Himanshu Nayak, son of Late
Bana Behari Nayak, aged about
49 years, working for gain as
Upper Division Clerk, Office of the
Director, National Test House (ER),
Block - CP, Sector - V, Salt Lake
City, Kolkata - 7000091, residing
at 50/5, swatinagar, Bag Peta
Road, P.O. Sarsuna, Kolkata -
700061.

... Applicants

-VS-

1. Union of India, service through
the Secretary to the Government
of India, Ministry of Consumer
Affairs, Food & Public Distribution,
Department of Consumer Affairs,
Krishi Bhavan, New Delhi -
110001.
2. The Director General, National
Test House, Salt Lake City, Kolkata
- 700091.



3. The Director, National Test House,
(ER), Kolkata, Salt Lake City,
Kolkata – 700091.
4. The Assistant Director
(O/L)/National Test House (ER),
Kolkata – 700091.

... Respondents

For the Applicants: Sri N.Roy

For the Respondents: Sri S. Banerjee

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

The 13 applicants have filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following prayers:-

"8.a) To issue direction upon the respondent to give promotion from the actual date of effective to the applicants forthwith.

b) To issue further direction upon the respondent to consider the promotion from the actual date of vacancy occurred to the applicants forthwith.

c) To issue further direction upon the respondent to consider the promotion from the actual date of vacancy is considered dated 03.01.2007 according to seniority list of UDC. So vacancy arises in the year 03.01.07.

d) To issue further direction upon the respondent to consider the case for promotion according to



DOPT circular dated 11.03.2011 and 28.01.15
forthwith.

e) Any other order/orders as the Ld. Tribunal deem
fit and proper.

f) To produce connected departmental record
at the time of hearing.

g) Leave may be granted to file this Joint
Application under Rule 4(5)(a) of the CAT
procedure, 1987."

2. The applicants stated that first applicant joined in
service as LDC in 1994. He was eligible for promotion to UDC in
2007 but he was promoted as such only on 2011. According to
the applicants, though the vacancy of UDC occurred in 2007
and the applicant was the senior most LDC in the feeder
cadre, DPC was not held and he was promoted only in 2011.
The applicants have not elaborated the details of
appointments of the other 12 applicants. They have only
mentioned their dates of eligibility for promotion to UDC and
their actual dates of such promotion. Relying of DOPT Circular
dated 11.03.2011 the applicants submitted that the DPC was to
be convened at least two months before the commencement
of the vacancy year, however, in the case of the applicants
the DPCs were not held in time and were held much belatedly
resulting in much delayed promotion. The applicant no.1 had



submitted various representations for antedating his date of promotion to the occurrence of vacancy but the same was considered not on merits.

3. The respondents have filed their written statements. According to the respondents, due to certain administrative compulsion and owing to the revision of Recruitment Rules after the 6th CPC, promotions to the posts of Office Superintendents were kept suspended as there was a policy of merging the erstwhile Asstt. Post with the post of O.S. and as no promotions were made in the hierarchical cadre, resultant vacancies did not accrue in the lower feeder cadre of Asstt. i.e., UDC. Respondents admitted that post of UDC fell vacant on 03.01.2007 due to promotion of Sutapa Chowdhury to Assistant, however, the vacant post of UDC was transferred to NTH (NWR), Jaipur vide HQ letter dated 29.01.2007. Respondents contended that such decisions are policy decisions of Head of the Department of Government in the public interest and cannot be challenged for personal interests in any manner. When the next vacancy of UDC occurred, applicant no.1 was promoted to UDC on 15.07.2011.



4. We have heard the learned counsel for the parties, perused the pleadings and documents placed on record.

5. We found that the applicants have not provided the detailed information of all the applicants regarding their service details like their dates of appointment and no documents was annexed in the pleadings as regards applicant nos. 2 to 13. They have only annexed a table of the applicants showing their due dates of promotion and actual promotion. Without verifying the details, such contentions as regards applicant nos.2 to 13 cannot be appreciated. We have also found that the representation of applicant no.1 was disposed of by the respondents not on merits. Therefore, we deem it fit and proper to direct the respondents to consider the prayers of the applicants on merits.

6. Accordingly, the applicants are directed to make comprehensive representation before the respondent no.2 ventilating their grievances within a period of one month from the date of receipt of this order. On receipt of such representation, the respondent.2 shall consider and dispose of the same on merits, as per rules, by passing a reasoned and speaking order within a period of two months thereafter.



Needless to mention that the speaking order to be passed shall be communicated to the applicants forthwith.

7. OA is disposed of accordingly. No costs.

(NEKKHOMANG NEHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

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