

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA 466/2017

Sub/Clk Sarvottam Kumar (Retd)

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant ~ Mr. H.S. Tiwari, Mr. S.S. Pandey Advocates

For Respondents ~ Dr. V.S. Mahndiyani, Advocate for R1-3

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the instant OA has been filed with the following prayers :-

- a) *Call for the records including the result of the DPC 2012 based on which the respondents have promoted respondents No. 4 (by wrongly giving him marks for VCOAS commendation awarded to him illegally), in place of Sub/Clk Thakur Dass for the DPC 2012 held in Nov 2011 and denying the applicant the marks assigned for field service for the DPC 2012 and DPC 2013 resulting in his non promotion alongwith records based on which the statutory complaint was rejected vide order dated 17.05.2016 and thereafter quash all such orders.*
- b) *Direct the respondents to treat the promotion of Sub/Clk Thakur Dass from the vacancy available for DPC 2012 by*

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*applying the norm of waiver and consider the case of the applicant afresh using the field service marks otherwise entitled to the applicant against the DPC 2013 and if he is found high as compared to all other JCOs, whether he was above Sub/Clk Thakur Dass or not, he may be granted all consequential benefits of such promotion including back wages, continuity of service, seniority, honorary commission etc.*

### FACTS OF THE CASE

2. The applicant who was a soldier in the Rajput Regiment of the Indian Army was enrolled on 04.10.1983. On completion of his basic military training, he proceeded to 19 Rajput and later he continued to get his promotions as per his service profile and competence. He was considered for the promotion to Sub Maj by Departmental Promotion Committee (DPC) held on 11.11.2011 and 29.11.2012 for the year 2012 and 2013 respectively. However, the applicant did not find his place in the merit for promotion in both the DPCs and, therefore, he was superseded for promotion to the rank of Sub Maj and he retired as a Sub having been transferred to pension establishment on 31.11.2013. As per Para 14 of the appendix 'C' of the policy letter issued vide IHQ of MoD Army letter No. B/33513/ AG /PS-2 (P) in

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dated 10.10.1997, a JCO is given maximum of three chances/consideration by the DPC for the promotion to the rank of Sub Maj from the time he meets all the criteria for consideration by the DPC as long as he continues to remain in service. Under exceptional circumstances wherein a candidate does not meet certain criteria the individual may be given only two chances instead of three chances. The applicant submitted a statutory complaint dated 18.10.2013 against his supersession in DPC 2012 and DPC 2013 held on 11.11.2011 and 27.11.2012 respectively to the competent authority i.e Chief of the Army Staff (COAS) which was rejected vide their letter dated 17.05.2016 being devoid of merit.

### ARGUMENTS ON BEHALF OF THE APPLICANT

3. Learned counsel for the applicant submits that the respondents have committed great injustice and illegality wherein they have deliberately extended undue favour to respondents No. 4, namely, Sub Maj Radhey Shyam (JC 479577M) by granting him promotion to the rank of Sub Maj and denying a fair consideration for promotion to the applicant to the said rank in the DPC of 2012 and 2013 which were held in the month of November 2011 and 2012 respectively which is unreasonable and

violation of fundamental rights granted to him under Article 14,15,16 and 21 of Indian Constitution.

4. Learned counsel further submits that the applicant came to know post validation from the records that his name figured in the DPC held in November, 2011 alongwith his other batch mates including, namely, Sub/Clk Thakur Dass, Sub/Clk Raja Ram Yadav and Sub/Clk Radhey Shyam etc. Before holding the DPC, the Records Office had decided to approve the name of Sub/Clk Radhey Shayam as there was only one vacancy.

5. It is further alleged that when the proceedings were prepared by the Records office of the Regiment they found that name of Sub/Clk Radhey Shayam was figuring at 4<sup>th</sup> or 5<sup>th</sup> position and Sub/Clk Thakur Dass was number one in the order of merit based on the quantification system. Later on, Records the Rajput Regiment (Respondent No. 3) decided to drop the name of Sub/Clk Thakur Dass deliberately and illegally to give chance to the candidate of their choice on the grounds that Sub/Clk Thakur Dass lacked mandatory numbers of Regimental Confidential Reports.

6. It was further submitted that this was done instead of granting him waiver as is the norm followed for several persons to make them fit for consideration by the DPC and to remove Sub/Clk



Thakur Dass from contention but despite that Respondent No. 4 was not coming up for the promotion in the merit list.

7. He further argues that it was an act of manipulation wherein respondent No. 4 was granted out of turn Vice Chief of the Army Staff (VCOAS) Commendation Card without any citation and even without VCOAS visiting the Unit where the respondent No. 4 was serving in Nov 2011. He submits that as per the policy the VCOAS Commendation is only awarded to an individual who is posted in Army HQ or the VCOAS visits the concerned unit himself but none of the conditions were met. This award just before the DPC was deliberately manipulated to enhance the merit of respondent No. 4 thereby bringing him up to the top of the list to grant him promotion ahead of the other candidates.

8. Ld Counsel for Applicant further submits that if Sub/Clk Thakur Dass was lacking Regimental Confidential Report it was primarily due to the mismanagement on part of the Records Office as he was likely to come up for promotion and for which the Regimental Report was mandatory. Therefore, there was no logic in allowing the individual to continue on Extra Regimental Employment (ERE).

9. In such cases, he further submits that it is the responsibility of the Records to apprise the affected individual about his non ineligibility and to revert him to regimental duty to enable him to earn the mandatory Regimental Confidential Report to avoid any supersession on the ground that he lacked requisite number of Regimental Confidential Reports.

10. He further canvasses that if Sub/Clk Thakur Dass could not be reverted back from ERE to Regimental duty to earn Regimental Confidential Report due to organisational interest or any other obvious reasons, there are clear cut provisions to grant a waiver to the requirement of Regimental Confidential Reports by the Competent authority i.e., Officer- in-Charge Records which have not been complied with in this instant case by the Records Rajput Regiment due to malafide and deliberate intent to promote a preferred candidate i.e. Sub/CLK (now Sub/Maj) Radhey Shyam. It is in stark contrast that provisions of waiving of the requirement of Regimental Confidential Report applied in a case of another JCO, namely, Sub Jagroop Singh Parihar of the same Regiment in the same DPC held in Nov 2011 whereas the same was not done in case of Sub/Clk Thakur Dass.

11. It is further submitted by learned counsel for the applicant that Sub/Clk Radhey Shyam was not in the merit even after dropping of the name of Sub/Clk Thakur Dass and therefore through the illegal method he managed to get the instant VCOAS Commendation Card just during the process of the DPC in the month of Nov 2011 whereas it is normally awarded to eligible personnel only on 15 January and 15 August of every year and also that VCOAS was not authorized to award the Commendation Card to Sub/Clk Radhey Shyam as he was posted with 17 Rajput which was deployed under the jurisdiction of Western Command and VCOAS, under the policy laid down, can award the commendation card to personnel who are under the Administrative control of Army HQ or during his physical visit to particular unit/formation.

12. In the instant case, he submits that neither his unit was under the Administrative control of the Army HQ nor the VCOAS had visited his formation. Hence, it was a clear case of use of influence/reference of some senior officer(s) to grant VCOAS commendation to Sub/Clk (now Sub Maj) Radhey Shyam primarily to give him the advantage over other candidates for promotion to

the rank of Sub Maj which is illegal and clear cut use of unfair means.

13. Learned counsel for the applicant further argues that Sub/Clk Thakur Dass was ahead in the merit compared to Sub/Clk (now Sub Maj) Radhey Shyam. Sub/Clk (now Sub Maj) Radhey Shyam by virtue of being awarded a VCOAS Commendation Card just before the conduct of DPC was placed ahead of the applicant. Even though he was behind Sub/Clk Thakur Dass whose name was dropped in the DPC with the plea that he lacked the requisite Regimental Confidential Report whereas the other JCOs as lacking Regimental Confidential Reports were screened in the DPC by granting them a waiver, while no waiver was granted to Sub/Clk Thakur Dass thereby placing Sub Maj Radhey Shyam as the preferred candidate for promotion to the rank of Sub Maj.

14. Learned counsel further submits that all this favour extending exercise resulted in applicant being a sufferer as he had a fair chance of making the mark for promotion by DPC 2012 but due to the unfair advantage granted to Sub/Clk (now Sub Maj) Radhey Shyam in DPC 2011 his chances were stalled and even the deserving candidate Sub/Clk Thakur Dass promotion was postponed till DPC 2012 thereby taking away the opportunity

from the applicant as in the event of Sub/Clk Thakur Dass getting his well deserved promotion in DPC 2012, the applicant would have been promoted in DPC 2013 which is verifiable from the records.

15. Learned counsel for the applicant represents that the applicant was deployed in a High Altitude Area (HAA) in Sikkim from 04.09.2008 to 04.06.2009 for which documentary evidence exists in form of Part II orders published by the unit. It is the case of the applicant that marks awarded in the DPC for service in HAA have not been taken into consideration in his case thereby placing him at disadvantage in the DPC with respect to his order of merit. If the marks had been awarded; he would have been placed at a higher order in the merit list.

#### **ARGUMENTS ON BEHALF OF THE RESPONDENTS**

16. Learned counsel for the respondents submits that the DPCs are conducted based on the policy letter issued vide IHQ MoD which every Regiment is duty bound to follow in letter and spirit. As per the policy, every eligible Sub is considered as per his batch and allowed a maximum of three chances for consideration by the DPC for promotion to the rank of Sub Maj. He submits that Para 8 of IHQ of MoD (Army) letter No. B/33513/AG/PS-2 (P)

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dated 10.10.1997 and Para 2 of IHQ of MoD (Army) letter dated 26.03.2010 last 5 CRs are taken into account for the promotion from Sub to Sub Maj by the DPC of which minimum two out of the 5 CRs are required to be in Regimental duties whereas the other three can be in ERE/Instructional or any other duty out of the Regimental Confidential Report duties.

17. He submits that while preparing the panel for DPC 2012 in the year 2011, it was revealed that JC-479059M Ex Sub Maj/Clk Thakur Dass who retired from service on 31.03.2017 had earned only one Regimental Confidential report out of the 5 CRs. The details of last 5 years Confidential Report in respect of Sub Maj/Clk Thakur Dass were forwarded to his parent unit 21 Rajput in terms of Para 12 of IHQ of MoD letter quoted above with directions to initiate action for seeking waiver as per policy.

18. As per the letter received from the unit 21 Rajput dated 07.10.2011 in response to the letter of the respondents, Ex Sub Maj/Clk Thakur Dass rendered his no objection for debarring him for promotion due to lack of Regimental Report as per the certificate submitted by him the reasons for which are best known to him. During the same period one additional case regarding grant

of waiver of one Regimental Confidential Report to JC 479348F Sub Jagroop Singh Parihar of 9 Rajput came into light and the same procedure was adopted by the respondents for his consideration for promotion to Sub Maj by grant of waiver after having received a statement of case for waiver of the report from his parent unit and accordingly of sanction of the OIC records was given for the grant of waiver.

19. He further submits that Ex Sub Maj/Clk Thakur Dass submitted his application for deferment of this promotion till fulfilling the criteria of an additional Regimental Confidential Report for reasons of his own career prospects and therefore, the impressions of the applicant are biased and prejudiced regarding promotion to the rank of Sub Maj which he alleges to be manipulated to portray an image being aggrieved.

20. Highlighting the methodology of award VCOAS Commendation Card, Learned Counsel for the respondents argues that the unit where Sub Maj Radhey Shayam was serving had recommended his name for grant of such award keeping in view his outstanding performance and, therefore, the contention of the applicant that VCOAS Commendation Card was granted to

respondents No. 4 with a malafide intention are baseless and lack merit.

21. He further submits that there is no cutoff date in policy of procedure for accounting the points given post receiving honors and award. The DPC takes into consideration all the honors and awards awarded to the entire batch under consideration before the DPC is conducted to avoid any legal complications or representations by the candidates at a later stage. Therefore, the points awarded to Sub Maj Clk Rahdey Shayam on receipt of VCOAS Commendation Card were taken into consideration during DPC 2011 for the year 2012, as per the existing policy.

22. Learned counsel concludes by stating that DPC in 2012 and DPC 2013 have been held in the most free and fair manner as per the existing policy but it is applicant who did not qualify due to low merit in the merit list for promotion to the rank of Sub Maj.

23. A statutory compliant was submitted by the applicant which was forwarded to the Competent Authority, i.e., COAS Secretariat who concluded that the case of the applicant lacks merit and it was accordingly rejected vide IHQ of MoD (Amry)/Inf-6(Pers) letter

No. B/6003/990/SK/27Rajput/Inf-6 (Pers) dated 17.05.2016 and intimation was forwarded to his effect to the applicant vide their letter dated 09.06.2016.

24. Responding to complaints of the applicant for not having been granted benefit of service in HAA for a duration from 04.09.2008 to 04.06.2009, Ld Counsel for Respondents draws our attention to the relevant documents placed on record through a rejoinder vide which the applicant was shown as deployed at Barrackpore, Kolkata during the stated period for which he was drawing City Compensatory Allowance (CCA) and therefore, he was not serving in a HAA.

25. Referring to documents published by the unit of the respondent, Ld Counsel argues that the said documents are contradictory to the Part II Order showing the location of the applicant at Barrackpore and that the Part II Order published showing his deployment in Thegu, Sikkim in HAA have been published as an afterthought in 2012 and backdated maliciously to claim benefit of marks awarded for HAA. He further emphasises that the applicant being a Head Clerk of the unit who is responsible for all the documentations of a unit personnel has misused his

official position to falsify his personal documents at a date well after the actual date of deployment. An individual cannot draw both HAA & CCA at the same times; as both the allowances are for posting at different locations and therefore, the applicant is drawing double benefit, the disciplinary consequences of which must be borne by him.

### ANALYSIS

26. We have heard Learned Counsels of both parties and perused the documents placed before us to substantiate their respective representations. The various issues which merit deliberation for adjudication of the instant case placed before us are :

(a) Whether there is any illegality in award of VCOAS Commendation Card to Sub Maj/Clk Radhey Shyam (R-4) to give him unfair advantage over his competitors in the DPC?

(b) Was there any illegality/ bias or arbitrariness in deferment of Sub/Clk Thakur Dass when he was to be considered by DPC-2012?

(c) Whether the applicant was eligible for benefit of marks award for service in HAA?



(d) Was the applicant entitled to promotions in DPC-2012 and 2013 which has been denied to him due to the alleged bias in favour of preferred candidate namely Sub Maj/Clk Radhey Shyam?

27. In our understanding of the averments made on behalf of the applicant, the facts primarily point towards Sub/Clk Radhey Shyam being promoted by the respondents in spite of being low in merit by removing Sub/Clk Thakur Dass from the merit who was apparently higher in merit than Sub/Clk Radhey Shyam and further granting Sub/Clk Radhey Shyam a VCOAS Commendation Card to place him ahead of other candidates to be eligible for occupying the only vacancy of Sub Maj available. However there has been no record placed before us to demonstrate the claim that Sub/Clk Thakur Dass was indeed ahead of the R-4 in the DPC list as his name does not even figure in the merit list as he was "Deferred". It is relevant to place on record the extracts of merit list of DPC-2012 wherein the applicant is placed at Order of Merit-3 with Quantified total marks of 92.44.

"MERIT LIST (CLK) : DPC-2012

<i>Ser No</i>	<i>Army No</i>	<i>Rank</i>	<i>Name</i>	<i>Unit</i>	<i>Date of Prom as</i>	<i>Date of Retirement</i>	<i>Marks Obtained</i>
1	JC-479398M	Sub Clk	Radhey Shyam	17R	01102007	28022014	92.92
2.	JC-479478K	Sub Clk	Raja Ram Singh Yadav	21R	01052008	30062014	92.53
3.	JC-479675M	Sub Clk	Sarvottam Kumar	IHQ	01092008	31102013	92.44
4.	JC-479287P	Sub Clk	Jang Bahadur Singh	25R	01102006	31072015	92.41

28. For a moment, even if it is assumed that Sub/Clk Radhey Shyam should not have been awarded the VCOAS Commendation Card, the situation still would not have helped the case of applicant as Sub/Clk Raja Ram Singh Yadav is ahead of him in the merit list with total marks of 92.53 and therefore he was the rightful claimant of the vacancy that is being vied for.

29. It is now pertinent to refer to two relevant documents with reference to award of VCOAS Commendation Card. The relevant extracts of Army HQ (AG's Branch) Policy letter B/43250/AG/VACOAs/CC/CW-2 dated 09.11.2006 read as under :-

"INSTITUTION OF VCOAS COMMENDATION CARDGeneral

1. Vice Chief of the Army Staff Commendation Card was instituted vide Army HQ letter of even No dated 09 Aug 2002. The Commendation Card is

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*awarded for individual acts of gallantry, distinguished service or devotion to duty and will be at par with the Commendations awarded by GOCs-in-C.*

*clause-2(d) of the medical Board it was stated as under:-*

*Periodicity of Award*

*2. The award will be conferred twice a year on the occasions of Independence Day (15 Aug) and Army Day (15 Jan). However, while on visits to formations/establishments as a representative of COAS, VCOAS may confer on the spot VCOAS Commendation Card or recommend personnel for higher award of COAS Commendation Card. In latter instance, however, the confidentiality of procedure shall be maintained.*

*Eligibility*

*3. All ranks of the Army and civilian personnel working at the Army Headquarters Organisations of the Army which do not fall under the purview of any Command headquarters and personnel of Units and other Central/State Organisation working directly under the Army HQ shall be eligible for this award. During visit of VCOAS to various Commands, the award may also be conferred on all ranks of the Army and civilian personnel under direct administrative control of respective Commands."*

30. The respondents have placed before us a Special Army HQ Order dated 31.10.2011 conferring the VCOAS Commendation Card on a large Number of officers & PBOR where the name of the R-4 is placed at Ser No 86. It is not for this court to further dwell on the ratio of award of VCOAS Commendation to R-4 as long as the name figures in a list of other personnel awarded

on 31.10.2011 as we find no reason to make one exception in the case of Sub/Clk Radhey Shyam on mere suspicion of biased preference as claimed to place him ahead of other candidates in the DPC.

31. In the process of examining the exclusions of Sub/Clk Thakur Dass, the Respondents have placed on record a correspondence dated 03.09.2011 which reads as *under* :

“

*Rajput Regiment Abhilekh Karyalaya  
Records The Rajput Regiment  
PIN-900427  
C/o 56 APO*

*2130/DPC/22/RA*

*03 Sep 2011*

*21 RAJPUT  
PIN-912121  
C/o 56 APO*

**WAIVER OF ONE REGIMENTAL REPORT FOR CONSIDERATION BY DPC-2012**

1. Refer to Paras 8 and 12 of IHQ of MoD (Army) letter No B/33513/AG/PS-2(c) dt 10 Oct 1997 and Para 2 of IHQ of MoD (Army) letter even No dt 26 Mar 2010.

2. As per Para 8 of IHQ of MoD (Army) letter ref above, last 5 ACRs are taken into account for promotion from Sub to Sub Maj, Two out of the last 5 reports should be on Regt Duty.

3. JC-479059M Sub/Clk Thakur Dass of your Unit will be considering for DPC for promotion to the rank of Sub Maj during the yr 2012 DPC. It has been obs during the internal assessment, the JCO has earned only one Regtl ACR during last 5 yrs. Therefore, he is failing short of one Regt ACR for consideration for promotion to Sub Maj. The details of ACRs for last five yrs in respect of above JCO are as under :-

Ser No	Year	Report initiation in rk of	Regt/ERE	Unit/Est who initiated ACR
(a)	2011	Sub	Regimental	21 RAJPUT
(b)	2010	Sub	ERE	AG's Br/MP 5(D), IHQ of MoD (army)
(c)	2009	Sub	ERE	-do-

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(d)	2008	Sub	ERE	-do-
(e)	2007	Sub	ERE	-do-

4. In view of the above, you are requested to kindly take action in terms of Para 12 of IHQ of MoD (army) letter referred above to help the JCO otherwise the JCO will be deferred in the DPC 2012 because the JCO is not fulfilling the ACR Criteria for promotion to the rank of Sub Maj in DPC as per IHQ of MoD (Army) letter *ibid*. The recommendation of OIC Records will be obtained on receipt of docus from your unit.

5. The DPC which will effect promotion from 01 Jan 2012 may be held in Oct/Nov 2011 under the direction of Col of the Regt. Hence, you are requested to accord the PRIORITY on the subject pl.

Sd/-xxxxx  
(JS Poonia)  
Maj  
Offg CRO  
For OIC Records"

32. In response to above communication, the certificate rendered by Sub/Clk Thakur Dass vide his letter dated 07.10.2011 reads as follows :

"Sub Clk Thakur Dass

21 RAJPUT  
PIN-912121  
C/o 56 APO

479059/TD/Pers

07 Oct 2011

Commanding Officer  
21 RAJPUT  
PIN-912121  
C/o 56 APO

**DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION TO THE RANK  
OF SUB MAJ 2011-12**

Sir,

1. I beg to state to the following few lines for your favourable and necessary action pl.

2. I, JC-479059M Sub Clk Thakur Dass am serving under your able comd since Apr 2010. I was posted from IHQ of MoD (army) during the month of Apr 2010. I have completed 25 years service and am due for consideration in DPC for promotion to the rank of Sub Maj which is scheduled during the month of Nov 2011.

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3. I have been informed that I am lacking reqd numbers of 'Regt Report' due to service of ERE and I will not be considered in DPC-2011 vide Records The Rajput regt letter No 2130/DPC/22/A dt 03 Sep 11. Since, I am lacking eligibility criteria for consideration in DPC due to service on ERE, hence I have no objection if am debarred in DPC during 2011 vide Para 11 of IHQ of MoD (Army) letter No B/33513/AG/PS-2(c) dt 10 Oct 97 for want of 'Regt Report'. Therefore, I may be considered after earning two 'Regt Reports' in next DPC which will be held during Nov-Dec 2012 for promotion to the rank of Sub Maj during the year 2013.

4. Thanking you in anticipation please.

Yours sincerely

Sd/-xxxxx  
(JC-479059M sub Clk Thakur Dass)

COUNTERSIGNATURE

Unit : 21 RAJPUT  
Stn : C/o 56 APO  
Dated : 07 Oct 2011

Sd/-xxx  
Maj/Capt  
Adjutant 21 Rajput"

33. The decision of Sub/Clk Thakur Dass to volunteer to be deferred by DPC-2012 till he earns another Regimental Report and be considered by a subsequent DPC is entirely his personal preference and we do not find any illegality in the same. By the same ratio, waiver of one Regimental Report offered to Sub Jagroop Singh Parihar vide the letter of Records the Rajput Regiment vide their letter No 2130/DPC/40/RA dated 12.09.2011 with the same contents as their letter dated 03.09.2011 in case of Sub Clk Thakur Dass has met with a different response wherein Sub Jagroop Singh has opted to avail of the offer. As a third party, the objections of the

applicant to different personal responses by different affected candidates is devoid of logic and merit and we do not consider it necessary to dwell further into the logical conclusions of the same.

34. It is now prudent to analyze whether the applicant should have been granted the benefit of service in High altitude Area (HAA) in Thegu, Sikkim. Consequent to perusal of a Part II Order published by parent unit of the applicant on 01.09.2008, the permanent location of the unit is indicated at Barrackpore (Kolkata) to which the applicant has claimed City Compensatory Allowance (CCA) w.e.f. 31.08.2008. However, four years later, the same unit has published another Part II Order dated 19.11.2012 showing the deployment of the applicant in HAA during the above mentioned period. We find merit in the arguments on behalf of the Respondents that the applicant is expected to be well conversant with the rules and documentation and therefore drawing two different allowances namely CCA & HAA entitled for Class A City and HAA is illegal which is well known to the applicant and publication of part II Order four years later just before conduct of DPC generates a suspicion of manipulation of records. The cancellation of the Part II Order by Records The Rajput Regiment vide letter

dated 26.11.2012 with reasons stated therein which reads as under  
is self explanatory:

"Tele Mil : 234553/6306

Rajput Regiment Abhilekh Karyalaya  
Records The Rajput Regiment  
PIN-900427  
C/o 56 APO  
26 Nov 2012

2130/DPC/180/RA

27 RAJPUT  
PIN-912127  
C/o 56 APO

**FWD OF PART II ORDER**

1. Ref to your unit Part II Order No 0/0290/2012 dt 19 Nov 2012 recd under your letter No 033/A dt 21 Nov 2012.
2. As per your unit Part II Order under ref, JC-479675M Sub Clk Sarvottam Kumar has been shown deployed in High Altitude and Uncongenial Climate Area, Thegu, Sikkim wef 04 Sep 2008 to 04 Jun 2009. Whereas as per record available with this office and your letter No 057/Mov/A dt 01 Sep 2008, your unit had been deployed at Barrackpur, Kolkata (Pace) wef 31 Aug 2008. Consequently JC-479675M Sub Clk Sarvottam Kumar left HAUCL and ceased to draw CFAA and HAUCL wef 30 Aug 2008 vide your part II Order No 0/0337/003/2008 and 0/0338/003/2008. Subsequently, the JCO was granted City Compensatory Allces for Class-1 City (Kolkata) wef 31 Aug 2008 vide your Part II Order No 0/0022/004/2009 dt 11 Jan 2009.
3. If the JCO was again deployed in HAUCL wef 04 Sep 2008 as claimed vide your Part II Order under ref, please elucidate as to how he was granted City Compensatory Allces for Class 1 City (Kolkata) wef 31 Aug 2008 vide your Part II Order No 0/0022/004/2009 notified on 11 Jan 2009, which he continued to draw from 31 Aug 2008 to 09 Jul 2009 till he proceeded on att to IHQ of MoD (Army).
4. Further, as per our records, tps of your unit after arr at Barrackpore (Kolkata) wef 31 Aug 2008 they were deployed in Ex CHAUKAS for the following durations and that was attended to by a specific number of JCOs/OR as per details given below but the name of JC-479675M Sub Clk Sarvottam Kumar has not been found figured therein :-

Ser No	Rotation	Duration of Ex-CHAUKAS	No of pers participated	Auth
(a)	1 <sup>st</sup> rotation	02 Oct 2008 to 11 Nov 2008	308	27 RAJPUT Part II Order No 0/0182/2009 to 0/0185/2009 0/0189/2009 to 0/0193/2009 0/0195/2009 to 0/0200/2009

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(b)	2 <sup>nd</sup> rotation	01 Mar 2009 to 31 May 2009	24	27 RAJPUT Part II Order No 0/0186/2009
(c)	3 <sup>rd</sup> rotation	17 Sep 2009 to 07 Nov 2009	430	27 RAJPUT Part II Order No 0/0056/2010,0/0057/2010,0/ /0059/2010,0/0060/2010,0/ 0063/2010 to 0/0068/2010 0/0071/2010 to 0/0074/2010 & 0/0194/2010

5. In view of forgoing your Part II Order under ref is hereby rejected.

Sd/-xxxxxx  
(CPS Negi)  
Lt Col  
Chief Record Officer  
For OIC Records"

### CONCLUSION

35. In light of above discussion, we are of the opinion that in absence of any malafide on the part of the Respondents, the contentions of the applicant are devoid of merit and are accordingly dismissed.

Pronounced in the open Court on the 24 day of January, 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[LT GEN C.P. MOHANTY]  
MEMBER (A)

Akc/ps