

**COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA 513/2015 with MA 552/2015**

**Ris/Rdr Bedi Prakash Rai** ..... **Applicant**  
**VERSUS**  
**Union of India and Ors.** ..... **Respondents**

**For Applicant** : Mr. Ramkaran Sharma, Advocate  
**For Respondents** : Mr. Y.P. Singh, Advocate  
Maj Abhishek Kumar, OIC, Legal Cell

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**  
**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

**MA 552/2015**

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 911 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of **UoI & Ors Vs Tarsem Singh (2008) 8 SCC 648** and in **Ex Sep Chain Singh Vs Union of India & Ors in Civil Appeal 22965/2017 arising out of Civil Appeal Diary no 30073/2017** and the reasons mentioned, the MA 552/2015

is allowed despite opposition on behalf of the respondents and the delay of 911 days in filing the OA 513/2015 is thus condoned. The MA 552/2015 is disposed of accordingly.

### **OA 513/2015**

The applicant vide the present OA makes the following prayers:

***“(a) Direct respondents to fix the pay and allowances as per the seniority of Ranks that is Dafadar wef 01.02.1998, Nb Ris wef 07.10.2006 and Ris according to seniority roll fixed as on 01.06.2012 as per Appendix ‘A’ to RVC letter No R/2022/CA3 dated 20.12.2012.***

***(b) Direct respondents to make payment of arrears with interest @12% per annum, after fixation of pay and allowances in fresh seniority in ranks as per RVC letter No R/2022/CA3 dated 20.12.2012***

***(c) Any other relief which the Hon’ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost against the respondents.”***

***FACTS THROUGH PLEADINGS ON RECORD THROUGH OF  
THE PARTIES***

2. The applicant JC-797572P Ris/Rdr Bedi Prakash Rai was enrolled in the Indian Army(Remount Veterinary Corps) on 02.03.1988 on completion of basic military training and technical training at RVC Centre and College, the petitioner was posted to RTS & D Saharanpur.

3. As per the counter affidavit filed on 05.02.2016 by the respondents, it has been averred to the effect:

- that while serving with RTS&D Saharanpur, the applicant participated in the National Equestrian Championship (NEC) held at Meerut with effect from 28 Jan to 01 Feb 1998 in a one day event as a member of the team which won 'Bronze Medal'.
- the applicant was awarded a certificate for winning third position in the Team Event.
- his case for grant of out of turn promotion was processed to IHQ of MoD (Army, DGMT (MT-8) vide RTS

& D Saharanpur letter No 27/TDS/RDS dt 15 Nov 1999, and

- the applicant was awarded out of turn promotion to the rank of Dafadar with effect from 01 Feb 1998 vide Integrated Headquarters of MoD (Army) letter No A/55053/ Promotion/GS /MT-8 dated 24 Nov 1999.
- However, the same was cancelled by Integrated Headquarters of MoD (Army) vide Signal No 333503/GS/MT-8 dt 31 Dec 1999.
- The applicant filed a Writ Petition 39855/2003 before the Hon'ble High Court of Allahabad against this action of the respondents. Vide the judgment in the said Writ Petition, the Hon'ble High Court of Allahabad directed the respondents to reconsider the case of the applicant for out of turn promotion to the rank of Dafadar. Based on the directions of the Hon'ble High Court of Allahabad, the applicant was granted out of turn promotion to the rank of Dafadar with effect from 01 Feb 1998 with all consequential benefits vide

Integrated HQ of MoD(Army) signal No 333562/GS/MT-8 dated 06 Sep 2005 (Copy attached as Annexure A-3).

- Accordingly, promotion order was issued by RVC Records vide letter No R/2005/CA3 dated 02 Oct 2005. The applicant physically assumed the rank of Dafadar on 14 Oct 2005.

4. According to the respondents as per policy in vogue, the promotion is effective from the date of assumption of duties of higher rank and pay and allowances are admissible from the said date only after the occurrence is notified in Daily Order Part II as admissible in accordance with Integrated Headquarters of MoD (Army) letter No A/20038/MP-8 (1 of R) (a) dated 27 Nov 2001. The effective date of promotion of the applicant in the instant case was stated by the respondents to be 14 Oct 2005 as the applicant assumed his rank of Dafadar on the same date. According to the respondents in order to protect his seniority for future promotions, however he was given ante date seniority retrospectively with effect from 01 Feb

1998 which the respondents submit had no effect on pay and allowances. Accordingly, occurrence to this effect was notified in Record Office Part II Order No 1/0223/ 012/ 2005 dated 12 Nov 2005. The applicant was promoted to the rank of Naib Risaldar with effect from 01 Apr 2010. In view of the anomaly in fixation of seniority, the proposed notional seniority roll of all affected Naib Risaldar and Risaldar (Rdrs) of Rider category duly incorporating their notional seniority right from the rank of Dafadar to Risaldar was circulated to all affected JCOs vide RVC Records letter No R/2022/CA3 dated 20 Dec 2012 asking for discrepancies/observations, if any, and an amendment of the seniority roll was issued by RVC Records on 10 Sep 2013. The respondents have submitted that the ante date seniority for the rank of Naib Risaldar of all affected JCOs was re-fixed from the dates they were fully qualified in Promotion Cadre Course(PCC Dafadar(GD) to Naib Risaldar(GD). The respondents further submit that their detailment for Promotion Cadre Course from Dafadar(GD) to Naib Risaldar (GD) was also carried out as per dates of passing of pre-requisite

qualifications like Tech Trade Test Class I, Map Readings Standard II and ABRJN Courses etc.

5. The respondents also placed on record as Annexure R-6 the gist of seniority roll qua the applicant which reads as under:-

“ **GIST OF SENIORITY ROLL: (DAFADAR/RIDER)**

| Ser No | Army Rank & Name                                 | No, & Date of enrolment | Date of Birth     | Date of promotion to the rk of Dfr |                   | Remarks                                  |
|--------|--|-------------------------|-------------------|------------------------------------|-------------------|--|
|        |  |                         |                   | Acting                             | Subs              |  |
| 1      | 7240406F<br>L/DFR(RDR)<br>BEDI<br>PRAKASH<br>RAI | 02 Mar<br><u>1988</u>   | 01<br>Jul<br>1969 | 14 Oct<br>2005<br>01 Feb<br>1998*  | 01<br>Feb<br>1998 | *GTD<br>ANTE<br>DATE<br>SENIORITY<br>WEF |

”

**CONTENTIONS RAISED**

6. Though, the applicant submits that his pay and allowances as per the seniority of ranks is required to be fixed as under:-

- ie. Dafadar to be fixed w.e.f. 01.02.1998
- Naib Risaldar to be fixed wef 07.10.2006 and

- Risaldar according to seniority roll fixed as on 01.06.2012 as per Appendix 'A' to RVC letter No R/2022/CA3 dated 20.12.2012,-

the respondents on the other hand contend that as per the policy in vogue, the promotion is effected from the date of assumption of duties of higher rank and pay and allowances are admissible from the said date only after the occurrence is notified in Daily Order Part II as admissible in Integrated Headquarters of MoD(Army) letter no A/20038/MP-8(I or R)(a) dated 27 Nov 2001(Copy attached as Annexure R-2). The respondents thus submit that the effective date of promotion of the applicant in the instant case is 14.10.2005 as the applicant assumed his rank of Dafadar on the same date but in order to protect his seniority for future promotions, he was given ante date seniority respectively with effect from 01.02.1998 which had no effect on pay and allowances. The respondents thus submit that the occurrence to this effect was notified in Record Office Part II Order No 1/0223/012/2005 dated 12.11.2005,

copy of which is annexed as Annexure R-3 to the counter affidavit of the respondents which reads as under:-

“

**RESTRICTED**

UNIT CODE NO: 84E009

UNIT: RVC RECORDS, RDO PT II NO: 1/0223/2005 DATED : 12 NOV 2005 SHEET NO: THREE

**1 02 03 04 05 06 07(a)(b)(c) 8 09**

**PROMOTIONS SUBSTANTIVE RANK OF DAFADAR(CONTD)**

|             |  |               |                                      |              |  |
|-------------|--|---------------|--------------------------------------|--------------|--|
| 010.        | 7240278P<br>L/Dfr(Dsr) Sabu<br>PM(98 MFVH)                                     | PROMOT        | <u>06102005</u><br>01102005          | SBDFR        | Gtd subs<br>promotion<br>to the rank<br>of Dfr wef<br>06 Oct<br>2005. *Gtd<br>ante date of<br>seniority<br>wef 01 Oct<br>2005.                     |
| 011.        | 7240288Y<br>L/Dfr(Dsr) Nem<br>Singh(52 AFVH)                                   | PROMOT        | 01102005                             | SBDFR        | Gtd subs<br>promotion<br>to the rank<br>of Dfr wef<br>01 Oct<br>2005.  |
| <b>012.</b> | <b>7240406F<br/>L/Dfr(Rdr) Bedi<br/>Prakash Rai(1(0)<br/>R &amp; V Sqn NCC</b> | <b>PROMOT</b> | <b><u>14102005</u><br/>01021998*</b> | <b>SBDFR</b> | <b>Gtd subs<br/>promotion<br/>to the rank<br/>of Dfr wef<br/>14 Oct<br/>2005. *Gtd<br/>ante date<br/>of<br/>seniority<br/>wef 01 Feb<br/>1998.</b> |
| 013.        | 7240656H<br>L/Dfr(Rdr) M<br>Balasubramanian<br>(27 ADU)                        | PROMOT        | 01092005                             | SBDFR        | Gtd subs<br>promotion<br>to the rank<br>of Dfr wef<br>01 Sep<br>2005.  |
| 014.        | 7241842L   | PROMOT        | 03112005                             | SBDFR        | Gtd subs   |

L/Dfr(Clk)  
Karambir  
Singh(RVC  
Records)

01112005\*

promotion  
to the rank  
of Dfr wef  
03 Nov  
2005. \*Gtd  
ante date of  
seniority  
wef 01 Nov  
2005.

**PROMOTIONS SUBSTANTIVE RANK OF LANCE DAFADAR**

|      |  |        |                             |       |   |
|------|--|--------|-----------------------------|-------|---|
| 015. | 7239892X<br>AUD(Farr)<br>Munna Singh<br>(810 AT Coy ASC) | PROMOT | <u>04072005</u><br>01072005 | SBDFR | Gtd subs<br>promotion<br>to the rank<br>of L/Dfr<br>wef 04 Jul<br>2005. *Gtd<br>ante date of<br>seniority<br>wef 01 Jul<br>2005.<br>” |
|------|--|--------|-----------------------------|-------|---|

7. Inter alia, the respondents submit that the applicant's seniority was fixed on 20.12.2012 and the applicant has filed the OA with much delay and that the OA thus ought to be dismissed. Inter alia, the respondents submit that facts in relation to out of term promotions have already been detailed through their counter affidavit and that according to the promotion policy laid down by the Integrated Headquarters of MoD(Army) letter no. B/33513/AG/PS2(c) dated 10.10.1997 for further promotion to the rank of Naib Risaldar is subject to fulfillment of the following qualitative requirements:-

“(a) Passing of map reading standard-II

(b) Passing of army certificate of education and army English Certificate, if applicable

(c) Passing of promotion cadre course from Dafadar to Naib Risaldar

(d) Passing of all arms basic riding and animal management course(ABRJN)

(e) Annual Confidential Report Criteria. Only last five reports will be considered, out of which minimum three reports in the rank of Dafadar in case of shortfall and remaining two may be in the rank of L/Dafadar. At least three out of last five reports should be 'Above Average' with a minimum of two in the rank of Dafadar and remaining should not be less than 'High Average'.

(f) Discipline criteria

(i) Not more than three red ink entries during entire service.

(ii) Not more than one red ink entries during last five years.

(iii) No red ink entry during last one year.

(g) Medical Criteria

(i) Medical Category should be SHAPE-I.

(ii) SHAPE-2 is also eligible for promotion except cases of obesity, psychology, misconduct and self inflicted injuries.

(iii) Battle casualty irrespective of their medical category are also eligible for promotion.”

8. The respondents have further submitted that the petitioner passed the promotion cadre course for the promotion from Dafadar to Naib Risaldar on 07.10.2006 and his name came up for promotion with effect from 31.10.2006 against the first available vacancy. Inter alia, the respondents submit that the promotion in question could however not be granted to the applicant as there was a shortfall in the number of Annual Confidential Reports(ACRs) as envisaged at Para 11 of Integrated Headquarter of MoD(Army) letter no B/33513/ AG/ PS2(c) dated 10 October 1997, accordingly his promotion was required to be deferred till the required number of Annual Confidential Reports.

9. The respondents further reiterate that as per Para 4(b) of Army Instructions 84/68(Annexure R-) and para 11 of Integrated Headquarters of Ministry of Defence (Army) letter no. B/33513/AG/PS2(c) dated 10 October 1997, the pay and allowances in the higher rank is applicable only from the date of an individual physically assumes the duties in that rank.

10. The respondents thus submit that the prayer made by the applicant for grant of pay and allowances from the date of ante date seniority of ranks granted to him is contrary to the instructions of Para 4(b) of Army Instructions 84/68 para 11 of Integrated Headquarters of Ministry of Defence (Army) letter no. B/33513/AG/PS2(c) dated 10 October 1997. Inter alia, the respondents submit that the Integrated Headquarters of MoD Sports No Control Board) letter A/55053/ Promotion/ GS/ MT-8 dated 14 Jul 99 lays down the guidelines and certain procedure to be followed for grant of Sport incentive for Army Sport Personnel and as there are certain conditions and procedures to be followed, it takes considerable time for implementation of out of turn promotion at the ground level

and that out of turn promotion to such sportsman can be issued by Records only on receipt of confirmation from Integrated Headquarters of MoD (Army) (Army Sports Control Board).

11. Vide order dated 06.01.2025, the respondents were directed to clarify the averments made in para-2 of their counter affidavit filed on 05.02.2016 as under:

***“The respondents are directed to clarify the averment made in Para 2 of their counter affidavit filed on 05.02.2016 stating to the effect:-***

***“2. xx xx  
The petitioner was awarded out of turn promotion to the rank of Dafadar with effect from 01 Feb 1998 vide Integrated Headquarters of MoD (Army) letter No.A/55053/Promotion/GS/MT-8 dated 24 Nov 1999. However, the same was cancelled by Integrated Headquarters of MoD (Army) vide Signal No. 333503/ GS/MT-8 dt 31 Dec 1999.***

***xx xx”***

***and the respondents are directed to clarify the reasons for the cancellation of the out of turn promotion granted to the applicant to the rank of Dafadar w.e.f. 01.02.1998.***

12. Pursuant thereto on 09.02.2026, the respondents have submitted copy of letter no. 8066/Q/RV-1(Bedi Prakash Rai) dated 29.07.2024 to submit to the effect that as informed by the Dte of Brig PT/ASCB, the old files upto the year 2018 have been destroyed by Board of Officer as obsolete documents, and hence, records as asked vide RVC Records letters under ref are not held with Dte of Brig PT/ASCB as intimated vide their Note cited at Para 1(c) i.e. in relation to Dte of Brig PT/ASCB Note No A/55029/Equestrian/GS/MT-8 dt 23 Jul 2024.

13. The applicant has placed reliance on the order dated 01.05.2014 of the AFT(PB), New Delhi in **Ris Munesh Kumar vs. UOI & Ors.** reported in (2014) SCC Online AFT 825 with specific reliance to observations in Paras-7, 8 and 9 thereof which read to the effect:-

***“7. The facts are not in dispute that the petitioner was one of the participants in the tournament, the National Equestrian Championship held from November 13 to 16, 2000. Along with the petitioner, other participants, viz. Mal Chand Bishnoi and Raj Pal were also the participants. Mal Chand Bishnoi won the gold medal and Raj Pal won the silver medal while the***

***petitioner got the bronze medal. MalChand Bishnoi and Raj Pal were promoted to the next higher post under the scheme of giving incentive to the individuals who took part successfully in the tournament, as if permissible under the decision dated 14<sup>th</sup> July, 1999 (Annexure R-1). This promotion is an out-of-turn promotion and is not a regular promotion. It appears from the above MoD letter dated 10<sup>th</sup> October, 1997 (Annexure R-6) and the Army Instruction No. 84/78 (Annexure R-7) that if the promotion is not given because of the procedural reasons of non-availability of the necessary records, then, such incumbent may not be entitled to the monetary benefits. The Army Instruction No. 84/86 may be dealing with the cases where the promotion orders are issued but owing to or because of the fault of such promotee, he fails to join the promotional post; pay and allowances to him will be admissible only after the charge of the promotional post is assumed. For such obvious reasons, such persons cannot get monetary benefits before the date of assuming charge. The said instruction has no application to the cases where promotion is offered under special scheme whereunder petitioner was entitled to promotion.***

***8. Therefore, there is substance in the plea of the petitioner. In the present case, the petitioner was entitled to the promotion on out-of-turn basis, on the basis of his being successful in getting the bronze medal, based on the incentive policy to promote sports persons and therefore, such person's promotion is not based on the candidate's service record.***

*The time taken in giving promotion to the petitioner by the respondent appears to be because of their own fault for which the petitioner cannot be punished and it cannot be held that the petitioner was not in a position to assume charge due to his fault, and therefore, he is not entitled to the monetary benefits.*

*9. We find force in the petitioner's contention that in the case of Badi Prakash Rai, who won the bronze medal in the earlier tournament i.e. the same National Equestrian Championship, he was granted promotion vide order dated 2nd October, 2005 but with full consequential benefits and he accordingly got full consequential benefits. In reply to the petitioner's this contention, in the counter-affidavit, this fact has been admitted and no reason has been given for what reasons such consequential benefits were given to Badi Prakash Rai, if above benefit was not permissible. Therefore, the petitioner has made out his case of discrimination.”*

14. Reliance was also placed on behalf of the applicant on the verdict of the Hon'ble Supreme Court in ***Bhagwan Shukla S/o Sh. Sarabjit Shukla vs. Union of India & Ors.*** JT 1994(5) S.C. 253 and the verdict of the Hon'ble Supreme Court in ***Shri Bhajan Lal Chief Minister, Haryana vs. M/s Jindal Strips Ltd. & Ors..*** Reliance was also placed on behalf of the

applicant on the order dated 03.05.2013 in OA 21/2013 in the case of **Nb Sub More NB vs. UOI & Ors.** of the AFT(PB), New Delhi to submit to the effect that in as much as there had been a mistake in the fixation of the seniority of the applicant which was thereafter rectified. He ought to be given the promotion to the rank of Nb Dafadar w.e.f 01.02.1998, Nb Risaldar wef 07.10.2006 and Risaldar wef 01.12.2006. On behalf of the respondents, it is however countered that the facts of the cases relied upon on behalf of the applicant are distinguishable from the facts of the instant case.

### **ANALYSIS**

15. The admitted facts on the record bring forth clearly that vide judgment dated 24.02.2005 in Civil Misc. Writ petition no. 39855/2003 titled **Bedi Prakash Rai vs. UOI & Ors.**, the Hon'ble High Court of Judicature at Allahabad has categorically observed to the effect that the applicant who had represented in a team event and won in a national competition in terms of the scheme of the respondents vide Para-3(a) and (b) thereof which read to the effect:-

**“3. Out of turn First Promotion**

**(a) All sportsman who represent the Services at National level will be promoted paid acting Havildar irrespective of their length of service, educational or other technical qualifications.**

**(b) Any member of a team winning a medal in Natinal competition will also be eligible for promotion to the rank of Havildar.”,-**

was entitled to be considered for an out of turn promotion in terms of the said guidelines vide Para-3 and 5 dated 31.12.1987, and the mandamus was thus issued to the respondents to reconsider the case of the applicant for an out of turn promotion in the light of the Para-3 and 5 of the guidelines dated 31.12.1987 within three months from the date of production of the certified copy of the order dated 24.02.2005 of the Hon’ble High Court of Judicature at Allahabad in Civil Misc. Writ petition no. 39855/2003 titled **Bedi Prakash Rai vs. UOI & Ors..**

16. Pursuant thereto, vide letter no. A/55053/Promotion/GS/MT-8 dated 15.09.2005, it was stated on behalf of the DCOAS(IS & T) vide Para-2 thereof to the effect:-

**“2. No 7240406F Swr (Rdr) Now L/Dfr Bed Prakash Rai be granted promotion to the rank of Hav, for winning Bronze medal in the national Equestrian Championship (NEC) wef 01 Feb 1998 with all consequential benefits.”**

Thus clearly vide the said document dated 15.09.2005, the applicant was to be granted promotion to the rank of Hav i.e. in the circumstances of the instant case.

17. Vide letter no. R/2022/CA3 dated 20.12.2012, it was stated as under:-

“ **Tele:6611**

**REGD SDS/BY POST/BY HAND**

**RVC Records**

**PIN-900 468**

**c/o 56 APO**

**20 Dec 2012**

**R/2022/CA3**

\_\_\_\_\_  
\_\_\_\_\_  
**(Unit Concerned)**

**SENIORITY ROLL RIS/NB RIS(RDRs)**

**1. It is intimated that the following JCOs(Rdr) had represented for some variation seniority in comparison with JC-797580N Ris(Rdr) Narender Singh of RVC C & C:-**

**(a) JC-797418W Ris(Rdr) - RTS & Depot, Saharanpur  
Ram Laxman Mali**

**(b) JC-79552F Nb Ris(Rdr) - RTS & Depot, Saharanpur  
Dina Nath Yadav**

**(c) JC-797572P Nb Ris(Rdr) - RTS & Depot, Saharanpur  
Bedi Prakash Rai**

**(d)JC-797535F Nb Ris(Rdr) - 1 Odisha R & V Scn NCC  
Bhanwar Lal Jat Bhubaneswar**

**2. On receipt of above representations, the complete seniority of Ris(Rdrs) and Nb Ris(Rdrs) have been thoroughly scrutinized. On scrutiny, it revealed that some Ris/Nb Ris Rdrs who were granted ante date seniority in the rank of Dfr due to out of turn promotion of excelling in Equestrain sports have not been given their due notional seniority alongwith their batchmate in accordance with Para 11 of IHD of MoD(Army) letter no. B/33513/AG/PS-2(c) dt 10 Oct 1997.**

**3. Keeping the above in view, seniority of affected Ris/Nb Ris(Rdrs) have now been re-fixed as per the original seniority in Dfr rank and Nb Ris rank respectively as per available records which are att as per Appces 'A' and 'B'.**

**4. It is requested to disseminate the same to all JCOs for their info. Any discrepancies noticed in the updated seniority may please be intimated latest by 20 Jan 2013 for our further action. Thereafter no representation will be entertained by this office.**

**5. Please ack.**

**(Sukumaran P)  
Major  
Senior Record Officer  
for OIC Records**

**Encls: As above**

**Copy to:-**

**Rmt Trg School & Depot  
Post Box No-13  
Saharanpur-247001(UP)**

**- for info wrt your letter No  
27/TDS/RDS dt 26 Oct 2012 and  
90/TDS/RDS dated 26 Oct 2012.**

**Rmt Trg School & Depot  
PO- RTC Hempur 244716  
Distt- Udham Singh Nagar(UA)**

**- for info wrt your letter No  
121/13/TDS/RDH dt 10 Oct 2012.**

**1(Odisha) R & V Sqn NCC  
OUAT Campus  
Bhubaneswar-751003**

**- for info wrt your letter No  
RV/A/130/GEN/2012 dt 14 Nov  
2012. ”**

18. As per Appendix-B attached to this letter, the seniority roll qua the applicant reads to the effect:-

| Ser No. | Army Rank & Name                                      | No, & Date of promotion to rk of Dfr | Date of passing of PCC Dfr to Nb Ris | Date of promotion to the rk of Nb Ris | Date of passing JLPT | Date of promotion to the rank of Ris | Remarks  |
|---------|---|--------------------------------------|--------------------------------------|---------------------------------------|----------------------|--------------------------------------|--|
| 1       | No 7240406F, JC-797572P Nb Ris(Rdr) Badri Prakash Rai | <u>14 Oct 05</u><br>01 Feb 98        | 07 Oct 06                            | 01 Apr 10<br>07 Oct 06                | 13 Dec 11            |                                      | Seniority of Ris will be fixed as 01 Jun 12 along with his batchmates. |
| .       | .   | .                                    | .                                    | .                                     | .                    | .                                    | .  |
| .       | .   | .                                    | .                                    | .                                     | .                    | .                                    | .  |

19. The applicant also passed the promotion cadre for the promotion of Dafadar to Nb Risaldar on 07.10.2006, he was promoted to the rank of Nb Risaldar on 01.04.2010 on fulfilling the stated mandatory qualitative requirements of the ACRs on occurrence of a vacancy of Nb Risaldar in Rider category, in view of the anomaly created for fixation of seniority, the proposed notional seniority roll of all effected Nb Risaldar and

Risaldar in Rider category incorporating their notional seniority rank for the Dafadar to Nb Risaldar vide letter dated 20.12.2012, the discrepancies and observations, if any, the ante date seniority for the rank of Nb Risaldar of all effective JCOs was re-fixed from the dates they were fully qualified in promotion cadre course(PCC) Dafadar to Nb Risaldar GD.

20. The factum that the applicant was not given out of turn promotion erroneously is categorically brought forth through the judgment dated dated 24.02.2005 of the Hon'ble High Court of Judicature at Allahabad in Civil Misc. Writ petition no. 39855/2003 titled **Bedi Prakash Rai vs. UOI & Ors.** Apparently, the applicant cannot suffer for the same. The facts of the instant case are in *pari materia* with the facts of the case adjudicated vide order dated 01.05.2014 before the AFT(PB), New Delhi in **Ris Munesh Kumar vs. UOI & Ors.** reported in (2014) SCC Online AFT 825 as indicated vide Paras-7,8 and 9 of the said verdict, already referred to hereinabove in para no-13 hereinabove.

21. In the circumstances thus of the instant case in view of the order dated 01.05.2014 before the AFT(PB), New Delhi in **Ris Munesh Kumar vs. UOI & Ors.** as also in the order dated 03.05.2013 in OA 21/2013 in the case of **Nb Sub More NB vs. UOI & Ors.** of the AFT(PB), New Delhi, it is apparent that the applicant cannot be penalized for the mistakes made by the respondents. The applicant is thus held entitled to the full consequential benefits of the notional promotion granted to him to the rank of Dafadar w.e.f. 01.02.1998 and Nb Risaldar w.e.f. 07.10.2006 and to the rank of Risaldar w.e.f. 16.06.2010 in view of the seniority roll placed on record as Annexure A-4 to the OA which has not been refuted by the respondents.

### **CONCLUSION**

22. The OA 513/2015 is thus disposed of with directions as under:-

1. The respondents are directed to fix and grant the pay and allowances of the applicant as per the seniority of Nb Dafadar w.e.f. 01.02.1998, Nb Ris w.e.f. 07.10.2006 and Ris according to seniority roll fixed as on 01.06.2012 and,

2. are directed to issue the requisite Corrigendum PPO within a period of three months and,

3. the payment of the arrears in relation to the pay and allowances and pensionary benefits be paid to the applicant by the respondents within a period of three months from the date of this order.

23. However, in as much as the OA has been instituted on 07.07.2015, the commencement of the payment of the arrears by the respondents to the applicant shall run w.e.f the period of three years prior to the institution of the present OA and in the event of non-payment of the arrears of the pay and allowance and pensionary benefits and issuance of corrigendum PPO hereinabove in Para-22, the unpaid amount of arrears shall accrue interest @8% p.a. till the date of payment.

Pronounced in the open Court on the 26<sup>th</sup> day of February, 2026.

**[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)**

**[JUSTICE ANU MALHOTRA]  
MEMBER (J)**

/TS/