

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

OA 766/2020 WITH MA 4188/2023

Dfr Satendra Kumar Applicant
Versus
Union of India & Ors. Respondents

WITH

OA 760/2020

Sub Ravinder Kumar Applicant
Versus
Union of India & Ors. Respondents

WITH

OA 2222/2022

Ex Hav (Clk) Atul Kumar Singh Bhadoria Applicant
Versus
Union of India & Ors. Respondents

WITH

OA 1584/2023

Hav (Now Sub) U Babu Rao Reddy Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. S.S. Pandey, Advocate
Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC
Mr. K.K. Tyagi, Sr. CGSC
Mr. Avdhesh Kumar Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of
Armed Forces Tribunal Act, 2007, these OAs have been filed by the

applicants, involving a similar question of law, and thus, are being taken up together for consideration, with OA No. 766/2020 titled *Dfr Satendra Kumar v. Union of India & Ors.* being treated as the lead matter.

SUBMISSIONS ON BEHALF OF APPLICANTS

2. It is the case of the applicants that the issue in these batch of cases involves, the limited interpretation of the Doctrine of Promissory Estoppel, wherein the vacancies were reduced after the selection process has already commenced.

3. It is submitted by the applicants that the Army Headquarters issued a notification dated 23 December 2015 announcing 10 vacancies for Permanent Commission (Special List) for the 2016 quota, and the applicants, having applied pursuant thereto, successfully appeared in the Service Selection Board interview and were placed in the Final Merit List for PC (SL) 2016 Entry.

4. It is contended by the applicants that despite the announcement of 10 vacancies, the respondents arbitrarily inducted three JCOs/NCOs of the 2013 quota, namely Naib Subedar K. Sreenivasan, Lance Dafedar Nanu Ram, and Havildar Prashant Shahi, against the 2016 quota, thereby reducing the vacancies from 10 to 7, without any legal standing, and while once the respondents officially announced 10 vacancies and acted

upon the same, they were duty-bound to retain the said vacancies, and reduction of vacancies thereafter is arbitrary and whimsical.

5. It is vehemently argued by the applicants that having been placed in the 8th, 9th, 11th and 15th position in the Merit List, cannot be denied the fruits of selection, and that the vacancies ought to have been created by the respondents to rectify their own actions.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

6. Per contra, it is submitted by the respondents that the provisional vacancies for PC(SL)-2016 quota were released vide AG's Branch/MP-2 Signal No. 0820/PC(SL)/2016/MP-2 dated 23rd December 2015. The learned counsel for the respondents submitted that a total of 100 vacancies were released, out of which 10 vacancies were allotted for Record Officer (RO) category as per direction of the competent authority.

7. It is the case of Respondents that the vacancies of PC(SL)-2016 quota were reduced from 100 to 97 by reducing vacancies in RO category from 10 to 7 vide AG's Branch/MP-2 signal No. 08209/PC(SL) 2016/MP-2 dated 15th June 2016 due to reduction in three vacancies was done so as to accommodate three candidates of PC(SL)-2013 RO category, namely Nb Sub. K Sreenivasan, Hav Prasant Shahi, and LD Nanu Ram.

8. It is contended by the Respondents that the reduction of vacancies in RO category was intimated to the environment on 15th June 2016, well before the commencement of SSB interviews for PC(SL)-2016, which were scheduled from November 2016 to January 2017, and thus, no applicant could claim that the rules of the game were changed midway.

CONSIDERATION

9. We have heard Ld. Counsels for both the parties at length, and have perused the relevant material placed on record, including the written submissions filed by the parties, from which we find that the limited issues for our consideration is whether the vacancies were reduced after the selection process has already begun, meaning thereby the rules of the game were changed midway?

10. From a cursory look at the records, it is undisputed that the vacancies were reduced from 10 to 7, due to which, prima facie, applicants lost chance to be commissioned as an Officer in PC (SL) RO category. It is clear that these vacancies were reduced to accommodate three individuals in 2013 Batch, who were given the same benefit as has been granted by this Tribunal in *OA 159/2017 Nb Sub Vinod Prasad v. UoI* decided on 22.12.2021.

11. Before proceeding for adjudication, we find it pertinent to refer to the notification for recruitment in PC SL (RO) category dated 23.12.2015 reproduced as under:

PRECEDENCE :OP IMMEDIATE
DTG :11
SECURITY CL :UNCLAS
ORC NO :08209/PC(SL)/2016/MP-2
FROM :INDARMY/MP-2
TO :ALL COMD HQS AND RECORDS

SUBMISSION OF APPLICATION FOR GRANT OF PC(SL)-2016 QUOTA (3
FIRSTLY () PROVISIONAL VACANCIES FOR PC(SL)-2016 QUOTA ()

ALFA () RO () 10 (10) ()
BRAVO () TEO (ARTY) () 09 (09) (.)
CHARLIE () TEO (AAD) (.) 08 (08) ()
DELTA (.) ENGRS (.)
FIRST (.) RO (.) 10(10) (.)
SECOND () BSTEO (.) 10 (10)(.)
THIRD (.) BR/ASW (.) 07 (07) (.)
FOURTH (.) EM/IEM (.) 08 (08) ()
ECHO (.) SIGS (.)
FIRST (.) CIPHER OFFR () 06 (06) (.)
SECOND (.) TOST (.) 06 (06) (.)
FOXTROT (.) AOC (.)
FIRST (.) AMN TECH (.) 03 (03) (.)
SECOND (.) INVENTORY CONTROL OFFR () 04 (04)
(.)
GOLF () EME ()
FIRST () EMAE () 09 (09) ()
SECOND () EMAE (SA) (.) 04 (04) ()
HOTEL () MASTER-AT-ARMS (APTC) (.) 06 (06) ()

SECONDLY (1) REQUEST ACCORD WIDE PUBLICITY (1) ACK

HEMANT KUMAR FAUZDAR, DEPUTY DIRECTOR MP-2

FILE NO-08209/PC(SL)-2016/MP-2
DATED-23 DEC 2015"

12. It is clear from the aforesaid notification that as per the initial recruitment notification issued on 23.12.2015, the vacancies notified for RO Category was 10. We now, find it essential to refer to Signal 08209/PC(SL)/2016/ MP-2 dated 15.06.2016, produced as under:

"PRECEDENCE : OP IMMEDIATE
DTG : 06
SECURITY CL : UNCLAS
ORG NO : 08209/PC(SL)/2016/MP-2
FROM : INDARMY (AG/MP-2)
TO : ALL COMD HQS AND RECORDS

SUBMISSION OF APPLICATION FOR GRANT OF PC(SL) -2016 QUOTA()
FIRSTLY REF PARA (FIRSTLY) (ALFA) OF THIS DTE GEN SIG NO
08209/PC(SL)/2016/MP-2 DT DEC 23 (23) 2015() COMPETENT AUTHORITY
APPD FOLLOWING AMENDMENT IN PARA (FIRSTLY) (ALFA) OF IBID
SIG()

FOR RO (.) 10 (10) (.)
READ: RO (.) 07 (07) ()
SECONDLY () OUR IBID SIG DT 23 DEC 2015 STANDS AMENDED
ACCORDINGLY() REQUEST INFO ALL CONCERNED (.) ACK

COL KARAN SINGH, DIR, MP-2
TELE NO: 23018817

FILE NO-08209/PC(SL)/2016/MP-2
DATED 15 JUN 2016

TOR 1600 H
Copy by post to-
All Command HQ
All Records
All Corps HQ

All Pers Sections
AO/Rtg(SE)

AG Rtg (SE)"

13. From the perusal of aforesaid signal, it is well established that the vacancies for PC SL (RO) Category for Batch 2016 were reduced from 10 to 7 vide the aforesaid signal, which prompts us to ascertain the timeline of factual events, as detailed under:

Date	Event
23.12.2015	Respondents issued notification vide 08209/PC(SL)/2016/MP-2 for recruitment in PC SL 2016.
18.02.2016-12.05.2016	Applications submitted by applicants against aforesaid notification
15.06.2016	Signal No. 08209/PC(SL)/2016/ MP-2 dated 15.06.2016 reduced vacancies for RO Category from 10 to 7 vacancies
08.10.2016 – 11.12.2016	SSB was conducted and applicants were recommended to undergo Pre-commissioning training.
20.04.2017	Merit List of 38 candidates for PC (SL) (RO) category is released wherein revised vacancies are shown as 7, with available vacancies as 6 and one withheld due to pendency of OA 159/2017 before this Tribunal.

14. From the aforesaid timeline of events, it is well clear that while the initial notification for application for the PC SL (RO) category was issued on 23.12.2015, the intimation of reduction of vacancies was issued almost after 6 months of the notification vide Signal No. 08209/PC(SL)/2016/MP-2 dated 15.06.2016, meaning thereby, that the selection process has already begun on the date of issuance of notification for application.

15. On a perusal of additional affidavit dated 10.04.2023 filed by the Respondents, we find that the three vacancies of 2016 Batch were reduced by allotting it to 2013 Batch to accommodate three candidates of PC (SL)RO 2013 Batch namely – Nb Sub K Sreenivasan, Hav Prashant Shahi and LD Nanu Ram on the directions of COAS on Statutory Complaint of Nb Sub K Seenivasan.

16. Incidentally, LD Nanuram and Sub K Sreenivasan were applicants before this Tribunal in *OA 261/2014* and *OA 269/2014*, which were disposed off vide order dated 30.06.2016 of a Coordinate Bench, wherein it was held that:-

“3. It has been submitted by the counsel for the parties that a fresh list has been drawn up containing the names of the selected candidates for permanent commission against 2013 quota, in which the names of both the applicants in both the OAs appeared. It has also been submitted that both the applicants along with another selected person appeared before the Medical Board at Bhopal wherein they were also found to be medically fit, which has been communicated by communication dated 28.06.2016.

4. The learned counsel for the respondents further submitted that the necessary order would now be passed facilitating joining of the applicants in the next training course which is scheduled to be commenced on 04.07.2016. It has also been submitted that pursuant to the communication dated 27.01.2016, communicating the decision of the Chief of Army Staff, all consequential benefits to which the applicants deserve, would be granted.

5. Having regard to the aforesaid submissions advanced, we dispose of the OAs directing the respondents to pass necessary orders facilitating joining of next training course scheduled to be commenced on 04.07.2016, by the applicants. The decision of the Chief of Army Staff for grant of the consequential benefits shall also be implemented.”

17. We observe that it was only as a consequence on the relief granted by COAS in the Statutory Complaint filed by Nb Sub K. Sreenivasan since only 12 vacancies were released for PC (SL) RO-2015 batch, additional 03 vacancies were given to this Batch to accommodate these three candidates and consequently these 03 vacancies were reduced from the 2016 Batch, midway in the selection process by Signal dated 15.06.2015, which in our opinion was not a prudent step by the Respondents noting the fact that the vacancies were already notified vide earlier Signal dated 23.12.2015, as per the settled view taken by three judges bench of Hon'ble Supreme Court in *K. Manjusree v. State of Andhra Pradesh [(2008) 3 SCC 512]* and upheld by Constitutional Bench of the Apex Court in *Tej Prakash v. Rajasthan High Court [(2025) 2 SCC 1]*.

18. Relying on the aforesaid judgements, Apex Court has reiterated the rule position vide its judgement dated 06.01.2026 in *Abhay Kumar Patel and Others v. State of Bihar and Others [2026 SCC On Line SC 20]*, relevant portion of which is reproduced as under:

30. The law regarding the sanctity of the recruitment process and changes in the eligibility criteria and procedure after the initiation of the recruitment process, is well-settled. In *K. Manjusree (Supra)* this Court had held:

“27. The minimum marks were prescribed ... after the selection process was completed ... This is clearly impermissible. The rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced.”

31. The Constitution Bench of this Court in *Tej Prakash Pathak (Supra)* gave a nod of approval to the principles as laid down in *K. Manjushree (Supra)* and held that even if the relevant rules permit the competent authority to set benchmarks at different stages of a recruitment process, the same must be done at any time before the relevant stage is reached.

“52. Thus, in our view, the appointing authority/recruiting authority/competent authority, in absence of rules to the contrary, can devise a procedure for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/examiner/interviewer is taken by surprise.

53. The decision in *K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841]* does not proscribe setting of benchmarks for various stages of the recruitment process but mandates that it should not be set after the stage is over, in other words after the game has already been played. This view is in consonance with the rule against arbitrariness enshrined in Article 14 of the Constitution and meets the legitimate expectation of the candidates as also the requirement of transparency in recruitment to public services and thereby obviates malpractices in preparation of select list.”

32. The Constitution Bench in *Tej Prakash Pathak (Supra)* concluded and answered the reference as follows:

“Conclusions

65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

65.3. The decision in *K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512: (2008) 1 SCC (L&S) 841]* lays down good law and is not in conflict with the decision in *Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220: 1973 SCC (L&S) 488]*. *Subash Chander Marwaha [State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220: 1973 SCC (L&S) 488]* deals with the right to be appointed from the select list whereas *K. Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512: (2008) 1 SCC (L&S) 841]* deals with the right to be placed in the select list. The two cases therefore deal with altogether different issues;

65.4. Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, nondiscriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;

65.5. Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent, or silent, administrative instructions may fill in the gaps;

65.6. Placement in the select list gives no infeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."

19. The aforesaid view taken by the Hon'ble Supreme Court has been followed by this Tribunal in *Nb Sub Vinod Prasad v. UoI & Ors. (Supra)*, wherein this Tribunal, relying on a catena of judgments, in a case involving similar factual matrix, has held that the selection process was vitiated after the vacancy position was changed after issuance of recruitment notification. The relevant portion of which is reproduced as under:-

"10. At this stage, we may refer to an interim order passed in the matter on 21st February, 2017. The order passed on the said date by this Tribunal reads as under:

"1. The contention of the learned counsel for the applicant is that in the year 2014, respondents had advertised departmentally 22 vacancies to be filled up on Permanent Commission basis from the serving Non Commissioned Officers and Junior Commissioned Officers. It is stated that the applicant was one of the candidates for being absorbed permanently against the said vacancies. A test was conducted and 46 persons against the 22 vacancies were declared to be qualified in written test examination. It has also been stated that the number of applicant was 17 and therefore, in all probability he ought to have been offered Permanent Commission. However, the respondents unilaterally without any basis whatsoever, transferred 7 vacancies out of 22 to the previous year where nearly 50 persons had qualified to fill up the 134 vacancies as number of officers had exit from the service. In affect, the total number of vacancies which were to be filled up for the year 2014 got reduced from 22 to 15 and thereby he being at No. 17 he was not offered the Permanent Commission. It is contended that the list was arbitrarily revised without any basis, which was illegal and unlawful as despite legitimate expectations having been in the mind of the applicant, he was denied the Permanent Commission.

2. Prima facie, we feel that the matter needs to be re-considered, Issue notice to the respondents to show cause as to why the OA may not be admitted. Mr. S. F. Sharma, Advocate appearing on behalf of the respondents accepts notice on behalf of respondent No. 1-4. Let reply affidavit be filled within six weeks with advance copy to the learned counsel for the applicant. Rejoinder, if any, may be filled within a period of two weeks thereafter.

3. In the meantime, the learned counsel for the applicant has contended that for 2016, the process of selection has also been started and the result are likely to be announced in the month of April, 2017 for filling up 10 vacancies and therefore, an earlier action is solicited.

4. Having regard to the aforesaid facts, we feel that the balance of convenience is also in favour of the applicant and the applicant would suffer irreparable loss, in case, the respondents are not directed to keep one vacancy vacant for 2016 during the pendency of the claim of the applicant."

11. From the aforesaid prima facie assessment made it is clear that finding the acts of the respondents to be unsustainable, one vacancy of the year 2016 was directed to be kept vacant to consider the claim of the applicant which was pending in the application. Hon'ble Supreme Court in a catena of judgments which have been cited before us by Mr. Pandey has reiterated time and again in many cases that rules of the game pertaining to a selection cannot be changed once the selection process has commenced. We may also refer to the following judgments; i.e., *K. Lakshmi Vs. State of Kerala and Ors.* [(2012) 4 SCC 115], *Arup Das and Ors. Vs. State of Assam and Ors.* [(2012) 5 SCC 559], *Rakhi Ray and Ors. Vs. High Court of Delhi and Ors.* [2010] 2 SCC 637], *Barot Vijaykumar Balakrishna and Ors. Vs. Modh Vinaykumar Dasrathlal and Ors.* [2011] 7 SCC 308], *Kishor Kumar and Ors. Vs. Pradeep Shukla and Ors.* 2012) 4 SCC 103] and *Public Service Commission, Uttranchal Vs. Jagdish Chandra Singh Bora and Anr.* [2014] 8 SCC 644] wherein the said principle has been reiterated.

12. That apart, it has been laid down by the Hon'ble Supreme Court in the cases of *K. Lakshmi, Arup Das and Ors.* and *Rakhi Ray and Ors.* (supra) that once the process of selection for notified vacancies is held, then the selection process has to be confined to the vacancies notified; once the process of selection has commenced, additional vacancies cannot included in the selection process on any consideration, administrative or otherwise. If there are additional vacancies, the same have to be notified separately and a fresh selection process held. The selection process has to be held strictly in accordance with the notification issued for the vacancies notified as held by the Hon. Supreme Court in the cases of *Barot Vijaykumar Balakrishna, Kishor Kumar and Ors.* and *Public Service commission, Uttranchal* (supra).

13. In our considered view in this case both these principles; i.e., (i) that once the process of selection has commenced no change can be made; and (ii) that selection can be held only with regard to the vacancies notified and changing the vacancy position, once the process for selection has commenced by increasing the vacancy, is not permissible; have been violated. When selection process was notified for 15 vacancies for the year 2013 and when the selection process was concluded and the merit list prepared for the 15 vacancies on 24th December, 2013, then the respondents could fill up only 15 vacancies for the said year. They had no authority, under law; to increase the vacancies from 15 to 22 after the selection process was completed and allot 7 more vacancies by reducing the vacancies for the year 2014 for which the selection process had also commenced vide notification issued on 1 January, 2014. This, in our considered, has resulted in the entire selection

process conducted for both these years being vitiated or liable to be declared as illegal. However, as more than 37 persons have been appointed in the selection process and they have been promoted to the cadre of officers more than six years back, it is not appropriate to disturb them by declaring the entire selection as vitiated. On the contrary interest of justice would be met in case for the post which was directed to be kept vacant by the interim order passed on 21+ February, 2017, the applicant is directed to be promoted and adjusted to that post."

20. At this moment, we deem it essential to refer to Minute Sheet No. 40 and 41 of Judge Advocate General's Department produced before us, as recorded vide our Order dated 18.09.2025, of which the opinion pertaining to three of the four applicants before us was obtained from the Dy JAG, and the same is reproduced herein:

MINUTE SHEET

JUDGE ADVOCATE GENERAL'S DEPARTMENT

File No: PC-08209/PC (SL)/MP-2

Sheet No: 40

SUBJECT: OA NO 159/2017 FILED BY JC-383988N NB SUB VINOD PRASAD VS UOI IN AFT (PB) NEW DELHI

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1. *Ref Note 40 ante.*

2. *Our comments have been asked on recommendations at para 7 of Note 39 ante wherein MP-2 Dte has recommended that six cases of PC (SL) RO-2014 batch and three cases of PC (SL) RO-2016 batch may also be given benefit as being given to Nb Sub Vinod Kumar under implementation of the AFT (PB), New Delhi judgement dated 20 Dec 2021.*

3. *The issue of implementation of the ibid judgement was examined at note 24 ante. Very briefly, Nb Sub Vinod Kumar, at No 17 of the merit list for PC (SL) RO-2014 had approached AFT on the ground that 22 vacancies were allocated initially to PC (SL) RO-2014. However, after one year, 7 vacancies were re- appropriated and given to PC (SL) RO-2013. Hon'ble AFT vide its judgement dt 20Dec 2021, allowed the OA mainly for the reason that 22 vacancies having been notified in accordance with the policy, the same could not have been changed after the commencement of selection process.*

4. The issues involved in the case were examined at Note 24 ante and it was advised that the *ibid* judgement be implemented.

5. At Note 38 ante, the AG has approved the following:-

- a. Implementation of the judgement dt 20 Dec 2021 in respect of Nb Sub Vinod Kumar, and
- b. Nine similar cases (six cases of 2014 and three cases of 2013 Batch) to be examined for granting relief within legal framework.

6. Even individuals of 2014 batch were left out due to re-appropriation of the vacancies. All these seven indls are similarly situated. The judgement in the case of Nb Sub Vinod Kumar is being implemented. There is no reason to deny same relief to remaining six cases of 2014 batch, It should be granted on the basis of equity. There is no legal impediment in granting the relief.

7. In addition, although as of now, none of them has filed any court case, once the judgement in the case of Nb Sub Vinod Kumar is implemented, it cannot be ruled out that six of them may also approach the court.

8. In respect of 2016 batch, Sub (Cik) SD Ravinder Kumar, Hav/Cik SP Atul Kumar Singh Bhaduria and Dfdr Satendra Kumar had approached AFT (PB), Delhi, which by its common order dated 21 Jan 2019, disposed of the OAs with directions that the Applicants may approach the competent authority. Accordingly, the statutory complaints were considered and rejected vide three separate orders during July 2019, by the COAS (Linked File No 2). After rejection of the complaints, Dfdr Satendra Kumar has filed fresh OA, which is pending. Remaining two indis have not approached AFT.

9. In view of the fact that state complaints by these three indls stood rejected, We examined the linked file on which the complaints were processed. It is settled legal position that number of vacancies cannot be altered after commencement of selection process. Paras 9 &10 at Note 24 ante refers while processing the state complaints not referred to this office. This legal position was not looked into.

10. The decision therefore, can be revisited and rejection of state complaints was not act as legal impediment.

File No: PC-08209/PC (SL)/MP-2

Sheet No: 41

SUBJECT: OA NO 159/2017 FILED BY JC-383988N NB SUB VINOD PRASAD VS UOI IN AFT (PB) NEW DELHI

11. If agreed, in these three cases, relief may be granted after approval by the COAS.

12. Reconsideration, pl.

21. From a perusal of the aforesaid noting, particularly paragraphs 8 to 11 thereof, it is evident that the three individuals of the 2016 batch, namely, Sub (Clk/SD) Ravinder Kumar, Hav/Clk (SD) Atul Kumar Singh Bhaduria and Dfr Satendra Kumar, have been treated as being similarly situated and placed in a position comparable to that of Nb Sub Vinod Kumar, so far as the issue of re-appropriation of vacancies after commencement of the selection process is concerned.

22. On re-examining the linked file, the JAG notes identify that a settled legal principle, that the number of vacancies cannot be altered after commencement of the selection process, had not been considered when rejecting those statutory complaints. The note points out that the reasoning earlier adopted in Note 24 (in Vinod Kumar's case) was not applied to these three individuals, meaning a material legal consideration was omitted, when the statutory complaints of these applicants were rejected, and that no opinion was sought from the JAG Dept when the statutory complaints were processed.

23. Consequently, we observe that paras 10 and 11 conclude that the previous rejection of statutory complaints should not be treated as a legal bar to granting relief now. The opinion recommends that, subject to agreement and approval of the COAS, relief may be extended to all three

2016-batch individuals, aligning them with the precedent and equitable treatment afforded in Vinod Kumar's case.

24. Upon due consideration of the record, it is evident that the JAG Department had unequivocally opined that three individuals were entitled to the same relief as extended to Nb Sub Vinod Kumar. However, despite the said legal opinion, the Competent Authority chose to disregard the recommendation of the JAG Branch and denied the benefit to the applicants, without furnishing any cogent or plausible justification. From the merit list, it is found that Dfr Satendra Kumar (Merit No. 08) and Hav (Clk) Atul Kumar Singh Bhadoria (Merit No. 09) clearly fall within the eligible zone of consideration for Permanent Commission (Special List) Record Officer (PC (SL) RO). Although Sub Ravinder Kumar was placed at Merit No. 11, he became eligible for the 10th vacancy consequent upon the transfer of the candidate at Merit No. 10, namely Hav Gopala Reddy Rikka, to the Inventory Control Officer (ICO) cadre, for which separate vacancies had been earmarked.

25. This tribunal in *OA 157/2024 Maj Ishwar vs. UOI* along with Tagged matter in *OA 277/ 2024 Sub Maj Mukesh Kumar Pal* and *OA 232/2024 Nb Ris Bharat Bhushan Dixit* decided on 05.09.2024, held that:-

"2. Today, upon instructions, Mr. Bhati, learned Sr. CGSC, has fairly informed us that the medical examination of the applicant, namely, Nb Ris Bharat Bhushan Dixit, in OA 232/2024 has been

conducted and the medical examination of the applicant, namely, Sub Maj Mukesh Kumar Pal in OA 277/2024 will be conducted on or before 09.09.2024.

3. Taking note of the aforesaid, we direct that based on the medical report, if found fit, both the applicants should be permitted to join the course in accordance with the joining instructions which is scheduled to commence on 12.09.2024, i.e., the Joining Instructions for the Permanent Commission (Special List [PC (SL)] conducted by the Indian Military Academy and all the benefits be granted to the applicants in the light of the observations made on 15.03.2024 by the office of IHQ of MOD (ARMY) AG's Branch/PS-2(a). That apart in the case of Nb Sub (Clk SD) Vinod Prasad Vs. Union of India, i.e., OA 159/ 2017 decided by the coordinate Bench of this Tribunal on 22.12.2021, we allow this application identical in nature as per the following direction in Para 14 of the said order which reads as under:-

14. Accordingly, we allow this OA and direct that subject to the applicant fulfilling all other conditions based on the select list for 2014 where applicant's name appears at Sl. No. 17 he be promoted on the post of PC (SL) Record Officer with effect from the date the last person selection in 2014 list was appointed. The applicant will be deemed to have been promoted to this post with effect from the said date notionally and arrears and other monetary benefits will be payable to him only with effect from 1st January, 2022. However, for all other purposes, namely, seniority, pay fixation and all other consequential benefits, the applicant would be deemed to have been promoted on the post of PC (SL) Record Officer with effect from the date as directed hereinabove".

4. The aforesaid direction shall also be applied in all these three OAs.

26. However, Hav (now Sub) U. Babu Rao Reddy, who stood at Merit No. 15, is not entitled to similar relief, as he falls beyond the zone of consideration. Consequently, OA No. 1584 of 2023, wherein relief has been sought for release of four additional vacancies on account of transfer of four Record Officers to APTC under the Inter Arms & Services Transfer (IAST) scheme during January 2016, is required to be dealt with

separately. In this regard, certain new facts have been brought to the notice of this Tribunal by Shri S. S. Pandey, learned counsel for the applicant, through detailed written submissions dated 22.01.2026, which necessitate independent consideration. Although the said OA was tagged along with the other connected matters, for which orders are being pronounced today, in the interest of justice, we deem it appropriate to delink the said matter and list it for rehearing in light of the aforesaid developments

27. Prior to issuing the final directions, this Tribunal has taken note of the service status of the applicants. The applicant in OA No. 766 of 2020, namely, Dfr Satendra Kumar, is presently continuing in service. The applicant in OA No. 760 of 2020, namely, Sub Ravinder Kumar, superannuated on 30.04.2022. The applicant in OA No. 2222 of 2022, namely, Ex-Hav (Clk) Atul Kumar Singh Bhadoria, superannuated on 31.12.2020 during the pendency of the present proceedings.

28. Accordingly, the Tribunal issues the following directions:

(a) The vacancies for the PC (SL) RO-2016 batch shall be treated as **10 vacancies instead of 7**. The vacancy kept in abeyance for Nb Sub Vinod Prasad shall not be deducted from the present batch, as the same was not reflected in the original recruitment notification.

Consequently, the applicant's in OA 766/2020, 760/2020 and

2222/2022 who are placed at Serial Nos. 8, 9 and 11 are entitled to be detailed for pre-commissioning training for applicant as PC (SL) RO.

(b) The applicant in OA No. 760 of 2020 shall be detailed for pre-commissioning training in the earliest available batch, subject to fulfillment of all other eligibility conditions for commission. In the event the applicant becomes due for discharge in his present rank during the interim period, he shall not be superannuated till completion of the process.

(c) The applicants in OA Nos. 766 of 2020 and 2222 of 2022, who have already retired/superannuated, shall be granted **notional commission in the PC (SL) RO category with effect from the date on which their batchmates of PC (SL) RO-2016 were granted commission**, and they shall be entitled to all consequential benefits from the respective dates of their superannuation.

(d) The entire exercise relating to reinstatement, medical examination, issuance of call letters for pre-commissioning training, and grant of notional rank, as applicable, shall be completed within a period of **three months** from the date of pronouncement of this order.

29. The tagged OAs 766/2020, 760/2020 and 2222/2022 are disposed off in terms of aforesaid directions.

30. **OA 1584/2023** be de-tagged and placed before us for further orders on **06.02.2026** in light of the facts at Para 23 above.

31. No order as to costs.

32. Pending miscellaneous application(s), if any, are disposed of.

Pronounced in the Open Court on this **30th** day of January, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc/-