



2026:DHC:6977-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 29th July, 2026

Pronounced on: 21st August, 2026

CNR No : DLHC010335052026

+ **W.P.(C) 10368/2026 & CM APPL. 48016-17/2026**

JC: 374402L Subedar Virender Singh (Retd)

S/o: Late Shri Joginder Singh,

Rio: Jabalpur, presently at Village - Gharkhera,

Post - Atali, Tehsil - Ballabgarh,

Dist- Faridabad, Haryana, 121004

Email: subviru67(@,gmail.com

.....PETITIONER

Through: Mr. Indra Sen Singh, Mr.
Abhishek Singh and Mr. Nasir
Mohammad, Advocates.

versus

1. Union of India through

The Secretary, Ministry of Defence

South Block, DHQ PO New Delhi - 110011.

Email: incharge.lit@gov.in

....RESPONDENT NO.1

2. Chief of the Army Staff,

IHQ of MoD (Army)

South Block DHQ PO New Delhi - 110011.

Email: incharge.lit@gov.in

....RESPONDENT NO.2

3. Signal Officer-in- Chief

IHQ of MoD (Army)



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Sena Bhawan, DHQ PO New Delhi- 110011.

Email:incharge.lit@gov.in

.....RESPONDENT NO. 3

4. Officer- in- Charge Records

The Records Signals

Pin:- 908770

C/o: 56 APO (Jabalpur)

Email:incharge.lit@gov.in

.....RESPONDENT NO. 4

Through: Mr. Premtosh K. Mishra, CGSC
with Mr. Anubhav Upadhyay,
Advocate.
Ms. Archana Kumari. GP.
Major Anish Muralidhar and
Capt. Himanshu Tyagi, Army.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Article 226 of the Constitution of India, 1950, has been filed seeking the following prayers: -

“a. Allow this Writ Petition filed under Art. 226 of the Constitution of India, and issue a writ of Certiorari to quash the final judgement/order dated 04.09.2025 passed by Ld. Armed Forces Tribunal, Principal Bench, New Delhi, whereby Ld. Tribunal has arbitrarily dismissed the Petitioner's OA 484/2018 on erroneous & irrelevant considerations and set aside said impugned judgment and final order dated 04.09.2025;

b. Issue a Writ of Mandamus or any other appropriate Writ or order thereby directing the Respondents to notionally promote the Petitioner to the Rank of Subedar Maj or with effect from



01.01.2017 with all consequential benefits including arrears of pay & allowances pertaining to the rank of Subedar Major and service pension;

c. Set aside the retirement order dated 26.10.2015 whereby the Petitioner has been illegally retired from the service w.e.f. 31.01.2017 in the rank of Subedar without being promoted to the higher rank of Subedar Major for which he was already empaneled by the DPC held in 2016; and

d. Pass such other and further orders as Ld. Tribunal may deem fit and proper in facts and circumstances of this case.”

2. Relevant facts necessary for the adjudication of the present petition, as stated by the petitioner, are as follows: -

- a. The petitioner was enrolled in the Corps Signals of the Indian Army in 1987, and was allotted the Technical Trade of Tech-Soldier (Operator), after successful completion of Basic Military Training and Technical trade training (as the Tech-Soldier Operator) in 2 Signals Training Centre (2 STC), Goa.
- b. During the course of his employment, the petitioner was eventually promoted to the rank of Junior Commissioned rank of Naib Subedar on 01.01.2002, and was allotted to Tech Trade of Junior Engineer (JE) system.
- c. On 01.02.2010, after 8 years of his last promotion, the petitioner was promoted to the rank of Subedar (for short, ‘Sub’) and his seniority was reckoned w.e.f. 01.02.2010.



- d. Petitioner was considered by the Departmental Promotional Committee (for short, 'DPC') (2016-DPC) in November 2016 for promotion to the rank of Subedar-Major (for short, 'Sub Maj') against thirteen (13) vacancies occurring between the period 01.01.2017 to 31.12.2017. The result of the DPC was declared on 04.12.2016, and thirteen (13) candidates including the petitioner were approved/empaneled for promotion against the said 13 vacancies. Petitioner was empaneled on the top of the list of approved/empaneled JCOs published *vide* letter dated 04.12.2016.
- e. First vacancy of Sub-Major in the trade of JE (System)/JE-SYS in Corps of Signals arose on 01.01.2017 due to the retirement of Sub-Major SN Singh Yadav, who superannuated on 31.12.2016.
- f. It is the case of the petitioner that, being the senior most Subedar in the approved panel, he ought to have been promoted to the rank of Sub-Major in the aforesaid vacancy *w.e.f.* 01.01.2017. However, the Respondents arbitrarily and deliberately omitted to promote the Petitioner, knowing well that, he was due to retire from his present rank on 31.01.2017.
- g. It is stated that between the period 01.01.2017-31.01.2017, the Petitioner's Commanding Officer (CO) made several requests to the Signal Records (Respondent No.4) to promote the Petitioner



in the available vacancy of Subedar Major which arose on 01.01.2017, but the Signal Records informed the Petitioner's CO that no vacancy of Sub Major was available for promotion of the petitioner.

- h. Petitioner filed an Original Application, **OA 484/2018**, before the learned Armed Forces Tribunal (for short, 'AFT') under Section 14 of the Armed Forces Tribunal Act, 2007, which was dismissed by impugned judgment/order dated 04.09.2025.

3. Learned counsel appearing on behalf of the petitioner submits that after having worked as Subedar for 7 years, the latter was eligible for promotion to the rank of Subedar Major, and therefore, in the DPC conducted in the year 2016 during the period 01.11.2016-02.11.2016, for filing up the vacancies for occurring during the period of 01.01.2017-31.12.2017, his case was considered for promotion to the said rank. It is pointed out that the result of the DPC was declared on 04.12.2016, and his name appeared as Serial Number '1' in the list of empaneled/approved JCOs published by Signals Record.

4. It is submitted that since the petitioner was senior-most empaneled JCO in the aforesaid list and he was entitled to promotion to the rank of Sub-Major in the first available vacancy, he was arbitrarily denied promotion to the said rank.



5. It was the case of the petitioner that after publication of the aforesaid result, two vacancies arose in the cadre of Sub-Major, the first arose on 01.01.2017, and despite that, the petitioner, being the senior most JCO in the approved panel, was not promoted against the said vacancy. Petitioner, thereafter, superannuated on 31.01.2017 without being granted the promotion. It is further submitted by learned counsel for the petitioner that on 01.01.2017, three (3) more vacancies arose in the rank of Sub-Major, and the persons whose names appeared below the present petitioner, *i.e.*, at Serial Number 2, 3, and 4 of the empaneled list, were promoted to the said rank and his case was ignored.

6. The contention of the counsel for the petitioner by relying on the judgment in the matter of **Nb Sub Vinod Prasad v. UOI & Ors. in OA 159/2017** decided on 22.12.2021 is that prior to 01st November, 2016, the exercise of carrying out promotion through DPC had already commenced. The vacancies were reduced after the empaneled list had been published. Such exercise is not permissible as it amounts to changing the rules of the game.

7. Support is also drawn from the following judgments so as to substantiate aforesaid contention: -

i. K Lakshmi v. State of Kerala and Ors.¹;

¹ (2012) 4 SCC 115



- ii. **Arup Das and Ors. v. State of Assam and Ors.²;**
- iii. **Rakhi Ray and Ors. v. High Court of Delhi and Ors.³;**
- iv. **Barot Vijaykumar Balakrishna and Ors. v. Modh Vinaykumar Dasrathlal and Ors.⁴;**
- v. **Kishor Kumar and Ors. v. Pradeep Shukla and Ors.⁵;**
- vi. **Public Service Commission, Uttaranchal v. Jagdish Chandra Singh Bora and Anr.⁶;**

8. Apart from above, it is already observed in the aforesaid judgments that, *“once a DPC has been held for promotion against a particular number of vacancies and the result thereof has been published, then the vacancies cannot be reduced to deny promotion to a candidate empanelled by the said DPC”*.

9. Learned counsel appearing on behalf of the petitioner has further submitted that, in the present case, only after filing of the counter affidavit by the respondents before the learned AFT, it came to his knowledge that as per the 11th Army Plan notified *vide* letter dated 01.10.2014, two vacancies of Sub-Major JE-SYS Cadre were planned to be reduced during the period, *i.e.*, 01.01.2017 to 31.12.2017. However, it is argued that the actual direction to execute the said 11th

² (2012) 5 SCC 559

³ (2010) 2 SCC 637

⁴ (2011) 7 SCC 308

⁵ (2012) 4 SCC 103

⁶ (2014) 8 SCC 644



Army Plan reducing the two vacancies in the year 2017, was given after the result of DPC 2016 held in respect of petitioner's batch, which was declared on 04.12.2016.

10. It is the case of the petitioner that, had the said decisions/directions to reduce to take away the vacancies of the Sub-Major JE-SYS Cadre was taken prior to the holding of the DPC 2016, then the said DPC would have been held only for 11 vacancies for Sub-Major JE-SYS Cadre, and not for 13 vacancies occurring in the year 2016. Accordingly, the DPC 2016 would have approved only 11 candidates as against the then existing 11 vacancies. Thus, the Petitioner was denied promotion arbitrarily by the respondents, and in such an eventuality, a direction to the respondents to notionally promote the Petitioner to the rank of Subedar Major, and service pension is required in the present case, and the impugned judgment/order is to be set aside.

11. It is further submitted that similarly, in November 2015, the respondents held DPC in relation with 'Sub', belonging to petitioner's immediately junior batch for promotion to the next higher rank of 'Sub Maj' against sixteen (16) vacancies arising during the year 2016. The DPC was held against all the 16 vacancies, whereby 16 Sub, belonging to petitioner's immediately junior batch, were empanelled and all of them were promoted against said 16 vacancies. Thus, there was no reduction of vacancies in the year 2016. It is pertinent to note here that, in support of this averment, petitioner has placed on record the result of DPC of the year 2015; however, the final list of the candidates promoted



in pursuance thereof has not been placed on record. Perusal of the record further shows that no such document (Annexure P-2) or averment was placed by the petitioner in the original application filed by him before the learned AFT.

12. *Per contra*, learned counsel for the respondents, who had appeared on an advance notice, submitted that the impugned order suffers from no infirmity and learned AFT, after examining the submissions made on behalf of both the parties, had passed a reasoned judgment. It is submitted that the petitioner could not be promoted to the next rank of Subedar Major due to non-availability of vacancies as on 01.01.2017 on account of reduction of establishment under the 11th Army Plan. It is submitted that learned AFT has duly applied its mind to the aforesaid Army Plan whereby, during its implementation various vacancies were reduced in the year 2015 in a phased manner, and in the said process the first vacancy which was to arise on 01.01.2017 had been reduced, and no one was promoted against the said vacancy. It is further submitted that the first and second vacancies arose on 01.01.2017 and 01.03.2017; however, on account of reduction of vacancies no promotion on the said posts was effected. It was further pointed out that the first promotion in the year 2017 was effected only when the vacancy arose on 01.04.2017, and same was given to the then senior most candidate as per the list available on the said date. It is pointed out that since the petitioner had already retired on 31.01.2017, the said vacancy could not be given to him, and therefore, it is not that he was denied promotion arbitrarily.



13. Heard learned counsels for the parties and perused the record.

14. Learned AFT in the impugned order dated 04.09.2025, while disposing of the aforesaid OA filed on behalf of the petitioner, had observed and held as under: -

“11. We have heard learned counsel for the parties and perused the records. It is an admitted position that in the Departmental Promotion exercise conducted vide DPC held on 01.11.2016 - 02.11.2016 the applicant's case was considered and the applicant was empanelled for promotion. However, in the note appended to the list, it was clearly stipulated that the promotion would be effected as per seniority and availability of vacancy at the time of actual physical promotion. It is also admitted position that the 11th Army Plan for manpower reduction of JCOS from various Signal Units was submitted to the Government of India and Integrated Headquarters of the Ministry of Defence (Army) vide Annexure R-2 dated 01.10.2014 implemented the 11th Army Plan. Para 2 of the said policy letter which reads as under:-

"Reduction of 472 JCOs from various Sig units during 11th Army Plan in Corps of Signal has been re-exam at this die on the recommendation of your letter under ref. The above ICOS will be reduced within four yrs (ie 2015-2018) to minimize stagnation. In case 3rd Cadre Review is approved during the reduction period, the balance JCOs will be adjusted against 3rd Cadre Review vacs. Details of impl are given in succeeding paras"
(emphasis supplied)

12. In Para 3 the details of the reduction scheme were indicated and in Para 4 it was stipulated that the reduction of 463 vacancies in the cadre of JCOS is to be implemented from 01.01.2016 in a phased manner over the next four years as per the schedule appended to Para 4 of the communication. In table A of Para 4 in the 3rd phase, with regard to the reduction of 34 vacancies in the cadre of Subedar Majors, it was indicated that nine vacancies of



Subedar Majors occurring between 01.01.2017 to 31.12.2017 are to be reduced in the phased manner based on DPCs to be held on October 2016 or thereafter. It is, therefore, clear from the record that after the DPC was held in November, 2016 in accordance with the policy (Annexure R-2) dated 01.10.2014, reduction of manpower (vacancy) had occur and the same was as under:-

**"MANPOWER REDUCTION OF [COS FROM
VARIOUS SIGNAL UNITS**

FOR 11th ARMY PLAN

1. Ref your letter No 3001/CA-8/T-1/2014-16 dt 06 May 2014, 2650/CA-2/T-8 dt 18 Sep 2014 and this Dte letter No B/44255/Sigs 4 (BT)/PC-130 dt 14 Aug 2014.
2. Reduction of 472 JCOs from various Sig units during 11h Army Plan in Corps of Signals has been re-exam at this die on the recommendation of your letter under ref. The above JCOS will be reduced within four yrs (ie 2015-2018) to minimise stagnation. In case 3d Cadre Review is approved during the reduction period, the balance JCOS will be adjusted against 3rd Cadre Review vacs, Details of imp are given in succeeding paras. 3.
3. As intimated vide your letter under ref, out of the 472 JCOS, nine JCOS have already been reduced from UB Area Sig Regt, B Comp Sig Regt and Southern Cand Sig Regt. The reduction for bal 463, JCOs will be carried out as per in IHQ of MOD (Army) letter No B/10188/MP-3 (PBOR) dt 28 Feb 2005. The details are as under":-



Cat	Sub Maj		Sub		Nb Sub		Total	
	Auth	Effect	Auth	Effect	Auth	Effect	Auth	Effect
JE NE	87	-13	705	-53	760	-36	1552	-102
JE SYS	39	-07	304	-36	333	-21	676	-64
OSS	36	-07	319	-35	354	-16	709	-58
OP Ciph	30	-07	208	-47	268	-08	506	-62
GD	205	0	1188	-151	945	-26	2338	-177
CLK SD	33	0	305	0	304	0	642	0
SKT	08	0	70	0	70	0	148	0
MUSIC	0	0	0	0	04	0	4	0
Total	438	-34	3099	-322	3038	-107	6575	-463

13. The 11th Army Plan was implemented and Nine vacancies in phase 03 of the implementation in the rank of Subedar Major were reduced between 01.01.2017 to 31.12.2017 and it is clear from the records that the first two vacancies that arose in January, 2017 were reduced under this scheme. That apart, from the aforesaid it is clear that based on a policy for reducing 472 post of JCOS in the rank of Subedar Major/Subedar/Naib Subedar, a decision was taken to reduce. 463 posts out of which 34 posts were in the rank of Subedar Major and 07 were specifically from the cadre of Junior Engineer (JE) Systems. Accordingly, from the records it is clear that much before the DPC was held in 01.11.2016 - 02.11.2016, the implementation of 11th Army Plan was approved and notified on 01.10.2014 and in a phased manner the implementation of reduction was to be effected in the cadre of Subedar Major. The implementation was in four phases, starting from October, 2014 and continuing up to October, 2017 and 34 posts of Subedar Major were reduced during this period as is evident from Para 4 of the policy.

15. It may be seen from the documents annexed to the implementation scheme (Annexure R-2) dated 01.10.2021 that in October, 2014 itself, the manner of implementation of the scheme was published and in Appendix B of the said scheme, with regard to the reduction of vacancy in the cadre of Junior Engineer (JE) System in the third phase, it was clearly indicated that two vacancies would be reduced between 01.01.2017 to



31.12.2017. It is clear that reduction of 463 vacancies in all the said scheme was under-taken in a phased manner which commenced in 2014 and, therefore, the contention of the applicant that the rules of the game were changed after the notification was notified is not correct. DPC was held only for empanelment of eligible candidates for vacancies that may arise between 01.01.2017 to 31.12.2017 and if the vacancies that occurred in the year were reduced as per the plan already decided in October, 2014 and the reduction of vacancy covered from January itself, the act of the respondents cannot be termed as mala-fide or illegal in any manner whatsoever.

16. It is a case where the 11th Army Plan for reduction of vacancy was given effect to in October, 2014 and on 01.10.2014 itself the entire scheme for reduction was put in place and it has been given effect to in a phased manner, consequently before the retirement of the applicant on 31.01.2017, no vacancy had occurred for granting him promotion. As is evident from record, we find no illegality or error in the action of the respondents in denying promotion to the applicant.

17. Accordingly finding no merit in the grievance made by the applicant we find that the respondent have not violated or changed system or policy of promotion, once the promotion exercise has commenced. It is not a case where the procedure for promotion was changed after the promotion exercise was initiated and, therefore, the second. argument of the applicant is also not tenable. Accordingly, the OA is dismissed with no order as to costs.”

15. The primary contention on behalf of learned counsel for the petitioner was that the learned AFT failed to appreciate the well-settled principle of service jurisprudence that, the rules of the game cannot be changed once the game has already begun. It was submitted that the aforesaid aspect has not been properly appreciated by learned AFT. In the considered opinion of this Court, the aforesaid contention is not



ensuring to the benefit of the petitioner inasmuch as the learned AFT while examining the documents placed on record has given a categorical finding that the aforesaid principle would not be applicable in the facts of the present case.

16. As noted hereinabove, that even before the DPC meeting held between 01.11.2016-02.11.2016 for the year 2016 for considering the case of the petitioner, the vacancies had been reduced in a phased manner by way of implementation of the 11th Army Plan approved and notified on 01.10.2014. As per the records of the case, the implementation of the said plan was in four phases starting from October 2014 and continuing up to 2017 and 34 posts of Sub-Major were to be reduced during this period as is evident from paragraph 4 of the said policy. It is also a matter of record that in the note contained in paragraph 3 of the letter dated 04.12.2016 which gives list of empanelled candidates including the petitioner, it is recorded that, *“the JCOs earmarked as approved will be promoted to the rank of Sub Maj on Seniority-cum-merit basis subject to availability of vacancies”*.

17. Learned counsel appearing on behalf of the petitioner has placed reliance on **Maj Gen HM Singh. v UOI & Ors.**⁷, to urge that even though a public servant has no fundamental right of promotion, but if a vacancy exists, and he has been found fit for promotion against the said vacancy, then he acquires a fundamental right of promotion against the

⁷ AIR 2014 SC 1128



said vacancy. There is no dispute to the aforesaid proposition; however, the same in any case would be subject to **“availability of vacancy”** at the relevant point in time.

18. At this stage, it would be apposite to refer to the reduction scheme dated 01.10.2014 which records that 472 JCOs from various Signal units during 11th Army Plan Corps of Signals would be reduced within four years, *i.e.*, from the year 2015 to 2018, for minimizing stagnation. The said communication also recorded that 9 posts of Sub-Majors were to be reduced out of the vacancies occurring between the period 01.01.2017 to 31.12.2017 during the DPC October 2016 (third phase). In the appendix B to the said communication/reduction scheme, it is further recorded that the reduction of posts for DPC (third phase) vacancy occurring from 01.01.2017 to 31.12.2017 for the rank of Sub-Maj from the trade/rank of JE (SYS) were two- ‘2’ in number.

19. Thus, learned AFT was correct in observing that in October 2014 itself, the manner of implementation of the reduction scheme was published and with regard to the reduction of vacancy in the cadre Sub-Major JE-SYS indicated that two vacancies will be reduced from 01.01.2017 to 31.01.2017. Therefore, the contention on behalf of petitioner that rules of the game have been changed after notification was published and the petitioner was empanelled in JCOs’ list, is not correct.



20. It has been rightly decided by learned AFT that DPC was held only for empanelment of eligible candidates for vacancies that may have arisen for the period 01.01.2017 to 31.01.2017, and if the vacancies that occurred in the year were reduced as per the aforesaid plan which was already decided in October 2014, *i.e.*, prior to the commencement of the entire promotional exercise, the act of respondent cannot be termed as illegal and arbitrary. It is also further pertinent to note that petitioner has not taken any ground of *malafide* against any particular personnel.

21. Insofar as the contention raised on behalf of the petitioner that there was no reduction of vacancy for the promotion of empanelled candidates for the year 2016, it is sufficient to note that such a ground was not taken by the petitioner before the learned AFT. Further, no such document has been placed on record by the petitioner to demonstrate that there was no reduction of vacancies in the year 2016 nor the list of candidates promoted in the year 2016 has been submitted. Moreover, the reduction scheme dated 01.10.2014 reflects that the reduction of posts for DPC October 2015 (2nd phase) for the vacancy occurring between 1st January, 2016 to 31st December, 2016, for the rank of Sub-Maj from the trade/rank of JE (SYS) was one- '1' in number.

22. In the aforesaid facts and circumstances of the present case, no ground for interference with the impugned order dated 04.09.2025 passed in **OA 484/2018** in the extraordinary jurisdiction under Article 226 of the Constitution of India is made out.



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23. Accordingly, the present petition is dismissed and disposed of.
24. Pending applications, if any, also stand disposed of accordingly.
25. Judgment be uploaded on the website of this Court, *forthwith*.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

AUGUST 21, 2026/sn/ns