

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**Original Application No. 120 of 2015**

Wednesday, This the 7<sup>th</sup> day of October 2015

**Hon'ble Mr. Justice D.P. Singh, Member (J)**  
**Hon'ble Air Marshal Anil Chopra, Member (A)**

JC-580908 K Sub Clk Uday Narayan Singh  
Records, Jambu and Kashmir Rifles, Jabalpur.

.....Applicant

Ld. Counsel for : **Shri K.K. Mishra, Advocate**  
the Applicant

Versus

1. Union of India, through its Secretary Ministry of Defence,  
New Delhi.
2. Chief of Army Staff, Army HQ, New Delhi.
3. Officer Incharge, Records, Jambu & Kashmir Rifles,  
Jabalpur.

...Respondents

Ld. Counsel for the : **Shri D.K. Pandey, Central Govt**  
Respondents **Counsel for the Respondents**  
**assisted by Capt Ridhishri Sharma,**  
**OIC Legal Cell.**

**ORDER (ORAL)**

1. Heard learned counsel for the parties. With the consent of learned counsel for the parties, we propose to dispose of this O.A. No. at this stage itself.

2. One Naib Subedar Clk Upendra Kumar Tomar had filed O.A. No. 144 of 2010 against seniority list dated 29.07.2008 issued by Records J & K Rifles, Jabalpur. The O.A. was allowed by order dated 20.02.2013. The operative portion of the order is reproduced as under:

*“ The O.A. is allowed. We set aside the impugned letter No. 1478/RA-3/Clk dated 29<sup>th</sup> July, 2008 issued by Records J & K Rifles, Jabalpur, as contained in Annexure-2 to the O.A. and also set aside the seniority list as contained in Annexure A-3 and direct the respondents to restore the seniority of the applicant and consider the promotion of the applicant to the rank of Subedar with pay allowances as applicable as per the original seniority. The drill to be performed within three months from the date a certified copy of this judgment is made available to the learned counsel for the respondents.”*

3. According to learned counsel for the applicant once the seniority list has been set aside with certain observations, then benefit of the order should be given to the applicant as well as other similarly situated persons. Submission is that benefit has been extended only to Naib Subedar Clk Upendra Kumar Tomar.

4. Argument advanced by learned counsel for the applicant seems to be correct. Once the seniority list has been set aside pointing out certain irregularities therein, then while releasing new seniority list in the light of judgment (supra), similarly situated persons should have been considered

while deciding inter se seniority. It is well proposition of law that equals cannot be treated unequally.

5. Since the controversy involved is mixed question of fact and law, we dispose of the present application permitting the applicant to represent his case within one month from today and thereafter the respondents shall decide the representation of the applicant in the light of judgment and order rendered in O.A. No. 144 of 2010 (supra) and pass speaking and reasoned order expeditiously, say, within three months from the date of service of certified copy of this order.

6. Needless to say that the respondents shall ensure that the applicant be provided benefit in pursuance to judgment and order passed in O.A. No. 144 of 2010 (supra) in case he is similarly situated.

7. Subject to above observation O.A. is disposed of finally.

8. No order as to costs.

**(Air Marshal Anil Chopra)**  
**Member (A)**

**(Justice D.P. Singh)**  
**Member (J)**

ukt