

No.A.23017/1/2020-DPAR/SS.II(2)
GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL WING)

** ** *

Puducherry, dated 08.03.2022

ORDER

Sub: Public Services - Disposal of the representations received from (1)The Puducherry Integrated Employees Service and Welfare Association, Puducherry, (2) Thiru A. Elamurugan, UDC and (3) Thiru S. Sendilkumar, UDC in compliance of the orders of the Hon'ble C.A.T., Madras dated 04.02.2022 in O.A.No.310/00062/2022 - Order - Issued.

** ** *

The tentative seniority list in respect of 267 UDCs who have been appointed on promotion to the post of UDC upto 31.12.2012 was communicated to all concerned calling objections if any to the seniority assigned to them, vide Memorandum dated 30.06.2021. In response, the Direct Recruits and the Puducherry Integrated Employees' Service and Welfare Association, Puducherry have submitted various representations with a request to include the Direct Recruits inter se with the promotees.

2. Later, the Puducherry Integrated Employees Service and Welfare Association, Puducherry, and two others namely, Thiru A. Elamurugan, UDC and Thiru S. Sendilkumar, UDC (Direct Recruits) have filed an O.A. O.A.No.310/00062/2022 praying for the following relief:

"To direct the respondents to consider the representation/objections dated 09.07.2021, 11.01.2022 and 31.01.2022 submitted by the applicants and take appropriate action to re-draw Seniority List of Upper Division Clerks (UDCs) by incorporating 119 names of Upper Division Clerks (UDCs) those were recruited in the year 2012 by way of direct recruitment and till such time direct the respondents to maintain Status Quo and not to finalize final seniority list for the post of UDCs and preparation of empanelment list for granting promotion to the post of "Assistant" from feeder category post of UDC and pass such further or other order as this Tribunal may deem fit and proper in the circumstances of case and thus render justice."

3. The Hon'ble C.A.T, Madras disposed of the O.A on 04.02.2022 with the following direction.

"In the above circumstances, without going into the merits of the case, the competent authority is directed to consider the representation of the applicants dated 09.07.2021, 11.01.2022 & 31.01.202 in the light of relevant rules and DoPT guidelines issued and finalise the draft/tentative seniority list dt. 30.06.2021 for the post of Upper Division Clerks. The respondents are directed to maintain status quo as on this date till the disposal of the representation. "



4. In their representations, the applicants have requested to revise the seniority list by assigning seniority to 119 Direct Recruits inter se with the Promotees. Further, they have also raised objections against the notional promotion granted to the LDC batch of 1999, 2001, 2002 and 2005 batch by invoking the saving clause as per the O.M. dated 18.02.1988 which was inadvertently omitted in the RRs notified on 27.12.2005.

5. The Recruitment Rules for the post of UDC (Group-C) are framed and amended with the approval of Hon'ble Lt. Governor, who is the competent authority for making Recruitment Rules under Article 309 of the constitution. The Recruitment Rules prevailing from 09.12.1997 was revised vide G.O.Ms.No.94/2005-DPAR dt.15.12.2005 and published in the Gazette No.52 dt.27.12.2005 by enhancing the qualifying service from 5 years to 8 years. As per the DoPT Guidelines, a note should have been provided in the amended RRs as provided in para 3.1.3 of O.M. dated 18.02.1988 which read as follows:

"Where the eligibility service for promotion prescribed in the existing rules is being enhanced (to be in conformity with the guidelines issued by this Department) and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis, a note to the effect that the eligibility services shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules, could be included in the revised rules."

6. However, the above said saving clause was inadvertently omitted in the revised Recruitment Rules published in the Gazette on 27.12.2005. The omission of said mandatory note in the RR was brought to the notice of the Government. After careful examination of the omission and its implication on the existing feeder cadre officials and with the approval of Hon'ble Lt. Governor LDC batch of 1999, 2001, 2002 & 2005 who were holding the feeder post of LDC as on 27.12.2005 (the date of notification of revised RR) were granted promotion by considering five years of qualifying service. In the case of LDC batch of 2002 & 2005, notional promotion was granted later w.e.f. 01.01.2009 & 01.01.2012 respectively against the available promotion quota vacancies. Further, the notional promotion granted to the promotees has no relevance to the seniority as there was no direct recruitment until 01.02.2011 and they were considered against the promotion quota occurred prior to 01.02.2011, except the cases of 69 UDCs who were considered against the promotion quota available during the year 2011-12 & 2012-13.

7. As regards the Direct Recruitment, the notification for inviting applications for competitive exam for the post of UDC was issued on 20.04.2012 i.e. recruitment process was initiated w.e.f. 20.04.2012 and they were appointed on 23.08.2013. As the Direct Recruits were appointed during the period between 27.11.2012 and 18.11.2019, they shall be governed by the provision of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, as per the DoPT OM dated 13.08.2021 as produced below:



"In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court."

8. Therefore, after considering the representations submitted by the applicants, the tentative seniority list issued on 30.06.2021 has been revised and the revised tentative seniority of UDCs who have been promoted / appointed upto the vacancy year 2013-14, has been issued vide Memo. dated 04.03.2022 by including the Direct Recruits with inter se between the promotees who were promoted against the promotion quota vacancies arose after the notification of RR (i.e. 01.02.2011) in which the DR method was introduced, as per the provisions of DoPT O.Ms. dated 07.02.1986/03.07.1986 read with O.Ms. dated 04.03.2014 & 13.08.2021.

9. With this, the representations stand disposed.

// BY ORDER //


8/3/22

(V. JAISANKAR)

UNDER SECRETARY TO GOVT. (PERSONNEL)

To

1. Thiru R. Govindaraju, General Secretary,
Puducherry Integrated Employees Service
and Welfare Association,
133, 1st Floor, Edayanchavady Main Road,
Karuvadikuppam, Puducherry-605 008.
2. Thiru A. Elamurugan, UDC,
No.291/1, Type-II, Government Quarters,
Lawspet, Puducherry - 605 008.
3. Thiru S. Sendilkumar, UDC,
No.5, IX Cross, Tagore Nagar,
Lawspet, Puducherry-605 008.

Copy to:

Thiru R. Syed Mustafa,
Govt. Pleader for Puducherry at CAT, Madras Bench,
High Court Building, Chennai.


9/3/22

DESPATCHED