

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**



**OA No. 4456/2014  
MA No. 1273/2018**

**New Delhi, this the 09<sup>th</sup> day of January, 2020**

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Sh. Parveen Sharma, Age 40 years  
 S/o Shiv Charan Sharma  
 D/ Asstt. Store keeper  
 R/o Village Khera Khurd  
 Delhi-110082. .... Applicant

(through Ms. Rashmi Chopra with Ms. Asiya)

**Versus**

New Delhi Municipal Council, through its

1. The Chairman  
 New Delhi Municipal Corporation  
 Palika Kendra, New Delhi.
  
2. The Secretary  
 New Delhi Municipal Corporation  
 Palika Kendra, New Delhi.
  
3. The Director (Personnel)  
 New Delhi Municipal Corporation  
 Palika Kendra, New Delhi. .... Respondents

(through Ms. Sriparna Chatterjee with Ms. Himanshi Malhotra)



## ORDER(ORAL)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

The applicant states that he has been appointed as a Storeman (Auto) against leave vacancy on 20.08.1997 and thereafter, was continued without any break up to 23.10.2000. It is also stated that from 26.08.2001 onwards, he worked in various capacities up to 27.12.2001 and when he made a request for being regularized, he was abruptly discontinued. The applicant filed Writ Petition No. 19/2002 before the Hon'ble High Court of Delhi. The Writ was disposed of on 12.12.2005 with a direction to the respondents to consider the case of the applicant for appointment to the post of Assistant Store Keeper, by giving weightage to the period of service rendered between 1997-2001. After prolonged legal battle, respondents issued an order dated 26.08.2014, appointing him as Assistant Lines Man (ALM) in Group D and conferring the status of Regular Muster Roll (RMR) prospectively. The applicant states that several employees, who were junior to him, were conferred with the Temporary Muster Roll (TMR) status much earlier and, that in turn, enabled them to be conferred with the status of RMR from earlier dates. Stating that he has made a representation dated 12.11.2014, in this behalf and that the same was not considered by the respondents, the applicant filed this OA with a set of prayers ranging from setting aside of order dated 26.12.2006 to the one of quashing the order dated 26.08.2014 insofar as it did not



confer RMR status upon the applicant w.e.f. 31.12.1998. Certain other reliefs were also claimed.

2. The respondents filed counter affidavit opposing the OA. It is stated that the applicant is not entitled for the relief of regularization and the status of RMR was conferred in accordance with the Resolutions that were applicable to him.

3. Through an order dated 21.11.2017, this Tribunal dismissed the OA by placing reliance upon the judgment of the Hon'ble Supreme Court in the case of ***State of Karnataka vs Umadevi***, (2006) 4 SCC 1. The applicant filed Writ Petition No. 920/2018 challenging the order passed in the OA. In its order dated 20.02.2018, the Hon'ble High Court of Delhi took a view that, though this Tribunal addressed some of the prayers in the OA, the one pertaining to the relevant date of TMR was not dealt with and accordingly remanded the case to the Tribunal on that limited aspect. After remand, we heard the arguments of Ms. Rashmi Chopra, learned counsel for the applicant and Ms. Sriparna Chatterjee, learned counsel for the respondents, in detail.

4. Learned counsel for the applicant submits that her client was entitled to be conferred with the status of TMR on completion of 500 days in terms of a Resolution passed by the respondents on 26.02.2014 and there was no justification for the respondents in denying the same



to him. Reliance is also placed on various Resolutions passed, in that behalf.

5. Learned counsel for the respondents, on the other hand, submits that the representation made by the applicant itself was not specific in its purport and in view of the fact that the Resolutions pertaining to conferment of benefits of different kinds, are passed from time to time, the occasion did not arise to address the issue in relation to the applicant. Both the learned counsel for the parties advanced certain other arguments also.

6. The OA was dismissed earlier, through order dated 21.11.2017. The limited aspect on which the OA was remanded to the Tribunal was in relation to prayer (iv) which reads as under:

“Quash and set aside the order dated 26.08.2014 to the extent RMR status was granted with immediate effect and not w.e.f 31.12.1998.”

7. The OA came to be filed shortly after the applicant was appointed as ALM on 26.08.2014. The only step he has taken before filing the OA was that he made a representation on 12.11.2014. In the OA, the grievance with reference to said prayer, is that the status of TMR was not granted on completion of 500 days. However, what is complained of in the representation is somewhat different. The representation reads as under:



“ Hon’ble Delhi High Court on 12/12/2005 (CWP 19/2001) & CAT vide TA No. 423/2009 date 8/9/2009 directed the NDMC to consider my case for the post of ASK (Auto) vide considering my service w.e.f 1997 o 2001. While council shown its inability on 26/12/2006 & 10/10/2013 to consider my case for above-said post. I think speaking order does not reflect true compliance & spirit of judgment by DHC & CAT.

My trial begin from 2001 to 2009 and my last order of judgment was implement on 10/10/2013. (Approx 12 years)

During this trial lots of resolution were passed by NDMC in favour of TMR/RM/Ad-hoc/Contract employees (Group ‘D’) subsequently they regularized on their post.

During this period I had made lots of representation/application for group ‘D’ post which are available on my personnel file but all were overseen by the concern department. Now the status is my junior are regular employee while I am working on RMR in current date 28/8/2014 which is unjustified and unfair to me.

So with folding hands I beg you to kindly take necessary action to meet the natural justice to me please.”

8. The applicant was not clear as to the Resolution which enabled him to claim the benefit or on other specific aspects. At any rate, the respondents did not deal with the representation, much less did they give any reply.

9. We are of the view that an issue of this nature needs to be addressed with reference to the relevant Resolutions, particularly when the issue is not governed by any rule. For that purpose, the applicant has to make a representation indicating the relevant Resolutions and furnishing the pertinent facts.



10. We, therefore, dispose of the OA leaving it open to the applicant to file a representation claiming the benefit in the context of benefit of conferment of RMR status, w.e.f. any date earlier to 26.08.2014 by placing the relevant material, within a period of four weeks from today. If such a representation is made, the respondents shall pass an order thereon, within a period of two months thereafter.

Pending MA, if any, also stands disposed of.

There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/ns/