



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2463 of 2018

This the 13th day of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. Pradeep Kumar, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

Dr. Ankit Seth
S/o Shri H S B Seth,
Aged about 44 years
R/o 80, Thomson Road,
Minto Road,
New Delhi-110002

...Applicant

(By Advocate: Shri Apurb Lal)

VERSUS

North Delhi Municipal Corporation,
Through its Commissioner,
Dr. S P M Civic Centre,
Minto Road,
New Delhi-110002.

...Respondent

(By Advocate: Shri D.S. Mehandru)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (J):

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals, 1985 seeking following reliefs therein:-

- “(i) Set aside the order of the Respondent dated 10.11.2017 and direct the respondent to grant all benefits taking into consideration the date of joining as 30.10.2003 instead of 06.01.2004.
- “(ii) Order to release increments and fix the seniority by taking into consideration the date of joining as 30.10.2003.



(iii) Pass such other and further order as may deem fit and proper.”

2. The present OA is second round of litigation between the applicant and the respondents. In the first round of litigation vide OA No.1291/2012, the issue was raised as to whether the applicant is to be covered with the benefits of new Pension Scheme or under the old Pension Scheme under CCS (Pension) Rules, 1972. After considering the submissions made by the learned counsel for the parties, the said OA was allowed vide order/judgment dated 28.8.2012 (Annexure A/2). The operative portion of the said order/judgment reads as under:-

“9. Pursuant to his joining on 30.10.2003 in MCD, he was posted to SHS, Kamla Nagar vide office order dated 03.11.2003 till his further posting and reported to the changed place of posting on 06.01.2004 as his actual date of joining and denied him the benefits under CCS (Pension) Rules, 1972. This stand of the respondent MCD, in our considered view, is not correct. The respondents ground suffers from presumptive error i.e. MCD resumed that the applicant joined his service on 06.01.2004, whereas reporting to his duty post on 06.01.2004 is a subsequent event of joining and reporting to MCD. Applicant undisputedly joined his service on 30.01.2003 pursuant to his appointment order. Thus, in our view the real date of joining the post of GDMO-II is 30.10.2003, not 06.01.2004. In view of the above conclusive finding, the applicant is entitled to get the benefit of the Pension Scheme viz. CCS (Pension) Rules, 1972. Resultantly, the impugned order dated 20.06.2011 passed by the Respondent-MCD is quashed and set aside. The Respondent-MCD is directed to extend the benefits of Old Pension Scheme as per CCS (Pension) Rules, 1972.

10. Considering the totality of facts and circumstances of the case, the OA having merits is allowed in terms of our above orders and directions, leaving the parties to meet their respective costs.”



3. From the aforesaid, it is evident that this Tribunal has given a clear finding that the date of joining of the applicant under the respondents is 30.10.2003 and not 6.1.2004.

4. Shri Mahendru, learned counsel for the respondents, submits that the said order/judgment has been complied with in as much as applicant is being regulated under the old Pension Scheme under CCS (Pension) Rules, 1972, however, as the applicant has only joined the post in question under the respondents on 30.10.2003 and has not worked till his posting on 6.1.2004, the applicant is not entitled to get the salary or the increments taking into account his joining as 30.10.2003.

5. We have heard learned counsel for the parties and have perused the pleadings available on record.

6. The impugned order dated 10.11.2017 (Annexure A1) reads as under:-

“Sub:- Correction of Date of Joining in light of ruling of Hon’ble CAT (OA no.1291/2012).

Reference your letters on the subject cited above. The facts of the case have been considered by the Competent Authority and the following observations have been found.

As per record of CED, the said benefits of CCS Pension Rules have already been extended to you vide order No.A.O.(Estt)/CED/H.C(M)-II/CED/North/2013/82 dated 10.01.2013. Further, you had delayed your joining yourself and requested twice to extend your joining. You have been debarred to get your annual increment in time due to delay in joining. The monetary benefits are being given to you considering the actual date of joining 06.01.2004.”

7. From the impugned order, it is clearly evident that even though the respondents have considered the applicant’s joining w.e.f. 30.11.2003 for regulating his pensionary benefits, however, for service benefits, they have considered the date of joining as 6.1.2004.



We are of the considered view that two different dates for date of joining, cannot be there in the case of the applicant. Whether the applicant worked during the period from 30.10.2003 to 6.1.2004 or not, is to be looked into and decided in accordance with the relevant rules on the subject by the respondents. However, for grant of service benefits, the date of joining of the applicant is required to be taken as 30.10.2003, in view of the clear order/judgment of this Tribunal dated 28.8.2012 in OA No.1291/2012 (Supra).

8. In view of the aforesaid, the impugned order dated 10.11.2017 (Annexure A1) is quashed and set aside. The respondents are directed to re-consider the claim of the applicant and grant him all consequential service benefits taking into consideration the date of joining of the applicant as 30.10.2003 instead of 6.1.2004 and to pass an appropriate reasoned and speaking order in this regard as expeditiously as possible and in any case within eight weeks of receipt of a copy of this Order.

The respondents are further directed that period from 30.11.2003 to 6.1.2004 can be regulated by them in accordance with the extant instructions on the subject. The respondents are further directed that keeping in view the aforesaid, if any arrears of pay and allowances is found to be payable to the applicant, the same shall be paid to the applicant within six weeks thereafter.

9. The present OA is allowed in the aforesaid terms. No costs.

(R.N. Singh)
Member (J)

(Pradeep Kumar)
Member (A)

/ravi/sarita/neetu/