

**Central Administrative Tribunal
Principal Bench**

OA No.156/2016

New Delhi, this the 31st day of May, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

Shri S. L. Meena
Executive Engineer
S/o Shri Devi Lal Meena,
R/o 273, Neelkanth Apartment,
New Delhi.

... Applicant.

(By Advocate : Shri Rajeev Sharma)

Vs.

1. The Commissioner
North Delhi Municipal Corporation
Dr. S. P. Mukherjee Civic Centre,
4th Floor, J. L. Marg,
New Delhi.
2. The Commissioner
South Delhi Municipal Corporation
Dr. S. P. Mukherjee Civic Centre,
9th Floor, J. L. Marg,
New Delhi.
3. The Additional Commissioner (Estt.)
North Delhi Municipal Corporation
Dr. S. P. Mukherjee Civic Centre,
5th Floor, J. L. Marg,
New Delhi.
4. Director (Personnel)
North Delhi Municipal Corporation
Dr. S. P. Mukherjee Civic Centre,
13th Floor, J. L. Marg,
New Delhi. Respondents.

(By Advocates : Shri K. M. Singh for R-1.
Mrs. Anupama Bansal for R-2).
Shri R. V. Sinha for Shri R. N. Singh for R-3 &4

: O R D E R (ORAL) :**Justice Permod Kohli, Chairman :**

Reply has not been filed.

2. At this stage, Shri Rajeev Sharma, learned counsel appearing for the applicant under instructions from the applicant, who is also present in court, submits that the applicant confines his prayer only to relief (a). He further submits that prayer (b) & (c) may be deleted from the relief clause. Therefore, the only relief now sought in this Application is for issuance of a direction to the respondents to open the sealed cover.

3. While working as Executive Engineer (Civil) on ad hoc basis in Municipal Corporation of Delhi, the applicant was issued a charge sheet dated 20.09.2005, and an inquiry was held against him in relation to the said charge sheet. On conclusion of the inquiry, penalty of "Stoppage of two increments for two years without future effect" was imposed upon him vide office order dated 13.08.2013 (Annexure A-3). In the year 2009, another charge sheet dated 12.05.2009 was served upon the applicant. However, the charges came to be dropped. Another charge sheet dated 13.12.2010 was also served upon him. However, he was exonerated of the charges vide order dated 24.07.2013 (Annexure A-5).

4. It has also come on record that in April, 2006, the applicant was terminated from service by the Disciplinary Authority, the then Commissioner of MCD without issuing any charge sheet. The applicant preferred an appeal against the said termination before the Lt. Governor of Delhi who converted the order of termination into compulsory retirement, vide order dated 27.04.2007. This order of compulsory retirement became subject matter of challenge before the Hon'ble High Court of Delhi. However, the case was transferred to this Tribunal. The Tribunal set aside the order of termination with liberty to the

respondents to convene departmental inquiry. The order of quashment was upheld by Hon'ble High Court of Delhi. Consequently, the applicant was reinstated into service. However, a fresh inquiry was conducted as a consequence of the directions of the Tribunal by issuing charge sheet dated 01.11.2010. On conclusion of the inquiry, a penalty of "reduction in pay in the present time scale of pay by two stages for a period of two years with cumulative effect" was imposed upon the applicant vide order dated 07.05.2013, notified vide order dated 24.06.2013. However, on appeal preferred by the applicant before Lt. Governor, he succeeded, and the order of imposition of penalty was set aside vide his order dated 26.06.2014 and notified vide Office Order No.1/263/ 2010/ Vig./P/ 2014/640 dated 02.07.2014 (Annexure A-2).

5. On account of setting aside the aforesaid order and pursuant to various judgments of Hon'ble Delhi High Court passed in case of the applicant and some other Engineers of the MCD, vide office order dated 01.10.2010 the applicant was put back into service as Executive Engineer (Civil) on ad hoc basis.

6. The applicant was due for consideration for regular promotion as Executive Engineer in the year 1997-98. He was considered for promotion on regular basis as Executive Engineer right from the year 1997-98 up to 2007-08 and every time his case was considered by the Departmental Promotion Committee, and kept in sealed cover. It is contended that after the year 2007-08, no DPC was ever held.

7. According to learned counsel for the applicant, for the period 1997-98 up to 2003-04, no disciplinary action or criminal proceeding was pending against the applicant. Therefore, adoption of sealed cover procedure was impermissible in law. It is, however, a fact that from

2004-05 till 2013-14, disciplinary proceedings remained pending against the applicant. Except one punishment of stoppage of two increments for two years without cumulative effect, as imposed vide order dated 02.08.2013, he has been exonerated in all other disciplinary proceedings.

8. Be that as it may, sealed cover is required to be opened for all the years because against the vacancies pertaining to these years applicant was considered from time to time. The authorities are, however, required to take into consideration the punishment imposed upon him and the period relevant for the said purpose. On opening of the sealed cover, if the applicant is found recommended for promotion on regular basis against the vacancy of the relevant year, he shall be considered for such promotion in accordance with law. Let the entire exercise of opening the sealed cover and consideration by the competent authority be completed within a period of four months from the date of receipt of copy of this order, and consequential orders be passed in that regard and communicated to the applicant.

(K. N. Shrivastava)
Member (A)

(Permod Kohli)
Chairman

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