

Central Administrative Tribunal  
Principal Bench  
New Delhi

T.A.No.32/2012

Order Reserved on: 15.03.2016  
Order pronounced on 18.03.2016

Hon'ble Shri V. Ajay Kumar, Member (J)  
Hon'ble Ms. Nita Chowdhury, Member (A)

1. Rajender Prasad Yadav  
S/o Shri Siri Ram Yadav  
R/o 9316, Gaushala Marg  
Kishan Ganj, Delhi – 110 006.

2. Sh. Dharam Pal Gupta  
Son of Shri Ram Kishan  
R/o E-1345, Jahangir Puri  
Delhi.

... Applicants

(By Advocate: Shri Ranbir Yadav)

Versus

1. Union of India  
Ministry of Personnel, Public Grievances & Pensions  
(Deptt. Of Personnel and Training)  
North Block, New Delhi.  
(service to be effected through its Secretary)

2. Municipal Corporation of Delhi  
Service to be effected through  
Commissioner, MCD, Town Hall,  
Delhi – 110 006.

... Respondents

(By Advocate: Shri R.K.Jain)

## **ORDER**

**By V. Ajay Kumar, Member (J):**

The applicants filed the original Suit bearing No.69A/12 before the Court of Sh. N.K.Malhotra, ASCJ/JSCC/GJ, North, Tis Hazari Courts, Delhi. Thereafter, on conferring jurisdiction against the respondents-MCD, the said Suit was transferred to this Tribunal and numbered as the present TA No.32/2012.

2. The applicants vide the amended plaint in the said Suit, sought the following relies:

"It is, therefore, prayed that this Hon'ble Court may be pleased to pass in favour of the plaintiffs and against the Defendants:

- A. a decree of Mandatory Injunction in favour of the plaintiffs and against the defendants to promote the plaintiff no.1 to the post of Labour Welfare Superintendent under the ACP scheme either regular or adhoc and to promote the plaintiff no.2 as Labour Welfare Organizer till the vacancies are available in the cadre of Labour Welfare Superintendent.
- B. to give service benefit w.e.f. 1995 as per the decision of the apex court or w.e.f. 2.7.97 as per order of Government of India or when Mangal Singh Hiteshi was promoted to give two steps under the ACP scheme and the benefits of promotions i.e. two steps under the scheme.
  - a) a decree for mandatory injunction in favour of the plaintiffs and against the defendant no.1, directing the defendant no.1 to implement and enforce its directives laid down in aforesaid O.M. 36012/2/96-Estt. (Res.) and O.M. No.14017/2/97-Estt.;
  - b) a decree of prohibitory Injunction restraining defendant no.2 from granting any further promotion to the post of Labour Welfare Organizer in violation of O.Ms of defendant no.1 and in contravention of guideline of Hon'ble Supreme Court;
  - c) a decree for mandatory injunction, directing the defendant no.2 to prepare the rosters based on the principles elaborated in the explanatory notes given in Annexure-I to aforesaid O.M. and illustrated in the Model Rosters annexed to the O.M. as Annexure-III, and consequential benefits to the plaintiffs by promoting them to the post of Labour Welfare Organizer with retrospective effect, by incorporating the order of illegal promotion of Mr. Mangal Singh Hiteshi, bringing it in consonance with the list V as produced in plaint.

Any other further relief which this Hon'ble Court may deem fit and proper, be granted in the interest of justice."

3. However, when this matter is taken up for hearing, the learned counsel for the applicants, on instructions, submitted that he restricts the prayer for granting of the Financial Upgradations under the ACP from respective due dates.

4. It is the case of the applicants that they were appointed as Kendra Sahayak Center Attendants (in short KSCA) on 02.04.1973 and 7.04.1973 respectively and were made permanent w.e.f. 1.04.1974 and 06.04.1974 respectively. During the year 1982, in pursuance of their selection in the examination conducted by the respondents, they were appointed as LDCs, however, since the pay scale of their earlier post, i.e. KSCA was revised, they made a representation to revert them back to their original post. Accordingly, the respondents reverted them to the original post of KSCA on 25.03.1983. On introduction of the ACP Scheme w.e.f. 09.08.1999, the applicants were granted the 2<sup>nd</sup> Financial Upgradation on 23.07.2004. They were also promoted as Labour Welfare Organizers during the years 2009 and 2012 respectively. The 1<sup>st</sup> Applicant retired on 31.01.2011 and the second applicant retired on 30.04.2012 from service.

5. The learned counsel for the applicants submits that the post of LDC in which the applicants were originally appointed in the year 1982 is not a promotional post to the KSCA and hence, they are entitled for

the 1<sup>st</sup> Financial Upgradation w.e.f. the due date, i.e., on completion of 12 years from their respective dates of initial appointments.

6. However, the learned counsel for the respondents submits that once the applicants were promoted as LDCs and on their request they were reverted to the original lower post of KSCA, they are not entitled to the 1<sup>st</sup> Financial Upgradation under the ACP Scheme. However, as per their entitlement, the 2<sup>nd</sup> Financial Upgradation was given from the due date and after introduction of the MACP, they were also granted the 3<sup>rd</sup> Financial Upgradation under the MACP. Eventually, both the applicants were also promoted as Labour Welfare Organizers during the year 2009 and 2012 respectively. Accordingly, the learned counsel for the respondents submits that the applicants are not entitled for any other benefits much less the ACP benefits.

7. The applicants except reiterating that the post of LDC is not a promotional post for KSCA but failed to draw our attention to any specific rule in this regard. They also failed to state under what circumstances they were promoted to the post of LDC and reverted back to their original post of KSCA on their own representations. Further, they have also not disputed the granting of the 2<sup>nd</sup> Financial Upgradation under ACP and 3<sup>rd</sup> MACP and also promotion to the post of Labour Welfare Organizers from the respective dates before their retirement.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly, the same is dismissed. No costs.

(Nita Chowdhury)  
Member (A)

(V. Ajay Kumar)  
Member (J)

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