

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

M.A.NO.114 OF 2014
(In T.A No.1236 of 2009)

New Delhi, this the 18th day of September, 2015

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
&
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

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Mohd. Naushad Ali
s/o Mohd. Ali Husain,
R/o 163/B-1, Joga Bai, Jamia Nagar,
New Delhi - 110 025.

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Applicant

(By Advocate: Mr.Shailendra Tiwari)

Vs.

1. Govt. of N.C.T. of Delhi through
its Chief Secretary,
Govt. of NCT of Delhi,
New Secretariat, Playerø Building,
I.P.Estate, New Delhi.
2. Principal Secretary (Edu. & Culture),
Govt. of NCT of Delhi,
New Secretariat, Playerø Building,
I.P.Estate, New Delhi.
3. Delhi Subordinate Services Selection Board,
Through its Secretary,
F-18, Institutional Area,
Karkardooma,
Delhi

4. Municipal Corporation of Delhi(South),
Through its Commissioner,
Civic Centre, S.P.Mukharji Building,
New Delhi 110001.

5. Municipal Corporation of Delhi (East),
through its Commissioner,
Udyog Bhawan,
Patparganj,
New Delhi

í í í í í í ..Respondents

(By Advocates: Mr.N.K.Singh for Mrs. Avnish Ahlawat for R-3,
Ms.Sangeeta Rai for R-4, & Ms.Anupama Bansal for R-5)

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ORDER

RAJ VIR SHARMA, MEMBER(J):

We have heard Mr.Shailendra Tiwari, learned counsel appearing for the applicant, and Mr.N.K.Singh for Mrs. Avnish Ahlawat for respondent no.3, Ms.Sangeeta Rai for respondent no.4, and Ms. Anupama Bansal for respondent no.5.

2. Mohd. Naushad Ali, who was one of the two applicants in T.A.No.1236 of 2009, filed the present M.A.No.114 of 2014 on 20.12.2013 purportedly under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987, praying for passing an appropriate order by the Tribunal directing the respondents to implement the order dated 8.9.2009 passed in TA No.1236 of 2009 and to grant him all consequential benefits.

3. In MA No.114 of 2014, it is stated by the applicant that he was selected as Assistant Teacher (Primary-Urdu) in the Municipal Corporation

of Delhi (MCD) on the basis of test conducted by the Delhi Subordinate Services Selection Board (DSSSB) on 21.4.2001. T.A.No.1236 of 2009 was filed by him seeking issuance of a direction to the respondents to issue appointment letter on the basis of his aforesaid selection. In paragraph 16 of the order dated 8.9.2009 (ibid), the Tribunal, *inter alia*, directed that the issue regarding payment of at least half of the wages of a regular employee as per the Delhi School Education Act, 1974 shall be examined by the respondents within two months and a reasoned order shall be passed, and that if the entitlement is established, arrears thereof shall be disbursed to applicants in TA No.1236 of 2009. Although the respondent-Department issued appointment letter dated 25.6.2010 to him, the consequential financial and service benefits, viz., arrears, seniority, etc., with effect from 12.8.2001 were not granted by the respondent-Department to him. The representations dated 7.11.2012 and 14.3.2013 made by him having yielded no response, he filed the present M.A.

4. On 16.1.2015 South Delhi Municipal Corporation filed an affidavit wherein it is, *inter alia*, stated that in the year 2000 the Education Department of the Municipal Corporation of Delhi required the DSSSB to conduct selection process and recommend suitable candidates for filling up 56 vacancies in the post of Urdu Teacher. Accordingly, DSSSB issued notification inviting applications from eligible persons desirous of participating in the selection process. Thereafter, the written examination was held, and result thereof was declared by the DSSSB. While the matter

stood thus, Mr.Ishrat Jamal and others, who were engaged as Part-Time Urdu Teachers by the Urdu Academy, Government of NCT of Delhi, filed writ petition before the Honøble High Court of Delhi, seeking regularization of their services and grant of pay scale at par with the employees of the Directorate of Education and Municipal Corporation of Delhi. The Honøble High Court stayed the recruitment process. Subsequently, the Honøble High Court transferred the said writ petition to the Tribunal. On transfer, the said writ petition was registered as TA No.1237 of 2009(**Israt Jamal & others v. Govt. of NCT of Delhi and others**). The candidates selected by the DSSSB for appointment to the post of Urdu Teacher filed two writ petitions before the Honøble High Court of Delhi. The said two writ petitions were also transferred by the Honøble High Court to the Tribunal. On transfer, the said two writ petitions were registered as TA No.1236/2009 (**Mohd. Naushad Ali and another v. GNCTD & others**) and TA No.1238/2009 (**Farida Rehman & others v. GNCTD & others**). All these three T.As. being interwoven were heard analogously, and the Tribunal disposed of the same, vide common order dated 8.9.2009(*ibid*). In paragraph 16 of the order dated 8.9.2009(*ibid*), the Tribunal directed as follows:

õ16. As regards applicants in TA-1236 and TA-1238 of 2009, as they have been selected and their appointments have been withheld by the orders of the Court, we direct respondents to go ahead with the selection process and to give effect to its outcome by offering appointments to applicants in the above TAs, within a period of two months from the date of receipt of a copy of this order. We also dispose of TA-1237/2009 with a direction to the respondents to hold a selection for the posts of Assistant Teacher (Primary-Urdu), which are admittedly

vacant with an opportunity to applicants in this TA to participate and as they are eligible, they shall be considered, giving due weightage to their experience on age relaxation. On result of such selection, law shall take its own course. Till then status quo, as of today shall be maintained. We further direct that the issue regarding payment of at least half of the wages of a regular employee as per the Delhi School Education Act, 1974 shall be examined by the respondents within the aforesaid period of two months and a reasoned order shall be passed. If the entitlement is established, arrears thereof shall be disbursed to applicants in TA-1236/2009. No costs.

Let a copy of this order be placed in the case file of each TA.ö

(Emphasis laid)

It is stated by the South Delhi Municipal Corporation that the direction contained in paragraph 16 of the order dated 8.9.2009 (*ibid*) regarding calculation and payment of arrears of wages was in relation to the applicants in TA No.1237 of 2009, who were working as Part-Time Urdu Teachers and not with respect to the applicants in TA No.1236 of 2009 or TA No.1238 of 2009. In compliance with the direction of the Tribunal in its order dated 8.9.2009 (*ibid*), appointment letters were issued to the eligible applicants in TA Nos.1236 and 1238 of 2009, who were selected and recommended by the DSSSB. It is also stated that all the selected candidates, including the applicant in the present MA No.114/2014, were issued appointment letters after the order dated 8.9.2009 (*ibid*) was passed by the Tribunal. Therefore, there was no question of granting any service benefit from retrospective date, or of payment of any arrear to be made to the applicant in the present MA No.114/2014. In the above view of the matter, the South Delhi

Municipal Corporation prayed for dismissal of MA No.114 of 2014 filed by the applicant.

5. The statements made by the South Delhi Municipal Corporation in its affidavit dated 16.1.2015 have not been controverted by the applicant.

6. After perusing the records of T.A.No.1236 of 2009 and the common order dated 8.9.2009 passed by the Tribunal disposing of T.A.Nos.1236, 1237 and 1238 of 2009, we have found that the statements made by the South Delhi Municipal Corporation in its affidavit dated 16.1.2015 are borne out by records. Paragraph 16 of the order dated 8.9.2009(*ibid*) contained two parts. The first part of paragraph 16 of the order dated 8.9.2009 (*ibid*) was with respect to T.A.Nos. 1236 and 1238 of 2009 which were filed by the candidates selected by the DSSSB for appointment to the post of Assistant Teacher (Primary-Urdu) in MCD. The second part of the order dated 8.9.2009 (*ibid*) was with respect to T.A.No.1237 of 2009 filed by the part-time Urdu Teachers seeking regularization of their services and grant of pay scale to them at par with the employees of the Directorate of Education and MCD. Considering the grievances of the part-time Urdu Teachers, i.e., the applicants in TA No.1237 of 2009, the Tribunal, in the second part of the order dated 8.9.2009 (*ibid*), directed the respondents to examine the issue regarding payment of at least half of the wages of a regular employee as per the Delhi Education Act, 1974, to the applicants in TA No.1237 of 2009 and to pass a reasoned order within two months of passing of the order dated

8.9.2009(*ibid*). It was also directed by the Tribunal that if the entitlement was established, arrears thereof shall be disbursed to the applicants. But, inadvertently, "TA-1236/2009" instead of "TA No.1237/2009" was mentioned after the words "applicants in" occurring in the penultimate sentence of second part of the order dated 8.9.2009(*ibid*). Due to this clerical mistake, the applicant is apparently making a claim that as per the direction contained in the order dated 8.9.2009(*ibid*), he was entitled to payment of arrears and service benefits with effect from August 2001. The applicant in the present MA No.114/2014 and another, who were applicants in TA No.1236 of 2009, and the applicants in TA No.1238 of 2009, were not engaged as part-time Urdu Teachers, but were selected by the DSSSB for appointment to the post of Assistant Teacher (Primary-Urdu) in MCD. The first part of paragraph 16 of the order dated 8.9.2009 (*ibid*) did not contain any direction to the respondents to appoint the selected candidates as Assistant Teachers (Primary-Urdu), who were applicants in TA Nos.1236 and 1238 of 2009, with retrospective effect and to grant them consequential financial and service benefits. It is the admitted position between the parties that all the selected candidates including the applicant in the present MA No.114/2014, who was one of the applicants in TA No.1236 of 2009, were appointed to the post of Assistant Teacher (Primary-Urdu) after the order dated 8.9.2009 was passed by the Tribunal in TA Nos.1236, 1237 and 1238 of 2009. In compliance with the direction contained in the first part of paragraph 16 of the order dated 8.9.2009(*ibid*), the MCD, vide its letter

dated 25.6.2010 (Annexure A/1 to MA No.114 of 2014), appointed the applicant to the post of Teacher (Primary-Urdu).

7. In the light of our above discussions, we have no hesitation in holding that the order dated 8.9.2009 passed in TA No.1236 of 2009 has been fully complied with by the respondents, and that the claim raised by the applicant in the present MA No.114/2014 is baseless.

8. Accordingly, MA No.114 of 2014 is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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