

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

**OA No.521/2014
MA No.903/2014
MA No.444/2014**

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)**

**Reserved on : 24.10.2017.
Pronounced on :06.11.2017**

1. Amar Iqbal Singh
R/o C-1020, Block C, Jhangirpuri
New Delhi – 110 033.
2. Tek Chand
R/o 217/3, Padam Nagar, New Delhi.
3. Meena Kumari
R/o G-8, Gali No.8, Wazirbad Village
Delhi – 110 084.
4. Renu
R/o 892, A Block, Jhangirpur, Delhi.
5. Shashi
R/o Qtr. No.7, Double Story
I.D.Hospital, Kingsway Camp
Delhi – 110 009.

... Applicants

(By Advocate:Shri S.M.Dalal)

VERSUS

Commissioner
North Municipal Corporation of Delhi
4th Floor, Civic Centre
Minto Road
New Delhi – 110 002.

...Respondent

(By Advocate:Ms. Anita Pandey)

O R D E R

Hon'ble Ms. Praveen Mahajan, Member (A):

The current OA has been filed by the applicants seeking the following reliefs :-

- “(a) Direct the respondent to regularize the services of the applicants wef 01.04.2003, the date from which 19 other similarly placed Ward Boys/Ayas were granted the benefit of regularization.
- (b) Direct the respondent to grant all consequential benefits including pay and allowances and counting the service for promotion/post retiral benefits.

- (c) Direct the Respondents to pay interest @ 12% PA on the arrears of pay and allowances.
- (d) To impose exemplary costs against the respondent and in favour of the applicants for causing mental trauma and harassment to the applicants.
- (e) Any other such relief, orders or directions which this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case be also passed."

2. Briefly stated the facts of the case are that the applicants were engaged as Ward Boys/Ayas in the Health Department of Municipal Corporation Department on daily wage basis w.e.f. 05.10.1994 and 19.04.1995. They were posted to I.D. Hospital in April 1995. The applicants were regularized in the above posts w.e.f.01.04.2004 vide office order dated 16.12.2005. As per circular dated 01.03.2004 all daily wage employees of MCD were to be regularized w.e.f.01.04.2003 instead of 01.04.2004. Hence, applicants state that were also entitled for regularization w.e.f.01.04.2003. About 19 Ward Boys/Ayas, similarly placed like the applicants, were regularized w.e.f.01.04.2003. However, similar order in respect of applicants has not been passed by the respondents and no reasons for this discrimination is forthcoming from them. Aggrieved by this, the applicants filed representation dated 20.06.2011 but to no avail. The respondents assured the applicants verbally that their case is genuine. They have also sought number of documents from the applicants like Educational Qualification Certificates, Currency of Punishment Reports and Conduct Reports etc. which, reportedly, are in order. The applicants, pray that since there is no legal impediment in issuing their revised regularization as per the circular cited above, the respondents may be directed to regularize their services w.e.f. 01.04.2003.

3. The respondents in their reply to the OA, have submitted that the benefit of regularization in respect of 19 similarly placed employees has been extended as per the order in OA No.2420/2009. It is further contended that the applicants in the present OA do not fulfil the uniform criteria of 240

days of continuous service in a year as per the policy of MCD vide resolution no.273 dated 27.06.1988, hence, the applicability of circular dated 01.03.2004 to the applicants, does not arise. Additionally, due to fire in the respondents' office many of the documents required for processing the case of the applicants have been burnt-down making it difficult to verify the claim of the applicants.

4. Heard both the learned counsel, who reiterated the facts already available on record.

5. The learned counsel for the applicants, Shri S.M.Dalal, stated that in his rejoinder to the counter filed by the respondents, he has tabulated the number of days for which each applicant worked during the financial years 1994-95 till financial year 2003-2004.

6. The learned counsel for respondents, Ms. Anita Pandey again emphasised that the applicants do not fulfil the criteria for regularization as they did not meet the requisite condition of 240 days of continuous service every year, from the year of their initial engagement till they were regularised. However, the other 19 Ward Boys/Ayas fulfilled criteria of 240 days of continuous service, each year, hence their services were regularized w.e.f.01.04.2003. The attendance report of the other similarly placed 19 Ward Boys/Ayas, has been placed at Annexure-B. She however informed the court that the MCD is in the process of examining the records of the applicants in the current OA, again, to reconsider their request for regularization w.e.f. 01.04.2003.

7. We have carefully perused the available record, and the averments made by both sides.

8. The contention of the applicants is that they have put in 240 days of regular services in each financial year upto 01.04.2004 and hence are entitled for parity with similarly placed employees and should be regularized

w.e.f.01.04.2003. This claim has been vehemently refuted by the Respondents.

9. We find, that though the applicants have tabulated the number of days of service put in by each applicant in the financial year 1994-95 till 2003-04, in their rejoinder but this calculation is not accompanied/supported with wage bills or certificates of their controlling officers, indicating the number of days for which they claim to have worked with the respondent department. In the absence of supporting documents it might be difficult for the respondents, it might be difficult for the respondents to verify the authenticity of their claim.

10. However, we have taken note of the submission made by the learned counsel for the respondents that they are in the process of examining and re-processing the case of the applicants to finalize their claim of having put in 240 days of continuous service in the department w.e.f.1994-95 till 2003-04. We accordingly direct the respondents to examine the claim of each applicant carefully by matching/verifying it with the relevant official documents, as required under the rules/regulations. In case their claims are found to be genuine then they may be extended similar benefits as extended to the other 19 Ward Boys/Ayas who have been regularized w.e.f.01.04.2003. The applicants are also directed to assist the respondents in this exercise by supplying them with the necessary documents to process and finalize their cases. Respondents must complete this exercise in the next four months from the date of receipt of a copy of this order and inform the applicants of the outcome by way of a speaking order. The OA is thus allowed partially. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

