

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 647/2015
M.A. No. 537/2015

New Delhi this the 20th day of March, 2017

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. P.K. BASU, MEMBER (A)

1. Smt. Shalini Singh, OBC
W/o Shri Dinesh Singh,
R/o F-27, Type-III, MCD Flats,
Meharchand Market,
Lodhi Road, New Delhi.
2. Smt. Sudesh Kumari, SC
D/o Shri Daria Singh,
W/o Shri Madan Lal,
R/o Village Konsiwas,
Post Office – Majra Gurdas,
Tehsil & District – Rewari (Haryana)
3. Smt. Renu Chaudhary, OBC
D/o Shri Dev Raj Singh,
W/o Shri Arvind Kumar,
R/o H.No.1039, Sector-3,
Vasundara, Ghaziabad (UP).

.. Applicants

(By Advocate : Shri Rama Shanker)

Versus

1. South Delhi Municipal Corporation,
Through its Commissioner,
Dr. SPM Civic Centre, J.L. Nehru Marg,
New Delhi-110 002.
2. East Delhi Municipal Corporation,
Through its Commissioner,
Dr. SPM Civic Centre, J.L. Nehru Marg,
New Delhi-110 002.
3. The Deputy Education Officer,
South Delhi Municipal Corporation,
Education Department,
Central Zone, Delhi.

4. The Deputy Education Officer,
East Delhi Municipal Corporation,
Education Department,
South Shahdara, D-Block,
Anand Vihar, Delhi-110092.

.. Respondents

(By Advocate : Shri R.K. Jain for R-1 and 3 – SDMC and
Shri R.K. Shukla for R-2 and 4 - EDMC)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

The applicants, 3 in number (applicants No. 1 and 3 belong to OBC and applicant No.2 belongs to SC) and working as Teacher (Primary), filed the O.A. seeking to grant seniority, pay fixation and other consequential benefits from July 2003, as per their merit, along with General and ST category candidates who were also selected (Advertisement No. 01/2000) along with the applicants but appointed in July 2003, (Post Code No. 013/2002) as against the belated appointment of applicants in 2006.

2. Brief facts of the case are that the applicants 1 and 3 belong to OBC category and applicant No.2 belongs to SC category and in pursuance of a notification/advertisement No. 01/2000, they had applied along with others for selection to the post of Teacher (Primary) (Post Code No.013/2002). Though the applicants were selected along with certain other OBC and SC category candidates in the said selection, but their results were kept under withheld on

the ground that certain Court cases are pending with regard to validity of certificates of OBC and SC category candidates. The respondents appointed the other candidates who belong to General and ST categories, and who are selected along with the applicants, in July 2003 itself.

3. Finally, various issues regarding status of OBC and SC category candidates including the validity of the caste certificates issued to persons who are born and brought up in Delhi but who are progenies of persons who had migrated to Delhi from various parts of the Country, were decided by Hon'ble High Court of Delhi in **Kunwar Pal & Others vs. Government of NCTD & Others** CWP No. 5061/2001 & batch on 31.05.2002, as under:-

“In view of the aforesaid a writ of mandamus is issued to appoint such of the petitioners in the present writ petitions who are born and brought up in Delhi but the certificate issued to them is on the basis of the certificate issued to their fathers who were the migrants from other states.

The petitioners who are so appointed should also be entitled to the consequently benefits of seniority and pay scale though in view of the fact that they not been working for this period of time they shall not be entitled to the back wages for the said period of two months from today.”

4. In pursuance of the said orders of the Hon'ble High Court, the applicants, who are identically placed to them, also appointed on 03.04.2006. Though the respondents have obligation to grant all the consequential benefits to the applicants, i.e. counting of past

service and all consequential benefits, they have neither granted the seniority to the applicants nor considering the said period for granting the other consequential benefits.

5. In the identical circumstances, certain similarly situated persons filed O.A. No.3719/2009 and the same was allowed by this Tribunal by order dated 11.02.2011 holding the entitlement of seniority with effect from the date of their batch-mates came to be appointed and the said period shall be counted for the purpose of increment etc., though back wages are again denied.

6. Though the respondents vide their counter denied the O.A. averments by submitting that the applicants having appointed in the year 2006 are entitled for consequential benefits only from the date of appointment, however, they have not denied the applicability of the aforesaid decisions of the Hon'ble High Court and also of this Tribunal.

7. In the circumstances and in view of categorical directions passed by the Hon'ble High Court and by this Tribunal, the O.A. is allowed and the respondents are directed to grant the seniority to the applicants with effect from the date their batchmates belonging to General and ST category candidates were appointed with all consequential benefits, however, without any back wages. The

respondents shall complete the exercise within 90 days from the date of receipt of a certified copy of this order. No costs.

(P.K. BASU)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

/Jyoti/