

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA NO.1109/2012**

Order reserved on 19.08.2016  
Order pronounced on 22.08.2016

**HON'BLE SHRI P.K. BASU, MEMBER (A)**  
**HON'BLE DR B.A. AGRAWAL, MEMBER (J)**

1. Ranvir Singh,  
S/o Late Sh. Nathu Singh,  
R/o House No.17, Village Samaspur,  
Patparganj, Delhi-110092.
2. Joginder Singh,  
S/o Sh. Pritam Singh,  
R/o C-53/592, Ganesh Nagar,  
Shakarpur, Delhi-110092.
3. Pyare Lal,  
S/o Shri Ram Mukhi,  
R/o 4/2807, Bihari Colony,  
Gali No.2, Shahdara,  
Delhi-110032.

...Applicants

(By Advocate: Ms. Heelani for Shri Anuj Aggarwal)

**VERSUS**

1. East Delhi Municipal Corporation  
Through its Commissioner (East),  
Udyog Sadan, Plot No.419,  
2<sup>nd</sup> Floor, Patparganj Industrial Area,  
Delhi-110092.
2. North Delhi Municipal Corporation  
Through its Commissioner (North),  
Dr. S.P. Mukherjee Civic Centre,  
J.L. Nehru Marg, New Delhi-110 002.

...Respondents

(By Advocate: Shri Shripal Singh and Shri Rahul Singh)

**:ORDER:****DR BRAHM AVTAR AGRAWAL, MEMBER (J):**

The instant OA has been filed by three applicants, who had joined the MCD as Beldars and superannuated as Wiremen Grade-I during 2002-2009, seeking their retrospective promotion as Electricians and the monetary benefits flowing therefrom. This is the second round of litigation by the applicants. They, along with four others, earlier filed WP(C) No.1806/1995 in the Hon'ble High Court of Delhi, which got transferred to this Tribunal as TA No.1259/2009. The Tribunal disposed of the said TA by its order dated 28.07.2010 (Annexure A-3), with the following direction to the respondents:

"to consider the claims in the TA in accordance with the prescribed eligibility norms and in conformity with principles laid down by the Hon'ble High Court in WP(C) No.1372/1980 by passing a speaking and reasoned order within a period of three months from the date of receipt of a copy of this order."

1.2 The applicants filed contempt petition, i.e., the CP No.344/2011, which was closed by order dated 18.07.2011 (Annexure A-5), which reads as under:

"CP was filed alleging disobedience of the order dated 28.07.2010 passed in TA No.1259/2009 whereby respondents were directed to consider the claims in the TA in accordance with the prescribed eligibility norms and in conformity with the principles laid down by the Hon'ble High Court in WP(C) No.1372/1980 by passing a speaking and reasoned order.

2. When the matter was called out today, respondents have produced order dated 11.07.2011. Copy of the same has already been given to the petitioners and the same is taken on record also.

3. In view of above, nothing more survives in this CP. The same is accordingly dropped. Notice is discharged. In case petitioners are aggrieved by the order passed by the respondents, it would be open to them to challenge the same on the original side."

[WP(C) No. in the above quotes may be read as 1373/1980 (Annexure A-2)]

1.3 In the instant OA, the respondents' order dated 11.07.2011 (Annexure A-1) rejecting the claim of the applicants, has been challenged and is sought to be set aside along with the aforesaid relief.

2. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited by the learned counsel for the respondents, and given our thoughtful consideration to the matter.

3. It has been submitted by the learned counsel for the respondents that final seniority list of Wireman Grade-I was drawn for the first time on 26.11.2009 (Annexure 'A' with Reply), that the name of the applicant no.3 alone appears in the said list, as the applicants nos.1 and 2 had retired much before, that DPC meeting was convened on 24.12.2009 and seven promotions made, vide the Office Order dated 21.01.2010 (Annexure 'B' with Reply), that there was no deliberate delay in holding DPC meeting, that no promotion could be made with retrospective effect, as per the DoP&T's guidelines, that the applicants cannot

be granted the relief sought, also because of non-joinder of necessary parties whose rights would be affected, and that it is not the case of the applicants that their juniors were promoted.

4. In **UOI & Anr. Vs. K.L. Taneja & Anr.** [WP(C) No.8102/2012], the Hon'ble High Court of Delhi, vide its judgment dated 12.04.2013, after noting the case law, observed as under:

“(i) Service Jurisprudence does not recognize retrospective promotion i.e. a promotion from a back date.

(ii) If there exists a rule authorizing the Executive to accord promotion from a retrospective date, a decision to grant promotion from a retrospective date would be valid because of a power existing to do so.

(iii) Since mala fides taints any exercise of power or an act done, requiring the person wronged to be placed in the position the person would find himself but for the mala fides and tainted exercise of power or the act, promotion from a retrospective date can be granted if delay in promotion is found attributable to a mala fide act i.e. deliberately delaying holding DPC, depriving eligible candidates the right to be promoted causing prejudice.

(iv) If due to administrative reasons DPC cannot be held in a year and there is no taint of malice, no retrospective promotion can be made.”

5. We see substance in the aforesaid submissions made on behalf of the respondents and are of the view that the OA is devoid of merits.

6. Hence, the OA is dismissed. No order as to costs.

**(DR BRAHM AVTAR AGRAWAL)**  
**MEMBER (J)**

/jk/

**(P.K. BASU)**  
**MEMBER (A)**

