

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

O.A No.100/3721/2015

New Delhi this the 29th day of November, 2016

**Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. P. K. Basu, Member (A)**

1. Shri Jagdish Kanwal Kohli
S/o Late Shri N.R. Kohli
Aged about 71 years, retired as PHI,
City Zone, North Delhi Municipal Corporation,
R/o KG-54, First Floor, Kavi Nagar,
Ghaziabad (UP).
2. Shri Raj Kumar
S/o Late Shri Karam Chand
Aged about 69 years, retired as PHI,
City Zone, North Delhi Municipal Corporation
R/o B/6, Gali No.2, Vikas Nagar,
Rahon Road, Nawanshahar Dist.
Shahid Bhagat Singh Nagar (Punjab). ...Applicants

(Argued by: Ms. Pragnya Routray, Advocate)

Versus

North Delhi Municipal Corporation
Through its Commissioner,
9th Floor, Civic Centre,
Jawahar Lal Nehru Marg,
Minto Road, New Delhi-110002. ..Respondent

(By Advocate : Shri K.M. Singh)

ORDER (ORAL)

Justice M. S. Sullar, Member (J):

Tersely, the facts and material, which needs a necessary mention for the limited purpose of deciding the core controversy involved in the instant Original Application (OA), instituted by applicants, Jagdish Kumar Kohli and Raj Kumar, and exposed from the record is that they were appointed on the post of Vaccinators in the month of November, 1973 by the competent

authority. Having attained the age of superannuation, they retired from service on 31.01.2005 and 31.12.2007 respectively. According to the applicants, that although, they are entitled to pension of Rs.23000-24000 per month, but at present, they are only getting pension of Rs.19000/- per month on account of inaction on the part of the respondent. The OAs bearing No.1047/2012 and 806/2013, filed by similarly situated persons were stated to have been decided in favour of the employees, vide order dated 23.09.2014 (Annexure A-8) by a Coordinate Bench of this Tribunal. In pursuance of the order dated 31.10.2014 (Annexure A-9) rendered in Writ Petition (Civil) bearing No.2259/2012, the Hon'ble High Court had directed the respondent to designate all the Vaccinators as PHIs and grant them a pay scale of Rs.5000-8000 with all the benefits.

2. Sequelly, the case set-up by the applicants, in brief, insofar as relevant is that, in response to the OA No.3783/2012 decided on 17.02.2015 (Annexure A-10), this Tribunal directed the respondents to make payment within a period of 3 months, to restore the pay scale of the applicants (therein) to the original pay scale of Rs.5000-8000 & refund the amount already deducted from their salary and granted all consequential benefits arising therefrom. As a consequences thereof, the applicants made representations dated 13.10.2008 (Annexure A-11), 11.06.2015 (Annexure A-12) and 06.07.2015 (Annexure A-13) for redressal of their grievances as per Assured Career Progression (ACP) Scheme dated 09.08.1999 (Annexure A-14) and Modified Assured Career Progression Scheme (MACPS) (Annexure A-15),

as they were not given any kind of promotion in their entire service period. They have also claimed the benefit of 1st and 2nd financial upgradation on the principle of parity, which was granted to similarly situated employees, but the respondent has ignored their legitimate claim without any valid reasons.

3. Aggrieved thereby, the applicants have preferred the instant OA, claiming the following reliefs:-

“(i) Issue an order/direction to grant the applicants pay scale of Rs.5000-9000 as 1st upgradation w.e.f. 09.08.1999 and then Rs.6500-10500 as 2nd upgradation w.e.f. 09.08.1999.

(ii) Refix the pension of the applicants and grant them arrears thereof with interest.

(iii) Issue an order/direction to impose exemplary cost on the respondent.

(iv) Pass such other or further orders(s) as may be deemed fit and proper in facts and circumstances of the present case.

(v) Issue order to quash order dated 18.05.2011 (Annexure A-7)”.

4. Levelling a variety of allegations, narrating the sequence of events, in detail, in all, the applicants claimed that since they were not given any sort of promotion in their entire service period, so they are entitled to two financial upgradations and consequential benefits in their pension as has been granted to similarly situated persons.

5. In the wake of notice, the respondent appeared. They have neither filed any reply to the main OA, nor contested the claim of the applicants. However, they have filed affidavit of Dr.S.B. Singh, Deputy Health Officer, City Zone, New Delhi in MA No.4027/2015 for condonation of delay, wherein it was pleaded as under:-

“3. The applicant in the OA is praying for refixing the pension as per financial upgradation in the pay scale of Rs.5500-9000 as Ist upgradation and then Rs.6500-10500 as IIInd upgradation.
 4. That as per office order vide ADC (Health)/2005/3260 dated 31.05.2005, respondent is considering the upgradation and are fixing the pension accordingly.
 5. The respondent seeks at least 2 months time in implementing the revised pension”.

6. Meaning thereby, the respondent has fairly acknowledged that applicants are also entitled to the benefit of Ist and IIInd financial upgradation and revision of their pension on the basis of parity of orders dated 21.07.2015, 01.10.2016 by virtue of which same benefits were granted to similarly situated employees Sukhir Singh, Dharam Singh, Satya Prakash, Surinder Kumar Jain and other similarly situated persons, vide order dated 08.08.2005 (Annexure A-17 Colly).

7. In the light of the aforesaid reasons, the instant OA is partly accepted and respondent is directed to finalise the case of the applicant for the grant of benefits of Ist and IIInd financial upgradation, consequential revision in pension and to pay the arrears in lieu thereof, within a period of 2 months from the date of receipt of a certified copy of this order positively, as prayed for, failing which, law will take its own course and respondent will be liable for all the legal consequences arising therefrom. However, the parties are left to bear their own costs.

Issue **Dasti**

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

Rakesh

**(JUSTICE M.S. SULLAR)
MEMBER (J)
29.11.2016**