

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

**OA-3108/2015**

Reserved on : 12.09.2016  
Pronounced on : 15.09.2016

**Hon'ble Mr. Shekhar Agarwal, Member (A)  
Hon'ble Mr. Raj Vir Sharma, Member (J)**

Ms. Suman Bala, Teacher, aged about 56 years,  
W/o Shri Jas Ram Kaim,  
R/o 50/1, MCD Officers' Flat,  
Bungalow Road, Kamla Nagar,  
Delhi-110007. .... Applicant

(By Advocate : Sh. Rajeev Sharma)

Versus

1. The Commissioner,  
North Delhi Municipal Corporation,  
Dr. S.P. Mukherjee Civic Centre, 4<sup>th</sup> Floor,  
J.L. Marg, New Delhi.
2. The Addl. Commissioner (Edu.),  
North Delhi Municipal Corporation,  
Dr. S.P. Mukherjee Civic Centre, 14<sup>th</sup> Floor,  
J.L. Marg, New Delhi.
3. Director (Edu.),  
North Delhi Municipal Corporation,  
Dr. S.P. Mukherjee Civic Centre, 15<sup>th</sup> Floor,  
J.L. Marg, New Delhi. .... Respondents

(By Advocate : Sh. R. K. Jain)

**ORDER**

**Hon'ble Mr. Shekhar Agarwal, Member (A)**

The applicant was appointed as an Assistant Teacher in Sh. Laxmi Girls Primary School, Kucha Saiyogi Ram, Kahori Baoli (Aided), Delhi-110006 which was an aided school of Municipal Corporation of Delhi. Subsequently, this school was taken over by the Municipal Corporation themselves and the applicant was absorbed in the Corporation w.e.f. 24.04.2001. On 30.11.2012, the respondents placed the applicant at Serial No. 8542-A in the Seniority List of teachers based on the date of joining service of the applicant. However, vide

impugned order dated 02.05.2014, the respondents altered the seniority position of the applicant to her disadvantage. She submitted a representation to the respondents on 27.08.2014 but did not receive any reply to the same. Hence, she has filed this OA before us seeking the following relief:

“(a) to quash the impugned order dated 2.5.2014 as illegal and unconstitutional.  
(b) to issue direction to the respondents to give all the consequential benefits to the applicants in view of her correct position in the seniority list.  
(c) the Hon’ble Tribunal may pass any other order/direction as deemed fit and proper in the circumstances of the present case and in the interest of justice.”

2. Learned counsel for the applicant argued that the respondents changed the seniority of the applicant without as much as issuing a show cause notice to her. Thus, they have acted in complete violation of principles of natural justice. As far as merits of the case are concerned, the applicant relied on two judgments of Hon’ble High Court of Delhi namely ***Kamla Devi Gupta Vs. Municipal Corporation of Delhi & Ors., C.W. No. 1723 of 1979, [27 (1985) Delhi Law Times 220]*** and ***Hardwari Lal Sharma Vs. Municipal Corporation of Delhi & Ors., Civil Writ No. 972 of 1973***. Learned counsel for the applicant stated that in both these judgments, Hon’ble High Court has ruled in similar circumstances that seniority to the petitioners therein should be assigned on the basis of their initial appointment in service and denial of the same would amount to violation of Articles 14 and 16 of the Constitution.

3. In their reply, learned counsel for the respondents submitted that both the judgments relied upon by the applicant pertained to cases in which absorption had taken place prior to amendment of Rule 47 of Delhi School Education Act and Rules, 1973. Thus, none of these two judgments was relevant in this case. He however, did not deny that no show cause notice had been issued to the applicant before the impugned order was passed.

4. We have heard both sides and have perused the material on record. From the above facts it is clear that the respondents first fixed the seniority of the applicant vide order dated 30.11.2012 (page 9). Thereafter they altered her seniority vide the impugned order dated 02.05.2014. However, they did so without as much as issue of show cause notice to the applicant. This act of theirs was therefore in complete violation of principles of natural justice and cannot be sustained.

5. Accordingly, without going further into the merits of the case, we allow this OA and quash the impugned order. In case the respondents wish to make any amendment in the seniority of the applicant as fixed by their order dated 30.11.2012, then they would first issue a show cause notice to the applicant and give her an opportunity to represent against the same. Thereafter they may pass an order after taking her reply into consideration. Needless to say, that if the applicant is still aggrieved by the action of the respondents, she shall be at liberty to avail of her remedies under law. No costs.

**(Raj Vir Sharma)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

/ns/