

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

O.A. No.4239/2016
M.A.No.3802/2016

Wednesday, this the 16th day of August 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr. J L Chaudhary, 62 years/M
Retired from the post of PH cadre – North DMC
C-147, Ramprastha Colony
Ghaziabad, UP – 201 011

..Applicant

(Applicant in person)

Versus

North Delhi Municipal Corporation
Through Commissioner – North DMC
SPM Civic Centre, Minto Road, Delhi – 02

..Respondent

(Mr. Manjeet Singh Reen, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

This O.A. has been filed seeking to challenge the order dated 28.02.2014 (Annexure-1) whereby the applicant was relieved on attaining the age of superannuation, i.e., 60 years. Earlier, when notice of retirement dated 08.10.2013 was issued to him, the applicant filed O.A. No.618/2014. The main contention of the applicant in the said O.A. was that he had served for a period of over ten years in PH cadre and belongs to same where the retirement age is 62 years. This contention of the applicant did not find favour with the Tribunal and vide its judgment dated 06.07.2015, the said O.A. was dismissed rejecting the contentions of the applicant. The relevant

observations made by the Tribunal in the aforesaid judgment are reproduced hereinbelow:-

“9. In the present case, when the process for his induction in Public Health Cadre was on, the applicant himself made an application for his reversion back to the General Duty Cadre and in acceptance of his request the respondent reverted him to the said Cadre. Having exercised his option in a particular manner and acted upon the same, the applicant is estopped from questioning the decision taken by the respondent on his option.”

2. Not being satisfied with the aforesaid order, the applicant preferred R.A. No.199/2015 in O.A. No.618/2014, reiterating the grounds urged in the said O.A. and claiming to be belonging to PH cadre for seeking the relief to declare the age of retirement as 62 years instead of 60 years. This R.A. also resulted in dismissal vide the judgment dated 09.09.2015.

This O.A. has been filed seeking virtually the same relief that the applicant belongs to PH cadre and that his age of retirement is 62 years.

3. The present O.A., for the same relief, is not maintainable. The applicant, who appears in person, submits that there was a judgment of Apex Court, which directed the maintenance of the status where a person is transferred. Be that as it may, the applicant had specifically raised this issue in the earlier O.A. and failed to convince the Tribunal. R.A. filed there-against also came to be dismissed. The order of retirement has been challenged in the present O.A. taking the same plea that the applicant belongs to PH cadre and his retirement age should be 62 years.

4. We are afraid we can interfere in the fresh O.A. with the same relief. The present O.A. is barred by the doctrine of *res judicata* notwithstanding

the delay in filing the O.A. We find no merit. With this, M.A. seeking condonation of delay as also O.A. are dismissed.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

August 16, 2017
/sunil/