

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

OA-4143/2016

New Delhi this the 7th day of February, 2017.

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

Smt. Suman Kumari, Ward Aya (Group 'D'),
Aged about 34 years,
W/o Sh. Sunil Kumar,
R/o C-36, Mundhela Kalan, Najafgarh,
Near Primary School, Delhi-73.

..... Applicant

(through Sh. M.K. Bhardwaj, Advocate)

Versus

1. Govt. of NCT of Delhi through
Its Director,
Local Bodies,
New Secretariat, New Delhi.
2. North Delhi Municipal Corporation
Through its Commissioner,
SPS Civic Centre, JLN Marg,
New Delhi.
3. The Addl. Commissioner (Health),
North Delhi Municipal Corporation,
SPS Civic Centre, JLN Marg,
New Delhi.
4. The Director,
Hospital Administration,
Health Department,
North Delhi Municipal Corporation,
SPS Civic Centre, JLN Marg,
New Delhi.
5. South Delhi Municipal Corporation
Through its Commissioner,
SPS Civic Centre, JLN Marg,
New Delhi.

..... Respondents

(through Sh. Amit Chawla for Sh. H.K. Gangwani, Sh. R.K. Jain and Mrs. Neetu Mishra for Mrs. Rashmi Chopra, Advocate)

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

The applicant was appointed as a Ward Aya in Municipal Corporation of Delhi (MCD) on 01.04.2006 in PH Quota. After trifurcation of MCD, she was assigned East Delhi Municipal Corporation. On 30.06.2015, due to her physical disabilities, she applied to the Commissioner (Disabilities) requesting for transfer to any hospital near her residence. After intervention of Commissioner (Disabilities) and protracted correspondence with the respondents the applicant was finally transferred vide order dated 13.07.2016 of respondent No.1 from North Delhi Municipal Corporation to South Delhi Municipal Corporation. She was relieved on 03.08.2016 to report to Hqr., South Delhi Municipal Corporation. She submitted her joining report on the same day. However, she was not allowed to join. She made several representations after that but she was not allowed to join. She has also not been receiving her salary since the date she was relieved from North Delhi Municipal Corporation. She has, therefore, approached this Tribunal by filing this O.A.

2. The respondents have filed their replies. In reply filed on behalf of Director, Local Bodies, it is stated that Municipal Corporations are competent to take their own decisions and that Director, Local

Bodies has no role to play in this matter. In their reply, North Delhi Municipal Corporation have reiterated the facts of the case narrated above and stated that the applicant has been relieved in compliance of the order dated 13.07.2016 of respondent No.1.

3. South Delhi Municipal Corporation have submitted that there was no provision in the Delhi Municipal Corporation Act, which allows inter Corporation transfer. Moreover, function of respondent No.1 have been enumerated in Section 484A of Delhi Municipal Corporation Act, 1957. A reading of the same would make it clear that respondent No.1 was not competent to order transfer of an employee from one Corporation to another.

4. Today, when this matter was heard in Court, it was agreed upon by the parties that respondent No. 1 could not have transferred the applicant from one Corporation to another. As such, the order dated 13.07.2016 passed by that respondent is a nullity in law. Consequently, the order of relieving dated 03.08.2016 passed by North Delhi Municipal Corporation also cannot be sustained. The applicant has to be treated as if she continued in the service of North Delhi Municipal Corporation.

5. Accordingly, we dispose of this O.A. with a direction to respondent Nos. 2,3 & 4 to immediately take the applicant back on

duty on their rolls and treat her continuously in service as well as to pay her salary for the intervening period. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/