

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

O.A No. 3778/2013

This the 3rd day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Dilip Ramnani, S/o. Shri Anand Ramnani,
R/o. B-4, MCD Flats, Soami Nagar,
New Delhi – 110 017.Applicant

(By Advocate : Mr. Rajeev Sharma)

Versus

1. North Delhi Municipal Corporation
(through its Commissioner),
Dr. S. P. Mukherjee Civic Centre, J. L. Marg,
New Delhi.
2. The Commissioner,
North Delhi Municipal Corporation,
Dr. S. P. Mukherjee Civic Centre, 4th Floor, J. L. Marg,
New Delhi.
3. The Commissioner,
South Delhi Municipal Corporation,
Dr. S.P. Mukherjee Civic Centre, 9th Floor, J. L. Marg,
New Delhi.
4. Director (Personnel),
North Delhi Municipal Corporation,
Dr. S. P. Mukherjee Civic Centre, 5th Floor,
J. L. Marg, New Delhi.Respondents

(By Advocate : Mr. Amit Sinha for respondents no. 1, 2 and 4, North Delhi Municipal Corporation and Mr. R. K. Jain for respondent no.3 (South Delhi Municipal Corporation)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

The applicant was working as Assistant Engineer in the North Delhi Municipal Corporation. The promotion

from that post is to the post of Executive Engineer (Civil).

The DPC for effecting promotion to the post of Executive Engineer was conducted by the UPSC in the year 1997 for the vacancy years 1994-95 to 1996-97. About 50 vacancies, referable to that period were notified and the DPC recommended the names of selected candidates. The applicant did not figure therein.

2. At a subsequent stage, two more vacancies for that very period were identified. A review DPC was held on 07.01.2008, and the applicant was one of the selected candidates. He was issued an order of promotion with effect from the date of the order, i.e. 08.09.2008. This O.A is filed with a prayer to direct the respondents to treat the promotion of the applicant as the one w.e.f. 1997. The applicant contends that once the vacancy was referable to the year 1997, he was entitled to be promoted with effect from the relevant date and that one of his juniors by name Sh. Ranvir Singh was promoted w.e.f. that year.

3. Respondents filed counter affidavit. Extensive reference is made to various proceedings pertaining to the promotion referred to above. Be it in this Tribunal or in Hon'ble Delhi High Court. It is stated that though the vacancy are referable to the year 1997, the applicant

cannot be promoted w.e.f any date anterior to the date of actual promotion. Reliance is placed on the judgment of the Hon'ble Supreme Court in **Union of India V. K. K. Vadera** and Ors, 1989, Suppl.2 SCC 625.

4. As regards Mr. Ranvir Singh, it is stated that the candidate belongs to scheduled caste category and his promotion was against the reserved vacancy and that the applicant cannot draw any comparison with him.

5. We heard Mr. Rajeev Sharma, learned counsel for applicant and Mr. Amit Sinha, learned counsel for respondents no. 1, 2 and 4 (North Delhi Municipal Corporation) and Mr. R. K. Jain, learned counsel for respondent no. 3 (South Delhi Municipal Corporation).

6. A perusal of the O.A as well as the counter affidavit disclosed that the promotion to the post of Executive Engineer at the relevant point of time was the subject matter of extensive litigation. Ultimately, in compliance with the order passed by the Hon'ble Delhi High Court a review DPC was held in 2008 and applicant was one of the selected candidates.

7. The plea of the applicant is that vacancy is referable to the year 1997 and though the selection is taken place in the year 1997, he is entitled to be promoted with effect from the date or year in which the vacancy has arisen. This contention deserves to be negative in view of the judgment of the Hon'ble Supreme Court in **Union of India V. K. K. Vadera** and Ors. (supra). It was categorically held that an employee cannot insist on being promoted from the date on which the vacancy has arisen and the promotion can only be prospective in nature. An employee can have a grievance only when a person junior to him is promoted w.e.f. an anterior date. Though the applicant made an effort to draw comparison with Mr. Ranvir Singh, it emerges that the latter is a candidate belonging to the scheduled caste category and his promotion was against the reserved vacancy. Therefore, the claim of the applicant cannot be accepted.

8. The O.A is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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