

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

O.A No. 2279/2013

This the 10th day of October, 2018

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

1. Smt. Sujata Devi Malik
Assistant Director Education (Gen.)
W/o. Sh. A. S. Malik
R/o. G-18/46,
Sector-15, Rohini, Delhi – 110 085.
2. Smt. Seema Sharma
Assistant Director Education (Gen.)
W/o. Sh. K. K. Sharma,
R/o. 10-D, Pocket-I,
Phase-I, Mayur Vihar, Delhi.
3. Smt. Mini Sharma,
Assistant Director Education (Gen.)
W/o. Sh. Vijay Kumar,
R/o. 1106, Gaur Ganga-II, Sector-4, Vaishali,
Ghaziabad, (U.P.)
4. Sh. Ashok Kr. Sharma
Assistant Director Education (Gen.)
S/o. Sh. Ram Singh Sharma,
R/o. R/5866, Subhash Mohalla,
Gandhi Nagar, Delhi-110 031.Applicants

(By Advocate : Mr. Sachin Chauhan)

Versus

1. North Delhi Municipal Corporation,
Through its Commissioner,
4th Floor, Dr. S. P. Mukherjee Marg,
Civic Centre, JLN Marg,
Minto Road, New Delhi – 110 002.
2. Smt. Vijay Lakshmi
W/o. Sh. Govind Ram
Presently posted as DDE (Gen.)
North Delhi Municipal Corporation

Civil Lines Zone, Rajpur Road, Delhi.

3. Smt. Kamlesh Suman
W/o. Sh. M. K. Suman,
Presently posted as DDE (Gen.),
South Delhi Municipal Corporation,
West Zone, Samudai Bhawan,
Rajouri Garden, New Delhi.Respondents

(By Advocate : Mr. R. V. Sinha with Mr. Amit Sinha for R-1
North-Delhi Municipal Corporation)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

The applicants have been appointed as Assistant Education Officers in the Municipal Corporation of Delhi (which has since been trifurcated). Promotion from that post is to the post of Deputy Education Officer. Office order dated 28.05.2013 assigned current duty charge in the post of DEO to the respondents no. 2 and 3. The applicants feel aggrieved by the same.

2. It is pleaded that there exist different categories of Assistant Education Officers in the first respondents' establishment and the respondents no. 2 and 3 are from Science category which does not figure in the feeder category for the post of DEO, or for that matter, in the establishment as such. They further contended that the Bench of this Tribunal in T.A. No. 154/2009 discussed the matter at length and ultimately directed the respondents to

frame the recruitment rules for filling up the post of DEO, and without taking any positive steps in that behalf, the promotions are being affected in the name of current duty charge.

3. Separate counter affidavits are filed by respondents no. 1, 2 and 3. According to them, the feeder category in the post of DEO is Assistant AEO and at that stage, distinction between various categories virtually disappears. It is also stated that the arrangement is only temporary in nature and the O.A is not maintainable. Other contentions are also urged.

4. Heard Mr. Sachin Chauhan, learned counsel for applicants and Mr. R. V. Sinha, learned counsel for respondents.

5. There is no denial of the fact that the applicants have been directly recruited to the post of AEO. There is however, uncertainty as to the sub categories in that post such as AEO (General), AEO (Physical). To address this very issue, we have gone through copy of the recruitment rules which is filed in this O.A. Different sets of rules are framed for the posts of AEOs (Physical and Science) No such rules appear to have been made for the post of AEO (General). Since the controversy is about the appointment

to the post of DEO, we have to verify the procedure there for. The method of appointment to this post is mentioned in Col. 11 of the Recruitment Rules, which reads as under:-

<p>“11. In case of recruitment by Promotion/deputation transfer, Grades from which promotion/Deputation transfer to be made.</p>	<p>Promotion: Assistant Education Officer years service in the grade Rendered after appointment Thereto on a regular basis. Transfer on deputation : Suitable officers holding Analogous posts in Central State Governments or autonomous Educational Institutions. (Period of deputation shall not Ordinarily exceed 3 years)</p>
<p>If a D.P.C exists what is its composition.</p>	<p>Class I Departmental Promotion Committee.”</p>

6. The selection is to be undertaken by the DPC. From a perusal of the rules, it becomes clear that though, there may have been different methods of appointment to the post of AEO, when it comes to the question of promotion to the post of DEO, post of AEO is treated as single cadre, without any distinction between Physical, Science and General sub-categories. Whether or not the respondents prepared a common seniority list of the post of AEO is not immediately before us. It is only when the applicants figure as seniors in the common seniority list of AEO, compared to respondents no. 2 and 3, that they can have a genuine grievance about the impugned order,

notwithstanding the fact that it is just a current duty assignment.

7. The applicants have also prayed for a direction to the respondents, to conduct a DPC for regular appointment. Whatever may have been the justification or the lack of it, for making the current duty assignments, there cannot be any valid reason for making such appointment for a long period. It is represented that the DPC had not been convened for the said post for several years. The employees like the applicants who are direct recruits have a genuine and legitimate expectation for promotion. Inaction on the part of the respondents cannot be permitted to adversely affect such rights.

8. We, therefore, allow the O.A in part, directing the respondents to convene the DPC for promotion to the post of DEO on regular basis, against the existing and unfilled vacancies, within a period of three months from the date of receipt of a certified copy of this order. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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