

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

**O.A. No.3804/2011**

**Reserved On: 07.08.2018**

**Pronounced on: 14.08.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)**  
**Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri Kannu Singh Tyagi  
S/o Late Shri Jaswant Singh Tyagi  
R/o 378, Jwala Nagar, Near Kali Mandir,  
Shahdara,  
Delhi-110032.

-Applicant

(By Advocate: Mr. Rahul Kumar)

**Versus**

1. East Delhi Municipal Corporation  
Through its Commissioner,  
Udyog Sadan Industrial Area,  
Patparganj,  
Delhi-110092.
2. Assistant Commissioner DEMS Headquarter  
East Delhi Municipal Corporation  
Through its Commissioner,  
Udyog Sadan Industrial Area,  
Patparganj,  
Delhi-110092.
3. North Delhi Municipal Corporation  
Through its Commissioner,  
DEMS Headquarter,  
Mahatama Gandhi Marg,  
Kyber Pass, Civil Lines,  
New Delhi-110054.

- Respondents

(By Advocates: Ms. Sangita Rai for R-1 & R-2 Mr. Amit Sinha for R-3).

**ORDER****By Hon'ble Mr. A.K. Bishnoi, Member (A)**

The present Original Application (OA) has been filed by the applicant, seeking the following reliefs:-

- “8.1 to quash the impugned order dated 22.12.2010, para 3 as contained in Annexure A-1 to this OA and direct the respondents to promote the applicant for the post of Sanitary Inspector w.e.f. 2.3.1988 with all consequential benefits as junior Mr. Sahender Singh has been promoted w.e.f. 2.3.1988.
- 8.2 Direct the respondents to promote the applicant for the post of Chief Sanitary Inspector w.e.f. 4.3.1997 with all consequential benefits as junior Mr. Sahender Singh has been promoted w.e.f. 4.3.1997.
- 8.3 Direct the respondents to promote the applicant for the post of Sanitation Superintendent w.e.f. 12.10.2000 with all consequential benefits as junior Mr. Sahender Singh has been promoted w.e.f. 12.10.2000.”

2. The narration of facts, as given in the OA, briefly, is stated as follows:

- i) The applicant is a graduate and is an ex-serviceman and joined the erstwhile Municipal Corporation of Delhi (MCD) on 19.09.1972. On 04.10.1977, persons junior to the applicant were promoted as Assistant Sanitary Inspector (ASI) from the post of Sanitary Guide.
- ii) The applicant in the year 1981 filed an application before Labour Court vide ID No.18/1981 for promotion to ASI, as his juniors have been promoted prior to him. During the pendency of

the case the respondent-department on 03.10.1986 promoted the applicant as ASI.

iii) On 16.09.1988 Labour Court passed the Award and the applicant was promoted as ASI w.e.f. 04.10.1977 – the date when his juniors were promoted.

iv) The respondents promoted the applicant's junior Shri Sahender Singh, S/o Shri Girbar Singh as Sanitary Inspector (SI). On 04.03.1997, Mr. Sahender Singh was further promoted as Chief Sanitary Inspector (CSI) on 04.03.1997. In February, 1998, the applicant filed Writ Petition No.2774/1998 before the Hon'ble High Court of Delhi with the prayer to promote him as ASI w.e.f. 04.10.1977 and as Sanitary Inspector w.e.f. 02.03.1988 – the dates on which his juniors have been promoted. This Writ Petition was transferred on 24.02.2009 to this Tribunal vide Transfer Application (TA) No.657/2009.

v) On 11.11.2009, this Tribunal passed an order directing the MCD to correct the seniority as per Award of the Labour Court, as affirmed by the Hon'ble High Court of Delhi, and on that basis to consider the case of the applicant for promotion as ASI and SI.

vi) Meanwhile, on 12.10.2000 the MCD promoted the junior of the applicant Shri Sahender Singh as Sanitary Superintendent (SS). On 31.01.2005 the applicant retired from service on attaining the age of superannuation as SI.

vii) In compliance of the order of this Tribunal in TA *ibid*, the respondents through order dated 22.12.2010 promoted the applicant as ASI w.e.f. 04.10.1977 and put his name in the seniority list of Sanitary Guide at serial no.1-A, i.e., above the name of Shri Sahender Singh and below the name of Shri Sudarshan Singh but did not promote him to the post of SI w.e.f. 02.03.1988.

viii) The respondents promoted the applicant to the post of SI w.e.f. 04.03.1997 and gave the cheque of difference of pay to him. The applicant objected to the date of promotion as SI and took leave of this Tribunal to file a fresh OA.

ix) On 21.07.2011, the applicant sent a representation to promote him to the post of SI w.e.f. 02.03.1988, CSI w.e.f. 04.03.1997 and SS w.e.f. 12.10.2000 – the dates on which his junior Shri Sahender Singh was promoted as such. Despite several representations, the respondents did not reply nor gave promotion to the applicant.

3. The applicant has claimed the reliefs mainly on the ground that the orders of the respondents, promoting him as SI w.e.f. 04.03.1997 is illegal, arbitrary, malafide and without jurisdiction since in the seniority list he was senior to Shri Sahender Singh, s/o Shri Girbar Singh, who was promoted to the post of SI w.e.f. 02.03.1988.

4. The respondents in their counter-affidavit have stated that they have promoted the applicant to the post of ASI and SI w.e.f.

04.10.1977 and 04.03.1997 respectively in compliance of the orders of the Tribunal. As regards the promotion given to his junior Shri Sahender Singh, they have contended that it was on account of the fact that Shri Sahender Singh was granted the benefit of reservation since he was a Scheduled Caste (SC) candidate. The applicant cannot claim the same benefit on the analogy of said Shri Sahender Singh. It is further added that subsequent promotions of Shri Sahender Singh were also made on the basis of his being a SC candidate.

5. The applicant has filed rejoinder on 15.01.2014, in which he has, more or less, repeated what has been said in the OA and referred to the Award of the Labour Court dated 16.09.1988, specifically para-19 in which the respondents were directed to promote him with effect from the date when his junior has been promoted. The applicant has further added that he is also an ex-military man and department reserves special quota for ex-military man so he is also entitled to be promoted for the post of SI and consequent promotions thereto as CSI and as SS. He has further submitted that in the Department there is no quota reserved for SC candidates and promotion ought to be given as per seniority.

6. Heard the learned counsel for the parties, who have primarily repeated their averments made in their respective pleadings.

7. It is evident from the pleadings of the applicant that his case for seeking promotion from the dates mentioned, with all consequential benefits, is entirely based on the contention that he should be given all the benefits of promotion from the dates on which his junior Shri Sahender Singh s/o Shri Girbar Singh got the promotion.

8. It is not denied by the respondents that in the seniority list the name of the applicant was above Shri Sahender Singh. However, Shri Sahender Singh was a SC candidate, who has been promoted as per the SC quota and the applicant cannot claim parity with him. The learned counsel for the respondents has also pointed out that Shri Sahender Singh who is the main person around whom the case of the applicant hinges has not been made a party. Hence, the claim of the applicant is liable to be rejected on the ground of non-joinder of necessary party.

9. There is no provision for quota in promotion for ex-servicemen. As such, the plea of the applicant in this regard has no force.

10. On the main points of the case, it is sufficiently clear that in the period under review the scheme for promotion of SC candidates was on a different footing from those of general category candidates. The claim of the applicant of his being senior to Shri Sahender Singh in the overall seniority list is not relevant since he was to be

governed by the scheme for promotion in the general category whereas Shri Sahender Singh was promoted in the SC quota.

11. The applicant has nowhere in his pleadings claimed that he belongs to the SC category. This was also not argued by his learned counsel. This being so, there is no ground for treating his case at par with that of Shri Sahender Singh.

12. In view of the above, we find that the OA filed by the applicant has no merit and is accordingly dismissed. No order as to costs.

**(A.K. BISHNOI)**  
**MEMBER (A)**

**(V. AJAY KUMAR)**  
**MEMBER (J)**

cc.