

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

O.A. No.3100/2017

**Reserved On:02.08.2018
Pronounced on:06.08.2018**

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

Mr. Mehfooz Mohammad,
Aged 40 years, Head Clerk,
Group 'B'
S/o Mr. Abdul Ghafoor
1170, FF, Gali Jamun Wali,
Punjab Phatak,
Ballimaran,
Delhi-110006.

.....Applicant

(By Advocate: Shri M. Sufian Siddiqui with Shri Rakesh
Bhugra)

Versus

1. Delhi Waqf Board
Through its CEO,
5028, Daryaganj,
New Delhi-110002.
2. Government of NCT of Delhi
Office of Divisional Commissioner,
Revenue Department,
Coordination Branch,
5, Shyam Nath Marg,
Delhi-110054.
Through Secretary.Respondents

(By Advocate: Shri Javed Ahmad with Ms. Syed Maria)

ORDER

By Hon'ble Mr. V. AJAY KUMAR, MEMBER (J)

The applicant, a Head Clerk in the first respondent-
Delhi Waqf Board, filed the OA seeking the following
reliefs:-

“It is, therefore, humbly prayed that this Hon'ble
Tribunal, may be pleased to call for the record relating

order/file note dated 13.02.2017 (Annexure-A/1) and letter no. F36(76)/Coord/Div.Comm./2017/2135 dated 06.06.2017 (Annexure-A/2) both the respondent no.2's SDM-1 (HQ), and set aside/quash the same for its being illegal, arbitrary, discriminatory, unjust and subversive of Articles 14, 16, 21 and 33 of the Constitution of India and consequently direct the respondents to give pay grade of Head Clerk to the applicant. Any other order which this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case may kindly be passed in favour of the applicant."

2. In short, it is the grievance of the applicant that the first respondent-Delhi Waqf Board promoted him from UDC to Head Clerk vide Annexure A-4 order dated 01.08.2013. However, all of a sudden, they have reduced the grade pay of the applicant from Rs.4200/- to Rs.2400/- with effect from July, 2016, without assigning any reasons and without issuing any notice to the applicant. Aggrieved with the said action, he filed OA No.4219/2016 and this Tribunal by order dated 22.12.2016, disposed of the said OA by permitting the applicant to make a representation to the authority concerned within a period of 2 weeks and directed the respondents to dispose of the said representation within a period of 2 months from the date of receipt of representation. Accordingly, the applicant preferred Annexure A-15 representation dated 30.12.2016 followed by number of reminders. However, the respondents have not passed any orders thereon till date.

3. On the other hand, the respondents submit that the applicant was not eligible for promotion to the post of Head Clerk as on the date of Annexure A-4 order dated 01.08.2013. However, he was wrongly and mistakenly promoted under the said order and having noticed the said mistake, the said order was not approved by the Board of Delhi Waqf Board and the promotion of the applicant as Head Clerk has been kept in abeyance.

4. Heard Shri M. Sufian Siddiqui with Shri Rakesh Bhugra, the learned counsel for the applicant and Shri Javed Ahmad with Ms. Syed Maria, the learned counsel for the respondents and perused the pleadings on record.

5. The instant OA is liable to be dismissed for the following reasons:-

(i)(a) The OA has been filed seeking quashing of Annexure A-1 and Annexure A-2 dated 06.06.2017. Annexure A-1 order dated 13.02.2017 is not an order at all and the same is a photocopy of a page from the note file of the respondent-Delhi Waqf Board. Annexure A-2 order dated 06.06.2017 is a letter written by the Sub Divisional Magistrate-I (HQ), Revenue Department of the Government of NCTD to the Chief Executive Officer of the respondent-Delhi Waqf Board requesting to reply certain queries pertaining to the representation of the applicant. This is

also purely an internal communication between the Revenue Department of Government of NCT of Delhi and Delhi Waqf Board.

(b) In **Sethi Auto Service Station and Another Vs. Delhi Development Authority & Another, (2009) 1 SCC 180**, it was held by the Hon'ble Apex Court that “needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department; gets his approval and the final order is communicated to the person concerned (See also **Jasbir Singh Chhabra and Others Vs. State of Punjab and Others, (2010) 4 SCC 192**; and **State of Bihar Etc. Vs. Kripalu Shankar Etc., (1987) 3 SCC 34**).

(c) Since both the Annexure A-1 and Annexure A-2 are not affecting the rights of the applicant in any manner as they were only a note from the file, which, admittedly, not crystallized into any formal order and internal communication, the OA questioning the same is not maintainable.

(ii) Admittedly, with respect to the very same subject matter, i.e., payment of grade pay of the post of Head Clerk

to the applicant, he had filed OA No.4219/2016 and in pursuance of the directions therein, he preferred representations to the respondents and it is the allegation of the applicant that no order either rejecting or considering his representation was passed by the respondents. He instead of availing a proper legal remedy, such as filing of contempt case etc. since, it was his allegation that the respondents have not complied with the order of this Tribunal in O.A. No.4219/2016, filed the present OA once again, seeking the same relief. On this ground also, the OA is liable to be dismissed.

6. In the circumstances and for the aforesaid reasons, the OA is dismissed and the interim order dated 08.09.2017 is vacated. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

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