

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

**OA NO.2113/2017
MA NO.2272/2017**

NEW DELHI THIS THE 9TH DAY OF AUGUST, 2018

HON'BLE MR. PRADEEP KUMAR, MEMBER (A)

1. Indra Wati, Mali, aged about 60 years,
W/o Shri Bijender,
669/29C, Prajapati Mohalla,
Village Tughlakabad, New Delhi.
2. Smt. Kela, Mali, aged about 61 years,
W/o Shri Prem Raj,
344/1 Old MB Road,
Near Qutub Minar, Delhi. ...Applicants

(By advocate: Ms. Kittoo Bajaj)

VERSUS

Delhi Development Authority
Through its Chairman,
Vikas Sadan, New Delhi. ...Respondents

(By advocate: Ms. Sriparna Chatterjee)

:ORDER (ORAL):

The counsel for applicants and counsel for respondents are heard.

2. The counsel for applicants mentioned that this is a case wherein there are two applicants, namely, Smt. Indera Wati and Smt. Kela, and she also mentioned that their appointment letters were issued on 16.07.1984 wherein the designation was shown

as "Mali (Coolie)" for both these applicants. However, the service record of the applicants, maintained by the respondents, indicated the designation of the applicants as "Coolie". At present, the salary scale of "Coolie" is lesser as compared to that of "Mali" and as such due to this incorrect designation, the applicants are adversely affected.

3. It is also seen from the counter submitted by the respondents that the applicants "were appointed as Mali/Coolie on W/C (Estt.) w.e.f. 06.03.1984" and insofar as the appointment and designation of the applicants, is concerned, it is established that they were appointed as "Mali (Coolie)" and there should be no objection for showing their designation correctly in the relevant service records.

4. The counsel for the respondents mentioned that since the designation of the applicants in the appointment letters were shown as Mali (Coolie) and showing the designation in service record as "Coolie" is in order and needs no correction.

5. The learned counsel for the applicants also drew attention to an order passed by this Tribunal in OA No.3178/2014, which was decided by the Division Bench wherein the service record was rectified from "Coolie" to "Mali".

6. The matter has been heard carefully. The OA is disposed off with a direction to rectify the designation as "Mali" in the service

record within a period of eight weeks from the date of receipt of a copy of this order with all consequential benefits.

7. It is further directed that arrears and interest if any becomes due as a result of these orders, the same shall be limited to the extent as decided in the matter of **Union of India & Ors. Versus Tarsem Singh** (SLP (C) Nos. 3820-3821 of 2008 decided on 13.08.2008). The relevant operative para is reproduced below:

"5. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

6. In this case, the delay of 16 years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to 16 years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date

of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances.”

8. The OA is disposed off accordingly. No costs.
9. MA No.2272/2017 stands disposed off.

(PRADEEP KUMAR)
MEMBER (A)

/JK/