

Central Administrative Tribunal
Principal Bench

OA No.1209 of 2013

New Delhi, this the 23rd day of May, 2019

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

Sh. S.P. Singh
S/o Late Sh. Nayader Singh,
R/o House No. 951,
Sector-1, Vasundhara,
Ghaziabad, U.P. 201012.

.... Applicant.

(By Advocate : Shri Ashwani Bhadwaj)
Vs.

1. Delhi Jal Board,
Through Chief Executive Officer,
Government of NCT of Delhi,
Varunalaya Phase-II, Karol Bagh,
New Delhi-110005.

.... Respondents.

(By Advocate : Ms. Sakshi Popli)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman:

The applicant was employed as Junior Engineer (Electrical and Mechanical) (E&M) on 27.11.1981 in the Delhi Jal Board. He was put on current duty charge of the post of Assistant Engineer (E&M) on 7.4.1997, on adhoc basis w.e.f. 2.2.2002 and was promoted on regular basis to that post on 2.3.2009. He was put on current duty charge of the post of Executive Engineer on 30.6.2011 and was promoted to the said post on adhoc basis on 6.9.2012. The applicant was issued a charge memo on 9.10.2012.

2. The case of the applicant is that the Delhi Jal Board adopted the MACP Scheme, whereunder, employees become

eligible to be extended the benefit of upgradation of pay scale if they did not earn promotion in spells of 10 years; 20 years; and 30 years of service. It is stated that he got the promotion and upgradation in the first two spells, but was not extended the benefit of 3rd MACP, though he became eligible for it on 26.11.2011. The Screening Committee met for this purpose on 10.10.2012 and since charge sheet was issued to the applicant, the benefit of 3rd MACP was not extended to him, and other eligible candidates were extended through order dated 10.10.2012. This OA is filed challenging the order dated 10.10.2012, insofar as it did not extend the benefit of MACP to the applicant.

3. The respondents have filed detailed counter affidavit opposing the OA. It is stated that though the applicant completed 30 years of service on 26.11.2011, he suffered disqualification inasmuch as charge sheet was issued to him on 9.10.2012, by the time the Screening Committee met on 10.10.2012.

4. We heard Shri Ashwani Bhardwaj, learned counsel for the applicant and Ms. Sakshi Popli, learned counsel for the respondent.

5. The MACP facility is extended to the employees, who could not get the benefit of promotion or upgradation in a spell of 10 years of service. There was no controversy as regards the entitlement or otherwise of the applicant in

respect of the two spells. 3rd MACP was not extended to him though he completed 30 years of service on 26.11.2011.

6. The benefit under the MACP is not automatic. It is only when the employee is found to be otherwise eligible to be promoted on evaluation of his ACRs and other parameters, that he becomes entitled to the same. The evaluation is done by a screening Committee, which is akin to DPC.

7. The Delhi Jal Board constituted the Screening Committee to evaluate the cases of all the persons who have completed the requisite length of service and it met on 10.10.2012. The applicant no doubt became eligible to be considered for the benefit of 3rd MACP as on 26.11.2011. However, by the time, the Committee met, he suffered disqualification since charge Memo was issued to him one day earlier, i.e., on 9.10.2012. It is brought to our notice that disciplinary proceedings culminated in imposition of penalty.

8. Reliance is placed on the judgment of this Tribunal in OA No.1460/2013. That was a case in which the employee, who completed the requisite length of service as on 1.8.2010, was under suspension because of his involvement in a criminal case. However, the respondents themselves categorically stated therein that once the criminal case ended in acquittal, she is entitled to the benefit w.e.f. 1.8.2010. In that view of the matter, there was no necessity to go into any further adjudication at all. At most for academic purpose, the issue was considered and judgments of the Supreme Court in

State of A.P. Vs. N. Radhakishan, (1998) 4 SCC 154 & **Delhi Jal Board vs. Mohinder Singh**, JT 2000 (10) SC 158 and judgment of Delhi High Court in W.P.(C) No.4682/2013 were referred to. The principle underlying in the aforesaid judgments was that if an employee was considered by the DPC for promotion by adopting the sealed cover procedure and by the time, result contained in the sealed cover was given effect to, the second charge memo was issued, the same, i.e., the second charge memo does not come in the way for extending the benefits. Such is not the case here.

9. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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