

**Central Administrative Tribunal
Principal Bench**

**OA No.2352/2013
with
OA No.3532/2013**

New Delhi, this the 12th day of March, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. OA No.2352/2013

Shri Karambir
S/o Shri Jaipal Singh
R/o Village & PO Tajpur Kalan,
Near Govt. Girls School,
Delhi 110 036.

... Applicant.

(By Advocate : Shri U. Srivastava)

Vs.

Delhi Jal Board
Govt. of NCT of Delhi
Through its Chief Executive Officer,
Varunalaya, Phase-II,
Karol Bagh,
New Delhi 110 005.

.... Respondent.

(By Advocate : Ms. Shakshi Popli)

2. OA No.3532/2013.

Shri Shiv Kumar Sharma
S/o Shri Dan Sahaya
R/o House No.349,
Gali No.2, 25 Futta,
Rama Garden, Karawal Nagar,
Shahdara, Delhi 110 094.

... Applicant.

(By Advocate : Shri U. Srivastava)

Vs.

Delhi Jal Board
Govt. of NCT of Delhi
Through its Chief Executive Officer,
Varunalaya, Phase-II,
Karol Bagh,
New Delhi 110 005.

.... Respondent.

(By Advocate : Ms. Shakshi Popli)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

Since the issue involved in both the OAs is similar, they are disposed of through this common order.

2. The applicants in the OAs joined the service of respondent, i.e., Delhi Jal Board, as Fitter-II Class in December, 1990 and 1997 respectively. Their services were regularized over the period. Promotion from that post is to the post of Fitter-1st Class.

3. The case of the applicants is that several Fitters-II Class, who joined the service of the respondent along-with them have been promoted to the post of Fitter-1 Class whereas, they are not promoted at all. The particulars of the promotions that were effected in the years 1997, 2005, 2007 and 2012 are furnished. A Legal Notice was also got issued on behalf of the applicants in the year 2003. It is stated that the respondent did not act upon the same. These OAs are filed with a prayer to direct the respondent to consider the cases of the applicants for promotion to the post of Fitter-1 Class, with effect from the date on which they became eligible or, at least from the date on which juniors to them were promoted. Prayer is also made for extension of consequential benefits.

4. The applicants plead that when quite large number of Fitters were appointed as Fitter-II Class by adopting the same

criteria, there is absolutely no basis for denying promotion to them even while their juniors are promoted.

5. On behalf of the respondents, a detailed counter affidavit is filed. The fact that the applicants were appointed as Fitter-II Class in the years 1990 and 1997, respectively is admitted. It is also not in dispute that several Fitters-II Class, who joined the service of respondent at a later point of time, were promoted to the higher post of Fitter-1 Class. It is, however, stated that there are different sections in the respondent organization and the Fitters are allotted to each of them separately. According to the respondent, the Seniority List of Fitters in each Section is prepared separately, and promotions are effected accordingly. The applicants are said to have been allotted to the Distribution Section whereas, several others were allotted to the Bulk Section. It is stated that on account of availability of vacancies and work load in the Bulk Section, promotions were effected relatively earlier, and the applicants are yet to get their turn in the Distribution Section.

6. We heard Shri U. Srivastava, learned counsel for the applicant and Ms. Shakshi Popli, learned counsel for the respondents.

7. Though the applicants joined the service of respondent as Fitter-II class quite earlier in point of time, they did not get the opportunity of being promoted to the higher post on account of the fact that the vacancies did not arise in their establishment,

i.e., Distribution Section. The Fitters-II Class who are allotted to other sections, such as, Bulk Section, got promoted even though the length of service put by them was less than that of by the applicants. The stand of the respondent that the seniority of Fitter-II Class is maintained in each Section separately, remained un-rebutted. The plea of the applicants that they were not given option to join any Section/Branch of their choice at the time of their appointment cannot be entertained at this stage. Further, the applicants did not even plead that any Fitter-II Class, who is junior to them and working in the Distribution Section has been promoted. Therefore, the prayer of the applicants for promoting them to the next higher post cannot be considered at this stage, particularly, when it is not pleaded that the vacancies in Fitter-1 Class are existing in the Distributed Section.

8. Across the Bar, learned counsel for the applicants stated that several Fitters-II Class in the Bulk Section, were promoted as Fitter-1 Class and are posted in the Distribution Section. It is not clear as to under what circumstances, and subject to what conditions; such postings are being made. If the applicants intend to get transferred to another Section, they need to make a representation in this behalf. The respondent can consider the same in accordance with law, and relief, if otherwise possible, can be granted in such a way that third party interests are not adversely affected.

9. We, therefore, dispose of the OA, leaving it open to the applicants to make a representation for transfer from one Section to another, and if such a representation is made, it shall be considered on its own merits, and in accordance with the relevant provisions of law, within a period of eight weeks from the date of receipt of representation of the applicants. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/