

**Central Administrative Tribunal  
Principal Bench**

**CP No.53/2010 in  
TA No.1340/2009**

New Delhi, this the 21<sup>st</sup> day of January, 2019

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

1. Shri Vidyanand Sharma  
S/o Sh. Jagdish Prasad  
R/o B-20, Gali No.7, New Modern Sahadra  
New Delhi.
2. Shri Jagdish Prashad  
S/o Shri Girvar Singh  
R/o A-10, Girvar Singh  
Flat No.1, 3<sup>rd</sup> Floor  
Mandavali, Delhi-110092.
3. Shri Jaiveer Singh  
S/o Shri Birbal Singh  
R/o 49, Chander Vihar  
Mandavali, Delhi-110062.
4. Shri Jitender Kumar  
S/o Shri Rajender Singh  
R/o B-6, Krishna Park  
Khanpur, New Delhi-110062.
5. Sanjay Tomar, S/o Shri Devi Singh  
R/o B-6, Krishna Park  
Khanpur, New Delhi-110062.
6. Shri Dharam Prakash  
S/o Shri Ram Singh  
Village Sisola, PO Janni  
District Meerut (U.P.) ... Petitioners

(By Advocate: Shri Sachin Chauhan )

Vs.

1. Sh. Madhup Vyas, Commissioner  
North Delhi Municipal Corporation  
4<sup>th</sup> Floor, Civic Centre  
J.L. Nehru Marg, New Delhi.
2. Dr. Ranbir Singh, IAS  
East Delhi Municipal Corporation  
419, Udyog Sadan  
Patparganj Industrial Area  
Delhi-110092.
3. Smt. Renu Sharma, IAS  
Pr. Secretary(UD)/Director of Local Bodies  
Urban Development Department  
Government of NCT of Delhi  
9<sup>th</sup> & 10<sup>th</sup> Level, Delhi Secretariat  
I.P. Estate, New Delhi-110002. ....Respondents

(By Advocates: Shri Shri R.K. Jain, Ms. Sangita Rai and  
Shri Kapil Agnihotri)

### **ORDER (ORAL)**

#### **Justice L. Narasimha Reddy:-**

The applicants were recruited as Malis, in the Municipal Corporation of Delhi. The set up in the Horticulture Wing in the Corporation was that the promotion from the post of Mali is to the post of 'Chaudhary' and further promotion is to the post of 'Section Officer' (S.O.), subject to the candidate holding Graduation Degree in Agriculture.

2. In the year 2001, about 30 posts of Mali were upgradated to the post of 'Technical Supervisor' (TS for short) holding the same scale of pay as Chaudhary.

The entry to this post was, exclusively, of the Malis, having B.Sc. (Agriculture) degree. At a later point of time, the posts of TS and Chaudhary were merged.

3. Feeling aggrieved by the merger, the applicants filed a Writ Petition before the Hon'ble Delhi High Court. That in turn, was transferred to this Tribunal and numbered as TA No.1340/2009. The T.A. was opposed by the respondents by filing counter affidavit.

4. The Tribunal refused to interfere with the merger of posts but expressed the view that the case of the applicants, who are holding the B.Sc (Ag) degree, be considered for promotion to higher posts. Writ Petition(C) No.931/2011, filed by the Respondents before the Delhi High Court was disposed of on 02.12.2013 with a direction to consider the feasibility of restoration of the post of T.S. or to suitably amend the Recruitment Rules to the post of Section Officer making Malis, having B.Sc. (Ag) Degree, eligible to be promoted to that post.

5. This Contempt case is filed alleging that the respondents did not implement the directions issued by this Tribunal, as modified by the Hon'ble High Court.

6. The respondents filed a detailed counter affidavit. It is stated that in compliance with the directions issued by the Tribunal and the High Court, the matter was considered at length by constituting a committee. It is stated that the committee met on 08.05.2015 and took note of the fact that the applicants, except one, have already been promoted to the post of Chaudhary and that the amendment, proposed for reducing the length of service in the post of Chaudhary, for the candidates having B.Sc. (Ag) degree for promotion to the post of S.O., is pending with the concerned authority.

7. We heard Shri Sachin Chauhan, learned counsel for the applicants and Shri R.K. Jain, Ms. Sangita Rai and Shri Kapil Agnihotri, learned counsel for the respondents.

8. The grievance of the applicants, which is the result of merger of the posts of TS and Chaudhary, is pending for the past more than a decade. Obviously, because the applicants were figuring almost at the bottom in the seniority list of Malis, they did not get the promotion to the post of Chaudhary for quite a long time. In the year 2001, 30 posts of Malis were upgraded to the post of

TS holding the scale of pay admissible to the post of Chaudhary. Only such of the Malis who held the degree in B.Sc.(Ag) were eligible to be appointed to that post. Here again, the applicants could not make it to the post of TS, obviously, because many Malis, seniors to them were holding those qualifications. At a later stage, the post of T.S. was merged with that of Chaudhary.

9. The applicants felt that had the post of TS been continued, they would have stood a chance of being appointed in that post as and when the vacancies have arisen. However, the Tribunal refused to interfere with the merger. The fact that the applicants were holding the B.Sc.(Ag) degree, as against the Matriculation prescribed for the post of Mali, was taken note of and direction was issued to the respondents to consider the case of the applicants for further promotion.

10. The Hon'ble Delhi High Court directed the respondents to consider two alternatives i.e., restoration of the post of TS or to amend the rules.

11. The respondents have chosen not to restore the post of TS. The R.R. stipulate 8 years of service as Chaudhary, as a condition for promotion to the post of

S.O. An attempt in fact was made to amend the RR, paving an early route for the Malis holding the B.Sc.(Ag) degree for promotion to the post of Section Officer on completion of 6 years of service. However, the concerned authority did not clear the proposal.

12. From perusal of the voluminous record, we notice that an impression was created as though promotion to the post of Section Officer is from the post of Chaudhary whether a candidate holds degree in Agriculture or not and on account of the Malis without such degree, occupying such positions, the chances of promotion of Malis with B.Sc. (Ag) degree are blocked. The fact however remains that it is only candidates with B.Sc. (Ag) from the post of Chaudhary that are eligible for promotion to the post of Section Officer.

13. The record also discloses that the applicants have been promoted to the post of Chaudhary, out of turn, superseding their seniors in the post of Mali, by conferring benefit on account of their holding B.Sc.(Ag) degree. If they still have any grievance, they have to work out their remedies. We are of the view that the respondents have done, whatever was expected of

them, under the order in the OA, as mentioned in the Writ Petition. We accordingly close the Contempt Petition.

There shall be no order as to costs.

**(Pradeep Kumar) (Justice L. Narasimha Reddy)**  
**Member(A) Chairman**

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