

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2458/2013

Thursday, this the 11th day of July 2019

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

Som Dutt s/o Godhu Singh
Aged 52 years
r/o 1/225/10, Hari Nagar Extension, Jaitpur Road
Badarpur, New Delhi – 44, presently posted as
Non-Technical Supervisor, Ward No.166
Munirka Gaon, New Delhi

..Applicant

(*Nemo*)

Versus

1. South Delhi Municipal Corporation through its
Commissioner (South), Municipal Corporation of
Delhi Civic Centre, Minto Road, New Delhi – 2
2. Dy. Commissioner (South) Municipal Corporation
Of Delhi, Green Park, New Delhi – 26
3. Director Horticulture, MCD (South), 16th Floor
Civic Centre, Minto Road, New Delhi – 2
4. Delhi Development Authority, through its Chairman
Vikas Sadan, INA Market, New Delhi

..Respondents

(Mr. R K Jain, Advocate for respondent Nos. 1 to 3,
Ms. Sriparna Chatterjee, Advocate for respondent No.4)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant joined the service of Delhi Development Authority (DDA), the 4th respondent herein, as Mali in the year 1980 and was promoted as Non-Technical Supervisor (NTS) on

20.01.1983. It is stated that the applicant was transferred from DDA to Municipal Corporation of Delhi (MCD) in the year 1993, along with 38 other employees of different categories, together with their posts. He states that ever since his transfer to MCD, he has been discharging the duties of Garden Choudhary, which is a promotional post of Mate in MCD, but he was not absorbed in that post.

2. The applicant filed O.A. No.758/2010 before this Tribunal claiming the benefit of the post of Garden Choudhary. That was disposed of through an order dated 08.11.2010, observing that there is no post of NTS in the Corporation and that his case for absorption to any suitable category shall be considered by the MCD. Acting on the same, the MCD passed an order dated 02.05.2011 stating that the request of the applicant for absorption as Garden Choudhary cannot be acceded to. This O.A. is filed with a prayer to direct the respondent Nos. 1 to 3 to absorb the applicant as Garden Choudhary and to quash the order dated 02.05.2011.

3. The applicant contends that ever since he was transferred to MCD, he is continuing in the same post and that he is entitled to be promoted to the next higher post, i.e., Garden Choudhary.

4. The respondents filed separate counter affidavits opposing the O.A. It is stated that the applicant was holding the

post of NTS when he was transferred to MCD and since there is no corresponding post or promotional post, he is being continued in the same post with periodical increments as well as the benefits of Assured Career Progression (ACP) Scheme are extended. Various contentions urged by the applicant are denied.

5. Since there was no representation for the applicant on past several occasions, we made it clear in our order dated 10.07.2019, that if the applicant or his counsel do not turn up, the matter would be disposed of in accordance with Rule 15 of CAT (Procedure) Rules, 1987. Today also, there is no representation from the applicant. We perused the material placed on record and heard Mr. R K Jain, learned counsel for respondent Nos. 1 to 3 and Ms. Sriparna Chatterjee, learned counsel for respondent No.4, at length.

6. It is not in dispute that the applicant was working as MATE in DDA and after sometime he was put in the pay scale attached to the post of NTS. It is also not in dispute that the applicant was working as NTS by the time he was transferred to MCD. It appears that there is no post of NTS in MCD and the Recruitment Rules naturally did not provide for any promotion from that post. The applicant was continued in the same post and was being extended the benefits of periodical increments. Added to that, the very purpose of granting ACP and MACP

benefits is to ensure that if an employee does not get promotion for want of vacancy or promotional avenues, he is extended the benefits after every 10 years of service. The respondents have categorically stated that in their establishment, there are no promotional avenues for the post of NTS and the applicant is extended the benefit of ACP/MACP. Therefore, the applicant cannot insist on being treated as Garden Choudhary. We do not find any basis to interfere with the impugned orders.

7. The O.A. is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

July 11, 2019
/sunil/