

**Central Administrative Tribunal
Principal Bench**

OA No.1057/2014

New Delhi, this the 10th day of October, 2019

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

Sh. Pushkar Sharma, Age 61 years,
S/o Sh. Chaman Lal Sharma,
R/o 9/104, Sector-3,
Rajender Nagar, Sahibabad,
Ghaziabad, U.P.

...Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Govt. of NCTD,
Through the Chief Secretary,
Govt. of NCTD,
Nava Sachivalya IP Estate,
New Delhi.
2. The Director (Local Body),
Civic Centre,
Dr.Shyama Prasad Mukerjee Marg,
Delhi.
3. The Commissioner,
North Zone,
M.C.D. Civic Centre,
Shyama Prasad Mukerjee Marg,
New Delhi.
4. The Commissioner,
East Zone,
MCD,
Udyog Bhawan,
Patparganj,
New Delhi.
5. The Director (Personnel),
North Delhi Municipal Corporation,
(Central Establishment Department),

13th Floor, Dr. S.P. Mukherjee Civic Centre,
J.L. Nehru Marg, New Delhi-110002.

6. The Assistant Commissioner (Estt.-II),
Municipal Corporation of Delhi,
Central Establishment Department,
22nd Floor, Dr. Shyama Prasad Mukherjee,
Civic Centre,
Jawahar Lal Nehru Marg,
New Delhi-92.

...Respondents

(By Advocate : Shri R.V. Sinha)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was appointed as Junior Engineer in the then Municipal Corporation of Delhi in the year 1974. He was promoted to the post of Assistant Engineer in the year 1990. In the seniority list for the post of Assistant Engineer, he was shown at Sl. No.277, whereas two Assistant Engineers, by name, Mr. R.P.S. Ahluwalia and Mr. Mohd. Ilyas were shown at Sl. Nos.233 and 245, respectively. Both of them were promoted to the post of Executive Engineer on ad hoc basis, on 13.11.1997.

2. The seniority list for the post of Assistant Engineer was revised on 15.02.1999. In that list, the applicant figured at Sl. No.273 whereas Mr. R.P.S. Ahluwalia and Mr. Mohd. Ilyas were shown at Sl. Nos.302 and 281,

respectively. Since the applicant was declared as senior, he too was promoted on ad hoc basis to the post of Executive Engineer in the year 2000.

3. The applicant contends that he was entitled to be promoted on ad hoc basis w.e.f. 13.11.1997. He submits that two Assistant Engineers, by name, Mr. V.K. Malhotra and Mr. Ramesh Kumar, were initially appointed on ad hoc basis in the year 1998, but once they were declared as senior to Mr. Ahluwalia and Mr. Iliyas, they too were promoted on ad hoc basis to the post of Executive Engineer w.e.f. 13.11.1997. In this background, the applicant claimed the relief in the form of a direction to the respondents to treat his ad hoc promotion to the post of Executive Engineer w.e.f. 13.11.1997.

4. The basis for the applicant to claim the relief is that the Assistant Engineers who completed 13 years of service on ad hoc basis in the post of Executive Engineer and Superintending Engineer, are entitled to be put in the Pay Band 4, as per the decision taken by the Administration of 09.12.2010, and that the said benefit is not extended to him. He retired from service on 31.03.2012.

5. The respondents filed counter affidavit opposing the OA. It is stated that the applicant was promoted on ad hoc basis to the post of Executive Engineer in the year 2000, and if he had any grievance about it, he should have claimed the relief, in that behalf, at the relevant point of time. It is also stated that the ad hoc promotion cannot be granted retrospectively.

6. We heard Shri Sachin Chauhan, learned counsel for applicant and Shri R.V. Sinha, learned counsel for respondents.

7. The particulars of the service, relevant for the purpose of the case are mentioned in the preceding paragraph. The applicant was denied ad hoc promotion to the post of Executive Engineer in the year 1997, obviously, he was shown much junior to Mr.Ahluwalia and Mr. Iliyas, who were promoted on ad hoc basis in that year. Once the seniority list was revised on 15.02.1999, the applicant was also promoted on ad hoc basis in the year 2000.

8. The applicant did not feel aggrieved about the date of ad hoc promotion to the post of Executive Engineer. In fact, he was promoted on ad hoc basis to the post of Superintending Engineer in the year 2008. In the year 2010, the Municipal Corporation has taken a decision to put Assistant Engineers who have completed 13 years of adhoc service as Executive Engineer or Superintending Engineer, in Pay Band 4. Then the applicant started making representations and the same was rejected through order dated 02.09.2013.

9. It may be true that the applicant was promoted on ad hoc basis to the post of Executive Engineer, about three years after, the two Assistant Engineers, who later on came to be shown as junior to him. It may also be true that the ad hoc promotions of Shri V.K. Malhotra and Shri Ramesh Kumar were ante-dated to be effected from 13.11.1997. However, the applicant was expected to pursue the remedies at the relevant point of time. It is nearly, 15 years thereafter that he started claiming the relief. The applicant was not supposed to wait till an eventuality has arisen, one decade after his promotion. The law is fairly well settled in this behalf. A representation, made at a belated stage, cannot give rise

to a fresh cause of action. In ***Union of India Vs. M.K.Sarkar*** (2010) 2 SCC 59, the Hon'ble Supreme Court has discussed the matter at length and observed that the relief at a belated stage cannot be granted, even in the form of a direction to the respondents to consider the representation.

10. We do not find any merit in the OA and the same is accordingly dismissed.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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