

**Central Administrative Tribunal
Principal Bench**

OA No.4071/2013

New Delhi, this the 6th day of August, 2019

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

Adnan Amir, JE (Civil), Group B,
Aged about 43 years,
S/o late Sh. Amiruddin,
R/o H.No. C-6/812, Batla House,
Jamia Nagar, Delhi-110025.

...Applicant

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. South Delhi Municipal Corporation,
Through its Commissioner,
Civic Center,
Dr. Shyama Prasad Mukherjee Marg,
New Delhi.
2. State of U.P. through its,
Principal Secretary,
Public Works Department,
Govt. of Uttar Pradesh,
Lucknow (U.P.).
3. The Engineering-in-Chief,
Public Works Department,
Govt. of Uttar Pradesh,
Lucknow (U.P.).
4. The Executive Engineer,
(ADHISHASHI ABHIYANTA),

Provincial Division (PRANTIYA KHAND),
PWD, Baghpat, Uttar Pradesh

...Respondents

(By Advocate : Ms. Vertika Sharma and Shri S.M. Arif)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was appointed as Junior Engineer in the erstwhile Municipal Corporation of Delhi (for short, MCD) on 13.07.2009, through the process of direct recruitment. Earlier to that, he was working in the PWD Department of the State of UP. The resignation submitted by him is said to have been accepted by the UP Government on 07.08.2009. This OA is filed with a prayer to direct the respondents (a) to count the past service rendered by him for the purpose of fixation of pension and other retiral benefits; b) to re-fix the pay of the applicant in the scale of Rs.9300-34500 with Grade Pay of Rs.4200, by taking into account the six increments earned by him in the earlier service; and c) to fix his pay on the basis of last pay certificate issued by the PWD Department of the State of UP.

2. The applicant contends that since the service rendered by him before joining the MCD was in a State Government, he is entitled to be extended the benefit of past service, in the context of fixation of pension as well as the pay scale drawn by him, at the time of joining the service.

3. The respondents filed counter affidavit opposing the OA. It is stated that since the appointment of the applicant was by way of direct recruitment, he is not entitled for increments earned by him in previous service. As regards the counting of past service for the purpose of pension, it is stated that despite repeated reminders, the State of UP did not respond and in that view of the matter, they are helpless.

4. We heard Shri M.K. Bhardwaj, learned counsel for applicant and Ms. Vertika Sharma and Shri S.M. Arif, learned counsel for respondents.

5. The applicant joined the service of MCD in the year 2009. In the recent past, the MCD was trifurcated and as of now, the applicant is in South Delhi Municipal Corporation (SDMC).

6. The relief claimed by the applicant is twofold. The first is that, pay scale be re-determined, duly taking into account the six increments earned by him in the earlier service. That would have been possible, if only, the notification provided for that or the applicant joined the service on deputation basis. It is not in dispute that the appointment of the applicant in the MCD was by way of direct recruitment. Therefore, the question of granting the benefit of increments earned by him in the earlier Organisation does not arise. As regards the counting of past service in the State Government, the respondents, in all fairness stated that they have addressed letters to the UP Government to take necessary steps in this regard, but they did not issue any reply. Today, the learned counsel for applicant placed before us, a copy of letter dated 24.09.2014 from the State of UP and the OM dated 09.10.1986, dealing with the question of determination of pension where an employee of State Government joined another Organisation. The respondents did not have with them, the letter dated 24.09.2014, by the time the OA was filed. The applicant can place it before the concerned authority, where he is working now.

7. We, therefore, dispose of the OA, leaving it open to the applicant to make a representation, enclosing all such copies as well as OM dated 09.10.1986 to the Commissioner of the Corporation in which he is working. A reasoned order shall be passed thereon, within a period of two months, from the date of receipt of a certified copy of this order.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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