

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

O.A. No.3289/2014

Wednesday, this the 4th day of September 2019

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

1. Brij Bhushan Bharadwaj, UDC, aged 54 years
s/o Shri Mange Ram Bharadwaj
r/o E-35, MCD Flats, Kamla Nagar
Delhi – 110 007
2. Shri Bharat Bhushan, LDC, aged 57 years
s/o Shri Om Dutta
r/o MCF, B-284, Bhagat Singh Colony
Balbgarh, Haryana
3. Shri Sunil Dutt Sharma, LDC, aged 50
s/o Shri Ravi Dutt Sharma
R/o B-24, Sawan Park
Ashok Vihar III, Delhi

..Applicants

(Mr. Rajeev Sharma, Advocate)

Versus

1. North Delhi Municipal Corporation
Through its Commissioner
Dr. S P Mukerjee Civic Centre
J L Marg, New Delhi
2. The Commissioner
North Delhi Municipal Corporation
Dr. S P Mukerjee Civic Centre, 4th Floor,
J L Marg, New Delhi
3. Director (Personnel)
North Delhi Municipal Corporation
Dr. S P Mukerjee Civic Centre, 5th Floor,
J L Marg, New Delhi

..Respondents

(Mr. S K Tripathi, Advocate for Mr. L C Rajput, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The 1st applicant was appointed as Photostat Machine Operator (PMO) and the 2nd and 3rd applicants were appointed as Assistant Photostat Machine Operator (APMO) in New Delhi Municipal Corporation (NDMC), the 1st respondent herein. A decision was taken by the Standing Committee of the NDMC in exercise of the powers under Section 74 of Delhi Municipal Corporation Act, to the effect that the post of PMO be abolished and converted into that of Upper Division Clerk (UDC), and that the post of APMO be abolished and equated to the post of Lower Division Clerk (LDC). Accordingly, the order was issued on 18.08.2005 merging the post of PMO held by the 1st applicant with that of UDC w.e.f. 15.03.2005, i.e., the date on which the Resolution No.718 was passed. Through separate orders dated 12.08.2005, the posts of APMO held by the 2nd and 3rd applicants were merged with that of LDC respectively, w.e.f. 15.03.2005.

2. The applicants contend that at a subsequent stage, the Standing Committee took a decision to treat the merger as having taken place with effect from the dates on which they have been appointed, but the same has not been implemented so far.

This O.A. is filed with a prayer to direct the respondents to consider the applicants as UDC/LDC with effect from the date, as recommended by the Standing Committee and to insert

their names at the appropriate places in the seniority list of those cadres. The applicants made an effort to draw analogy from the instance of one B L Kaushik, who too was extended benefit on the same lines.

3. The respondents filed counter affidavit opposing the O.A. It is stated that the benefits, which the applicants were entitled, were already extended by merging the posts, with effect from the relevant dates and that they are not entitled for any further reliefs.

4. We heard Mr. Rajeev Sharma, learned counsel for applicants and Mr. S K Tripathi for Mr. L C Rajput, learned counsel for respondents, at length.

5. On abolition of the posts held by the applicants, they were merged to the posts of UDC in the case of 1st applicant and LDC in the cases of 2nd & 3rd applicants. Proper care was also taken to ensure that the merger takes place with effect from the date on which the Standing Committee passed the Resolution i.e., 15.03.2005. The order of implementation was issued on 18.08.2005 in case of 1st applicant and on 12.08.2005 in cases of 2nd & 3rd applicants. They did not feel aggrieved at that point of time, nor did they file any O.A. before this Tribunal.

6. It seems that the applicants made a representation with a request that the merger should be with effect from the date on which they entered the equivalent posts in their original cadres.

In case of 1st applicant, it was 31.01.1994 and in the cases of 2nd and 3rd applicants, it was 01.11.1985 and 01.10.1985, respectively. In other words, the applicants wanted their names to be inserted in the seniority list of the posts of UDC/LDC in the 1st respondent Corporation, with reference to the dates of their initial appointment, as indicated above.

7. It appears that a Resolution was passed to that effect. However, that is incapable of being implemented. The reason is that when the merger has taken place only on 15.03.2005, the applicants cannot be assigned the place in the seniority list above any UDC, who was promoted earlier to that date. If such exercise is undertaken, it is mandatory that the affected parties are put on notice. No such steps were taken before the merger was effected. The applicants were occupying totally different posts altogether before merger. Though the posts may have been equated to UDC/LDC, as the case may be, that hardly constitutes any justification to physically lift them and place above all other UDCs/LDCs. At the most, the applicants can claim the benefit of their service rendered from the date of entry, for purposes, except seniority in the posts of UDC/LDC, as the case may be.

8. We, therefore, dismiss the O.A. but with an observation that the applicants shall be entitled to count their service rendered in the cadres of PMO and APMO, as the case may be,

for any purpose other than that of seniority in the posts of UDC/LDC, respectively.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 4, 2019
/sunil/