

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**OA No. 556/2014  
MA No. 3316/2019**

**This the 11<sup>th</sup> day of October, 2019**

**Hon'ble Mr. S.N. Terdal, Member (J)**  
**Hon'ble Mr. A.K. Bishnoi, Member (A)**

Sh. Mohinder Singh Saini (Aged about 60 years)  
S/o Sh. Dilip Chand Saini  
Rtd. Asstt. Librarian, MCD  
R/o A-878, Shastri Nagar, Delhi-110052. ... Applicant

(through Sh. Vidya Sagar)

Versus

1. North Delhi Municipal Corporation  
Through its Commissioner  
MCD Headquarters, Dr. SPM Civic Centre  
Minto Road, New Delhi.
  2. The Additional Commissioner  
Education Department  
MCD(North) Shyama Prasad Mukherji  
Civic Centre, Minto Road, New Delhi.
  3. The Director  
Education Department  
MCD(North) Shyama Prasad Mukherji  
Civic Centre, 15<sup>th</sup> Floor  
Minto Road, New Delhi.
  4. Deputy Director of Education  
Education Deptt. West Zone, Rajouri Garden  
South DMC, New Delhi.
  5. Govt. of NCT of Delhi through  
Chief Secretary, Delhi Secretariat  
IP Estate, New Delhi.
  6. Union of India through  
Secretary, Department of Education  
Ministry of Human Resources Development  
Govt. of India, Shastri Bhawan, New Delhi. ... Respondents
- (through Sh. R.K. Jain)

**ORDER (Oral)****Hon'ble Mr. S.N. Terdal:****MA No. 3316/2019**

MA is allowed for the reasons stated therein and the cost is waived.

**OA No. 556/2014**

The date of hearing in the OA was fixed for 06.11.2019. But, however, as the counsel for both the parties requested for taking up the matter for final disposal today, the case was taken up for final disposal.

2. Heard Sh. Vidya Sagar, learned counsel for the applicant and Sh. R.K. Jain, learned counsel for the respondents.

3. The relief prayed for by the applicant in the OA is as follows:

“(i) direct the respondents to grant the applicant the IInd Financial Upgradation under ACP in the old pay scale of Rs. 6500-200-10500 w.e.f. 30.06.2002 and also grant the benefit of III MACP w.e.f. 30.6.2012.

(ii) direct the respondents to grant all the consequential benefits as a result of revision of his pay in the old pay scale of Rs. 6500-200-10500 and third MACP including re-fixation of pension and revised all the pensionary benefits to the applicant.

(iii) direct the respondents to produce all relevant records relating to his case.

(iv) pass any other order/direction as may be deemed just and proper in the facts and circumstances of the case.”

4. The relevant facts of the case are that the applicant was appointed as Assistant Librarian in the respondents organization on 30.06.1982 and subsequently he was granted teaching allowances and in 1994, and he was granted pay scale of Rs. 5500-9000. He was subsequently granted first upgradation on 28.03.2008 and he retired on 31.10.2013. In between, there was no departmental action and he is seeking 2<sup>nd</sup> ACP as on 30.06.2002 and 3<sup>rd</sup> MACP as on 30.06.2012.

5. In support of his contention, the learned counsel for the applicant has relied upon the judgment of a Co-ordinate Bench of this Tribunal in the case of Veena Thapliyal vs. MCD in OA No. 4211/2011 dated 27.02.2017 and also upon the judgment of the Hon'ble Supreme Court in the case of Asger Ibrahim Amin vs. Life Insurance Corporation of India, (2016) 13 Supreme Court Cases 797.

6. The only contention of the respondents is that the applicant has approached this Tribunal after inordinate delay and that they have proposed to start departmental action in 2013 as per the information Annexure R/1 dated 30.10.2013, that is, one day before the date of his retirement as such the applicant is not entitled for any upgradation and ACP and MACP benefits. But, however, the actual charge sheet was issued in 2015.

7. In view of the above facts and the law laid down by the Hon'ble Supreme Court and the order passed by the Co-ordinate Bench, the cause of action for seeking financial upgradation is a continuing cause of action, and hence the OA is allowed and the respondents are directed to grant 2<sup>nd</sup> ACP and 3<sup>rd</sup> MACP w.e.f. 30.06.2002 and 30.06.2012 respectively with all

consequential benefits to the applicant within three months from the date of receipt of a certified copy of this order. No order as to costs.

**(A.K. Bishnoi)**  
**Member (A)**

**(S.N.Terdal)**  
**Member (J)**

/ns/