



**Central Administrative Tribunal
Principal Bench**

**C.P. No. 271/2018
in
O.A. No. 238/2017
with
M.A. No. 2606/2018**

This the 6th day of December, 2019

**Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Pradeep Kumar (Mali),
S/o Sh. Srichand,
Aged about 52 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
2. Ram Gopal (Mali),
S/o Sh. Niranjan Singh,
Aged about 55 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
3. Satbir,
S/o Sh. Giani Ram,
Aged about 52 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
4. Ram Bhrose (Mali),
S/o Sh. Banarasi,
Age 58,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
5. Sultan Singh,
S/o Sh. Bhartu Ram,
Aged about 55 years,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
6. Rajan (Mali),
S/o Sh. Mattu Swam,
Age about 55 yrs,
Working in Department of Horticulture,



West Zone, Rajouri Garden, New Delhi.

7. Lakhpat Singh (Mali),
S/o Sh. Sumer Singh,
Aged about 56 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
8. Surender Prasad (Mali),
S/o Sh. Garbhu Prasad,
Aged about 55 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
9. Srichand (Mali),
S/o Sh. Inder,
Aged about 57 years,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
10. Jaipal Singh (Mali),
S/o Sh. Bhanwar Singh,
Aged about 56 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
11. Khandu (Mali),
S/o Ram Chander,
Age 55 yrs,
SDMC, West Zone,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
12. Nawab Singh (Mali),
Sh. Anoop Singh,
Aged about 55 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
13. Mahipal Singh (Chowkidar),
S/o Sh. Rohtash Singh,
Aged about 55 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
14. Asmeer,
S/o Chhutu Ram,
Aged about 56 yrs,
Working in Department of Horticulture,

West Zone, Rajouri Garden, New Delhi.



15. Kanda Swami (Mali),
S/o Sh. Kuthu Swamy,
R/o E-139, DD Colony, Khyala,
Vishnu Garden, New Delhi-18.
16. Ram Pal (Mali),
S/o Sh. Harphool,
Aged about 57 yrs,
Working in Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
17. Ram Chander (Mali),
S/o Sh. Ram Avtar,
R/o Vikas Vihar, Vikas Enclave,
H.No.100-B, Gali No.9, New Delhi-59.
18. Ram Das (Mali),
S/o Sh. Ram Sahay,
59 years,
SDMC, West Zone, New Delhi.
19. Ram Sagar (Mali),
S/o Sh. Nirsu Ram
Age 55 yrs,
SDMC, West Zone, New Delhi.
20. Chandeshwar (Mali),
S/o Sh. Ramjivan
Age 54 yrs,
SDMC, G Block,
Vikaspuri West Zone, New Delhi.
21. Bijender (Chowkidar),
S/o late Sh. Durgadin,
Age 56 yrs,
SDMC, B Block Nursery,
Vikas Pur, New Delhi.
22. Satish Kumar (Mali),
S/o Sh. Ram Chander
Age 53 yrs,
SDMC, West Zone, New Delhi.
23. Shivilal (Mali),
S/o Daswa,
R/o Jhuggi No.24, Shankar Garden, New Delh
Concerned Department of the Corporation: ACA,



West Zone, SDMC, New Delhi.

24. Parwati (Mali),
W/o Sh. Shivilal,
Aged ____ years,
R/o Jhuggi No.24, Shankar Garden, New Delhi.
Concerned Department of the Corporation: ACA,
West Zone, SDMC.
25. Suresh Kumar (Mali) (Retd.)
S/o Sh. Ravi Shankar,
Age 61 yrs,
SDMC, Rajouri Garden,
West Zone, New Delhi.
26. Smt. Durgee (Mali),
W/o Gopal,
Age 60 years,
R/o Gali No.21,
Krishna Park, Shankar Garden, New Delh
Concerned Department of the Corporation: ACA,
West Zone, SDMC, New Delhi.
27. Dharma Pal (Mali),
S/o Giani Ram,
Age 56 yrs,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
28. Chhattar Singh (Mali),
S/o Sh. Chaju Ram,
Age 59 years,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
29. Kalu Ram (Mali),
S/o Sh. Sukhdi Ram,
Age 62 years,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi.
30. Dushyant Kumar (Chowkidar),
S/o Sh. Rupe Chand,
Aged 55 years,
A-3 Block, Janakpur, Ward No.117,
West Zone, SDMC, New Delhi.



31. Dhuram (Mali),
S/o Sh. Nandram,
Age 58 yrs,
West Zone, SDMC, New Delhi.
32. Satish Chand (Mali),
S/o Kishori Lal,
Age 56 yrs,
West Zone, SDMC, New Delhi.
33. Braham Pal (Mali),
S/o Sh. Suraja
Age 52 yrs,
West Zone, SDMC, New Delhi.
34. Yad Ram (Mali),
S/o Sh. Ram Lal,
Age ____ yrs,
West Zone, SDMC, New Delhi.
35. Purushottam Lal (Chowkidar),
S/o Sh. Dhuliram,
Age 52 yrs,
SDMC, Vikaspuri B Block,
West Zone, New Delhi.
36. Net Ram (Chowkidar),
S/o Sh. Jai Singh,
Age 57 yrs,
SDMC, Vikaspuri B Block,
West Zone, New Delhi.
37. Azad Singh (Chowkidar),
S/o Prabhu Dayal,
Age 54 yrs,
West Zone, New Delhi.
38. Laxman Singh, Post Pump Operator,
S/o Sh. Lakhmi Singh,
Age 59 yrs,
Posted at Ward No.31,
JJ Colony New Camo-2,
Narela Zone, North DMC, Delhi.
39. Veer Singh Deceased (Through Smt. Vimla (wife),
S/o Sh. Bhola Ram
Post Mal
Last Posted at: Ward No.57, Paschim Vihar,
North DMC, New Delhi



R/o C-6/227, Sultanpur,
JJ Colony, New Delhi.

40. Prakash (Mali),
S/o Sh. Chander Bhan
Aged 57 yrs,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi
41. Rishipal Tyagi (Mali)
S/o late Sh. Brahm Jeet Singh,
Age 56 yrs,
SDMC, West Zone, New Delhi,
R/o WZ-150C, Village Gudhiea,
Vikaspuri, New Delhi
42. Madan Lal (Mali),
S/o Sh. Iswar Ram,
Age 50 yrs,
SDMC, West Zone, New Delhi
43. Laxman Singh (Mali),
S/o Sh. Mohan Singh,
Aged 56 yrs,
SDMC, West Zone, New Delhi
44. Rajviri (Mali)
W/o Sh. Sukke,
Age 56 yrs,
SDMC, B Block, Vikaspur,
West Zone, New Delhi
45. Ram Kishore (Mali),
S/o Ramji Lal,
Age 56 yrs,
SDMC, B Block, Vikaspuri,
West Zone, New Delhi
46. Upender Mehto (Mali),
S/o Sh. Bhola Mehto,
Age 53 yrs,
SDMC, Vikaspuri,
West Zone, New Delhi.
47. Attarpal Singh (Mali),
S/o Sh. Kadam Singh,
Age ____ years,
SDMC, B Block, Vikaspur,



West Zone, New Delhi

48. Khushi Ram (Mali),
S/o Jeet Ram
Age 56 yrs,
SDMC, B Block, Vikaspur,
West Zone, New Delhi.
49. Noni Ram (Mali),
S/o Sh. Jiwan Lal
Age 59 yrs,
SDMC, B Block, Vikaspur,
West Zone, New Delhi
50. Randhir Singh (Chowkidar),
S/o Sh. Singh Ram,
Age 52 yrs,
SDMC, West Zone Dhauli Pyau,
Vikaspur, New Delhi
51. Ram Gopal (Mali),
S/o Sh. Ramadin
Aged 55 years,
Ward No.128,
West Zone, SDMC, New Delhi
52. Om Pal (Mali),
S/o Sh. Phool Singh
Age 50 yrs,
Posted at: Ward No.191, Panchsheel Park,
Sadhna Enclave, Green Park Zone,
SDMC, New Delhi.
53. Mangal Singh (Mali),
S/o Sh. Harnam Singh,
Age 56 yrs,
SDMC, B Block, Vikaspur,
West Zone, New Delhi
54. Gaya Prasad (Mali),
S/o Chhitani Ram,
Age 57 yrs,
SDMC, B Block, Vikaspur,
West Zone, New Delhi
55. Om Prakash (Mali),
S/o Shubha
Age 61 yrs,
SDMC, B Block, Vikaspur,

West Zone, New Delhi



56. Ram Kumar (Mali),
S/o Sh. Shiv Lal,
Age 56 yrs,
SDMC, West Zone, New Delhi
57. Kameshwar (Mali),
S/o Sh. Hira Sha,
Age 54 yrs,
SDMC, G Block, Vikaspuri,
West Zone, New Delhi
58. Rohtash Tokas (Chowkidar),
S/o Sh. Amar Singh,
Age 55 years,
posted at office of the Asstt. Director (Hort),
SDMC, Ward No.165, South Zoe,
Green Park, New Delhi
59. Ram Pal Singh (Chowkidar),
S/o Sh. Adal Singh,
Age 54 years,
posted at office of the Asstt. Director (Hort),
SDMC, Ward No.165, South Zoe,
Green Park, New Delhi
60. Durga Bahadur,
Post: Chowkidar,
Age 58 yrs,
S/o Sh. Chander Singh,
Posted AT; CSD Central Zone,
Lajpat Nagar, New Delhi SDMC
61. Ram Bahadur, Post: Chowkidar,
Age 53 yrs,
S/o Sh. Nur Bahadur,
Posted At: Ward No.C-104, EEM-I West Zone,
Tagore Garden, SDMC, New Delhi.
62. Trilok Chand, Post Mali,
S/o Sh. Sawal Ram,
Age 58 yrs,
Posted at: Ward No.104, Madipurm,
West Zone, SDMC, New Delhi.
63. Jai Pal, Post Mali,
S/o Shri Munshi Ram,
Age 57 years,



Posted at: GK Part-II, Green Park Zone,
SDMC, New Delhi

64. Ram Pratap (Mali),
S/o Panna Lal, Age 56 yrs,
SDMC, West Zone, New Delhi
65. Singodan (Mali),
S/o Sh. Kuppra Swamy, Age 69 years,
Last posted at B-10, Vasant Vihar,
SDMC, New Delhi.
66. Palani (Mali),
S/o Sh. Kandan, Age 66 yrs,
Last posted at B-388, Kusmpur Padani,
Vasant Vihar, SDMC, New Delhi.
67. Kamta (Mali),
S/o Sh. Basant, Age 55 years,
SDMC, West Zone, New Delhi
68. Sunder Lal (Mali),
S/o Sh. Ram Lal, Age 52 yrs,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi
69. Raj Pal Singh (Chowkidar),
S/o Sh. Jage Ram,
Aged 52 years,
South Delhi Municipal Corporation,
Department of Horticulture,
West Zone, Rajouri Garden, New Delhi
70. Dayawati,
widow of late Sh. Rati Ram (Mali) (deceased)
Last posted at MCD West Zone,
Ward No.13, Rajouri Garden,
SDMC, New Delhi,
71. Champat Lal (Mali) (Retd.)
S/o Sh. Nain Singh, age 61 years,
NDMC, Civil Line Zone, NDMC, Delhi
72. Samay Singh (Mali)
S/o Sh. Sohan Singh, age 58 yrs,
NDMC, Civil Line Zone, Delhi
73. Ramesh Kumar (Chowkidar),
Age 56 yrs,
S/o Sh. Attar Singh,
Posted at: Ward No.104, EEM-I,



West Zone, SDMC, New Delhi

... Applicants

(By Advocate: Sh. Pranav Chadha)

VERSUS

1. Dr Puneet Kumar Goel, IAS
Commissioner,
South Delhi Municipal Corporation,
Dr. SPM Civic Center, JLN Marg,
New Delhi-110002.
2. Dr. Alok Singh
Director (Horticulture),
South Delhi Municipal Corporation,
Headquarter, Dr. SPM Civic Center,
JLN Marg, New Delhi-110002.
3. Mr. P.K. Banerjee
Dy. Director (Horticulture)
South Delhi Municipal Corporation
Headquarter, Dr. SPM Civic Center,
JLN Marg, New Delhi-110002.
4. Mr. P.K. Gupta, IAS
Commissioner,
North Delhi Municipal Corporation,
Dr. SPM Civic Center, JLN Marg,
New Delhi-110002.

... Respondents

(By Advocates: Ms. Anupama Bansal for Respondent
Nos.-1, 2 and 3;
Sh. M.S. Reen for Respondent No. 4)

ORDER (Oral)

Hon'ble Mr. Pradeep Kumar, Member (A):

Sh. Pranav Chadha, learned counsel appeared on
behalf of the applicants. Ms. Anupama Bansal, learned



counsel appeared on behalf of Respondent Nos. 1, 2 and 3. Sh. M.S. Reen, learned counsel appeared on behalf of Respondent No. 4, which is not a party in CP as yet.

2. The applicants were working under DDA. At some stage, during the year from 1992 to 2002, certain colonies which were being maintained by DDA were transferred lock, stock and barrel to MCD along with staff. Therefore, the staff on rolls of DDA, came on the rolls of MCD. Some of these employees pleaded before the Tribunal in OA No. 238/2017 for grant of such ACP benefit, which would have been otherwise due to them as DDA employees. There were four respondents in OA No. 238/2017 namely, Respondent No. 1 and 2 were SDMC and Respondent No. 3 and 4 were NDMC. The OA was allowed and following directions were issued on 15.12.2017:-

"2. When the matter was taken up for hearing, learned counsel for respondents while drawing our attention to respondent No.3 Office Order dated 04.09.2017, submits that the North DMC has taken a decision to grant the reliefs, as prayed for by the applicants in the OA, in terms of the orders of this Tribunal in identical matters, which have been upheld up to the level of Hon'ble Apex Court and that appropriate orders will be passed shortly.

3. In the circumstances, OA is disposed of in terms of the Office Order dated 04.09.2017 and the respondents No.3&4 shall comply with the exercise within three months from the date of receipt of a certified copy of this order. No costs."



These orders have since been implemented by NDMC. However, it appears that SDMC has not implemented the same. Reasoning appears to be that the Tribunal directed Respondent No. 3 and 4 and not Respondent No. 1 and 2.

3. The applicants in the instant OA, are some similarly placed employees, who were also working in DDA and who got transferred on similar pattern to SDMC. They were applicants in OA No. 238/2017 but similar benefits have not been granted to them. The applicants, preferred CP No. 271/2018. They also filed MA No. 2606/2018, wherein modification has been sought to the original judgement of the Tribunal, to the extent to make them applicable in respect of SDMC also.

4. Respondent SDMC pleaded that while filing CP, the array of respondents has been changed. Such change of parties in contempt is not admissible. Accordingly, CP No. 271/2018 is not maintainable. The contempt notices issued need to be closed and notices need to be discharged.

5. The SDMC, on their own as a responsible organisation, has however submitted the counter reply to the said CP notice, wherein they submitted their



status report as on 18.09.2019, where they had indicated that bills in respect of 71 such employees (the applicants, herein) have since been prepared and they have been passed also. However, payment could not be made so far as the actual release of funds is awaited for want of budget availability. The SDMC further mentioned that they intend disbursing those amounts as soon as the budget becomes available.

6. The applicants pleaded that in a similar matter, when NDMC had pleaded shortage of budget, the matter was taken up by Hon'ble High Court of Delhi in CONT.CAS(C) 848/2018, wherein the orders were passed on 22.04.2019. The High Court directed the attachment of property unless the payments are released. Thereafter, the payments were released.

The learned counsel for applicants pleaded the similar action in respect of the SDMC also.

7. The matter has been heard. As regards, NDMC, Respondent Nos. 3 and 4 in this OA, the applicants fairly mentioned that nothing subsists and accordingly, CP is closed. Notices stand discharged.

The SDMC have taken action on their own as advised in their status report as of 18.09.2019.



Accordingly, they are allowed three months more to release payments as per their averments in status report and in para 5 supra.

The contempt notice issued is closed as not maintainable and notices are discharged. However, applicants shall have liberty to approach Tribunal if some grievance still subsists in respect of above payments.

Pending MA No. 2606/2018 is disposed of accordingly.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/akshaya/