

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2417/2014

New Delhi, this the 23rd day of October, 2019

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

Shri Rishi Pal Singh, age – 55 years,
S/o Sh. Ram Prasad,
R/o G-43, MCD Colony,
Dhakka, Delhi – 110009.
Post –Horticulture Inspector (Horticulture Deptt.) SP zone.

...Applicant

(By Advocate: Ms. Meghna De)

Versus

North Delhi Municipal Corporation,
Through its Commissioner (North),
Dr. S. P. M. Civic Centre,
Minto Road,
New Delhi – 110002.

...Respondent

(By Advocate: Ms. Neetu Mishra for Mr. K. M. Singh)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant joined the service of North Delhi Municipal Corporation (NDMC) as Mali in the year, 1985 and was promoted to the post of Garden Chowdhary in the year, 1990. However, on the basis of an award passed by the Labour Court in I.D. No. 73/97, his promotion to the post of Garden Chowdhary was effective from 1985, itself.

2. The applicant was promoted to the post of Horticulture Inspector in January, 2010. He was extended the benefit of 1st ACP on 09.08.1999 and 2nd ACP w.e.f. 23.07.2009. In the course of Audit, which was effected in the year 2013, it was noticed that the applicant was not entitled for 1st ACP and at various stages, his pay was not properly fixed. Therefore, an order was passed on 20.03.2013, indicating the various discrepancies. The resultant office order was passed on 28.01.2014, directing the recovery for the differential amount. This OA is filed challenging the order dated 28.01.2014 and to direct the respondents not to recover the amount.

3. The applicant contends that the various benefits were extended to him from time to time in accordance with law and there was absolutely no basis for reducing his pay or to direct the recovery. It is also stated that no notice was issued to him.

4. Respondents filed a counter affidavit opposing the OA. It is stated that thorough scrutiny was undertaken in the course of Audit and on noticing several discrepancies, the impugned order dated 20.03.2013 and the one dated 28.01.2014 were issued.

4.1 We heard Ms. Meghna De, learned counsel for the applicant and Ms. Neetu Mishra for Mr. K. M. Singh, learned counsel for the respondents.

5. The impugned order was passed as a result of the findings in the Audit. The respondents filed a copy of the office order dated 20.03.2013 which contains details of the pay structure of the applicant from time to time. This was also treated as tentative, subject to the objections which may be raised in this behalf. The record does not disclose any explanation was called from the applicant or that he was furnished a copy of the office order dated 20.03.2013. Though, the applicant has urged several contentions about the pay structure, his eligibility to be promoted and the like that, we are not impressed at this stage. Further, the learned counsel for the applicant has placed before us a set of papers which have a bearing upon the service of the applicant. She submits on instructions that no recovery has been made as yet. She has also placed before us, a note of the respondents, objecting to the aud-it findings.

6. Now that the applicant has retired from the service, we feel it appropriate to permit him to make a comprehensive representation dealing with office order dated 20.03.2013 and to supplement any other facts.

7. We, therefore, dispose of the OA, leaving it open to the applicant to make a representation with respect to the office order dated 20.03.2013 and by placing the material that has a bearing on the issue, before the respondents. The concerned authority shall pass a speaking order within a period of 02 months, thereafter. There shall be no order as to costs.

**(Mohd. Jamshed)
Member (A)**

/ankit/

**(Justice L. Narasimha Reddy)
Chairman**