

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (Civil) No.6089/2010**

% ***Date of Decision: 07.03.2011***

Municipal Corporation of Delhi

.... *Petitioner*

Through Ms. Pinki Anand, Sr. Advocate with Ms.
Shobha Gupta, Advocate

Versus

Shri Bhagwan Sahai

.... *Respondents*

Through Mr.Sudarshan Ranjan & Mr.Amit
Anand, Advocates

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MS. JUSTICE VEENA BIRBAL

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|-----------|---|------------|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | <i>To be referred to the reporter or not?</i> | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioner, Municipal Corporation of Delhi, has challenged the order dated 24th November, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in T.A. No.906 of 2009, titled as 'Bhagwan Sahai v. Govt. of NCT of Delhi & Anr.', allowing the petition and directing the petitioner to count the previous service of the applicant rendered with the UP Govt. from 1st September, 1966 to 20th August, 1974 and forward this to the Government of NCT of Delhi for

further regulation of pension of the respondent within a period of three months from the date of receipt of a copy of the order.

2. Brief facts to comprehend the disputes are that the respondent was appointed as an Assistant Teacher on 25th August, 1966 in a Government School run by the UP Govt. He served under the UP Government till August, 1974 after which he applied for the post of Assistant Teacher in the Municipal Corporation of Delhi, Department of Education duly intimating the UP Government.

3. The petitioner joined the Municipal Corporation of Delhi as Assistant Teacher on 21st August, 1974. On 9th April, 1985 the petitioner joined as TGT (Sanskrit) with the Delhi Administration and on 16th April, 1994 he was promoted to the post of PGT (Sanskrit). When the respondent superannuated from the post of PGT (Sanskrit) in order to compute his pensionary benefits, the documents were called from the Municipal Corporation of Delhi by the Directorate of Education. However, the petitioner forwarded the documents without counting the services rendered by the respondent prior to his absorption in Municipal Corporation of Delhi.

4. On 29th August, 1984 an Office Memorandum was issued by the Govt. of India regarding mobility of personnel between the Central Government and Autonomous Bodies and Statutory Corporations, stipulating the counting of their service for pension. According to the

said Office Memorandum till 1984, services rendered outside the Central Government were not taken into consideration for pension except in the case of scientific employees of Autonomous Bodies financed and controlled by the Government. Since a number of Central Autonomous Bodies/Statutory Bodies had introduced pension scheme on the lines of the pension available to the Central Government employees, therefore, it was urged that services rendered by the employees before joining the autonomous body may be allowed to be counted in combination with the service in the autonomous body, for the purposes of pension.

5. The said OM dated 29th August, 1984 also dealt with the cases of those employees of the Central Autonomous Body or the Central Government who had already been sanctioned or received pro rata retirement benefits or other terminal benefits for their past service. They had the option either to retain their service benefits and in that event their past service would not qualify for pension under the autonomous body/ Central Government or to surrender the benefit received by them to the autonomous body in order to claim the pensionary benefit for the entire period combined. The relevant para 5 (i) of the OM dated 29th August, 1984 is as under:-

“5(1). The employees of a Central autonomous body or Central Government, as the case may be, who have already been sanctioned or have received pro-rata retirement benefits or other terminal benefits for their past service will have the option either:-

(a) to retain such benefits and in that event their past service will not qualify for pension under the autonomous body or the Central Government, as the case may be : or

(b) to have the past service counted as qualifying service for pension under the new organisation in which case the pro-rata retirement or other terminal benefits, if already received by them, will have to be deposited along with interest thereon from the date of receipt of those benefits till the date of deposit with the autonomous body or the Central Government, as the case may be. The right to count previous service as qualifying service shall not revive until the whole amount has been refunded. In other cases, where pro-rata retirement benefits have already been sanctioned but have not yet become payable, the concerned authorities shall cancel the sanction as soon as the individual concerned opts for counting of his previous service for pension and inform the individual in writing about accepting his option and cancellation of the sanction. The option shall be exercised within a period of one year from the date of issue of those orders. If no option is exercised by such employees within the prescribed time limit, they will be deemed to have opted for retention of the benefit already received by them. The option once exercised shall be final.

(2). Where no terminal benefits for the previous service have been received, the previous service in such cases will be counted as qualifying service for pension only if the previous employer accepts pension liability for the service in accordance with the principles laid down in this Office Memorandum. In no case pension contribution/liability shall be accepted from the employee concerned.”

6. The said OM dated 29th August, 1984 was for the Central Government employees and the employees of the Autonomous or Statutory Corporations. The respondent, therefore, sent a letter dated

19th November, 1984 exercising his option to count his previous service.

7. The respondent had superannuated from the post of PGT (Sanskrit) on 28th February, 2001. The application of the respondent along with the service book and other related documents were forwarded to the Municipal Corporation of Delhi for counting his service of the period the respondent had served in the UP Government. The respondent also made a representation, however, it was communicated to him that keeping in view the resolution dated 27th March, 1987 of petitioner adopting the Office Memorandum dated 29th August, 1984 retrospectively from the date of OM, the past service of the respondent cannot be counted as the respondent had not applied within the prescribed time of one year from 27th March, 1987. It was also contended that the respondent is not entitled for counting the services rendered with Government of U.P as at the time of retirement, the respondent no.1 was not an employee of Municipal Corporation of Delhi, but was instead under the employment of the Delhi Administration and had retired from the Government of NCT of Delhi on 28th February, 2001.

8. Consequent to the representation made by the respondent on 26th April, 2002, Directorate of Education, Govt. Of NCT took a stand that the previous service of the respondent from 01.09.1966 to

20.08.1974 rendered with the Govt. of U.P. has to be counted by the MCD as he joined the MCD after leaving the Govt. Model School, Meerut (U.P.).

9. On the failure of the petitioner to issue appropriate papers to the Directorate of Education, Government of NCT about the services rendered by the respondent in the school of U.P Govt., the respondent filed a writ petition in the High Court under Article 226 of the Constitution of India against the petitioner and Directorate of Education praying, inter-alia, to direct the petitioner and Directorate of Education to count the previous service of respondent under the State Govt. of Uttar Pradesh from 1st September, 1966 to 20th August, 1974.

10. The writ petition was contested by the petitioner contending, inter alia, that respondent No. 1 superannuated on 28th February, 2001 from the post of PGT, Sanskrit from the Education Department, Delhi Administration, which he had joined on 9th April, 1985 and not from the Municipal Corporation of Delhi, the petitioner. The petitioner, however, admitted that respondent No. 1 had served as a teacher with the Govt. of Uttar Pradesh and his services can be included in the service record of Municipal Corporation of Delhi only in accordance with the rules applicable thereto.

11. The petitioner also disclosed that respondent had approached Directorate of Education in 1998, pursuant to which respondent was directed to approach the petitioner on 17th January, 2002 for counting the services of respondent with the State of Uttar Pradesh. The reliance was placed by the petitioner on the Resolution No. 1381 dated 23rd March, 1987. It was contended that Resolution No. 1381 was passed on 1st May, 1987 implementing the OM dated 29th August, 1984 retrospectively. It was also contended that the respondent had left the Municipal Corporation of Delhi and had joined Directorate of Education, Delhi Administration on 9th April, 1985 and since respondent had not superannuated when he was with the petitioner, therefore, he cannot claim benefit of office memorandum dated 29th August, 1984. In the circumstances, it was contended that the claim of respondent is unwarranted and unjustified.

12 The writ petition filed by the petitioner being WP(C) No. 1814/2005 was transferred to Central Administrative Tribunal and was registered as TA 906/2009 titled as 'Bhagwan Sahai Vs. Govt. of NCT of Delhi & Ors.'

13. The Tribunal allowed the petition of respondent by order dated 24th November, 2009 holding that though the office memorandum dated 29th August, 1984 does not specify that in order to count the erstwhile service, one has to retire from a department, in which he was

appointed, and, since the petitioner is an autonomous statutory corporation but under the control of the Govt. and had adopted the office memorandum dated 29th August, 1984 of DOPT by its Resolution dated 27th March, 1987 retrospectively from 29th August, 1984, therefore, the option exercised by the respondent on 20th November, 1984 will be an exercise of option as contemplated under office memorandum dated 29th August, 1984. In the circumstances, it was held by the Tribunal that the plea as canvassed by the petitioner that the employee must retire from the autonomous body before the said autonomous statutory body can be directed to count the previous service cannot be countenanced from the office memorandum dated 29th August, 1984. It was further held that the option exercised on 20th November, 1984 shall hold good as a legal and valid option with retrospective effect of OM dated 29th August, 1984 adopted by the Municipal Corporation of Delhi and therefore, allowed the application of respondent. The observation and inferences of the Tribunal in para-6 of the impugned order dated 24th November, 2009 are as under:-

“ As regards second option in the Resolution that it is only those who retire would be accorded the benefit, it cannot be countenanced, as though under Section 98 of Delhi Municipal Corporation Act, 1957, regulations are to be framed by the MCD. Having adopted the OM of Govt. of India, they are not fair in introducing a condition over and above, which is not even incorporated in the Govt. of India's OM dated 29.8.1984. It has nothing to do with retirement, as the object sought to be achieved is that those who come from Central Government or Autonomous Bodies or vice versa, their erstwhile service should not go waste and is counted towards qualifying service for pension. In such view of the matter, the only condition, which was

applicable, is the option exercised, which the applicant had done. The stand of MCD now taken by the learned counsel that the applicant has not retired from MCD, cannot be countenanced, as in the reply in paras 6/7 the objection taken as to non-exercise of option after 23.3.1987 is not only irrational but also illogical as well. Accordingly, option exercised by applicant in 1984 shall hold good as a legal and valid option on retrospective effect of OM dated 29.8.1984 adopted by the MCD. In the above view of the matter, being welfare legislation, a liberal construction is necessary, which we adopt.”

14. The order of the Tribunal has been challenged by the petitioner, inter-alia, on the ground that at the time of superannuation, respondent was not an employee of Municipal Corporation of Delhi/petitioner as he had joined Delhi Administration on 9th April, 1985 and as he had superannuated from the same, therefore, the respondent has no right to claim any benefit from the petitioner. The petitioner has also contended that it is an autonomous body and bound by its resolution No. 1381 dated 23rd March, 1987 by which this office memorandum dated 29th August, 1984 was adopted from the said date by the petitioner. According to the petitioner, every employee had to apply, pursuant to resolution dated 1st May, 1987, for getting the benefit within a year of his absorption in the Municipal Corporation of Delhi or within a year of issuance of resolution dated 1st May, 1987 of the Municipal Corporation of Delhi. Since the option exercised by the respondent on 20th November, 1984 was not within one year from 1st May, 1987, therefore, the said option cannot be construed as an option exercised pursuant to resolution dated 1st May, 1987 adopting the office

memorandum dated 29th August, 1984 from the said date. The petitioner also contended that it is bound by its own rules, regulations, resolutions and office orders and its resolutions and office orders cannot be interpreted by the Tribunal, which has been done by the impugned judgment dated 24th November, 2009.

15. We have heard the learned counsel for the petitioner/Municipal Corporation of Delhi who has very emphatically contended that pursuant to the resolution dated 1st May, 1987, the respondent is not entitled to pray anything from the petitioner as the option pursuant to absorption as contemplated in office memorandum dated 29th August, 1984 was not exercised within one year from the date of absorption or within one year from the date of resolution, i.e., 1st May, 1987.

16. The pleas and contentions raised on behalf of the petitioner reflect complete non-application of mind. The petitioner is contesting the claim of the respondent for no apparent reason. The respondent has not claimed any pensionary benefits from the petitioner for the period the respondent worked for the State Government of U.P. The petitioner has also not set up a case that the respondent is claiming the pensionary benefits from the petitioner for the services rendered by the respondent in a school of Government of U.P. What is claimed from the petitioner is to incorporate the details of his service with the school of Municipal Corporation of Delhi and with the school of Government of

Uttar Pradesh and to forward the appropriate papers to the Directorate of Education, Govt. of NCT of Delhi, stipulating that the petitioner had worked with the State Govt. of Uttar Pradesh for the period 1st September, 1966 to 20th August, 1974. Why this cannot be done and whether there is any embargo either under the Office Memorandum of 29th August, 1984 or under the resolution of Municipal Corporation of Delhi, has not been explained nor has the learned counsel given any rational or justifiable reason for the same.

17. Surprisingly, though the Directorate of Education, Govt. of NCT of Delhi was respondent No. 2 in the transfer application, which was decided by the Tribunal by order dated 24th November, 2009, which is a necessary party in the facts and circumstances, has not been implemented as a party in the present writ petition challenging the order dated 24th November, 2009 passed in TA 906/2009. This, itself is sufficient to dismiss the writ petition of the petitioner, as a necessary party, which was a party before the Tribunal, has not been made a party in the present writ petition while impugning the order of the Tribunal.

18. However, we have considered the pleas and contentions of the petitioner on merits. The office memorandum of DOPT No. 28.10.84-Pension Unit dated 29th August, 1984 was issued for mobility of personnel between the State Govt. and autonomous bodies for counting

of past services for pension. The said office memorandum deals with the cases of autonomous bodies where an employee is transferred and absorbed, where pension is in operation and those bodies where pension scheme is not in operation. This is not disputed that with the petitioner the pension scheme was in operation. The relevant office memorandum dated 29th August, 1984 in respect of autonomous bodies where pension was in operation is as under:-

“A) In case of Autonomous Bodies where Pension Scheme is in operation.

(i) Where a Central Government employee borne on pensionable establishment is allowed to be absorbed in an autonomous body, the services rendered by him under the Government shall be allowed to be counted towards pension under the autonomous body *irrespective of whether the employee was temporary or permanent in Government.* The pensionary benefits will, however, accrue only if the temporary service is followed by confirmation. If he retires as a temporary employee in the autonomous body, he will get terminal benefits as are normally available to temporary employees under the Government. The same procedure will apply in the case of employee of the autonomous bodies who are permanently absorbed under the Central Government.

The Government/autonomous body will discharge its pension liability by paying in lump sum as a one-time payment, the pro-rata pension/service gratuity/terminal gratuity and DCRG for the service upto the date of absorption in the autonomous body/Government, as the case may be. Lump sum amount of the pro-rata pension will be determined with reference to commutation table laid down in CCS (Commutation of Pension) Rules, 1981, as amended from time to time.

(ii) A Central Government employee with CPF benefits on permanent absorption in an autonomous body will have the option either to receive CPF benefits which have accrued to him from the Government and start his service

afresh in that body or choose to count service rendered in Government as qualifying service for pension in the autonomous body by foregoing Government's share of CPF contributions with interest, which will be paid to the concerned autonomous body by the concerned Government Department. *The option shall be exercised within one year from the date of absorption. If no option is exercised within stipulate period, employee shall be deemed to have opted to receive CPF benefits. The option once exercised shall be final.*"

19. Ministry of Personnel, Public Grievances and Pension Department issued another communication dated 7th February, 1986 regarding counting of service for the purpose of pension of employees of Central Govt. of India, Central Autonomous Bodies seeking absorption in Autonomous Bodies under the State Govt. and vice-versa. In the said communication, the office memorandum of 29th August, 1984 was referred to and relied on and it was clarified that the service rendered even by a temporary employee subject to certain conditions, would be computed. The said communication also contemplated for entering into reciprocal arrangement with various State Governments to the effect that where employees of State Govt./State autonomous Bodies/State Statutory Bodies have been absorbed in Central Autonomous Bodies, they may be allowed the same benefit as have been extended to Central Govt. Services and vice-versa. The relevant paras 2,3,4,5 & 6 are as under:-

"2. In the circumstances explained above, it was felt that reciprocal arrangements may be entered into with the various State Governments to the effect that where employees of the State Governments/State Autonomous

Bodies/State Statutory Bodies, have been absorbed in the Central Autonomous Bodies, they may be allowed the same benefits as have been extended to the Central Government servants and vice-versa.

3. The question of extension of various benefits like counting of service etc. in the case of (i) employees of Central Government absorbed in State Autonomous Bodies and (ii) employees of Central Autonomous Bodies absorbed in State Governments and State Autonomous Bodies, and vice-versa has been considered in consultation with the State Governments. After careful consideration, the President has now been pleased to decide that these cases may be decided in accordance with the principles as laid down in the Department of Personnel and Administrative Reforms OM No.28/10/84-Pension Unit dated 29-8-84 (copy enclosed). The cases of Central Government servants appointed in State Governments and vice-versa will continue to be decided as hitherto.

4. Similar orders regarding counting of service of the Central Government employees in the event of their absorption in the State Autonomous Bodies and employees of the Central Autonomous Bodies in the State Governments, and State Autonomous Bodies as well as orders regarding acceptance of pension liability etc. in respect of State Government and State Autonomous Bodies, employees absorbed in Central Autonomous Bodies and employees of State Autonomous Bodies absorbed in Central Government will be issued by the respective State Governments.

5. These orders shall apply to employees of the State Governments and State Autonomous Bodies moving to Central Government/Central Autonomous Bodies in respect of the State Governments listed below: -

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|--------------------|-----------------------|
| (1) Karnataka | (8) Uttar Pradesh |
| (2) Madhya Pradesh | (9) Bihar |
| (3) Punjab | (10) Gujarat |
| (4) Rajasthan | (11) Assam |
| (5) Sikkim | (12) Meghalaya |
| (6) Tripura | (13) Himachal Pradesh |
| (7) West Bengal | |

These orders shall be extended to the employees of other State Governments as and when they agree to similar reciprocal arrangements.

6. These orders will apply to the employees of the Central Government moving in State Autonomous Bodies and employees of Central Autonomous Bodies to the State Governments and their Autonomous Bodies mentioned in para-5 above and vice-versa who are in service on the date of issue of these orders, irrespective of the date of their absorption.”

20. The Municipal Corporation of Delhi being a statutory body adopted the office memorandum dated 29th August, 1984 on 27th March, 1987 by Resolution No. 1381 Item No. 39. Para 6 of the said resolution item No. 39 contemplated that the previous services rendered by an employee would be allowed to be counted on the terms and conditions given in OM dated 29th August, 1984. Para 5 & 6 of Resolution No. 1381 Item No.39 are as under:-

“5. In view of the O.M referred to above and corporation resolution, the matter has been considered and it is proposed that the past satisfactory service rendered by the employees under Central/State Govt. Autonomous/Public undertakings, semi Govt. Organization, local bodies and Municipalities may be allowed to be counted towards pension and/or gratuity. This benefit may be extended as in case of the Central Government from the date of Govt. orders, i.e. 29th August 1984 to those employees who retired/retire from Municipal Service on or after this date. Previous service may be allowed to count strictly on the terms and conditions as given in the said O.M. and Copy of OM is annexed as annexure ‘A’. Each case of employee who retired before this date will be dealt with on merits.”

“6. Every employee will have an option to retain the benefits received from his previous employer and to get the retirement benefits from the Municipal Corporation only for the period of service rendered or surrender the benefit

received from the previous employer and get the pensionary benefits on basis of combined service. Every employee who went to get the benefit of past service for the purpose of retirement benefits will have to exercise his option within one year from the date of absorption in the Corporation or from the date of issue of orders, whichever is later. If no option is exercised within the stipulated period, the employee shall be deemed to have opted to get the retirement benefits only for the period of service rendered in the Corporation. The option once exercised shall be final. The right to count previous service as qualifying service shall not revive until the amount on account of pro-rata retirement benefits or other terminal benefits already received is refunded along with interest thereon from the date of receipt of their benefits till the date of deposit with the Corporation. The length of previous service may be accepted on the basis of incontrovertible evidence like service certificate and other service record. The past service will not count towards seniority.”

21. The office memorandum dated 29th August, 1984 was further revised pursuant to a judgment dated 12th August, 1987 in Writ Petition No. 3739/1985 titled as ‘Sh. R.C. Marwaha Vs. UOI and Ors.’ making it applicable to those employees who had retired from the service of Govt./Autonomous Body on or after the issuance of the orders and also to all those, who had retired prior to issue of Office Memorandum dated 29th August, 1984 and who are otherwise eligible for the benefit of counting of services there under.

22. The petitioner had passed another Resolution No. 846 dated 29th November, 1989 allowing further relaxation in the memorandum dated 29th August, 1984 permitting the employee concerned as a special case to deposit pro-rata contribution from the past employer. Paras 2 and 3

of the communication dated 21st March, 1990 bearing F-33/CED/5530/CMC are as under:-

“2. The Corporation vide its Resolution No.846 dated 29 November 1989 further allowed relaxation in the said office Memorandum dated 29 August 1984 to the extent that the prorated contribution etc., to be recovered from the employer for the period of past government service rendered by the municipal employees may be got deposited into the municipal fund by the employees concerned as a Special case so as to count the past government service rendered by them for pension and other retirement benefits in the Municipal Corporation of Delhi as per the provisions of the said O.M dated 29 August 1984.

3. The Government of India, Ministry of Personnel, Public Grievance & Pensions, Department of Pension & Pensioners' Welfare, New Delhi have now forwarded a copy of their office Memorandum No.28/2/85-P&PW dated 22 February 1988 as per Annexure 'A' according to which the instructions contained in their O.M No.28/10/84-Pension Unit dated August 1984 have also to be applied to all those who had retired prior to 29 August 1984, though prospectively from 29 August, 1984.”

23. In the above facts and circumstances, it is apparent that the petitioner has only been asked to forward the papers to the Directorate of Education, Govt. of NCT regarding the services rendered by respondent with the State Govt. of Uttar Pradesh and in the Municipal Corporation of Delhi as the respondent after service with the Government of Uttar Pradesh was absorbed with Petitioner. There is no condition imposed in any of the Office Memorandums or the resolution passed by the Municipal Corporation of Delhi that being an earlier employer relevant papers stipulating the length of services of absorbed employee for the period of service with the petitioner and reflecting the

period of service with earlier employer could not be forwarded to subsequent employer from where the respondent had retired.

24. Forwarding the papers to the Directorate of Education, Govt. of NCT of Delhi by the petitioner was also not dependent upon exercising any option in terms of office memorandum dated 29th August, 1984 which was adopted by the Municipal Corporation of Delhi/petitioner on 1st May, 1987 retrospectively from 29th August, 1984. No option from the respondent was required for forwarding the appropriate papers of the respondent reflecting the period of service with the State Govt. and period of service after absorption with the Municipal Corporation of Delhi by the petitioner to the Directorate, Govt. of NCT. Option as contemplated under Office Memorandum dated 29th August, 1984 and resolution of petitioner was either to retain the retiral benefits received from earlier employer or to surrender the retiral benefits received with interest to the employer where the employee was absorbed so as to receive retiral benefits of combined period of service. The respondent No.1 though had not received any retiral benefits from Government of U.P and therefore in his case he was not liable to surrender any retiral benefits after exercising his option. Respondent however, had exercised the option on 20th November, 1984 to receive retiral benefits on the basis of combined service i.e service with the Government of U.P and service with petitioner. No rational reason has been canvassed as to why such an option could not to be considered, especially, since the

office memorandum dated 29th August, 1984 which was adopted by the petitioner on 1st May, 1987 was adopted retrospectively from 29th August, 1984. If the resolution was adopted retrospectively, then, anything done pursuant to the resolution dated 29th August, 1984 would also be ratified and shall become valid and the plea of the petitioner that even if the office memorandum dated 29th August, 1984 was ratified on 1st May, 1987 retrospectively from 29th August, 1984, the option ought to have been exercised after 1st May, 1987, in the opinion of this Court, is devoid of any logic and reflects complete non-application of mind by the petitioner.

25. Perusal of para-6 of the Resolution No. 1381 Item No. 39, contemplating exercise of option also reveals that if an employee wants to get the benefit of past service after retirement, such an employee must surrender the benefits received from previous employer in order to get pensionary benefits on the basis of combined services. It is logical that if an employee has already received pensionary benefit from previous employer, in order to get the pensionary benefits from the combined services, the pensionary benefits already received from the earlier employer ought to be surrendered by such an employee. It is not the case of any of the authorities that respondent had received the pensionary benefits either from the State of Uttar Pradesh or from the Municipal Corporation of Delhi. If that be so, there was no justifiable reason to deny respondent's entitlement for pensionary benefit on the

basis of combined services from the State of Uttar Pradesh and Municipal Corporation of Delhi, the documents for which were to be forwarded to the Directorate of Delhi Administration as the respondent had retired from the Directorate of Education, Govt. of NCT.

26. In the circumstances, we have no hesitation to hold that the stand of Municipal Corporation of Delhi, petitioner is utterly illogical and contrary to their own resolutions and the office memorandum of Govt. of India dated 29th August, 1984. This is not even the case of the petitioner that forwarding the case of the respondent to the Directorate of Education, Govt. of NCT regarding the service rendered by the respondent before his absorption in the Municipal Corporation of Delhi will make the petitioner liable in any manner for the service rendered by the respondent to the Government of U.P. In the circumstances the respondent has been deprived of his pension on account of an illegal stand taken by the petitioner that the respondent had not exercised his option in terms of resolution of Petitioner dated 1st May, 1987 and that the petitioner is not liable to forward appropriate papers to the Directorate Government of NCT from where the respondent had retired so as to finalize his papers for his pensionary benefits.

27. In the circumstances, the petitioner has failed to raise any grounds or show any illegality, un-sustainability or any perversity in the order of the Tribunal dated 24th November, 2009 in TA No. 906/2009

titled as 'Bhagwan Sahai Vs. Govt. of NCT of Delhi & Anr.' to entail any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The petitioner is liable to forward all the requisite papers regarding the service of the respondent with Municipal Corporation of Delhi and his service before his absorption with the petitioner rendered to the State of U.P which may be required by the Directorate of Education, Government of NCT to finalize the pension of the respondent after his retirement. The petitioner will do the needful with six weeks of receipt of copy of this order.

28. In the present circumstances, the writ petition by the petitioner is without any basis and has no merit and is liable to be dismissed. The writ petition is therefore, dismissed. The Petitioner is however, liable to comply with the directions as stipulated hereinbefore. The petitioner shall also be liable to pay a cost of Rs. 20,000/- to the respondent.

ANIL KUMAR, J.

March 07, 2011.
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VEENA BIRBAL, J.