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

+ W.P.(C) 4584/2014

RAJ KUMARI VERMA

..... Petitioner

Through

Mr. Inderjeet Singh, Advocate

versus

THE COMMISSIONER MCD (NORTH) & ANR. ... Respondents

Through

Ms. Mansi Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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14.05.2015

KAILASH GAMBHIR, J. (ORAL)

By this Writ Petition preferred under Article 226 of the Constitution of India, the petitioner seeks to challenge the order dated 25.03.2014 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter referred to as the 'learned Tribunal'*) in Original Application (*in short 'OA'*) No.744/2013.

The grievance raised by the petitioner is that for granting the Assured Career Progression (*in short 'ACP'*) benefits, the period of service of the petitioner to the post of Public Health Nurse (*in short 'PHN'*) should be reckoned from 1989 when she was given Current Duty Charge (*in short 'CDC'*) on the said post and not from 18.06.1992 when she was given appointment on regular basis on the said post.

Ms. Mansi Gupta, the learned counsel for the respondents has drawn the attention of this Court to the Office Memorandum dated 9th August, 1999 dealing with the said ACP scheme for the Central Government employees with emphasis on para 5.2 of the same which states that residency periods (regular service) for grant of benefits under the ACP scheme shall be counted from the grade in which an employee was appointed as a direct recruit.

We have heard the learned counsel for the parties.

The petitioner had initially joined service in MCD as 'A' Grade Staff Nurse on 26.10.1982 and vide order dated 20.02.1989 she was appointed as PHN on CDC. The pay of the petitioner was fixed in the same pay scale of Staff Nurse, i.e. Rs.1400-2600/- and not in the pay scale of PHN, i.e. 1640-2900/- . The petitioner was granted the benefit of 1st financial upgradation under the ACP scheme on the completion of 12 years of service on the post of PHN and for that period which was reckoned from the date when she was given regular appointment on the said post. Thus the grievance raised by the petitioner is that this period of 12 years should be reckoned from when she was appointed on the said post on CDC.

The learned Tribunal has reproduced the order dated 18.06.1992 by which the petitioner was given regular appointment as PHN in the pay

W.P. (C) 4584-2014 Page 2 of 4

scale of Rs.1400-2600/-. The perusal of the office order clearly shows that the departmental candidates who were working on the approved panel of PHN and are working as PHN in the pay scale of Rs.1400-2600/- were appointed to the post of PHN in the pay scale of Rs. 1640-2900/- plus usual allowance etc. This office order also clearly shows that there was no revision in the Grade Pay of the petitioner and she was drawing the same pay scale of Staff Nurse, i.e. pay scale of Rs.1400-2600/-.

The office order dated 23.01.2013 issued by the respondent also refers to the office order dated 20.02.1989 by which the petitioner was given the CDC on the post of PHN and the conditions contained there envisaged that i) It will not confer any right on the official for claiming *ad hoc* or regular appointment to this post or any other service benefits; ii) The interim arrangement can be terminated at any time by the competent authority without assigning any reason and giving any prior notice; iii) The period of service rendered on current charge basis will not count as officiation in the higher post for any purpose; and iv) Other conditions of service will be governed by the relevant rules and orders that may be in force from time to time.

Taking into consideration the said para 5.2 of the ACP scheme and also the fact that the petitioner was merely given the CDC on the post of PHN in the same pay scale which she was drawing on the said post for

W.P. (C) 4584-2014 Page 3 of 4

Staff Nurse and the order making it clear that the period of service rendered by the petitioner on CDC will not be counted as officiation in the higher post for any purpose and also the fact that at the time of giving direct recruitment to the petitioner to the post, there was a clear condition that the departmental candidates who were working on the approved panel of PHN in the pay scale of Rs.1400-2600/- to be appointed to the post of PHN in the pay scale of Rs. 1640-2900/- plus usual allowance etc. and also another fact that the petitioner never lay any challenge to the said condition therefore, we find no infirmity and perversity in the order passed by the learned Tribunal and office order 23.01.2013 passed by the respondents whereby for considering the case of the petitioner under the ACP scheme, the period of 12 years has been reckoned from the date when she was given appointment to the said post on regular basis.

There is no merit in the present Writ Petition and the same is hereby dismissed.

KAILASH GAMBHIR, J.

I.S.MEHTA, J.

MAY 14, 2015

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