

(2026) 01 DEL CK 1372

In the Delhi High Court

Case No : Writ Petition (C) No. 18130 Of 2025 & Civil Miscellaneous Application
Nos. 75018, 75019 Of 2025

MCD

APPELLANT

Vs

Hardayal Singh Meena & Ors

RESPONDENT

Date of Decision : 14-01-2026

Acts Referred:

Citation : (2026) 01 DEL CK 1372

Hon'ble Judges : Navin Chawla, J; Madhu Jain, J

Bench : Division Bench

Advocate : Cauveri Birbal, Nishtha Dhall, Kamalendu, Tarun Sharma, Abid Ali,
Manek Sharma, Karrik Sharma, Sanjiv K. Jha, Sachin Bhatt

Final Decision : Dismissed

Judgement

Madhu Jain, J

1. This petition has been filed by the petitioner, challenging the Order dated 14.01.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 3577/2023, titled as Hardayal Singh Meena & Ors. v. Municipal Corporation of Delhi, whereby the learned Tribunal allowed the above mentioned O.A. filed by the respondents herein and held as under:

"25. The applicants case is on a better footing. They had been promoted in compliance of the Hon'ble High court of Delhi orders in 2007 and had been promoted further on 2020 and 2022. As such they have served on the promotional post for more than 15 years and are settled in high post administratively and in the eyes of the public and society. The DPC vide which they were promoted was subjected to many reviews and none of the review DPC's altered their position. Even today respondents have not unearthed any disqualification of the applicant. Rather a vague reference to the earlier DPC not preparing year wise panel has been made. Surely the applicants cannot be made

to suffer for the lapse of the earlier DPC if any and that too after 15 years.

26. In our considered opinion this is a fit case and applicants are deserving of relief. Hence the OA as filed by the applicants is allowed in terms of Para 8 (i) of the OA. The impugned order 06.10.2023 is quashed and set aside to the extent the same post dates the promotion of the applicant as AE (Civil). It is declared that applicants shall continue to be promoted/ posted as AE (Civil) since 16.07.2007.

27. In view of the above, the OA is allowed in the aforesaid terms. Any pending MA's stand disposed. No order as to costs."

FACTS OF THE CASE

2. The facts giving rise to the present petition are that the respondents were appointed as Junior Engineers (Civil) in the Municipal Corporation of Delhi (MCD) in the Scheduled Tribe (ST) category between the years 2000 and 2001. The respondent No.1, Hardayal Singh Meena, while working as a Junior Engineer (Civil), approached this Court by filing W.P.(C) No. 18936/2006 titled, Hardayal Singh Meena v. M.C.D., alleging stagnation in promotion on account of non-finalisation of the seniority list of Junior Engineers (Civil). Vide Judgment dated 17.01.2007, this Court observed that non-finalisation of the seniority list was the root cause of the grievance and directed the MCD to finalise the provisional seniority list within a period of two months. This Court further directed that, after finalisation of the seniority list, the case of the petitioner therein be considered for promotion/assignment to the post of Assistant Engineer (Civil) in terms of his seniority and in accordance with law. The Judgment did not issue any direction for automatic or deemed promotion.

3. In compliance with the aforesaid directions, the MCD issued a provisional seniority list of Junior Engineers (Civil) on 09.03.2007. As per the said seniority list, the seniority positions of the present respondents were beyond Serial No. 1000, with Respondent Nos. 1 to 5 placed at Serial Nos. 1016, 1022, 1027, 1025 and 1014, respectively.

4. Subsequently, a Departmental Promotion Committee (DPC) was convened on 14.06.2007 for considering promotion from the post of Junior Engineer (Civil) to Assistant Engineer (Civil). As per the Recruitment Rules, Junior Engineers with six years of regular service and possessing a degree in Civil Engineering, or eight years of regular service with a diploma, were eligible for promotion to Assistant Engineer (Civil). Based on the on the recommendations of the said DPC, Office Order dated 16.07.2007 was issued granting regular promotion to the Respondents to the post of Assistant Engineer (Civil) with effect from 16.07.2007.

5. Thereafter, the Respondents continued to serve as Assistant Engineers (Civil).

6. During the period between 2011 and 2019, several review DPCs were held and revised seniority lists of Assistant Engineers (Civil) were issued by the petitioner. However, the promotions granted to the Respondents in the year 2007 were not

disturbed during these exercises.

7. As per the notified Recruitment Rules, Assistant Engineers (Civil) with five years of service in the grade, holding a degree in Civil Engineering, or ten years of service for those with a diploma, are eligible for promotion to Executive Engineer (Civil).

8. Departmental Screening Committee (DSC) was held on 02.01.2020 to consider ad-hoc promotions to Executive Engineer (Civil) from eligible Assistant Engineers (Civil). The Respondents were considered, and based on the DSC's recommendations and subsequent approval of the Competent Authority, the respondents, nos. 1, 3, 4 and 5 were granted ad-hoc promotion to the post of Executive Engineer (Civil) with effect from 01.02.2020, vide Office Order dated 03.01.2020. Further, respondent no.2 was subsequently granted ad-hoc promotion to the same post with effect from 01.08.2022.

9. In September 2022, the Competent Authority of the MCD accorded approval for holding a Review-cum-Regular Departmental Promotion Committee (Review DPC) for reviewing of the original DPCs pertaining to the vacancy years 2006-07 to 2008-09 and to hold regular DPCs for the subsequent vacancy years. It is the case of the petitioners that the decision to hold the Review DPC was taken on account of administrative deficiency noticed in earlier promotion exercises.

10. Pursuant thereto, a Review-cum-Regular DPC was held on 05.09.2023 under the chairmanship of the Additional Commissioner (Establishment). In its minutes, the DPC recorded that in the previous DPCs, the method of determining the zone of consideration had not been properly followed in accordance with the DoP&T Office Memorandums dated 22.04.1992 and 06.01.2006. The DPC accordingly recalculated the normal and extended zones of consideration vacancy-year-wise. For the vacancy year 2007-08, the Review DPC recorded that there were 99 vacancies, for which the normal zone of consideration extended up to Seniority No. 646 and the extended zone of consideration extended up to Seniority No. 970. As the Respondents were placed beyond Seniority No. 1000, the DPC concluded that they did not fall within the zone of consideration for that vacancy year. Upon consideration of subsequent vacancy years, particularly the year 2016-17, the Review DPC noted that the extended zone of consideration extended up to Seniority No. 1220. On that basis, Respondent Nos. 1, 3, 4 and 5 were found fit for promotion, while Respondent No.2 was found fit subject to currency of penalty.

11. Consequent upon the recommendations of the Review-cum-Regular DPC dated 05.09.2023 and approval of the Competent Authority, Office Order dated 06.10.2023 was issued, whereby the respondents were treated as having been promoted to the post of Assistant Engineer (Civil) prospectively with effect from 06.10.2023.

12. Aggrieved by the alteration of the effective date of their promotion, the Respondents approached the learned Tribunal by filing the above O.A.,

contending that their promotion granted in the year 2007 was in compliance with the Judgment dated 17.01.2007 passed by this Court and had attained finality over a period exceeding fifteen years.

13. The learned Tribunal, vide the Impugned Order allowed the O.A., quashed the Office Order dated 06.10.2023 to the extent it postponed the promotion of the Respondents, and declared that the Respondents shall be treated as promoted/posted to the post of Assistant Engineer (Civil) with effect from 16.07.2007.

14. Aggrieved by the said Impugned Order, the present petition has been preferred by the petitioner.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

15. The learned counsel for the petitioner submits that the learned Tribunal committed a manifest error in law in allowing the O.A. without adverting to the core issue which formed the basis of the Review DPC held on 05.09.2023. He submits that the Tribunal failed to examine the legality of the earlier DPCs in the context of the prescribed method for determining the zone of consideration as mandated under the DoP&T Office Memorandums dated 22.04.1992 and 06.01.2006. He further submits that the Review DPC dated 05.09.2023 was convened strictly in accordance with the DoP&T guidelines which expressly permit review of an earlier DPC where grave procedural irregularities are noticed, including incorrect determination of the zone of consideration or consideration of ineligible officers. The learned counsel submits that the learned Tribunal failed to return any finding on the legality or otherwise of the Review DPC, despite the same having been specifically pleaded and supported by documentary material.

16. He places reliance on the Judgment of the Supreme Court in Union of India & Ors. v. B.S. Darjee & Anr., (2011) 10 SCC 186, to submit that an officer, though otherwise eligible, cannot claim promotion as a matter of right unless he falls within the zone of consideration. He submits that the respondents, admittedly placed beyond Seniority No. 1000, did not fall within the extended zone of consideration for the vacancy year 2007–08, which extended only up to Seniority No. 970.

17. The learned counsel for the petitioner submits that the learned Tribunal erred in holding that the promotion granted to the Respondents in the year 2007 was in compliance with the Judgment dated 17.01.2007 passed by this Court in W.P. (C) No. 18936/2006. He submits that the said judgment merely directed the Corporation to finalise the seniority list and consider the case of Respondent No.1 for promotion in accordance with law. No direction was issued for automatic or deemed promotion, and therefore the learned Tribunal's finding to the contrary is erroneous.

18. He submits that the learned Tribunal exceeded the permissible limits of judicial review by substituting its own equitable considerations in place of

statutory instructions governing promotions. He further submits that the learned Tribunal failed to appreciate that promotions, even when made against earlier vacancy years, take effect prospectively as per DoP&T Office Memorandum dated 10.04.1989, and therefore the direction to grant retrospective effect to the Respondents' promotion is contrary to settled service law principles.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

19. The learned counsel for the respondents submits that the promotion granted to the Respondents in the year 2007 had attained finality and could not be unsettled after a lapse of more than fifteen years. He further submits that the promotion granted in the year 2007 was in compliance with the Judgment dated 17.01.2007 passed by this Court, and any attempt to reopen or review the said promotion amounted to overreaching the judicial directions issued by this Court. He further submits that the Review DPC held in the year 2023 could not nullify the effect of a promotion which stood undisturbed for over a decade.

20. He submits that the respondents were promoted pursuant to a duly constituted Departmental Promotion Committee and that such promotion was granted after due consideration of their seniority, eligibility and service records. The learned counsel further submits that the promotion order dated 16.07.2007 was implemented and subsequently reiterated through multiple review DPCs, seniority lists and further promotions.

21. He also submits that the Office Order dated 06.10.2023 was issued without issuance of any show cause notice or affording an opportunity of hearing to the respondents, despite the order having serious civil and pecuniary consequences, including loss of seniority and impact on further promotional avenues. He submits that such is violative of the principles of natural justice.

22. The learned counsel places reliance on the Judgment of the Constitution Bench of the Supreme Court in *Rabindra Nath Bose & Ors. v. Union of India & Ors.*, (1970) 1 SCC 84, to submit that long-standing promotions and settled service positions should not be unsettled after the lapse of several years, particularly where no fraud or misrepresentation is alleged against the employee concerned.

23. He further submits that the Respondents had continued to discharge duties as Assistant Engineers and thereafter as ad-hoc Executive Engineers for several years and were on the verge of being considered for the next higher post. The Impugned Office Order, by retrospectively altering the date of promotion, effectively demoted the respondents and caused grave prejudice to their service career.

24. He further submits that the learned Tribunal's Order dated 14.01.2025 has already been implemented. A final seniority list has been issued in compliance with the learned Tribunal's directions on 19.02.2025, placing the respondents as Assistant Engineers (Civil) with effect from 16.07.2007.

ANALYSIS AND FINDINGS

25. We have considered the submissions made by the learned counsels for the parties.

26. The issue that arises for consideration is whether promotions granted in the year 2007 can be reviewed and set at naught after a lapse of 16 years on the ground of non-compliance with the zone of consideration, when such promotions have been implemented and the employees have since been promoted to higher posts.

27. Before we examine the issue at hand, it would be important to address the petitioner's submission regarding the Judgment dated 17.01.2007 passed by this Court. The petitioner submits that the said Judgment did not direct automatic promotion but merely required consideration in accordance with law. We accept this submission. The Judgment at paragraph 6 held as under:

"6. As a result of the aforesaid categorical stand of the respondent, the present petition of Junior Engineer (Civil) is allowed to that extent and the respondent is directed to finalize the provisional list within two months after finalizing the seniority list, the name of the petitioner be considered for the promotion/assignment in terms of the seniority and in accordance with law."

28. Pursuant to these directions, a DPC was duly convened on 14.06.2007 and the respondents were considered and promoted vide Office Order dated 16.07.2007. The petitioner cannot now, after a lapse of 16 years, claim that this consideration was not in accordance with law, particularly when no infirmity in the DPC proceedings or the eligibility of the respondents was pointed out at any point during the intervening period.

29. The record shows that the respondents were promoted vide Office Order dated 16.07.2007 and have served as Assistant Engineers (Civil) for over 15 years. During this period, multiple review DPCs were held between 2011 and 2019, none of which disturbed their promotions. It is not in dispute that revised seniority lists were issued during this period, which consistently reflected their promotion. In 2020 and 2022, the respondents were granted promotions, on ad-hoc basis, to the post of Executive Engineer (Civil).

30. The petitioner's submission that the review DPC dated 05.09.2023 was necessitated by "administrative reasons noticed in earlier promotion exercises" lacks merit. If the zone of consideration was not properly applied in the year 2007, this irregularity could have been and should have been rectified during the multiple review DPCs held between 2011 and 2019, or at the time of issuing revised seniority lists during the same period, or even while considering the respondents for ad-hoc promotion to the post of Executive Engineer in 2020. The submission that the irregularity was discovered only in the year 2023, that is, 16 years after the promotion has no substance. The respondents cannot be made to suffer for administrative lapses on the part of the petitioner.

31. The reliance placed by the respondents on the Judgment in Rabindra Nath Bose (supra) holds good, as no allegation of fraud, misrepresentation, or suppression of facts has been made against them, and there is no compelling reason to reopen their promotions. While the zone of consideration is an important principle in promotion matters, it cannot be applied mechanically to undo settled service positions after such a prolonged period. In Rabindra Nath Bose (supra), the Supreme Court explained the effect of delay as under:

"33. We are not anxious to throw out petitions on this ground, but we must administer justice in accordance with law and principles of equity, justice and good conscience. It would be unjust to, deprive the respondents of the rights which have accrued to them. Each person ought to be entitled to sit back and consider that his appointment and promotion effected a long time ago would not be set aside after the lapse of a number of years. It was on this ground that this Court in Jaisinghani's case observed that the order in that case would not affect Class II officers who have been appointed permanently as Assistant Commissioners. In that case, the Court was only considering the challenge to appointments and promotions made after 1950. In this case, we are asked to consider the validity of appointments and promotions made during the periods of 1945 to 1950. If there was adequate reason in that case to leave out Class II officers, who had been appointed permanently Assistant Commissioners, there is much more reason in this case that the officers who are now permanent Assistant commissioners of Income Tax and who were appointed and promoted to their original posts during 1945 to 1950 shall be left alone."

32. The petitioner's attempt to review the 2007 promotions seems to be belated and therefore, cannot be sustained.

33. The petitioner relies on B.S. Darjee (supra) to submit that an officer cannot claim promotion unless he falls within the zone of consideration. While the principle is well-settled, the case is clearly distinguishable. B.S. Darjee (supra) dealt with a direction to consider a candidate for promotion which had not yet been granted. The present case concerns cancellation of a promotion already granted and implemented for over fifteen years. The question is not whether the respondents were entitled to consideration in 2007, but whether their promotion can now be undone on the ground that the zone of consideration was incorrectly determined.

34. Moreover, it is significant to note that the Office Order dated 06.10.2023 was issued without affording any opportunity of hearing to the respondents. The failure to issue a show cause notice or afford a hearing before passing the Impugned Order is a serious procedural infirmity that further undermines the petitioner's case.

35. We also note that the learned Tribunal's Order dated 14.01.2025 has already been implemented. A final seniority list has been issued in compliance with the learned Tribunal's directions on 19.02.2025, placing the respondents as Assistant

Engineers (Civil) with effect from 16.07.2007.

CONCLUSION

36. Therefore, in view of the above discussion and for the reasons stated hereinabove, we find no infirmity or illegality in the Impugned Order passed by the learned Tribunal. The petition is accordingly dismissed. The pending applications are disposed of.

37. There shall be no order as to costs.