

**Kailash Arya Vs. M.C.D.**

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**SooperKanoon Citation :** [sooperkanoon.com/697695](http://sooperkanoon.com/697695)

**Court :** Delhi

**Decided On :** Sep-22-1998

**Reported in :** 77(1999)DLT63; [1999(81)FLR286]

**Judge :** K. Ramamoorthy, J.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** C.W. No. 2864 of 1985

**Appellant :** Kailash Arya

**Respondent :** M.C.D.

**Advocate for Def. :** Mr. S.M. Chaudhary, Adv.

**Advocate for Pet/Ap. :** Mr. Nanda Kinra, Adv

**Judgement :**

**K. Ramamoorthy, J.**

The petitioner has filed the writ petition claiming the following reliefs:

(a) The records of the case may be summoned from the respondent Corporation and all orders, notings, files and correspondence refusing or denying to the petitioner equal consequential benefits of Selection Grade, revised pay-scales, arrears of pay and allowances and promotion.

(b) A writ of mandamus directing the respondent Corporation to consider and give and grant the Selection Grade as Assistant Teacher to the petitioner with effect from 5.9.1971 with all consequential benefits of arrears of pay and allowances, revised pay-scales etc.

(c) A writ of mandamus commanding the respondent Corporation to consider and promote the petitioner to the post of Headmaster, Primary School with effect from the year 1973 with all consequential, benefits of seniority, pay and allowances, revised payscales, increments etc. as if the petitioner was actually promoted as such from the said date.

(d) A writ of mandamus commanding the respondent Corporation to apply the principle and ratio of the judgments in Kamla Devi Gupta's case (CW 1723/71) and Hardwari Lal Sharma's case (CW 972/73) and give her the same consequential benefits of Selection Grade in the grade of Assistant Teacher, revised pay-scales, increments and promotion as has been done in their case.

2. The facts could be stated briefly in the following terms. The petitioner was appointed as Assistant Teacher in the Northern Railway Men's Union Middle School, Kishan Ganj, Delhi. In September, 1958 the petitioner was confirmed as Assistant Teacher in the school. The school was taken over by the Municipal Corporation of Delhi (in short MCD) on 8.3.1961. According to the petitioner the seniority was reckoned from the date of taking over and not from the initial date of appointment.

3. This Court had considered the point in CW No. 972/73, Hardwari Lal Sharma v. Municipal Corporation of Delhi & Ors. The judgment was rendered on 5.8.1985. This Court had issued the direction that the seniority should be determined from the date of initial appointment. The same view has been taken in CW Nos. 1723/79 and 1724/79. I respectfully follow the view taken by this Court. The petitioner's seniority should be considered from the date of initial appointment and all consequential benefits have to be given to the petitioner. The petitioner is also entitled to the selection grade and the respondents should also consider the case of appointment as Headmistress. The respondents are directed to consider the case of the petitioner for giving selection grade with effect from 5.9.1979 and grant

her all consequential benefits, arrears and pay and allowance, revised pay scale and the respondents shall consider the case of the petitioner for promotion with effect from 1973 and give her all consequential benefits. The respondents shall pass appropriate orders in this behalf on or before 30.11.1998.

4. Accordingly, the writ petition is allowed . There shall be no order as to costs.

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