

BEFORE THE HON'BLE LOKAYUKTA DELHI

JUSTICE REVA KHETRAPAL

COMPLAINT NO. C-2444/LOK/2013

IN THE MATTER OF:

SHRI MAHESH KUMAR COMPLAINANT

VERSUS

SMT. MANJU DEVI, COUNCILLOR & ANR ... RESPONDENTS

PRESENT: Shri Mahesh Kumar, complainant in person.

Shri Anish Dayal, Advocate, Amicus Curiae.

Shri Hari Dutt Sharma, Advocate, Counsel for
respondent No.1.

Shri Yudhvir Singh, Licensing Inspector (Rohini Zone), on
behalf of North Delhi Municipal Corporation.

ORDER

1. The present complaint is filed by the Complainant Shri Mahesh Kumar, who claims himself to be an RTI Activist, on 22-11-2013 against the Respondents No. 1 & 2 viz. the Municipal Councillor, Ward No.38, Smt. Manju Devi, and the Assistant Commissioner, Rohini Zone, North Delhi Municipal Corporation, alleging misuse of public funds by way of distribution of old age pension to persons who are not eligible for the same as they have not attained the age of sixty, which

is a pre-requisite for old age pension; and also by distributing double pension to the same persons, which he alleges is being done with the active collusion and connivance of the Respondent Municipal Councillor and the concerned Assistant Commissioner, North DMC.

2. It is further alleged that as the Municipal Councillor of the area it is the duty of the Respondent Councillor to attest and forward applications of pensioners to Respondent No.2; while the Respondent No.2 was to verify the documents through his staff and allow the applications for pension. However, both the Respondent No.1 Councillor and the Respondent No.2, in collusion and conspiracy with each other and on the basis of false, forged and fabricated documents were distributing pension to ineligible persons and receiving commission from them. Thus, both the Respondents as public functionaries were abusing and misusing their respective positions with improper and corrupt motives in order to obtain fraudulent gains and hence, both were guilty of corruption.
3. In support of his allegations, the Complainant has filed two lists of ineligible persons receiving pension, which, according to him, were obtained by him by filing an application under the Right to Information Act to the Delhi Municipal Corporation Office, Rohini Zone, Delhi. The first list purports to show that

five persons were drawing double pension against the same voter ID Cards submitted as proof of identification, while the second list shows that fifty-six persons were being paid old age pension though they were not entitled for the same being under the age of 60 years, two of them being as young as 18 and 26 years respectively.

4. Upon issuance of show cause notice to the Respondent No. 1 (the Respondent No. 2 not being a public functionary within the meaning of Section-7 read with Section- 2(b) of the Lokayukta & Upalokayukta Act, 1995), the Respondent No.1 appeared through her counsel and filed a reply denying the allegations levied in the complaint and stating that all the allegations were false, baseless and defamatory and none of the acts as mentioned in the complaint falls within the aforesaid sections of the Act. It was, inter alia, contended by the Respondent-Councillor in her reply that as per the prescribed procedure, her role was limited to forwarding the application forms of the applicants to the North Delhi Municipal Corporation, and it was the duty of the Zonal authority to distribute pension to the eligible pensioners after checking all the documents and eligibility of such applicants. The Respondent has emphatically denied that it was her duty to verify the documents through her staff and allow the

R

applications for pensions, as alleged. The Respondent also denied the allegations of conspiracy and collusion with the Respondent No.2, and of forgery and fabrication of documents for the purpose of grant of pension to ineligible persons, and receiving commission therefor. To buttress this contention, the Respondent-Councillor annexed as Annexure-A to her reply a copy of Office Order dated 18-08-2008 issued by the Director (Community Services Department), Delhi Municipal Corporation, which is described as "**Rules for the grant of Old age Stipend**". The same shall be adverted to at the relevant time while examining the role of the Respondent Councillor in the grant and disbursement of old age pension.

5. In the Reply Affidavit filed by the Respondent No.2, Smt. Raj Rani, the concerned Additional Deputy Commissioner, Rohini Zone, North DMC, it is stated that the records of all the persons named in the complaint were checked, and it was found that all the persons were aged more than 60 years, and the age proof of each of them was attached with their respective application form, except for one Shri Ashok Kumar Singh, who, as per the age proof, was of 45 years of age as on date, but was granted old age pension after his application was duly certified by Smt. Manju Devi, the then Municipal Councillor. Copies of the application forms along with the age

K

proof of all the persons were annexed with the reply as Annexure R-1 to R-56. Further, it was stated by the Respondent No.2 that appropriate action was being envisaged against the guilty officers of the Corporation and necessary action was also being taken against Shri Ashok Kumar, who was found to be below the stipulated age for grant of old age pension.

6. With regard to the issue of payment of double pension, it is submitted by the Respondent No.2, that the relevant records had been checked by the concerned officers and upon inspection it was found that in the pension list, between October 2012 to March 2013, the names of five persons were listed twice due to mistake as a result of which double cheques were prepared for payment. However, while disbursing the cheques the said mistake was detected, and no double cheques were given to those persons by the concerned official viz., the Sanitary Inspector of Ward No.38, and in fact the duplicate cheques were returned back to the Accounts Section by him. Thereafter, immediately the duplicate names appearing in the list were removed and, thus, no double payment has been made after October 2012 to any pensioner. Even prior to October, 2012, no double payment has been detected on inspection of records. The matter was still being

K

examined and if any double payment was detected the same would be recovered and deposited in the Accounts Section. Copies of the Memo dated 22-04-2016 issued to the concerned official of Rohini Zone by the Assistant Commissioner regarding the mentioning of some names more than once in the same list, resulting in revenue loss to the North DMC as also the reply furnished by the concerned official, have been annexed as Annexure R-57 and R-58 respectively. Significantly, the reply filed by the concerned official states that though there are five names which have been mentioned twice in the list, however, on checking of the records it has been found that no pension cheque had been disbursed to these persons for the period 01-10-2012 to 31-12-2012.

7. In his rejoinder to the reply affidavit of Respondent No.2, the Complainant has reiterated his allegations and submitted that the age proof of the applicants /pensioners furnished by the Respondent No.2 with the reply affidavit were fabricated. Further, the Respondent Councillor had not put date while signing/recommending the said applications, which was done to facilitate the Respondents in changing the copies of documents or application forms later on, if the need arose. Taking advantage of this absence of date, they have changed various forms and documents attached with application forms.

