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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2680/96

New Delhi this the 2nd day of May, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN  
HON'BLE MRS. SHANTA SHAstry, MEMBER (ADMNV)

Sh. A.D. Arora,  
Working as Draftsman Gr. II,  
PWDCV (NCTD),  
4th Floor, M.S. Building,  
I.P. Estate,  
New Delhi. ....Applicant

(By Advocate Shri R.K. Shukla)

-Versus-

1. Union of India through  
the Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.
2. The Director General of Works,  
C.P.W.D. Nirman Bhawan,  
New Delhi.
3. The Anubhag Adhikari,  
CPWD, Nirman Bhawan,  
New Delhi. ....Respondents

(By Advocate Shri K.C.D. Gangwani)

ORDER (ORAL)

By Smt. Shanta Shastry, Member (Admnv):

The short point for consideration in this case is whether the belated exercise of the option by the applicant should come in his way of getting the benefit of pay fixation in accordance with OM dated 23.3.95 of the Ministry of Finance, Department of Expenditure?

2. The applicant is a Draftsman Grade-II in the C.P.W.D. A circular of the Ministry of Finance dated 23.3.95, communicated the decision of the Government that the pay fixed in the revised scale as on 1.1.86 may be fixed without taking into account the increment due on 1.1.86 and after the pay in the revised scale is so fixed the increment may be allowed on 1.1.86 in the revised scale. In this OM

it was stipulated that the necessary options may be exercised within six months from the date of issue of the OM. The applicant exercised his option on 22.12.95. The respondents rejected his option on the ground that the option had not been exercised within six months from the date of issue of the OM dated 23.3.95. Aggrieved by this, the applicant has approached this Tribunal to quash the impugned orders dated 16.4.96 and 14.6.96 and to direct the respondents to fix his pay accordingly along with consequential benefits.

3. The learned counsel for the applicant has contended that the OM dated 23.3.95 came to the knowledge of the applicant for the first time when the respondents circulated the aforesaid OM vide their OM dated 26.7.95 and, therefore, if the period of six months is counted from 26.7.95 i.e., the date of circulation of the OM dated 23.3.95 by the respondents the applicant's option is within the stipulated period of six months.

4. The learned counsel for the respondents, however, asserts that in the OM dated 23.3.95 of the Ministry of Finance, it was clearly laid down that the option should be exercised within a period of six months from the date of issue of the said OM. Therefore, the option of the applicant exercised beyond the stipulated period has rightly been rejected by the respondents and, therefore, the applicant's request cannot be agreed to.

5. We have heard the learned counsel for the applicant as well as the respondents. The original OM of the Ministry of Finance, no doubt, is of 23.3.95. If a period of six months is counted from that date, obviously,

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the applicant's option dated 22.12.95 cannot be said to be within the stipulated period. However, unless the applicant knew about such a circular he could not have been expected to exercise his option within six months of the issue of that OM. The respondents themselves have circulated the OM dated 23.3.95 only on 26.7.95, i.e., almost four months after the issue of the original OM. This fact is not disputed by the respondents. The main objective of prescribing six months period is that the employees should get sufficient time to apply their mind to exercise the option. This being so, the applicant should not have been denied the benefit of the OM dated 23.3.95 just because six months period was over after the issue of the original OM. His option is very much well within the period of six months from the date of receipt of the circular of the respondents. In our view, therefore, the contention of the respondents cannot be accepted. We, therefore, set aside the impugned orders dated 16.4.96 and 14.6.96. The respondents are directed to extend the benefit of the O.M. dated 23.3.95 of the Ministry of Finance to the applicant and fix his pay accordingly along with consequential benefits by condoning the late option. This may be complied with within a period of four months from the date of receipt of a copy of this order.

6. The OA is allowed accordingly. We, however, do not order any costs.

*Shanta Shastray*

(SMT. SHANTA SHAstry)  
MEMBER (ADMNV)

'San.'

*Om Rajagopal Reddy*

(V. RAJAGOPALA REDDY)  
VICE-CHAIRMAN (J)