

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2402/1994

New Delhi, this 12th day of October, 1999

(33)

Hon'ble Shri A.V. Haridasan, VC(J)

Hon'ble Shri S.P. Biswas, Member(A)

Raj Kumar Purohit and 47 Others
as mentioned in the Memo of parties
all working as Assistant Engineers in
Central Design Organisation, CPWD
New Delhi

(By Shri G.K. Aggarwal, Advocate) " Applicants

versus

Union of India, through

1. Secretary
M/Urban Development, New Delhi

2. Director General (Works)
CPWD, Nirman Bhavan, New Delhi

(By Shri S.M. Arif, Advocate) " Respondents

Hon'ble Shri A.V. Haridasan ORDER(oral)

Applicants, 48 in number, have filed this application seeking a direction to the respondents to pay them Design/Planning Allowance (DPA for short) at the rate not more than Rs.300/- per month for the period they remain posted on the Central Design Organisation, Central Public Works Department (CDO/CPWD, for short) from 1.1.73 to 1.1.87 on the plea that such a benefit was given to one Shri Sibal. The undisputed facts in this case are that Junior Engineers, Executive Engineers and Superintending Engineers posted on CDO/CPWD were getting DPA while the category of Assistant Engineers were denied the benefit, that one Shri Sibal similarly situated like the applicants approached the Principal Bench of this Tribunal in OA 1029/87 and the Tribunal having allowed the claim, he was given DPA at the rate of Rs.300 per month. Applicants coming to know of the grant in favour of Shri Sibal made a representation claiming

extension of the said benefit to them but without any success. Under these circumstances, applicants approached this Tribunal with this application seeking a direction as aforesaid. The claim of the applicants was rejected by the Tribunal on the ground of limitation among other grounds by order dated 29.3.96. The main reason for dismissal was delay and laches. Aggrieved by the dismissal of the applicants' claim by this Tribunal, they approached the Hon'ble Supreme Court. The apex court vide its order dated 20.9.96 allowed the Civil Appeal No. 12407/96 and restored the OA to the file with the direction to the Tribunal to consider the claim of the applicants for DPA for the period of 3 years immediately preceding the date of filing of the application. It is thus how the matter is again before us.

2. The only question to consider is whether the respondents can validly deny the applicants payment of DPA while they had given it to Shri Sibal, the applicant in OA 1029/87. The main reason for not granting the DPA to the applicants and identically situated as the applicants, is OA 1029/87 is that their claim is belated. It was also contended in the reply statement that as the issue has been referred to the 5th Central Pay Commission (CPC for short) it was not necessary to consider the case by the respondents separately.

3. The contention that the claim is barred by limitation does not survive in view of the ruling of the apex court that claim of the applicants for DPA for a period of 3 years preceding the date of filing of this application would be well within time. Hence, the only question is entitlement of the applicants.

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4. The fact that the issue of grant of DPA was before the 5th CPC does not affect the claim made in this application for the simple reason that the period for which the claim is made in this application would not be covered by the recommendations of the 5th CPC. We are told that 5th CPC had recommended grant of payment of DPA and that the incumbents are getting it from 1.1.96.

5. As for the claim of the applicants for DPA for the period preceding 3 years based on the recommendations of the 5th CPC respondents cannot deny it to the applicants because the applicants were identically situated in all respects with Shri Sibal, the applicant in OA 1029/87.

6. In view of these facts and circumstances, we allow this application in part and direct the respondents to pay DPA to the applicants at the rate of Rs.300/- per month with effect from 30.11.91 till they hold the post of Assistant Engineers in CDO/CPWD. The direction as aforesaid shall be complied with and payment made to the applicants within a period of three months from the date of receipt of a copy of this order.


(S.P. Biswas)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)

/gtv/