

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1296/2012

This the 26th day of July, 2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Shri Rama Shankar Bharti,
S/o Late Shri Roshan Lal
R/o D-47/1, Gali No. 5, New Govindpur,
Near Ghandi Park, Parwanan Road,
Delhi-110 051

.....Applicant

(By advocate: Mr. Rajeev Sharma)

Versus

1. East Delhi Municipal Corporation
Through its Commissioner,
Udyog Bhawan
Patparganj Industrial Area,
Delhi
2. The Commissioner,
East Delhi Municipal Corporation
Udyog Bhawan
Patparganj Industrial Area,
Delhi
3. Director (Personnel),
East Delhi Municipal Corporation
Udyog Bhawan
Patparganj Industrial Area, Delhi

.....Respondents

(By advocate: Mr. K.M. Singh)

ORDER (ORAL)

By Shri P.K. Basu, Member (A):

The prayer of the applicant is that between the periods 24.08.1995 to 30.12.1997 he looked after charge of post of Assistant Engineer (Civil) but has been paid salary in the grade of Junior Engineer. Learned counsel states that in OA No. 3711/2011, vide order dated 12.03.2011, in which the same issue was agitated, the Tribunal had allowed the prayer and directed the respondents to grant difference of salary between the higher and lower posts till the applicant continued to work on the post. Therefore, it is stated that same principle is applicable and the applicant's prayer should be allowed.

2. Learned counsel for the respondents, first of all, raised the question of delay and stated that the applicant has filed this OA after years of delay as the cause of action arose in 1995 and he filed the representation only in the year 2011 (Annexure-1) and this OA in April 2012. Therefore, in accordance with provisions of Section 21 of Administrative Tribunal Act, 1985, this OA is not maintainable. It is also stated that the applicant had approached this Tribunal for grant of recruitment as Assistant Engineer w.e.f. 13.12.1997. He had also raised the issue for payment of salary of Assistant Engineer for the intervening period between 24.08.1995 to 13.12.1997. However, this is not a part of pleadings nor has learned counsel for the respondents produced any document in support of this, therefore, this argument is rejected.

3. On the question of limitation, learned counsel for the applicant drew our attention to para 6 of the order dated 12.03.2011 in OA No. 3711/2011 in which the matter was 9

years old and the point of limitation was not considered by the Hon'ble High Court.

4. We are of the opinion that this issue of grant of higher pay against look after charge has been decided and settled by this Tribunal, Hon'ble Supreme Court and High Court in a catena of orders and judgments. It is, in fact, the duty of the respondents not to force their employees to approach Tribunals/Courts to settle such matters, rather to decide this matter in view of the law settled already. Therefore, the objection of learned counsel for the respondents on question of delay is rejected.

5. The OA is allowed and the respondents are directed to pay to the applicant difference of salaries between Junior Engineer and Assistant Engineer w.e.f. 24.08.1995 to 30.12.1997 within the period of 90 days from the receipt of certified copy of this order.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

/daya/

- i) To direct the respondents No. 1 to relax the rules for Combined Section Officers/Stenographers'(Grade B'/Grade-1) Limited Departmental Competitive Examination for the year 2015, issued by the respondent NBo. 1 dated 21.07.2015 vide no. 6/1/2015-CS I(P) to the extent of considering the approved services'of the applicants from the year of their direct recruitment examination instead of subsequent year.
- ii) To grant any other relief as may be deemed fit and proper under the circumstance of the case in favour of applicant and against respondents.