

**Central Administrative Tribunal
Principal Bench**

**OA No.798/2013
MA No.4250/2018**

New Delhi, this the 8th day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Mr. Alok Kumar Datta
Ex Assistant Manager (Mechanical)
Emp. Code: 9815
R/o 17 D, Pocket C
Mayur Vihar Phase II
Delhi-110091. ..Applicant

(By Advocate: Shri S.I. Alam)

Versus

1. Union of India through its Secretary
Ministry of Urban Affairs and Poverty
Alleviation, Nirman Bhawan
New Delhi-110001.
2. M/s Hindustan Prefab Limited
Through its Chairman-Cum-Managing Director
Jangpura, New Delhi-110014. ..Respondents

(By Respondents: None)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

MA No. 4250/2018

This OA was dismissed for default on 30.08.2018. This Application is filed with a prayer to

set aside the order dated 30.08.2018 and to restore the OA No.798/2013. It is stated that the applicant was under treatment, and he could not make arrangement when the case was listed for hearing.

2. On hearing the applicant and perusing the record, we are satisfied with the reasons mentioned in the MA. Accordingly, the MA is allowed and the Order dated 30.08.2018 is recalled. The OA is restored to file.

OA No.798/2013

3. The applicant joined M/s Hindustan Prefab Limited, a Govt. of India undertaking, as a Section Officer in the year 1983. In that organization, there existed two patterns of dearness allowances, namely, Industrial Dearness Allowance(IDA) and Central Dearness Allowance(CDA). The applicant was promoted as Supervisor on ad hoc basis in the year 1982, as Section Officer in the year 1983. On 30.05.1992 he was promoted as Assistant Engineer. Ever since then, he was put in IDA scale of pay and the emoluments were fixed accordingly. The applicant

submitted resignation in the year 2007 and it was accepted.

4. The applicant contends that several Assistant Engineers who were junior to him were being paid higher emoluments on the ground that they are in CDA and he was being paid less emoluments and pensionary benefits in the IDA pattern. It is also stated that in TA No.1227/2009 filed by Shri M.A. Neyazi & Ors. Vs. U.O.I. and Ors., this Tribunal passed an Order on 08.09.2011 directing that the difference as to the pattern of DA must not resulted in the difference in pay scales for the persons holding the same post and that he is entitled to the same benefit.

5. The respondents filed a counter affidavit. An objection is raised on the grounds of limitation. It is also stated that at the time of promotion of the applicant to the post of Assistant Engineer, option was given to him to remain in CDA and was informed that if he fails to exercise the option, he will be deemed to have opted for IDA and since no option was exercised by him, he was put in IDA and accordingly emoluments and pay scales were determined. It is

stated that the applicant cannot raise the objection at this stage, that too, six years after resignation from the post.

7. Heard Shri S.I. Alam, learned counsel for the applicant and perused the record.

8. It is no doubt true that the applicant was in CDA when he entered the service. In the post of Assistant Engineer, a person who is junior to him i.e. by the name Shri Dalbir Singh was put in the basic pay of Rs.4,400/- whereas the applicant was put in the basic pay scale of Rs.4,100/-. That however was done way back in the year 1992 when the applicant was promoted to the post of Assistant Engineer.

9. It is clearly mentioned in the counter affidavit that when the promotions were being effected, options were given to the candidates to choose to remain in CDA or to opt for IDA and in case no option was exercised, it would be deemed that they have opted to in IDA. It is by operation of this deemed clause that the applicant came to be put in IDA. In case the applicant had any objection for his being put in IDA, it was open to him to make a representation

or to protest immediately thereafter. Not only he acquiesced to be the IDA, but also has drawn the emoluments till he left the employment in the respondent organization in the year 2007. Further, even while leaving service, the applicant did not feel it necessary to protest regarding his being placed in IDA. It was only when some of the employees who approached the Tribunal long ago got some relief that the applicant moved. Hear also the applicant took four years for initiation of the proceedings. At this length of time the applicant cannot be granted the relief on the sole ground of parity.

10. In its order dated 08.09.2011, this Tribunal did not lay down any principle of law as such, much less the circular relating to exercising of option as between CDA and IDA was set aside. At any rate, the claim of the applicant is hopelessly barred by limitation. The OA is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member(A) Chairman

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