

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2130/2014

Order Reserved on : 01.08.2018

Pronounced on : 13.08.2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Ms. Aradhana Johri, Member (A)

Suddhodan Roy S/o late Dr. Sudhis Chandra Roy,
R/o Flat No.2220, Sector-C/2,
Vasant Kunj, New Delhi-110070.

... Applicant

(By Mr. Gyan Prakash, Advocate)

Versus

1. Union of India through
Secretary, Ministry of Housing and
Poverty Alleviation, Nirman Bhawan,
New Delhi-110018.
 2. Chairman-cum-Managing Director,
Hindustan Prefab Limited, Jangpura,
New Delhi-110014.
 3. Secretary,
Department of Public Enterprises,
Ministry of heavy Industries and Public Enterprises,
Block No.14, CGO Complex, Lodhi Road,
New Delhi-110003.
- ... Respondents

(By Mr. Rajinder Nischal, Advocate)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant was appointed as Chairman-cum-
Managing Director of Hindustan Prefab Limited (HPL), a

Central Public Sector Undertaking, on 29.11.1989. He retired from service on 28.02.2002 on attaining the age of superannuation.

2. The applicant submitted a representation on 21.03.2012, with a request to re-fix his salary and to pay the arrears, as a sequel to the implementation of the Fifth Central Pay Commission, and other subsequent developments. Alleging that the representation was not acted upon, he filed OA No.842/2013. The same was disposed of on 14.03.2013 with a direction to the first respondent to pass orders on the representation within two months. On consideration of the representation, the first respondent passed an order dated 12.06.2013. It was mentioned that the employees were given option to be covered either by the Central DA (CDA) pattern, or the Industrial DA (IDA) pattern, and by and large, the old employees were covered by the CDA, and the new employees, appointed after 01.01.1989, by the IDA. The applicant is said to have been covered by the IDA. It was also stated that the recommendations of the Fifth Pay Commission were approved by the competent authority of the Corporation, without any commitment of payment of arrears, and at a later stage, the

Board passed a resolution to the effect that the demand regarding payment of arrears of pay revision, would be considered for the employees for the period prior to 01.04.2009, depending upon the future results. It was also mentioned that the arrears referable to pay revision were not paid to any one for the period prior to 01.04.2009, including the serving employees, and that the revision of pay scales was not effected for the employees who retired or left service before 01.04.2009. The Central Government is said to have approved the resolution passed by the Board, subject to payment of the revised scales of pay only from 01.04.2009, and not earlier thereto, and in that view of the matter, the claim of the applicant cannot be considered. Challenging the same, the applicant filed the present OA.

3. The applicant contends that for all practical purposes, he deserves to be treated as a Central Government employee, and irrespective of the financial condition of the Corporation, he is entitled to be paid the revised pay scale as well as the arrears.

4. The respondents filed a counter affidavit opposing the OA. They contend that at no point of time, the applicant

was treated as an employee of the Central Government, and since the date of his initial appointment, he was being treated as an employee of the Corporation itself. It is also stated that when none of the employees of the Corporation have been extended the benefit of revised pay scales for any period anterior to 01.04.2009, the question of the applicant being conferred the benefit, does not arise.

5. We heard Shri Gyan Prakash, learned counsel for the applicant, and Shri Rajinder Nischal, learned counsel for the respondents.

6. Firstly, the contention of the applicant that he is an employee of the Central Government, needs to be dealt with. In the order of appointment, it was clearly mentioned that he is appointed as Chairman-cum-Managing Director of the HPL. Simply because the appointment of the applicant was approved by the Appointments Committee of the Cabinet, he cannot claim the status of an employee of the Central Government. Reliance is placed on a passing observation made by the High Court of Delhi in a totally unrelated case, in *Y. N. P. Sinha v Union of India* [2000 (56) DRJ (Suppl) 388]. It is also evident that the observation came to be made in the context of the

scrutiny of the antecedents of the persons recommended for the posts at Board level of public sector enterprises. Beyond that, it was not indicated that the persons so appointed are to be treated as Central Government employees.

7. The applicant does not dispute that he retired on 28.02.2002, and the recommendations of the Fifth Central Pay Commission were implemented in the organisation only with effect from 01.04.2009, i.e., seven years after his retirement. The record also discloses that it was also decided that the benefit of revised pay scales shall not be extended to any employee who retired or left the job before 01.04.2009. Once, the applicant retired before that date, he is not entitled for any benefit.

8. We do not find any merit in the OA, and accordingly dismiss the same. There shall, however, be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/