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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 17594/2024, CM APPL. 74870/2024, 1225/2025,
4847/2025 & 6873/2025

PRABODH KUMAR SHARMA

.....Petitioner

Through: Ms. Diya Kapur, Sr. Advocate with
Mr. Rubhah Sharma, Mr. Aditya
Ladha & Mr. Raghav Kumar,
Advocates.

versus

NATIONAL HIGHWAY AND INFRASTRUCTURE

DEVELOPMENT CORPORATION LTD & ANR.....Respondents

Through: Mr. Raj Birbal, Sr. Advocate with
Ms. Raavi Birbal, Advocate for R-
1.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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28.04.2025

1. Pursuant to order dated 17.03.2025, an affidavit dated 23.04.2025 has been filed by respondent No. 1.
2. The contention in the said affidavit appears to be that, pursuant to powers delegated by the Board of Directors in its meeting held on 24.12.2020, the Managing Director of respondent No. 1 took a decision that no proposal for extension of tenure should be processed for those who have completed or will complete 63 years of age on expiry of the existing contract. It was further directed that there would be no exception to the same. Reliance is placed on a note [Note No. 408] dated 09.07.2024, signed by the Managing Director of respondent No. 1, on a



file relating to the extension of another contractual employee.

3. It may first be noticed that despite this order, the petitioner herein was requested by respondent No. 1 *vide* an email dated 03.10.2024, to give his consent to further extension in his tenure for processing of the case.

4. More significantly, the existence of a policy decision of this nature has been categorically denied in paragraph 29 of the respondents' joint counter affidavit dated 10.01.2025, which reads as follows:-

"29. Petitioner claims to have heard orally about a plan to reduce retirement age from 65 years to 63 years. However, so far there is no such policy in effect, and beyond conjecture, Petitioner has placed no such documentation placed on record in this regard. Be that as it may, such a policy decision if and when taken, would be well within the company's rights as long as it's properly made, and cannot be termed arbitrary."

5. There is a clear inconsistency between the position taken by the respondent in the two affidavits.

6. Additionally, respondent No. 1's latest affidavit refers to a further note of the Managing Director dated 06.03.2025, on another file [Note No. 119], which reads as follows:-

"Note # 119

(I) In Note# 76. I had approved extension of all officers except 2(c) of Note# 72. I don't know what the confusion is.

(II) All the officers will be given One Year Extension if, -

a) They have not completed 63 years of age on the date when extension is becoming due.

b) Overall, including the extension, the officer concerned shall not complete 5 Years as was decided in the last Board Meeting.

(III) Others can be given shorter extension period till they attain the age of 64 Years or complete total 5 years of service in NHIDCL.

Please process accordingly and submit by Tomorrow as matter has been delayed."

7. The petitioner herein attained the age of 63 years on 11.09.2024,



prior to expiry of his contract on 01.01.2025. However, Ms. Diya Kapur, learned Senior Counsel for the petitioner, points out that the final decision taken by the Managing Director placed on record by the respondent No. 1 contemplates shorter extension periods, even if an officer has completed 63 years of age on the date when the extension becomes due. Without prejudice to the petitioner's other contentions, Ms. Kapur submits that the petitioner would even at this stage be satisfied with an extension until he attains the age of 64 years.

8. Ms. Raavi Birbal, learned counsel for the respondent, submits that this is an erroneous reading of Note No. 119, and the extension period applies only to those officers, who have not completed 63 years on the date, when extension is due.

9. *Prima facie*, I am unable to accept Ms. Birbal's contention on this account. Paragraph (II) of Note No. 119 refers to grant of one year extension to officers who have not completed 63 years of age on the date when the extension is becoming due, provided they also satisfy paragraph II(b). Paragraph (III) of the said note deals with "*others*", i.e. those who do not fall within paragraph II. This is also clear from the fact that it contemplates shorter extension period "*till they attain the the age of 63 years*". If they had not yet competed the age of 63 years, an extension shorter than one year would not result in any of them attaining the age of 64 years. The contention sought to be advanced on behalf of the respondent No. 1, therefore, appears to defy logic.

10. Having regard to the confusion that has been created by contradictory affidavits and notes of this nature, the Managing Director or Director (Administration and Finance) of respondent No. 1 [who I am



informed is also in charge of Human Resources] is directed to file their personal affidavit dealing with the grievances of the petitioner, and also stating as to whether the tenure of the petitioner can be extended until he attains the age of 64 years in terms of the above-quoted Note No. 119. Affidavit be filed within one week from today.

11. List on 07.05.2025.

PRATEEK JALAN, J

APRIL 28, 2025

‘pv/AD’/