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

+ LPA 486/2017

N.R RADHA

..... Appellant

Through: Mr.Atul T.N., Advocate.

versus

ASSAM GOVERNMENT MARKETING CORPORATION LTD &  
ANR

..... Respondents

Through

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

% **21.07.2017**

**C.M. Nos.25488/2017 & 25489/2017**

Exemption allowed subject to all just exceptions.

The applications stand disposed of.

**LPA 486/2017 & C.M. No. 25487/2017**

The aforesaid application has been filed for condonation of delay of 27 days in filing the appeal, however, since we are not inclined to issue notice to the Appellant, so no purpose would be served in allowing the application.

The Appellant, has preferred the present Letter Patent Appeal to assail the order dated 08.03.2017 rendered by Learned Single Judge in W.P.(C) No.1122/2003. The Appellant had preferred the said writ

petition to seek a direction to the Respondent-Assam Government Marketing Corporation Limited to grant him the revised pay scale of Rs.4120-90-4480-120-5200-175-5500-EB-175-6600-250-8100-325-9725 w.e.f. January, 1996. The said claim was premised on the plea that the Respondent-Corporation had issued a circular dated 11.06.2001 accepting the recommendations of the Assam Pay Commission, 1998 for grant of higher pay scales and accordingly, the Appellant was entitled to benefit of the same. The Respondent-Corporation contested the said petition and stated in their counter affidavit, that even though the board of the Respondent-Corporation in its meeting held on 22.12.998, had resolved to pay to its employees, pay scales as per the Assam Pay Commission, 1998, but, the same was subject to availability of funds. Reliance was also placed on Rule 52 of Chapter IV of Staff Regulations which provided:-

“An employee shall be entitled to the pay of his post plus allowances as may be decided by the Board from time to time. The title to pay and allowances and increments and the conditions regulating the payment thereof will be governed by Regulations as laid down herein and as modified from time to time.”

The Respondent had also stated that since requisite funds were not available, it could not grant the revised pay scales to the Appellant. It was also disclosed in their counter affidavit that the Respondent-Corporation had to generate funds for itself and it did not

receive any funds from the State Government. Consequently, the learned Single Judge did not find any merit in the writ petition and dismissed the same.

The submission of learned counsel for the Appellant is that the Respondent-Corporation, in their counter affidavit had admitted that they had granted pay revision in respect of their Emporium at Guwahati, Maligaon and New Delhi. We may notice that the Appellant had made a vague averment in the writ petition in Para 5 to the effect that the Appellant understands that some employees working at the Emporiums/Offices/Branches have been granted pay revision. In response, the Respondent had specifically stated that only the employees at Guwahati, Maligaon and New Delhi Emporium had been granted the benefit of pay revision, *“on the ground that these Emporiums had generated their own funds and moreover, State of Assam is not providing any financial assistance to the Respondents.”* Thus, the submission of the Appellant that he has been discriminated has no merit, as it is only the employees serving at the said particular Emporia who had been granted pay revision on account of the fact that those Emporia had generated sufficient funds to meet the outgo for pay revision. Since the Respondent-Corporation has to sustain itself and is not receiving any funds from the State Government, it is obvious that the Respondent cannot be compelled to grant pay revision to all the employees, including the appellant.

In these circumstances, we find no merit in this appeal and the same is hereby dismissed.

**VIPIN SANGHI, J**

**REKHA PALLI, J**

**JULY 21, 2017**  
gm