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

+ LPA 79/2025, CM APPLs. 6252/2025, 6253/2025, 6254/2025
& 6255/2025

**NATIONAL RESEARCH DEVELOPMENT
CORPORATION**

.....Appellant

Through: Mr. Jayesh K. Unnikrishnan
and Ms. Smriti Parija, Advs.

versus

DHARAM VEER SINGH

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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31.01.2025

C. HARI SHANKAR, J.

1. This Letters Patent Appeal assails judgment dated 19 September 2024 passed by a learned Single Judge of this Court in WP (C) 6326/2022.

2. The respondent, who was the petitioner in the writ petition, responded to an advertisement, whereby applications were sought from persons who desired to join the services of the petitioner as Law Officer/Consultant. Clause 1 of the advertisement provided thus:



“Terms & Conditions: -

1. The engagement will be purely temporary on contract. However, it may be extended on the basis of satisfactory performance at 10% enhanced remuneration every year.
.....”

3. Having responded to the aforesaid advertisement and having been found fit for appointment, the respondent was appointed as Consultant *vide* letter dated 1 February 2016. The respondent remained in the service of the appellant for 14 years, from 16 January 1997 to 30 June 2011. He superannuated on 30 June 2011. His contract, which was initially for a period of one year, was extended annually time to time till 30 June 2021. However, his pay was never enhanced and continued, till the date he retired, at ₹ 45,000/- per month, which was the initial pay on which he was taken on contract.

4. The respondent petitioned this Court by way of WP (C) 6326/2022, submitting that, in view of Clause 1 of the advertisement, extracted *supra*, the appellant was duty-bound to increase his remuneration by 10% every time his contract was extended. The legality of the appellant’s act of keeping the respondent at the same pay of ₹ 45,000/- till the date he retired was, therefore, called into question. The writ petition also claimed arrears which were due to the respondent on the above basis, amounting to ₹ 7,06,769/-.

5. Before the learned Single Judge, the appellant contested the writ petition on the ground that the engagement letter dated 1 February



2016, which contained the terms and conditions of appointment of the respondent as Consultant, did not provide for 10% enhancement of remuneration on each extension of the contract. Reliance was also placed on Clause 13 of the engagement letter, which prohibited the respondent from filing any court case regarding salary and regularisation. It was sought to be contended that no assurance was ever held out to the respondent that, every time the contract was extended, he would be entitled to 10% increase in remuneration.

6. The learned Single Judge has dealt with these arguments thus:

“8. The only question that this Court is called upon to decide is whether NRDC was obliged to enhance the remuneration payable to the Petitioner @ 10 % on extension of the contract annually. The terms and conditions for the post of Law Officer/Consultant were stipulated in the advertisement itself and clause 1 which is extracted hereunder for the ease of reference, provided that: a) engagement will be purely temporary on contract basis; b) contract was extendable on the basis of satisfactory performance; and c) 10% enhanced remuneration was payable every year:-

“Terms & Conditions: -

1. The engagement will be purely temporary on contract. However, it may be extended on the basis of satisfactory performance at 10% enhanced remuneration every year.
.....”

9. Therefore, there can be no doubt that Petitioner was entitled to 10% enhanced remuneration each time the contract was extended based on his satisfactory performance. The argument on behalf of NRDC that the engagement letter only provided a consolidated remuneration of ₹ 45,000/- per month and did not provide for enhancement in remuneration is misconceived and cannot be a ground to deny the enhanced remuneration. No doubt, the terms and conditions stipulated in the appointment letter are binding both on the employer and the employee and have a sanctity in law. But *it cannot be argued by NRDC that the terms and*



conditions stipulated in the advertisement are meaningless. It needs no reiteration that when an advertisement is issued in the public domain an aspiring candidate is only guided by the stipulations in the advertisement to ascertain what would be the terms and conditions of a service, if appointed, with respect to status/nature of employment, period of employment, salary/allowances etc. and depending on the terms reflected in the advertisement takes a decision to apply, if the terms are suitable. Can it then be said that terms and conditions provided in the advertisement would have no meaning and the answer is in the negative. If the engagement letter had any term of appointment which was contrary to the advertisement and was accepted by the Petitioner, NRDC may have had a case, but in the present case there is no clause in the engagement letter which runs contrary to clause 1 of the advertisement and none has been shown by the counsel for NRDC.

10. Learned counsel for NRDC emphasized on clauses 10 and 13 of the engagement letter to counter the argument of the Petitioner, however, in my view these clauses do not aid NRDC. Clause 10 which reads as ‘The Corporation reserves the right to renew or extend further engagement at its discretion on the basis of performance and need’, does not deal with the aspect of remuneration at all and only provides that renewal or extension of the engagement will be at the discretion of NRDC and based both on performance and need. Clause 13 prevents the Petitioner from filing any Court case regarding salary and regularization but again does not deal with enhanced remuneration. Clause 13 to my mind may prevent the Petitioner from litigating with respect to salary but cannot prevent him from seeking something which is provided for in the advertisement. Petitioner only seeks enforcement and implementation of clause 1 of the advertisement and, save and except, clause 5 of the engagement letter which provides for a consolidative remuneration of ₹ 45,000/- per month, which was also mentioned in the advertisement, there is no clause which impedes the grant of 10% enhanced remuneration to the Petitioner, which was payable in terms of clause 1 of the advertisement. In my view, there is no conflict between the advertisement and the engagement letter.

11. It is pertinent to note that even NRDC understood that the 10% enhanced remuneration was payable to the Petitioner and this is reflected from the Office Order dated 31.08.2020, whereby 10% enhancement was sanctioned for the period between 03.02.2017 to 03.02.2020 by the Competent Authority. For ease of reference the document is scanned and placed hereunder:-



“NATIONAL RESEARCH DEVELOPMENT CORPORATION

Ref: NRDC/82G408/2020

Dated 31st August 2020

OFFICE ORDER

**Sub: Sanction of increments to Shri D.V. Singh,
Consultant (Legal) engaged on contractual basis.**

Shri D.V. Singh, Consultant (Legal) has been sanctioned annual increments on completion of each year as detailed below:-

<u>Date of increment</u>	<u>Rate of increment</u>	<u>Enhanced Remuneration</u>
3.2.2017	- @ 10% of existing	Rs. 49,500 p.m.
3.2.2018	- @ 10% of existing	Rs. 54,450 p.m.
3.2.2019	- @ 10% of existing	Rs. 59,900 p.m.
3.2.2020	- @ 3% of existing	Rs. 61,700 p.m.

Arrears due to Shri D.V. Singh, Legal Consultant may be calculated and paid to him accordingly.

This is issued with the approval of Competent Authority.

(Gurcharan Singh)
Pers. & Admn. Officer”

12. For the aforesaid reasons, this writ petition is allowed quashing the impugned decision of NRDC rejecting the request of the Petitioner to pay the 10% enhanced remuneration, communicated vide email dated 17.02.2022. Petitioner is held entitled to 10% enhancement in the remuneration for the period commencing from 03.02.2017 till the date he was relieved from the service of NRDC. As per the averments/documents in the writ petition, the amount due to the Petitioner is ₹ 7,06,769/-, out of which a sum of ₹ 20,487/- after deducting ₹ 2,277/- towards TDS has been paid. The balance amount shall be released to the Petitioner within a period of 6 weeks from today along with interest @ 6% per annum from the date the amount is due till the date of actual payment.”



7. We have heard Mr. Jayesh Unnikrishnan, learned Counsel for the appellant, at some length. Mr. Unnikrishnan reiterates the contentions advanced by his client before the learned Single Judge, by drawing attention to the fact that there was no clause in the engagement letter dated 1 February 2016, mandating increase of the respondent's remuneration by 10% on each annual renewal of the contract. He submits that the Advertisement, in response where to the respondent applied, was a mere invitation held out to candidates who wanted to join the services of the appellant and that the respondent could not, therefore, seek to capitalise on the recitation, in Clause 1 of the advertisement, to the effect that each renewal of the contract would entail, in its wake, 10% enhancement of remuneration. Mr. Unnikrishnan submits, therefore, that the learned Single Judge was in error in granting relief to the respondent, unmindful of the terms of the engagement letter dated 1 February 2016. Mr. Unnikrishnan also sought to press into service Clause 13 of the engagement letter, which proscribed filing of any court case by the respondent regarding salary and regularisation.

8. All these submissions have been duly considered by the learned Single Judge.

9. Insofar as Clause 13 is concerned, the learned Single Judge has observed that the claim of the respondent was not for arrears of salary but for enhancement of remuneration in terms of Clause 1 of the Advertisement in response where to the respondent applied for



appointment as Consultant. We need not travel that far because Clause 13 is in the teeth of Section 28¹ of the Contract Act, which invalidates any clause, in a contract, which prohibits availing of legal remedies. As such, Clause 13 was unenforceable as it stands.

10. Insofar as the engagement letter is concerned, the learned Single Judge has held that there was no clause in the engagement letter which was contrary to the stipulation in Clause 1 of the Advertisement, which envisaged increase of remuneration by 10% on each extension of the contract. The finding is obviously correct. The learned Single Judge has held that, had there been any such contrary clause in the engagement letter, it might have been possible for the appellant to contend that the respondent, having been aware of such a clause, could not thereafter seek enhancement of remuneration by 10% on each extension of the contract. In the absence of any such clause in the engagement letter, the learned Single Judge has held that the appellant

¹ **28. Agreements in restraint of legal proceedings void.** – Every agreement,—

(a) by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, or

(b) which extinguishes the rights of any party thereto, or discharges any party thereto from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights,

is void to that extent.

Exception 1. – Saving of contract to refer to arbitration or mediation dispute that may arise. –

This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to resolution through arbitration or mediation.

Exception 2. – Saving of contract to refer questions that have already arisen. – Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration or mediation any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration or mediation.

Exception 3. – Saving of a guarantee agreement of a bank or a financial institution. – This section shall not render illegal a contract in writing by which any bank or financial institution stipulate a term in a guarantee or any agreement making a provision for guarantee for extinguishment of the rights or discharge of any party thereto from any liability under or in respect of such guarantee or agreement on the expiry of a specified period which is not less than one year from the date of occurring or non-occurring of a specified event for extinguishment or discharge of such party from the said liability.



was bound by the stipulation held out by it to prospective applicants in Clause 1 of the Advertisement inviting applications to the effect that each annual renewal of the contract would be accompanied by 10% increase in remuneration.

11. The learned Single Judge has also observed that the appellant itself, *vide* its Office Order dated 31 August 2020, had, in fact, acknowledged the fact that each extension of the contract would entail 10% increase in remuneration. In that view of the matter, the learned Single Judge has held that the appellant could not seek to contend that the respondent was not entitled to 10% increase in remuneration on each extension of the contract.

12. We find no infirmity, whatsoever, in the view adopted by the learned Single Judge.

13. We do not deem this to be a fit case to issue notice.

14. The appeal is, accordingly, dismissed in *limine*.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 31, 2025/AS

[Click here to check corrigendum, if any](#)