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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.936/2002
M.A. NO.756/2002
M.A. No.2243/2002

This the 12th day of Dec, 2002.

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. Mrs. Suhasini Janeja,
B-91 Pandara Park,
New Delhi.
 2. V.K.Tiwari,
BF-77 Janakpuri, New Delhi.
 3. Ashok Kumar,
B-408 Pragati Vihar Hostel,
New Delhi.
 4. Kamal P. Singh,
Aayaam, 161 A-3, Sector 5,
Rohini, Delhi.
 5. Ashwani K. Gupta,
R-11, Andrews Ganj,
New Delhi.
 6. Smt. Shobhana Chatterjee,
E-113, Pragati Vihar Hostel,
Lodhi Road, New Delhi.
 7. A.C.Das,
D-520, Pragati Vihar Hostel,
Lodhi Road, New Delhi.
 8. Navneet Kumar,
241/III, Sadiq Nagar,
New Delhi.
 9. Smt. Madhu Mehta,
C-404 Multi Storied Appts.,
Kasturba Gandhi Marg,
New Delhi.
 10. Sat Pal,
34-C, Pocket-C,
Siddhartha Extension,
New Delhi.
 11. M.T.Fuzale,
108, Type-IV, Sector 3,
Sadiq Nagar, New Delhi.
 12. J.S.Garg,
Type-IV/46, North West
Moti Bagh, New Delhi.
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13. Smt. K.K.Wadhwa,
Type-III/25, North West Moti Bagh,
New Delhi.
 14. S.C.Meshram,
7H, Multi Storied Appts,
Type D Qtrs., Minto Road Complex,
New Delhi.
 15. B.K.Chakraborty,
269/BG-1, Paschim Vihar,
New Delhi.
 16. Shashi B. Tiwari,
134 Sector-III, Sadiq Nagar,
New Delhi.
 17. R.K.Koshal,
C-6, Netaji Nagar,
New Delhi.
 18. P.K.Verma,
CPWD Training Institute,
Kamala Nehru Nagar,
Ghaziabad.
 19. S.G.Harkare,
F-419, Pragati Vihar,
Lodhi Road, New Delhi.
- ... Applicants

(By Ms. Tamali Wad, Advocate)

-versus-

1. CPWD through Director General (Works),
Nirman Bhawan, New Delhi.
 2. Union of India through Secretary,
Ministry of Urban Development and Poverty
Alleviation, Shastri Bhawan,
New Delhi.
 3. Ministry of Personnel, Public
Grievances and Pensions through
Secretary, Department of Personnel
and Training, Shastri Bhawan,
New Delhi.
- ... Respondents

(By Shri Mohar Singh, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicants, 19 in number, are Architects with the Central Public Works Department (CPWD) and are stated to have completed nine years of Group 'A' service with five years as Architects in the pay scale of Rs.10000-15200.

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They are aggrieved by delay in the grant of Non-Functional Junior Administrative Grade (NFJAG) of Rs.12000-16500 w.e.f. 1.1.1996 with full consequential reliefs including arrears of pay and allowances. They have alleged discriminatory treatment meted out to them inasmuch as the said NFJAG has been granted to their counterparts, i.e., Executive Engineers of CPWD pursuant to order dated 9.3.2001 in OA No.1659/1998 : **Anant Kumar & Ors. v. Union of India & Ors.** While applicants, have met eligibility conditions as Architects, they have been deprived of the same in violation of Article 14 of the Constitution of India. It has been stated that respondents have all along recognised equivalence and parity in pay scales between the Central (Civil) Engineering Service (CES), Central Electrical and Mechanical Engineering Service (CE&MES) and Central Architectural Service (CAS). As is evident from the recommendations of the Fifth Central Pay Commission (CPC), the benefit of NFJAG now extended to Executive Engineers (EEs) belonging to CES and CE&MES pursuant to recommendations of the Fifth CPC and aforesaid judgment of the Tribunal, has been denied to applicants. Applicants are also aggrieved by non-implementation of Department of Personnel & Training (DOP&T) instructions contained in O.M. dated 6.6.2000 and 20.12.2000 (Annexures-E and F respectively) whereby the posts of EE and equivalent, i.e., Architect in the CAS, were re-distributed in the functional and non-functional groups. Placement in the non-functional grade, i.e., Rs.12000-16500 is admissible to 30% of the total senior duty posts of Group "A" cadre (those who have completed

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five years of regular service in scale Rs.10000-15200) has not been carried out till now.

2. Applicants have sought the following reliefs :

- "(a) direct the Respondents to grant the non functional Junior Administrative Grade of Rs.12000-16500 to the applicants retrospectively w.e.f. 1.1.1996 along with arrears and other consequential benefits;
 - (b) direct the Respondents to grant the NFJAG Scale of Rs.12000-16500 to the Applicants in terms of the directions given by this Hon'ble Tribunal in its judgement and order dt. 9.3.2001 in O.A. No.1659 of 1998;
 - (c) direct the respondents to immediately notify the amended Recruitment Rules for the Architects in the CAS incorporating the redistribution of posts;
 - (d) to direct the respondents to forthwith grant the new revised non functional Junior Administrative grade to the applicants, and in any event before the retirement of the 1st applicant on 30.4.2002, w.e.f. the same date and on the same terms as granted to the Executive Engineers in the Department;
 - (e) to direct the respondents that in the event they are unable to carry out the said exercise before 30.4.2002, then to grant to the 1st Applicant the benefits of the non functional grade of Rs.12000-16500 retrospectively and consequential benefits after her retirement holding that her superannuation would not come in the way of granting the said benefits;
 - (f) to direct the respondents to grant the non functional Junior Administrative Grade to the applicants retrospectively from the same date and on the same terms as granted to the Executive Engineers by this tribunal and accordingly fix the pensionary benefits of the 1st applicant in terms thereof upon her retirement on 30.4.2002; and
 - (g) pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."
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3. In their reply, respondents have stated that the Fifth CPC had recommended pay scale of Rs.12000-16500 as NFJAG to Executive Engineers and equivalent to the organised Group "A" engineering services which was subsequently accepted by the Department of Expenditure vide notification No. GSR-569(E) dated 30.9.1997. However, the said scale was required to be granted only after implementing certain pre-requisite conditions such as cadre restructuring, re-distribution of posts and amendment in the relevant service/recruitment rules followed by observing the procedure/requirement of holding DPCs in association with the UPSC wherever necessary as per prescribed norms and guidelines. They have further stated that as per the instructions dated 20.12.2000 of DOP&T (Annexure-F) NFJAG has to be granted prospectively. According to respondents, steps towards grant of NFJAG to Architects in CPWD who belong to CAS and as per recommendations of the Fifth CPC, which are also to be covered by their recommendations in respect of Group "A" engineering services, have already been initiated. Restructuring of cadre by re-distributing the existing posts of Architects in the functional and non-functional grades in the prescribed ratio has already been done and necessary action for amendment of relevant services/recruitment rules in consultation with the concerned department is in progress.

4. The learned counsel of applicants stated that the Fifth CPC had made common recommendations in respect of CES, CE&MES and CAS in the chapter on engineering services. Paragraph 89.17 of the Fifth CPC Report reads as follows :

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"89.17 In respect of Central Engineering Service, Central Electrical and Mechanical Engineering Service, and Central Architectural Service, recommendations have been made in the Chapter on Engineering Services."

The learned counsel further stated that the Fifth CPC Report recommends maintenance of existing equivalence of posts in the CPWD as per paragraph 50.43 and 50.44 as follows :

"50.43 The Ministry of Urban Affairs and Emplouymnt has not endorsed the suggestions of the CPWD, made above. The Ministry has suggested that the existing equivalence of posts in the CPWD, namely Director General of Works to be equivalent to secretary to Government of India, Additional Director General to be equivalent to Additional Secretary and Chief Engineer/Chief Architect to be equivalent to that of a Joint Secretary and Superintending Engineer to be equivalent to Deputy Secretary/Director should be maintained. The Ministry further maintains that there is no need for a selection grade at the level of Executive Engineer (STS) and abolition of selection grade at the level of JAG. The Ministry has not given any opinion on other suggestions made by the CPWD.

50.44 We have examined the suggestions of the CPWD in the light of the fact that barring a few cadres, most of the engineering Group 'A' cadres have an interface and relativities with other Group 'A' Central Civil Services. We do not consider it feasible to recommend different patterns of pay scales for Central Services (Technical and Non-Technical) for this reason. The pay scales recommended by us for Group 'A' Services in general, therefore, will be applicable to Engineering Services as well. We also endorse the views of the Ministry of Urban Affairs with regard to existing equivalence of posts in the CPWD."

5. Vide Annexure-C dated 26.10.1997, CPWD in implementation of the Fifth CPC Report in respect of CES Group 'A' and CE&MES Group 'A' sanctioned a single

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functional scale of Rs.14300-400-18300 in case of Superintending Engineers (SEs) and two revised scales in case of EEs {Rs.10000-15200 and Rs.12000-16500 (NFJAG)}. Similar instructions were issued vide O.M. dated 21.10.1997 (Annexure-D) regarding Senior Architects stating that dispensation regarding SEs would be available to Senior Architects; pay of all Architects be fixed in the scale of Rs.10000-15200 w.e.f. 1.1.1996; and that guidelines for allowing NFJAG scale of Rs.12000-16500 would be issued separately on approval of the cadre controlling authority for EE(C)/EE(Elect.) and Architects. DOP&T vide Annexure-E dated 6.6.2000 has issued guidelines for implementing recommendations of the Fifth CPC on scales of pay of posts of SEs and EEs and equivalent in the organised Group 'A' engineering services. Cadre controlling authorities in various Ministries and Departments in pursuance of decisions stated in this O.M. have been directed to take immediate steps to restructure the cadres, re-distribute posts in the applicable revised scales of pay and to amend appropriately the relevant service/recruitment rules. This exercise has been directed to be completed within a period of two months. In order to facilitate expeditious action in this regard, powers have been delegated to the Ministries/Departments concerned to make necessary amendments in the relevant service/recruitment rules in conformity with the above decisions, without reference to the recruitment rules division in the Department of Personnel and Training. The amendments have to be notified in consultation with the UPSC and the Legislative Department. Admittedly, respondents have all

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along recognised equivalence and parity in pay scales between CES, CE&MES and CAS. The Fifth CPC has also continued with such equivalence and parity through its recommendations. Vide Annexure-D dated 21.10.1997 CPWD has granted revised scale of Rs.10000-15200 to EEs and stated that guidelines for allowing NFJAG of Rs.12000-16500 would be issued separately on approval of cadre controlling authority for EEs and Architects. DOP&T has also vide Annexure-E dated 6.6.2000 asked the cadre controlling authorities to take immediate steps towards restructuring the cadres, re-distribution of posts and amending service/recruitment rules. Respondents have stated that all steps excepting amendment of relevant service/recruitment rules have been taken and that action for amendment of service/recruitment rules is also in progress.

6. In view of the above discussion, this OA is disposed of with the following directions :

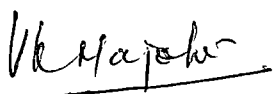
- (1) Having completed restructuring of the cadre by re-distribution of the existing posts of Architects in the functional and non-functional grades, respondents shall carry out the amendments of the recruitment rules for Architects in the Central Architectural Service (CAS) within a period of three months from the date of receipt of a copy of this order.
- (2) While amending the recruitment rules, respondents shall consider grant of NFJAG to applicants who




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have completed nine years in Group "A" on 1.1.1996, as the recommendations of the Fifth CPC were accepted by CPWD as far back as September-October, 1997, but given effect from 1.1.1996 in case of Superintending Engineers in their own organisation, without any additional screening. However, it would be a notional placement and fixation and applicants would be entitled for the benefit of pay and arrears ⁱⁿ the NFJAG only from 2.4.2001, that is, one year prior to the time they filed the present OA.

No order as to costs.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

/as/