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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2892/2002

New Delhi, this the 2nd day of September, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

1. Kanhaiya Singh
AK-79, Shalimar Bagh
New Delhi
2. A.K. Agarwal
s/o Hira Lal Agarwal .. Applicants

(Shri V.S.R.Krishna, Advocate)

versus

Union of India, through

1. Secretary
Department of Expenditure
Ministry of Finance
North Block, New Delhi
2. Secretary
Ministry of Mines
Shastri Bhavan, New Delhi
3. Director General
Geological Survey of India
27, JLN Road, Calcutta .. Respondents

(Shri N.S.Mehta, Advocate)

ORDER

Shri S.K. Naik

The applicants are working as Mechanical Engineers(Senior) in the Geological Survey of India (GSI, for short), which is under the administrative control of the Ministry of Mines. The post of Mechanical Engineer(Sr.) is equivalent in rank and status to the post of Executive Engineer in the CPWD and other technical organisations. The applicants joined GSI initially as Mechanical Engineer(Junior) on the basis of the combined Engineering Services Examination conducted by the Union Public Service Commission for recruitment to the post of Engineers (Group A). When the Fifth Central Pay Commission (FCPC, for short) considered the case of revision of the pay scales of the Engineering Services, the Commission recommended that non-functional selection grade of

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Rs.4500-5700 should be converted into a single functional scale of Superintending Engineers and the scale of Rs.3700-5000 should instead be the non-functional Junior Administrative Grade (JAG) for Executive Engineers. In the same recommendations, the Commission stated that although the above recommendations have been made in the context of CPWD, it clarified that this dispensation will be available to all Engineers/cadres in the Government. It was on the strength of the recommendations of FCPC that the applicants have been seeking the grant non-functional JAG. Several representations were made by them to the Ministry of Mines for grant of the scale of non-functional JAG but without success.

2. Applicants therefore had earlier filed an application (OA No.141/1999) before the Jaipur Bench of the Tribunal, which vide its order dated 17th August, 2001 disposed of the OA with a direction to the applicants to submit a representation to the respondents in the light of the instructions of the Government of India dated 6th June, 2000 and 20th December, 2000 issued by the DoPT and further directed the respondents to consider the same within a period of three months. When the representation filed by the applicants was not decided within the time directed by the Jaipur Bench of the Tribunal, applicants had to file a Contempt Petition which finally resulted in respondents' passing the impugned order, by which the request of the applicants has been rejected.

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3. The present OA has been filed on the strength of the liberty granted by the Jaipur Bench of the Tribunal. Applicants seek quashing of the impugned order passed by Respondent No.2 rejecting the representation of the applicants for the grant of non-functional JAG.

4. Counsel for the applicants has submitted that the respondents have rejected the representation on the sole ground that the applicants do not belong to any organised Group A Engineering Services and that the recommendation of FCPC is applicable only to the Engineers of organised Group A Engineering Services. It is true that the applicants' service has been classified as General Central Service (GCS) - Group A. The counsel has argued that the respondents have completely misread the FCPC recommendations, in that although their recommendations have been made in the context of CPWD Engineers, dispensation was available to all Engineering cadres in the Government. The counsel has referred to the recommendations of FCPC and contended that nowhere has it been stated that the Commission's recommendations are confined only to organised Group A Engineering Services. This is an artificial barrier which the respondents have tried to create to deprive the applicants of their due. When the Commission itself has clearly stated that dispensation was available to all Engineering Cadres in the Government, there does not exist any reason as to why the cadre of Engineers in GSI be not extended the same benefit. They too have been recruited through the combined Engineering Services Examination conducted by the UPSC as is the case with their counterparts in CPWD and other organised Engineering Services. The counsel further argued that GSI also has got a full complement of cadre of

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Engineers and it is not understood as to how they could be classified in the category of GCS Group A. Besides, there is no separate recruitment rules in the GCS Group A whereas GSI has got Recruitment Rules for the Engineering Cadre. To dismiss the plea of the applicants solely on the fabricated ground of 'not belonging' to organised Group A Engineering Services is clearly arbitrary, unjustified and that the order of respondents needs to be quashed.

5. Counsel for the respondents in his reply has restated the stand in the counter filed by the respondents that the applicants belong to GCS Group A and even though appointment to the officers of Engineering Cadre in the GSI is made through the combined Engineering Services Examination conducted by the UPSC, the question of applicability of grant of non-functional scale of Rs.12000-16500 does not arise as the recommendation by FCPC is applicable to organised Group A Engineering Services only. He has made an attempt to justify the stand by stating that the cadre of Engineers in GSI has not been declared as organised services. He has however not been able to tell us as to how the recommendations of the FCPC is confined only to organised Group A Engineering Services.

6. We have carefully gone through the recommendation of FCPC. We find that the Commission in para 50.1 of its report has observed as under:


"50.1 The organised engineering cadres are employed in almost all important departments/ministries of the Central Government. The Engineers are involved in diverse activities of manufacturing, maintenance and operation of systems. Major departments in which the engineering workforce is engaged are Railways, Defence, Communications, Water Resources, Power, Surface Transport, Urban Affairs and Employment (CPWD), Commerce (DGS&D) Industry, Science and Technology (Survey of India) and Mines (Geological Survey of India)."


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7. It is clear from the observations that the Engineering Cadre in GSI has also been treated by the FCPC as one of the major departments in which the Engineering workforce is engaged and the recommendation in para 50.45 clearly states that the recommendation to grant functional JAG for Executive Engineers is not confined to only organised Group A Engineering Services but it is made to be given to all Engineering cadres in the Government. In this background of the matter, we have absolutely no hesitation in holding that respondents have totally misread the recommendation of FCPC which has resulted in their conclusion to reject the claim of the applicants. During the course of arguments, counsel for the applicants has also brought to our notice that Engineers similarly placed with All India Radio and Doordarshan under the Ministry of Information and Broadcasting, who are also classified in the category of GSC Group A, have been granted non-functional Junior Administrative Grade. Counsel for the respondents, when queried as to why the Engineers in GSI be discriminated, has no answer. Thus we find that the impugned order has been passed on the basis of an artificial and arbitrary classification, which has no basis.

8. We accordingly quash the order and direct the respondents to consider the case of the applicants for the conferment of JAG non-functional as recommended by FCPC at par with their counterparts in the cadre of Engineers in All India Radio and Doordarshan who are similarly placed. This exercise should be completed within a period of three months from the date of receipt of a copy of this order.

9. OA is disposed of in the aforementioned terms. No costs.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman