

(XO)

Central Administrative Tribunal  
Principal Bench: New Delhi

OA-1665/2001

This the 9<sup>th</sup> day of April, 2002

Hon'ble Shri V.K. Majotra, Member (A)  
Hon'ble Shri Kuldip Singh, Member (J)

1. Mahesh Nand  
S/o Shri Mukund Ram  
R/o 488 Lodi Road Complex,  
New Delhi-110003.
2. Rajinder Singh  
S/o Shri Raghu Nath  
R/o RZ/S-157 New Roshanpura Colony  
Najafgarh (Nr. BDO Office)  
New Delhi-110043.

-Applicants

(By Advocate: Shri D.C. Vohra)

Versus

1. Union of India  
Ministry of Home Affairs  
North Block  
Central Secretariat  
New Delhi-110011
2. The Director General  
Border Security Force  
10 CGO Complex,  
Lodhi Road  
New Delhi-110003.

-Respondents

(By Advocate: Shri Inderjeet Singh, proxy for  
Shri Rajinder Nischal)

O R D E R

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

Applicants are Draughtsmen Grade II working under Director General, Border Security Force. They were placed in the pre-revised pay scale of Rs.1400-2300 and seek a delcaration for entitlement to replacement pay scale of Rs.5000-8000 w.e.f. 1.1.96 as per the recommendations of the Fifth Central Pay Commission (CPC) or from the date of their appointment as Draughtsman Grade II, whichever is later. They have also sought consequential benefits of arrears etc.

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According to them, the recommendations of CPC have been accepted by Govt. of India vide Notification dated 30.9.97, Annexure A-1, contended that as per its Part "B" under Sr. No. X relating to Drawing Office Staff, category of Draughtsman Grade II in the present scale of 1400-2300 were to be placed in the revised scale of 5000-150-8000 in terms of paragraph 50.37 of CPC report. Learned counsel stated that Draughtsmen working in various Ministries/Departments/Organisations of Central Government were granted the pay scale of Rs.5000-8000 on the basis of the CPC recommendations. According to him, Department of Expenditure and MHA vide their U.O. dated 6.10.98 approved <sup>for b</sup> <sub>A</sub> Draughtsman Grade II in CISF in the pay scale of Rs.1600-2660 (Annexure J-2). As per Annexure J-6 OM dated 29.1.2001 of Department of Expenditure, benefit of revised scale was extended to those Draughtsmen who were left out, even such Draughtsmen who did not fulfil recruitment qualifications were to be given the revised pay scales subject to fulfilment of 8 years of service in a particular grade irrespective of educational qualifications. Vide Annexure J-7 dated June 1, 2001, Department of Expenditure communicated the decision that Draughtsmen in different departments other than CPWD, who do not possess the prescribed qualifications and excluding those who have already derived the benefits envisaged in OM dated October 19, 1994, may be placed in the scales of pay recommended by the 5th CPC on completion of minimum service. Minimum period of service for placement from the pre-revised scale of Rs.1400-2300 revised to Rs. 1600-2660 for being placed

in the scale of Rs.5000-8000, was prescribed as 8 years. Learned counsel also placed reliance on order dated 17.7.1997 passed by Guwahati Bench of CAT in OA No.51/96 **Shri Tulsi Ram Sharma & Ors. Vs. Union of India and Others** vide which Draughtsmen Grade II in the Survey of India were granted benefit of pay scales as available to Draughtsmen in CPWD. Discussing the conditions prescribed in OM dated 19.10.94 relating to Draughtsman, it was held as follows:-

"The terms of the OM above are clear and unambiguous. No distinction on any ground whatever is made between Draughtsman Grade I, II and III of one office/department of the Government of India from those of another office or department of CPWD. The OM simply lays down that minimum period of service in a particular grade would determine the eligibility and entitlement to be placed in a particular pay scale. It is only the respondents who have brought into the OM interpretations extraneous to it in their efforts to deprive the applicants of the benefits granted by the O.M. dated 19.10.1994. This is arbitrary and unfair. The Draughtsman Grade II in CPWD who were originally placed in the scale of pay of Rs.330-560 were placed in the scale of Rs.425-700/- on the basis of the Award. The O.M. states that Draughtsman Gr.II in offices/department of the Government of India other than in CPWD who were drawing pay in the scale of pay Rs.330-560 may also be placed in the scale Rs.425-700 (Pre-revised) subject to certain conditions. The Draughtmans Grade II in the Survey of India were initially in the scale of pay of Rs. 330-560 on the basis of the recommendations of the 3rd Pay Commission till 1977 when their pay scale was raised to Rs.425-600/-. In our view under the facts and circumstances stated herein above the terms of the aforesaid O.M. dated 19.10.1994 are applicable to the applicants. Accordingly we set aside the impugned order No.SM/06/001/95 dated 31.1.1996. Further we direct the respondents to place the applicants in the scale of pay of Rs.425-700 (Pre-Revised)/ 1400-2300 (Revised) in the manner stipulated in the OM No.13(1)-IC/91 dated 19.10.1994 and allow them to draw pay in the scales with effect from the date

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applicable in the case of each applicant respectively. This shall be complied with by the respondents within three months from the date of receipt of this order by respondent No.3. The respondents shall also allow the consequential benefit provided in para 3 of the O.M. dated 19.10.1994 mentioned above to the applicants".

2. Learned proxy counsel of the respondents Shri Inderjeet Singh contended that the claim of the applicants for pay scale of Rs.5000-8000 with reference to recommendation of 5th CPC does not subsist since the recommendations specifically pertain to posts in the Office of Registrar General of India and not the Draughtsman serving in the Border Security Force. He contended that there are two categories of Draughtsman serving in the BSF, i) those who work in Operational Directorate and ii) who work in the Engineering Branch. According to him, nature of duties of both the branches are entirely different. Draughtsman in Operational Directorate perform duties of Cartographical nature while those in Engineering Directorate perform duties like structural drawing related to civil works. He contended that recommendation of 5th CPC relating to Office of Registrar General of India do not apply to the staff who worked in BSF.

3. Vide order dated 19.8.98 in RA No.117/96 in OA-1767/95 (Annexure A-2) applicant was allowed pay scale of Rs.1400-2300 w.e.f. 3.2.1998 as available to Draughtsman Grade II in other departments. The decision in the case of **Tulsiram Sharma & Ors.** (supra) is squarely applicable to the case of the applicants. Decision relating to recommendations of 5th CPC on

revision of pay scales of Draughtsman communicated vide Annexure J-7 dated June 1.2001 is uniformly applicable to Draughtsman Grade II working in various departments of Govt. of India. No distinction has been drawn as has been attempted at by respondents for denying the benefits of the pay scale of Rs.5000-8000 on completion of 8 years of service among different categories of Draughtsmen in different departments. Thus, the inevitable conclusion is that the applicants are entitled to replacement pay scale of Rs.5000-8000 as per the recommendations of 5th CPC. This benefit shall be available to the applicants w.e.f. 3.2.98 when they were allowed the pay scale of Rs.1400-2300 in terms of Annexure A-2. Respondents are directed to grant the aforesated pay scale to the applicants w.e.f. 1.1.96 along with consequential arrears within a period of two months from the service of this order.

4. The OA is disposed of in the above terms. No costs.



(Kuldip Singh)  
Member (J)



(V.K. Majotra)  
Member (A)

cc.