

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(7)

OA No. 2094/2001

New Delhi this the 7th day of February, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Draughtsmens' (Cartographic) Association, Survey of India, Through Shri R.P. Bhartiya, Assistant Secy. General, West Block-4, R.K. Puram, New Delhi-110066
2. J.P. Dhyani S/o late Sh. R.D. Dhyani Directorate of Survey (AIR), Wing No. 4, 11nd Floor, West Block-4, R.K. Puram, New Delhi-110066
3. Sukkhan Singh S/o Late Sh. Nakli Singh No. 94 (AM) Party, Survey of India, West Block No. 4, Ground Floor, Wing No. 4, R.K. Puram, New Delhi-110066.

(By Advocate Shri K.B.S. Rajan)

...APPLICANTS

VERSUS

1. Union of India Through The Secretary, Ministry of Science & Tech. New Mehrauli Road, New Delhi 110 016
2. The Surveyor General Survey of India Block B, Hathi Barkala Estate, Dehra Dun, U.P. 248001

Respondents

(By Advocate Sh. J.B. Mudgil, learned
counsel through proxy counsel
Shri P.P. Rehlan)

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O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi, Member(A).

On the basis of the Award of the Board of Arbitration, the Draftsmen Grade-I, Grade-II and Grade-III working in the CPWD were given the benefit of revised pay grades. By Office Memorandum dated 19.10.1994 (A-4), the same relief was extended to the Draftsmen working in the other Departments ~~/~~ Ministries of the Govt. of India. The extension of the aforesaid relief was made subject to the fulfilment of certain conditions listed in the aforesaid Office Memorandum of 19.10.1994. The same Office Memorandum also provided that after placing the Draftsmen in the revised pay grades, further promotions could be made against available vacancies in the higher pay grades in accordance with the normal eligibility criteria laid down in the relevant Recruitment Rules.

2. One Shri Tulsiram Sharma and several others came up before the Guwahati Bench of this Tribunal through O.A. No. 52 of 1996 challenging the respondents' action in not extending the aforesaid benefit to them. The applicants in that O.A. were working under the Survey of India who are respondents in the present O.A. as well. By the order passed on 17.7.1997, the Tribunal in that case found that the benefit given to the Draftsmen under the aforesaid O.M. dated 19.10.1994 could be extended to the applicants, and directed them to place the applicants in that O.A. in the revised pay grades. The matter was taken thereafter to the Guwahati High Court which upheld the order passed by the Tribunal in their judgement

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rendered on 31.7.1999 (A-6). Later, the SLP filed in the same case before the Supreme Court was also dismissed on 31.3.2000 (A-7). Consequently, the orders passed by the Tribunal were implemented in respect of all the applicants in O.A. No. 52 of 1996. Copy of one such order ^{as passed} in the case of S.S. Solanki has been placed on record (A-8).

3. When the applicants in the present O.A. approached the same respondents for the extension of the very same benefit to them, their representation has been rejected by the Survey of India by the letter issued on 22.6.2001 (A-1), on the simple ground that the benefit in question could be extended only to those who went before the Tribunal and thereafter before the High Court and the Supreme Court, and not to any others.

4. The learned counsel appearing on behalf of the applicants submits that the rejection of the claim of the applicants on the aforesated grounds is illegal and deserves to be quashed. According to ^{him}, as per a catena of judgements rendered by the Apex Court, such a benefit, as has been claimed in the present O.A., ought to have been extended by the respondents on their own to all those who were found by them to be similarly placed. The applicants, belonging to the same organisation, obviously, are similarly placed persons and, therefore, there should have been no hesitation on the part of the respondents to extend the benefit in question to them. In support of his contention, the learned counsel places reliance on

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paragraph 126.5 of the 5th Central Pay Commission recommendations reproduced by him in the legal notice sent on behalf of the applicants on 18.6.2001 (A-9). For the sake of convenience, we would like to reproduce the relevant portion taken therefrom as follows:

"126.5 We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others vs. UOI and ors. (O.A. Nos. 451 and 541 of 1991) wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh vs. UOI, (1992) 19 ATC 94 (SC) dated 20.7.1988; K.I. Shepherd vs. UOI (JT 1987 (3) SC 600); Abid Hussain vs. UOI (JT 1987 (1) SC 147) etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Govt. should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to the matters relating to a specific grievance or anomaly of an individual employee".

5. On consideration, we find that the contention raised by the learned counsel is ~~not~~ ^{wholly} in accord with the law laid down by the Apex Court in the various cases referred to in the above extract. The order passed by the High Court upholding the Tribunal's orders in this case is, ~~not~~ ^{to be}, according to him, regarded as a judgment in rem and the benefit flowing therefrom must, therefore, reach ~~to~~ the

applicants without any manner of doubt, as they are all similarly placed persons. We do agree. 2

6. Since nothing new, apart from what has been pleaded in the reply placed on record, has been submitted before us by the learned proxy counsel for the respondents, we find merit in the O.A. on the basis of whatever has been observed by us in the preceding paragraphs. The O.A., therefore, deserves to be allowed.

7. Insofar as the question of payment of arrears is concerned, we find that while there may be no problem in directing the respondents to fix the pay and allowances of the applicants in accordance with the O.M. dated 19.10.1994, the payment of actual benefit arising therefrom will have to be confined, in our judgement, to the period counted after ^{the} lapse of one month from the date of filing of representations in each case. The respondents are further directed to calculate the benefit accordingly and thereafter make payments expeditiously and in any event within a period of three months from the date of receipt of a copy of this order. We direct accordingly. 2

8. The aforesaid amounts, in-so-far as the retired persons or those who are dead are concerned, will be made over to the retired persons and their respective heirs in accordance with law, rules and instructions. 2

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9. The learned counsel appearing on behalf of the applicants presses for payment of exemplary costs. We have carefully noted the submissions made by him. The learned counsel for the respondents vehemently opposes the payment of costs on the ground that the applicants themselves have moved in the matter belatedly only after the Supreme Court's judgement became available in 2001. The benefit sought to be extended to the applicants in the present O.A. ^{derives} ~~deserves~~ validity from the O.M. issued by the Ministry of Finance (Department of Expenditure), Government of India on 19.10.1994. The same was applicable to all the Departments/Ministries of the Government. As a responsible organisation (Department), the respondents were required to comply with the stipulations made in the aforesaid O.M. expeditiously rather than holding on until the claimants approached this Tribunal and the High Court and later the Supreme Court. By delaying the payments arising from the provisions made in the aforesaid O.M., the respondents have in our judgement, made themselves liable, in the peculiar circumstances of this case, for payment of costs. Accordingly, we direct payment of costs to the applicants quantified at Rs.5000/- (Rupees five thousand).



(S.A.T. Rizvi)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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