

Central Administrative Tribunal, Principal Bench

O.A. No. 2514 of 2001

New Delhi this the 15th day of April, 2002

Hon'ble Mr. V.K. Majotra, Member (A)
Hon'ble Mr. Kundip Singh, Member (J)

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1. Shri K.B. Sehgal,
2. Shri S.K. Anand,
3. Shri R.G. Gupta,
4. Mrs. Devi Singh,
5. Shri Mahesh Chander Dewan,
6. Shri Vinod Kumar,
7. Shri S.R. Dewri,
8. Shri Prasanna Kumar Swain,
9. Mrs. Veena Prabhakar,
10. Shri Mohan Gahlot,
11. Shri Dalip Kumar,
12. Shri N.D. Dua,
13. Shri R. K. Dhar,
14. Shri Nardev Singh,

[Signature]

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15. Shri S.K. Mallick,
16. Shri Kanti Chander,
17. Mrs. Kamlesh Huria,
18. Mrs. Sneh Sharma,
19. Shri Gulab Singh,
20. Shri Surinder Kumar Bhanot,
21. Shri Chranji Lal,
22. Shri M.R. Sarkar,
23. Shri Vishnu Datt,
24. Shri D.K. Chakraborty,
25. Shri Gurdial Singh,
26. Shri Balbir Singh Thakur,
27. Shri Ganga Dhar Verma,
28. Shri D.P. Ghosh,
29. Shri Nand Ram,
30. Shri S.N. Bansai,
31. Shri R.K. Mathur,
32. Shri Tilak Raj Kumar,
33. Shri Kuldeep Kumar Sharma,
34. Shri Ajit Kumar,

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35. Shri J.D. Gautam,
36. Shri Swaranjit Singh,
37. Shri Dinesh Chandra Saxena,
38. Shri Herdere Singh,
39. Shri O.P. Hetlow,
40. Shri Ranjit Singh Seda,
41. Shri K.P. Singh,
42. Mrs. Devi Saran,
43. Shri Y.P. Dhyani,
44. Shri Devraj Sharma,
45. Shri B.K. Ash,
46. Shri Om Prakash Sharma,
47. Mrs. A.R. Lakshmi,
48. Mrs. Sunil Kalia,
49. Shri Veena Updal,
50. Mrs. Urmil Mangal,
51. Shri Ashok Kumar,
52. Shri J.K. Sharma,
53. Shir U.S. Bisht,
54. Shri Rajender Kaur Asi,



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55. Shri Shiva Nand Kothiyal,
56. Shri M.N. Bhatt,
57. Shri Ram Singh,
58. Shri D.C. Sagar,
59. Shri Ranjit Singh,
60. Shri P.C. Bhardhwaj,
61. Shri Ganga Dhar Kakreja,
62. Shri I.A. Ajbani,
63. Shri G.D. Krishnan,
64. Shri S.N. Sharma,
65. Shri R.N. Joshi,
and
66. Shri P.N. Bali,

Draftsmen,
Min. of Surface Transport (Road Wing),
Parliament Street,
New Delhi-1

(By Advocate: Shri C. Hari Shankar)

.... Applicants

Versus

1. Union of India
Through The Secretary,
Ministry of Surface Transport,
Transport Bhawan,
1, Sansad Marg,
NEW DELHI - 110 001

2. Union of India

Through The Secretary,
Department of Expenditure,
Ministry of Finance,
North Block,
NEW DELHI

(By Advocate: Shri R. N. Singh, proxy for
Shri R. V. Sinha, Counsel)

...Respondents

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ORDER

By Hon'ble Mr. Kuldip Singh, Member (Judl.)

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This is a joint OA filed by 66 persons who are Draughtsmen working the Ministry of Surface Transport (Road Wing), Parliament Street, New Delhi.

2. The applicants in this OA seek to challenge the non grant of revised pay scales granted to the similarly placed Draughtsmen working in other Government departments.

3. The applicants claim that there was a considerable disquiet among Draughtsmen of the CPWD over their pay scales even after the Third Pay Commission. Ultimately the matter was referred to the Board of Arbitration who gave an award on 20.6.80 as a result of which revised pay scales were sanctioned to the Draughtsmen of CPWD w.e.f. 22.8.73 notionally with actual benefits w.e.f. 16.11.1978. Thereafter the Draughtsmen working in various other Department of the Government of India also approached the Tribunal in other OAs and similar benefit was extended to them.

4. It is further submitted that now the issue in controversy is settled by a catena of decisions and it has been settled that Draughtsmen in the various Departments of the Government of India are entitled to the pay scales prescribed by the Arbitration Board notionally w.e.f. 22.8.73 and with actual benefits w.e.f. 16.11.1978 and denial of this benefit to the

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applicants is, therefore, patently arbitrary and illegal and it violates Articles 14 and 16 of the Constitution of India so the applicants pray that they be also allowed the benefits of the revised pay scales with all consequential benefits.

5. The respondents are contesting the OA. The respondents have taken a plea that the OA is barred by the principles of res judicata as some of the Draughtsmen of the Ministry where the applicants are working on their own and on behalf of the similarly placed persons had filed a Writ Petition No. 2248/85 which was transferred to this Tribunal and was registered as TA-1213/1985 and the same was rejected. The OA is also stated to be barred by limitation and on this ground alone the same is liable to be dismissed.

6. It is further stated that the grant of pay scales is primarily the function which is to be decided by executive Government such as Pay Commission or Expert Bodies and Tribunal and Courts should not certainly interfere with the same. However, it is admitted that the Board of Arbitration was constituted and it extended the benefits to various Draughtsmen so it is alleged by the applicants that as the said award has been implemented and even a notification of the Government of India has also been issued vide Annexure R-1 dated 13.3.84 but it is prayed that the OA is not maintainable so the benefit with regard to revision of pay scales is to be rejected, hence the applicants are not entitled to



any relief.

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7. We have heard the learned counsel for the parties and gone through the records of the case.

8. As regards the plea of res judicata taken by the respondents is concerned, the respondents in this regard have relied upon a judgment in TA No.1213/85 but the said judgment itself mentions in paragraph 7 that the petition has not been filed in a representative capacity. Hence the present petitioners has never represented in any capacity when that petition was heard so the matter in issue between the present applicants and the respondents have not been adjudicated finally.

9. Besides that it is submitted that at the time when TA was decided there were different Recruitment Rules applicable to the Draughtsmen of the Ministry where the present applicants are working but the said rules have been amended subsequently and now even the Government by its own order dated 13.3.1984 had accepted the pay scales recommended by Board of Arbitration but this benefit of revision of pay scales is to be given notionally w.e.f. 13.5.1982 and actual benefit is being allowed w.e.f. 1.11.1983 so the applicants say that now they have got a fresh cause of action and why they are being treated discriminately is not understood and there is no explanation on the part of the respondents why the applicants are being treated in a discriminatory manner or in an arbitrary way.

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10. The counsel for the applicants has also referred to a judgment in the case of Dinkar Rao Kawday and Another Vs. UOI & Others (OA No.2020 of 1994) wherein also vide OM dated 13.3.1984 revised pay scales were given with effect from 13.5.82 and actually benefits were allowed w.e.f. 1.11.1983 and the applicants in the said OA had also prayed for grant of benefits notionally w.e.f. 22.8.93 and actual benefits from 16.11.1978 as granted to their CPWD Draughtsmen and the court did not accept the respondents plea and had allowed the applicants relief for grant of actual benefits from 16.11.1978 and for this purpose the court had relied upon its earlier judgments given in OA 773/97 and OA 1721/88.

11. As against this, the learned counsel for the respondents insisted that the OA is barred by principles of res judicata and applicants are not entitled to any relief.

12. We have considered the rival contentions of the parties.

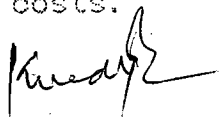
13. As far the plea of res judicata is concerned, the same is not available to the respondents because when TA was decided the present applicants were not before the Court so the matter in issue had not been adjudicated between the same parties. The TA specifically mentions that the same had not been filed in any representative capacity.

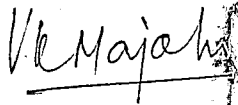
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14. Besides that in the (A) the benefit was not allowed as the Recruitment Rules were different and now since the Recruitment Rules have been suitably amended so we are of the considered opinion that the applicants before us are also entitled to the benefits of the revised pay fixation notionally w.e.f. 22.8.1973 and also for actual benefits from 16.11.1978 as has been granted to their counter-parts in CPWD and other departments of Government of India with all consequential benefits subject to their fulfilling the qualifications and admissible as per rules and instructions and judicial pronouncements on the subject.

15. OA is accordingly allowed. Applicants are also entitled to the benefits of revised pay fixation notionally w.e.f. 22.8.73 and actual benefits w.e.f. 16.11.1978. The applicants are also entitled to arrears. The above directions may be complied within a period of 3 months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER (JUDL)


(V.K. MAJOTRA)
MEMBER (A)

Rakesh