

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 49/2001

New Delhi this the 14th day of March, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

1. Shri A.K.Sethi
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
2. Shri S.K.Arora
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
3. Shri Mangat Rai
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
4. Shri N.S.Duggal
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
5. Shri Gurdip Singh
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
6. Shri V.K.Bahl
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
7. Shri Om Prakash
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
8. Shri Ramesh Kumar
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.
9. Shri N.N.Khanna
Planning Draftsman (Sr.)

Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi.

10. Shri K.L.Arora
Planning Draftsman (Sr.)
Town & Country Planning Organisation
Ministry of Urban Development
Nirman Bhawan, New Delhi Applicants

(By Shri Dhanesh Relan, Advocate)

-versus-

1. Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi-110011.

2. Chief Planner
Town & Country Planning Organization
E-Block
Vikas Bhawan
New Delhi-110002.

3. Secretary
Department of Expenditure
Ministry of Finance
North Block
New Delhi-110 001 ... Respondents

(By Shri D.S.Manehdru, Advocate)

O R D E R (ORAL)

S.A.T.Rizvi:-

The applicants, 10 in number, all Senior Planning Draftsmen in the Town & Country Planning Organisation (TCPO) pray for a direction for quashing and setting aside the letter dated 24.8.2001 (Annexure A-2) issued by the respondents by which their claim for pay upgradation from Rs.1400-2300 to Rs.1600-2660 has been negatived. The further prayer made is that the respondents be directed to extend the benefit of Office Memorandum dated 19.10.1994 to the applicants.

2. The present applicants have approached this very Tribunal on an earlier occasion also through OA No. 1229/1996 which was decided on 8.2.2000 (Annexure A-3). Alleged non-observance of the directions given by the Tribunal in that OA was made the subject matter of a contempt petition, being CP No. 441/2000. Aforesaid contempt petition has also been considered and ~~disposed~~ ^{dismissed} on 27.11.2000 (Annexure -I). Since the relief sought by the applicants has not become available to them, they have approached this Tribunal once again by filing the present OA.

3. The learned counsel appearing on behalf of the applicants submits that the respondents have failed to comply with the order passed by this Tribunal in OA No. 1229/1996. According to him, the Tribunal in that order clearly noted that only one pay grade of Draftsman was available in the TCPO and that the applicants could not be said to have been stagnating in Grade I as avenues of promotion were available to them for securing higher grades as Planning Assistants. After noting the above position, the Tribunal had also in the same order observed as under:-

"The contention of the learned counsel for the respondents that the applicants are not entitled for revision of the pay scales as Planning Draftsmen Grade-I merely because of the non-existence of all the three grades of Draftsmen in the organisation does not appear to be either reasonable or intended under the provisions of the O.M.dated 19.10.1994 relied upon by both parties."

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(b)

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Having regard to the aforesaid observations, the Tribunal had disposed of the aforesaid OA by directing the respondents "to consider granting revision of pay scales to the applicants in this OA in terms of para 4 of the O.M. dated 19.10.1994, keeping in view the aforesaid observations. The applicants shall be given the benefit of revised pay scale as Senior Planning Draftsmen as given to other similarly situated Draftsmen Grade-I, but the monetary benefit will be given only from the date when the concerned person was appointed/promoted in that grade on or after 1.11.1983." (emphasis provided by us)

4. By relying on the aforesaid observations made by the Tribunal in the aforesaid OA, the learned counsel for the applicant advances the plea that notwithstanding the fact that the three grade system of Draftsmen does not exist in the TCPO, the respondents are under an obligation to grant revision of pay scales to the applicants under the OM dated 19.10.1994. The fact that the avenues of promotion are available to the applicants will also not alter the situation. He also argued that the aforesaid order passed by this Tribunal already became final and binding on the parties as the writ petition filed against the aforesaid order in the High Court of Delhi has been dismissed. *d*

5. We have considered the aforesaid submissions and have perused the order passed by this Tribunal in the aforesaid contempt petition as also the order passed in the aforesaid OA No. 1229/1996.

6. The aforesaid contempt petition has been dismissed by holding that the directions given by the Tribunal had been complied with in the sense that the respondents had disposed of the representation made by the petitioners (applicants in the present OA). We note, however, that before the Tribunal proceeded to dismiss the aforesaid petition, they ~~had~~ taken note ^{of certain} of ~~the~~ facts and circumstances which had been brought to the Tribunal's notice. For the sake of convenience, the said facts and circumstances are reproduced below:-

" In compliance to the above directions, the respondents, have examined the representation of the petitioners and passed the order dated 24.8.2000 whereby they have stated that the post of Draftsman Grade-I in TCPO cannot be compared with that of Draftsmen Grade-I in CPWD. The method of recruitment, educational qualifications and experience and duties and responsibilities prescribed for the post of Planning Draftsmen in TCPO are not at par with Draftsman Grade-I in CPWD. The hierarchical structure in TCPO is also not comparable with that of CPWD. The Fifth Pay Commission has also not made by specific recommendation for the post of Planning Draftsmen in TCPO. Besides this, if the scales sought for is granted, it will destroy the relative parity in scales and hierarchy of the posts in TCPO. The O.M. dated 19.10.1994 is not applicable to Planning Draughtsmen in TCPO and they cannot be given the pay scale of Rs.1600-2660 with effect from 1.1.1986 and Rs.5500-9000 with effect from 1.1.1996."

7. Having regard to the fact that the Tribunal while disposing of the aforesaid contempt petition had

duly noted the aforesaid facts and circumstances, it cannot be argued at this stage that the aforesaid facts and circumstances placed before the Tribunal and considered by it are in any way repugnant to the observations made and the directions given by this Tribunal while disposing of the OA No.1229/1996. If the Tribunal had noticed any repugnancy, it would have surely noted the same and, in that event, the ^{✓ been} respondents might have ^{✓ been} considered for imposition of an appropriate penalty for non-observance of the directions given.

8. We have also carefully examined the observations made by the Tribunal in its order dated 8.2.2000. In the observations reproduced in para 3 above, it is clearly mentioned that the applicants' claim cannot be rejected merely because of the non-existence of ~~✓~~ the three grade system in the organisation. In our judgement, this would imply that ^{✓ and rejected ✓} the applicants' claim could certainly be examined if valid grounds other than the non-existence of three grades are available to the respondents. The grounds which were placed before the Tribunal in the aforesaid contempt petition and later repeated in the impugned order dated 24.8.2000 (Annexure A-2) are precisely the grounds which have nothing to do with the ground of non-existence of the three grades of Draftsmen. These ^{✓ and valid ✓} are independent grounds and could always be kept in view at the time of considering the applicants' claim. Moreover, when the Tribunal has given a direction to [✓] consider a matter as in the aforesaid order dated

8.2.2000, the implication is that the respondents will have the opportunity to take into account all the valid facts and circumstances which are available to them. This is what the respondents have done. They have clearly relied on facts and circumstances which have nothing to do with the ~~non-existence~~ ^{of} three grades of Draftsmen in the TCPO. Thus the respondents have proceeded to reject the applicants' claim not by challenging the applicability of OM dated 19.10.1994 but by taking grounds which were validly available to them in the facts and circumstances of the present case. Facts and circumstances in question have already been reproduced in para 6 above. In our judgement, these are valid grounds and cannot be successfully challenged.

9. In the light of the foregoing, the OA is found to be devoid of merit and is dismissed. No costs.


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


(Ashok Agarwal)
Chairman

/sns/