

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1300/1997

This the 11 day of February, 2003

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HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. R.K.Chakravorty S/O G.M.Chakravorty
2. Mukesh Kumar S/O Narottam Singh
3. Abinash Sarkar S/O B.Sarkar
4. O.P.Sharma S/O R.L.Sharma
5. Shashi Pal S/O Babu Ram
6. R.S.Verma S/O Jai Dev Verma
7. Y.S.Tanwar S/O Charan Singh Tanwar
(All working in the Department
of Electronics, Electronics Niketan,
Lodi Road, New Delhi-110003). ... Applicants

(By Shri R.P.Kapoor, Advocate)

-versus-

1. Union of India through
Secretary, Deptt. of Electronics,
Electronics Niketan,
6, CGO Complex, Lodi Road,
New Delhi-110003.
2. Secretary, Min. of Finance,
Central Secretariat,
New Delhi-110001. ... Respondents

(By Shri K.C.D.Gangwani, Advocate)

O R D E R

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

Applicants were Draughtsmen in the scale of Rs.425-700 (revised Rs.1400-2300) on 13.5.1982 with respondents. Through OA No.1300/1997, they had claimed pay scale of Rs.550-750 (revised Rs.1600-2600) w.e.f. 13.5.1982 with consequential benefits including refixation in the revised/higher pay scale and arrears. They are aggrieved that respondents did not implement Presidential orders dated 13.3.1984 and 19.10.1994 with regard to their pay scales which resulted in denial of higher pay scales to them. The OA was dismissed by the

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Tribunal by order dated 27.4.1998. Applicants assailed the Tribunal's orders in CWP No.635/1999 which was disposed of by the Hon'ble High Court by order dated 30.1.2002. The High Court set aside the Tribunal's order and remitted the case for re-consideration, keeping in view the contention raised in the OA, namely, whether the orders of the President of India aforementioned are applicable to the petitioners who were working in the Department of Electronics and also whether the petitioners were governed by CCS Rules and/or governed by a separate set of rules as regards the determination of scale of pay.

2. We have heard the learned counsel of both sides afresh.

3. The learned counsel of applicants stated that vide memorandum dated 13.3.1984 revised pay scales on the basis of Award of the Board of Arbitration in the case of Central Public Works Department (CPWD) were to be extended to Draftsmen Grades III, II and I in all Government of India offices provided that their recruitment qualifications were similar to those prescribed in the case of Draftsmen in CPWD. Besides whereas the benefit of this revision of scales of pay was to be given notionally w.e.f. 13.5.1982, the actual benefit was to be allowed w.e.f. 1.11.1983. The learned counsel stated that whereas applicants have the same recruitment qualification as Draftsmen in the CPWD, Government have not accorded them the revised scale on the basis of the Award. The learned counsel further

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stated that vide another office order dated 19.10.1994, the Department of Expenditure decided that Draftsmen Grades I, II and III in offices/departments other than CPWD should be placed in the revised pay scales on the basis of minimum period of service prescribed in that O.M. The learned counsel stated that these decisions were taken at the level of the President and have to be applied to applicants as well although they were in the Department of Electronics which is a scientific department.

4. On the other hand, the learned counsel of respondents opposed the contentions raised by the learned counsel of applicants. He stated that the Department of Information and Technology (DIT) (earlier Department of Electronics) has its own personnel policy for its Scientific and Technical (S&T) officials below Group 'A' level based on the Flexible Complimenting Scheme (FCS) and its employees are not covered under CCS Rules. Under this policy the promotions are performance-oriented and are not vacancy-based, where the post held by the officials is upgraded to the next higher grade on being found fit for promotion. The learned counsel further stated that whereas in the office memoranda on which applicants have based their case there are only three levels of Draftsmen, i.e., Grades I, II and III in DIT, there are eight grades, i.e., Draftsmen 'A' to 'H' allowed through promotions carrying pay scales of Rs.3000-4500 (pre-revised) now as Rs.10000-15200 and they can rise up to the level of Rs.5900-7300 (pre-revised) now as Rs.18400-22400. But in CPWD and other Ministries/

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Departments they can rise up to Rs.2000-3500 (pre-revised) now Rs.6500-10500. This policy, according to the learned counsel, was promulgated by the Government of India vide O.M. dated 18.7.1983 for S&T officials below Group 'A' level in the Department of Electronics, etc. This policy came into effect from 1.10.1983. According to respondents, applicants have already availed of various promotions to higher pay scales in terms of O.M. dated 18.7.1983. Having availed of the benefits and promotional prospects under a more generous policy of the department, applicants cannot ask for an additional benefit under a general policy prevalent in other departments.

5. To a pointed query, the learned counsel of applicants did not deny that applicants have availed of promotions and revised higher pay scales in terms of the Flexible Complimenting Scheme (FCS) and benefits flowing from O.M. dated 18.7.1983 which became effective from 1.10.1983. The learned counsel only insisted upon grant of revision of scales of pay under memorandum dated 13.3.1984 notionally w.e.f. 13.5.1982 and then additional benefits under O.M. dated 18.7.1983. O.M. dated 13.3.1984 read with O.M. dated 19.10.1994 extended benefits of revision of pay scales to Draftsmen Grades I, II and III in different offices of Government of India on the basis of the Award of the Board of Arbitration for CPWD. The benefit of this revision was to be given notionally w.e.f. 13.5.1982 and actually from 1.11.1983. Generous promotional avenues and improved pay scales had been applied to Group 'A' S&T officers vide memorandum

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dated 11.8.1981. With the approval of the Electronics Commission, the Department of Electronics applied mutatis mutandis the benefits to S&T personnel/posts below Group 'A' level effective from 1.10.1983. Applicants herein availed of these benefits w.e.f. 1.10.1983 which included not only better revised pay scales but also several promotions. They are now claiming additional benefit of revised pay scales allowed to Draftsmen in CPWD and departments other than the Department of Electronics at the initial stage notionally from 13.5.1982 and actually from 1.11.1983. Having availed of the benefits flowing from the personnel policy and practices for S&T officers in the Department of Electronics effective from 1.10.1983, applicants have acquiesced right to benefit available to Draftsmen in CPWD and other Government departments in addition. Having chosen special dispensation available in the Department of Electronics they cannot draw upon additional benefit available vide memorandum dated 13.3.1984 read with memorandum dated 19.10.1994. In this backdrop, we are of the considered view that applicants are governed by the personnel policy and practices for S&T officers and staff promulgated vide O.M. dated 18.7.1983 and not office memoranda dated 13.5.1982 and 19.10.1994.

6. In the result, we find that the OA is devoid of merit and the same is accordingly dismissed. No costs.

V. K. Majotra
(V. K. Majotra)

Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J) 11/2/2003