

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1498/97

New Delhi this the 8<sup>th</sup> day of April, 1999.

Hon'ble Shri T.N. Bhat, Member(J)  
Hon'ble Shri S.P. Biswas, Member(A)

1. Sh. Suresh Chand,  
Surveyor,  
Office of Superintendent  
Engineer, Flood Circle II,  
L.M. Bund Complex,  
Krishan Kunj,  
Delhi-92.
2. Sh. Balbeer Singh,  
Surveyor,  
Office of Superintendent  
Engineer, Flood Circle II,  
L.M. Bund Complex,  
Krishan Kunj,  
Delhi-92.
3. Sh. Padam Singh,  
Surveyor, Flood Control  
and Drainage Div. C-D-6,  
Gurmandi, Delhi-7. .... Applicants

(through Sh. B.B. Raval, advocate)

versus

1. U.O.I. through  
Secretary, Ministry of  
Water Resources (Indus Wing),  
8th Floor, 11 Block,  
CGO Complex,  
Lodhi Road, New Delhi.
2. Secretary,  
Ministry of Finance,  
Govt. of India,  
North Block,  
New Delhi.
3. Lt. Governor Delhi  
through Secretary to L.G.,  
Raj Niwas, Delhi.
4. Govt. of NCT Delhi through  
Chief Secretary,  
5, Shambhunath Marg,  
New Delhi.
5. Secretary Finance,  
Govt. of NCT Delhi,  
5, Shambhunath Marg,  
New Delhi.
6. Secretary (Irrigation and Flood  
Control), Govt. of NCT Delhi,  
5, Shambhunath Marg,  
New Delhi.

7. Development Commissioner,  
Govt. of NCT Delhi.

8. Chief Engineer (Irrigation and  
Flood Control),  
Govt. of NCT Delhi.

9. Administrative Officer to  
Chief Engineer,  
Irrigation and Flood Control  
Dept., Govt. of NCT Delhi.

10. Secretary to Chief Minister,  
Govt. of NCT Delhi,  
Old Secretariate Delhi.

11. Secretary to Delhi Legislative  
Assembly, Old Secretariate,  
Delhi. .... Respondents  
(through Sh. S.K. Gupta for Sh. B.S. Gupta, advocate)

ORDER

Hon'ble Sh. S.P. Biswas, Member(A)

The issues raised in this O.A. lie in a narrow compass.

2. All the three applicants, Surveyors under Government of N.C.T. Delhi, are aggrieved because of adverse service conditions like anomalies and discriminatory treatment in pay scales. All of them also allege inadequate promotional prospects for them.

3. Applicants No. 1, 2 & 3 joined the Department of Irrigation and Flood Control (I&FC for short) under the respondents w.e.f. 23.11.83, 18.1.84 and 1.11.83 respectively. Although they have spent 15 to 16 years of service, none of them are in receipt of any promotion till date. The cadre of Surveyors consisting a total of 7 such employees is a decaying cadre and one of them, namely, Sh. R.N. Mudgil has since retired on 31.1.97 after completing 35 years of

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service but without any regular promotion as alleged by the applicants. Under these circumstances, the applicants have sought issuance of directions to the respondents (i) to give them the pay scale at par with the Draftsmen in I&FC Department since both the groups enjoyed the pay scale upto only 3rd Pay Commission; (ii) extend the recommendations of the 5th Pay Commission to them in terms of benefits given to similarly placed employees in other departments; and (iii) amend the Recruitment Rules by de-clubbing non-technical posts and provide better opportunities of advancements in service on the pattern of Surveyors in DDA, ARcheological Surveyors of India and Land and Development Office under the Ministry of Urban Development.

4. Shri B.B. Raval, learned counsel for the applicants argued that after the 4th Pay Commission report, the DPC was conducted on 12.9.90 under the Chairmanship of the then Special Secretary (Flood)/Delhi Administration regarding revision of pay scales of Surveyors. In the said DPC, it was decided that the proposal for revision of pay scale of Surveyors, now is Rs. 950-1400, be revised upwards to Rs.1200-2040 and that those proposals would be sent to the Administration by the Head of the Department of Govt. of NCT. Despite such a support from the department, the respondents have not made any progress further in giving a final shape to the DPC recommendations.

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5. We have gone through the records, pleadings of learned counsel for both parties as well as the submissions made by the 1d. counsel for the respondents. The respondents have not denied the need for upgradation of the pay structure of the Surveyors working under them. In fact, in reply to para 4.8 of the counter dated 6.10.93, the respondents have stated that "the recommendations of 5th Pay Commission regarding the Surveyors shall be considered and will be notified at the appropriate time by the appropriate authorities." The respondents stand in supporting the case of the applicants is evident in the Joint Secretary I&FC's letter dated 19.10.92 wherein the department again recommended revision of pay scale of the Surveyors under the respondents from 950-1400 to 1200-2040 to the Commissioner(Indus.), Ministry of Water Resources Govt. of India. A copy of the said recommendation, self explanatory in all respects, has been annexed at A-16 of the paperbook. From the perusal of the records we find that the respondents took up the matter once again in September as well as October 1995. The respondents (Respondent No. 6) have admitted that "the officials have been agitating, expressing a view that their counter parts in other departments like CWC, Archeological Survey of India are placed on higher scales (1200-2040) having identical recruitment rules and hence their pay scales also need to be revised." In support of the applicants case for upward revision of the pay structure, the respondents in their recommendatory papers to the relevant authorities brought out the

following position as an inductive of the injustice being meted out to the applicant herein in respect of pay scale.

S.No.	Name of the Department	Name & classificati on	Prior to revision by 3rd Pay Com.	After revision by 3rd pay Commn.	After revision by 4th Pay commn. w.e.f.1.1.96	6
1	2	3	4	5	6	
1.	D.D.A.	Surveyors	210-425	425-700	1400-2300	
2.	Archeological Survey of India	-do-	210-425	330-560	1200-2040	
3.	Land & Development Office	-do-	150-240	380-560	1200-2040	
4.	Irrigation & Flood Control Department	-do-	110-200	260-430	950-1400	

The respondents vide their letter No. F.3/25/90-I&FC/699 dated 19.10.95 again supported the applicants grievances in terms of the following:-

"After due scrutiny of the case and with the prior concurrence from the local Finance Department, it has been decided that the case be referred to Govt. of India, as there is a strong need for revision of pay scale of Surveyors. In the present set-up, there are no other grades in the Surveyors cadre, as such these officials are stagnating, which makes it all the necessary, to revise the pay scales."

6. In the background of details aforesaid, we are of the firm view that the applicants case for upgradation of pay structure deserves immediate consideration.

7. We also find that some of the issues raised in this O.A. have been decided in the case of R.N. Mudgil Vs. U.O.I (OA-245/97) by this very Bench on 13.11.98. Incidentally, Shri Mudgil was one of the 7 Surveyors who now stand retired. As per details in the aforesaid O.A., Shri Mudgil actually retired without any regular promotion though continued working as Surveyor for 35 years. It was only at the fag end of his career that Shri Mudgil was asked to discharge current duty responsibilities of JE which he refused because of health conditions.

8. In respect of the promotional prospects of Surveyors, it is seen that with the modification of RRs for JE effected vide Notification dated 12.6.86, the Surveyors have been made as feeder cadre for the purpose of promotion to JE. This was done as a measure of removing acute stagnation amongst the Surveyors. The said RRs provide that 5% posts of the JEs shall be filled by promotion from amongst the Surveyors. These rules also stipulate that the Surveyors, for the purpose of promotion, under 5% quota need to possess educational qualifications as prescribed for direct recruits or should have 15 years of regular service in the grade. The counsel submits that on the basis of the requirements thus laid down in the amended Recruitment Rules/1986, the applicants fulfill all the conditions including 15 years of regular service as Surveyor for promotion as JE by 1998.

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9. In support of his claim for promotion, the applicant cited judgements of the Apex Court in the case of Raghunath Prasad Singh Vs. Secretary, Home (Police) Department, Govt. of Bihar & Ors. (AIR 1988 SC 1033); Council of Scientific and Industrial Research and Another Vs. KGS Bhatt and another (AIR 1989 SC 1973).

10. In the case of Raghunath Prasad Singh (supra), it has been held that:-

"Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly."

In the aforesaid case, the Apex Court directed the State of Bihar to provide atleast two promotional opportunities to the officers of the State Police in the Wireless Organisation.

We also find a similar view having been taken by the Hon'ble Supreme Court in the case of K.G.S. Bhat(supra). Their Lordships held that:-

"The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well.

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"The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both non-managerial employees and their supervisors"

The 5th PC in Volume I (Chapter 22) of its report has equally highlighted the need for providing atleast 2/3 promotions in the service career of a person holding a civil post. We do not find any whisper, what to speak of considering the applicants for promotion at least once so far.

11. We also find that employees like the applicants herein are entitled to "In Situ" Promotion" (IPS for short) in terms of Government of India instructions in O.M. dated 13.3.93. The main condition for granting promotions under IS Scheme, as in O.M. dated 13.3.93 are as follows:-

- "(i) employees who were directly recruited to a Group 'C' or to Group 'D' post;
- (ii) employees whose pay on appointment to such a post is fixed at the minimum of the scale; and
- (iii) employees who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post."

12. We are not aware if the applicants fulfill all the conditions under ISP Scheme. It is for the administrative Ministry or Department to identify such areas that do not have promotional avenues, like the Surveyors herein, in their own Ministry or Department, collect all the relevant details and approach the concerned Financial Adviser. Under the ISP Scheme, every subordinate authority is required to make a reference to Ministry of Finance through the

administrative Ministry concerned with the specific comments of Financial Adviser concerned. This Scheme came into operation from 1.4.91. If the respondents have inadequate promotional opportunities, they are at liberty to consider the applicants cases for promotion under the ISP Scheme.

13. From the records we find that the respondents had processed the cases of three senior Surveyors belonging to general category candidates, for the purpose of providing promotion to the grade of JE. The Chairman of the DPC - Secretary (I&F) by his order dated 27.7.90 decided to have a formal meeting of DPC on 8.8.90 at 3 P.M. However, no development took place thereafter. As per records, clearances were obtained from all concerned for purpose of promotion of three Surveyors at that time including Mr. Mudgil. However, the matter did not proceed further in view of disbandment of New Delhi Circle of the Flood Departments in the year 1989 and reduction in sanctioned strength of JE in the I&F Division from 12 to 7. The DPC proposed did not, therefore, take place.

14. In the background of the aforesaid details, it will be for the respondents to consider the applicants cases for promotion under ISP Scheme or against ~~for~~ the 5% quota as aforementioned. Though there are no detailed averments by the applicants in the OA as regards promotion under the two schemes aforementioned, Administrative Tribunals can grant such reliefs, as also sought for in para 8(vii) of the O.A.,

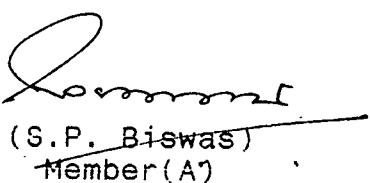
in terms of judicial pronouncement of the Apex Court in  
the case of Hindulco Industries Ltd. Vs. U.O.I. &  
Ors. (1994 (2) SCC 594).

15. In the background of the circumstances aforementioned, the O.A. is allowed with the following directions:-

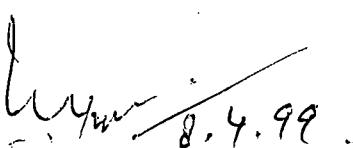
(a) The respondents shall reconsider the case of revising the pay scale of the applicants herein on the basis of the details they had worked out earlier in 1991-95. For this purpose, the authority concerned shall be approached within a period 4 months from the date of receipt of a certified copy of this order.

(b) The applicants shall also be considered for promotions as JE against 5% quota ear-marked for them subject to fulfilment of the conditions stipulated in O.M. dated 13.3.93.

With the above directions, the O.A. is allowed but without any order as to costs.

  
(S.P. Biswas)

Member(A)

  
(T.N. Bhat)

Member(J)