

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO. 471/1997

New Delhi, this the ~~31st~~ day of May, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

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1. All India Naval Draughtsman's Association,
through its General Secretary
Shri Kamal Singh, having its Head Office
at Naval Headquarters,
New Delhi
2. P.B. Nair,
resident of 28-E, Pocket-C,
Mayur Vihar-III,
New Delhi. Applicants
(By Advocate: Shri K.B.S. Rajan)

VERSUS

1. Union of India,
Through its Secretary to the Govt.
Ministry of Defence, South Block,
Central Secretariat,
New Delhi : 110 001
2. The Chief of Naval Staff,
Naval Headquarters, South Block,
Central Secretariat,
New Delhi : 110 001 Respondents
(By Advocate: Shri P.H. Ramchandani)

O R D E R

By S.A.T. Rizvi, Member (A):

The All India Naval Draughtsman's Association through its General Secretary (Shri Kamal Singh) and Shri P.B. Nair have filed the present OA impugning Ministry of Defence's letter dated 15.9.1995 and also the supplementary circular issued by them on 16.10.1995 (Annexure A-5 collectively), impugning in particular the following provisions made in the aforesaid letter/circular.

Letter dated 15/9.1995:

"Para-5. - Whenever the cadre has already an existing scale of Rs.1600-2660, the cadre authorities will merge that scale with the posts which may stand upgraded from Rs.1400-2300 to Rs.1600-2660 in terms of

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these orders. The seniority of the existing D'Men in the Scale of Rs.1600-2660 will be protected viz-a-viz D'Men who would be placed in the revised scale of Rs.1600-2660 to whom they are already en-block seniors".

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Circular dated 16.10.1995 :

"Para-2(d). - The existing senior D'Man who are placed in the revised pay scale of Rs.1600-2600 shall rank enbloc junior to the existing Head D'Man. As a consequence of this order there will be no promotion from the grade-I (Senior D'Man) to Head D'Man.

Para-3. - The existing SRO for the Drawing Office Cadre will be modified to bring it on par with that of CPWD D'Man. Therefore, no future appointments to the various grade of D'Man shall be made till the revised SRO is promulgated."

The respondents have sought to contest the OA by filing a counter reply. The same has been followed by a rejoinder as well as a supplementary affidavit, both filed by the applicants.

2. We have heard the learned counsel on either side and have perused the material placed on record.

3. The applicants have submitted that, by merging the posts of Head Draughtsman and Senior Draughtsman, the respondents have sought to merge posts which are un-equal not only in terms of recruitment qualifications but also in terms of job responsibilities. According to them, such mergers are bad in law. They have further submitted that following the merger of the aforesaid two posts, the future service prospects of Head Draughtsmen have been adversely affected as also those of the Senior Draughtsmen. This is because, according to them, further promotions cannot be made until, as provided in para 3 of

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the aforesaid circular of 16th October, 1995 (reproduced above), the SRO for the posts has been revised.

4. Brief facts of the case, relevant for our purpose in this OA, are that the applicants have been working in the Drawing Office of the Navy as Tracers, Draughtsmen, Senior Draughtsmen or as Head Draughtsman. There is also the post of Chief Draughtsman beyond that of Head Draughtsman. The applicants are governed by the Navy (Group 'C', non-Industrial Posts, Drawing Office Staff) Recruitment Rules, 1985 (hereinafter called Rules of 1985) (Annexure A-2). The aforesaid posts in the cadre of Draughtsmen carry different pay scales (Annexure A-3). For example, the post of Tracer carries the pay scale of Rs.975-1540, and those of Draughtsman, Senior Draughtsman and Head Draughtsman respectively carry the pay scales of Rs.1200-2040, 1400-2300 and 1600-2660. The promotion from one Grade to the other, according to the Rules of 1985, is subject to qualifying in departmental tests. The posts of Senior Draughtsman and Head Draughtsman carry different sets of duties and responsibilities in the Navy and the promotion from the post of Senior Draughtsman to that of Head Draughtsman is through a departmental test by selection method. These provisions are unique to the Navy. According to the applicants, no other department has selection based promotion system operated through departmental tests. They have gone on to say that one Head Draughtsman in the Navy directly supervises 2 - 4 Senior Draughtsmen, 5 - 10 Draughtsman and 2 - 3 Tracers and Senior Draughtsman reports to the Head Draughtsman. The duties and responsibilities attached to the aforesaid

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posts have been placed on record at Annexure A-4. The syllabi prescribed for the departmental tests have also been placed on record. The various Pay Commissions have maintained a higher pay scales for the post of Head Draughtsman as compared to that of Senior Draughtsman (Annexure A-4 collectively). The latest move of the respondents to merge the aforesaid posts by issuing the impugned letter/circular is thus, according to the applicants, inconsistent with the approach of the various Central Pay Commissions and by affecting the merger of the said posts the respondents have in effect sought to abolish the post of Head Draughtsmen from the cadre of Group 'C' Draughtsmen in the Navy.

5. A perusal of material placed on record would go to show that Draughtsmen, Senior Draughtsmen and the Head Draughtsmen in the Navy were placed by the third Central Pay Commission in the respective scales of Rs. 330-560, Rs.425-700 and Rs.550-750. The corresponding grades prevalent in the CPWD were Rs.330-560 for Grade-II Draughtsman, Rs.425-700 for Grade-I Draughtsman and Rs.550-750 for the post of Chief Estimator. Subsequently, by means of an award given by the Board of Arbitration on 20th June, 1980, the cadre of Draughtsmen in the CPWD was re-organised into Grade-III carrying the pay scale of Rs.330-560, Grade-II carrying the pay scale of Rs.425-700 and Grade-I carrying the pay scale of Rs.550-750. Consequent upon the implementation of the aforesaid award in the CPWD, demands were raised by Draughtsmen working in the various Ministries/ Departments for a similar treatment. This led to the issuance of an Office

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Memorandum dated 13th March, 1984 by the Ministry of Finance (Department of Expenditure) (Annexure R-II). By the aforesaid Office Memorandum the benefit, in question, was extended to the other Offices/Departments of the Govt. of India subject to the recruitment qualifications being similar to those prescribed for the Draughtsmen working in the CPWD. It was also provided therein that those, who did not fulfil the aforementioned recruitment qualifications, will continue in the pre-revised scales. The benefit of the aforesaid revision in the scales of pay was to be given notionally w.e.f. 13.5.1982, whereas the actual benefit was to flow w.e.f. 1.11.1983. We have noted that the aforesaid condition of similarity in the recruitment qualifications laid down in the aforesaid OM dated 13th March, 1984 was subsequently relaxed by the Ministry of Finance (Deptt. of Expenditure) vide their OM dated 19th October, 1994 (R-III). The said OM of 19th October, 1994 proceeded to lay down the length of service required for placing a post into the next higher grade. For instance, the posts carrying the pay scale of Rs.260-430 (pre-revised) were to be upgraded to the pre-revised scale of Rs.330-560 subject to 7 years service in the lower grade. Similarly, Draughtsman's posts in the pre-revised scale of Rs.330-560 were to be upgraded to Rs.425-700 on completion of 5 years of service and, like-wise, after rendering 4 years of service those in the pre-revised scale of Rs.425-700 were to be placed in the still higher scale of Rs.550-750. The aforesaid OM dated 19th October, 1994 has gone on to provide also that once the Draughtsmen are placed in regular grades as above, further promotions would be made against available

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vacancies in higher grades in accordance with the normal eligibility criteria laid down in the Recruitment Rules.

6. Following the grant of higher pay scales in terms of the provisions made in the aforesaid OM of 19th October, 1994, changes were made in the rules relating to the Draughtsmen working in the Navy. Accordingly, the impugned letter of 15th September, 1995 seeks to place the Draughtsmen working in the Navy as well as in the Army and the Air Force in 3 grades, namely, Grades-I, II and III with revised scales of Rs.550-750, Rs.425-700 and Rs.330-560 respectively. The aforesaid impugned letter has been issued totally in accordance with the decision of the Govt. of India contained in the Ministry of Finance (Deptt. of Expenditure)'s aforesaid Office Memorandums of 13th March, 1984 and 19th October, 1994. The net effect of the aforesaid arrangement is that the Tracers working in the Navy in the pre-revised pay scale of Rs.260-430 have been placed in the pre-revised pay scale of Rs.330-560 on completion of 7 years of service in the lower grade. This corresponds to the rank and post of Draughtsman Grade-III. Similarly, Draughtsmen working in the Navy in the pre-revised scale of Rs.330-560 have been placed in the pre-revised higher grade of Rs.425-700 on completion of 5 years of service. This corresponds to Draughtsman Grade-II. Like-wise, the Senior Draughtsmen working in the Navy in the pre-revised scale of Rs.425-700 have been placed in the pre-revised higher scale of Rs.550-750 on completion of 4 years of service in the lower grade. This corresponds to Draughtsman Grade-I. Thus, even though the recruitment qualifications in the

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Navy were not the same as in the CPWD, the posts of Tracer, Draughtsman and Senior Draughtsman have been placed, by the impugned letter of 15th September, 1995 in the grades of Draughtsmen Grade-III, II and I respectively. The aforesaid posts of Tracer/Grade-III, Draughtsman/Grade-II and Senior Draughtsman/Grade-I carry the revised pay scales respectively of Rs.1200-2040, Rs.1400-2600 and Rs.1600-2660/-(IVth CPC).

7. What is important to note is that the aforesaid impugned letter dated 15th September, 1995 has further gone on to provide that the posts in the cadre of Draughtsmen in the pay scale of Rs.1600-2660 will get merged with the posts to be upgraded from the pay scale of Rs.1400-2300 to the aforesaid scale of Rs.1600-2660. This provision implied the merger of the existing posts of Head Draughtsman and Senior Draughtsman in the Navy. This is what has been, as we have earlier noted, seriously impugned by the applicants on the ground of total dis-similarity between the recruitment qualifications and the duties and responsibilities between the aforesaid posts. We further note that by the same impugned letter of 15th September, 1995 a decision with regard to the seniority of Head Draughtsmen has been conveyed by saying that their seniority will be protected vis-a-vis Senior Draughtsmen. The aforesaid impugned letter also noted that the Head Draughtsmen are already enbloc senior to the Senior Draughtsmen. In other words, a rule of seniority has also been prescribed by the aforesaid impugned letter.

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8. By their Circular dated 16th October, 1995,

the respondents have proceeded to lay down certain guide-lines to be followed while implementing the earlier impugned letter of 15th September, 1995. The same clearly provides that thenceforth there will be only three non-gazetted grades of Draughtsmen in the Navy, namely, Draughtsman Grade-III (now Tracer), Draughtsman Grade-II (now Draughtsman) and Draughtsman Grade-I (now Senior Draughtsman). The same further provides, after reiterating the provision that the existing senior Draughtsmen placed in the revised pay grade of Rs.1600-2660 shall rank enbloc junior to the existing Head Draughtsmen, that as a consequence of the said Circular, there will be no promotion from grade-I (senior Draughtsman) to the post of Head Draughtsman. The applicants are aggrieved not only by the merger of the post of Senior Draughtsman with that of Head Draughtsman with both being placed in Grade-I, but also by the further provision made in the same Circular of 16th October, 1995 that pending modification in the existing SRO so as to bring it on par with that relating to Draughtsmen working in the CPWD there will be no future appointments/promotions to the various grades of Draughtsmen. The applicants contend that though several years have since elapsed, the respondents have not taken any action yet to revise the said SRO with the result that promotions of Draughtsmen are held up despite vacancies available in higher grades. It is worth reiterating at this stage that the applicants are also aggrieved by the fact that as a result of re-structuring of the cadre, the senior Draughtsmen cannot look forward to their promotion to the rank of Head Draughtsman, and due to non-revision

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of the SRO the chances of promotion of those who held the post of Head Draughtsman also remain blocked.

9. Insofar as the respondents are concerned, they have advanced the argument that the merger of any two scales of pay in a given cadre is a matter of administrative policy and in the present case the same has been done with a view to bring about structural similarity between the several Departments and Offices of the Govt. of India. According to the learned counsel appearing on behalf of the respondents, the Courts and Tribunals are not expected to interfere with the structural arrangements made by the Government as a matter of policy and in the interest of administrative efficiency and also in public interest.

10. Besides calling into question the fact of merger of posts, the applicants have gone on to contend that the 5th CPC has recommended retention of the post of Head Draughtsman in the Ministry of Surface Transport (MOST) and has recommended a higher pay scale of Rs.2000-3500 for the said post which was once merged with the feeder grade of Draughtsman Grade-A whose pay was revised to Rs.1600-2660 as has been done in the applicants' department. They have placed on record the letter dated 14th January, 1993 issued by the MOST. We have perused the same and find that by the said order the MOST had merged the posts of Draughtsman Grade-A and Head Draughtsman then placed respectively in the pay grades of Rs.1400-2300 and Rs.1600-2660. By the act of merger, both the posts aforesaid were placed in the same pay scale of

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Rs.1600-2660. At the same time the post of Chief Draughtsman in the pay scale of Rs.2000-3200 was retained. This, we find, brings the arrangements in the MOST on par with the pattern now obtaining in the applicants' department. The 5th CPC has, we find, made recommendations (SA-2) providing for the posts of Draughtsmen in Grades III, II and I and also for the post of Head Draughtsman to be placed respectively in the pay grades of Rs.1320-2040, Rs.1600-2660, Rs.1640-2900 and Rs.2000-3500 in the MOST (DG of Light Houses). The GOI's decision thereon (SA-3) shows that it has been decided to have three scales of pay of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 respectively in that Directorate of the MOST which correspond to the scales decided upon by the Govt. for Grade-II and Grade-I Draftsmen and for a post still higher which, in terms of general recommendations, could be designated as Chief Draftsman.

11. The 5th CPC again has made general recommendations (SA-4) with regard to the designations and pay scales of Draughtsmen in various departments of the Govt. of India. Here we find that the recommendations made limit the grades of Draughtsmen to Grades III, II, I and Chief Draughtsman, the last being recommended for the grant of pay scale of Rs.2000-3500. Thus, looking at the recommendations made by the 5th CPC in respect of MOST (DG of Light Houses) and the general recommendations made, we discover that while the 5th CPC has not recommended setting up of the post of Head Draughtsman in their general recommendations, they have recommended a higher grade for the post of Head Draughtsman in respect of MOST

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(DG of Light Houses), though the pay scale recommended for Head Draughtsman in the MOST is the same as the pay scale recommended in respect of Chief Draughtsman as part of the general recommendations made by the Commission. This makes us feel that the idea really was to have a post in the pay grade of Chief Draftsman in the MOST (DG of Light Houses) too, whether called Head Draftsman or Chief Draftsman. The 5th CPC while dealing with the MOST chose to call it Head Draftsman as the post of Chief Draftsman perhaps never existed in that set up. The preferred designation would, of course, be Chief Draftsman consistently with the general recommendations. Insofar as the implementation of the general recommendations is concerned, we find that the Govt. has accepted the same by laying down the revised pay scales of Rs.5000-8000 (pre-revised Rs.1600-2660) and Rs.5500-9000 (pre-revised Rs.1640-2900) for Grade-II and Grade-I Draftsmen respectively and instead of indicating any specific designation thereafter has laid down the revised scale of Rs.6500-10500 (pre-revised Rs.2000-3200) for graduate engineers recruited against posts of drawing/design staff in subordinate engineering cadres. It bears repetition that having regard to the fact that the various departments of the Govt. of India have since already conformed to the pattern implemented in the CPWD, we are not convinced that the recommendations made by the 5th CPC for the grant of the pay scale of Rs.2000-3500 to Head Draughtsman in the MOST can have any significance in the face of the general recommendations made by them which do not include the post of Head Draughtsman, though the post of Chief Draughtsman has been mentioned. In the

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circumstances, placing reliance on MOST's order dated 14th January, 1993 and the recommendations made by the 5th CPC in respect of the MOST will not assist the applicants in support of their argument for still having a post of Head Draughtsman in addition to the post of Chief Draughtsman and distinct from the Draughtsman Grade-I' post.

12. The respondents have also brought to our notice the judgement of this Tribunal (Eranakulam Bench) dated 23.10.1992 in OA No. 400/1991 in support of their contention that the Draughtsmen in the Navy in the pay scale of Rs.330-560 cannot be equated with Grade-II Draughtsmen (pay scale Rs.425-700) of the CPWD. By the aforesaid judgement it has been provided that the Draughtsmen in the Navy cannot be equated with Draughtsmen Grade-II in the CPWD, and further since an equation is not possible between Draughtsmen in the Navy and the Draughtsmen Grade-II in the CPWD, the next higher posts to which the said categories are correspondingly promoted cannot be equated either. Considering the matter carefully, we find that if the applicants (Draughtsmen in the Navy) in OA No.400/1991 had succeeded, it would have meant that Group-I Draughtsmen of the Navy would have to be placed in a grade higher than Rs.550-750 (pre-revised Rs.1600-2660), and this way the applicants in the present OA would have been better placed to argue in favour of retention of the post of Head Draughtsman distinct from the post of Draughtsman Grade-I. In the circumstances, we find that the applicants in the present OA cannot be allowed for this reason also to advance a plea in support of retention of the post of Head draughtsman in a pay

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scale higher than the post of Draughtsman Grade-I. By this decision, the Tribunal has also clearly though indirectly negated the plea of superiority advanced on behalf of the applicants (Draftsmen of the Navy) in terms of recruitment rules which provide for selection and departmental tests.

13. Our attention has next been drawn to the combined decision rendered by this Tribunal on 10.8.1992 in OA No. 783/1991 (filed by Senior Draughtsmen of the MES in the pay scale of Rs. 550-750) and OA No.1169/1991 (filed by the Chief Draughtsmen in the MES in the pay scale of Rs.700-900) in respect of Draughtsmen working in the Military Engineering Service (MES). In the said Organisation, after the 3rd CPC, the Draughtsmen were placed in the pay scales of Rs.260-430 (Tracer), Rs.330-560 (Draughtsman Grade-II) and Rs.450-700 (Draughtsman Grade-I). The aforesaid posts of Tracer and Draughtsman Grade-II were thereafter upgraded as Draughtsman Grade-II and Draughtsman Grade-I in the respective pay scales of Rs.425-700 and Rs.550-750. Until the arrangements then in force remained applicable, the Draughtsman Grade-I was to be promoted as Senior Draughtsman and the relevant Recruitment Rules provided for filling up of the post 100% by promotion of Draughtsman Grade-I. The aforesaid two OAs were allowed by the Tribunal with a direction to the respondents to consider upgrading the pay scale of Senior Draughtsman from Rs.550-750 to Rs.700-900 and that of Chief Draughtsman from Rs.700-900 to Rs.840-1040. The alternative direction given was that the respondents

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restructure the hierarchical levels above the grade of Draughtsman Grade-I to remove the anomaly of promotional level being in the pay scale as of the feeder levels. We find that the Government decided to implement the aforesaid alternative direction by restructuring the cadre of Draughtsmen in the MES by merging the posts of Senior Draughtsman and Draughtsman Grade-I thereby abolishing the post of Senior Draughtsman and at the same time increasing the number of posts at the level of Chief Draughtsman. We find that a similar decision was taken by this Tribunal (Eranakulam Bench) in OA No.434/1992 on 21.4.1993. Thus, the MES was made to conform to the CPWD pattern of Draughtsmen in Grades-I, II and III with the post of Chief Draughtsman over and above the post of Draughtsman Grade-I.

14. We will now consider the question of merger of posts in the light of the judgements of the Apex Court and the other Courts and this Tribunal relied upon by the learned counsel appearing on behalf of the applicants. We will also try to ascertain the correct factual position with regard to the designations and pay scales prevalent in various departments of the Government of India at present, and how the matters stand having regard to the recommendations made by the 5th CPC.

15. To begin with, we find that the concept of merger of posts has not been discussed at length and in all its implications in any of the judgements of the Apex Court or any other Courts or of this Tribunal placed before us by the learned counsel. Merger, according to

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dictionary meaning, implies loss of character and identity. Thus, the most obvious consequence of merger of posts is that none of the posts merged into each other remains in existence in fact or in law. A new post al-together comes into existence in the wake of merger. In the present case, the posts of senior Draughtsman and Head Draughtsman have been merged into each other, but this has been done with a difference inasmuch as, at any rate, seniority-wise the senior Draughtsmen as a group have been placed below the group enbloc of Head Draughtsmen. In the circumstances, a distinction, howsoever thin, between the said posts is apparent on the face of the arrangements made even if the merger has already taken place. The implication clearly is that those who had occupied the posts of senior Draughtsmen will be considered for promotion to the higher post of Chief Draughtsman only after the others who had been occupying the post of Head Draughtsman have been considered. Purely in Constitutional terms we do not see anything wrong in the aforesaid arrangement in that the two posts in question were not equal to each other and accordingly we cannot find fault with the ultimate arrangement made under which the unequals have been treated unequally. The learned counsel appearing on behalf of the applicants has sought to convey that the aforesaid inequality in status still continues in the form of different sets of job descriptions and duties and responsibilities attached to the aforesaid posts of Head Draughtsman and Senior Draughtsman. In order to convince ourselves that it is really so and there is substance in what the learned counsel has contended, we asked the

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learned counsel to place before us the letters/instructions issued by the respondent-authority at the time of circulation of the new/latest set of job descriptions and duties and responsibilities, if any, attached to the aforesaid posts. The learned counsel was given time for the purpose, but has not been able to produce any such letter or instruction on the subject. The job descriptions and the description of duties and responsibilities already placed on record admittedly relate to the period prior to merger of posts. We are, in the circumstances, led to the conclusion that in the post merger scenario the respondent-authority is most likely to have issued a revised set of duties and responsibilities and job description without making a distinction between the holders of the aforesaid two posts as the same stand merged into each other or they may still be in the process of doing so. The fact remains that merger in question has been carried out as a policy measure and we have no alternative but to presume that the same has been done after due consideration of the entry level qualifications, job descriptions, duties and responsibilities attached to the posts and all the other relevant matters. The matter has also been gone into by the Pay Commissions including the 5th CPC. It is, therefore, not open to us to question the policy decision taken by the Government in the light of the experience gained over the years having regard to the various considerations just outlined by us. Moreover, we have also been told that the pattern sanctified in the wake of the award given by the Board of Arbitration in respect of the CPWD has since become firmly established more or less throughout the Govt. of India. We have also

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seen that this Tribunal has, in the various decisions referred to in the preceding paragraphs, also pronounced verdicts favouring the very same pattern. The decision taken by the Govt. to implement the general recommendations made by the 5th CPC in respect of the cadre of Draughtsmen in the Government of India also conforms to the same pattern. We have, in this context, already noted that in order to implement the general recommendations made by the 5th CPC, the Government has decided to place Draughtsman Grade-II in the revised scale of Rs.5000-8000/- (pre-revised scale of Rs.1660-2600) and Draughtsman Grade-I in the revised scale of Rs.5500-9000/- (pre-revised Rs.1640-2900/-). Thus, in terms of the IVth CPC pay scale the aforesaid grades have been placed in the next higher scales without changing the pattern. The aforesaid decision also shows that Draughtsmen Grade-II have been equated with Senior Draughtsmen and Draughtsmen Grade-I with Head Draughtsmen. We are aware that the aforesaid designations of senior Draughtsman and Head Draughtsman had existed prior to the implementation of the CPWD pattern. The aforesaid GOI's decision on Vth CPC's recommendations also lays down a third category of Draughtsman though without giving it a specific designation. It has been provided that beyond the level of Draughtsman Grade-I, there will be posts in the revised grade of Rs..6500-10500/- which will be filled by Graduate Engineers. The aforesaid revised grade of Rs.6500-10500 corresponds to the pre-revised grade of Rs.2000-3200/-. Thus evidently and in clear enough terms, the G.O.I. has provided for the post of Chief Draughtsman in its final decision on Vth CPC's recommendations without specifying

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that designation. In our view, the aforesaid decision of the GOI made on the general recommendations of the Vth CPC for the cadre of Draftsmen will no doubt satisfy the demand raised by the applicants (in the present OA#) as well ~~as~~ insofar as the grant of higher pay scales is concerned without relating the same to this or that designation. We also note and do so once again that the designation of Head Draftsman stands subsumed in the general designation of Gr-I Draftsman and beyond that the available designation is that of Chief Draftsman.

16. The learned counsel appearing on behalf of the applicant has, in support of his contention that merger of posts is bad, placed reliance on the following judgements rendered by the Apex Court:-

1. Dr. C. Girijambal Vs. Government of Andhra Pradesh decided on 11th February, 1981 - (1981) 2 SCC 155,
2. State of W.B. and Others Vs. Hari Narayan Bhowal and Others decided on 16th March, 1994 - (1994) 4 SCC 78,
3. State of Tamil Nadu and Another Vs. M.R. Alagappan and Others decided on 8th April, 1997 - (1997) 4 SCC 401,
4. Bihar State Subordinate Industries Field Officers' Association Vs. Kapildeo Prasad Singh and Others decided on 10th May, 2000 - (2000) 6 SCC 507.

On a perusal of the aforesaid judgements we find that the same deal mainly with the question of equal pay for equal work and aspects related thereto. None of these deals with the question of merger of posts. In the circumstances, the applicants will not be assisted in any manner on the basis of the aforesaid decisions. On

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the limited question of unequals being treated equally by carrying out merger of posts, we cannot do better than reiterate that a policy decision taken by the Govt. cannot be questioned by us unless the same is found to be malafide or the same suffers from the vice of arbitrariness or else the same contravenes Articles 14 and 16 of the Constitution. No such contention has been successfully raised by the learned counsel. In response to the learned counsel appearing on behalf of the applicants persisting in his belief that the unequals have been treated equally by the merger of posts, we will like to point out that despite merger unequals have been treated only unequally inasmuch as the senior Draughtsmen have been placed enbloc under the Head Draughtsmen as a group in the matter of seniority. Thus viewed, Article 14 of the Constitution cannot be said to have been observed by the Govt. in breach by carrying out the aforesaid merger.

17. That merger of posts has also resulted in the chances of promotion being delayed/adversely affected both in respect of Senior Draftsmen and Head Draftsmen is also an important issue raised by the applicants. We have considered this aspect of the matter also carefully. We find no substance in the aforesaid contention either. Firstly, we notice that insofar as the Senior Draftsmen are concerned, they have also been already placed in the next higher scale of Rs.1600-2660 (pre-revised) straight-away in consequence of merger, though not by way of promotion. In the pre-merger scenario, they could be promoted to the same


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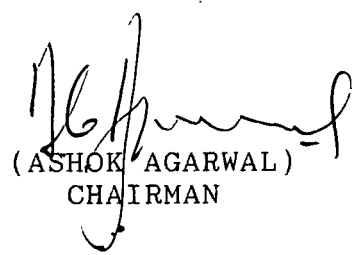
higher grade of pay on fulfilment of the prescribed conditions and only after a departmental test, and promotions would have been limited to the number of posts available in the higher grade. Furthermore, having been placed in the higher grade in consequence of merger, they (Senior Draftsmen) will get promoted to the still higher grade of Chief Draftsman in due course, after the SRO in question has been revised, though the same is likely to happen only after their erstwhile superiors (Head Draftsmen) have been considered. The chances of promotion of erstwhile Head Draftsmen are also not affected by merger in that they will still be promoted to the rank of Chief Draftsman as was the case before merger and to ensure that merger does not affect them adversely in any manner they have been given higher seniority en bloc over the Senior Draftsmen. Before the erstwhile Senior Draftsmen/Head Draftsmen are promoted further to the rank of Chief Draftsmen, the respondents are supposed to enforce a revised SRO. That act of revision is, we find, yet to be attended to by the respondents. We have no reason to conclude that they (respondents) will delay the revision of the SRO any further. We find, however, that meanwhile the decision of the Government on the Vth CPC's recommendations has become available, the details whereof have been discussed in some of the earlier paragraphs. The respondents will, no doubt, expedite the revision of the aforesaid SROs keeping in view the aforesaid recommendations and Govt's decision thereon. Be that as it may, we cannot help noting, though in passing, that the Govt's aforesaid decision places the Draftsmen

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Gr-II, Gr-I and Chief Draftsmen in still higher pre-revision scales of pay, and their further pay upgradation which has thus come about should, in our view, satisfy the cadre of Draftsmen at any rate at present.

18. For all the reasons we have outlined in the preceding paragraphs, the OA fails and is dismissed. No costs.


(S.A.T. RIZVI)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN

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