

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
.....

OA No.1214/94.

New Delhi, this the 8th day of June, 1994.

SHRI J.P. SHARMA, MEMBER(J).  
SHRI B.K. SINGH, MEMBER(A).

Shri Onkar Saroop,  
Head Draftsman,  
Department of Lighthouse and Lightship,  
Ministry of Surface Transport,  
East Block No.10, Level IV & V,  
R.K.Puram, New Delhi-110066,  
son of Shri Gopal Das,  
aged 56 years  
and resident of Lodhi Complex, New Delhi.

...Applicant

By advocate : Shri K.B.S. Rajan.

VERSUS

---

1. The Union of India, through its Secretary,  
Ministry of Surface Transport, Transport Bhawan,  
New Delhi 110011.
2. The Director General,  
Light House and Lightship, East Block No.10,  
R.K. Puram, New Delhi-110066. ...Respondents

By advocate : None.

ORDER (ORAL)

---

It appears that the applicant had already filed OA-1424/91 which came before the Principal Bench and was disposed of by the Order dated 23.12.92 on the basis of a decision of the case of MOHAN LAL BISWAS v. UNION OF INDIA & OTHERS in which it was directed that the petitioner of that case be given benefit as was given to Shri Sharma. In the case of Shri Sharma, the Tribunal held that the qualifications for draftsman in the CPWD are similar to the qualifications of Shri Sharma and, therefore, the benefit was given to him. In view of this, the respondents were directed to accord the present applicant the benefit of revised pay scale of Rs.550-750 and thereafter the replacement of this scale of the Fourth Pay Commission

from 1.1.1986 in the scale of Rs.1600-2660 fixing his pay on 1.1.1986 as Rs.2,200. It appears that on 29.6.93, the applicant was promoted as Head Draftsman which also carries the same scale as recommended by the Fourth Pay Commission, i.e., Rs.1600-2660. Here, it may be recalled that before the benefit of the judgment, the applicant was working in the pre-revised scale of Rs.425-700 and the replacement scale of the Fourth Pay Commission is Rs.1400-2300. In this application, the applicant has prayed for the relief that since the post of Head Draftsman is a promotional post, it appears unfair that both the feeder post and the promotional post should be in the same time scale of pay. He has, therefore, sought a direction that the pay scale for the post of Head Draftsman be revised to the scale of Rs.2000-3200 at least from the date when the applicant took over charge of that post w.e.f. 30.6.1993.

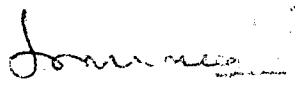
2. We have heard the learned counsel at length. The contention of the learned counsel is that he has chosen this forum for getting justice for higher pay scale and this fact cannot be disputed. But the likely result of entertaining this application would be to tinker with the recommendations of the Fourth Pay Commission at a time when the pay scales recommended by the Fourth Pay Commission are under revision by a duly notified Fifth Pay Commission which has already started functioning. In the case of STATE OF U.P. v. J.P. CHOURASIA reported in AIR 1989 SC p.19, the Hon'ble Supreme Court while deciding the case of Private Secretaries of the High Court of Allahabad observed that it is for the expert bodies to find out the equivalence of pay and post and the courts should not tinker with the pay already fixed and in force when there is <sup>no</sup> ~~an~~ arbitrariness or something evident which justify an interference. We are not rejecting the claim of the applicant on merit but we are refraining to entertain this application because the applicant can approach, through proper channel, to the Fifth

Pay Commission by making a representation through the department highlighting his grievance. If the applicant, ultimately, does not succeed, then it shall be open to him to agitate the same in judicial review.

3. It is also because of the fact that when earlier he has prayed for revision of the pay scale of Third Pay Commission from Rs.425-750 to that which was allowed by the Tribunal to Rs.550-750, then on a request should have also been made to revise the pay scale of the promotional post also. The applicant, therefore, cannot take it granted that the moment he is promoted to the higher post, he would assail the grievance at that time. This fact appears to have not been placed before the Tribunal in the earlier O.A. by either of the parties as it appears inequitable that the pay scale of the feeder as well as of the promotional post could be the same. The applicant has also placed reliance on the case of N. PRABHAKARAN.

4. In view of this, the present application is disposed of as not maintainable with the liberty to the applicant to approach the Fifth pay Commission through the proper channel for redress of his grievance, according to law.

  
(B.K.SINGH)  
MEMBER(A)

  
(J.P.SHARMA)  
MEMBER(J)

'KALRA'