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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

RA 245/2001  
in  
OA 855/2000

New Delhi this the 3rd day of October, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).  
Hon'ble Shri Govindan S. Tampi, Member(A).

In the matter of:

1. Kishan Chand Sharma,  
S/o Shri Amar Singh  
Vill-Devli, PO Asaoti,  
Distt- Faridabad,  
Tehsil - Palwal,  
Haryana 121 002.
2. Shiv Raj Vats,  
S/o Shri Bhagwan Sarup,  
Vill & PO - Basai,  
Distt. Gurgaon  
Haryana - 122 001.
3. Virender Pal Singh,  
S/o Shri Prem Singh,  
C-39, Inderpuri,  
New Delhi-12.
4. Nilip Kumar Minj,  
S/o Shri Augustus Mini,  
R/o H-297, Nanak Pura,  
Moti Bagh,  
New Delhi-21.
5. Mahesh Kumar,  
S/o Shri Ramswarup,  
R/o V-161, Arivend Nagar,  
Ghonda,  
Delhi-53.

... Review Applicants.

(By Advocate Shri K.B.S. Rajan)

B.S.

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Versus

- 1. Union of India, through  
Secretary,  
Ministry of Railways,  
Rail Bhawan,  
New Delhi.
- 2. The Chairman,  
Railway Board,  
Rail Bhawan,  
New Delhi.

... Respondents.

(By Advocate Shri Rajinder Khatter)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

This Review Application has been filed by the applicants in O.A. 855/2000 in pursuance of the order of the Hon'ble Delhi High Court dated 14.2.2002 in CWP 6490/2001. The relevant portion of the Hon'ble High Court's order reads as follows:

"Having heard the learned counsel for the petitioner, we are of the opinion that no case has been made out for grant of scale of pay as prayed for by the petitioners herein on the basis of equal pay for equal work. However, it appears from the contention of the learned counsel for the petitioner that the petitioner had not been granted the replacement scheme of Rs.5000/- - Rs.8000/- had not been dealt with by the Tribunal. Although the petitioners herein had filed application for review, it appears, the learned Tribunal had not considered this aspect of the matter. Therefore, while upholding the other part of the judgement we are of the opinion that the learned Tribunal may consider the grievances of the petitioner to the afore-mentioned limited

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extent. For the said reasons, the Order dated 6th August, 2001 passed in Review Application No. 245/2001 is set aside and the learned Tribunal is requested to consider the afore-mentioned question afresh".

2. Both Shri K.B.S. Rajan, learned counsel for the applicants and Shri Rajinder Khatter, learned counsel for the respondents have submitted that in the aforesaid order of the Hon'ble High Court the word 'scheme' should be read as scale. They have further submitted that there would be no necessity to obtain clarification on this point as the word 'scheme' can only be read as 'scale' in the context of the replacement scale of Rs.5000-8000 which has been held by the Hon'ble High Court as having not been dealt with by the Tribunal.

3. Noting the above submissions of the learned counsel for the parties, we have proceeded to hear them on the limited point which has been referred to us for reconsideration ~~afresh~~ i.e. with regard to the claim of the applicants for grant of the replacement scale of Rs.5000-8000 following the recommendations of the 5th Central Pay Commission when their admitted pre-revised pay scale was Rs.1400-2300.

4. Shri K.B.S. Rajan, learned counsel for the applicants has referred to a portion of para 5.7 of the O.A. with regard to the aforesaid claim. That portion reads as follows:

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"The claim of the applicants is bifurcated into two portions as hereunder:

(a) Whereas original pay scale in the level of Draftsmen Gde B should be Rs.1400-2300, at par with Draftsmen Gde II of the CFWD and consequently, their pay scale in the level of Draftsmen Gde A should be Rs.1600-2660.

(b) Once their pay scales are revised as in (a) above, w.e.f. 1.1.1996, the pay scale should have been Rs.5000-8000 for Rs.1400-2300".

According to him, right from the 3rd Central Pay Commission when the pre-revised pay scale was Rs.425-700 and the 4th Central Pay Commission when the pay scale was Rs.1400-2300, the replacement pay scales have been granted to the applicants on par with the Draftsmen Grade-II working in Zonal Railways. The applicants are working in Railway Board as Draftsmen Grade 'A'. Learned counsel for the applicants has submitted that the action of the respondents in not granting similar pay scale to the applicants consequent to the recommendations of the 5th Central Pay Commission i.e. Rs.5000-8000 is arbitrary and illegal. He has, therefore, submitted that the respondents cannot equate the technical staff like the Draftsmen with the non-technical staff in Secretariat services. This submission has not been rebutted by the respondents. Apart from that, it cannot be disputed that a Draftsman whether in Railway Board office or in Zonal Railways is performing the duties of <sup>a</sup> technical nature.

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5. On the other hand, the main contention of learned counsel for the respondents is that the duties and responsibilities of the aforesaid posts of Draftsmen i.e. in Zonal Railways and Railway Board are different. He has also emphasised that the mode of recruitment as well as qualifications for consideration for recruitment and/or promotion to the post of Draftsmen Grade-II in Zonal Railways are higher than that what is prescribed in the rules for Draftsmen Grade 'A' in Railway Board. According to him, the applicants have been given the revised pay scale on par with the other non-technical staff in Railway Board i.e. those getting Rs.1400-2300 were given the revised pay scale of Rs.4500-7000. He has submitted that it is settled law that the applicants cannot, therefore, claim parity of the revised pay scale with Draftsmen Grade-II in Zonal Railways as their qualifications for recruitment/promotion and duties and responsibilities are not the same.

6. We have carefully considered the submissions of the learned counsel for the parties and perused the relevant documents on record, including the written submissions made on behalf of the respondents in the O.A. on the point referred to by the Hon'ble High Court.

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7. In the 3rd Central Pay Commission with regard to the recommendations with reference to the revised pay scale of the Draftsmen, our attention has been drawn to Para 80. The relevant portion of this paragraph reads as follows:

"...We recommend that draftsmen should be assigned the following revised scales and should satisfy the qualification requirements noted against each for purposes of direct recruitment.

Level	Proposed scale (Rs.)	Qualifications for direct recruitment
I & II.	x x x x x	
III.	425-700	Matric plus 3 year diploma in engineering or its equivalent.

The relevant recommendations of the 5th Central Pay Commission with regard to the Draftsmen Grade-II read as follows:

"v) There should be uniformity in designations and pay scales. We recommend the following:

Existing Designation	Existing Pay Scale	Revised Designation	Revised Pay Scale	Direct Recruitment Qualification
Draftsman Grade III	1200-2040	Draftsman Grade II	1320-2040	Matric + 2 yrs' Diploma in draftsmanship or equivalent.
Draftsman Grade II/ Senior Draftsman	1400-2300	Draftsman Grade II	1600-2660	Matric or 10+2+ Diploma in Engineering or equivalent.

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8. Taking into account the above recommendations of the subsequent replacement scale accorded to the Draftsmen Grade-II by the Govt. of India i.e. Rs.425-700 revised to Rs.1400-2300, we see force in the submissions made by Shri K.B.S. Rajan, learned counsel that the expert bodies like the 3rd and 4th Central Pay Commissions have considered the qualifications possessed by these persons for direct recruitment as either the same or similar i.e. Matric or 10 + 2 + Diploma in Engineering or equivalent. It is not disputed by the respondents that till the recommendations of the 5th Central Pay Commission, Draftsmen Grade-II/Draftsmen Grade 'A' in Zonal Railways and Railway Board, respectively, were getting the same pay scale i.e. revised pay scale of Rs.1400-2300. However, the disparity in the pay scale has crept in after the recommendations of the 5th Central Pay Commission. In this connection, we also see force in the submissions made by Shri K.B.S. Rajan, learned counsel, that when the qualifications for direct recruitment as they existed previously have already been equated, excepting the same revised pay scale for these two categories of persons, the question would arise whether after the 5th Central Pay Commission, they can make distinction based on the qualifications required for direct recruitment in the lower pay scales as has been done by the respondents presently.

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9. It is also relevant to note that in both the cases it is by promotion i.e. 100% by promotion in the case of Draftsmen working in Railway Board and 80% by promotion in the case of Draftsmen working in Zonal Railways plus 20% by direct recruitment. It is, therefore, necessary for the respondents to have compared the qualifications for promotion to these two categories and posts under the same Ministry in Zonal Railways and Railway Board taking into account the aforesaid facts and the recommendations of the Central Pay Commissions. Nothing has been brought on record to show that the duties and responsibilities of the Draftsmen Grade 'A' and Draftsman Grade-II in their respective organisations under the Railway Administration are different. For this, Shri Rajinder Khatter, learned counsel had sought some time but taking into account the facts and circumstances of the case and having regard to the aforesaid order of the Hon'ble Delhi High Court remitting the case for consideration of this specific issue, it was for the respondents to have placed any further documents on record which they have not done. In the above view of the matter, we consider that there appears to be an anomaly in the matter of fixation of pay of Draftsmen i.e. replacement scale given to Draftsmen Grade 'A' in Railway Board vis-a-vis Draftsmen Grade-II in Zonal Railways. It is also relevant to note that according to the learned counsel for

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the applicants, the Draftsman in these two categories are doing the same duties and discharging the same responsibilities. As already mentioned above, we also find that there is similarity in their eligibility conditions for promotion purposes, including their basic pay at the lower level which is a matter which should, therefore, be reconsidered by the respondents.

9. In view of the above, the order dated 6.8.2001 in RA 245/2001 in OA 855/2000 is recalled. As we have also now reheard the limited question referred to us by the Hon'ble High Court on merits in furtherance of the order dated 14.2.2002, on the question of the claim of the applicants for the replacement scale of Rs.5000-8000, the O.A. partly succeeds and is allowed with the following directions:

(a) The respondents shall constitute an Anamolies Committee of <sup>three 13</sup> <sub>2</sub> officers not below the rank of Joint Secretary, including one from the Ministry of Finance, to reconsider the claims of the applicants/Draftsmen Grade-A in Railway Board;

(b) The applicants may nominate one person from <sup>among</sup> <sub>2</sub> them who may be granted a reasonable opportunity of hearing by the aforesaid Committee before taking a final decision in the matter;

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(c) The aforesaid Committee shall take into consideration the observations made above and the relevant provisions of law, rules and instructions, including the mode of recruitment, nature of duties and responsibilities of Draftsmen Grade 'A' and Draftsmen Grade-II in Zonal Railways and Railway Board and also the earlier position as existing till the recommendations of the 4th Central Pay Commission were implemented;

(d) Necessary action as above shall be taken within four months from the date of receipt of a copy of this order, with intimation to the applicants. In case the claim of the applicants is not upheld, the Committee should submit a detail report supported with the reasons for their decision and the relevant rules and instructions.

No order as to costs.

(Govindan S. Tampi)  
Member (A)

SRD

(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)