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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2315/2000

New Delhi this the 15th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. CPWD Engineers Association  
through Its General Secretary  
Shri N.M.Moitra  
Y-shaped Building, IP Bhawan  
New Delhi.

2. PR Charan Babu  
Asstt. Engineer (Civil), Jt. Secy  
CPWD Engineers Association  
111/M, Arambagh  
New Delhi-110055.

... Applicants

( By Shri G.K. Aggarwal, Advocate)

-versus-

1. Union of India through  
Ministry of Urban Development &  
Poverty Alleviation  
Nirman Bhawan  
New Delhi-110011.
2. The Secretary  
Department of Personnel & Training  
North Block  
New Delhi-110001.
3. The Secretary  
Deptt.of Expenditure  
Ministry of Finance  
North Block  
New Delhi-110001.

... Respondents

(By Shri Madhav Panikar, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal:-

Applicant No.1 is an association of CPWD Engineers and applicant No.2 is an Assistant Engineer (Civil) in CPWD. By the present OA they have made the following prayer:-

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(7)

"declare and order that all Assistant Engineers (Civil and Electrical) in or under Central Public Works Department in Central Engineering (Civil) Group 'B' Service and Central Engineering (Electrical & Mechanical) Group 'B' Service, shall be in pay scale not lower than Rs.7500-12000 effective 01.01.1996 and Rs.2375-3750 since 30.07.1993 till 31.12.1995, with arrears and all consequential benefits, grant any other relief with costs."

In other words, they claim pay scale of Rs.2375-3750 during the period 30.7.1993 to 31.12.1995 and pay scale of Rs.7500-12000 effective from 1.1.1996.

2. Prior to 9.8.1999 when the Assured Career Progression Scheme was introduced, following pay scales had been fixed for the posts of Junior Engineer and Assistant Engineer:-

"Junior Engineers

Rs.5500-9000  
(after 5 years)  
Rs.6500-10,500  
(after 15 years)

Assistant Engineers

Rs.6500-10,500  
(for 50% posts)  
Rs.7500-12000  
(for 50% posts)"

3. As far as the aforesaid pay scales are concerned, it is the contention of the applicants that the post of Junior Engineer is a feeder cadre to that of Assistant Engineer. The pay scale of Assistant Engineer has to be higher than the highest pay scale of the feeder cadre. In the instant case, the pay scale of the Assistant Engineer of Rs.6500-10,500 is the same as that of highest pay scale of the feeder cadre of Junior Engineer namely Rs.6500-10,500. A prayer is accordingly made to direct the respondents to fix a higher pay scale for the post of Assistant

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Engineer. In support of the claim, reliance is placed on a decision of the Hyderabad Bench of the Central Administrative Tribunal in the case of M.J.Kurian & others v. Secretary, Ministry of Defence & another in OA No. 1746/1997 decided on 20.4.1999 where on facts similar to ~~the case~~ arising in the present case, respondents were directed to fix higher pay scale for the promotional posts than what was fixed for the feeder cadre.

4. The Government of India, Ministry of Urban Development by its Office Memorandum dated 27.10.1999 had introduced Assured Career Progression Scheme which had been brought into force with effect from 9.8.1999. Under the aforesaid scheme, a pay scale of Rs.5000-8000 has been fixed for all Junior Engineers. A pay scale of Rs.6500-10,500 is fixed for officers having put in 12 years of service and Rs.10,000-15,200 for officers who had put in 24 years of service. In respect of the aforesaid Assured Career Progression Scheme, it is the contention of the applicants that the pay scale of Group 'B' service i.e. Assistant Engineers is required to be higher than that of Group 'C' posts in the same organisation, even <sup>though</sup> ~~if~~ the same be not a feeder grade for Group 'B' posts. Hence the lowest pay scale of any other Group 'B' post ought to be higher than the highest pay scale for any Group 'C' post in that department. The pay scale for Group 'C' service in respect of Chief Estimator and Architectural Assistant in the same department is Rs.6500-10,500. Therefore, the lowest pay scale to

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any and every Group 'B' service in CPWD ought to be Rs.7500-12000 (pre-revised Rs.2375-3750). In support of the aforesaid claim, reliance is placed on a decision of the Principal Bench in the case of Northern Railway Class II Officers Association v. Union of India & others in OA No.731/1987 decided on 30.7.1993 at Annexure A/7 collectively.

5. Shri Madhav Panikar, the learned counsel appearing on behalf of the respondents, has resisted the aforesaid claim of the applicants by contending that the claim for revision of pay scales during the period 30.7.1993 to 31.12.1995 is hopelessly barred by limitation. Applicants are, therefore, not entitled to the relief claimed. He has further pointed out that under the Assured Career Progression Scheme all stipulations made in the former scheme would cease to operate and the Assured Career Progression Scheme has to be adopted in totality. In the circumstances, the aforesaid <sup>claim</sup> ~~scheme~~ for the aforesaid period 30.7.1993 to 31.12.1995 will no longer survive.

6. Shri Panikar has further pointed out the decision of the Ministry of Finance, Department of Expenditure which has advised as under:-

"In view of the foregoing facts, it may be clear that the pay scale of these posts should not have been referred to the Departmental Anomalies Committee. Even otherwise, the proposal is not justified on merits. Any special dispensation only in the case of CPWD Personnel will also necessarily have to be extended to all other similarly placed personnel spread over a number of departments of the Central Government. This might also necessitate reopening of a number of other cases where the

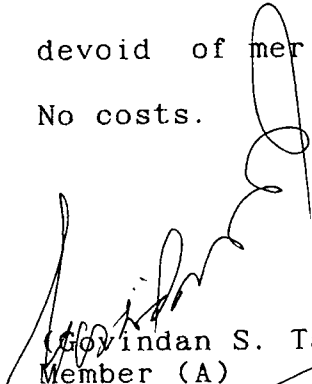
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earlier parties and relativities had only been consciously disturbed by the Fifth Central Pay Commission on valid and justifiable considerations. There are also no extenuating circumstances that might warrant any change in the decision which had already been taken by the Department in this regard. It has, therefore, been decided not to accept the recommendation of the Departmental Anomalies Committee in respect of the pay scale of the posts of Assistant Engineer, Asstt. Director (Horticulture) and Technical Officers in the CPWD."

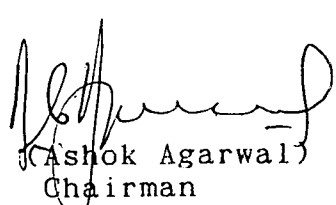
As far as the judgements relied upon on behalf of the ~~respondents~~ <sup>applicants</sup> are concerned, Shri Panikar has pointed out that the same were prior to 9.8.1999 and did not consider a situation arising after the Assured Career Progression Scheme had been brought into force.

7. We have considered the rival contentions at considerable length and are constrained to hold that no relief as claimed in the present OA can be granted. Fixation of pay scales is a matter which is best left to the Pay Commissions which are expert bodies. The same should not be undertaken by the courts and Tribunals. This has been held by the Supreme Court time and again. (see Union of India and another v. P.V.Hariharan and another, (1997) 3 SCC 568).

8. Present OA in the circumstances we find is devoid of merit. The same is accordingly dismissed. No costs.

  
(Govindan S. Tampi)  
Member (A)

/sns/

  
(Ashok Agarwal)  
Chairman