

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

(13)

OA NO. 682/2000

New Delhi, this...¹¹... day of ^{May} ~~April~~ 2001.

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

1. N.K. Nagia,
Senior Artist, Map Division,
Office of the Registrar General, India,
2-A, Man Singh Road, New Delhi.
2. S.K. Verma,
Senior Artist, Map Division,
Office of the Registrar General, India,
2-A Man Singh Road,
New Delhi.

.....Applicants.

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

Versus

1. Union of India,
Through the Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Registrar General, India,
Office of the Registrar General of India,
2-A Man Singh Road,
New Delhi.

.....Respondents.

(By Shri J.B. Mudgil with Sh. P.P. Rathna, Advocates)

O R D E R

By Shri Govindan S. Tampi, Hon'ble Member (A)

M.A. No. 890/2000 of joining is allowed.

2. The main reliefs sought in this application are as below:

(a) to quash and set aside the order dated 8.2.2000 (Annexure 1) and to declare that the prescription dated 26.4.1991 in the Arbitration Award 10/91 (Annexure 5) is arbitrary.

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(b) to further hold that the provisions of order dated 19.10.1984 which prescribes experience in view of qualifications for the benefit of revised pay scale is not applicable in the case of applicants inasmuch as per the Arbitration Award, their qualifications are comparable with those of Draughtsman Gde I in the CPWD;

(c) to hold that the recruitment qualifications for the post of Artist being comparable to those of Draughtsman Gde I in the CPWD, the provisions of Government of India, Ministry of Finance, O.M. dated 13.3.1984 could apply to the applicants, more so when order dated 16.10.1997 specifically makes a reference of the said date 1.11.1983 which is as contained in [order dated 13.3.1984.

(d) to direct the respondent No.2 to fix the pay of the applicants in the grade of Rs.550-750 w.e.f. 13.5.1982 and fix the pay in the revised pay scale of Rs.1600-2660 in accordance with O.M. dated 13.3.1984;

(e) to direct the respondents to work out the arrears payable consequent to the fixation of pay in the revised pay scale as in (d) above;

(f) to direct the respondents to pay the aforesaid arrears along with interest and

(g) to order costs.

2. Relevant facts as brought out in the pleadings, duly reiterated in the oral as well as written submissions by Shri K.B.S. Rajan learned counsel for applicants, are that the applicants are working with the Registrar General of India as

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Senior Artist carrying pay scale of Rs..1400-2300/- which earlier stood at Rs..425 - 700/-. In terms of Ministry of Finance, Deptt. of Expenditure OM No. F.5(59)E-III/82 dated 13.3.1984 Draughtmen in other departments were brought on par with those in CPWD and were granted the pay scale of Rs.550-750/-, if the qualifications were comparable . The qualifications of Draughtsmen Grade I in CPWD on the one hand and those of Artist/ Senior Draftsmen in RGI were comparable . Still the revised pay scales were not extended to the applicants leading to arbitration proceedings under JCM Scheme, which held that the applicants were equal to the Draughtsmen Grade I in CPWD and as such entitled for the revised scale of Rs.550-750/- but effective from 26.4.91, the date of reference to the Arbitration. This had only helped the fresh recruits, as they got the benefit of the higher scale of Rs.1600-2600/- and not the applicants. Subsequently, on 19.10.1994, the Ministry of Finance, Department of Expenditure issued another OM No. 13(1)IC/91, substituting the experience criterion of 4 years service in Grade 1400-2300, for the qualification criterion of March 1984. This was extended by the respondents to their employees on 21.6.95 and revised pay scales were granted on 16.10.97 to the applicants w.e.f. November and December 1986, when they completed four years. This has caused severe prejudice to them, as their having been declared as equal in academic qualifications to those in CPWD, they should have been given the higher scale in terms of Government's OM of March 1984, w.e.f. 1.11.83, instead of in terms of Government's OM of October 1994. This also has placed them at a disadvantage vis-a-vis who joined on a much later date but were given the refixation from the date of their initial appointment. This was an artificial and arbitrary distinction. The applicants repeated representation have been rejected by the impugned

letter dated 8.2.2000, which reiterated that in the case of Sr. Draughtsmen Artists who were in position before 26.4.91, revised scales would be applicable on their completing the requisite service, while in the case of fresh recruits the benefit would be available from the date of their first appointment itself. According to Shri Rajan, learned counsel, as the applicants were correctly entitled for the revised pay scale, w.e.f. 1.11.1983, in terms of Ministry of Finance OM dated 13.3.1984, keeping in mind the parity in their qualification with the Draughtsmen Grade I of CPWD more so on account of the decision of the Hon'ble Supreme Court in the case of Debasish Kar 1995(Supp 3) SCC 528, there was no reason to restrict it only from 26.4.1993 which was an arbitrary and illegal restriction as the award did not create any right per se but only established an existing right.

3. In the reply filed on behalf the respondents by Shri Gajendar Giri, duly reiterated during hearing by S/ Shri J. B. Mudgil and P P Ralhan, learned counsel it is pointed out that the application was hit by limitation. According to them, following the receipt of Finance Ministry's OM No. 5(59)/E.III/82 dated 13.3.84 the matter was examined in the office of RGI, the respondent when it was found that the Draughtsmen, the Senior Draughtsmen in their organisation were not at par with Draughtsmen Grade II and I in CPWD, either in terms of entry qualification or in experience. However, as the Staff side had raised the demand for parity the matter was placed before the Arbitration Board which gave its findings on 21.9.93 with direction that the pay scales of Draughtsmen, Artist/ Senior Draughtsmen working in the respondents organisation be brought at par with Draughtsmen Grade II and I of CPWD but with effect from 26.4.91 when the dispute was referred. This has been duly given effect to by

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the respondents OM dated 31.5.94. Following receipt of Finance Ministry OM dated 19.10.94 the benefit of revision was granted by the respondents in their subordinate offices on 21.6.95. The matter was thereafter referred to Ministry of Finance and on receipt of their clarification respondents issued the letter dated 8.2.2000 that in respect of incumbents in position before 26.4.91, benefit of revised scale would be available on completion of requisite period and in respect of others who joined on 26.4.91 or after, from the date of their appointment. Respondents point out that the stand taken by the applicants have no basis at all. Besides the arbitration award, has been accepted by the respondent in full and the applicants cannot argue that they would accept only what they consider to be acceptable and bind the respondents to such a demand. The O.A. therefore, deserves to be rejected, plead the learned counsel for the respondents.

4. In his written submission Shri Rajan learned counsel, pleaded that the contents of Arbitration Award under JCM scheme could be challenged and successfully too as is shown in the case of M.V. Ravindranath & Others Vs UOI & Others (2000) 10 SCC 474 as well as Union of India Vs Shanti Ram Ghosh (1989) Supp 1 SCC 68. He has also averred that plea of limitation raised on behalf of the respondents had no basis as the issue involved was a continuing cause of action and though the matter was under consideration for long the final disposal came only by the impugned order dated 8.2.2000 and therefore the application having been filed soon thereafter was well within the period of limitation. Other decision relied upon by the learned counsel included

- i) S.S. Rathore Vs State of M.P. 1989 (4) SCC 482
- ii) M.R. Gupta Vs UOI (1995) SCC 628 and

iii) B. Kumar Vs UOI 1988 (7) SLR 462 Delhi.

According to the learned counsel the challenge in the OA was limited. As the Arbitration Award held that the higher pay Scale of Rs. 550-750/- (revised to Rs.1600-2660/-) was available to Sr. Draughtsmen in the respondents Office at par with those in CPWD, there was no reason it could not have been granted from November 1983, itself. Fixation ~~fixation~~ of the date 26.4.91, for giving effect to the award was artificial, arbitrary and discriminately.

5. We have carefully deliberated on the rival contention and perused the records placed before us. Respondents have raised a preliminary objection that the application is hit by limitation, as according to them, the applicants are agitating matters which have taken place years ago. The same is fiercely contested by the applicants. Having examined the issue we are convinced that the preliminary objection is devoid of any merit. The issue under dispute relates to fixation of pay and allowances, a continuous cause of action, as clearly held by the Hon'ble Supreme Court in M.R. Gupta's case (Supra) correctly relied upon by the applicant. Besides, though the issue related to revision of pay scales in terms of Ministry of Finance OMs of March 1984 and October 1994, applicants have been making representations against the manner of adoption of OMs and the respondents have disposed them of, though without specifically making any reference, to them, in their communication dated 8.2.2000. Applicants plea that the limitation should be computed from that date as laid down in O.A. No. 194/1986 (Supra) filed by Sh. B. Kumar, by the Principal Bench of the Tribunal is correct and endorsed.

6. Coming to the merits of the O.A. we find that the challenge boils down to a single issue i.e. date on which the revised pay scales became effective i.e. October 1983 as the applicants urge or 26.4.91 as the respondents contend. According to the applicants their case was clearly covered by the Finance Ministry 's OA No. F.5(59) E.III/82 of 13.3.84, as they were at par with the Draughtsmen Grade I of CPWD and were therefore correctly entitled to the revised scale of Rs. 550-750/- from October 83 itself. The fact, however is that equivalence in academic qualification and experience between the applicants on the one hand and Draughtsmen Grade I of CPWD is not recognised by the respondents organisation , who have specifically shown that in both the above aspects, the applicants are not equally placed as those in CPWD. Therefore they had not agreed for any revision in Scales for the applicant following OM of 13.3.84. However, subsequent to the reference to the Board of Arbitration, the latter had declared on 20.1.93 that "the pay scales of Draughtsmen and Artists/Senior Draughtsmen working the office of RGI be revised and brought at par with the pay scales of Draughtsmen Grade II & I respectively in the CPWD w.e.f. 26.4.91, the date of recording of disagreement". This decision of the Board has been accepted and implemented by the respondents in toto. Obviously therefore no case exists for any deviation from the above. When the Board of Arbitration, has fully examined the reference made to it and given a verdict, it is not normally open for one of the parties to state that they would only accept the award conditional and in part. While we appreciate that the award by the Board of Arbitration also can be a matter of judicial review, as brought out in the decisions in the cases of M.U. Ravindranath of this Tribunal in Ravindranath's and in Shanti Ram Ghosh's (Supra) case referred to by the applicants, we are not convinced that the present

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award of the Board of arbitration suffers from any infinity so as to warrant any interference by us. Board of Arbitration has correctly settled the dispute, and fixed the date from which it was to be effective. There cannot in law, be any quarrel with the said decision. The main ground on which the applicants seek to assail the decision of the respondents is that this dispensation has benefited the juniors more as they were given the revised scale from the date of their appointment vis-a-vis the applicant's who were given the benefit only completion of requisite period. Nothing turns on this objection as it is common knowledge that in any pay revision, juniors in a particular scale drawing lesser pay stand to gain higher benefits by way of difference in emoluments as compared to seniors in the same grade drawing higher pay who would be getting lesser increase in emoluments. This does not vitiate the scheme of revision. Applicants, having been given the benefit of revision by the Board of Arbitration cannot fault the award on the above ground. No case in law has been made out calling for interference in the matter.

7. In the result the application fails and is dismissed as being devoid of merit.

No costs.

(Govindan S. Tampi)
Member (A)

Patwal/

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (A)