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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 855/2000

New Delhi, this the ~~25~~²⁴ day of April, 2001

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

1. Kishan Chand Sharma,
S/o Sh. Amar Singh
Vill: Devli, PO: Asaoti,
Distt. Faridabad,
Tehsil Palwal, Haryana.
2. Shiv Raj Vats,
S/o Sh. Bhagwan Sarup,
Vill & PO: Basai, Distt. Gurgaon.
3. Virendar Pal Singh,
S/o Sh. Prem Singh,
C-39, Inderpuri,
New Delhi.
4. Nilip Kumar Minj,
S/o Sh. Augustus Mini,
R/o H-297 Nanakpura,
Moti Bag, New Delhi.
5. Mahesh Kumar,
S/o Sh. Ramswarup, R/O V-161, Arivend Ngr,
Ghonda, Delhi.

.....Applicants

(By Shri KBS Rajan, Advocate)

V E R S U S

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

.....Respondents

(By Shri Rajendar Khattar, Advocate)

O R D E R

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

Following are the reliefs prayed for in this
OA by Kishan Chand Sharma and 4 other applicants:

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13

a) it may be held that the applicants admittedly being Drawing Staff are entitled to pay parity at par with the Draftsmen of comparable level of Central Ministries. In other words, the benefit of order dated 13.3.1984 (Annexure 4) should be available to the applicants as well in which event in the post of Draftsmen Grade B their pay scale in the pre-revised scale is Rs. 1400-2300/-. Again, on their revision as Draftsmen Grade A their pay scale should be Rs.1600-2660.

b) once the above revised pay scales are made available to the applicants, it may be held that they are entitled to the revised pay scale as per the revised Pay Rules, 1997 w.e.f. 1.1.1996 in the scale of Rs.5500-9000 in respect of Draftsmen Grade A,

c) it may further be held that the applicants are entitled to arrears of pay and allowances on account of (a) and (b) above including interest;

d) the respondents be directed to accord the petitioners the aforesaid pay scale of Rs. 1400-2300 during their tenure as Draftsmen Grade B and at Rs.1600-2660 in their Draftsmen Grade A and correspondingly replacement scale of Rs.5500-9000 w.e.f. 1.1.1996 and pay the arrears of pay and allowances with interest within a stipulated time frame;

e) it may also be held that the applicants do fall under the category of Drawing Staff consequent to which the replacement scale as available for the

h2

general category is not applicable to them whereas that which is available for other Drawing Staff is applicable to the applicants;

f) the applicants may be awarded the cost payable by the respondents; and

g) other suitable order/s as deemed fit also be passed.

2. Heard counsel for the applicant and the respondents. The facts ^{of} ~~the~~ the case, as brought out in the pleadings, arguments raised orally and re-iterated in written submissions by Shri K V S Rajan, learned counsel for applicants are, that the applicants who joined the respondents as Draftsmen Grade B in the pay scale of Rs. 1200-2040/- in 1991, are working as Draftsmen Grade -A since 1994, in the pay scale of Rs. 1400-2300/-, the post in which they have ^{also} been regularised in 1997. Though functionally there is no distinction between them, Draftsmen working in Zonal Railways are considered as Field Staff while those in Railway Board like the applicants are treated at par with their counter parts in other Ministries. CPWD has been always considered as the nodal body, While examining the pay structure of the Draftsman, through all the five Pay Commissions, Third Pay Commission pay scales of Draftsman in CPWD of Rs.260-430/- (Grade III), Rs.330-560/- (Grade III) and Rs.425-700/- (Grade III) were modified to Rs. 330-560/-, Rs. 425-700/- and 550-750 respectively by an Arbitration Award. This was extended to Draftsmen in other Ministries also by Deptt. of Expenditure OM

(15)

No. 7 (59)-E.III/82 dated 13-3-84 provided their entry qualifications are similar to the Draftsman in CPWD. This was amended by OM No.13 (1)1C/91 dated 19-10-94, whereunder, Draftsman III with 7 years, Draftsman II with 5 years and Draftsman I with 4 years were given the benefit of the higher scales. These were adopted notionally from 13.5.82 and actually from 1.11.83. However, these were not extended to these like applicants. With the result, they remained in Grade B in 1991 at Rs. 1200-2040/- and in Grade A in 1994 at Rs. 1400-2300/-. This issue was determined in 1995 by the Hon'ble Supreme Court in Union of India Vs Devashish Kar (1195 Supp 3 SCC- 528). Leading to parity to Draftsman everywhere with those in CPWD, on the basis of completing the requisite period of service. In view of the above, the applicants were entitled to get the benefit of the revision either way. Tracers, Draftsman 'B', Draftsman 'A' of the Railways had the same pay scale of Draftsman III, II and I of CPWD, while Sr. Draftsman of Railway had a higher grade than Chief Estimator of CPWD. Still keeping in mind the parity in qualification and the decision of the Supreme Court in the case of Devashish Kar (supra), Draftsmen Grade B of Railways were to be treated as comparable to Draftsmen Grade II of CPWD & others and their pay scale deserved to be accordingly revised to Rs. 1400-2300/-. Applicants' representation for getting the above benefit as well as parity with Draftsman in Zonal Railways was negatived by the Railway Board on 15-3-99. Finally by the impugned order dated 28.2.2000, Railway Board indicated that the Draftsmen working with them, having had the advantage of restructuring and as such were

b

enjoying more benefits and, therefore, the benefit from arbitration award could not be extended to them. Further, as certain stipulations in Vth Pay Commission's recommendations were not fulfilled, they could also not been given the replacement scale of Drawing Staff. Shri Rajan, learned counsel for the applicants, points out that the benefit of OM dated 13-3-84 has been wrongly denied to them and they were only given the normal replacement scale of Rs. 4500-7000. The requisite qualification of Draftsman 'B' of Railways being the same as Draftsman II in CPWD & others, the same scale should have been extended to them as well. On the basis of OM dated 13-3-84. Railway Board has treated its Draftsmen of the Railway Board as distinct from those in the Zonal Railways. And, therefore, they had to be treated at par with Draftsmen of other ministries. The applicants were not given correct replacement scale of Rs. 5000-8000/- but were only placed in pay scale of Rs. 4500-7000/-. Applicants, therefore, claim that where original pay scales of Draftsmen Grade B at par with Draftsmen Grade-II stood at Rs. 1400-2300/- their scale in Gr. A should be Rs. 1600-2660/- and once the same is accepted, ^{they} become ^{entitled to} automatically, Rs. 5000-8000/- and Rs. 5500-9000/- respectively. Shri Rajan also avers that in almost all cases the pay scale of Rs. 1400-2300/- has been replaced by the grade of Rs. 5000-8000/-, which was not done in their case. That being the case the request of the applicants merits acceptance, argues Shri Rajan. This plea has been forcefully reiterated in the written submissions filed

7

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2

by the learned counsel for the applicants. He has also referred to the following decisions, which according to him, covered his case squarely:-

i) P.K.Ramachandra Iyer Vs. Union of India 1984 (2) SCC 141.

ii) Bhagwan Das Vs. State of Haryana 1987 (4) SCC 634.

(iii) Jaipal Vs. State of Haryana 1984 (3) SCC 354.

7
iv) SB Mathur Vs. Chief Justice of Delhi High Court 1989 (suppl.) SCC 34.

The law laid down in all these cases is that the Govt. servants can claim as of right, equal pay for equal work and that difference even if any existed either in the mode of selection or educational qualification would not come in the way of employees being granted equal pay, if it is proved that they performed similar functions and discharged similar responsibilities. Applicant's case for grant of reliefs sought was strong and legal, argues Shri Rajan, learned counsel.

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3. The pleas raised on behalf of the applicants are strongly rebutted by Shri Rajinder Khatter, learned counsel for the respondents. He points out that the Draftsmen attached to the Railway Board were placed from the beginning in an

advantageous position vis-a-vis those in CPWD and continued to be so even ^{after} CPWD's restructuring as well as ^{the} arbitration award. Therefore, extension of the benefit of arbitration award was ^{correctly} rejected by Railway ^{in Railways} in 1985. Restructuring of the Cadres ordered ⁱⁿ 1985, 1990 & 1993 enhanced promotional avenues for them, this was something unheard of either in CPWD or other Central Ministries. There was also no disparity between the staff in the Zonal Railways and the Railway Board. Present scales of pay of staff, including Draftsmen are based on the recommendations of the Vth Central Pay Commission, who had ^{studied} ~~stated~~ all aspects like intra-departmental and inter-departmental relativities, academic qualifications, promotional avenues, duties and responsibilities, and considered the requests/suggestions made by the staff. Commission has granted higher pay scales to those, who had higher academic qualifications e.g. 4th Pay Scales of Draftsmen III of Rs. 1200-2040/- and Rs.1320-2040/- have been merged and given the replacement scale of Rs.4000-6000/- while Draftsmen II in the grade of Rs.1400-2300/- ² have been given revised scale of Rs.1600-2660/- and replacement scale of Rs.5000-8000/- with direct-recruitment qualifications Matric or 10+2+Diploma in Engg. Further ^{there} is Draftmen II have at the recruitment level, Diploma in Engg. (a three year course) as against Draftsmen diploma (of two years). Therefore, ^{there} is the Drawing Branch in the Railway Board like the applicants having lesser academic qualifications have been given the normal replacement scale and not a higher replacement scale. This was fully justified, argues Shri Khatter. Learned counsel also points out that the cadre of

drawing staff has become a diminishing cadre with computer aided designing coming into vogue. In view of the above, the pleas raised on behalf of the applicants are misplaced and do not merit acceptance, according to the counsel for the respondents. He has also sought to place reliance on the decisions of the Hon'ble Supreme Court in Union of India Vs. P.V.Hariharan and Anr. 1997 (3) SCC 568 as well as Union of India & Ors. Vs. Pradip Kumar Dey (JT 2000 (Suppl.2) SC 449) to show that ditermination of concepts like "equal pay for equal work" was better left in the domain of the expert bodies like Pay Commissions and administration rather than being encroached upon by the Tribunals.

4. We have carefully considered the matter and perused the relevant papers brought on record. Applicants who are Draftsmen attached to the Railway Board claim that they should be given parity in scales of pay with those in CPWD, which according to them is the nodal group for diterminating scales of pay for Draftsmen and be granted replacement scales accordingly. According to them, the benefits of the Ministry of Finance (Deptt. of Expenditure) OM No. 7 (59).E.III/82 dated 13-3-84 wherein higher scales were granted following the arbitration award keeping in mind higher qualification and/or of OM No. 13 (1) 10/91 dated 19-10-94 where experience was substituted for higher qualification should be extended to them, instead of granting them replacement scales at the normal rate. On the other hand, the respondents have stated that whatever was proper and possible has been done and that no further relief was possible by

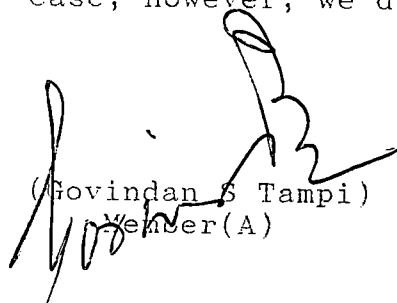
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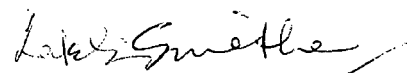
recourse to the Tribunal. Both the parties have also relied upon various decisions of the higher judiciary, which according to them would justify their pleas. On closer examination of the issue, we are convinced that the applicants have not made a convincing case for our interference. It has been clearly brought on record that the Draftsmen in the Railway Board, like the applicants, were always comparing well with those in the CPWD of the corresponding levels and inspite of the arbitration award in favour of the CPWD employees, the situation had not changed to their detriment. Further, the restructuring of the Railway staff in 1988, 1990 and 1993 had placed them at a higher levels with greater promotional avenues. This has been logically followed after the Vth Central Pay Commission's recommendations have been adopted. Only additional factor is that in respect of grades where qualification for direct recruitment was higher, those in the service with the higher qualification was given a higher revision and consequent replacement scale while others were given normal replacement scale. This is a conscious policy decision adopted by the Railways, keeping in mind the special circumstances of their staff, including the applicants and the same cannot, in our view, be faulted. Once an expert body like the Pay Commission, after going through all aspects like inter-ministerial relativities, equivalence of responsibilities and duties, academic qualifications and promotional avenues, has given recommendations about the pay scales in any category of Staff in any organisation and the said organisation has given effect to the same with the attendant conditions to be fulfilled, it does not lie with the

57

Tribunal to tread into that turf and suggest and direct changes, as the applicants would like us to do. Precisely this is what has been discouraged by the pronouncement of the Hon'ble Apex Court in Union of India and Anr. Vs. P.V.Hariharan and Anr. as well as UOI and ors. Vs. Pradip Kumar Dey (supra). This has been forcefully reiterated by this Tribunal on 15-4-97. While disposing of OA No. 487/1992 filed by Northern Railway Stenographers Association and Ors. We respectfully bow to the above. In the above facts and circumstances of the case, we also find that the number of decisions cited by the learned counsel for the applicants does not come to their rescue, as the circumstances of this case are different and distinguishable. Respondents have taken the decision in respect of the pay scales of their staff, after examining in detail all the relevant factors and same is not vitiated by any malafides or non-application of mind or irrationality. The decision does not brook any modification from this end, either on the facts or in law.

5. The application having no merit fails and is accordingly dismissed. In the circumstances of the case, however, we do not pass any order on costs.


 (Govindan S Tampi)
 Member(A)


 (Smt. Lakshmi Swaminathan)
 Vice Chairman (J)

Patwal/