

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No.299/89
T.A. No.

199

DATE OF DECISION 6-3-1991

Shri P.S. Bhatnagar & Others Petitioners

Shri V.P. Sharma

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent

Sh. K.C. Mittal

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(AMITAV BANERJI)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

REGN. NO. OA-299/89

DATE OF DECISION: 6.3.1991

SHRI P.S. BHATNAGAR & ORS.

APPLICANTS

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

CORAM:

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS

SHRI V.P. SHARMA, COUNSEL

FOR THE RESPONDENTS

SHRI K.C. MITTAL, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY

HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

Shri P.S. Bhatnagar and 26 others, all working as Draftsmen in the Telecom Board, Dak Tar Bhawan, New Delhi has filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking revision of their pay scales in accordance with the Department of Expenditure, Ministry of Finance letter dated 13.3.1984, as has been allowed in the case of Draftsmen working in the Telecom Civil Wing, Telecom Wing and Telecom Factories Organisations of the Telecom Department.

2. The case of the applicants briefly is that in the Post and Telegraph Department there are Draftsmen in the following wings:-

- a) Telecom Civil Wing
- b) Telecom Wing
- c) Telecom Factories organisations
- d) Telecom Board

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The respondents have revised the pay scales of the Draftsmen working in the Telecom Civil Wing, Telecom Wing and Telecom Factories Organisations from the date on which the benefit was granted to the staff of C.P.W.D. along with payment of arrears vide orders dated 12.9.1984, 16.2.1985 and 21.2.1985 respectively, but applicants who are Draftsmen working in the Telcom Board have not been treated in the same manner as they have been denied these pay scales. They are aggrieved by this discriminatory treatment meted to them in violation of Articles 14 and 16 of the Constitution of India. They contend that they are similarly placed as the Draftsmen in the other three Wings of the Department and yet the parity of pay scales with their counter-parts working in the same organisation has eluded them. The recruitment qualifications of Senior Draftsmen Grade I in the Telecom Board and Telecom Civil Wing are similar and therefore denial of parity in pay scales with their counterparts is discriminatory and violative of constitutional provisions of equality.

3. We have heard the learned counsel for the applicant Shri V.P. Sharma and Shri K.C. Mittal, the learned counsel for the respondents. The Third Central Pay Commission had recommended the following scales of pay for Draftsmen with reference to the qualifications as under:

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TABLE XVII

Level	Proposed Scale(Rs.)	Qualifications for direct recruitment
I	260-430	Matric plus one year's experience.
II	330-560	Matric plus 2-year diploma in draftsmanship or its equivalent.
III	425-700	Matric plus 3-year diploma in engineering or its equivalent.
IV	550-750	Degree in engineering or its equivalent.
V	700-900	Degree in engineering or its equivalent with experience.

The Government, however, did not accept the recommendation of the Third Central Pay Commission and allotted the following scales:

Draftsman Grade III Rs. 260-430

Draftsman Grade II Rs. 330-560

Draftsman Grade I Rs. 425-700

w.e.f. 1.1.1973. As the highest scale of Rs. 550-750 was not assigned to the Draftsmen of the CPWD, they took up the matter in the Departmental Council (JCM) and after recording disagreement with the official side (JCM) their case was referred to the Board of Arbitration under the scheme of JCM. The Board of Arbitration gave its award on 20th June, 1980 which is reproduced below:-

A W A R D

"Having given its careful consideration to the whole of the material on the record and having examined the merits of the case presented both by the official and the

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staff sides, in the light of the entire material and the arguments advanced by the aforesaid representatives of both sides and having taken into account all other relevant factors, including the special features of the case, the board gives the following awards:-

1. The three categories of Draftsman viz. Grade III, Grade II & Grade I shall be inducted in the pay scales shown hereunder against each of the aforesaid categories:

Draftsman Grade III.....Rs. 330-560

Draftsman Grade IIRs. 425-700

Draftsman Grade IRs. 550-750

2. The above mentioned categories of Draftsman shall be fixed notionally in their respective scales of pay as aforesaid from 1.1.1973 = in accordance with the recommendations of the Third Pay Commission in respect of weightage and fitment. But for computation of arrears, the date of reckoning shall be the date of recording of disagreement in the Departmental Council viz. 28/29.7.1978.

3. The arrears of pay which shall be worked out in accordance with above mentioned formula shall be paid to the affected employees within three months from the date of receipt of the Award by Ministry of Labour."

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Accordingly the Draftsmen in CPWD were fixed notionally in the respective scales of pay awarded by the Board of Arbitration w.e.f. 1.1.1973 but were allowed the arrears from the date the disagreement was recorded in the Departmental Council of JCM viz. 28/29.7.1978 vide the then Ministry of Works, Housing letter No. 12014(4)/77-EW-2 dated 10th November, 1980. Subsequently the Government of India, Ministry of Finance considered the claims of the Draftsmen in the other departments vide OM dated 13.3.1984 and extended the pay scale of the CPWD Draftsmen to the Draftsmen in other Offices/Departments of the Government of India provided their recruitment qualifications were similar to those prescribed in the case of Draftsmen in CPWD. while this benefit of the Ministry of Finance order had been granted to the Draftsmen in three Wings of the Telecom Department, the Draftsmen employed in the Telecom Board, have been denied this benefit.

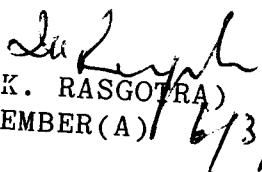
4. An identical matter came up for adjudication before us in OA-1/89 decided on 21.3.1991 where the Draftsmen in the Central Water Commission (CWC) were extended the benefit of Department of Expenditure, Ministry of Finance's O.M. dated 13.3.1984 w.e.f. 9.11.87 on the premise that on that date the recruitment qualifications of the Draftsmen in the CWC had been brought at par with those obtaining in the CPWD, by amending the Recruitment Rules. After considering the matter in detail we did not find any justification for denying the benefit of ^{the} Ministry of Finance Order notionally w.e.f. 13.5.1982 with actual benefit w.e.f. 1.11.1983,

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as the mere revision of the Recruitment Rules on a particular date would not have brought about the parity in qualifications of the existing Draftsmen in CWC with those in CPWD. The revised recruitment rules would, no doubt ensure that future entrants in Central Water Commission possess the same qualifications as the Draftsmen in the CPWD but the benefit has been extended to the existing draftsmen also who possess disparate qualifications.

5. The issue in the present OA is no different from the one as has been disposed of in OA-1/89. We, therefore, are of the view that the Draftsmen in the Telecom Board should also be granted the same scales of pay which have been granted in the other three Wings, as they are substantially performing similar duties as the Draftsmen in the other three Wings of the Telecom department. The fixation of pay and the payment of arrears would, however, be in accordance with the Ministry of Finance OM dated 13.3.1984 viz. the pay of the applicants shall be fixed notionally w.e.f. 13.5.1982 subject to fulfilment of other conditions as laid down in the DG P &T letter No.1015/83-CSE dated September 12, 1984, with the actual benefit being granted w.e.f. 1.11.1983.

The OA is disposed of with the above directions with no order as to costs.


(I.K. RASGOTRA)
MEMBER(A)
6/3/91


(AMITAV BANERJI)
CHAIRMAN