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CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench, New Delhi.

D.A.No.376/1989

New Delhi, This the 08 March 1994

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. Shri S.K. Nagpal aged 45 years  
Draughtman Gr-I, CCW, AIR  
and R/O X-241, Sarojini Nagar  
New Delhi - 110023.
2. Shri Surjit Singh s/o Sant Singh  
R/O VII/48, M.B. Road  
New Delhi.
3. Shri BB Lal s/o Sh M L Shrivastava  
r/o C-4-C Flat No.110, Janakpuri  
New Delhi
4. Shri Ram Singh S/O Kileel Singh  
r/o RFZ-845/1,  
Raj Nagar-II  
Palam Colony  
New Delhi.
5. Shri Satish Kumar s/o Shri Chaman Lal  
r/o F-2925, Nataji Nagar  
New Delhi
6. Shri T.N. Shukla s/o Shri P.N. Shukla  
r/o B-46, Extension -II, Nangolei,  
Delhi - 41
7. Shri Pat Ram Singh S/o Shri Mangat Ram,  
r/o Village Chilla, Delhi 92
8. Shri Radhey Shyam s/o Shri Suwalal  
r/o RFZ -845, Raj Nagar, Part-II  
Palam Colony  
New Delhi.
9. Shri Uma Shankar s/o Shri Ram chandra  
r/o 142/6 Sector-J Pushpa Vihar  
M.B. Road,  
New Delhi.17.

...Applicants

By Advocate Shri R.L. Sethi

Versus

1. Union of India  
Through
  1. The Secretary  
Ministry of Information & Broadcasting  
Shastri Bhavan  
New Delhi.
  2. The Director General  
CCW, AIR, PTI Bldg  
2nd Floor, Sansad Marg  
New Delhi.
  3. The Superintending Surveyor of Works-I  
CCW, AIR, 6th Floor, Lok Nayak Bhawan, New Delhi. Respondents
- Re

By Advocate Shri M L Verma

O R D E R (Oral)

Hon'ble Shri P.T. Thiruvengadam, Member (A)

1. The applicants are employed as draughtsmen in Civil Construction Wing of All India Radio. Their contention is that CCW of AIR came into existence in 1971-72 and became fully operational in 1972-73. Prior to this, CPWD was handling all the civil engineering works pertaining to various units of Ministry of Information and Broadcasting. The construction of buildings for new projects and maintaining of existing buildings of AIR and Doordharshan and other <sup>media</sup> units under the Ministry of Information and Broadcasting are now carried out by CCW of AIR.

2. Draughtsmen working in CPWD were drawing the same pay scales as draughtsmen in other departments including CCW of AIR. However, the scales of pay of draughtsmen in CPWD were revised on the basis of award of arbitration from 1.1.1973 notionally and from 16.11.1978 actually. As regards the applicants, the scales extended to CPWD draughtsmen from the dates as mentioned were finally extended only by R-1's letter No.11019/7/83/SSW-B(D) dated 5-6-1984 (Annexure A-2). The revised scales were made effective notionally from 13.5.82 and actually from 1.11.83. The applicants were aggrieved by the improved pay scales <sup>being made applicable</sup> from dates later to the draughtsmen of CPWD and filed <sup>a</sup> OA No.67/88 in this Bench of the Tribunal. This OA was disposed of on 19.1.88 with the direction that the representations of the applicants which were already pending with the respondents should be disposed of, if the respondents had already not taken a decision in this regard. The respondents were also directed to communicate their decision to the applicants within a period of 2 months from the date of receipt of this order.

The applicants in that OA did not get any communication<sup>g</sup> from the respondents and filed CCP 84/89 in OA 67/88. This CCP was disposed<sup>on</sup> on 10.10.88 with the direction to the respondents to deal with the representations of the petitioners within a period of one month. Accordingly the respondents advised the applicants in their memorandum No.A-11019/7/83-SSW-I/2480 dated 26 Oct 88 (Annexure-A1).

The memorandum reads as under:-

"The representations submitted by the Draughtsmen working in CCW, AIR for revision of pay scale w.e.f. the dates from which the pay scales were revised in respect of Draughtsmen in CPWD, have been considered by the Govt and they are intimated that:-

- i) CCW, AIR is an organisation different from CPWD.
- ii) In CPWD scales of pay of D/Men were revised on the basis of an Award of the Board of Arbitration.
- iii) In Dep'ts, different from CPWD scales of D/Men were revised on the basis of Agreement reached in the National Council (JCM).

Accordingly the pay scales of D/Men working in CCW, AIR have already been revised w.e.f. 13/5/82 (notionally) and from 1/11/83 (actually) and arrears of pay have already been effected to them in terms of Ministry of Finance (Dept. of Expt. D.M. No.F-5(59)E.III/82 read with Ministry of I & B letter No.11019/7/83-SSW-B(D) dated 5.6.84.

In view of this it has not been found possible to accede to their request to effect the revision of pay scale from the date from which pay scales were revised in CPWD."

3. Aggrieved by this memorandum, this OA has been filed with a prayer for setting aside the memorandum and for further direction to the respondents to modify the earlier orders of 5.6.84 and 13.3.84 so as to give the benefit of revised pay scales notionally from 1.1.73 and effectively with arrears from 16.11.78. A prayer has also been made for payment of financial benefits with interest at 18 per cent per annum.

4. The learned counsel for the applicant placed reliance on the following:-

- (i) Draughtsmen working in CPWD have been granted the revised scales from 1.1.73/16.11.78 and the applicants were earlier part of the CPWD organisations before Civil Engineering Works pertaining to AIR were curbed

out and a separate wing formed in the year 71-72 onwards.

(ii) High Court of Delhi in Civil Writ Petition No.911/81 has extended the same benefits to the applicants therein who were working as draughtsmen in the Civil Engineering Unit of the P&T Department.

(iii) Off and on respondents have been extending the same benefits to other departments like Geological Survey of India, Rajasthan from the same dates namely 1.1.73/16.11.78.

(iv) The benefits conferred by the judgements passed by Delhi High Court in Civil Writ Petition of 911/81 was applicable ~~only to~~ the petitioners therein.

But, subsequently based on various orders by the the Bench of this Tribunal <sup>all</sup> ~~more~~ employees of the Telecomm wing of the Telecommunication Department have been extended the benefit. This extension has been done with the concurrence of Ministry of Finance.

(v) Though the scales have been extended to the applicants from 82/83 based on agreement in the Joint Consultative Machinery yet this would not preclude them from seeking judicial review since they have been discriminated against. The applicants claiming fixation from 73/78 since otherwise it would be violation of provisions of articles 14 and 16 of the Constitution.

5. The learned counsel for the respondents argued that different dates were adopted for different departments based on two different modes of agreement. In the case of CPWD based on the Arbitration Award the pay scales were implemented with effect from 73/78. But in departments other than CPWD scales of pay of draughtsmen were revised on the basis of agreement reached in the National Council (JCM) with effect from 82/83. The learned counsel for the

respondents draw attention to the scheme of JCM which has been drafted for improving the industrial relations. The scheme also provides for arbitration in case of disagreement and such a provision was invoked in the case of draughtsmen of CPWD. In the scheme/JCM all the /of departments are represented and once an agreement is reached it is not open to the individual employees to challenge the agreement. Otherwise there can be no finality or sanctity to such agreement arrived at the highest level in consultation with the representatives of all the departments.

6. The learned counsel for the respondents also referred to a number of citations and specifically to AIR 1989 SCC 19 State of U.P. Vs Chaurasia. In this it has been held that it is for the administration to decide the question whether two posts which very often may appear to be same or similar should carry equal pay, the answer to which depends upon other facts, namely, evaluation of duties and responsibilities of the respective posts and its determination should be left to expert bodies like the Pay Commission. The Courts should normally accept the recommendations of the Pay Commission. The other citations relied upon were more or less to the same effect.

7. Having heard both counsels and after going through the pleadings we find that the case of draughtsmen in CPWD as well as draughtsmen in Civil Wing of P&T Depat and Geological Survey of India stand on a slightly different footing. In the order passed by the Delhi High Court in Civil Writ Petition 911/1981, the background to the exetention of the benefit to the draughtsmen of P&T Civil Wing has been fully covered. The Third Pay Commission had recommended certain pay scales for draughtsmen in specified departments including P&T, CPWD and Geological Survey of India. The recommendations thoggh accepted by the Govt were not

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implemented in these three departments though in some other departments the Third Pay Commission(revised) scales were implemented. As regards CPWD a job evaluation study of the ferro-printers and draughtsmen was undertaken in pursuance of the discussion in the departmental council of the JCM of Ministry of Works and Housing. This was done with the objective of finding out the nature of jobs of draughtsmen with a view to revise the scales of the staff. The study indicated that the draughtsmen in CPWD were doing the same duty and their qualifications were similar to the ones obtained in the Ministry of Railways, Military Engineering Services etc who were provided the revised scales of pay. Despite the findings of the works study revised scales were not extended to draughtsmen of CPWD. This became a bone of contention in the JCM and the matter was referred to Arbitration Board. On the basis of the award given by this Board, the pay scales of draughtsmen in CPWD were revised from 73/78. Delhi High Court took into account these developments and the position that for the draughtsmen of P&T also the Third Pay Commission had recommended revised pay scales as for some other departments. The High Court disposed of the writ petition with the direction for extension of the benefit to the applicants therein.

8. We have already noted that there was a specific reference with regard to revision of pay scales of draughtsmen of Geological Survey of India in the recommendations of the Third Pay Commission.

9. The respondents found it necessary to extend the revised scales to all the draughtsmen of the Telecommunication Department based on further judicial pronouncements in various cases.

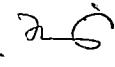
10. We note that Civil Construction Wing of AIR came into existence only in 71/72 and became operational in 1972/1973. Possibly Third Pay Commission did not have the opportunity to go into the aspects relating to the draughtsmen

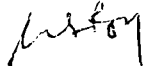
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in this wing since Pay commission had already been set up in 1970 and had given a final recommendation by 1973. The short issue to be considered is whether the draughtsmen of CCW of AIR stand on the same footing like the draughtsmen in the CPWD right from 1973 onwards. There is no <sup>dispute</sup> ~~group~~ after the period i.e. after 1982/83 when the pay scales in the two groups were made identical. The issue regarding whether the same scales should have been extended ~~right~~ from 73 onwards can be decided only by taking into account the recruitment, qualifications, the nature of duties and responsibilities in the various posts and other related matters. As repeatedly held by <sup>the Hon'ble</sup> Supreme Court, these are matters to be left to expert bodies and this Tribunal will not be in a position to undertake this exercise.

10. In the circumstances, the only direction that can be issued is that the respondents may re-consider whether the benefits of the Pay Scales can be given from 73/78 keeping in view that the respondents thought it fit to accord parity in scales on their own from 82/83 and also the fact that the Civil Construction Wing of AIR has been ~~curled~~ <sup>out</sup> of work being done by the CPWD. The applicants are at liberty to give representations bringing <sup>out their</sup> ~~his~~ case within a month of this order and the respondents are directed to dispose of the same within 4 months from the date of receipt of such representations.

11. The DA is disposed of accordingly. No costs.

P. J.   
(P.T. Thiruvengadam)  
Member(A)

  
(C.J. Roy)  
Member(J)

LCP