

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

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|---|-----------------------------|
| 1. OA NO.852/87 | DATE OF DECISION:15.05.1992 |
| A.G. KHAN & OTHERS | ...APPLICANTS |
| 2. OA NO.1840/87 | |
| ASSOCIATION OF CIVILIAN EMPLOYEES COMMERCIAL
IDME WORKSHOP | ...APPLICANTS |
| 3. OA NO.1264/88 | |
| TAPAN KUMAR SARKAR & OTHERS | ...APPLICANTS |
| 4. OA NO.1265/88 | |
| S.L. VISHWAKARMA & OTHERS | ...APPLICANTS |
| 5. OA 1270/88 | |
| P. UMA SHANKAR | ...APPLICANT |
| 6. OA NO. 1266/88 | |
| GURDAS RAM | ...APPLICANT |
| 7. OA NO.1267/88 | |
| B.Y.V. KRISHNA RAO | ...APPLICANT |
| 8. OA NO.1268/88 | |
| NANAK CHAND | ...APPLICANT |
| 9. OA NO.1269/88 | |
| S. CHAND PAHSA | ...APPLICANT |

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:-

THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J)

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

1. Whether Reporters of Local Papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

FOR THE APPLICANTS

SHRI VIJAY CHAUDHARY, COUNSEL.

FOR THE RESPONDENTS

SHRI M.L. VERMA, COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

The above O.As were transferred from the various
Benches, as listed above, in accordance with the orders of

the Hon'ble Chairman, as they raised common issues of law and of fact. In the circumstances, we propose to dispose of them of through this common judgement.

The principal issue raised for adjudication in the above OAs is whether the Draftsmen employed in the office of the Army Base Work Shop of the respondents are entitled to the following scales of pay.

Draftsmen Grade III Rs. 330-560

Draftsmen Grade II Rs. 425-700

Draftsmen Grade I Rs. 550-750 (pre-revised)

was granted to the corresponding categories in the Central Public Works Department (CPWD).

The necessary facts of the case in OA 852/87, which represents all facts of the issues involved and which we are dealing with in detail, are that the Third Central Pay Commission who went into various aspects of grant of scales of pay, keeping in view the responsibilities and duties of the various posts made the following specific recommendation in regard to the category of drawing staff employed in the various Engineering Workshops Departments:-

"79. We find that fully qualified draftsmen, who have to undergo a two-year course after their Matriculation are now being recruited on a scale of

Rs. 150-240, or in some cases even on the lower scale of Rs. 110-120. We feel that the scale of

Rs. 150-240 is rather low whether from the point of view of the qualifications demanded or of the duties normally performed. Similarly, it seems

incongruous that the three year Diploma holders in Engineering recruited for the drawing office should

have a scale of only Rs. 205-280, while the lower scale for those recruited to the regular

engineering line is Rs. 180-380, where the maximum is higher by Rs. 100/. Regarding the complaint about

the non-availability of Class II posts we have felt

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that these posts in the gazetted ranks should not be created merely to improve prospects of promotion. We would, however, recommend that draftsmen who possess a three-year diploma in engineering should be provided with an opening to posts in the scale of Rs.550-750 in revised terms, in the regular engineering line. This should enable them to progress further and achieve gazetted status in that line if they are found suitable."

"80. We feel that there is no justification for the existence of as many as thirty different pay scale in the range of pay from Rs.110 to Rs.575, in a category where the levels of the skills required are fairly well established and could be expected to be homogenous among the various departments. We recommend that draftsmen should be assigned the following revised scales and where the levels of the skills required are fairly well established and could be expected to be homogenous among the various departments. We recommend that draftsmen should be assigned the following revised scales and should satisfy the qualification requirements noted against each for purposes of direct recruitment.

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.

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Based on the above recommendation the following scales of pay were assigned to the applicants and their counter-parts in the CPWD w.e.f. 1.1.1973:-

i. Draftsmen Grade III Rs.260-430;

ii. Draftsmen Grade II Rs.330-560;

iii. Draftsmen Grade I Rs.425-700.

As the highest scale of Rs.550-750 was not assigned, the case of the Draftsmen of the CPWD was referred for compulsory arbitration in accordance with the scheme of Joint Consultative Machinery (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 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 award:-

1. The three categories of Draftsmen 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 II.....Rs.425-700
Draftsman Grade I.....Rs.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.

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 the JCM viz. 28/29.7.1978 vide the then Ministry of Works Housing letter No.12014(4)/77-EW-2 dated 10th November, 1980."

The Government of India considered the extension of the benefit to the Draftsmen employed in Engineering Workshops

Department other than CPWD and issued instructions vide

Department of Expenditure, Ministry of Finance OM No.F.5(59)E-III dated 13.3.1984 that the scale of pay

allotted to Draftsmen Grade III, II & I in all departments of the Government of India other than CPWD may be revised

on the pattern of the scales of pay introduced for the

Draftsmen in CPWD provided their recruitment qualifications

were similar to those prescribed in CPWD. The benefit of

the revision was given notionally w.e.f. 13.5.1982 and

actually w.e.f. 1.11.1983. In pursuance of the Ministry of

Finance's instructions the scales of pay for the Draftsmen

in possession of qualifications similar to those of

Draftsmen in CPWD were revised in the Corps of EME,

Ministry of Defence, Army Headquarters letter

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No.51/158/6/EME-Civ/3 dated 14.8.1984 and EME Records' Secundrabad letter dated 15.2.1985. The revised pay scales are said to have been implemented accordingly and arrears

paid to all Draftsmen in the Corps of EME and pay refixed w.e.f. 1.1.1986 in accordance with the recommendations of the Fourth Central Pay Commission. The cause of action to

file this Application, under Section 19 of the Administrative Tribunals Act, 1985 has arisen, as the

respondent No.4 viz. Commandant, 509 Army Base Work Shop, Agra herein has rescinded the earlier orders based on EME

Records' letter dated 15.2.1985 vide order dated 3.6.1987,

quoting the authority of the EME Records, Secundrabad dated

30.10.1986, stating that the "higher pay scales equivalent

to the drawing staff in CPWD are not applicable in the case

of drawing staff in EME". The applicants contend that the

order dated 3.6.1987, issued by respondent No.4 is

arbitrary, illegal and is designed to put the applicants to

great disadvantages and is violative of the Article 14 of

the Constitution of India. The order is also of violative

of provisions of 2nd Schedule to Industrial Disputes Act,

1947. The applicants contend that the skill, efficiency,

accuracy and qualifications of the Draftsmen in the Corps

of EME is far superior to the Draftsmen placed any where in

the Government of India offices. They further maintain

that the applicants possess qualifications which are

higher/similar to those of CPWD. In short, the

qualifications required for Draftsmen Grade II/in CPWD are

diploma in Draftsmanship from a recognised institute of not

less than two years and practical experience of at least

one year. The applicants claim that they not only possess

the diploma in Draftsmanship from a recognised institution

of two years duration but also have similar or longer

practical experience.

By way of relief they have prayed:-

- 1) That the illegal order reverting the scales of pay to old scale in respect of the applicants

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promulgated by Comdt. 509 Army Base Work Shop, Agra-
vide DO Pt. II NO.76/Est.NI dated 3.6.1987 be
quashed.

ii Orders issued on revision of pay scale of D/Man
Grade III, II and I in all Government of India
Offices on the basis of the Award of Board of
Arbitration in the case of Central Public Works
Deptt. vide Ministry of Finance OM NO.F-5(59)-
E-III/82 dated 13 March, 1984 be allowed to the
applicants.

4. When the case came up for admission on 26.6.1987,
ad-interim relief was granted to the applicants by way of a
direction to the respondents to maintain status quo in the
matter of recoveries contemplated from the applicants by
the impugned order for a period of two weeks. The said
ad-interim order was continued from time to time.

5. The respondents in their counter-affidavit have
stated that in the Corps. of EME the following categories
of drawing staff are in existence:-

Chief Draftsman	Rs.700-900
Head Draftman	Rs.550-750
Senior Draftsman	Rs.425-700
Draftsman	Rs.330-560
Tracer	Rs.260-430

Further the Draftsmen in the Corps. of EME and of CPWD are
governed under different recruitment rules. They submit
that the scales of pay allotted to the Draftsmen in CPWD
consequent upon the award of Board of Arbitration were
extended to the Draftsmen of the EME wrongly by an
erroneous interpretation of the award by the EME records,
Secundrabad. This mistake was rectified vide Army
Headquarters order dated 16.10.1986 and the subsequent

orders issued by respondent No.4 dated 3.6.1987. They
Further assert that the over payment made on
wrong interpretation has rightly been ordered to be

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recovered from the applicants. However, to avoid hardship to the applicants, the recovery is proposed to be made in easy instalments without charging any interest.

6. Shri M.L. Verma, the learned counsel for the respondents emphasized that there is no comparison between the drawing staff in EME and drawing staff of the CPWD. The CPWD has categorised drawing staff in three groups viz.:

Draftsman Grade I Rs.550-750

Draftsman Grade II Rs.425-700

Draftsman Grade III Rs.330-560

whereas in the Corps. of EME the classification of the drawing staff has two other grades besides having three

categories of Head Draftsman, Senior Draftsman and Draftsman corresponding to Grade I, Grade II and Grade III of

CPWD. They are Chief Draftsman Rs.700-900 and Tracer in the grade of Rs.260-430. The post of Tracer existing in EME,

is not in existence in the cadre of CPWD drawing staff.

The respondents have enclosed recruitment rules of drawing

staff of the CPWD in support of their contention that the recruitment qualification of the drawing staff in EME

Corps. are not similar to that CPWD drawing staff. It was

on this ground that the CPWD drawing staff pay scales which were initially extended to the EME Corps drawing staff were

later withdrawn vide Army Headquarters letter dated

16.10.1986.

7. We have heard the learned counsel for both parties and considered the material on record carefully. According

to the Recruitment Rules filed by the respondents at Annexure R-3 (page 58 of the paper book) the qualifications

required for the drawing staff of CPWD are as under:-

1.9

Name of the post & pay scale Education Qualifications

Draftsman Grade III (Civil)
Rs.330-560

Certificate or Diploma in Draftsmanship from a recognised institution of not less than two years duration including practical training of six months.

Draftsman (Electrical)

Certificate or diploma in D'manship mechanical from a recognised institute of not less than two years duration including practical training of six months.

Draftsman Grade II
(Rs.425-700)

100% by promotion, failing which by direct recruitment.

Draftsman Grade I
(Rs.550-750)

100% by promotion from D'men Grade II with 8 years service

On the other hand the qualifications of the drawing staff in the EME are as under:-

Tracer (Rs.260-430)

Matriculate or its equivalent with one years experience as Tracer.

Draftsman (Rs.330-560)

Matric or its equivalent, two years diploma in D'manship mechanical or its equivalent.

Senior Draftsman (Rs.425-700)

Matric or its equivalent, three year diploma in engineering or its equivalent.

100% by promotion, failing which by transfer and failing that by direct recruitment.

Head Draftsman (Rs.550-750)

Degree in Engineering or its equivalent.

100% by departmental promotion, failing which by transfer, failing that by direct recruitment.

Chief Draftsman (Rs.700-900)

is not germane to the issues in this batch of OAs.

As per Recruitment Rules issued in 1977.

From the above, it would be observed that the qualifications of Draftsmen, Senior Draftsmen and Heads of Draftsmen correspond to the recruitment qualifications in some of the CPWD and they carry similar scales of pay. These, however, have too been viewed in the perspective of the relevant recommendations of the Third Central Pay Commission, who observed:-

"76. There is considerable variation in the qualifications prescribed for the same grade in the different departments. However the general pattern appears to be as follows:-

(i) For the grade of Tracer (Rs. 110-200) the requirement is Matriculation with a certain minimum experience the duration of which does not normally exceed one year. In the Posts & Telegraphs, (outside its Civil Engineering Wing), however, Matriculates with two years experience or a certificate in Draftsmanship or Civil Engineering (both of two years duration after Matriculation) are recruited to this grade. In the Geological Survey of India, direct recruitment to the grade of Rs. 110-120 (Draftsman Grade III) is from among Matriculates who have a Diploma in Draftsmanship preferably in fine arts or commercial arts.

(ii) For the next higher grade of Rs. 150-240, the requirement is generally a Diploma in Draftsmanship or an equivalent qualification in Architecture (both of 2 years' duration after Matriculation).

(iii) the third level is generally that of Rs. 205-280; but it is Rs. 180-380 in C.P.W.D. and Rs. 205-380 in the Railways. Direct recruitment to this level is from among diploma holders in engineering (3-year course after Matriculation).

at the time of the survey the following was the scale of pay for the various grades of draftsmen in the different departments.

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(iv) above this level, direct recruitment is exceptional and where it exists it is from among Engineering Graduates or their equivalent. Such direct recruitment takes place in the Railways to 25 per cent of the posts in the scale of Rs. 335-485 and from among B.E.s, in the Ministry of Defence direct recruitment takes place to 50 per cent of the posts in the grade of Rs. 450-575 from among Degree holders in Architecture or B.E.s, or Diploma holders (with 5 years' experience.)

77. iv Draftsmen are employed mainly in engineering, manufacturing or architectural drawing offices. Their duties consist primarily of preparing engineering and architectural drawings of various types. They may also be called upon to work up rough sketches into finalised engineering drawings. These drawings may be used for design or manufacturing purposes or may constitute the blue prints, according to which buildings and engineering structures, machines, components etc. are constructed or made. Draftsmen are also engaged in estimating the materials required for execution of projects. The responsibilities increase as one progresses along the grade structure."

It is apparent from the above that the Tracers constitute a part of the drawing staff and that they are like other Draftsmen engaged in activities which are broadly similar. It is a different matter that better qualified persons drawing higher pay of the drawing staff are engaged on more complex and more important work, than the staff who possess lower qualification and have less experience. The Pay Commission also observed that even in

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the category of Tracers Rs.110-200 in certain departments candidates with two years diploma in Draftsmanship or its equivalent are being recruited while in others persons with Matriculation and with a certain minimum experience the duration of which normally does not exceed one year are recruited. Nevertheless, in paragraph 81 the Third Central Pay Commission made the following specific recommendation:-

"81. Our specific recommendations for the revision of the populous grades are as under:-

(i) All the posts which are now in the scale of Rs.110-200 should be brought on to the same of Rs.260-430. In the Posts and Telegraphs Departments (outside its Civil Engineering Wing) where the prescribed qualification for the grade of Rs.110-200 is Matriculation with a Diploma in Draftsmanship, the duties in these posts should be examined to see if any of the posts would deserve to be placed in the next higher grade. Such posts should be placed in Level II. The remaining posts should be in Level I. The grades of Draftsman III

(Rs.110-200) and Draftsman II (Rs.110-225) in the Geological Survey of India should be merged and placed in Level I; however, as here too the qualifications for direct recruitment are Matriculation with a 2-year diploma course in draftsmanship the duties in the posts should be examined and such of the posts as would deserve to be upgraded may be placed in Level II. In future, the qualification requirement for recruitment to the grade of Rs.110-200 should be already prescribed above.

(ii) All the posts now in the scale of Rs.150-240 should be brought on to the scale of Rs.330-560.

(iii) The post in the scale of Rs.180-380 should be placed in Rs.425-700. Half the number of posts in the scale of Rs.205-280 should also be placed in the same scale. The remaining half of the posts should be placed in the scale of Rs.330-560, provided that where the number of posts in the scale of Rs.205-280 is less than 10% of those in Rs.150-240 all the posts in the scale of Rs.205-280 should be placed in the higher scale of Rs.425-700.

In the Railways the existing scale of Rs.205-380 is the result of a fairly recent merger of the scale of Rs.205-280 and Rs.250-380. As a transitional measure, persons on the present scale of Rs.205-380 may be given the scale of Rs.425-700. For the future recruits the general scheme should be adopted. Direct recruits with a Diploma in Draftsmanship or its equivalent should be placed in the scale of Rs.330-560, and those with Diploma in Engineering should be placed in the scale of Rs.425-700.

The Third Central Pay Commission, therefore, allotted four scales of pay to the drawing staff starting with Rs.260-430, Rs.330-560, Rs.425-700 and Rs.550-750. The Board of Arbitration however taking all relevant factors into consideration in respect of CPWD drawing staff allotted only three scales of pay to the drawing staff viz. Draftsmen Grade III Rs.330-560, Grade II Rs.425-700 and Grade I Rs.550-750 and thereby eliminated the lowest scale of Rs.260-430. Admittedly the applicant Shri A.G. Khan and Shri R.S. Tyagi herein not only possess B.A. degree and Matriculate certificate respectively but also possess certificate of Draftsmanship with a duration of two years. They were recruited initially in the grade of Rs.110-200

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in May, 1967 and January, 1972 respectively although they were designated as Tracers.

It will, therefore, be observed that the Tracers

in Rs.110-200 were being recruited with the minimum quali-

fication of Matriculation plus diploma/certificate in

Mechanical Engineering of a duration of not less than 2

years. The Pay Commission had recommended that where the

prescribed qualification is Matriculation with a diploma in

Draftsmanship for recruitment in the lowest grade

(Rs.110-200) the same should be identified with a view to

examine if they would be deserved to be placed in the next

higher grade. The recruitment rules filed by the

respondents were issued in 1977 and these rules are not

relevant in the matter before us is further borne out by

the observation of the Second Pay Commission, who in

Section VIII of the Chapter XXVI in paragraph 56 and 57

observed as under:-

"56. The distribution of Draftsmen and Tracers, in

the typical Class III scales, among the various

Ministries of the Central Government is as

follows:...."

The table is not being reproduced. It will suffice to say

that the same included the posts of the drawing staff in

the Ministry of Defence.

"57. The duties of Tracers, who are mostly on the

scale of Rs.60-150, consist of making drawings of

simple items. Draftsmen and Assistant Draftsmen are

employed on higher type of work. Recruitment is

made departmentally at various levels. For the

lowest grade of Tracers, matriculation with some

experience of drawing or tracing work is considered

sufficient qualification; but for higher posts a

diploma in engineering, or in draftsmanship, for

which there is a two-year course after

matriculation, is the minimum qualification...."

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The applicants who are before us are generally the recruits who joined service prior to that date with qualifications prescribed for Draftsmen Grade III in the CPWD. The Pay Commission undisputedly took into consideration the Recruitment Rules that were prevalent in 1973. The respondents have not brought to our notice the material recruitment rules. The Tracers in EME, therefore, cannot be treated in any other manner but at par with grade III Draftsmen of CPWD with pay scale of Rs.330-560 keeping in view their recruitment qualifications. The fact that the Tracers possess diploma/certificate (Mechanical) of two years duration plus B.A. Matriculation has not been denied by the respondents. The Third Central Pay Commission in fact after discussing the various categories of drawing staff including Tracers came to the conclusion in paragraph 77 of their Report, reproduced above, that the duties and the responsibilities of the Draftsmen are broadly identical. It will, therefore, be illogical, irrational and a retrograde step to withdraw the benefit of the scales of pay of the CPWD drawing staff extended to the applicants by the respondents in 1985, in accordance with the directions of the Ministry of Finance. The order of the respondents dated 3.10.1986 is, therefore, not only discriminatory and violative of the Articles 14 and 16 of the Constitution of India but is also violative of the doctrine of 'equal pay for equal work'.

We may observe here that if there are any Tracers with lower qualifications, they too would have to be placed in the identical scale of pay on the principle of 'equal pay for equal work', as any shortfall in recruitment qualifications would have been made up by them by virtue of longer experience attained by them. We had dealt with identical matters in OA 299/89 decided on 6.3.91 P.S. Bhatnagar & Ors. Vs. UOI & Ors, OA 1/89 Nain Singh Bhakuni

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& Ors. Vs. UOI & Ors. decided on 21.2.1991. Our attention was also drawn by the learned counsel for the applicants to the following decisions of the Calcutta Bench of the Tribunal in similar matters:-

- i) OA 458/86 Sunil Kumar Bhowmick & Ors. Vs. UOI & Ors. decided on 3.7.1987
- ii) OA NO.8/87 Jatindra Kumar Sapui & Ors. Vs. Engineer in-Chief, E-in-Branch, Army Headquarters & Ors. decided on 17.9.1987.

All these cases are based broadly on similar facts and in all the cases the OAs have been allowed. The minor variation in the facts need not detract us from the basic issue that where the recruitment qualification are broadly similar the Draftsmen should be placed in the identical grades as given to the drawing staff of the CPWD.

8. In the above conspectus of the case we are of the opinion that the applicants are entitled to be placed in the following scales of pay, as allowed by the Ministry of Finance (Deptt. of Expenditure) OM NO.F.5(59)-D/III/82 dated 13.3.1984 viz.:

Draftsmen Grade I Rs.550-750

Draftsmen Grade II Rs.425-700

Draftsmen Grade III Rs.330-560

notionally w.e.f. 13.5.1982, the actual benefit being allowed w.e.f. 1.11.1983. Ordered accordingly.

Consequently, we set aside and quash the order EME (Records) order No.3486/26/ CA-III dated 30.10.1986 and subsequent orders issued by the respective Commandants of the ^{respective} Base Work Shops in pursuance of the said order of the EME Records, Secundrabad.

The orders passed as above, shall be applicable mutatis mutandis to the applicants in the OAs Nos. 852/87, 1840/87, 1264/88, 1265/88, 1270/88, 1266/88, 1267/88, 1268/88 & 1269/88.

These orders shall be implemented by the respondents as early as possible but preferably within 16 weeks from the date of communication.

There will be no order as to costs.

Let a copy of this judgement be placed in the other cases listed above.

(I.K. RASGOTRA)
MEMBER(A)

(P.K. KARTHA)
VICE-CHAIRMAN(J)

May 15, 1992

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