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CENTRAL ADM IN ISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1712/1988.

DATE OF DECISION: 28-10-1991.

Shri Bhajan Singh & Others Applicants.

v/s.

Union of India & Others Respondents.

CORAM: Hon'ble Shri T.S. Oberoi, Member (J).
Hon'ble Shri P.C. Jain, Member (A).

Shri G.D. Gupta, counsel for the applicants.
Shri P.H. Ramchandani, counsel for the respondents.

P.C. JAIN, MEMBER: JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants (18 in number), who are employed as Draftsmen (Civil) in the Department of Telecommunications / Posts in the Ministry of Communications, have prayed for declaring them entitled to the same benefits of revised scales of pay as Draftsmen Grade- III, Grade- II and Grade- I as have been given to the corresponding categories of the employees in the CPWD with effect from 22.8.1973 notionally instead of from 13-5-1982 and actual benefits from 16-11-1978 (instead of 1.11.1983) in the same manner in which allowed to S/Shri Dharam Vir Sehdev, R.L. Madan and D.N. Verma with all consequential benefits. They have also prayed for a direction to the respondents to promote them from the date from which the aforesaid three officials have been promoted and given higher pay scales with all consequential benefits.

2. The facts of the case, in brief, are as under: -

At the time of filing this application on 16.8.88, applicants No.1 to 6 were employed as Draftsmen Grade- I in the scale of Rs.550-750 and the rest of the applicants were employed as Draftsmen Grade- II in the scale of Rs.330-560. The dates of their continuous appointment and subsequent promotions are given in the Statement

at Annexure-A. Consequent on the creation of the Civil Engineering Wing of the Posts & Telegraphs Department on 1-7-1963, the entire staff working in the erstwhile P&T Wing of the C.P.W.D. was transferred to the control of the P&T Department. Initially the staff then transferred was treated on deputation from CPWD to the P&T Department without any deputation allowance. Later on, it was decided that options may be called from CPWD non-gazetted staff who were on deputation to the P&T Department as to whether they would like to be retained in the P&T Department or to be repatriated to the CPWD. The terms and conditions for the purpose of options were circulated by the letter dated 24.8.1968 (Annexure-B). One of the terms is that the recruitment rules in regard to the non-gazetted technical cadres which are not common to the P&T Department will be allowed to remain operative and recruitments in these cadres made accordingly. The Third Central Pay Commission, in para 206 of its report submitted in 1973 recommended that since the categories of staff employed in the P&T Civil Engineering Wing are the same as in the CPWD Department with similar conditions of recruitment and duties, they may be placed on the pay scales recommended by them for the corresponding categories in the CPWD, and these recommendations were duly accepted by the Government. In para 81 of Chapter 14, the Third Central Pay Commission made the following specific recommendations: -

"(i) All the posts which are now in the scale of Rs.110-200 should be brought on to the scale of Rs.260-430. In the Posts and Telegraphs Department (outside its Civil Engineering Wing) where the prescribed qualifications 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 Draftsmen III (Rs.110-200) and Draftsmen II (Rs.110-225) in the Geological Survey of India should be merged and placed in level I. However, as hereto 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 qualifications requirement for recruitment to the grade of Rs.110-200 should be as already prescribed above."

Although the scales of pay as recommended by the Third Central Pay Commission had been given to the counterparts in certain other organisations, the Government did not agree to extending those scales to the Draftsmen in the CPWD. The matter figured as an item of discussion in the Departmental Council (JCM) of the Ministry of Works and Housing and in order to find out whether the nature of the jobs of Draftsmen in the CPWD was really of a different nature or not, a Work Study Unit was assigned the job of evaluation of the work and the said Works Study Unit submitted its report in January, 1977 making the following recommendations: -

"From the detailed comparative picture given above it will be seen that the three grades of Draftsmen in the CPWD who are doing the same duties and whose qualifications for the posts are also similar to the ones obtaining in the Ministry of Railways, Ministry of Engineering Service, etc. are not given the same scales of pay. In the light of the above background, it is recommended that the scale of pay

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for the three grades of draftsmen in the CPWD
should be revised as follows:

Name of post	Pay scale allowed at present.	Pay scale recommended.
Draftsmen Grade III	260-430	330-560
Draftsmen Grade-II	330-560	425-700
Draftsmen Grade-I	425-700	550-750.

The Government having not agreed to accept the recommendations of the aforesaid Works Study Unit, ultimately referred the matter to the arbitration of Hon'ble Mr. Justice Jaswant Singh, Chairman, Shri G. Ramanujan, Member - Staff Side, and Shri D.S. Nakra, Member - Official side, in May, 1977. The Board of Arbitrators after hearing of official side and staff side and having examined the merits of the case in the light of the entire material gave the Award to the effect that the scale of Draftsman Grade- III should be Rs.330-560 and that of Draftsman Grade-II Rs.425-700 and that of Draftsman Grade-I Rs.550-750. A copy of the Award dated 20.6.1980 is at Annexure-C. The Board of Arbitration stated that the above mentioned three categories of staff 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. 29.7.1977.

3. Since the Draftsmen of various categories of the Civil Engineering Wing of the P&T Department were denied the same scales of pay as were given to the Draftsmen as per the Award to the corresponding categories of employees of CPWD, three persons viz., S/Shri Dharam Vir Sehdev, R.L. Madan and D.N. Verma filed a Civil Writ No.911 of 1981 in the Hon'ble High Court of Delhi, which

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was allowed vide judgment of the Hon'ble High Court of Delhi dated 22.2.1984, in terms of the following directions: -

"A declaration is granted in favour of the petitioners that they are entitled to the scales of pay Rs.330-550, 425-700 and 550-750 as have been given to the corresponding category of employees in the Central Public Works Department with effect from August 22, 1973. I further direct that their pay may be notionally fixed with effect from August 22, 1973 in the revised scales and arrears, if any, be allowed with effect from November 16, 1978. A writ order or direction is granted to that extent with no order as to costs."

Against the aforesighted judgment of the learned Single Judge of the Delhi High Court, Union of India filed LPA No.109 of 1984 which was admitted by a Division Bench of the High Court on 4-9-1984, but after hearing the parties, the High Court of Delhi dismissed the application for stay of operation of the said judgment and order. The Union of India further moved the Hon'ble Supreme Court by filing a Special Leave Petition, but the same was also dismissed. As a result, three persons who were petitioners in the said Writ Petition, namely, S/Shri Dharam Vir Sehdev, R.L. Madan and D.N. Verma were allowed the revised pay scales corresponding to the revised pay scales applicable to the employees of the CPWD notionally with effect from 22-8-1973 and the actual benefits with effect from 16-11-1978. Meanwhile, Ministry of Finance (Department of Expenditure) have issued orders dated 13-3-1984 whereby the pay scales of Draftsmen in all the Departments and offices of the Government of India, other than CPWD, have been revised and brought identical to the scales given to the Draftsmen of CPWD, with the exception that

the benefit of the above revision of scales of pay has been allowed notionally with effect from 13-5-1982 and the actual benefit being allowed with effect from 1-11-1983. In pursuance of these orders, orders were issued in letter No.10-15/83-CSE, dated September 12, 1984 by the office of DGP&T for implementation of the above orders of the Ministry of Finance (Annexure-O). The grievance of the applicants herein is to the extent that they are entitled to the notional fixation of pay with effect from 22-8-1973 instead of from 13-5-1982 and actual benefit from 16-11-1978 instead of from 1-11-1983, in the same manner as has been allowed to three of their colleagues, who are stated to be junior to them.

4. We have gone through the record of the case and heard the learned counsel for the parties.

5. The respondents, in their counter-affidavit, have only stressed that the judgment of the Delhi High Court was specifically in respect of only the three Draftsmen who had filed the Writ Petition and it cannot be implemented in respect of the other Draftsmen of the P&T Department.

6. The applicants have brought to our notice a catena of pronouncements where identical claims have been allowed by the various Benches of the Tribunal, besides the judgment in the case of Shri Dharam Vir Sehdev & Others Vs. Union of India & Another (Civil Writ Petition No.911 of 1981), referred to above, in which case, Special Leave Petition was also dismissed. They have placed on record a copy of the judgment in the case of Sri Monomohan Medhi Vs. The D.E. Phones, Ghy & Ors., Sri Ranjan Kumar Deb Vs. The D.E., Phones & Ors., Sri Ranjit Kumar Dutta Vs. The D.E. Telegraphs, Shillong & Ors., Sri Manik Chandra Deb Vs. The Regional Traffic Supdt., Telephone & Ors. (G.C. Nos. 161, 162, 185 and 186 of 1987 respectively) decided on 3.8.1988 by the Guwahati Bench of this Tribunal, and also a copy of the judgment delivered on 11.10.1989 by the Principal Bench of this Tribunal in the case of Shri Balbir Singh & Others Vs. Union of India & Others (O.A. 1291/87) wherein the same relief has been allowed. The issues of law and fact

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have already been thoroughly examined and determined in the case of Shri Dharam Vir Sehdev & Others Vs. Union of India & Another (supra) and in a number of other judgments cited by the applicants. As stated above, the applicants have already been placed in the revised scales of pay at par with the scales of their counterparts in the CPWD in accordance with the O.M. dated 13.3.1984 issued by the Department of Expenditure, Ministry of Finance and it is only the dates from which notional and actual benefits have been extended to the applicants, which have been challenged.

7. We are in full agreement with the views expressed in the judgment delivered in the case of Shri Dharam Vir Sehdev & Others Vs. Union of India & Another (Supra), who are the colleagues of the applicants in the same Ministry, and many other judgments cited by the applicants, and hereby direct that the applicants will be allowed the benefits of the revised scales of pay as have been given to their counterparts in the CPWD with effect from 22.8.1973 not ionally, with actual benefit from 16-11-1978. We do not give any direction with regard to the promotion of the applicants from any particular date(s), as prayed for by them, since this is a matter which will depend, inter-alia, on the seniority of each official. This order shall be implemented within a period of three months from the date a copy of this judgment is received by the respondents. There shall be no order as to costs.

C. C. 28/10/91
(P.C. JAIN)
MEMBER (A)

28/10/91
(T.S. OBEROI)
MEMBER (J)