

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: DELHI

O.A.No.239/88

Date of decision: 26.8.93.

All India M.E.S.Civilian  
Draftsmen Association &  
Another

...Petitioners

Versus

Union of India & Another

...Respondents

CORAM:

THE HON'BLE MR. JUSTICE V.S.MALIMATH, CHAIRMAN.  
THE HON'BLE MR. S.R.ADIGE, MEMBER (A).

For the petitioners

... Shri H.K.Gangwani,  
Counsel.

For the respondents

... None.

JUDGMENT (ORAL)

(By Hon'ble Mr. Justice V.S.Malimath, Chairman) :

When this matter was heard for some time yesterday, none appeared for the respondents. Position is the same today as well. This petition is filed by All India MES Civilian Draftsmen Association and Subhash Chander Gupta, Draftsman Gr.I. The petitioners' case is that before the implementation of the Third Pay Commission's recommendations, the Draftsmen Gr.I in MES were in the pay scale of Rs.205-280. On the recommendations of the Third Pay Commission, the Union Govt. prescribed the scale of pay wef 1.1.73 for the post of Draftsmen Gr.I partly in the scale of Rs.425-700 and partly revised in the scale of Rs.330-560. This was challenged by some Draftsmen Gr.I of MES before the Chandigarh Bench of the Tribunal in OA 294/86. The said Bench allowed the OA on 14-5-87 and directed the respondents to fix the pay of the applicants therein in the scale of Rs.425-700 from the date of their promotion as Draftsman Gr.I. The said judgment was implemented and the arrears were paid to all the petitioners

in OA 294/86. When the others who were similarly situated claimed the benefit of the said decision, the same was not accorded to them. Reliance was placed on the order of President dated 11-9-87 (Annexure R-3) to the effect that the benefit of the judgment of the Chandigarh Bench for according the pay scale of Rs.425-700 to the Draftsmen Gr.I will be given notionally from 1.1.73 and actually from 1.9.87. It is in the light of the said decision that the other similarly situated Draftsmen Gr.I were not given the arrears consequent upon the according of the arrears of the pay scale of Rs.425-700 w.e.f 1-1-73. They were given notional benefit of the Pay Commissions's recommendations only from 1-1-73. The petitioners have produced several orders of other departments where similarly situated Draftsmen Gr.I have not only been given the benefit of scale of pay of Rs.425-700 w.e.f.1-1-73 but also have been given the benefit of arrears flowing from such fixation. It was urged that the petitioners have been discriminated against in this behalf. It is unnecessary to examine the action taken by the Govt. in giving arrears to Draftsmen Gr.I in other departments. In this case, there is material to show that Draftsmen Gr.I were given the benefit of arrears particularly the petitioners in OA 294/86 of the Chandigarh Bench. They were also Draftsmen Gr.I of the MES Branch. Hence, it is argued that there was no justification to restrict the benefit of the arrears only to those petitioners before the Chandigarh Bench. It was argued that it is unjust and arbitrary to grant the benefit of arrears to one section of Draftsmen Gr.I in MES and deny the said benefit to other similarly situated belonging to the very same department of MES. Thus, there is considerable force in this contention. Our attention was also drawn to the subsequent order made by the President bearing no. PC-90237/2040/EIC(3)/125-LC/D(CivI) dated 4-8-88 which we have permitted to produce along with an affidavit. Paragraph 3 of the order says that President is now pleased to decide that such of the Draughtmen Grade II

as were holding the pay scale of Rs.330-560 and were retained in the same scale (Rs.330-560) even on promotion to Draughtmen Gr.I after 1-1-73, may be given the scale of Rs.425-700 from the respective date of their promotion as Draughtmen Grade I. It is stated that this has been issued in concurrence with the Ministry of Defence. In paragraph 2, the judgment of the Chandigarh Bench of the Tribunal in OA 294/86 has been adverted to. There is nothing to indicate from this Order that the President directed only notional scale to be given from 1-1-73 in which case the arrears could have been denied on the strength of this order. The order says that the benefit of the higher scale of Rs.425-700 should be given from the respective dates of promotion as Draughtmen Gr.I. This, in our opinion, is just and reasonable order made by the President to remove the discrimination that would have flowed by action being taken to grant the benefit of arrears to some and to deny the same to others similarly situated. The subsequent order of the President dated 4-8-88 has the effect of superseding the earlier Order of the President dated 11-9-87 to which we have adverted to earlier and which denied the benefits of arrears from 1-1-1973. Even otherwise, we would have been justified in taking the view that it is discriminatory to deny the petitioners the benefit of arrears when other similarly situated persons belonging to MES itself have been given the benefit of arrears giving effect to the judgment of the Chandigarh Bench of the Tribunal in OA 294/86. It is relevant to note at this stage that the order of the Chandigarh Bench of the Tribunal does not in express terms speak of arrears being given. It only speaks of the benefit being given w.e.f.1-1-1973. That has been rightly understood as justifying the grant of arrears to them. If similarly situated Draftsmen Gr.I were entitled to be paid arrears w.e.f. 1-1-1973 on the strength of the judgment of the Chandigarh Bench, we see no reason as to why we should deny the same to

others similarly situated Draftsmen Gr.I. Hence, this application is entitled to succeed.

2. For the reasons stated above, this application is allowed and the respondents are directed to grant to all the Draftsmen Gr. I of the M.E.S. who have been given notional promotion w.e.f. 1.1.1973 the benefit of arrears from the due date. The arrears due to all similarly situated Draftsmen Gr.I of the MES shall be calculated and paid to them within a period of four months from the date of receipt of a copy of this judgment. No costs.

*K. Rajagopal*  
(S.R. ADIGE)

MEMBER (A)

(PKK)  
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*M. S. Malimath*  
(V.S. MALIMATH)  
CHAIRMAN