

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1291/87

DATE OF DECISION: 11/10/1991

SHRI BALBIR SINGH & OTHERS

...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

THE HON'BLE JUSTICE MR. AMITAV BANERJI, CHAIRMAN

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

FOR THE APPLICANTS

SHRI K.L. BHANDULA, COUNSEL

FOR THE RESPONDENTS

SHRI P.P. KHURANA, COUNSEL

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

Shri Balbir Singh and 26 others who are working as Draftsmen Grade-I in the office of Superintending Engineer, Electrical Telecom, New Delhi filed this Original Application on 8.9.1987 under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the action of the respondents in not allowing them the pay scales and arrears of pay from the dates awarded by the Board of Arbitration to the Draftsmen employed in the Central Public Works Department (CPWD).

2. Briefly the Draftsmen in the CPWD were notionally fixed in the following grades w.e.f. 22.8.1973 with actual benefit accruing from 16.11.1978:

Draftsmen	Pay Scale
Grade III	Rs.330-560
Grade II	Rs.425-700
Grade I	Rs.550-750

The applicants on the other hand have been allowed the benefit of revised scales of pay as above notionally w.e.f. 13.5.1982 with the actual benefit accruing from 1.11.1983

in accordance with the Ministry of Finance (Department of Expenditure) OM No.F.5(59)E-III/82 dated 13.3.1984.

The limited issue, therefore, is that whether the applicants are entitled to notional fixation of pay w.e.f. 22.8.1973 in the revised scales of pay with actual benefit from 16.11.1978.

In justification of their claim the applicants claim common ancestry with CPWD Draftsmen prior to 1st July, 1963, as P&T (Civil Engineering) Wing was then part and parcel of CPWD. The commonality of the stock supports their case of having identical conditions of recruitment and other terms and conditions of service. Further the Third Central Pay Commission in paragraph 206 of its report affirms this view. For reference the relevant extract is given hereunder:-

"The categories of staff employed in this 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 us for the corresponding categories in the CPWD....."

(Annexure A-7, page 57 of the paper book).

It is not disputed that the pay scales recommended by the Third Central Pay Commission for the Draftsmen in the CPWD were also allotted to the applicants. It is the subsequent development in CPWD that the applicants herein are aggrieved of which briefly is that the CPWD Draftsmen raised a dispute in the Departmental Council of the J.C.M and recorded a disagreement which culminated in the eventual reference of the dispute to the Board of Arbitration under the scheme of J.C.M. The Board of Arbitration after considering the matter gave the following award:-

"1. The Three categories of Draftsmen viz. Grade III, Grade II and Grade I shall be inducted in the Pay scales shown hereunder against each of the aforesaid categories:-

DRAFTSMEN GRADE III - Rs.330-560

DRAFTSMEN GRADE II - Rs.425-700

DRAFTSMEN GRADE I - Rs. 550-750

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

Sd/-

Sd/-

Sd/-

SECRETARY BOARD OF ARBITRATION (JCM)

NEW DELHI

DATED THE JUNE 20, 1980

+In case there is any error regarding the date of the disagreement the computation shall be on the basis of the actual date relating to the disagreement according to the Official record.

Sd/- JASWANT SINGH
CHAIRMAN "

Consequent to the above, the applicants in the P&T (Civil Engineering) Wing also claimed the same scales of pay which were allotted to the Draftsmen of the CPWD. The department, however, turned down the demand. This led to the three of the Draftsmen of the P&T (Civil Engineering) Wing viz. S/Shri D.V.Sehdev, B.L. Madan and D.N. Verma filing a

Civil Writ Petition No.911/81 in the High Court of Delhi which was allowed in favour of the petitioners by the learned Single Judge Bench vide judgement dated 22.2.1984. The respondents filed L.P.A. No.109/84 but the same was dismissed by the Division Bench of the Delhi High Court on 22.2.1985 and so was the SLP filed in the Hon'ble Supreme Court on 31.3.1986. Accordingly, the three petitioners viz. D.V. Sehdev, R.L. Madan and D.N. Verma were allotted the revised scales of pay notionally w.e.f. 22.8.1973 with actual benefit w.e.f. 16.11.1978. Since three of the colleagues who were party to the CWP No.911/81 have been extended the scales of pay notionally w.e.f. 22.8.1973 and actually w.e.f. 16.11.1978 to the applicant. They claim that this is tantamount to discrimination and is infraction of Articles 14 and 16 of the Constitution of India. Their next argument is that they are entitled to the identical scales of pay in accordance with the doctrine of 'equal pay for equal work.'

3. The respondents have filed counter-affidavit in which they have taken the stand that the organisation in the P&T (Civil Engineering) Wing had undergone a transformation after the report of the Staff Inspection Unit (SIU) was implemented in 1987, resulting in the abolition of the lowest grade of Draftsmen in the P&T (Engineering Wing) which left only two grades of Draftsmen in the scale of Rs.425-700 and Rs.330-560. This organisational aspect, however, need not detain us, as this has been dealt with in great detail in the judgement of the Delhi High Court dated 22.2.1984. Admittedly, the Third Central Pay Commission confirmed that the recruitment qualifications, duties and responsibilities of the Draftsmen in the P&T (Civil Engineering) Wing and in the CPWD are identical and accordingly recommended identical scales of pay. There is also no doubt that these scales of pay were implemented by the respondents but in the case of CPWD the scales of pay underwent a revision consequent to

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the award of Board of Arbitration notionally w.e.f. 22.8.1973 and actually w.e.f. 16.11.1978. The Award of the Board of Arbitration, however, has not been extended to the applicants. Nevertheless, the revised scales of pay at par with the scales of pay available to the CPWD Draftsmen have been granted to the Draftsmen in the P&T (Civil Engineering) Wing notionally w.e.f. 13.5.1982 and actually w.e.f. 1.11.1983. Whether the applicants who were neither the party before the Board of Arbitration nor before the Delhi High Court should be allowed the benefit claimed by them is the moot question.

4. The applicants have brought to our notice a catena of pronouncements where identical claims have been allowed by the various Benches of the Tribunal vide judgements listed below:

- i) GC No.161 of 1987 Sri Monomohan Medhi v. The D.E. Phones, Ghy & Ors., GC 162 of 1987 Sri Ranjan Kumar Deb v. The D.E., Phones & Ors., GC No.185 of 1987 Sri Ranjit Kumar Dutta v. The D.E. Telephones & Ors. and G.C. No.186 of 1987 Sri Manik Chandra Deb v. The Regional Traffic Supdt. Telephones & Ors. decided by the Guwhati Bench on 3.8.1988.
- ii) OA No.984 of 1989 K.A. Srinivasan & Ors. v. The Director General Telecom & Ors. decided by the Madras Bench on 22.3.1991.
- iii) OA No.420/HR/88 Kailash Chand & Ors. v. Union of India & Ors. decided by the Chandigarh Bench on 15.2.1991
- iv) OA No.325 of 89 and OA 699 of 87 Gosaidas Debnath & Ors. v. Union of India & Ors. decided by the Calcutta Bench on 11.1.1990.

Copies of the above judgements have also been filed by the learned counsel for the applicants. A careful perusal of the above judgements indicates that the identical issues of law and fact have been decided by the

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Tribunal in the above listed cases granting the benefits to the petitioners therein. The applicants have already been placed in the revised scale of pay in accordance with the Department of Expenditure, Ministry of Finance OM dated 13.3.1984 and ordinarily perhaps there would be no case for judicial interference. However, there are two compelling features of the cases first that the applicants were part and parcel of the CPWD, prior to 1963 and were recruited in accordance with the same Recruitment Rules and enjoyed the same terms and conditions as their counter-parts in the CPWD and secondly they continue to discharge the same duties and responsibilities, as they were doing prior to 1.11.1983. We are aware that these compelling factors would have weighed heavily with the various Benches of the Tribunal while allowing the benefits to the petitioners in the cases referred to above. We are, therefore, in respectful agreement with the judgements delivered by the various Benches of the Tribunal and accordingly, order and direct the respondents to allow the notional fixation of pay, as applicable to the Draftsmen in the CPWD w.e.f.

22.8.1973 with actual benefit from 16.11.1978. *This may be done within 4 months from the date of receipt of a copy of this order. as*
There will be no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)

MEMBER(A)

11/10/91

Amitav Banerji
(AMITAV BANERJI)

CHAIRMAN