

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2766/92

New Delhi this the 5th Day of December, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Smt. Lakshmi Swaminathan, Member (J)

1. Parkash Chander
2. Narinder Sharma
3. K.P. Kumar
4. Amrit Lal
5. Lala Ram
6. Smt. C.K. Khurana
7. Bidha Singh
8. Lal Singh
9. S.N. Mahendru
10. Inder Kumar
11. Raj Singh
12. A.K. Kapoor
13. Navnit Lal
14. J.M.L. Jain
15. J.S. Gahallot
16. S.K. Chandel
17. A.K. Khanna
18. Jaswant Singh
19. Avtar Singh
20. K.C. Ahuja
21. M.L. Verma
22. K.L. Jindal
23. H.S. Nirwal
24. Thakur Singh
25. Kamlesh Sehgal
26. J.K. Gupta
27. K.S. Chopra
28. Milkhi Ram
29. Inayat-ur-Rehman
30. Jagdish Chand
31. Din Dayala
32. P.S. Bhatnagar
33. R.S. Rohiella
34. O.P. Batra
35. N.K. Ghose
36. K.L. Kohli
37. Charan Singh
38. O.P. Tank
39. Manik Chand
40. O.P. Kain
41. Mansa Ram

...Applicants

(By Advocate Sh. V.P. Sharma)

Versus

1. Union of India, through the Secretary, Ministry of Communications, New Delhi.
2. The Director General, Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi.

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3. The Director of Telecom Board,
Department of Telecom,
New Delhi. ... Respondents

(By Advocate Sh. Madhav Panikar)

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

The 41 applicants before us are working as Draftsmen in the Department of Telecommunications under the third respondent, the Director of Telecom Board. The grievance of the applicants is that while similarly placed Draftsmen have been given a higher pay scale notionally with effect from 28.2.73 ~~with~~ actual payment from 16.11.78, in accordance with the order dated 15.3.92 (Annexure A-1), these pay scales are not given to the applicants and they have been ignored. Hence, they have prayed for a declaration that they are also entitled to the same relief notionally w.e.f. 28.2.73 ~~with the~~ actual monetary benefit from 16.11.78.

2. The respondents have filed a reply, contesting these claims.

3. The matter was heard today. Briefly stated the Draftsmen in the P.W.D. were beneficiaries of an award which related to the pay scale applicable to Draftsmen Grade-I, Draftsmen Grade-II and Draftsmen Grade-III. Subsequently, by an order of the Government of India dated 13.3.84 the scales of pay of the Draftsmen Grades III, II and I were permitted to be revised in other offices/department of the Government, provided their recruitment qualifications are similar to those prescribed in the case of Draftsmen in the Central Public Works Department.

4. It would appear that Dharam Vir Sehdev, R.L. Madan and D.N. Verma had filed a Writ petition in the High Court of Delhi claiming the benefit of the Government of India's circular referred to above, which was allowed by the High Court (civil writ petition No.911/81). Based upon that decision Bhajan Singh and Others who were Draftsmen (civil) in the department of Telecommunications/Post approached the Tribunal in OA-1712/88 for similar benefits. This was allowed on 28.10.91. Similarly in OA-1978/88 filed by the All India P & T Civil Wing Non-Gazetted Employees Union claiming similar benefits based on the decision of the High Court of Delhi in Dharam Vir Sehdev and Others(C.W. No.911/81 decided on 22.3.84) an order was passed on 31.7.92 directing the respondents to revise the pay scales of all the Civil Wing Draftsmen in the manner indicated therein from 22.8.73 notionally with actual benefit from 16.11.78.

5. In OA-2991/89 filed by P.S. Bhatnagar and Others who were working as Draftsmen in the Telecom Board, like the applicants, a decision was rendered on 6.3.91, in which it was held as follows:-

"5. The issue in the present OA is no different from the one as has been disposed of in OA-1/89. We, therefore, are of the view that the Draftsmen in the Telecom Board should also be granted the same scales of pay which have been granted in the other three Wings, as they are substantially performing the similar duties as the Draftsmen in the other three Wings of the Telecom Department. Their fixation of pay and payment of arrears should, however, be in accordance with the Ministry of Finance OM dated 13.3.84 viz. the pay of the applicants shall be fixed notionally w.e.f. 13.5.82 subject to fulfilment of other conditions as laid down in the DG P&T letter No.1015/83-CSE dated September 12, 1984, with the actual benefit being granted w.e.f. 1.11.1983."

6. The learned counsel for the applicants, therefore, claims that the applicants are entitled to the reliefs prayed for.

7. The learned counsel for the respondents draws our attention to the judgement of the Full Bench of this Tribunal sitting at Ernakulam in Jacob Abraham & Others vs. Union of India & Others (1994 (28) ATC FB 177). That was also a matter concerning the pay scales of Draftsmen but belonging to a different organisation viz. Defence Research and Development Organisation. The Madras Bench of the Tribunal had earlier decided that these Draftsmen were not entitled to get the benefit of the Government of India's circular dated 13.3.84, as the qualifications for their recruitment were quite different from the qualifications obtaining in the C.P.W.D. However, a Division Bench sitting at Ernakulam in the above case felt that, perhaps, the decision of the Madras Bench requires reconsideration and that it has to be held that these Draftsmen are also eligible to get the benefit of the decision of the Government of India. The Full Bench went into the matter and as far as the merits are concerned, it agreed with the findings of the Madras Bench. It, however, observed that, even otherwise, as the claim relates to 1984, it suffers from laches and the plea of the applicants that the law of limitation should not be applied to them because of the various decisions of the Tribunal, has no force.

8. He, therefore, contends that in this case also the benefit sought is dated 13.3.84 and hence it is a stale claim, which has to be rejected.

9. The learned counsel for the applicants, however, pointed out that he had filed along with MA for early hearing an order of the Department of Telecommunication dated

23.8.93 relating to revision of pay scales of Draftsmen in the Department of Telecom (Telecom Wing). He points out that by that order the Government had decided that, in the Telecom Wing of the Department of Telecommunication, the Draftsmen will have three grades of pay which are those mentioned in the Government of India's circular dated 13.4.84 and that in respect of the Draftsmen whose pay scales had already been revised earlier in pursuance of the judgement of the Tribunal and who had not derived the benefit to the same extent, as is now mentioned in the circular, the benefit of the circular would be extended to them also. In their case also, the revised pay scale would be made applicable from 22.8.73. The actual benefit would be given from 16.11.78. He, therefore, contended that there is no question of limitation now that the Department itself has extended the pay scale by this order. The learned counsel for the respondents submits that this is restricted to the Draftsmen of the Telecom Wing of the Department of Telecommunication and not to the Draftsmen belonging to the Telecom Board, like the applicants.

10. We have considered this matter. We notice that the judgement of the Tribunal in P.S. Bhatnagar and Others (OA-2991/89) decided on 6.3.91 noted the fact that in the Telecom Department there are four Wings, namely, Telecom Civil Wing, Telecom Wing, Telecom Factories Organisation and Telecom Board. The applicants therein belonged to the last category. In the judgement rendered in that case, it has been held that the Draftsmen in the Telecom Board should also be granted the same scales of pay which have been granted in the other Three Wings, as they are substantially performing the similar duties. In view of this declaration, the benefit of the circular dated 23.8.93, referred to above, would apply

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to the Draftsmen of the Telecom Board also like the applicants. In this view of the matter, we are satisfied that the plea of limitation taken by the respondents has no merit and the applicants in this OA will have to be given the benefit of the circular dated 23.8.93. Accordingly, we dispose of this OA with a direction to the respondents to extend the benefit of the circular No.22-5/92-T5-II dated 23.8.93 and grant them the benefit of the higher pay scale subject to the conditions mentioned therein viz. that the pay scale would be admissible from 23.8.73 and actual benefit will accrue from 16.11.78 or from the date of actual payment/promotion in these grades, whichever is later and that further this would be subject to the condition mentioned in para-7 of that memorandum, which reads as follows:-

"7. The revision of the scales of pay as ordered in para 2 above is subject to the condition that those Draughtsmen who receive such monetary benefits on the revision of pay shall give an undertaking in writing that they will refund the amount received on such revision, in case the L.P.A. No.109/84 pending in the Division Bench of Delhi High Court (UOI Vs. Dharam Vir Sehadev and 2 others) is decided in favour of the Government. This stipulation has been laid down by the Hon. Supreme Court of India while disposing of the SLP filed by the Department in the above case vide Supreme Court order dated 16.4.1993 in CC19204/93."

11. These directions may be carried out within a period of three months from the date of receipt of this order.

12. The OA is disposed of as above, with no order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

'Sanju'

N.V. Krishnan
5.12.94

(N.V. Krishnan)
Vice-Chairman(A)