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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1169/93

18. 2. 1999

T.A.No.

DATE OF DECISION

Engineering Drawing Staff
Association(CPWD) and
another.

....Petitioner

Shri V.S.R. Krishna

....Advocate for the
Petitioner(s)

VERSUS

UOI & others

....Respondent

None for the respondents


....Advocate for the
Respondents.

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri N.Sahu, Member (A)

1. To be referred to the Reporter or not? YES
2. Whether it needs to be circulated to other
Benches of the Tribunal? No.


(Smt.Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 1169/93

New Delhi this the 18th day of February, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri N. Sahu, Member(A).

- 1.. Engineering Drawing Staff Association,
Central Public Works Department,
(Recognised by the Govt. of India),
Indraprastha Bhawan, Central Office,
New Delhi.

Through

Shri P.N. Dobriyal,
General Secretary,
Engineering Drawing Staff Association,
Central Public Works Departments,
I.P. Bhawan,
New Delhi.

- 2.. Shri A.D. Arora,
S/o Shri Ram Chand Arora,
Draftsman Gr. II,
PWD Division, 16, (DA),
MSD Building,
New Delhi-110 002.

... Applicants.

By Advocate Shri V.S.R. Krishna.

Union of India

Through

- 1.. The Secretary,
Government of India,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

- 2.. The Director General of Works,
CPWD,
Nirman Bhawan,
New Delhi.

- 3.. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi.

... Respondents.

(None for the respondents)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants who are working as Draftsmen Grades-I, II and III have filed this application seeking a direction to the respondents to allow them the same benefits of Time Bound Telescopic pay scales as granted to Draftsmen in the other departments. They had submitted a representation dated 7.8.1991 which, according to them, has not been examined or replied by the respondents, in spite of ^{a 12} number of reminders.

2. We have carefully considered the pleadings and heard Shri V.S.R. Krishna, learned counsel for the applicant and none had appeared for the respondents on the last date of hearing.

3. The applicants have submitted that they are all members of the Engineering Drawing Staff Association. They have submitted that according to the relevant Recruitment Rules, a Draftsman Grade-III with three years experience can be promoted to the post of Draftsman Grade-II which is a 100% promotional post. Similarly, under the Recruitment Rules, Draftsman Grade-II with 8 years experience can be considered for promotion to the post of Draftsman Grade-I, who with 5 years experience, can be considered for the promotional post of Chief Estimator. According to them, there are only 3 posts of Chief Estimators and they have absolutely no chances of promotion to that post as in most of the cases, a Draftsman gets a single promotion after a very long number of years. They have also submitted that the respondents have not favourably responded to their proposal for Cadre Review as has been done in the case of Junior Engineers of the same Department. They have also submitted that prior to 1979 a reference had been made to the Board of Arbitration in

regard to the revision of pay scales of Draftsmen Grades-I, II and III. The Award given by the Board of Arbitration had been accepted by the Government and the applicants had also been given the benefits thereof. They have submitted that the Draftsmen in Telecom Factories Organisations had, on the basis of the Award given to the CPWD Draftsmen, introduced Time Bound Telescopic pay scales which had the effect of removing stagnation at various levels due to lack of promotional opportunities. In the representation dated 7.8.1991, the applicants have, inter alia, submitted that the Time Bound Telescopic pay scales in the cadre should also be introduced due to non-availability of promotional avenues. Shri V.S.R. Krishna, learned counsel, has submitted that the Department of Telecommunication by their order dated 7.1.1987 had gone a step further than the Arbitration Award which is applicable to the CPWD Draftsmen, and had introduced the running pay scales for their Draftsmen, which now the applicants are demanding. The applicants have submitted that since they are also Draftsmen with negligible or nil chances of promotion, they should also be given similar benefits of Telescopic pay scales in ^{the} ~~the~~ Time Bound manner as proposed by them in their representation dated 7.8.1991. Learned counsel has also submitted that in a similar case of **Pasupati Basak & Ors. Vs. Union of India & Ors.** (O.A. 903/91), CAT, Calcutta Bench, following the judgement of the Tribunal in O.A. 93-109/93, had disposed of the application with a direction to the competent authority to dispose of the representation with ^{the} ~~the~~ speaking order. According to him, the Department of Telecommunications have implemented the directions of the Tribunal by issuing order dated 25.9.1992 (A-7). By this order, the applicants in that case were given revised pay scales subject to the conditions mentioned in the letter dated 12.9.1984 and subject to the final outcome of SLP (Civil) No.

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of 1990 against the judgement dated 5.2.1989 of CAT Bangalore Bench in OA 93-109 of 1989. Learned counsel has submitted that there was no reason why the applicants should also not be similarly treated and be given the benefit of Time Bound Telescopic pay scales as have been extended to the Draftsmen in the Department of Telecommunications. They have, therefore, prayed for a direction to the respondents to refix the pay scales of Draftsmen Grade-III from Rs.1200-2040 to Rs.1400-2300 after 3 years of service in that grade; refixation of pay scales of Draftsmen Grade-II from Rs.1400-2300 to Rs.1600-2660 after 8 years of service in that grade; and for Draftsmen Grade-I from Rs.1600-2660 to Rs.2000-3200 (revised) after 5 years of service in that grade. They have also submitted that a direction may be given in the case of Draftsmen who were in service on 1.1.1986 but have not completed the requisite period of service as per the Recruitment Rules, they may be promoted notionally with effect from the date they complete the requisite period of service with arrears of pay and allowances along with interest. They have also submitted a Compendium of the relevant documents relied upon by them which is placed on record.

Learned counsel has also referred to the judgement of the Tribunal (Calcutta Bench) in O.A. 1077/94, **Jaharial Dutta & Sons Vs. Union of India & Ors.** (copy placed on record) against which the SLP filed by the Union of India was dismissed on 9.2.1998. In **Jaharial Dutta's case (supra)**, the applicants were Draftsmen - Level - 1 under Calcutta Telephones, which was a part and parcel of the Post & Telegram Department. The Tribunal following the earlier judgement in O.A.20/93 had disposed of the application with a direction to the respondents to fix the pay of the applicants in the scale of Rs.1600-2660 with effect from the date of their entitlement i.e. on completion of 8 years of service.

4. The respondents in their reply have denied that the applicants are entitled to the Time Bound Telescopic pay scales. They have submitted that the Draftsmen in other Departments receive the pay scales at par with the Draftsmen of CPWD and hence there is no violation of any fundamental rights of the applicants. They have also denied that they have not examined the applicants' representation dated 7.8.1991 and have submitted that they had constituted a Cadre Review Committee to look into the matter and make recommendations after which they could take up the matter with the Ministry of Finance. It is also significant to note that the respondents have themselves submitted that the demand of the applicants has not altogether been rejected and the same will be looked into in detail after the final recommendations of the Staff Inspection Unit (SIU) are available. They have, however, stated that there is no discriminatory action being taken against the applicants and they have been given the pay scales in pursuance of the Arbitration Award given to the CPWD Draftsmen. With regard to the grant of higher pay scales to one Draftsman by the Department of Telecommunications, they have submitted that this was a mistake and a ~~remedial~~ ^{corrective} action was being taken by that Department. According to them, the applicants are referring to the same with a view to perpetrate the mistake. They have also stated that the Time Bound scales is generally given only when there is extreme stagnation in the grades and according to them, it is necessary that in the first instance the matter should be examined by the Cadre Review Committee. As mentioned above, as none had appeared on behalf of the respondents when the case was taken up for hearing, we were not apprised^a of the latest

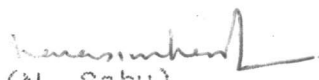
position in regard to examination of the case either by the Cadre Review Committee or the final decision taken on the basis of the recommendations of the 5th Pay Commission in this regard.

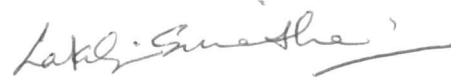
5. It is settled law in a catena of judgements of the Supreme Court that in matters of fixation of pay scales and classification of posts for the purpose of prescribing the pay scales, it is best left to expert bodies like the Pay Commission and the Tribunals/Courts should not normally interfere with such matters, unless there is a clear case of discrimination or mala fide made out (See. Union of India Vs. P.V. Hariharan (1997 (1) SC SLJ 598), State of West Bengal & Ors. Vs. Hari Narayan Bhowel & Ors. (1994(27) ATC 524), Supreme Court Employees Welfare Association Vs. Union of India (AIR 1990 SC 344) and Union of India & Ors. Vs. Shri Ram Gopal Agarwal & Ors. (JT 1998 (1) SC 126). From the facts mentioned above, it is relevant to note that in the first instance, it appears that based on the Award given by the Board of Arbitration to the Draftsmen in CPWD, similar claims were raised by the Draftsmen in the other Departments which were later on agreed ^{to B.} by the Government and granted. Now what the applicants are claiming is that even though they are Draftsmen in CPWD, certain other benefits which had been given to the Draftsmen, for example, by the Department of Telecommunications, based on the Board of Arbitration Award given to the CPWD Draftsmen, had in fact given them larger benefits which in turn should now come back to the applicants who are in CPWD. From this, it is quite clear that the equation, fixation, classification and prescribing ^{tion of B.} pay scales for various posts does indeed have a cascading effect, as several other categories similarly situated, as well as those situated above and below, will put forward similar claims based on any changes in the pay scales as observed by the Hon'ble

Supreme Court in P.V. Hariharan's case (supra). Apart from this, in this case, the respondents have themselves submitted that the claim of the applicants has not been decided, and less so rejected, at the time when they filed their reply on 18.10.1993. As the learned counsel for the respondents was absent, we were not able to ascertain the present position, including the result of the SLP referred to in the Department of Telecommunication's letter dated 25.9.1992 which has been relied upon by the applicants. In the meantime, the 5th Central Pay Commission has also made its recommendations on which the Government has also taken decisions.

6. Considering the above facts and circumstances, O.A. is disposed of with the following directions:

"Respondents to consider the applicant's representation dated 7.8.1991 after giving a personal hearing to Applicant No. 1 through its General Secretary, keeping in view the relevant judgements mentioned above, by a reasoned and speaking order. They shall intimate the decision to the applicants within 4 months from the date of receipt of a copy of this order. No order as to costs.


(N. Sahu)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

"SRD"