

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

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O.A. No.2726 of 1993.

NEW DELHI, THIS THE 15th DAY OF SEPTEMBER, 1997.

HON'BLE MR. JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE MR. S.P.BISWAS, MEMBER (A).

KUNDAL SINGH,
s/o Late Shri Ram Singh, Aged 52 years,
Tracer/Draftsman Grade III,
National Buildings Organisation,
(Ministry of Urban Development)
Nirman Bhawan, New Delhi.
R/o A-117, Kidwai Nagar East,
NEW DELHI-110023.

...Applicant.

(BY ADVOCATES SHRI M.L.CHAWLA WITH SH.S.L.LAKHANPAL)

Vs.

1. Union of India (through the
Secretary to the Govt. of India,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.

2. The Director,
National Buildings Organisation,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.

...Respondents.

(BY ADVOCATE SHRI N.S. MEHTA)

ORDER

JUSTICE K.M.AGARWAL:

In essence, the main relief claimed by the applicant in this O.A. is for extension of the benefit of revised pay scale granted to Draughtsmen Grade III, II and I by Office Memorandum No.F.5(59)-E.III/82 dated the 13th March, 1984 (Annexure A-1).

2. The applicant is working in the Ministry of Urban Development as a Tracer/Draftsman Grade III since 1981 on being promoted from that to that post of Ferro Printer. The Draughtsmen Grade I, II and III working in Central Public Works Department (in short, CPWD) were given revised pay scale as mentioned in Annexure A-1 on the basis of the Award of Board of Arbitration. On representations being made by other Departments of the Government for similar revision of pay scales, a Committee of National Council (Joint Consultative Machinery) was set up to consider the said representations and on

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the basis of its recommendations, the Government was pleased to issue the impugned Office Memorandum dated 13.3.1984 communicating the decision of the President to extend the benefit to Draughtsmen Grade III,II and I in other departments of the Government subject to the condition that their recruitment qualifications were similar to those prescribed in the case of Draughtsmen in CPWD. It appears that the applicant did not fulfil the requisite recruitment qualifications of Draughtsmen in CPWD and, therefore, he and similar other employees were denied the said benefit. The applicant has, therefore, filed the said O.A. for the said relief.

3. During the course of arguments, the learned counsel for the applicant submitted that similarly situated employee Mohan Lal Biswas had filed O.A. No.12/A&N/92 which was allowed on 2.7.1992 by a Circuit Bench, Port Blair of this Tribunal. Accordingly the benefit must also be extended to the applicant.

4. During the pendency of this O.A. and on 20.8.1997 the applicant filed M.A. No.1938/1997 along with Office Memorandum No.13(1)-IC/91 dated 19.10.1994, issued by the Government of India, Ministry of Finance, Department of Expenditure (Annexure A-14). In the M.A. the applicant prayed to take the aforesaid document on record. As the document appeared to be material for decision of the case and as it came into existence after filing the present O.A., we indicated our inclination to take this document on record and accordingly arguments were also heard. Now we direct that the document may be taken on record.

5. As the learned counsel for the respondents was also heard in reference to the document dated 19.10.1994 filed on 20.8.1997, we do not consider it necessary to give further time to the learned counsel for the respondents. We may also mention that at the time of hearing, the learned counsel for the respondents fairly conceded that he would not pray for time if the document was taken on record.

6. The learned counsel for the respondents initially resisted

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the application on the ground of limitation and on additional ground that the decision of this Tribunal in O.A. No.12/A&N/92 (Mohan Lal Biwas Vs. U.O.I. & Ors) could not be said to be judgment in rem. When we wanted to know, if the Office Memorandum dated 19.10.1994 (Annexure A-14) applied to the case of the applicant, the learned counsel fairly conceded that it did apply but submitted that its application was subject to conditions.

7. After hearing the learned counsel for the parties and perusing the record, we are of the view that the question of delay does not arise in view of the fact that subsequent to the date of application, the Government decided to extend the benefit even to persons like the applicant and, therefore, only on the ground of delay the application cannot be disposed of. In this view of the matter, it does not appear necessary to decide if the aforesaid Circuit Bench decision of this Tribunal is or is not a judgment in rem.

8. By Office Memorandum dated 19.10.1994 (Annexure A-14), the benefit was extended to all the Draughtsmen Grade I, II and III, irrespective of their recruitment qualification, in all Government offices. The conditions imposed were as follows:

"2. The President is now pleased to decide that the Draughtsmen Grade I, II & III in offices/departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following:

- (a) Minimum period of Service for placement from : 7 years
the post carrying scale of Rs.975-1540 to Rs.1200-2040 (pre-revised Rs.260-430 to Rs.330-560).
- (b) Minimum period of service for placement : 5 years
from the post carrying scale of Rs.1200-2040 to Rs. 1400-2300 (pre-revised Rs.330-560 to Rs.425-700).
- (c) Minimum period of service for placement from : 4 years
the post carrying scale of Rs.1400-2300 to Rs.1600-2660 (pre-revised Rs.425-700 to Rs.550-750).

3. Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of scales of pay would be given with effect from 13.5.82 notionally and actually from 1.11.83."

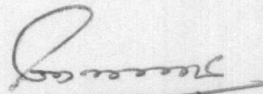
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We are, therefore, of the view that in terms of Office Memorandum dated 19.10.1994 and subject to the conditions laid down therein, the applicant is entitled to the revised pay scale of his grade of Draughtsman.

9. In the result, this application succeeds and is hereby allowed to the extent indicated. The respondents are directed to extend the benefit of Office Memorandum dated 19.10.1994 (Annexure A-14) to the applicant subject to fulfilment of the conditions mentioned therein and to the extent clarified in the said Office Memorandum. No costs.


(K.M.AGARWAL)
CHAIRMAN


(S.P.BISWAS)
MEMBER (A)