

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.961 OF 1998

ALLAHABAD THIS THE 31st DAY OF JULY, 2003

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A
HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

1. Kashi Nath Tewari,
aged about 45 years,
Son of Late Shiv Kumar Tewari.
2. Shyam Lal,
aged about 45 years,
Son of Late Kattu Ram.
3. Vidya Mani Srivastava,
aged about 44 years,
son of Late Anant Lal Srivastava.

All at present posted as Gauge Assistant
Central Water Commission Middle Ganga
Division III Akash Deep, Panna Lal Park,
Varanasi.

.....Applicants

(By Advocate Shri S. Kumar)

Versus

1. Union of India,
Ministry of Water Resources,
Central Water Commission,
Sewa Bhawan, R.K. Purem,
New Delhi through its Chairman.
2. Chief Engineer, Central Water Commission,
Jal Tarang Bhawan Pratap Bagh,
Aliganj, Lucknow.
3. Superintending Engineer,
Central Water Commission,
Middle Ganga Circle,
Akash Deep, Panna Lal Park,
Varanasi. Respondents

(By Advocate Shri S.C. Mishra)

O R D E R

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. filed under section 19 of Administrative
Tribunals Act 1985, the applicant has prayed for the following

reliefs:-

"i) issue a writ, order or direction in the nature of mandamus directing the respondents to treat the applicants equal to the post of Surveyor as the applicants are having the same qualification and the nature of job of the applicants is the same.

ii) issue a writ, order or direction in the nature of mandamus directing the respondents to give the same pay scale of Surveyors which was being given by the 4th Pay Commission but the same has been omitted in the 5th Pay Commission.

iii) pass such order and further writ, order or direction as this Tribunal may deem fit and proper in the circumstances of the aforesaid case."

2. Grievance of the applicant is that though they were appointed in 1979 and have ^{been} regularised from the same date they have not been given any promotion at all during these 24 years. As per applicant they are entitled for promotion to the post of Junior Engineer (in short JE) and they should be treated as surveyors for the pay scale as the nature of work of surveyors as well as applicants ^{are} ~~were~~ same.

3. The applicants were appointed as Gauge Assistant on adhoc basis during 1979. The learned counsel for the applicant submitted that the work of the applicants is the same which is that of surveyors. He also stated that at times the applicants have been asked to work as surveyors on which post they worked satisfactorily because the work of surveyors ^{is} similar to that of Gauge Assistant.

4. The learned counsel further submitted that the pay scale of surveyors and Gauge Assistant was the same during Fourth Pay Commission. However, the cadre of Gauge Assistant has ^{not} ~~is~~ not been covered by the Fifth Pay Commission. Since the pay scale of Gauge Assistant and Surveyors was same upto Fourth Pay Commission the respondents are obliged

to give the applicants same pay scale which is applicable in case of surveyors.

5. The learned counsel also submitted that ^{Since} ~~though~~ the applicants have been regularised by order dated 30.01.1989 (Annexure -4) from the date of their initial appointment i.e., 1979, they are entitled for further promotions.

6. The learned counsel for the applicant finally submitted that applicant no.1 (Annexure A-11 page 45) filed a representation before Chairman Central Water Commission regarding promotion etc. but so far no decision has been given to the applicant no.1.

7. Resisting the claim of the applicant Shri S.C. Mishra counsel for the respondents submitted that the contention of the applicants cannot be accepted as the cadre of Gauge Assistant and surveyors are two different cadres. Besides initially they were appointed as Gauge Assistant on work-charged establishment on adhoc basis, ^{therefore} they cannot be appointed as surveyors. The O.A. is liable to be dismissed.

8. We have heard counsel for the parties, considered their submissions and perused records.

9. The claim of the applicants is regarding parity of pay scale with that of surveyors and also promotions. The learned counsel for the applicant was not in a position to place before us the recruitment rules in regard to Gauge Assistant nor was able to inform us about the promotion post for which the applicant may be entitled to. Therefore, in our opinion, the interest of justice shall better be served if the representation of the applicant no.1 (Annexure A-11)

is decided by a reasoned and speaking order within a specified time. The decision on the representation of applicant no.1 shall serve the purpose for applicants no.2 and 3 also as their grievance^h is similar as brought out in O.A.

^h facts and ^h

10. In the ^hcircumstances we dispose off this O.A finally with direction to respondent no.2 i.e. Chief Engineer Central Water Commission, Lucknow to get the representation of the applicant from Chairman Central Water Commission, New Delhi ^hdecided^h within a period of three months by a reasoned and speaking order under intimation to the applicants.

11. There shall be no order as to costs.



Member-J



Member-A

/Neelam/