

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No. 97 of 1986 (T)

V.K. Chauhan & Others **Applicants**

Versus

Union of India & Others. Respondents.

Hon. S. Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon. Ajay Johri, A.M.)

A Writ Petition No. 4117 of 1985 was filed, on behalf of 225 petitioners for issue of writ of mandamus, in the Hon'ble High Court of Judicature at Allahabad ~~extending~~ ³⁴ ~~at~~ (Lucknow ^{Bench}) praying for issue of directions to the opposite parties to give pay scale of Rs.550 - 750 to Draftsman Grade-I, Rs. 425-700 to Draftsman Grade-II and Rs. 330-560 to Draftsman Grade-III w.e.f. 1.1.73 and in the alternative w.e.f. 1.6.76 including arrears of Pay & Allowances to which they would have been entitled had they not illegally been deprived of the same. This petition was received on transfer under Section 29 of the Central Administrative Tribunals Act XIII of 1985 vide an order dated 23.5.86 issued by the Hon'ble High Court of Judicature at Allahabad (Lucknow Bench). The petitioners have claimed their relief on the groundsthat the same reliefs have been given to the corresponding categories of employees of C.P.W.D. and P & T Department and the denial of the same to them was in violation of Article 14 and 16 of the Constitution of India as well as ³⁵ spirit of Article 39 D of the Constitution of India. The petitioners ³⁶ ~~are~~ employed in the Research Design ³⁷ & Standard Organi-

zation (RDSO), Ministry of Railways at Lucknow.

2. The respondents case is that the request of the petitioners was received through the RDSO Class III Staff Association and was not accepted by the Railway Board as communicated vide their letter No. PC.III/81/PS-3/Pt.II dated 30.9.85 placed at Annexure-A-4 to the reply to the writ petition. According to the respondents the Drawing Office cadre in the RDSO has been restructured and the petitioners have been extended the benefits of upgradation flowing from restructuring on percentage basis (Annexure A-6, A-7 of reply). The respondents have further averred that the Railway Board have carefully considered the recommendations of Third Central Pay Commission and they have already taken decision for the allotment of grades to the posts of Draftsman 'A' and Draftsman 'B' and Tracers vide their communications placed as Annexures A-1, A-2 and A-3 of the reply to the writ petition. The respondents have further stated that the claim of the petitioners that the effect of the recommendations of the Third Central Pay Commission would automatically entitle the employees to the scale of Rs. 330-560 instead of Rs. 260 - 430, Rs. 425 - 700 instead of Rs. 330 - 560 and scale of Rs. 550-750 instead of Rs. 425 - 700 was not correct. In para 81 (1) of the Third Pay Commission recommendations which has been reproduced by the petitioners in para 7 of their petition, the Commission had specifically mentioned that the duties of the

posts in the initial grades should be examined to see if any of the posts would deserve to be placed in the next higher grade. Thus the recommendation was restricted to reviewing such of the posts which were in lower scales for being upgraded to higher scale, depending on the nature of duties and qualifications prescribed for recruitment. The respondents have stated that in the award given by the learned Arbitrator on 20.6.1980 the Craftsmen Grade-I, II and III whose qualifications were less than those prescribed by the Pay Commission were not recommended to be given higher scales. The award was given on the ground that in the C.P.W.D. the recruitment qualifications were on same lines as recommended by the Third Pay Commission. ³¹ but pay scales were lower. According to the respondents the Ministry of Railways have carefully considered the demand and after due consideration decided that the orders of the Ministry of Finance contained in their memorandum No.F.5(59)-E.III/82 dated 13.3.84 were not applicable to the Drawing Office cadre of the RDSO, in view of the existing provisions in their cadre of posts in higher scales of Rs.550-750 and Rs. 650-960, also the Recruitment Rules for RDSO for the category of Tracers scale Rs.260-430 did not conform to the pattern adopted in the CPWD. According to the respondents the C.P.W.D. were operating posts of Craftsman Grade-III in the scale Rs. 260-430 while in the RDSO the post of Tracers were in the scale Rs. 260-430 and the lowest scale of Craftsman were

in the scale of Rs. 330-560. The duties and responsibilities of Tracers were of fairly routine nature consisting of maintenance of drawings and making copies of existing drawings while the duties of Draftsmen were of more important nature of preparing rough sketches and final drawings. In view of this the respondents have laid emphasis on the fact that the posts in the different scales of pay in RDSO are not the same as that in the C.P.W.D. or P & T Department. Further the comparison regarding rules for promotion to higher grade posts has no relevance since avenues of promotion and rules regulating such promotions vary from Department to Department. Citing examples the respondents have said that in the case of RDSO, unlike CPWD a large number of posts have been placed in higher scales of Rs.550-750 and Rs.650-960. These posts though they are designated as Senior Design Asstts. and Chief Design Assistants, belong to the Drawing Office category and are filled by promotion from amongst Draftsmen. Depending on the manner in which the posts in the RDSO are to be filled up, even transfer of suitable staff from Zonal Railway or Trade Apprentices recruited on the railways can be resorted to. Since the Trade Apprentices did not possess qualifications comparable to that of directly recruited Draftsman Grade-III in the C.P.W.D. the question of granting upward revision in scales of pay to this category did not arise. The respondents have denied that the change in the Recruitment Rules for RDSO effective from 1.6.76 were made keeping in mind the recommendations of the Third

Central Pay Commission. Had that been the intention ~~3/~~ the provision for appointment of staff possessing lower qualifications would not have been made. The Govt. of India, Ministry of Finance O.M. dated 13.3.84 was applicable only in cases where the recruitment qualifications were comparable to what obtained in the ~~or what was laid down by the IIIrd Pay Commission~~ C.P.W.D. The cadre structure and the recruitment qualifications of RDSO not being at par the Arbitration Award was not applicable to them. While there are only three categories of Draftsmen contemplated in the award there were more categories with posts in higher grades in the RDSO.

3. We have heard the learned counsel for both the parties. From the averments made by the respondents it is clear that in the RDSO the cadre structure and the channel of promotion available to the staff of the Drawing Office and the posts which are filled from amongst them is as follows :-

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<u>Designation</u>	<u>Scale of Pay</u>	<u>Channel of Promotion</u>
Chief Design Asstt.	650-960	100% by promotion from Sr.Design Asstt.
Sr.Design Asstt.	550-750	100% by promotion from Draftsman 'A'.
Jr.Design Asstt/ Draftsman 'A'	425-700	100% by promotion from Draftsman 'B'.
Draftsman 'B'	330-560	100% by promotion from Tracers
Tracers	260-430	Direct recruitment as well as appointment from Zonal Railways.

In the revised rules for recruitment and promotion in the RDSO notified in 1976 the minimum qualifications or experience required for the above post ~~is~~ ^{has been shown} as follows :-

Senior Design Assistants	550-750	For direct recruitment diploma in appropriate Engineering Discipline from a recognised Institution with a minimum of 3 years suitable experience in an Engineering Organisation or Degree or its equivalent in the appropriate Engineering Discipline.
Draftsman 'A'	425-700	For direct recruitment Matriculation or its equivalent and diploma in appropriate Engineering Discipline with one year suitable experience.
Draftsman 'B'	330-560	Matriculation or its equivalent and certificate/Diploma in Draftsmanship in the appropriate engineering discipline of ITI standard or its equivalent from the recognised Institution ^{with 3 years experience} or Matriculation or its equivalent and diploma in engineering in appropriate discipline.
Tracers	260-430	For Direct recruitment - Matriculation or its equivalent and certificate/diploma in Draftsmanship of ITI standard or its equivalent from a recognised Institution in appropriate engineering discipline or trade apprenticeship successfully completed on the Railways/ Production Units.

4. The first para of the Award given by the Jaswant Singh Commission in the Arbitration Case reads as follows :-

" The three categories of Draftsman 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 "

It will thus be seen that for draftsman grade.I a scale of Rs. 550-750 has been recommended in the award. This

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scale corresponds to the scale of the Senior Design Assistant in the RDSO. Similarly Draftsman Grade.II corresponds to the Draftsman 'A' of the RDSO and Draftsman Grade.III corresponds to Draftsman 'B' of the RDSO. In the Jaswant Singh Award there is no category of Tracers which are presently in the grade of Rs. 260-430. ³⁴ ~~in the ase~~. The Ministry of Finance O.M. ~~order~~ of 13.3.84 in para 2 advised all the Ministries that the scales of pay of Draftsman Grade.I, II and III may be revised in accordance with the revised scales fixed on the basis of the award i.e. Rs.550-750, Rs.425-700 and Rs.330-560 respectively provided the recruitment qualifications are similar to those prescribed in the case of Draftsman in the CPWD. In the case of such Draftsman who did not fulfil the above qualifications they were to continue in the pre-revised scales of pay which were Rs.425-700, Rs. 330-560 and Rs. 260-430 respectively.

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5. The Third Pay Commission which was set up on 23.4.1970 observed in para 79 and 80 of Chapter 14 of its report as follows :-

"79. We find that fully qualified draftsmen, who have to undergo a two-year course after their Matriculation are now being recruited on a scale of Rs.150-240, or in some cases even on the lower scale of Rs.110-200. We feel that the scale of Rs.150-240 is rather low whether from the point of view of the qualifications demanded or of the duties normally performed. Similarly, it seems incongruous that the three-year Diploma holders in Engineering recruited for the drawing office should have a scale of only Rs.205-280, while the lower scale for those recruited to the regular engineering line is Rs.180-380, where the maximum is higher by Rs.100/-. Regarding the complaint

about the non-availability of class-II posts, we have felt that these posts in the gazetted ranks should not be created merely to improve prospects of promotion. We would, however, recommend that draftsmen who possess a three-year diploma in engineering should be provided with an opening to posts in the scale of Rs.550-750 in revised terms, in the regular engineering line. This should enable them to progress further and achieve gazetted status in that line if they are found suitable.

80. We feel that there is no justification for the existence of as many as thirty different pay scales in the range of pay from Rs.110 to Rs.575, in a category where the levels of the skills required are fairly well established and should be assigned the following revised scales and should satisfy the qualification requirements noted against each for purposes of direct recruitment."

In the recommendation of the Pay Commission for the scale Rs.550-750 which has been given to the Draftsman Grade.I, the qualifications for direct recruitment have been laid down as degree in engineering or its equivalent which is the same as laid down ~~in~~ ^{31 for} direct recruitment for Senior Design Assistant in the grade of Rs.550-750 in the RDSO. The qualifications for direct recruitment required for grade Rs.425-700 have been laid down as Matric plus 3 years diploma in engineering or its equivalent. For Draftsman 'A' in RDSO who are in the equivalent grade the qualifications for direct recruitment are matriculation or its equivalent and diploma in appropriate engineering discipline. Lastly for Draftsman grade.III in the scale of Rs.330-560 the proposed qualifications for direct recruitment are matric plus 2 years diploma in Draftsmanship or its equivalent. The equivalent grade in RDSO is Draftsman 'B'. For this the qualifications required are matriculation or its equivalent and certificate/diploma in Draftsmanship in appropriate engineering discipline or Matriculation or its equivalent and diploma in engineering in appropriate discipline. The Arbitration Award gave only

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three categories of Draftsman i.e. Draftsman Grade.I, II and III. The scale of Rs.260-430 which has been given to the Tracers was not recommended by the Arbitrator.

6. The above comparison would show that the qualifications required for the Draftsman Grade.I, II and III in the Arbitration Award and of the recommendations of the Central Pay Commission are the same as in the case of Senior Design Assistant, Draftsman 'A' and Draftsman 'B' of the RDSO. There is hardly any difference in the qualifications for recruitment for these categories in the RDSO and CPWD. It is another matter that in the RDSO instead of Draftsman Grade-I, II and III the designations are Senior Design Assistant, Draftsman 'A' and Draftsman 'B'. Mere nomenclature or designation does not entitle the post to be fixed in a particular grade. It is the qualification for recruitment and the nature of duties that are of paramount importance. We have not been able to find any difference between the recruitment qualifications. We do not ~~see~~ ^{by this} see any dis-similarity between these posts. There is no justification for treating these posts which are of a similar nature by virtue of recruitment qualifications and perhaps duties, in separate classes. The principle that is to be applied is 'equal pay for equal work'. Hon'ble Justice S.S.Chadha in the Writ Petition No.911 of 1981 filed in the High Court of Judicature at Delhi in respect of Posts and Telegraphs Department made the following observations :-

"No justification is pleaded as to why the

two departments have to be treated as two separate classes. Merely because the Draftsmen belong to two different departments of the Govt. is itself not a sufficient circumstance to justify different scales of pay.

Construing Articles 14 and 16 in the light of the Preamble and Article 39(d), their Lordships of the Supreme Court in "Randhir Singh Vs Union of India", AIR 1982 SC 879, expressed that it is clear that the principle "equal pay for equal work" is dedible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer. It was observed that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for courts but where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments." 34

He has further made the following remarks :-

" I have given considerable thought to the relief which could be given to the petitioners at this stage. The pay of the Draftsman of CPWD have been fixed notionally u.e.f. 1.1.73 in the revised scales mentioned above in accordance with the Award that arrears have been allowed u.e.f. 16.11.1978. Following the decision in the Award and the implementation by the Central Government, various state Governments/ Local Bodies have allowed the scales of pay as recommended by the Third Central Pay Commission to the category of Draftsmen. Copies of the orders have been placed on the record in cases of P.W.D. Delhi Administration, New Delhi Municipal Committee, Municipal Corporation of Delhi, Delhi Development Authority and Slum Wing of Delhi Development Authority. The Authorities have approved the pay scales in the higher scale of pay notionally u.e.f. 1.1.1973 and actual benefit of the scale of pay has been given only u.e.f. 16.11.78. A declaration is granted in favour of the petitioners that they are entitled to the scales of pay Rs.330-560, Rs.425-700 and Rs.550-750 as have been given to the corresponding category of employees in the Central Public Works Department with effect from August 22, 1973. I further direct that their pay may be notionally fixed with effect from August 22, 1973 in the revised scales and arrears, if any, be allowed with effect from November 16, 1978. A writ order or direction is granted to that effect with no order as to costs." 34

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We ~~did~~ not find any deviation from the principles of equal pay for equal work in the revised ~~revision of scale of pay~~ ~~recommendation~~ ordered by the RDSO and refixation of the pay scales of the Senior Design Assistant, Draftsman 'A' and Draftsman 'B' in that Organisation.

7. The petitioners in para 11 of their writ petition on Page 18 have compared Draftsman 'A' to Draftsman Grade.I, Draftsman 'B' to Draftsman Grade.II. The basis of this comparison has not been elaborated by them. At best it can be said that the comparison has not been made properly. From the recruitment qualifications as prescribed for direct recruitment Draftsman Grade.I can be equated only to Senior Design Assistant and not ^{to} ~~to~~ Draftsman 'A'. In the C.P.W.D. according to the observations and recommendations made by the job evaluation study of the work of the Ferro-Printers and Draftsmen ~~recommendation~~ taken in pursuance of the discussions in the Departmental Council (JCM) the object was to find out the nature of the jobs of the Draftsmen. ³⁴ Three grades of Draftsmen who were doing same duties and whose qualifications for the posts were also similar to the ones obtaining in the Ministry of Railways and ~~recommendation~~ ³⁵ Military Engineering Service etc. were not being given same scales of pay and the recommendation was made in this background. It will be difficult to draw a parallel as has been prayed for in the petition by the petitioners. ³⁶ As has been brought out above Draftsmen Grade 'A' & 'B', are not comparable to Draftsmen Grade.I & II of the CPWD and therefore the petitioners have no case in

this regard. As rightly observed by Justice S.S.Chadha equation of post and equation of pay are matters primarily for the Executive Government and expert bodies and not for courts and we do not find that in this case the petitioners have made out any case that they have been treated differently in the matter of their pay merely because they belong to a different Department. There is no violation of directive principles of State Policy in respect of 'equal pay for equal work'.

8. The Third Pay Commission recommended qualifications for direct recruitment for Level IV (Rs.550-750) as Degree in Engineering or its equivalent. In the recruitment rules for RDSO this qualification is for Senior Design Assistant grade Rs.550-750. In the CPWD the scale Rs.550-750 has been given to Draftsmen Grade.I. This comparison further establishes that the grade.I of CPWD is not equivalent to grade 'A' of RDSO where the recruitment qualification is not an Engineering Degree, as is being claimed by the petitioners.

9. In regard to Tracers who are now placed in the grade Rs. 260-430, the direct recruitment qualification has been kept as Matriculation or its equivalent and certificate/diploma in Draftsmanship of ITI standard in appropriate Engineering Discipline. The same qualification is laid down for Draftsman 'B' with the further stipulation of a 3 years experience or alternatively a Diploma in Engineering. Thus it cannot be said that Tracers of RDSO are entirely similar to Draftsman 'B' of RDSO in the matter of recruitment qualification. The

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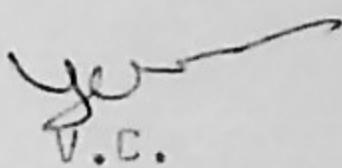
Pay Commission recommendations lay down Matric plus two years diploma in draftsmanship for the grade Rs.330-560, and Matric plus one years experience for the grade Rs.260-430. There is more similarity in Matric plus certificate/diploma in Draftsmanship plus three years experience to Matric plus 2 years diploma only. There is no stipulation of a certificate in Draftsmanship in the Pay Commission recommendations for the grade Rs.330-560. The duties of Tracers have also been reviewed as is evident from the fact that but for 6 posts left in the grade Rs.260-430 the balance have been upgraded to the grade Rs.330-560 w.e.f. 1.7.85 (para 19 of Counter Affidavit). Previously all the posts of Tracers were in the grade Rs.260-430. We find from para 3 of the copy of the letter of 16.2.85 from Dy. D.G. RDSO to the Addl. Director Pay Commission (Annexure-1 of Rejoinder) that according to him the Tracers are recruited from amongst those who are matriculates and possess certificate/diploma in Draftsmanship in the appropriate discipline. Thus six persons have been kept in the lower grade of Rs.260-430.

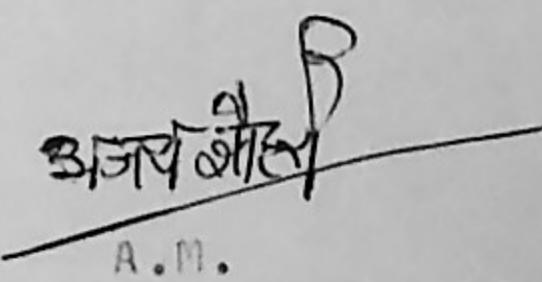
30 31 While there is no case regarding incorrect fixation of Draftsman 'A' & Draftsman 'B' which posts have been correctly equated to Draftsmen II & III of the CPWD and the Tracers posts which have been upgraded, the respondents have not felt satisfied based on the 32 duties performed to upgrade the remaining six posts of Tracers. We do not find anything wrong or violative in this approach. It is another matter that the persons who are occupying these six posts are matriculates with requisite diploma etc. It can only be said that more qualified persons are occupying posts meant for lesser

qualified incumbents. The automatic upgradation of these posts does not flow from it. The respondents may consider having recruitment qualifications for these six posts strictly in line with the Pay Commission recommendations.

10. In regard to the date of effect of the upgradation orders, the R & P Rules in RDSO were revised during the year 1976 in pursuance of the recommendations of the Third Pay Commission which became effective from 1.1.73. The Ministry of Finance O.M. of 13.3.1984 had advised all Ministries/Departments of Govt. of India that the benefit of the revised scales of pay would be given notionally w.e.f. 13.5.82, the actual benefit being allowed w.e.f. 1.11.83. We see no rationale in the petitioners' request for ³¹ ~~the~~ relief being given from 1.6.76. If the appropriate replacement scales had not been given earlier to the dates stipulated in the Ministry of Finance O.M. of 13.3.84 the same ³¹ ~~may~~ could have been implemented in terms of this letter, but this evidently is not the case. Revised Scales were adopted in terms of Annex A1 & A2 in Jan 1974.

31 11. The petition is accordingly disposed of with no order as to costs.


V.C.


B.G.R. Officer
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Dated the 10th Nov., 1986.