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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.124 of 1989.

Date of decision : September 15 ,1989.

Easaw Mathew, son of Itty Easaw, Ikareth House,  
Village Amallor, P.O.Manjadi, P.S.Tiruvalla,  
Dist. Pathanamthitta, State Kerala.

... Applicant.

Versus

1. Union of India, represented by its  
Secretary, Department of Internal Security,  
Rehabilitation Division, Jaisalewar House,  
Mansingh Road, New Delhi - 110801.
2. Chief Administrator, Dandakaranya,  
Project. At/P.O./Dist.Koraput (Orissa)  
Pin 764 020.

... Respondents.

For the applicant ... M/s.A.K.Mohapatra,  
P.K.Mohapatra, Advocates.

For the respondents ... Mr.Ganeswar Rath,  
Senior Standing Counsel (Central).

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C O R A M :

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to  
see the judgment ? Yes.
  2. To be referred to the Reporters or not ? No.
  3. Whether His Lordship wishes to see the fair copy  
of the judgment ? Yes.
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J U D G M E N T

N. SENGUPTA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the relief to allow him to draw pay in the scale of Rs. 550-900/- with effect from the date he was appointed to the Selection Grade as a Junior Engineer in Dandakaranya Development Project.

2. The facts material for this judgment lie in a narrow compass. The applicant joined as a Junior Engineer and had put in a number of years of service by 1976. In the year 1986, the question of appointment of Junior Engineers including the present applicant to the selection grade was taken up. By the order dated 13.6.1986 the applicant was appointed to the Selection Grade but retrospectively with effect from 1.8.1976 in the pre-revised scale of pay of Rs. 550-750/-. The grievance of the applicant is that Junior Engineers working in other Departments of Government of India when they were appointed to the Selection Grade were allowed to draw the pay in the pre-revised scale of Rs. 550-900/-. His case further is that there is no reasonable ground to give different pay scales to persons doing almost similar or identical work. The applicant has also averred that some others approached this Tribunal with the prayer as in the present application and in one of them namely O.A. 103 of 1987 decided on 30.3.1988 this Tribunal ordered that the Selection Grade Junior Engineers of Dandakaranya Project were entitled to the same scale of pay as those working in Central Public Works Department and other Departments under the Government of India. The applicant has gone to aver that infact in the meantime by implementing the judgment delivered by this Tribunal those persons who had filed applications previously before this Tribunal, have been allowed pre-revised

*Member Sengupta*  
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scale of pay of Rs.550-900/- and as such, there is an additional ground in support of his prayer.

3. The respondents have stated in their counter that at the time the previous cases were heard, certain facts could not be placed before this Tribunal as those were by then not properly ascertained, therefore, the order delivered in those original applications should not be taken as the guiding factor and therefore, assessment has to be made on the materials now placed. In paragraphs 3 and 5 of the counter some facts have been stated, substance of which is that the Third Central Pay Commission recommended for the abolition of selection grade and further that in the Dandakaranya Project previously there was no selection grade Junior Engineers even though in other services there were. Only in 1977 selection grade posts in the grade of Junior Engineers were created in Dandakaranya Project. Their case is that there is some difference in the work to be done by the Junior Engineers in the Central Public Works Department and those working in Dandakaranya Project, therefore, there cannot be any equation. They have also referred to the report of the Fourth Central Pay Commission and its observation with regard to Selection Grades.

4. Mr. Ganeswar Rath, learned Senior Standing Counsel (Central) has very vehemently contended that as selection grade is non-functional and specific, scale of pay was provided for under the order in which such posts were created, it would neither be proper on the part of, nor open to, this Tribunal to ask the respondents to allow the applicants to draw the pay in a scale different from the one prescribed in that Government order. So far as this contention of Mr. Rath about the selection grade being non-functional is concerned it cannot but be accepted

Mr. Rath  
15.9.89

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because even prior to the time when the 2nd Central Pay Commission submitted its report it was so held and since then upto 1988 it is being reiterated that selection grade is non-functional. In one case which came up before Their Lordships of the Supreme Court which is reported in AIR 1972 SC 1616, the Supreme Court observed that selection grade is the same post with a higher pay. The question that really falls for consideration is whether the respondents <sup>are</sup> ~~have~~ justified in making a distinction between the Junior Engineers of other departments of the Central Government and those working in the Dandakaranya Project. The matter has been dealt with at some length in the judgment delivered by this Tribunal in O.A.103 of 1987 and I am in respectful agreement with the reasons mentioned therein. So, it is unnecessary on my part to cover the ground <sup>over</sup> ~~farther~~ again.

5. Be that as it may, in the meantime there has been an intervening fact namely, others working in the same Department and having the same grade of posts have been allowed by the respondents, for whatever reason may it be, to draw pay in the pre-revised scale of Rs.550-900/-. Once some persons similarly situated have been given a particular scale of pay, there can possibly be no justification to refuse the present applicant to draw pay in that scale. Accordingly, the applicant succeeds and is declared entitled to draw pay in the prerevised scale of Rs.550-900/- with effect from the date he was ordered to have been appointed to the Selection Grade of Junior Engineers in the Dandakaranya Project and this pay has to be revised and fixed in accordance with Revised Scale of pay Rules, 1986 from

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the due date under those Rules. There shall be no order as to costs.



*M. S. Singh*  
15.9.89  
.....  
Member (Judicial)

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
September 15, 1989/Sarangl.