

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK
BENCH: CUTTACK.

Original Application No.74 of 1990.

Date of decision:- 8th August, 1991.

R.S.Rajput ... Applicant

Versus,

Union of India & Ors ... Respondents.

For the Applicant:- M/s.A.K.Mohapatra,
P.K.Mohapatra, Advocates.

For the Respondents: Mr.T.Dalei,
Addl. 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 ?
2. To be referred to the Reporters or not ? *NO*
3. Whether His Lordship wishes to see the fair copy of the Judgment ?

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J u d g m e n t .

N. SENGUPTA, MEMBER (J).

The applicant has prayed for directing the Respondents to allow him to draw salary in the scale of pay in which the Junior Engineer (Selection Grade) CPWD ~~and~~ are drawing their pay.

2. The facts averred by the applicant are as under ;

The applicant was appointed as a Junior Engineer (Mechanical) under the Chief Administrator, Dandakaranya project in March, 1976. The Junior Engineers in the Dandakaranya project perform the same duties and carry the same responsibilities as the Junior Engineers in Tele-Communication and other Central Government Department, ^{of} All the Junior~~s~~ Engineers, 50 per-cent, ^{the} in order of seniority, were to be given selection grade scale of pay and he was within that 50 per-cent^s of the Junior Engineers in the top. After the revision of pay scales on the recommendation of the 4th Central Pay Commission, the scale of Junior Engineers in the C.P.W.D. is Rs.1640-60-2600-EB-75-2900/- but respondent no.2 fixed his (applicant) pay in the scale of Rs.1400/- to Rs.2300/-. Some other junior engineers of his category were aggrieved by such fixation of pay by the Chief Administrator and they filed Original applications in this Tribunal, ^{for} Two of which were numbered as O.As. No.103 and 105 of 1987 which were disposed of by the Judgment dtd.30th March, 1988 ^{for} which this Tribunal directed the Respondents therein who are

*Member
8-891.*

called ^{also} to the respondents here, to allow the applicants of those applications to draw pay in the scale in which Junior Engineers of CPWD of ^{and} Telecommunication Department were drawing their pay. After that he (applicant) made a representation to Respondent No.2 on 12.10.89 in reply to which it was stated that with effect from 1.1.86 the provisions for grant of selection grade has been done away with. Therefore, he (applicant) was not entitled to the relief that he has prayed for.

3. The Respondents in their counter have stated that the nature of duties performed by the Junior Engineers of the Telecommunication Department ^{and} other CPW Departments differ^sence from that of the duties of the applicant, therefore, he cannot claim an equality of pay with those Junior Engineers. They have also reiterated their plea in Annexure-1 that selection grade^s were abolished with effect from 1.1.86, therefore the applicant cannot get the relief claimed by him.

4. Mr. Dalei, the learned Addl. Standing counsel for the Respondents, has very vehemently urged that as there was no selection grade on 1.1.86, the applicant's claim is misconceived. Here a mention may be made ^{of} all the facts that prior to the implementation of ^{the} report of the 4th Central Pay

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Commission, There were two types of Junior Engineers namely; Junior Engineer ordinary and Junior Engineers of the Selection Grade. In the report of the 4th Central Pay Commission, recommendations were made with regard to what would be the new scale corresponding to those prevailing prior to the 4th. Pay Commission Report. This corresponding revised scale ^{for} but the pre-revised scale of Rs.550-900/- is undisputedly Rs.1640/- to Rs.2900/-. It is true that the 4th Central Pay Commission recommended the abolition of many of the selection grades and one of them was that of Junior Engineer, but the principles of fixation of ~~once~~ pay ^{were} was stated in the report and the scale which would be admissible with effect from 1.1.86 would be the scale corresponding to the one in which the incumbent was drawing his pay on 31st. December, 1985. If till 31.12.85 the selection grade remained, the argument that with effect from 1.1.86 the selection grade were abolished ^{does} it is not other avail the respondents of any thing.

*Mr. S. Gupta
8-8-91*

5. Besides O.A. 103 and 105 of 1987 some other applications were filed one of which was a O.A.10/89 disposed of on 13.7.89. In that case Hon'ble Patel, Vice-Chairman who delivered the Judgment, relying on the decision of this Tribunal in O.As.103 and 105 of 1987 which were decided by a Division Bench, observed that there was a no

scope to take a view to difference ^{to} from the one taken in O.A. Nos.103 and 105 of 1987 where it ^{was} held that duties performed by the Junior Engineers in the Selection grade post under the Dandakaranya Development Authority and those of Telecommunication and CPWD Departments were the same. Such being the position of the decision of this Tribunal, I would say that there is no room for a finding that the two sets of Junior Engineers have dissimilar ^{duties} ~~dues~~. If the ^{duties} ~~dues~~ are similar and the employer is the same, there should be an equal pay scale. To repeat, there is no denial of the assertion of the applicant that he belonged to the first 50 percent of the cadre in order of seniority therefore, he was entitled to the selection grade. Time began to run only when the Government discriminate between one person and another of the same class.

6. In the result, the applicant substantially succeeds and his pay should be fixed in the scale of Rs.1640/- to 2900/- with effect from 1.1.86 but however as the applicant made ~~xxx~~ a representation only on 12.10.89, he would be entitled to that ~~scale~~ of pay from that date but this would not affect his rights to get any stepping ^{up} of pay if he is otherwise entitled to. No order as to costs.


Member (Judicial).

Central Administrative
Tribunal, Cuttack Bench, Cuttack.
Hossain/8.8.91.

