

7

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 893 OF 1996  
Cuttack, this the 27th day of November, 2000

Bichitrananda Jena and others .... Applicants

Vrs.

Union of India and others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the benches of the Central Administrative Tribunal or not? No.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
27.11.2000

8

8

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 893 OF 1996  
Cuttack, this the 27th day of November, 2000

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

- .....
1. Bichitrananda Jena, aged about 42 years, son of late Bhagabat Jena, resident of Vill-Palasuni, P.O-Rasulgarh, Bhubaneswar, District-Khurda, at present working as Draughtsman Grade-II.
  2. Dinabandhu Prusty, aged about 41 years, son of Sri Subal Prusty, resident of Qrs.No.Type-II/37, Survey of India, Residential Colony, Nayapally, Bhubaneswar-13, District-Khurda, at present working as Draughtsman Grade-II.
  3. Simanmchal Sahu, aged about 42 years, son of late Godabari Sahu, resident of House No.L-1/443, Dumu Duma Housing Board Colony, Bhubaneswar, District-Khurda.  
(All above are employed in the office of Director, South Eastern Circle, Survey of India, Survey Bhavan, Bhubaneswar-13)

..... Applicants

Advocates for applicants-M/s K.C.Kanungo  
B.D.Rout  
G.S.Behera

Vrs.

1. Union of India, represented through the Secretary, Ministry/Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi-110 016.
2. The Surveyor General of India, Hathibarkla Estate, Dheradun-248 001 (UP)
3. The Director, South Eastern Circle, Survey of India, PO-Regional Research Laboratory, Bhubaneswar-751 013

..... Respondents

Advocate for respondents - Mr.U.B.Mohapatra, ACGSC

O R D E R  
SOMNATH SOM, VICE-CHAIRMAN

*J Som.*

In this application the petitioners have prayed for revising their scale of pay of Rs.1350-2200/- to Rs.1600-2660/- with consequential benefits with effect from 13.5.1982 notionally and with all financial benefits from 1.11.1983. They have also asked for penal interest on arrears. The respondents have filed counter opposing the

prayer of the applicant, and the applicant has filed a rejoinder. For the purpose of considering this petition, it is not necessary to go into too many facts of this case.

2. The case of the applicants is that they initially joined as Topo Trainee Type "B" (Draughtsman) in 1974 and after promotion they are currently holding the post of Draughtsman Grade-II in the pay scale of Rs.1350-2200/-. Their grievance is that Office Memorandum dated 19.10.1994 (annexure-1) issued by the Ministry of Finance and further instruction of the Department of Science & Technology to Surveyor General of India (respondent no.2) in their letter dated 1.11.1994 (Annexure-2) have not been implemented in their case. Before proceeding further, it is necessary to note that in this Office Memorandum it has been mentioned that a Committee of the National Council (JCM) was set up to consider the request of the staff side that the following pay scales, allowed to the Draughtsmen, Grades I, II and III working in CPWD on the basis of the Award of Board of Arbitration, may be extended to Draughtsmen, Grades I, II and III, irrespective of their recruitment qualification, in all Government of India offices:

	Original Scale (Rs)	Revised scale on the basis of the Award (Rs.) (Rs)
Draughtsman, Grade I	425-700	550-750
Draughtsman, Grade II	330-560	425-700
Draughtsman, Grade III	260-430	330-560

It was further decided that the minimum period of service required for getting the higher pay scale would be as follows:

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

J.Sm.

The applicants have stated that they have fulfilled the criterion of minimum period of service of four years for getting the revised scale with consequential benefits. The applicants have further stated that they were placed in the pay scale of Rs.1350-2200/- which is Rs.50/- less than the minimum and Rs.100/- less than the maximum of the pay scale of Rs.1400-2300/- for Draughtsman Grade-II after Fourth Pay Commission which corresponds to pre-revised scale of Rs.425-700/-. They have stated that they have represented for getting the benefit of the above Office memorandum. But in letter dated 31.1.1996 (Annexure-4) they have been informed that it has not been found possible to agree with the request of the Draughtsmen in Survey of India for revision of their pay scales based on the Office Memorandum dated 19.10.1994. In this letter it has been further mentioned that all the applicants in OA No.135/95 filed before the Guwahati Bench of the Tribunal are informed of the above decision. The applicants have stated that there is no reason why the benefit of Office Memorandum dated 19.10.1994 would not be made applicable

to them, and that is why they have come up in this petition with the prayer referred to earlier.

3. We have heard Shri K.C.Kanungo, the learned counsel for the petitioners and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents. It has been submitted by the learned counsel for the petitioners in course of hearing that in the meantime the Guwahati Bench of the Tribunal have disposed of the Original Application filed by the applicants before them, who are similarly situated, and have allowed the same prayer which has been made by the petitioners in this OA. Against the decision, the respondents had approached the Hon'ble High Court of Gauhati in Civil Rule No.4733 of 1997 and in order dated 31.7.1999 the respondents' case has been dismissed. It is further stated that SLP filed by the respondents before the Hon'ble Supreme Court against the decision of the Hon'ble Gauhati High Court has been dismissed by the Apex Court in order dated 31.3.2000. The petitioners have filed the decisions of the Hon'ble High Court and the Hon'ble Supreme Court. At our instance the Registry had written to the Guwahati Bench of the Tribunal and obtained the decision of the Guwahati Bench and we have perused the same. In the petition before the Guwahati Bench the petitioners who were Draughtsmen Grade-II were drawing the pay scale of Rs.1350-2200/- They had claimed that they are entitled to draw pay in the scale of Rs.1400-2300/- which is equivalent to the pre-revised scale of Rs.425-700/- and are entitled to payment of arrear monetary benefits in terms of the O.M. dated 19.10.1994. The Tribunal allowed them the higher scale in terms of the O.M. dated 19.10.1994 and the order of the Tribunal has reached the

*P. Som*

finality after this has been upheld by the Hon'ble Gauhati High Court and after the SLP against the order of the Hon'ble Gauhati High Court has been dismissed by the Hon'ble Apex Court. The petitioners are similarly situated and they are therefore entitled to the scale of Rs.1400-2300/- strictly in terms of the O.M. dated 19.10.1994 and also arrears in the higher scale notionally from 13.5.1982 and actually from 1.11.1983 which is mentioned in paragraph 4 of the O.M. dated 19.10.1994. The petitioners in this case, however, have prayed in paragraph 8 of the OA that they are entitled to the scale of pay of Rs.1600-2660/- on the basis of O.M. dated 19.10.1994. This prayer is without any merit because admittedly they were in the pre-revised scale of Rs.330-560/- and according to this O.M., on completion of five years of service, they are to be placed in the scale of Rs.425-700/- which has been revised to Rs.1400-2300/-. In the O.A. the petitioners have made no averment as to how they are entitled to still higher scale of pay of Rs.1600-2660/-. On the basis of O.M. at Annexure-1 they are entitled to the pay scale of Rs.1400-2300/- and this is what has been allowed to similarly placed Grade-II Draughtsmen of Survey of India by the order of Guwahati Bench of the Tribunal. In view of the above, the respondents are directed to allow the applicants the scale of pay of Rs.1400-2300/- subject to fulfilment of the minimum service qualification as laid down in O.M. dated 19.10.1994. Their pay fixation notionally and actually should also be done strictly in terms of paragraph 4 of this O.M.

✓ Joon

4. The petitioners have asked for penal interest on their arrears. We find that ~~this~~ <sup>a similar matter</sup> prayer has been subject-matter of adjudication before the Guwahati Bench of the Tribunal and the matter was carried to the Hon'ble Gauhati High Court and the Hon'ble Supreme Court. In view of this, it cannot be said that the respondents deliberately withheld the benefits from the applicants. The prayer for payment of penal interest is accordingly rejected.

5. In the result, therefore, the Original Application is disposed of in terms of the direction and observation above. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
27.11.2000  
VICE-CHAIRMAN

November 27, 2000/AN/PS