

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 970 of 1996

Present : Hon'ble Mr. D.C.Verma, Vice-Chairman
Hon'ble Mr. M.K.Mishra, Administrative Member

Shri Atul Chandra Saha,
son of Shri Phani Bhusan Saha,
No. 7125588N,
Chief Draughtsman,
507, Army Base Workshop, Kankinara,
P.O. ESD (Machinery),
Dist. - North 24, Pargannas (W.B.),
Pin - 743124.

Vs.

1. Union of India,
Service through the Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. The Chief of the Army Staff,
Army Headquarters, DHQ,
P.O. New Delhi - 110 001.
3. The Director General of EME,
MGO's Directorate,
Army Headquarters, DHQ,
P.O. New Delhi - 110 001.
4. The Commandant,
507, Army Base Workshop,
Kankinara, P.O. ESD (Machinery),
Dist. North 24-Pargannas,
West Bengal.

For the applicant : Mr. T.D.Roy, counsel
Mr. S.K.Dutta, counsel

For the respondents : Mr. M.S.Banerjee, counsel

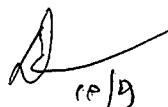
Date of Order 10/9/93 : O R D E R

Mr. D.C.Verma, VC:

By this O.A. the applicant has prayed for the following
reliefs:-

" (a) A declaration that the applicant is entitled to the re-classified Chief Draughtsman Group 'B' Gazetted from the date of issuance of the Notification which is Annexures "A2" and "A3" to this application and the direction upon the Respondents to forthwith re-classify the Applicant as Group 'B' Gazetted as Chief Draughtsman."

2. The fact, in brief, is that the applicant was working, as claimed, on the post of Chief Draughtsman since 1986 in the Corps of EME. The applicant made a representation to the Director General of


(e/d)

EME on 3.7.92 for notifying the post of Chief Draughtsman and re-classify it as Gazetted Group - 'B' post. The Government of India vide communication dt. 27.3.92 re-classified the post of Chief Draughtsman (Rs. 2000-3200/-) employed in the Naval establishment as Gr. 'B' Gazetted w.e.f. 1.1.92. Similar notification was not issued in respect of the Chief Draughtsman working in the corps of EME. So the applicant made the representation on 3.7.1992. The said representation remained pending, hence the applicant filed the present O.A.

3. During the pendency of the present O.A. the respondents filed their reply and submitted that the applicant without waiting for the decision of the competent authority has, in haste, filed the present O.A. The post of Chief Draughtsman in the scale of Rs. 2000-3200/- in the corps of EME has been re-classified as Gr. 'B' Gazetted vide order dt. 12th February, 1997 (Annexure R-1). It is submitted that the applicant has been granted the said benefit vide ~~annexure~~⁵ communication dt. 1st October, 1997 but w.e.f. 12th February, 1997 (Copy Annexure R-2).

4. Counsel for the parties have been heard. The Ld. Counsel for the applicant submitted that as the Chief Draughtsman of the Naval Wing have been granted Gazetted Gr. 'B' status w.e.f. 1.1.92 there is no reason to discriminate the applicant and to grant the said benefit to the applicant w.e.f. 12.2.97. The Ld. Counsel submitted that the Chief Draughtsmen of the two wings i.e. the Naval Wing and that of corps of EME have been working in the same scale and performed the same duties hence the re-classification of the post as Gr. 'B' Gazetted should be w.e.f. the same date i.e. 1.1.92. The submission is that the respondents be directed to give effect to Annexure R-1 from 1.1.92.

5. The Ld. Counsel for the respondents has, on the other hand submitted that though the respondents' reply was filed in 1998 with which Annexure R-1 and Annexure R-2 were annexed, the applicant has not challenged the two orders. His further submission is that so far

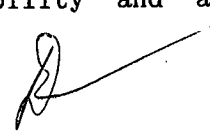


the relief claimed in the O.A. is concerned for re-classification of the post of the Chief Draughtsman post as Gr. 'B' Gazetted, the same has been redressed by the respondents. Hence the O.A. has become infructuous.

6. Counsel for the parties have been heard at length. The relief claimed in the O.A. was only to re-classify the Chief Draughtsman's post as Gr. 'B' Gazetted and the same has been done by the respondents vide Annexure R-1 and R-2. Hence the relief claimed has been granted and the O.A. has become infructuous. If the applicant had any grievance against Annexure R-1 and R-2 it was open to him to challenge the same by either filing a separate O.A. or by amending the relief in the present O.A. That has not been done.

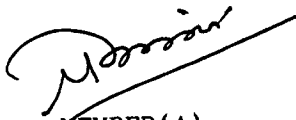
7. The Ld. Counsel for the applicant submitted that the Tribunal can mould the relief to redress the grievance, hence a direction be issued for grant of relief to the applicant w.e.f. 1.1.1992.

8. Counsel for the parties have been heard on the point. We are unable to accept the submission of Ld. Counsel for the applicant. The designation of Chief Draughtsman's post may be the same in corps of EME but merely because the two posts are of the same designation, it is not necessary that they carry the same duties and responsibilities. Equation of posts and equation of salary are complex matters and so it is left to an expert body to decide. Unless cogent materials are brought on record to come to a firm conclusion that a grave error has crept in while fixing the pay, the Tribunal cannot interfere. It is not in the pleadings as to what were the duties and responsibility of the post of Chief Draughtsman in the Naval Wing and similarly in the corps of EME. In absence of more details, the Tribunal cannot examine the equation. It is not the case that against R-1 and R-2 the applicant made any representation and the same was examined by the respondents. Since the nomenclature of the post would not be sufficient to declare equation of post, it is always necessary, for determining equation of posts, to examine the nature of contributions, extent of responsibility and accountability and



discharge of diverse duties and functions. In absence of details the same cannot be examined, hence the submissions made on behalf of the applicant cannot be examined for grant of relief.

9. In view of the discussions made above the O.A. is accordingly dismissed. No costs.


MEMBER(A)


VICE-CHAIRMAN 10/9