

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Original Application No. 1465/96

Date of decision: 16.06.2004

The Hon'ble Mr. R.K. Upadhyaya, Administrative Member.

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

* Ashis Krishna Dutta
~~Ashis Kumar Dutta~~ and 104 others.

: Applicants.

rep. by Mr. P. Chatterjee : Counsel for the applicant.

versus

1. Union of India, service through the Secretary, Ministry of Science and Technology, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi- 110 016
2. The Director, National Atlas Thematic Mapping Organisation Department of Science and Technology, 3rd MSO Building CGO Complex (7th Floor) DF Block, Salt Lake City Calcutta 700 064

: Respondents.

rep. by Mr. M.S. Banerjee: Counsel for the respondents.

ORDER

Mr. J.K. Kaushik, Judicial Member.

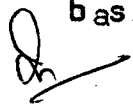
We have heard the learned counsel for the parties and have carefully considered the pleadings and the records of this case.

2. Shri Ashis Krishna Dutta and 104 others have filed this OA seeking for a direction to the respondents to regulate placement in the respective higher scale of pay on completion of stipulated period of 5 years, 4 years

*Corrected vide order
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service as enunciated in para 2 of the OM dated 19.10.94 and also for extending the benefit of fixation of pay with effect from 13.05.82 and actual benefit from 01.11.83 with all consequential benefits.

3. The abridged facts of this case are that the applicants are employed on the post of Draftsman in the National Atlas and Thematic Mapping Organisation (NATMO) under the Ministry of Science and Technology. The category of Draftsman belongs to drawing staff and has different designations in different departments of Government of India such as Tracers, Draftsman Gr.I, Gr.II and Gr.III, Assistant Draftsman, Jr. Draftsman and Sr. Draftsman etc. The applicants in this O.A were designated as Draftsman and Jr. Draftsman. Subsequently they were re-designated as Geographical assistant and Jr. Geographical Assistant, vide Office memorandum dated 18.02.92. (Annex. A.3). The requisite educational qualification for entering into service as Draftsman in NATMO, is Degree in Geography with knowledge of map drawing. Subsequently, the qualification has been modified as MA/M.Sc degree in Geography, as an essential qualification for draftsman and Hon's degree in Geography for the post of Junior Draftsman. The further case of the applicants is that a Committee of the National Council on the scale of draftsman was accordingly set up to extend the benefit of revision of pay scale in respect of Draftsman in all the departments of the Government of India, as has been done to the draftsman in CPWD on the basis of arbitration award. In the first instance the



benefits were extended vide letter dated 13.03.84 with certain conditions. Subsequently such conditions were dispensed with vide order dated 19.10.94 (Annex. A/1). As per this communications the scale of pay for the Draftsman Gr. I to III were revised. Vide para 2 of the said communication the same ^{extended} has been ^{extended} to all other departments, which is extracted as under:

"Subject: Revision of pay scales of Draughtsmen Gr. I II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's OM No. F.5(59)-E.III/82 dated 13.03.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the Staff side that the following scales of pay, allowed to the Draughtsmen Gr. I, II & III working in CPWD on the basis of the Award of Board of Arbitration, may be extended to Draughtsmen Gr. I II & III, irrespective of their recruitment qualification in all Government of India Offices:

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

2. The President is now pleased to decide that the Draughtsmen Gr. I, II & III in offices/departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above, subject to the following:

- (a) Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (pre-revised Rs. 260-430 to Rs. 330-560) : 7 years.
- 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.

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3. Once the Draughtsman are placed in the regular scale scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of scales of pay would be given with effect from 13.5.82 notionally and actually from 1.11.83"

4. The case of the applicants is that the applicants were fully eligible for grant of aforesaid benefits at the time when they were employed on the post of Draughtsman, but they were not extended the said benefit and that is the reason this O.A has been filed. The matter was taken up through the trade union to the competent authority but no response is the result. The OA has been filed on a number of grounds enunciated in para 5 and its sub-paras of the OA.

5. An exhaustive reply has been filed on behalf of the respondents wherein they have taken preliminary objection of delay and laches. It has been averred that the nature of duties performed by different grade of Draftsman in CPWD are not similar to those performed by the applicants in NATMO and since the qualification for recruitment to the post of Draftsman in NATMO is different from the one for the Draftsman prescribed by the CPWD and other departments of the Central Government, they cannot claim the benefit of OM dated 19.10.94 (Annex. A/1). The applicants were not employed on the post of Draftsman. They are holding the post of Geographical Assistant and, Research Assistant Junior Geographical Assistant and Technical Assistant and Research officer. The applicants have deliberately did not disclose their proper designation in NATMO on the date of filing of this O.A. The details regarding the change of designation have been given and a comparison has to be made

between the qualifications required to be posted as Draftsman in NATMO with that of Draftsman in other department.

6. A rejoinder has been filed on behalf of the applicants wherein it has been mentioned about the judgement of the Apex Court in the case of Nain Singh Bhakuni & ors vs UOI & ors. (AIR 1998 SC 622) wherein the dispute was the very same OM and the relief was extended to similarly situated employees. It has also been averred that the designation of the applicants were changed but there was no change either in the qualification or in the duties and responsibilities performed by them on the re-designated posts.

7. The learned counsel for the applicants has reiterated the facts and grounds raised in the pleadings and has submitted that the matter relates to the grant of higher pay scale while performing the same duties and the objections of the respondents cannot be sustained. It has also been submitted that number of persons who have approached various courts including the Apex Court have been extended the similar benefits and quoting them as examples the applicants submitted representations/reminders, which have not been decided and hence after waiting for six months they have approached this Bench of the Tribunal and thus their cases will not be hit by law of limitation.

8. It has been pointed out that they fulfil the requisite conditions for the grant of higher scale of pay on completion of requisite number of years of service while they were employed on the post of Draftsman. It is also submitted that Annex. A.1 is applicable from 30.05.82 and the plea of the respondents that the applicants at present are not working on the post of Draftsman cannot be sustained.

It is also submitted that recruitment qualifications

etc has been dispensed with in circular dated 19.10.94 and therefore the respondents are not entitled to deny the benefits due to them for extraneous reasons and their action smacks arbitrariness.

9. On the other hand the learned counsel for the respondents strenuously opposed the contentions raised on behalf of the applicants and it has been submitted that the applicants have not disclosed their ^{present} designations. It has also been submitted that they did not fulfil the eligibility conditions for the grant of benefits of the order Annex. A.1 in as much as they are not performing the duties and responsibilities which are being performed by the Draftsman in CPWD. Thus the applicants have no case for interference by this Tribunal for granting the benefits. The grounds are generally denied by the respondents.

10. We have considered the rival submissions made on behalf of both the parties. As far as the factual aspect of the matter is concerned it is not the case of the respondents that prior to the re-designation, the applicants were not draftsman during the period i.e. on 13.5.82. It is also not the case of the respondents that the applicants did not have requisite experience required for the grant of next grade as per (Annex. A.1). We find that the basis of cut off date i.e. 19.10.94 has no relevance. There is no specific denial that the applicants did not have the requisite number of years of service as per para 2 of the OM dated 19.10.94 and as per para 4 of the above said OM, the benefits of the revision of scales of pay would have been given with effect from 13.05.82 notionally and actually from 01.11.83 and thus the benefits are required to be extended to the

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draftsman irrespective of the recruitment qualifications. In all fours the applicants are entitled to the benefits of the aforesaid OM.

11. Looking the matter from yet another angle we notice that on an earlier occasion ^{next} ~~an~~ order dated 13.03.84 was issued extending the scale of pay to the Draftsman and Gr. I Gr. II in other offices provided the recruitment qualifications of draftsman are the same as that of the qualifications for the draftsmen in CPWD, and the benefit was given notionally with effect from 13.05.82 and the actual benefit from 1.11.83. Later, the law making authorities in its wisdom dispensed with the requirement of the Recruitment Rules etc and issued the order dated 19.10.94. A reading of the complete OM at Annex. A.1 leads us to inescapable conclusion that there is no rider whatsoever except that of required number of years of service for the grant of higher scale of pay. We are not impressed with the submissions of the learned counsel for the respondents that they are not draftsman at present and thus this benefit could not be extended.

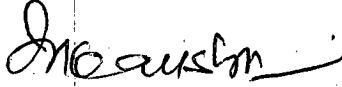
12. As regards the plea of limitation, the matter relates to fixation of pay and grant of higher scale of pay. Firstly, an order has been issued on 19.10.94 and the representation was filed in the matter for implementation of the same on 29.01.96, and therefore the O.A is filed somewhere in 1996. Therefore, it cannot be said that the OA is hit by law of limitation.. We also find that the subject matter of the OA relates to the grant of fixation of pay/grant of higher scale of pay, which gives a recurring cause of action and in such cases the law of limitation is not attracted as per the decision of the Apex Court in the

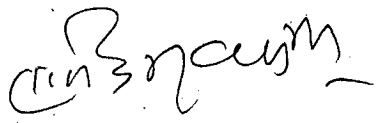
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case of M.R. Gupta vs. Union of India (AIR 1996 SC 669).

Thus the objection of the respondents cannot be sustained.

13. In view of what has been said and discussed above, we find that there is ample force in this O.A and the same is hereby allowed. The respondents are directed to extend the due benefits as envisaged in the OM dated 19.10.94 (Annex. A/1), within a period of four months from the date of communication of this order. No costs.


(J.K. Kaushik)
Member (J)


(R.K. Upadhyaya)
Member (A)

jsv.