

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 273/2003

Date of Decision: 9th August 2004

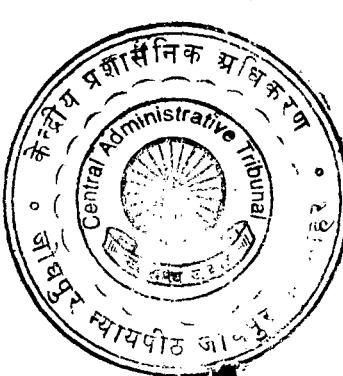
**Hon'ble Mr. J. K. Kaushik, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member**

A.K. Agnihotri, S/o Shri C.L. Agnihotri aged about 46 years r/o House No. 33, Sikargarh Army Area, Jodhpur, (Rajasthan) presently working on the post of Draftsman II in the office of Commander Works Engineer (Army), Multan Lines, (Rajasthan)

: Applicant

By Advocate Mr.S.K. Malik & Mr. Dayaram: Counsel for the
Applicant.

Versus



1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi 110 010.
2. Engineering in chief, Army Headquarters, DHQ post Kashmir House, New Delhi.
3. Chief Engineer, Headquarters, Southern Command, Engineering Branch, Pune 411 001
4. Commander Works Engineer(Army), Multan Lines, Jodhpur (Rajasthan)

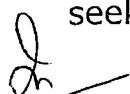
: Respondents.

By Advocate Mr.B.R. Mehta: Counsel for respondents
.....Respondents.

ORDER

BY J. K. KAUSHIK, JUDICIAL MEMBER:

Shri A K Agnihotri has filed this Original Application for seeking a direction to the respondents to finalise the fixation of



pay as per Draft Part-II order dated 24.6.2002 (A/2) and make payment of arrears along with interest and exemplary costs.

2. With the consent of the learned counsel for both the parties, we heard the arguments for final disposal at the admission stage keeping in view the urgency of the matter and have carefully considered the pleadings and records of the same.

3. The abridged material facts of this case, as deduced from the pleadings of the parties, depict that the applicant was initially appointed to the post of Tracer/Draftsman on dated 18.7.83 in the pay scale of Rs. 260-400 in the respondents' department. There was an award of Board of Arbitration in case of CPWD, by which the Draftsman in Grade I, II and III in CPWD in pay scale of Rs. 425-700, Rs. 330-560 and Rs. 260-430, respectively were placed in higher pay scales Rs. 550-750, Rs. 425-700 and Rs. 330-560, respectively. Orders were also issued subsequently on dated 13.3.84 extending these scales of pay to Draftsmen in all Government of India Offices notionally from 13 May 1982 and actually from 1st November 1983, subject to their recruitment qualification being similar to those applicable to CPWD.

4. The applicant was also extended the benefits of the aforesaid revision in the pay scale; of course after he got a favourable order from this bench of the Tribunal. As a result of said revision, he was allowed pay in the revised scale of pay of Rs. 330-560 (revised to 1200-2040 w.e.f. 1.1.86 under 4th CPC from the date of initial appointment in pursuance with the above order-dated

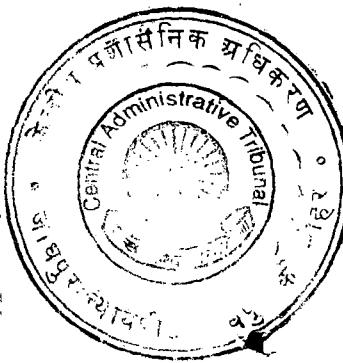


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13.3.1983, vide order dated 20.2.99 and special Pt-II order dated 10.4.99 (A/3 and A/4). He has been also allowed the benefits of First Financial upgradation under ACP scheme on completion of 12 years of service with effect from 1.7.2000 and has been granted pay scale of Rs. 5000-8000.

5. Subsequently, OM. Dated 19.10.94 came to be issued by the Ministry of Finance whereby the CPWD pay scales for Draftsmen Gr. I, II and III were also extended to the other Central Government Departments irrespective of fulfillment of the recruitment qualifications subject to completion of certain length of service. The same benefits of revised pay scale were ordered to be extended to the Draftsmen in Defence Establishments as per communication-dated 6.11.95 (A/1 letter dated 15.11.95 at page 12). These benefits have not been extended to the applicant despite his case being taken up with higher ups and even a draft Pt. II order (A/7) has also been prepared. He has filed this Original Application for grant of benefits as per the said draft Pt. II order i.e. fixation in the pay scale of Rs. 1400-2300 (pre-revised scale) w.e.f. 18.7.1991 on completion of 8 years of service as D/Man Gr. III.

6. As regards the variances, the respondents have averred that the applicant is not entitled for the benefits of letter dated 15.9.95 since he has already been given revised pay from his initial appointment itself and the decision on his application was duly communicated to him through his section in-charge vide



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letter dated 13.3.2003. He has been allowed the benefits of ACP on completion of 12 years service as per the scheme in force. A short rejoinder has been filed narrating that the applicant has not been allowed any benefits of the OM dated 19.10.94 despite issuance of orders at Annexure A/6.

6. The learned counsel for the applicant has reiterated the facts and grounds narrated in the pleadings in the application. He has placed heavy reliance on the order dated 15.9.95 (A/1 at page 12) and also Annexure A/6. Our attention was drawn towards the contents of these letters. He has tried to persuade us that the benefit granted to the applicant in pursuance with letter dated 13.3.1983 read with order dated 22.7.98 A/2) of this Tribunal was independent of the subsequent orders dated 19.10.94 relating to CPWD and order dated 15.9.95 with order dated 1.6.2001 relating to Defence Establishments. According to these orders the benefits of higher pay scale is to be extended on completion of specified length of service but applicant has been deprived of the same and made to suffer for none of his faults.

7. Per contra, the learned counsel for the respondents have strenuously opposed the contentions raised by the learned counsel for the applicant and reiterated the defence of the respondents as noticed above. He has contended that the subsequent orders have no application to the case of applicant since he has already been given the revised pay scale in pursuance with the order dated 13.3.1983 itself. He also invited



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our attention to some of the paras of the various orders in support of his contentions.

8. We have given our anxious thought to the rival contentions put forth by the learned counsel for the parties. As far as factual matrix of the case is concerned, there no dispute as noticed above. It would be suffice to mention here that the applicant has enjoyed the benefits of revised pay scale in pursuance with the OM dated 13.3.83 and given revised pay in scale of Rs. 330-560 from the date of his initial appointment itself. The primary issue involved in this case for determination boils down on the question as to whether the order dated 15.9.95 applies to the case of applicant or not. If the answer is in affirmative the applicant shall swim and in case it is negative he would sink.

9. We find it expedient to mention that in order to appreciate the controversy, the following paras of the letter-dated 15.9.95 (at page 12 of paper book) are relevant and extracted as under:



" 2. Consequent to the issue of Ministry of Finance OM No. 13(1)/IC/91 dated 19.10.94 extending the CPWD pay scales for D'Men Gde. I, II and III to other Government departments irrespective of fulfillment of recruitment, qualifications subject to completion of certain length of service, the question of extending similar reliefs to D'Men in Defence Establishments who were in the pre-revised scales has been considered. The President is now pleased to revise the pay scales of Draughtsmen in Defence Establishments as follows:

xxx	xxx	xxx
xxx	xxx	xxx

3. Incumbents in position before 13.05.2002 may be placed in the revised scale of pay as and when they complete/completed the length of service in the respective grades and subject to condition indicated below:-

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(1) The individuals will be granted the revised scale from the date on which they complete the required length of service as follows:-

(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 Yrs.**

(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 Yrs.**

(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 Yrs.**

(2) Once the Draughtsmen are placed in the regular 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.

(3) xxx xxx xxx

(4) The individuals pay scales had not been revised earlier on the basis of Ministry of Finance O.M. No. 5(59)/E.III/82 dated 13.03.84, referred to in para 1 of this letter or through any court orders.

D'Men appointed on or after 13.5.82 may be placed in the revised scales of pay in the following:

xxx xxx xxx

xxx xxx xxx

6. These orders shall not apply in respect of cadres of D'Men where D'Men Gr. III (Rs. 1200-2040) is the first entry grade by direct recrt. With further promotions to D'Men Gr. II and Gr.I (Rs. 1400-2300) (Rs. 1600-2660) with the respective qualifications exactly similar to corresponding CPWD categories.

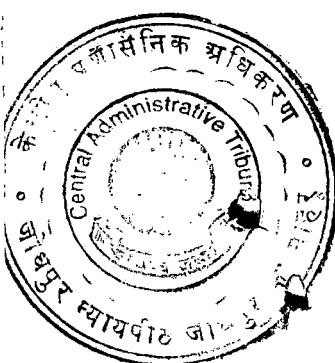
10. The mere perusal of the aforesaid would reveal that the order dated 15.9.95 only relates and regulates the cases of Draftsmen of Defence Establishment who did not fulfill the recruitment qualification meant for the Draftsmen of CPWD; the



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persons possessing the said qualification had already been extended the due benefits of revised pay scale in pursuance with OM dated 13.3.1983. The applicant has already been granted the revised pay scale in the category of having requisite qualifications. He was already in the revised pay scale meant for the post of D/Man Gr. III and the said order dated 15.9.95 has no application to his case. This fact is evident from para 2, 3(2), 3(4) and 6 of the said letter as extracted above. Similar position is borne out from para 6 of the subsequent letter dated 1.6.2001 (page 25 of paper book). Forwarding the case of applicant with draft PTO proposing and recommending the case of applicant for grant of benefits to the higher authorities, cannot improve his case. The applicant has not been able to show as to which of his legal right has been infringed. In this view of the matter the answer to the question posed above shall have to be answered in negative. If that be so the applicant does not have any case in his favour and no interference is called for from this bench of the tribunal.

11. We also notice that the order dated 15.9.95 also envisages a specific clause as para 3(2) that once the Draftsmen are placed in the regular scale i.e. in revised scale, further promotions would be made against the available vacancies in higher grade in accordance with the normal eligibility criteria laid down in the recruitment rules. The applicant has been rightly granted the benefits of financial upgradation as per the ACP scheme and no fault can be fastened with the action of the respondents.



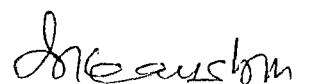
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Keeping in view the entire gamut of this case, it would not be an exaggeration, if we say that there is no foundation of this case and the same can aptly be construed as misconceived and implausible. The subordinate authorities seem to have created the overwhelming confusion by making futile and baseless proposals.

12. In the circumspect of the aforesaid discussion, we come to an inescapable conclusion that the Original Application sans merits and the same stands dismissed, accordingly. However, the parties are left to bear their respective costs.



(M K Misra)

Administrative Member


(J K Kaushik)
Judicial Member

Jsv

R/c
on 13/8/04
Sar
(DAYARAM)
H.V.

COPY Received.
In behalf of Adminstr.
Mr. B.R. Mehta 16-8-04

Part II and III destroyed
in my presence on 25/10/2013
under the supervision of
Section Officer () as per
order dated 18/10/2013
S.R. Shon
Section Officer (Record) 25/10/2013