

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 400/91 199

DATE OF DECISION 23.10.1992

T.K.Joy and sixty three others Applicant (s)

Mr.R.Krishnan Nair Advocate for the Applicant (s)

The Union of India represented
by the Secretary,
Ministry of Defence and
two others. Respondent (s)

Mr.S.V.Balakrishna Iyer,ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? N
4. To be circulated to all Benches of the Tribunal? N

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 27.2.1991 the Sixty Four Senior Draughtsman/Head Draughtsman and Draughtsman working in the Drawing Office at the Southern Naval Command, Naval Base, Cochin have prayed that the respondents be directed to give them the same revised pay scales as have been allowed to the Draughtsmen of the C.P.W.D. The brief facts of the case are as follows.

2. On the basis of the recommendations of the Third Pay Commission the Draughtsman, Senior Draughtsman and Head Draughtsman were given the pay scale of Rs.330-560, 425-700 and 550-750 in the Navy. In the C.P.W.D the Grade II Draughtsman were given the pay scale of Rs.330-560, Grade I Draughtsman Rs.425-700 and Chief Estimator were in the scale of Rs.550-750. However, on the basis of an Arbitration Award dated 20.6.1980, in the C.P.W.D

the Grade III Draughtsmen who were in the scale of Rs. 260-400 were given the revised pay scale of Rs.330-560, Draughtsmen Grade II in the scale of Rs.330-560 were given the pay scale of Rs.425-700 and Draughtsmen Grade I in the scale of Rs.425-700 were given the pay scale of Rs.550-750. These pay scales were allowed to them notionally with effect from 1st January 1973, the actual benefit being allowed with effect from 16.11.1978 (Annexure-C). When there was a demand of Draughtsmen of the various Departments for similar revision of pay scales, the Ministry of Finance vide their letter dated 13.3.84 (Annexure-D) sanctioned revision of the pay scales of Draughtsmen Grade I, Grade II and Grade III in other Departments on the same lines as in the C.P.W.D"provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in the Central Public Works Department". Based on this decision the Draughtsmen of various grades and Senior Draughtsmen and Chief Draughtsmen of the Military Engineering Service approached the various Benches of this Tribunal and obtained orders directing extension of the revised pay scales of the C.P.W.D to their cadre also. Copies of some of the judgments are given at Annexures-E, G, H, I and J. An S.L.P. filed before the Supreme Court against one of the orders of the Tribunal (Annex E) was dismissed vide the order at Annexure-F. The applicants before us have argued that the qualifications prescribed for recruitment to their grades are identical to those prescribed in the C.P.W.D and therefore, the applicants are entitled to the same benefits as their opposite numbers in the C.P.W.D.

3. The respondents have opposed the application by stating that the qualifications and duties of Draughtsmen of various levels in the Navy and those in the C.P.W.D with which they are claiming parity are different and that "the Navy had adopted the scales of pay awarded by the Board of Arbitration that is what was awarded by the Third Pay Commission. Thereafter the Fourth pay Commission while revising the pay scales had examined the duties and responsibilities and relationship of each category of posts with similar posts in other Departments". They have produced comparative statements of the duties and responsibilities of the various grades of Draughtsmen in the Navy and C.P.W.D in support of their contention. These have been questioned by the applicants in their rejoinder.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The applicants have sought equation of Draughtsmen in the scale of Rs.330-560 with Grade II Draughtsmen of the C.P.W.D who were originally in the scale of Rs.330-560 but on the basis of the Award have been given the pay scale of Rs.425-700. The Educational Qualification of Draughtsman Grade II in the C.P.W.D. is as follows:-

"2 years certificate or Diploma in Draughtsmanship plus practical experience of one year."

The Educational Qualification of Draughtsman in the Navy, on the other hand, is as follows:-

" 2 years diploma in Draughtsmanship or its equivalent preferably with 2 years experience."

(emphasis added)

From the above it is clear that while for Grade II Draughtsman of the C.P.W.D practical experience of one year is a must, it is not so in case of Draughtsman (Rs.330-560) of the Navy. Further, whereas in case of Grade II Draughtsman (Rs.425-700) of the C.P.W.D. promotion can be made of Draughtsman Grade III (Rs.330-560) with three years of service who are in the revised scale of Rs.1200-2040 with two years Diploma/Certificate in Draughtsmanship from I.T.I, in case of Draughtsman in the Navy, the feeder category is that of Tracers in the lower scale of Rs.975-1540 for whom no Diploma or Certificate in Draughtsmanship is necessary. Thus the Draughtsman of the Navy in the scale of Rs.330-560 cannot be equated with Grade II Draughtsman (Rs.425-700) of the C.P.W.D. Since equation is not possible between Draughtsman of the Navy and Grade II Draughtsman in the C.P.W.D. the next higher posts to which these categories correspondingly are promoted, cannot be equated either. In any case since the Fourth Pay Commission has not given them parity as claimed in this application, it is not for this judicial forum to question the same at this stage.

5. It may further be noted that even in accordance with the Recruitment Rules for the posts of Draughtsmen in the C.P.W.D issued on 14.11.1990 (Annexure R2), the qualifications prescribed for Draughtsman Grade II (Rs.1400-2300) and Draughtsman Grade III (Rs.1200-2040) are as follows:-

CPWD Draughtsman Grade II (Civil)

- "I) Matriculation or equivalent from a recognised Board/University.
- ii) Two years' Diploma/Certificate in Draughtsmanship (Civil) from an Industrial Training Institute or equivalent recognised Institution.

iii) 3 years' experience in the line in an organisation of repute."

CPWD Draughtsman Gr.III (Rs.1200-2040)

- " i) Matriculation or equivalent from a recognised Board/University;
- ii) Two years Diploma/Certificate in Draughtsmanship (Civil) from an Industrial Training Institute or equivalent recognised Institutions."

The qualifications prescribed for Draughtsman of the Navy in the prrevised scale of Rs.330-560 vide the Recruitment Rules issued on 29.3.85 are as follows:-

- "1. Matriculation or equivalent.
2 years Diploma in Draughtsmanship or its equivalent or Diploma or Certificate in Commercial Art preferably with 2 years experience.

OR

- 2. Must have completed apprenticeship of at least 3 years in Naval/Marine/Electrical/Mechanical/Structural/Workshop/Civil Engineering Drawing Office or Naval Architecture and Ship Construction."

From even a cursory comparison of the educational qualifications prescribed for the C.P.W.D Draughtsmen and Draughtsmen of the Navy, it is clear that the Draughtsmen of the Navy are more equal to Draughtsmen Grade III than Draughtsmen Grade II of the C.P.W.D.

6. It is true that the Draughtsmen Grade II of the M.E.S have been equated by the various Benches of this Tribunal with Draughtsmen Grade II of the C.P.W.D. The qualifications prescribed for Draughtsmen Grade II of the M.E.S as per the Recruitment Rules of 17.1.86 are as follows:-

Educational
Matriculation or equivalent .

Technical
Passed 3 years Diploma in Architectural Assistantship from an institution recognised by the Government.

Or
Draughtsman (Civil) certificate or Diploma in Draughtsmanship from a recognised institution of not less than 2 years (including 6 months practical training) *practical experience

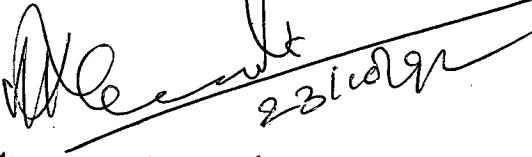
of at least one year in line in an organisation of repute, after getting the diploma." (emphasis added).

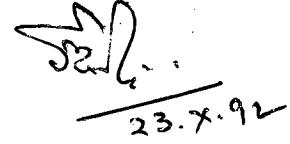
Since the prescribed qualification for Draughtsmen Grade II of the M.E.S. is manifestly higher than those prescribed for the Draughtsmen of the Navy as is evident from a comparative perusal of these qualifications indicated above, the equation made in favour of the Draughtsmen Grade II of the M.E.S. cannot be extended to the Draughtsmen of the Navy.

7. The Supreme Court in the Secretary, Finance Department & Ors. vs. West Bengal Registration Service Association & Ors., JT 1992(2) S.C.27, have ruled that the Courts should not interfere in the matter of pay scales which are for the Executive to decide. In an earlier judgment in Supreme Court Employees Welfare Association vs. Union of India & Anr. etc. Judgements Today 1989(3) S.C.188, the Supreme Court observed that it is not for the Court to fix the pay scales which can be fixed only by the Government. Courts can intervene if there is violation of the Fundamental Rights or if there has been any invidious discrimination, arbitrariness or patent error in law. We do not discern any such flaw in the present case. In V. Markendeya and others vs. State of Andhra and others, (1989)11 ATC 3, the Supreme Court held that the principle of equal pay for equal work is not applicable when differentiation in pay is based on permissible classification, such as one based on educational qualification. In Mewa Ram Kanojia vs. All India Institute of Medical Sciences and others, 1990(1) SLJ 161,

the principle of
the Supreme Court held that 'equal pay for equal work'
does not apply to Professional services like Doctors,
Lawyers etc. with different qualifications and under different
employers and that the doctrine of 'equal pay for equal work'
is not a matter of Fundamental Right.

8. In the conspectus of facts and circumstances we see
no merit in the application and dismiss the same without any
order as to costs.


(A. V. Haridasan)
Judicial Member


(S. P. Mukerji)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A. No. 155/92 in

O. A. No. 400 of 199 1.

DATE OF DECISION 11.12.92

T.K.Joy Applicant (s)

Mr. M.R.Rajendran Nair Advocate for the Applicant (s)

Versus

Union of India rep. by Secretary, Ministry of Defence and others Respondent (s)

None Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.Mukerji, Vice Chairman
and

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? N
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. To be circulated to all Benches of the Tribunal ? N

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

We have gone through the R.A. and connected documents. The R.A. challenges the wisdom of the judgment on merits. This cannot be allowed in review which admits of only error apparent on face of record and new material which could not be available to the Review Applicant earlier despite due diligence. Accordingly we see no force in the R.A. and dismiss the same under by circulation.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

11.12.92