

ORDER

JUSTICE S.C.MATHUR:

The applicants who belong to the Survey stream of officers posted in the Geological Survey of India, Lucknow (GSI) which falls under the Northern Zone, seek through the instant application parity in pay scales with officers belonging to the Drawing Officers stream (DO) in the same organisation. The 8 applicants are holding different posts which are as follows:-

- (1) Surveyor (Junior) / Surveyor;
- (2) Junior Technical Assistant (Survey) (JTA); and
- (3) Senior Technical Assistant (Survey) (STA)

For those holding the post at Sl.No.(1), the pay scale of Rs.425-700 revised to Rs.1400-2300 has been claimed and for those holding posts at Sl.Nos.(2) &(3), the pay scales of Rs.550-900 (RPS Rs.1640-2900) and Rs.650-1200 (RPS 2000-3200) respectively have been claimed.

2. The applicants have claimed the reliefs primarily on two grounds:

- (1) Earlier they were having higher pay scales than incumbents of equivalent posts in the Drawing Officers stream but now the latter are drawing salary in higher scales; and
- (2) justification of applicants' claim for higher pay scales had been recognised

by the Deputy Director General, Geological Survey of India, who made recommendation in that behalf to the Central Government.

3. The applicants' claim has been resisted by the respondents. In the reply, the respondents have indicated the reason for granting higher pay scales to the staff posted in Drawing Officers wing. ~~It is~~
~~the~~ ~~post~~ ~~of~~ ~~draftsman~~ The post of draftsman exists under several Ministries of the Central Government. The post exists in the Central Public Works Department(CPWD) also. Dispute regarding the pay scales of draftsmen in the CPWD was settled through an award. Thereafter, the Finance Ministry issued Office Memorandum No.F.S . (59)/E.III-82 dated 15.3.1984 directing that the pay scale of draftsman of all Central Government Offices may be revised and brought at par with that of CPWD provided their recruitment qualifications were at par with their counterparts in CPWD. As a result of this direction, the Geological Survey of India after correspondence with the Ministry, revised the pay scale of draftsman notionally with effect from 13.5.1982 and actually from 1.11.1983. While implementing the decision to revise the pay scale of draftsman some senior draftsmen of Geological Survey of India suffered erosion in their pay and they approached the Calcutta Bench of the Tribunal which ordered that the pay scale of the applicants

before it(the Tribunal) be revised provided their duties were similar to those of their counterparts i.e. draftsman Grade II in the CPWD. It was also directed that the matter be examined by a review committee. Accordingly, a review committee was constituted and it was observed that the duties of draftsman of Geological Survey of India were similar to those of the draftsman Grade II in CPWD but not identical. However, the pay scale of draftsman was revised notionally with effect from 1.1.1973 but effectively from 16.1.1978.

4. Supplementary counter reply dated 11 April, 1995 was filed at the time of hearing on 8.5.1995. Copy of this affidavit had been served earlier upon the applicant on 20.4.1995. Prior to 8.5.1995, the applicant had filed supplementary rejoinder-affidavit on 28.4.1995.

5. In the supplementary counter, it has been stated on behalf of the respondents that the applicants' claim has been reconsidered by the Central Government and the rejection has been communicated to the Deputy Director General(Personnel) Geological Survey of India through letter No.10/59/91-M.II dated 25.11.1992. Copy of the letter has been filed as Annexure C-2 . It has also been stated in the supplementary counter that almost

2. In 3rd Pay Commission

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i. Draftsman Gr.III	Rs.260-430
ii. Draftsman Gr.II	Rs.260-430
i. Surveyor (Jr) Rs.330-560	iii. Draftsman Gr.I Rs.330-560
ii. Surveyor (Sr.) Rs.425-700	iv. Draftsman (Sr) Rs.425-700
iii. S.T.A. (Survey) Rs.550-750	v. Head Draftsman Rs.550-750
iv. Officer Surveyor Rs.650-1200..	vi. Artist Rs.650-1200

3. Re-designation/merger of survey and drawing stream was done in 1980 vide G.O.I. letter No.A-11019/2/78-M-2 dt.24.8.78 read with letter No.A-11014/2/78/16A dt.13.2.1981, which is as under:

i. Draftsman Gr.III	Rs.260-430	to D/Man
ii. Draftsman Gr.II	Rs.330-560	
i. Surveyor (Jr) to Surveyor	Rs.330-560	iii. Draftsman Gr.I. Rs.330-560
ii. Surveyor (Sr.) to JTA (Survey)	Rs.425-700	(iv. Sr.D/Man to JTA(D.O.) 425-700 425-700
iii. STA(Survey) to STA(Survey)	550-750	v. Head D/Man to S.T.A. (D.O.) 550-900 Rs.550-750 Rs.550-900

4. As per award of the board of Arbitration in the case of D/Man in C.P.W.D, the scales of D/Man in G.S.I. were again revised vide J.C.M., G.O.I. O.M. No.F-5(59) EIII/82 dt.15.3.84 as under:

Draftsman Gr.I	Rs.425-700	Revised as Rs.550-750
Draftsman Gr.II	Rs.330-570	Revised as Rs.425-700
Draftsman Gr.III	Rs.260-430	Revised as Rs.330-560.

In G.S.I. as per the above award the scale of Draftsman was revised to Rs.425-700 notionally w.e.f.1.1.73 Actual from 16.11.78

5. The above redesignation, merger and raising of scales was done to rationalise the Drawing Stream against survey stream by the high power committee. It was mentioned in its report at page No.9 of Annexure 4(9) that the draftsman in G.S.I like the Surveyors have higher entry qualifications and highly skilled job requirements for scientific production. Therefore, in accordance with the 3rd Pay Commission (Vol.I, Para 81(i), P-153, The scale of Rs.330-560 was suggested for Draftsman I 'now Draftsman' "

7. From the above statement it would appear that at one stage Surveyor (Jr) was drawing salary in a scale

which was higher to the scale in which Draftsman Gr.III and Grade II drew salary. Subsequently, the holders of equivalent posts in the two streams started getting salary in identical scales. With the implementation of the award of Board of Arbitration, the scales of pay have gone up and the holders of equivalent posts in the drawing stream are getting salary in higher scales.

8. From the order of the Tribunal in Kalpoo Ram's case (supra), it appears that the post of Junior Technical Assistant exists in several streams in G.S.I. It exists in the streams of Geophysics, Chemistry, Geology, Survey and drawing. Junior Technical Assistants of Geology, Chemistry and Geophysics streams filed Original Application claiming parity in pay scales with the Junior Technical Assistants of drawing officers wing. The Tribunal which rejected the claim has observed as follows in para 8 of the order:

" In our view, the similarity in the designations of the employees should not be the sole criterion to put them on identical pay-scales. Even the fact that at certain points of time in their career they were in the same pay scales along with others should not mean that some of them cannot be considered on merits for grant of higher scale of pay. The equation of posts or equation of pay in such circumstances must be left to the Executive Govt. It is for the Government to take into consideration all the relevant factors and come to a calculated decision in the matter of fixation of pay scales. This was done in respect of the JTAs of the Drawing Office whose pay was re-fixed on receipt of the CPWD award. It is not possible nor it is desirable for us to

determine the administrative question of equality of work of the various groups of JTAs, relying upon the averments made in the affidavits of the contesting parties. In this regard we take support from the judgement of the Hon'ble Supreme Court in State of U.P Vs. J.P. Chaurasia 1989(5) SLR page 788. It is the more so when it is apparent from the record that there is hardly any similarity either in the educational standards required or the nature of duties performed by the two different groups of JTAs in O.S.I."

9. The Tribunal has recorded the positive finding that parity cannot be claimed on the basis that at one point of time the pay scales in the two wings were identical. The Tribunal also expressed the opinion that equation of posts and equation of pay scales must be left to the Executive Government. The proposition of law laid down by the Tribunal is fully applicable to the facts of the present case. The Executive Government has taken a decision on the dispute raised by the applicants. The decision has been expressed in the letter dated 25.11.1992, Annexure C-3 in the following terms:.

" On careful consideration of your letter we observed the following:

1. The educational qualifications and the residency period for the feeder grade of both the posts of JTA(Survey) and JTA(DO) are different.
2. The pay scales of JTA(Survey) and JTA(DO) were different even before the recommendations of the 4th Pay Commission. The pay scales of JTA(DO) prior to the 4th Pay Commission was Rs.550-70 whereas the pay scale of JTA(Survey) was at par with all other streams of JTA at Rs.425-700. The 4th Pay Commission had decided that this difference should be maintained and fixed Rs.1400-2300 for JTA(Survey) and Rs.1600-2600 for JTA(DO). In fact the pay scale of all other streams of JTA remains equivalent to JTA (Survey)."

Thereafter, the letter proceeds to state that in the DO stream the JTAs got revision on the basis of the award

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of the Board of Arbitration coupled with the decision of the Central Government. The letter negatives the claim of the applicants that the nature of work performed by them is identical to the nature of work performed by the JTAs in the DO wing. The disparity is indicated in the following terms:

" The nature of work of JTA(DO) and JTA(S) is completely different. While Draftsmen/JTA in GSI handle restricted and classified documents like maps civil photographs etc. keeping accounts of maps for sale and sale proceeds, preparation of printing models, multi-colour maps for printing and preparation, compilation of various pneumatic maps etc. The survey stream are essentially field workers. Thus a comparison between the two streams cannot be made."

10. The courts and the Tribunals are not in a position to weigh and compare as to which duty is more onerous and which duty carries greater responsibilities. The view taken by the Central Government cannot be described as arbitrary and perverse in the sense that no reasonable person could take that view. Accordingly, the claim of the applicants for parity in the pay scales cannot be sustained.

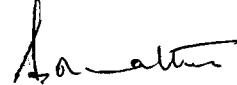
11. In the supplementary rejoinder-affidavit, the applicants have tried to challenge the observations made in the letter of the Central Government. As observed in Kalpoo Ram 's case(supra) it is not for the courts and the tribunals to weigh the correctness of those observations.

12. The applicants filed the instant OA on 26.11.1991. From the statement extracted above, it appears that the DO stream started getting higher pay scales by order dated 15.3.1984. From this it would appear that the cause of

action accrued to the applicants on 15.3.1984. The limitation for approaching the Tribunal is one year from the date of accrual of the cause of action. The OA was filed/beyond ^{much} this period. Conscious of this delay, the applicants have filed an application for condonation of delay. In para 1 of the application, it is stated that the application is directed against the order of the Central Government in the Ministry of Steel and Mines dated 27.4.1988 which was never circulated for the information of the general staff. In para 2, the applicants claim to have acquired knowledge of the circular on 18.2.1991 when it was filed in the contempt petition filed at the Bangalore Bench. These averments do not explain the delay with effect from 15.3.1984. The applicants do not plead ignorance of this order. There is no sufficient explanation for the delay in approaching the Tribunal. Accordingly, the OA is liable to be rejected on the ground of limitation also.

13. In view of the above, the OA is liable to be rejected on the ground of limitation as well as merit. The application is accordingly dismissed but without any order as to costs. Interim order, if any operating, shall stand discharged.

W.K. 15.5.95
(V.K.SETH)
MEMBER(A)


(S.C.MATHUR)
CHAIRMAN