

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow-BENCH

Lucknow

Contempt 23/92

CAUSE TITLE O.A. 1100 OF 187 199 (L)
T. A. (T)

Name of parties K.C. Agrawal Applicant's.

VERSUS

Union of India y. P. Anand & others Respondents.

Sl. No.	Particular of Documents	No. of page
---------	-------------------------	-------------

Part - A

Check list.....	X to.
Order Sheet.....	A1 to A2 ✓
Final Judgment Dated.....	7-8-92 A3 to A4 ✓
Petition copy with power.....	A5 to A13 ✓
Annexure.....	A14 to A55 ✓
Counter with power.....	A56 to A64 ✓
Rejoinder with Annexure.....	A65 to A72 ✓
<u>M.P. No 609/92 (U)</u> Supplementary counter	A73 - A75 ✓
<u>MP No 798/92</u> Supplementary Rejoinder	A76 - A79 ✓

Part - B

B80 - B15

Part - C

C158 - C160

Rechecked on

checked out / destroyed.

30(5) by

30(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow-BENCH

Lucknow

Compl 23/92

CAUSE TITLE O.A. 1100 OF 187 199 (L)
T. A. (T)

Name of parties K.C. Agrawal Applicant's.

VERSUS

Union of India y. P. Mond & others Respondents.

Sl. No.	Particular of Documents	No. of page
---------	-------------------------	-------------

Part - A

Check list.....	to.
Order Sheet.....	A1 to A2 ✓
Final Judgment Dated..... 7-8-92	A3 to A4 ✓
Petition copy with power.....	A5 to A13 ✓
Annexure.....	A14 to A55 ✓
Counter with power.....	A56 to A69 ✓
Rejoinder with Annexure.....	A65 to A72 ✓
<u>m.p. No 609/92 (L)</u> Supplementary counter	A73 to A75 ✓
<u>mp No 798/92</u> Supplementary Rejoinder	A76 to A79 ✓

Part - B

B20 - B15

Part - C

C158 - C160

Recheeg
on

washed out / destroyed.

30(5) by

30(5)

cop No. 23/82 ^(A)

10-12 82

from Mr Justice VC S. VC
from Mr Justice, Am

As the case has already
been decided, this application
has become infructuous
and accordingly it
is rejected.

S k
Am

VC

Recd
by
19/12/93
1:30 PM

28.8.92. Hon'ble Mr. Justice U.C. Srivastava-V.C.
Hon'ble Mr. K. Obayya - A.M.

The learned counsel for the respondents states that the judgement passed by this Tribunal has been complied with and the contempt of court is no longer subsists. It is also said that the order has been complied with a little late and within the period prescribed. As per statement of the counsel of the respondent, the

(DPS) case is consigned and notices are discharged.

[Signature]

V.C.

K.C. Aggarwal
31.8.92

A.M.

K.K. Pathak
31/8/92

~~M.P. 798~~

M.P. 798/92 has been filed for recall of order dt. 28.8.92.

S.F.O.

[Signature]

15-X-92

No filing of D.M. adj to
22.10.92

[Signature]

22.10.92

Case not ready to

25.11.92

[Signature]
Moe

25.11.92

No filing of D.M. adj to
26.10.12-92

[Signature]

S.F.O.

[Signature]

9/12/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

...

C.E.A. 23 of 1992

O.A. NO

199

(L)

T.A. NO

Date of Decision 7.8.92

K. C. Agarwal

Petitioner.

Shri R. S. Sharma

Advocate for the
Petitioner(s)

V E R S U S

Y. P. Anand & others.

Respondent.

Shri Anil Srivastava

Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice V. C. Srivastava - V C.

The Hon'ble Mr. K. Chayya - A.M.

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether to be circulated to other benches ?
4. Whether ~~see~~ their Lordships wish to see the fair copy of the Judgment ?

VICE-CHAIRMAN/MEMBER

(B)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH-LUCKNOW.

C.C.A.No. 23 of 1992.

K.C.Agrawal..... Applicant.

Versua

Y.P. Anand & others..... Opp. Parties.

Hon'ble Mr. Justice U.C.Srivastava-V.C.
Hon'ble Mr. K. Obayya -A.M.

(By Hon'ble Mr. Justice U.C.Srivastava-V.C.)

By this contempt application the applicants have made a complaint that the directions given by this Tribunal in the O.A. which has been filed by the applicant have not complied with, in ~~ex~~ the O.A. filed which was decided by a Bench of this Tribunal vide its judgment dated 6.5.91 following directions were given:-

- (1) To consider and award an appropriate scale of pay above Rs. 425-700 to DAC redesignated as D in Annexure C-2 dt. 4.10.74 with effect from 1.1.1973;
- (2) To make notional fixation of applicants' salary in the scale awarded under (1) w.e.f. 1.1.73 and award the financial benefits with effect from the first day of the month of the year of filing of the Writ Petitions respectively by ~~xxxx~~ each of the applicants;
- (3) To comply with these directions within a period of six months from the date of receipt of a copy of this judgment bearing in mind the observations contained in the body of this judgment.

2. The grievance of the applicant is that the order passed by this Tribunal has not been complied with and accordingly the respondents may be punished. This application was moved on 27.4.92. The respondents in their reply have stated that some delay did take place in implementing the judgment and accordingly the application for extension of the respondents' time for complying with the judgment passed.

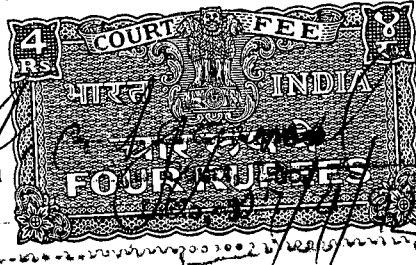
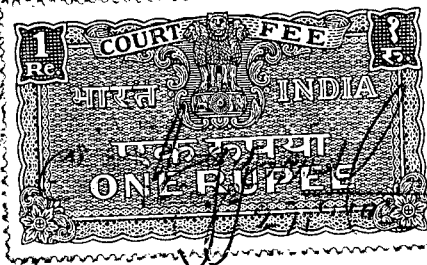
AM

by this Tribunal was moved and immediate action was taken in allotting the scale, in terms of para 14 of the said judgment and accordingly the scale of Rs. 425-700 which is above the scale of Draftsman (A) (scale of Rs. 425 to Rs.700) below the scale of 550-770 was allotted to the petitioner and thus the posting order has been issued vide staff posting order no. 25/92 dated 17.2.92 even prior to the filing of the contempt application. The judgment has also been filed before the Tribunal on 18.2.92 admitting that their SLP has been dismissed, but the respondents have reiterated with the order passed by the Tribunal and has been fully complied with and the compliance report to this effect was also filed before this Tribunal on 18.2.92 before filing of the contempt application. In the rejoinder the applicant has stated that the respondents have tried to confuse the issue that the respondents have not complied fully with the direction given by the Tribunal and attempted to confuse the issue and that they have rather to conceal the real fact flimsily in allotting the appropriate pay scale to the petitioner. Thus the grievance of the applicant is that no compliance has been made and according to him the judgment has not been correctly read and has not been correctly complied and the correct application which has been made by the applicant who has been placed for higher pay of scale. Thus it is a case of no compliance. In case even if the applicant's version is accepted that it is a case of no compliance or ~~is~~ disregard of the order passed by this Tribunal. At the best it can be said to be a case of mis-representation to the the judgment in its application which is not of the liking to the applicant. If the judgment has been mis-interpreted, but the directions have been complied with in any manner which has been read by the respondents. It will not be a case under Contempt of Court Act though the applicant can challenge the same in appropriate proceedings. As no clear case under Contempt of Court Act has been made out, the application is consigned and the notices are discharged.

Member (A).
Dt: 7.8.92.
(AR)

Vice Chairman.

Best copy



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD, (AS)

LUCKNOW BENCH, LUCKNOW

Contempt Petition (Civil) No. 23

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 27/4/92
Date of Receipt by Registrar

in re :

- (1) T.A. No. 1100/1987 (W.P. no. 6092 of 1982)
(K.C. Agarwal vs. Union of India & others)
- (2) T.A. no. 1101/1987 in W.P. No. 4057 of 1983
(R.P. Gupta vs. Union of India & others)
- (3) T.A. No. 1101-A/1987 in W.P. No. 1703 of 1985
(Umrao Singh vs. Union of India & others)

Decided by one judgement dated 6.5.1991

K.C. Agarwal, aged about 56 years, son of
late K.R. Agarwal, S.D.A./C.D.O- Section,
R.D.S.O, Lucknow, resident of C-63/3,
R.D.S.O. Colony, Mahak Nagar, Lucknow ... Petitioner

Versus

1. Shri Y.P. Anand, aged about 57 years,
son of Not Known, Chairman,
Railway Board, Ministry of Railways,
Rail Bhawan, New Delhi.

Filed today
27/4/92



2. Sri O.P. Jain, aged about 58 years,
son of Not Known, DIRECTOR GENERAL,
R.D.S.O., Ministry of Railways,
Manak Nagar, Lucknow - 226011 ... Respondents

CONTEMPT PETITION UNDER SECTION 17 C.A.T. ACT, 1985
& 12

READ WITH SECTION 11/OF CONTEMPT OF COURTS

ACT, 1971

(1) NATURE OF CONTEMPT WITH DATE OF COMMISSION:

(a) Nature of contempt : Civil

(b) Order of the court/
C.A.T. of which
contempt was committed:

C.A.T.'S Judgment dated
6.5.1991 (Annexure No. I)

(c) Decision of S.I.P.No.
17821/23 of 1991

S.I.P. No. 17821-23/91
(Ann. No. II)
Order made on 5.12.91

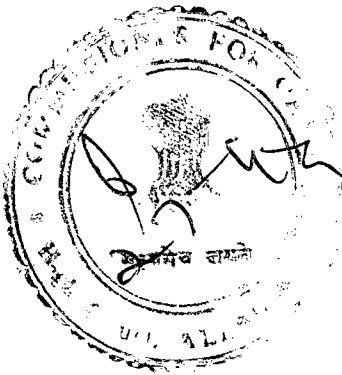
Signature of K.C. Agarwal
27/4/92

(d) Date of commission : 13.5.1991 (Annexure-III)

The above named humble petitioner respectfully begs to state as follows:-

(2) HISTORY OF THE CASE IN BRIEF :

That ^{great} (1) There appears to be confusion in the mind of the respondent no. 2 to allot inappropriate pay scale of Rs.455-700 (Revised Scale) to D.A.'C.' cadre redesignated as D.A.'B' vide staff Posting Order No. 25 dated 17.2.1992 instead of compliance of operative direction No. 1 of the judgment of ^{the Hon'ble} C.A.T. (Annexure No. I) and to award a pay scale as per Annexure C-2 dated 4.10.74 i.e. Rs.550-750 next higher (above) to the pay scale of Rs.425-700, applicable to the Drawing/ Design staff of R.D.S.O., which has termed into contempt of Judicial Court's verdicts on the grounds that respondent no. 2 in the recommendations of IIIrd Central Pay Commission, Government of India, Volume I, Chapter 14, Engineering Services, Pages 153 to 154. Paras 79, 80, 81 and Table No, XVII have not so far been adhered in real spirits to the petitioner's set up, as a result of which the petitioner became aggrieved extremely when classification of class category and cadre of the employees of R.D.S.O.'s Engineering Services stood not included, therefore, the administrative decision arrived at subsequently also have been earmarked as entirely defective, as non acceptable, being quite inappropriate so; otherwise disparity of pay scales existing might have been rectified long long ago i.e. with effect from 01.01.1973.



[Handwritten signature]
K.C. Aggarwal

(ii) That the jurisdiction, power and authority of the Hon'ble Central Administrative Tribunal at Allahabad, Lucknow Bench, Lucknow was, therefore, occasioned to have been sincerely and seriously approached with as a remedial recourses after exhausting entire normal channels of the efficacious and alternative remedies throughout in advance.

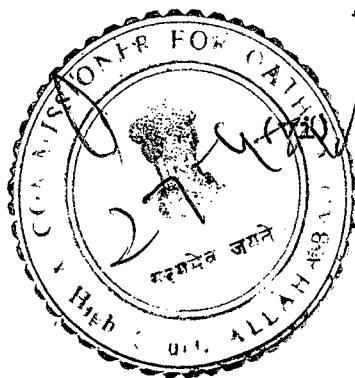
(iii) That the Hon'ble C.A.T. at Allahabad, Lucknow Bench, Lucknow have allowed registration T.A. Nos.1100/87,1101/87 and 1101-A/87 by a single leading judgment dated 6.5.1991 delivered by Hon'ble Mr. Justice K. Nath, V.C. The relevant paragraphs of which considerable and keepable in view (as per directions given in the operative clause No. 3 of the judgment of C.A.T. (Annexure No. I) which the respondents have ignored totally), are 10, 11 and 15 apart from the operative part of the judgment whereby a reported case ruling Y.K. Mehta and others vs. Union of India & others (1988) SUPP. SCC, 750 para 12 has been principally dittoed to the extent , that (Annexure C-2) dated 4.10.74 deserved to be given effect from 01.01.73 meaning thereby that the next higher scale for Rs.425-700 to D.A. 'C' redesignated as D.A.'B' should be appropriately applicable as Rs.550- with effect from 01.01.73 as per the direction of operative clause No. 1 of the judgment of C.A.T. (May kindly see paras 10, 11 and 25 of the judgment i.e. Annexure No. 1 and Annexure No. I/I i.e. Annexure C-2 to this petition).



[Handwritten signature]
22/4/92
K.C. [unclear]

(iv) That the Deputy Director, Pay Commission, Railway Board, Ministry of Railways / vide Annexure C-2 dated 4.10.74 subjected to it as Railway Services (Revised Pay) Rules, 1973 - Schedules for Revised Scales of Pay clearly introduced Revised Scales of pay Rs.550-20-600-25-750 next higher (above) to the pay scale of Rs.425-15-500-EB-15-560-20-700 applicable to Design Assistants 'A' & 'B' of the R.D.S.O. office staff respectively. (viz. the category, cadre and class of the petitioner). (May kindly see Annexure I/I to this petition).

(v) That the respondents went up in S.L.P. No. 17821-23/91 against the Judicial Verdict of Hon'ble C.A.T. as aforesaid dated 06.05.91 resulted into dismissal on 05.12.91 upholding the judgment appealed against. (May kindly see Annexure II to this petition).



That the respondents were served with the decision of Hon'ble C.A.T. on 13.5.1991 reminding in detail dated 31.7.91, 5.8.91, 30.1.92 and so on. (May kindly see Annexure -III, III/I, III/II respectively).

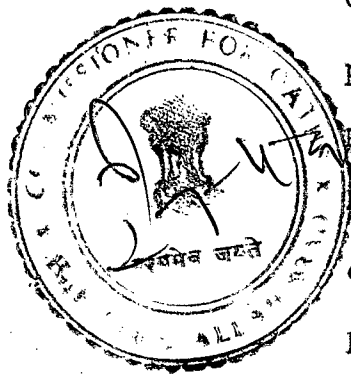
(vii) That thereafter the respondents No. 2 inflicted Staff Posting Order No. 25 of 1992 dated 17.2.1992 served on 20.2.1992 as alone instrument to quash for contempt of court. (May kindly see Annexure.IV which is impugned order to be taken up as the basis of contempt of courts).

(viii) That the petitioner again reminded the respondent No. 2 to the extent that the disputed Staff Posting Order No. 25 dated 17.2.92 has

flouted away superior administrative ^{directions} ~~decisions~~ by absolutely wrong, arbitrary and ineffective, ^{illegal} decision, otherwise, it has termed prima facie into clear-cut contempt of court's verdicts; as the same has injured the real spirits of the pronouncements contended in Annexures Nos. I and II, What to say materially contradicted Annexure I/I (Annexure C-2) as described in the judgment i.e. Annexure No. I of this application. (May kindly see Annexure No. V)

(ix) That the humble petitioner gave legal notice dated 3.3.92 to the respondents by reistered A.D. letters Nos. 0457, 0456 dated 3.3.92. (May kindly see Annexure VI and VII respectively)

(x) That the Government of India, Ministry of Railways (R.D.S.O.) issued an office order No.7 of 1976 dated 5.5.76 (in partial modification to office order No. 43 of 1966), Director General/R.D.S.O. introduced recruitment and promotion rules for Drawing Office Staff in R.D.S.O. excluding R.E. Wing of S&T Design Directorate which amplifies requirements by detailed Bio-datas adherable and admissible of pay scales as tabled/charted below.



Senior Design Asstt.
Rs. 650-960 (RS)
3 years service

Design Asstt. 'A'
Rs. 550-750 (RS)

Design Asstt. 'B'
Rs. 425-700 (RS)

2 yrs - 3 yrs
service service

Draftsman 'A'
Rs. 425-700 (RS)

Draftsman 'B'
Rs. 330-560 (RS)
3 years service

3 years service

Tracer
Rs. 260-430 (RS)

Handwritten signature and date 27/4/92
h.c. Aggarwal

PRAYER & RELIEFS

Wherefore, it is most respectfully prayed that the Hon'ble C.A.T. may be graciously pleased to allow the contempt petition and adequately punish both the contemnors in accordance with the law extending the arms of justice to grant appropriate pay scale of Rs.550-750 (the next higher scale to Rs.425-700 as per Annexure C-2 of operative clause No. 1 of the judgment of C.A.T.) to the humble petitioner retrospectively with effect from 1.1.73 with the consequential and subsequent relief to enable the petitioner to draw promotional pay scale from due date to actual date of payment without any recurring financial loss to the humble petitioner, in the interest of justice and equity. The Hon'ble C.A.T. may also be further pleased to award the costs throughout, in the particular litigation from the very beginning to this end for the safeguard of justice.

K.C. Agarwal
(K.C. AGARWAL)

Lucknow :

Dated : 27.4.92

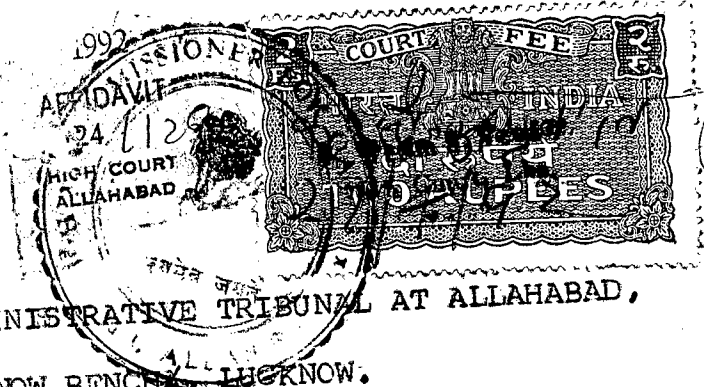
PETITIONER

THROUGH :

(R.S. SHARMA)
Advocate,
High Court,
Lucknow Bench.

Note Power of Attorney 27/4/92
is already filed

R.S. Sharma
Advocate
27/4/92



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

Contempt Petition (Civil) No. _____ of 1992
in re :

- (1) T.A. No. 1100/1987 (W.P. No. 6092 of 1982)
(K.C. Agarwal vs. Union of India & others)
- (2) T.A. No. 1101/1987 in W.P. No. 4057 of 1983
(R.P. Gupta vs. Union of India & others)
- (3) T.A. No. 1101-A/1987 in W.P. No. 1703 of 1985
(Umrao Singh vs. Union of India & others)

Decided by one judgment dated 6.5.1991

K.C. Agarwal Petitioner
versus
Shri Y.P. Anand and another Respondents

AFFIDAVIT IN SUPPORT OF CONTEMPT PETITION
ACCOMPANYING HERewith

I, K.C. Agarwal, aged about 56 years, son of late Shri Kashi Ram Agarwal, resident of C-63/3, Manak Nagar, R.D.S.O. Colony, Lucknow, the deponent, do hereby solemnly affirm and state on oath as hereunder :-

1. That the deponent is sole petitioner who is well versed with the litigation in hand throughout from the very beginning to this end.
2. That the averments contained in paras ^{1,2,5,6,9 & 12} ~~to~~ are true to my own knowledge and those in paras ^{3,4,7,8,10 & 11} ~~to~~ are believed by me to be true as per legal advice so entertained from learned counsel.
3. That the enclosed Annexure I to IX are true electrostat copies of the original certified as duly compared with the help of the originals.

Lucknow :

Dated : 27.4.92



K.C. Agarwal
DEPONENT

contd...2

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 3 are true to my personal knowledge. Nothing material has been concealed and no part of this affidavit is false and fabricated. So help me God.

Signed and verified this 27th day of April 1992 in the campus of Allahabad High Court of Lucknow Bench, Lucknow.

Lucknow :

Dated : 27.4.92

K.C. Aggarwal
DEPONENT

I know the above deponent personally well who has signed before me.

27/4/92
(R.S. SHARMA),
Advocate,
High Court,
Lucknow Bench, Lucknow.



27-4-92
27-4-92
27-4-92

I have executed my oath by subscribing the contents of the affidavit and the contents of the affidavit which has been read out and verified by me.

27-4-92
27-4-92

D. B. ARORA
OATH COMMISSIONER

27-4-92

27-4-92

27-4-92

AP4

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration T.A.No.1100/87
(W.P.No.6092 of 1982 of the High Court of)
(Judicature at Allahabad, Lucknow Bench, LKO)

K.C. Agarwal Applicant

Versus

Union of India & Others.... Respondents

Connected with

Registration T.A.No.1101/87
(W.P. No.4057 of 1983)

R.F. Gupta Applicant

Versus

Union of India & Others..... Respondents

Connected with

Registration T.A. No.1101-A/87
(W.P.No.1703 of 1985)

Umrao Singh Applicant

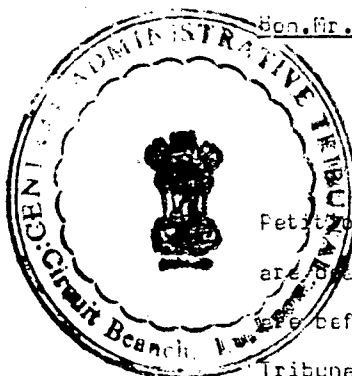
Versus

Union of India & Others..... Respondents

Hon.Mr. Justice K.Nath, V.C.

Hon.Mr. A.B. Sorthi, Member (A)

(By Hon.Mr. Justice K.Nath, V.C.)



The above mentioned three connected Writ Petitions involve common questions of law and therefore are dealt with by this judgement. These petitions were before us under Section 29 of the Administrative Tribunals Act, 1985 for a direction to the respondents to merge the post of Design Asstt. 'C' in the cadre of Design Asstt. 'A' in the R.O.S.C.

2. To begin with there were three categories of Technical Staff in the R.O.S.C. Directorate, namely

K.C. Agarwal



AS

- 2 -

Tracers, Draftsmen and Design Asstts. The post of Draftsman was in the scale of Rs.205-280. Design Asstt. apart from Senior Design Asstt. consisted of three categories: (i) Design Asstt. 'A' (for short DAA) in the scale of Rs.370-475, (ii) Design Asstt. 'B' (for short DAB) in the scale of Rs.335-425 and (iii) Design Asstt. 'C' (for short DAC) in the scale of Rs. 205-280.

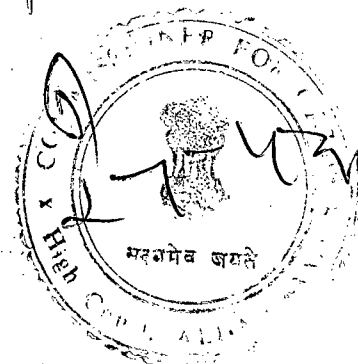
The qualifications for appointment as Draftsman 'A' were Matriculation or School Leaving Certificate plus diploma in Mechanical Engineering. Qualification for DAC was diploma in Mechanical Engineering of a School or College with three years suitable experience or successful completion of five years Apprenticeship Course in System Training School with one year's experience in a working post.



Draftsmen 'A' were appointed by promotion from Tracers. DAC were appointed by promotion from Draftsman 'A' on selection basis or by absorption of Draftsman trained in LCU, ICF or RDSO failing which by direct recruitment. DAC could be promoted to DAB and DAB could be promoted to DAA.

4. The duties of Draftsman 'A' consisted of preparation of designs and drawings, graphs and charts. Duties of DAC consisted of preparation of simple designs and assemblings, checking of minor drawings, stress calculation of minor drawings, analysis of rating and performance of locomotives, weight estimation of all components, field investigation and trial, progressive introduction to advance design and calculation. It

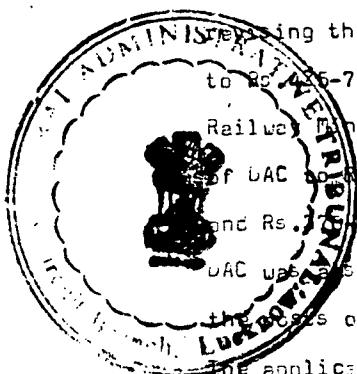
K. C. Aggarwal



appears that there is no specific elucidation of the duties of DAC but the duties which are performed by them are set out in para 2 of Annexure-C3 as stated in para 5 of the Writ Petition of which there is no specific denial in the Counter Affidavit.

5. The statements contained in paras 8 and 14 of the Writ Petition are substantially admitted in paras 8 and 13 of the Counter Affidavit that DAC has always been promotional post for Draftsman 'A' and has been higher in status with higher start and involving higher duties and responsibilities. The applicants are Draftsman 'A' who were promoted as DAC.

6. After the IIIrd Pay Commission's recommendations of 1973 the Railway Board issued letter dated 24.1.74, Annexure.C1

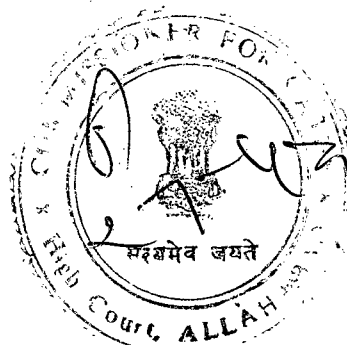


fixing the scale of pay of Rs.205-260 for Draftsman 'A' to Rs.425-700. By letter dated 4.10.74, Annexure-C2, the Railway Ministry revised the pay scales of Rs.250-380 for DAC to Rs.425-700 and that of Rs.335-425 for DAB and Rs.375-475 for DAA both to Rs.550-750. The post of DAC was so directed to be designated as DAB whereas the posts of DAB and DAA were merged and designated as DAA. The applicant's grievance is that since the post of

Draftsman 'A' was always a post of lower rank and importance than the post of DAC, revision of the scale of both the posts to an equal level of Rs.425-700 is arbitrary and illegal by making unequals to be equal.

It is next said that the DAB has been abolished except in respect of the present incumbents who are hardly four or five in number which is discriminatory and unjustified.

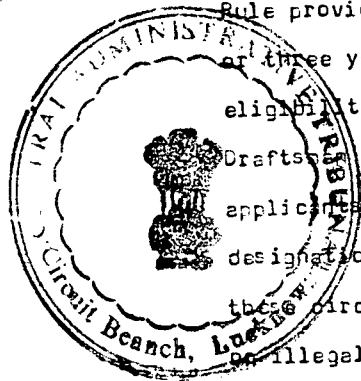
K.C. Agarwal



(A13)

- 4 -

7. The case in the Counter Affidavit is that with a view to reduce the number of scales of pay, the 111rd Pay Commission had recommended to allot a single revised pay scale of Rs.425-700 to DAC and Draftsman 'A'. It was stated that Draftsman 'A' who were selected to be DAC were allowed to continue their designation as DAC personally to them, vide Note dated 13.6.77. It was also pointed out that the staff DAC continues to rank senior to Draftsman 'A' and thus are entitled to be promoted as DAA earlier than Draftsman 'A'. It was stated that under the Recruitment and Promotion Rules for class III Technical Staff in the R.D.S.O., the post of DAA is in the avenue of promotion of DAB and Draftsman 'A' against 50% quota since the Rule provides for two years service as DAB (old DAC) or three years service as Draftsman 'A' in the RD50 for eligibility for promotion. It is further stated that Draftsman 'A', promoted as DAC (now DAB) like the applicants are a class by themselves, hence the new designation DAB has been made personal to them. In these circumstances, it is alleged that there is an illegality or discrimination in the award of the scale of Rs. 425-700 both to Draftsman 'A' and to DAC.



8. According to the rejoinder, the prospect of early promotion of the applicants qua Draftsman 'A' is not relevant for the purposes of determination of appropriate scale of pay for DAC like the applicants. It is further said that as soon as Draftsman 'A' is promoted to DAC, he merges into the entire class of DAC and cannot be treated to be separate class by himself for the purposes of pay scale. It is urged that ever

Hee Aggarwal

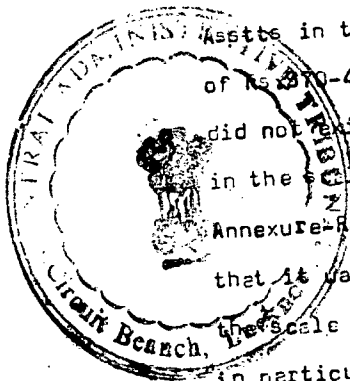


- 5 -

since the introduction of the grade of DAC that post had been treated to be higher in duty as well as responsibility than the post of Draftsman 'A' and therefore fixation of salary of Draftsman 'A' as well as DAC in the same scale is arbitrary.

9. We have heard Shri P.K. Sinha for the applicants and Shri D.S. Randhawa for the respondents at considerable length and have been taken through the material on the record. It will be appropriate in the first instance to state briefly the history of the creation of the post of DAC and its relative categorisation with Draftsman 'A' and other posts.

10. Annexure-R2, the RDSD's letter dated 21.10.61 to the Railway Boards indicates that to begin with Design Asstts categorisation consisted of Senior Design Asstts in the scale of Rs.425-575, DAA in the scale of Rs.370-475 and DAB in the scale of Rs.335-425; DAC did not exist. There was the category of Draftsman 'A' in the scale of Rs.205-280. By the aforesaid letter, Annexure-R.2 the RDSD submitted to the Railway Board that it was necessary to introduce the post of DAC in the scale of Rs.250-360 between Draftsman 'A' and DAB in particular to facilitate the absorption of Apprentices Mechanics in Drawing Office of the Mechanical and Diesel (Design and Standard) Directorates on their completion of 2½ years training. It was stated that the diploma holders after 2½ years training would acquire sufficient knowledge so as to justify their being fitted in a scale higher than the scale of Draftsman and would be more useful as DAC and that it would not be appropriate to appoint them as Draftsman

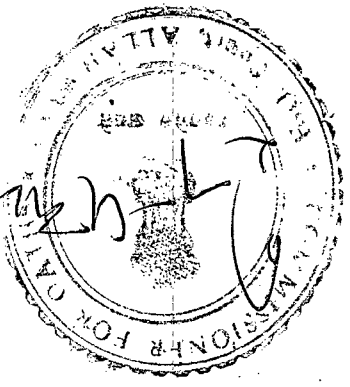


K.C. Aggarwal



(119)

'A'. Annexure-C.3, a letter dated 26.12.75 of the RDSO to the Railway Board shows that the proposal had been accepted by the Railway Board and the post of DAC was created in 1962 in the scale of Rs.250-380. It appears that later on the two categories of Draftsman on the Zonal Railways in the scale of Rs.205-280 and Rs.250-380 were merged into one scale of Rs.205-380 by Railway Board's letter dated 9.12.64. Having regard to that merger, the RDSO recommended to the Railway Board by letter dated 25.5.66, Annexure-R.3 that the bulk of Draftsman on the Railways were matriculates while the particular requirements of the RDSO could be met only by diploma holders ^{who} were required to go through 2½ years training before they could be absorbed as Design Assts. It was pointed out that the cadre of Design Assts in the RDSO was the backbone of class III Organisation and their functions were entirely different from those of Draftsman and Tracers. It was indicated that diploma holders recruited for training and employed as Design Assts on completion of training have be posted as Design Assts and not in any other categories as Draftsman or Inspectors. It was therefore recommended that the scale of Rs. 250-380 was essential for DAC. However, by letter dated 21.1.67, Annexure-R4 the President's sanction of the scale of Rs. 250-380 was noticed as personal to 13 DACs as a special case; the President had also given protection of the extant pay of 3 DACs by grant of special pay to be absorbed in future increments in that very scale. The RDSO then again represented to the Railway Board by letter dated 5.5.67, Annexure-R.5 in which it was stated that diploma holders were being recruited as Draftsman with



James P. C. 4

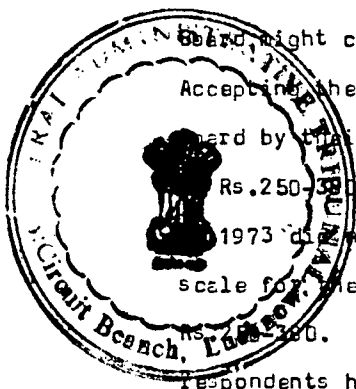
- 7 -

it
starting pay of Rs.205, that was intended to get a definitely better quality of material from diploma holders for the purposes of training up as Design Asstts, that they were to be trained as Design Asstts and not as Draftsmen and that it would not be correct to designate them as Draftsmen with higher start. It was stated that designation as Design Asstts would attract better type of men and that the calibre required of DAC was definitely superior than of the men recruited as Draftsmen with a starting pay of Rs.205/-. The RDSO reiterated that the DAC were men meant to go up to the grade of Senior Design Asstts and thereafter also as class II officers. Design Asstts. were the backbone of the lower cadre of the Design Directorate and the Board might consider those features of the problem.

Accepting the representation of the RDSO the Railway Board by their letter dated 30.10.67 allotted the scale Rs.250-380 to DAC. However, the 111rd Pay Commission 1973 did not bring about a corresponding revised scale for the DAC vis-a-vis their earlier scale of Rs.250-380. We may mention immediately that the respondents have erroneously stated in their Counter

Affidavit that the post of the DAC with its scale of Rs.250-380 was considered by the 111rd Pay Commission and the revised scale of Rs.425-700 was given to the

DAC on the basis of the recommendation of the 111rd Pay Commission. It is the definite case of the applicants that the post of DAC did not figure in the Pay Commission's report at all; that situation has been indicated in RDSO's letter dated 26.12.73, Annexure-C.3. The respondents have not been able to show any material to indicate that the Pay Commission did consider that post and made



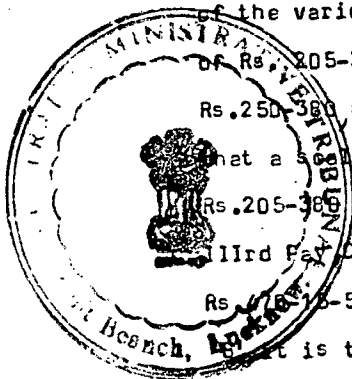
L. C. Agarwal



- 8 -

recommendations in respect thereof. Indeed, the learned counsel for the respondents ultimately contended at the Bar that even if the Pay Commission did not make any report in that respect, the Govt. was competent and was at liberty to examine the matter of revision of pay which the respondents have done. There can be no quarrel with that claim of the Govt.; the only question is whether they have been done so correctly and in accordance with law.

11. The failure of the 11th Pay Commission to make recommendations regarding the post of the DAC, received anxious consideration of the RDSO in their letter dated 26.12.73, Annexure-C3. The letter mentioned that the justification for which the post of DAC was created and, despite the merger of the scales of the various categories of Draftsmen into one scale of Rs. 205-380, the DAC were allotted the scale of Rs. 250-380 still continued to exist. It was suggested that a scale higher than the combined scale of Rs. 205-380 might be allotted to the DAC and since the 11th Pay Commission had prescribed the scale of Rs. 425-700-530-EB-20-650-EB-25-750 for Scientific Asstt. it is this scale which may be assigned to DAC. The recommendation of the RDSO contained in Annexure-C3 does not appear to have received the approval of the Railway Ministry who, by order dated 24.1.74, Annexure-C1 allotted the scale of Rs. 425-700 to Draftsman 'A' (in place of the old scale of Rs. 205-280), and by letter dated 4.10.74, Annexure-C2 allotted an identical scale of Rs. 425-700 (in place of Rs. 250-380) to DAC.



K. C. Agarwal

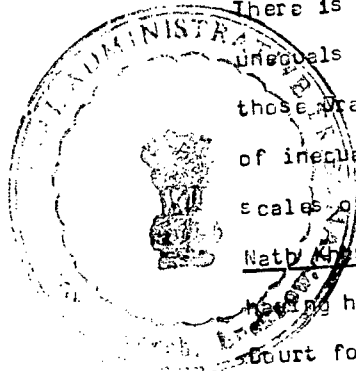


(A22)

- 9 -

12. At the same time, the Ministry merged the post of DAB into DAA and allotted them a revised scale of Rs.550-750; the merged cadre of DAA and DAB was designated as DAA. The erstwhile DAC was designated as DAB. The crux of this history is that Draftsmen were always treated to be posts of lower ^{qualification,} status, responsibility, duty and lower scale of pay than DAC and was a feeder cadre for DAC. When on the merger of two categories of Draftsmen on the Zonal Railways, a new scale of Rs.205-380 was allotted to them and the President sanctioned the scale of Rs.250-380 as personal to 13 DACs as a special case, the Govt. was persuaded to treat DAC in the RDSO at a higher footing by allotting them the scale of Rs.250-380 on a regular basis, while Draftsmen 'A' in the RDSO continued to remain in the scale of Rs.205-380.

There is no doubt that Draftsmen 'A' and DAC were unequals and this inequality would persist even with those Draftsmen 'A' who became DAC by promotion in view of inequalities in their qualifications and pre-revised scales of pay. In the case of State of J&K Vs. Triloki Nath Gwasha, 1974 SC 1, a higher scale of pay for persons having higher qualifications was upheld by the Supreme Court for the same post. In the case of State of Mysore Versus P.Naresingha Rao, 1968 SC 349, Tracers possessing higher qualifications (viz, matriculates) having higher scale of pay, were held to be properly classified as a class distinct from Tracers of lower qualifications (viz, non-matriculates) having lower scale of pay. Relying upon their earlier decisions, it was held in the case of



K. C. Aggarwal



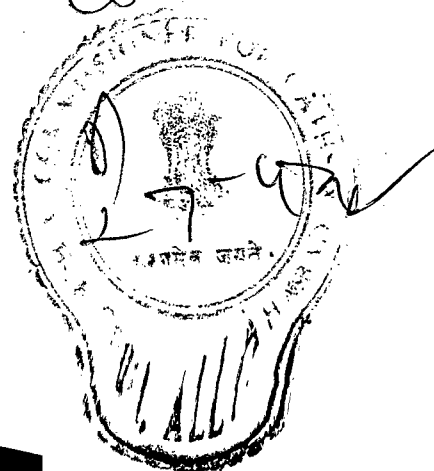
123

- 10 -

Randhir Singh Versus Union of India and Others, AIR 1982 SC 879 (para 6) that higher qualifications for higher grades, which may be either academic qualification, experience based on length of service, reasonably sustain the classification of officers into two grades with different scales of pay. There is substance in the contention of the learned counsel for the applicants that by allotting the revised scale of Rs.425-700 both to Draftsmen 'A' and to DAC, even if they were promotees from the former, the Department have tried to put unequals as equals. We may also refer to the decision of the Supreme Court in the case of M.P.Verma and Others Versus Union of India & Others 1989 Supplement (1)3CC 748, (1989) SCC (L&S)442) where the Supreme Court have held that equivalence of posts has to be made on the principle of functional equivalence and co-equal responsibility. The Supreme Court went on to say that while it is not within the domain of the Court to make equivalence of posts for the purposes of integration, but it is surely the concern of the Court to see that before integration is made and consequent fitment of officers in different grades/scales is effected, there must be an equation of different posts in accordance with the principle of functional equivalence and co-equal responsibility. In other words, posts which do not satisfy the principles of equivalence cannot be integrated into one common scale and may justly be allotted different scales.

13. The learned counsel for the respondents urged that the scale of Draftsmen and DAC were equalised and the posts of DAB were merged in DAA with a view to reduce the number of scales. An effort to reduce the number of scales of pay may be laudable but it cannot

A.C. Aggarwal



A24

- 11 -

do away with the principle of equivalence; only such posts could be merged into another which were functionally and responsibilitywise equal in substantial features. Assuming that DAC personnel who are promoted from Draftsmen 'A' like the applicants are a class by themselves, it would not justify placing them in the same category as Draftsmen; they must necessarily have to be placed in a different category.

14. We may mention that none of the parties has tried to explain, justify or question the merger of DAB into DAA with a common revised scale for both; admittedly DAB is a promotion post from DAC. It is not unlikely that the functions and responsibilities of DAB are closer to DAA than those of DAC and therefore there may be justification for merging DAB in DAA without simultaneously merging DAC in DAA. The stand of the respondents that the revised scale of Rs. 425-700 was given as personal to DAC who were promoted from the post of Draftsman 'A' may be bonafide in the sense that the Department realised that the DAC had to be dealt with independently of Draftsman 'A', but that could not justify equalization of the scale of pay of DAC with Draftsman 'A'. The proper thing to do was to award a scale of pay higher than the scale of pay of Draftsman 'A' and lower than the scale of pay of DAB merged in DAA. Precisely, the same recommendation was made by the RDSC in the letter dated 26.12.73, Annexure-C3 when they said that the scale of Rs. 470-15-530-18-20-650-18-25-750 may be awarded to DAC on the analogy of the scale provided to Scientific Asstt. 'B'. Indeed, in para 18 of the

Secy



ADS

- 12 -

Counter Affidavit, this recommendation has been reiterated.

15. In this connection the applicants correctly placed reliance upon para 20 of the report of the IIIrd Pay Commission in Chapter 66 of Volume 4 extracted in para 13 of the Supplementary Rejoinder dated 22.1.85 which deals with cases where posts could not be covered by the recommendations of the Pay Commission. The Pay Commission prescribed the following guidelines for awarding pay scale in such a situation :-

" If any post has not been covered by us either specifically or in our general recommendation we would suggest that the Govt. should allot these posts one or other of the standard scales recommended by us which appeared to be most appropriate. Since we have not gone by straight conversion but had been guided primarily by the duties and responsibilities and the qualifications prescribed for the post it will be necessary when allotting the appropriate scale that these should be a central focal point to ensure that the right replacement scales are applied."



15. As already mentioned, the post of DAC did come up for consideration before the IIIrd Pay Commission. It was to be expected therefore that

the post should be awarded one of the standard scales of pay recommended by the Pay Commission in respect of some other posts which have like duties, responsibilities and qualifications. We should think that since the posts of Scientific Asstt. 'B' were awarded a scale

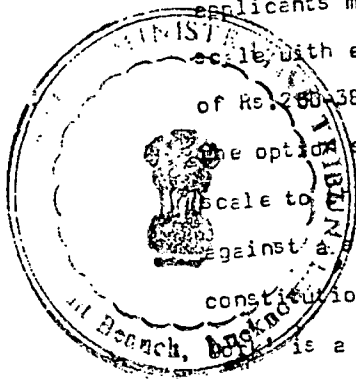
Dr. C. Aggarwal



of Rs. 470-750 and since the RDSO had recommended that very scale to be awarded to DAC it would have been fair on the part of the Govt. to award that scale to DAC. However, since it is not the domain of this Tribunal to award a scale of pay as pointed out by the Supreme Court in the case of M.P. Verma and Others Versus Union of India and Others (supra), it has to be ultimately decided by the Govt. itself after taking into consideration all the relevant features.

17. The last point raised by the respondents is that the applicants had already exercised an option in favour of the revised scale of Rs. 425-700 and they cannot be allowed to go back on the option. Annexure-SC2 is the option dated 5.11.74 in which each of the

applicants mentioned that he elected to the revised scale with effect from 1.1.73 from the existing scale of Rs. 280-380. We do not think that the exercise of the option stands in the way of grant of the appropriate scale to the applicants; there can be no estoppel against a statute and much less in derogation of constitutional rights. The right of 'equal pay for equal work' is a constitutionally recognised right. The learned counsel for the respondents also urged that the award of a scale other than Rs. 425-700 would affect a large number of posts and persons. No material has been placed before us to show who are the persons and how many of them are likely to be affected if the applicants are given a scale of pay higher than Rs. 425-700; but it is clear at the same time that the option had been



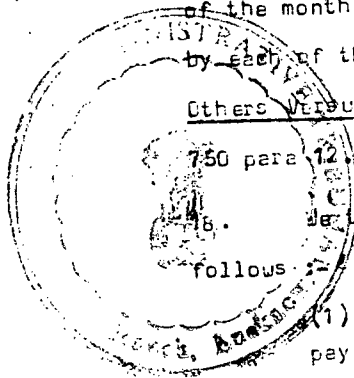
L.C. Agarwal



A27

- 14 -

exercised in November, 1974 after the revised scale had been awarded in October, 1974 while these Writ Petitions were filed in 1982, 1983 and 1985. It is also common knowledge that there have been further revisions of pay scales on the recommendations of the 14th Pay Commission which might have brought fresh financial benefits to the applicants but we are not concerned with any such possible developments in these cases. Nevertheless, justice seems to demand that while DAC should be awarded a scale of pay higher than Rs.425-700, although lower than Rs.550-750 with effect from 1.1.73, the actual financial benefit should accrue to each of the applicants respectively from the first day of the month of the year of filing of the Writ Petitions by each of them as done in the case of Y.K. Mehta and Others Versus Union of India and Others (1980) Supp.SCC

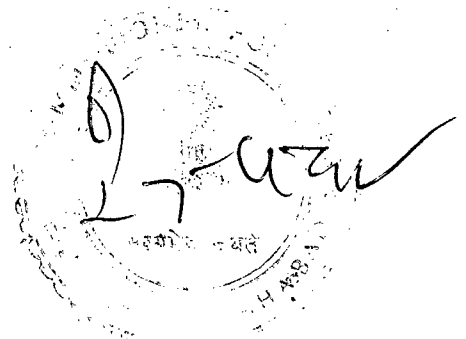


750 para 12.
B. Therefore direct respondents 1 and 2 as follows :-

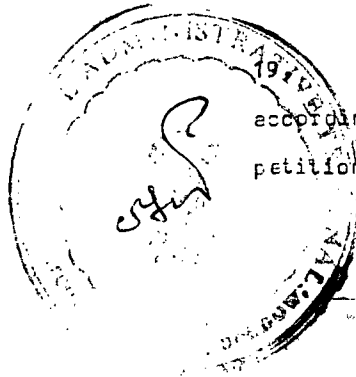
- (1) To consider and award an appropriate scale of pay above Rs.425-700 to DAC redesignated as DAB in Annexure-C2 dt. 4.10.74 with effect from 1.1.73;
- (2) To make notional fixation of applicants' salary in the scale awarded under (1) u.e.f. 1.1.73, and award the financial benefits with effect from the first day of the month of the year of filing of the Writ Petitions respectively by each of the applicants;
- (3) To comply with these directions within a period of six months from the date of receipt of a copy of this judgement bearing in mind the observations contained in the body of this judgement.

syn

L. C. Aggarwal



- 15 -



We partly allow all the three Writ Petitions accordingly; parties shall bear their costs of these petitions.

sd
Member (A)

sd
Vice Chairman

Dated the 6th May, 1991.

RKM

Attested

True copy

AKH

Section Officer

C.T.C. Central Administrative Tribunal
Circuit Bench
LUCKNOW

for e. Aggarwal



IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

Writ Petition No. 6092 of 1983

A29

K.C. Agarwal

....

Petitioner

Versus

Union of India and Others ...

Opposite Parties

Annexure No. C-2

Govt. of India (Bharat Sarkar)
Ministry of Railways (Rail Mantralaya)
(Railway Board)

No. PC-III/73/PS/Schedule/RDSO New Delhi, dt: 4.10.1974.

Sub: Railway Services (Revised Pay) Rules, 1973 -
Schedules for Revised Scales of Pay.

...

In continuation of this office endorsement of even
number dated 24th January, 1974, schedules showing the
revised scales of pay applicable to some additional
categories of staff of RDSO Office are enclosed.

2. Schedules in respect of the remaining categories
will follow.

3. Hindi version will issue separately.

DA: As above.

Addressed to :

The Director General, RDSO, Lucknow.

Sd/-
(G.D. Sud)
Deputy Director, Pay Commission
Railway Board.



XXX

XXX

K. C. Agarwal

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s) 17521-23/91

(From the judgment and order dated 6-5-91 of the ~~Supreme Court~~ C.A.T. Allahabad Bench in T.A.Nos.1100-1101 & 1101A/87

Union of India & Ors

Petitioner (s)

351558

Versus

K.C. Agarwal & Ors
(With application for ex parte stay)

Respondent (s)

Date: 5.12.91

This/these petition (s) was/were called on for hearing today

CORAM:

Hon'ble Mr. Justice K. Jagannatha Shetty
Hon'ble Mr. Justice S.C. Agrawal
Hon'ble Mr. Justice R.C. Patnaik

For the petitioner (s) Mr. V.R. Reddy, Addl. Solicitor Genl.
M/s. Hemant Sharma, B. Krishna Prasad, Advs.

For the respondent (s) / Mr. D.K. Garg, Adv.
Caveator

UPON hearing counsel the Court made the following
ORDER

Without expressing any opinion on the question of law raised since there are only four or five people remained who are to get the benefit of the judgment of the Tribunal, we dismiss these Special Leave Petitions.

(Vimal Jaitley)
COURT MASTER

(I.L. Dhangra)
COURT MASTER

RECEIVED
R.D.S.O. (General) Allahabad
Muzakkar, Lucknow-226011

K. e. Agarwal

(A32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW.

ANNEX:-III

T.A. No. 1100 OF 1987 (T)

K.C. AGGARWAL & OTHERS --- PETITIONER - VS. UNION OF INDIA & OTHERS --- OPS. PARTIES.

The Director General,
R. D. S. O.,
Lucknow.

Sir,

Sub:- Decision of Hon'ble Central Administrative Tribunal, Allahabad, Lucknow circuit Bench, Lucknow, for implementation.

Ref:- T.A. No. 1100/87(W.P.No.6092 of 1982), connected with T.A. No.1101/87 (W.P.No.4057 of 1983) & T.A. No. 1101-A/87(W.P. No.1703 of 1985), decided on 6/5/1991(Copy enclosed.)

Kindly find enclosed herewith a copy of decision delivered by Hon'ble C.A.T., Lucknow Circuit Bench, Lucknow in case of T.A. No.1100/87 (W.P.No.6092 of 1982).

You are requested to kindly issue necessary directives for the implementation of the same.

Thanking you,

Yours faithfully,

sd/

(K.C. AGGARWAL)
SDA/Carriage Dte.
RDSO/Lucknow.

DA:- As above

Dated: 13.5.1991

Copy for information and further action to:-

1. R.D.S.O. Class III Staff Association.
2. R.D.S.O. Employees Association(BMS/BRMS)

DA: As above.

sd/-

c/e

(K.C. AGGARWAL)
SDA/Carriage Dte.
RDSO/Lucknow.

K.C. Aggarwal



To
Vs - UNION OF INDIA & OTHERS-----OPPS. PARTIES

The Director General
R.D.S.O., Manak Nagar
Lucknow-226 011.

A33

Sir,

Sub:- Implementation of the Judgement & orders passed by the Hon'ble Central Administrative Tribunal, Lucknow Circuit Bench in the Registration No. 1100/87, 1101/87 1101A/87, in re-K.C. Aggarwal & other VS Union of India & others.

Respectfully I have to state that I submitted a photostat copy of the above referred Judgement on 13.5.1991. I trust that the implementation of the said judgement/order is under your active consideration. Needless to mention that the orders of the Hon'ble C.A.T. are crystal clear and therefore there must not be any hesitation/confusion in implementation of the same instantly and to award a next higher scale of pay than that of Rs. 425-700 as per the allotment of standard pay scales to the non-gazetted engineering cadres by the III Pay Commission.

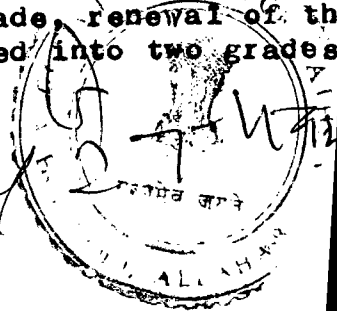
2. As per the first clause of the operative part of the orders/directions, an appropriate scale of pay above Rs. 425-700 is to be allotted to D.A.'C' (redesignated as D.A.'B') w.e.f. 1.1.1973. In this context it would not be out of place to bring forth the following points especially:-

- i) That the III Pay Commission of 1973 did not bring about a corresponding revised scale for the D.A.'C' Rs. 250-380 vis-a-vis (see your letter No. A/ES/PC-III/73 dated 26.12.'73 Annexure C-3).
- ii) The III Pay Commission has dealt with the circumstances where it has failed to allot pay scale to some cadres. The commission has laid down the guide lines clearly as stated in the judgement of the C.A.T. and in para 13 of the supplementary Rejoinder.
- iii) As mentioned in para 13 of the supplementary rejoinder, the III pay commission has observed further at page 130 paras 102, 103 in volume IV of the Report as under:-
"That the entry grades for the posts requiring three years Diploma Course in the Engineering of whatever speciality should be generally one of Rs. 425-700 (Para 39)"-----.

103 - "The next higher grade above the entry cadre of Rs. 425-700 should generally be Rs. 550-900 in the non-gazetted engineering cadre also, where, however, the organisation pattern requires the presence of more than one grade above the initial grade, renewal of the range of Rs. 550-900 should be split into two grades namely Rs. 550-750 & 700-900".

1-8-91
मि. ए. ए. ए. ए. ए. ए.
3/1/91
1-8-91

K.C. Aggarwal



A34

3. Thus keeping in view the above referred recommendations of III Pay Commission, the Railway Board evolved the same formula and the design/drawing staff in the Engineering Cadre on Indian Railways (including RDSO) were awarded the pay scales as follows: to minimise the categories. Their corresponding pay scales, in the spirit of the III Pay Commission recommendations were as:-

- (c) Next above scale - Rs. 700-900/650-960
- (b) Next above scale - Rs. 550-750
- (a) Scale allotted to D/Man'A'-Rs. 425-700

4. Moreover in para 11.12 of the 4th Pay Commission Report, it is clearly mentioned " that the majority of the Draftsmen of Central Government as well as Indian Railways were distributed in the 5 standard scales recommended by the III pay commission as indicated below".

- (i) Rs. 700-900
- (ii) " 550-750
- (iii) " 425-700
- (iv) " 330-560
- (v) " 260-430



5. SO As per directives of the Hon'ble C.A.T. and the recommendation of III pay commission, the next higher appropriate scale of pay above Rs. 425-700, stands Rs. 550-750. You, too, have admitted this fact and annexed as Annexure-C2 dated 4.10.74. The same is the first clause of operative directions/orders of the judgement.

6. It is relevant to mention here that the duties and responsibilities of D.A.'B' (merged in D.A.'A') & D.A.'C' (now D.A.'B') were equal in all respects, that's - why the Ministry of Railways, Railway Board upgraded the D.A.Cs as D.A.'B' (Annexure-C-2 of 4.10.74) and D.A.'B' became feeder cadre to D.A.'A' as well as closer to D.A.'A'

(ii) Secondly the post of D.A.'C' and D.A.'B' abolished since 1.1.73 as admitted in para 9 of the counter affidavit itself and so many draftsmen 'A' Junior to the post of D.A.'C' (now D.A.'B') jumped directly to the pool of D.A.'A' and then QDA in these 18 years.

(iii) That for the last 18 years i.e. since 1.1.73 the Channel of promotion from Draftsmen A (Rs. 425-700) is to D.A.'A' (Rs. 550-750) only. So it is quite clear and proved itself that the pay scale above Rs. 425-700 in Engineering Cadre (applicants parent cadre) is Rs. 550-750 only.

Further, after giving thoughts to the several points, it is observed and stated finally regarding pay scale in para 16 of the judgement as under:-

"Since it is not the domain of this Tribunal to award a scale of pay, however, it has to be ultimately decided by the Government itself after taking in-to consideration all the relevant features".

Which confirms clearly that considering all the relevant features as stated above and others the employer /Railway Board have to decide and allot the pay scale in pre set pay structure above Rs. 425-700 to the applicants as recommended by the III Pay Commission but for the Engineering Cadre exclusively.

Hee Anand ...3/-

PDS

7. It is understood that taking into consideration all the aspects and relevant features there should not be any hitch/confusion to award the next higher scale of pay than Rs. 425-700 i.e. Rs. 550-750 to the applicant as per the spirit of judgement and also the III Pay Commission Recommendations (as there is no existence of any post of D.A. 'C' or D.A. 'B' in between Draftsmen 'A' Rs. 425-700 and D.A. 'A' Rs. 550-750 since 1973).

In the light of the above, you will find that the most appropriate and justified scale of pay is Rs. 550-750 which should be allotted to the applicant. It is needless to point out here that for the sake of the relief, the applicant has suffered immensely for the last 18 years. Therefore, I shall be highly grateful if the said judgement is immediately implemented.

Thanking you,

Yours faithfully,

sd/-

(K.C. AGGARWAL)
S.D.A.

Carriage Directorate
R.D.S.O.

Manak Nagar, Lucknow.

Dated... 31-7-1991

Copy to:-

The Chairman,
Railway Board,
Rail Bhavan,
New Delhi.

For Sec.

Way Board



Railway Board is requested to kindly issue suitable directives to RDSO for implementation of Hon'ble C.A.T.'s order and allotment of scale of pay of Rs. 550-750. (RS)

(K.C. AGGARWAL)
S.D.A.

Dated:- 5-8-1991

K.C. Aggarwal

The Director General,
R.D.S.O., Lucknow.

-31-

ANNEX-III/II

Sir,

Sub:- Implementation of decision of 'CAT' in TA No.1100 of 1987 (Writ No.6092 of 1982). ~~and the question relating to the award of pay.~~

- Ref:i) Decision of Hon'ble CAT LKO Circuit Bench dt.6.5.91 in case No.TA 1100 of 1987.
ii) Dismissal of SLP No.17821-23 of 12.11.91 by Hon'ble Supreme Court of India on 5.12.91
iii) Representations dated 13.5.91, 31.7.91, 12.11.91, 23.12.91 and detailed memorandum of CL.III Staff Association dated 7.1.92 and others.

In the light of the dismissal of above mentioned SLP, filed by Union of India and others (DG/RDSO and Rly.Board etc), by Hon'ble Supreme Court of India on 5.12.91, now, as we have already suffered a lot for 19 years, inspite of causing further hardship to us, an early action may please be taken to award the revised scale of pay next higher to Rs. 425-700 as per the schedule of revised scales in connection with the 3rd Pay commission Report, allotted to the Design Staff of RDSO Office duly approved and issued from Rly.Board pay commission cell vide their letter No. PC-III/73/PS/Schedule/RDSO dated 4.10.74, which letter is being called Annexure C-2 as per your submission in the Counter Affidavit of case No.TA-1100 of 1987.

It is emphasised to mention here that the above mentioned case was heard at length in the Hon'ble CAT and considering all the merits of the case and the question of law, the case was decided on 6.5.91 which is confirmed by the Supreme Court of India on 5.12.91 also.

Particularly the matter enlited in the representation dated 23.12.91 reveals in nut shell that clause No.1 of the operative directions of the decision of 'CAT' clears beyond any doubt regarding the implementation of pay scale and the denial of which can create a position of contempt of Court. The clause No.1 clearly indicates as under:-

" TO CONSIDER AND AWARD AN APPROPRIATE SCALE OF PAY ABOVE RS. 425-700 TO DAC REDESIGNATED AS DA'E' IN ANNEXURE C-2 DATED 4.10.74 W.E.F. 1.1.73".

- I. To consider an appropriate scale of pay above Rs. 425-700 in Annexure C-2 dated 4.10.74 (i.e. Schedule of revised scales allotted for the Design Staff of RDSO office vide Rly.Board Office letter No. PC-III/73/PS/Schedule/RDSO dated 4.10.74).
- II. To award an appropriate scale of pay above Rs. 425-700 (Scale of Pay already considered in (I) only) in Annexure C-2 dated 4.10.74 to DA'C' redesignated as DA'E' w.e.f. 1.1.73.

Therefore, it is clear enough that the scale of pay which is to be considered and to be awarded to the concerned staff working in RDSO Design Office is to be picked up only from the schedule of revised scales for the Design Staff of RDSO Office (Annexure-C-2) also issued from the Rly.Board Min. of Rlys. which will be the compliance of the judgement of Hon'ble 'CAT' in true sense. Otherwise the scale taken out of Annexure C-2 will create a new category of DA'E' with an independent scale of pay since 1.1.73 due to which all the departmental selections after that date as DA'A' to direct DA'A' will become infructuous.

In the end, it is prayed that considering all the above mentioned facts of the case, the scale of pay as per Annexure C-2 dated 4.10.74 and other associated benefits may please be awarded to the applicants at the earliest possible and oblige.

Thanking you,

Yours faithfully,

Dated: 30.1.92

Again Submitted on-14-2-1992
DA-117 S. ANAND

3. Letter of CL.III Staff Association 4.1.92

(R.C. AGGARWAL)

SDA/ODG/Comp. Dtd. 14.2.92

Government of India
Ministry of Railways
Research Designs and Standards Organisation
Manak Nagar, Lucknow.

STAFF POSTING ORDER NO. 25 OF 1992

As per the judgement dated 06.05.1991 of the Hon'ble Central Administrative Tribunal, Lucknow Bench, Lucknow delivered in the cases TA No. 1100/87, connected with No. 1101/87 and 1101-A/87, K.C. Agarwal, P.P. Gupta, Umrao Singh and others, the competent authority has decided to allot the scale Rs. 455-700 (Rs) w.e.f. 1.1.73 to S/Shri K.C. Agarwal, P.P. Gupta, G.B. Sinha Umrao Singh and late Shri Niranjan Singh.

2. The aforesaid applicants are entitled to the notional fixation of salary in the pay scale of Rs. 455-700 (Rs) w.e.f. 1.1.73. They will, however, be awarded the financial benefits with effect from the first day of the month of the year of their filing of the writ petition & respectively as per Hon'ble Tribunal's orders.

3. The arrears due are being worked out and will be paid to the above staff concerned shortly.

/ if any Hindi version will follow.

(T.M. Murali)
for Director General

Encl: NIL.
File No. A/EP-1290
Lucknow-11.
Dated: 7.2.92.

Distribution

1. JDS(C-I) 2. JDS(W-Stds.), 3. JDS(I&L), 4. JDRM(S) 5. DDE-I (10 copies) 6. SO/Confdl. 7. SO/E-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 8. DF. This has the vetting of accounts. 9. SO(A) 10. SO(Res.) I 11. SO(Civil) 12. Shri K.C. Aggarwal, DM'A' Carriage/RDSO/Lucknow with reference to his representation dated 2.12.91, 12.11.91, 14.11.91 13. Shri P.P. Gupta, SI/Wagon(I&L) RDSO/Lucknow. 14. Shri Niranjan Singh, EX DM'A' Wagon, C/o Shri Bhupinder Singh, Manak Nagar, Lucknow 15. G.B. Singh, DAA(adhoc), Res. Mech./RDSO/Lucknow. 16. Umrao Singh, Ex DM'A', MP Directorate, RDSO, C/o A/20/3, RDSO Colony, Lucknow. 17. Hony. Secretary, CTSA/RDSO/Lucknow with reference to their letter No. GS/K.C. Agarwal/91/192, GS/KC Agarwal, Supreme Court/Decision/91/193 dt. 9.12.91, CTSA/GS/KC Aggarwal-SLP/92/5 dt. 7.1.92.

& SO/
Wagon

LC 18/4

K.C. Aggarwal



The Director General,
R.D.S.O.,
Lucknow

A38

(THROUGH PROPER CHANNEL)

Sir,

Sub:- Enforcement of Judgement dated 06.05.91 and 05-12-91 respectively in granting an appropriate scale of pay Rs. 550-750 --- according to IIIrd Pay Commission Rationalisation Scheme set up for Revised Scales of pay in the Engineering Cadres instead of disputed grade allowed vide order No. 25 dated 17.2.92.

May I invite your kind attention to the judgement dated 06.05.91, and 05.12.91 delivered by the Hon'ble Central Administrative Tribunal and the Hon'ble Supreme Court of India as well. The relevancy and materiality of the Supreme Court Leave Petition (Civil) No. 17821 -23 dated 12.11.1991 has also stood as rejected which leaves to only one conclusion that the adoptable Zig Zag manner in the subject of dispute remains no more in existence but to accept the verdict of the Superior and Supreme Courts of Law as a hard and fast rule of Law adherable without fail and also without hitch and hesitation any longer.

2. The declaration of the highest judiciary of India left no further scope for the observance of discrimination or drastic powers conferred upon the employer oblique in nature what to say of sinister powers. Clear concept of Law has criticised the amalgamation of different cadres, classes and categories of employees, keeping aside their recruitment qualifications, duties and responsibilities etc, into one unspecified forum and scale of pay Rs. 455-700 to 'DAC' redesignated as 'DAB' in Engg. Cadre is wrong, incorrect and illegal with effect from 1.1.73. It is to be noted that prima-facia no deprivation of benefits unilaterally be enforced at all in true sense and spirit of the pronouncements of courts of law.

3. Inappropriate scale of pay Rs. 455-700 is still subjected to be challenged which act has defied or flouted away due compliance of the Courts supreme in every respect. The Ministry of Railways (Pay Commission Cell), Govt. Of India, New Delhi should never allow any alterations of interpretation otherwise. The one sight or arithmetical mistakes are still to be corrected according to the specific cadre-wise staffing pattern.

4. Hope that the matter objectionable shall have to be treated as null and void and the accurate compliance of the judgements prayed for be allowed to be ensured perfectly without fail under intimation to the signatory.

Thanking you.

Dated 26.2.1992

Yours faithfully,

(K.C. Aggarwal)

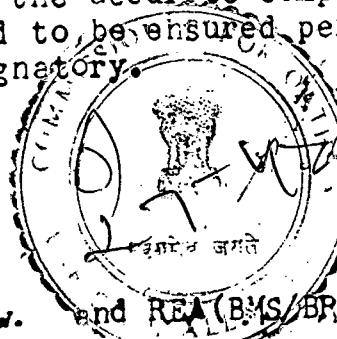
SDA/Carriage Dte/RDSO/LKO.

Copy to :

1) CTSA/RDSO/Lucknow. and REA (BMS/BRMS).

2) Chairman, Railway Board, New Delhi.

K.C. Aggarwal



25/10/91
S/L-
20/12/91
DNC/2-1
(S. P. Singh)

PHONE : 241062
63455 P.P.

R. S. Sharma

M.A.L.L.M.

RETD. IAS (COMMISSIONER JHANSI DIV.)

SENIOR ADVOCATE

HIGH COURT LUCKNOW/ALLAHABAD

EX- CHAMBER :
158/37/2, Havadar Manzil,
Ganga Prasad Road,
Maulaviganj, Lucknow-18

REG. ISERED A/D

Latter No.....

Lucknow Date...03.03.92
WITHOUT PREJUDICE

LEGAL NOTICE

On behalf of Mr. K.C. Agarwal & Others ----
s/o Late Shri K.R. Aggarwal,
r/o C-63/3, R.D.S.O., Colony,
Manak Nagar, LUCKNOW-226001.

Through: Shri R.S. Sharma, (M.A.LLM, M. Retired I.A.S.)
(Commissioner Jhansi Division)
Sr. Advocate High Court,
Lko. Bench, Allahabad, High Court,
Present Chamber 7/3 Chander Nagar,
Alambagh- Near Singh Dalry,
Lucknow-226 005 (U.P.)

To

Shri O.P. Jain,
Director General,
R.D.S.C., Ministry of Railways,
Manak Nagar, Lucknow-11.

Shri R.D. Kitson,
Chairman,
Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi.



Dear Sir,

Having received sufficient instructions from my above named client, I have to give you the legal notice in the following terms:-

1. That the administrative authorities of the R.D.S.O. have been adamant not to comply with the fact finding of the judgement of the Hon'ble Central Administrative Tribunal dated 6.5.91 in the claim No. TA 1100/1987, as connected with the writ petition No. 6092 of 1982.
2. That the Hon'ble Supreme Court of India, New Delhi vide its findings in the Judgement of Special Leave Petitions Civil No. 17821-23 dated 5th Dec.1991, dismissed, which was preferred by the Administrative Authorities of R.D.S.O. of 12th Nov.199 against the fact finding and judgement dt. 6th May 1991 of the Central Administrative Tribunal. These are the well known facts on the basis of which the findings of the Central Administrative Tribunal has already become absolute and

K.C. Aggarwal

PHONE: 241062
63455 P.P.

R. J. Sharma

M.A.L.L.M.

RETD. IAS (COMMISSIONER JHANSI DIV.)

SENIOR ADVOCATE

HIGH COURT LUCKNOW/ALLAHABAD

LEGAL NOTICE

EX- CHAMBER :

158/37/2, Havadar Manzil,

Ganga Prasad Road,

Maulaviganj, Lucknow-18

-2-

Letter No.....

Lucknow Date. 03.03.1992

and finally acceptable by the administrative authorities of R.D.S.O. without any hue and cry, they ought to have implemented it, without fail, but instead of doing so they have turned down the resistance without any rhyme and reasons specifically stating as pointedly qualified in the decision of the administrative authorities of R.D.S.O.

3. That the Administrative Decision, so arrived at, is vitiated in law entirely, and contrary to law and justice extremely, when particularly the next higher scale in the existing scheduled of revised scales of pay applicable to the Design Staff of RDSO as recommended by the IIIrd Pay Commission Cell, Railway Board Dt. 04.10.74 should have been allowed to the incumbents concerned in view of the judgement which is a finding of facts delivered by the Hon'ble Central Administrative Tribunal dated 03.05.91, deserved to be stood finally in the affirmative, and not in the negative. So these is, therefore no way out except to give you the notice legally emphasizing the the acts of the Administrative Authorities of the RDSO have amounted to Prima facie a clear-cut case of contempt of two Hon'ble Courts i.e. (i) Central Administrative Tribunal and (ii) Hon'ble Supreme Court of India, as well, and the consequences of sufferings should born out by the RDSO within the scope and the process of Law, as well.
4. That instead of admissibility of the next higher grade of Rs. 550-750 w.e.f 01.01.73 and restructuring benefits of grade Rs. 650-960/2000-3200 w.e.f. 01.01.84 onward, the Administrative Authorities of RDSO have neither been considering nor acceding to the implementation of orders of both the Hon'ble Courts as cited above. In this way maximisation of controversies and complications have been continuously effected by the authorities of the RDSO who are now liable to pay arrears of dues with interest from the due date to date of actual payments Retrospectively.
6. That before filing fresh contempt petition in both the Hon'ble Court, I most respectfully prefer to issue a legal notice to you to ensue compliance of Court's Orders "with a fortnight" as stipulated period, awaiting your interim reply with re-determination of your final object and Aim, failing which I shall not hesitate to launch against the defaulters/contemners. The eventualities thereof, shall be doubt-lessly met by you, please don't forget.

Ending the verbatim of the notice, I hope and am confident to hear and have a line from you, and reply of the above notice.

Lucknow.
Dated: 03.03.92

Yours faithfully,

L.C. Agarwal

R.S. Sharma
08/03/92

441

ANNEX-VII

0457

भारत पोस्ट-ऑफिस (R. P. 51) का प्रयोग

Stamp Rs. 10/-

Received V.P. registered

Addressed to: Mr. R. P. Singh, Railway Station, Delhi

Amount to be recovered from the addressee Rs. 10/-

Signature of the receiving office: [Signature]

Insurance fee Rs. 10/-

Weight (In words) 10 Grams

Insured for Rs. (In fig.) 10 (In words) Ten



भारत पोस्ट-ऑफिस (R. P. 51) का प्रयोग

Stamp Rs. 10/-

Received V.P. registered

Addressed to: Mr. R. P. Singh, Railway Station, Delhi

Amount to be recovered from the addressee Rs. 10/-

Signature of the receiving office: [Signature]

Insurance fee Rs. 10/-

Weight (In words) 10 Grams

Insured for Rs. (In fig.) 10 (In words) Ten

L. C. Aggarwal

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(R.D.S.O.)

OFFICE ORDER NO: 7 OF 1976

(In partial modification to Office Order
No. 43 of 1966)

Subject: Revised Rules for Recruitment & Promotion
of Drawing Office staff in R.D.S.O.,
excluding RE Wing of Signal and Telcomm.
Design Directorate.

A copy of revised Rules for Recruitment and Promotion together with channels of promotion of the Drawing Office Staff (excluding RE Wing of S&T Design Directorate) is enclosed. These revised Rules will be effective from 1st June, 1976, and all recruitments and promotions will be made strictly in accordance therewith.

2. These revised Rules may be given wide publicity amongst the concerned staff.

DA/One copy of revised R&P Rules together with channel of promotion charts.

Lucknow-226011,

Dated: 6.5.1976. (File No.A/R/RT/TS)

DISTRIBUTION

1. As usual.

2 Notice Board.

K.C. Agarwal



Handwritten signature
(AUB)

Recruitment and Promotion Rules for Drawing
Office Staff (excluding R.E.Wing of S&T Directorate)

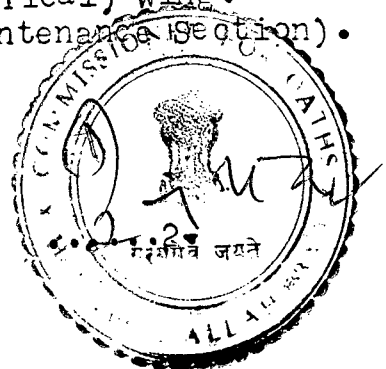
These revised R&P Rules are applicable to the categories of Tracers, Draftsman 'B', Draftsman 'A', Design Assistant 'A'/Arch. Assistant 'A' and Senior Design Assistant/Senior Arch. Assistant in respect of the following Directorates/Wings :-

- i) Architectural Directorate including MTP Arch. Wing of RDSO.
- ii) Carriage Directorate.
- iii) Civil Design Directorate.
- iv) Electrical Directorate.
- v) M&C Directorate.
- vi) Motive Power Directorate.
- vii) MRS Directorate.
- viii) Research Civil Wing.
- ix) Research Mechanical Wing.
- x) S&T Directorate(excluding Rly.Electrification Wing)
- xi) T.I. Directorate.
- xii) Wagon Directorate.

2. The seniority group of the above mentioned categories of staff shall be as under:-

- i) Architectural Directorate including MTP Arch.Wing of R.D.S.O.
- ii) Carriage, Wagon and MRS (Mechanical) Directorates.
- iii) Civil Design Directorate, B&S Wing.
(including staff in TEN's Drawing Office).
- iv) Civil Design Directorate, Track Wing & MTP(Track).
- v) Electrical Directorate & MRS(Electrical) Wing.
(including staff in Electrical Maintenance Section).
- vi) Motive Power Directorate.

Lee Aggarwal



Handwritten signature
(AYU)

Note No. 2

Successful completion of 5 years approved apprenticeship course on Zonal Railways/ Production Units will be taken as equivalent to Diploma in the Engineering discipline corresponding to the technical department in which the training course has been undergone.

Note No. 3

In exceptional cases, vacancies in all categories may be filled by transfer of suitable staff working on Zonal Railways/Production Units and serving in grades corresponding to those in RDSO.

Note No. 4

Suitable experience, wherever specified, should be in an Engineering organisation/firm of repute or Research/Design Organisation/Institute/firm of repute as a wholetime worker, after having acquired the minimum technical qualification(s) laid down for a particular post.

Note No. 5

In case 50% sanctioned posts in the category of Design Assistant 'A'/Architectural Assistant 'A' cannot be filled by promotion of departmental candidates, due to lack of suitable persons, shortfall will be made up by increasing the percentage of direct recruitment including recruitment from Railways. Likewise, the percentage of departmental promotion will be suitably increased temporarily, if more qualified persons become available and it has not been possible to fill in the quota of direct recruitment, despite efforts made in this regard. However 50:50 ratio will be maintained in the long run.

Note No. 6

For departmental candidates, the qualifying service of three years in the next below grade for promotion to the higher grade should be in the respective seniority group.

Note No. 7

Except for the category of Tracer in Architectural Directorate including MTP/Arch. Wing, transfer of suitable staff in other categories in Architectural Directorate from Zonal Railways/Production Units has not been stipulated, as similar categories of staff are not working on the Zonal Railways/Production Units.

Note No. 8

Certificate/Diploma in Architectural Assistantship is a three years' course after matriculation and has, therefore, been equated to Diploma in Engineering for the purpose of these R&P Rules.

Note No. 9

In case, there is poor response from Railways or from open market in any category, the qualifications and experience can be relaxed by the members of Selection Board to meet the particular demand.

Handwritten signature

Revised R&P Rules for Drawing Office Staff
in RDSO (excluding RE Wing of S&T Directorate
and staff of Architectural Directorate)

(AMS)

.....

Designation and Scale

Tracers, Scale Rs.260-430(RS)

1. Method of recruitment.

Direct recruitment from outside on selection basis or by transfer of suitable staff from Zonal Railways/ Production Units, on selection basis.

2. Minimum qualifications and/or experience

i) for transfer from Railways/Production Units.

Tracers working in the concerned technical discipline on Zonal Railways/Production Units. The candidates should possess the following qualifications/experience:-

Matriculation or its equivalent and certificate/diploma in Draftsmanship of ITI standard or its equivalent from a recognised Institution in the appropriate Engineering discipline, or trade apprenticeships successfully completed on Zonal Railways/Production Units.

ii) for direct recruitment.

Matriculation or its equivalent and certificate/diploma in Draftsmanship of ITI Standard or its equivalent from a recognised Institution in the appropriate Engineering discipline or trade apprenticeships successfully completed on Zonal Railways/Production Units.

3. Age limit for direct recruitment.

18 to 25 years.

4. Channel of promotion.

- a) From - Nil.
- b) To - Draftsman 'B'
scale Rs.330-560(RS).

K.C. Aggarwal



[Handwritten signature]
[Circular stamp with 'APR' inside]

Revised R&P Rules for Drawing Office Staff in RDSO
 (excluding RE Wing of S&T Dte. & Staff of Arch.Dte.)

Designation and Scale

Draftsman 'A', Scale Rs.425-700(RS).

1. Method of recruitment.

Normally by promotion of Draftsman 'B' working in RDSO on selection basis. In case of non-availability of suitable departmental candidates, by transfer of suitable staff from Railways/Production Units or alternatively by direct recruitment, both on selection basis.

2. Minimum Qualifications and/or experience.

i) for promotion of Draftsman 'B' working in RDSO.

Three years service as Draftsman 'B' in RDSO.

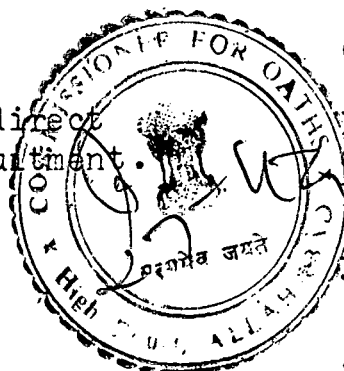
ii) for transfer from Railways/Production Units.

One year's service as Draftsman on Zonal Railways/Production Units in the concerned technical discipline and working in the grade corresponding to that of Draftsman 'A' in RDSO. The candidates should possess the following qualifications/experience :-

Matriculation or its equivalent and Diploma in the appropriate Engineering discipline from a recognised institution with one years suitable experience.

Successful completion of 5 year approved apprenticeship course on Zonal Railways/Production Units will be taken as equivalent to Diploma in the appropriate engineering discipline.

iii) for direct recruitment.



Matriculation or its equivalent and Diploma in the appropriate Engineering discipline from a recognised Institution with one years suitable experience.

Successful completion of 5 yrs approved apprenticeship course on Zonal Railways/Production Units will be taken as equivalent to Diploma in the appropriate engineering discipline.

[Handwritten signature]

RK PLK
AND

Revised R&P Rules for Drawing Office staff in RDSO
(excluding RE Wing of S&T Dte. and Staff of Arch.Dte.)

.....

Designation and Scale

Design Assistant 'A',
scale Rs.550-750 (RS)

1. Method of
recruitment.

50% of the sanctioned posts by
promotion of Draftsman 'A'/Design
Assistant 'B' on selection basis
and the remaining 50% by transfer
of suitable candidates from Zonal
Railways/Production Units on
selection basis or alternatively
by direct recruitment, both on
selection basis.

2. Minimum qualifications
and/or experience.

i) for promotion of
Draftsman 'A'/
Design Asstt. 'B'
working in RDSO.

Two years service as Design
Assistant 'B' or three years ser-
vice as Draftsman 'A' in RDSO.

ii) for transfer from
Railways/
Production Units.

One years service on Zonal Rail-
ways/Production Units in the
concerned technical discipline &
working in the grade correspond-
ing to that of Design Assistant 'A'
in RDSO. The candidates should
possess the following qualificat-
ions/experience :-

Diploma in the appropriate
Engineering Discipline from a
recognised Institution with a
minimum of 3 years suitable exper-
ience in an engineering organisat-
ion OR Degree or its equivalent
in the appropriate engineering
discipline from a recognised
institution.



Successful completion
of 5 years approved apprenticeship
course on Zonal Railways/Product-
ion Units will be taken as
equivalent to Diploma in the
appropriate engineering discipline.

Lic. Approved

LR [Signature]

(149)

Revised R&P Rules for Drawing Office Staff in RDSO
(excluding RE Wing of S&T Dte. & Staff of Arch.Dte.)
.....

Designation and Scale

Senior Design Assistant
Scale Rs.650-960 (RS).

1. Method of recruitment.

Normally by promotion of Design Assistant 'A' in RDSO on selection basis. In case of non-availability of suitable departmental candidates, by transfer of suitable candidates from Zonal Railways/Production Units on selection basis or alternatively by direct recruitment, both on selection basis.

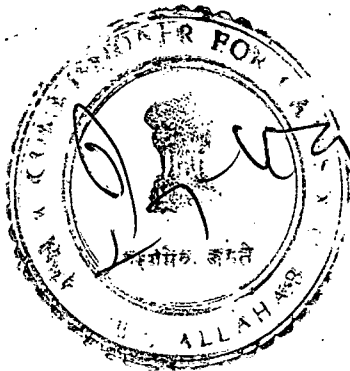
2. Minimum qualifications and/or experience.

i) for promotion of Design Asstt. 'A' working in RDSO.

Three years service as Design Assistant 'A' in R.D.S.O.

ii) for transfer from Railways/Production Units.

One years service on the Zonal Railways/Production Units in concerned technical discipline and working in the grade corresponding to that of Senior Design Assistant in RDSO. The candidates should possess the following qualifications/experience :-



A degree or its equivalent in appropriate engineering discipline from a recognised Institution with two years suitable experience in an engineering organisation OR Master's degree in appropriate Engineering discipline from a recognised Institution.

iii) for direct recruitment.

A degree or its equivalent in appropriate Engineering discipline from a recognised Institution with two years suitable experience in an Engineering organisation OR Master's degree in appropriate engineering discipline from a recognised Institution.

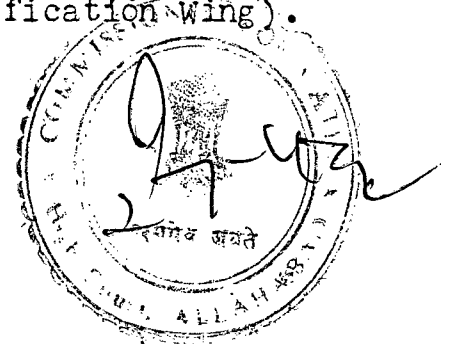
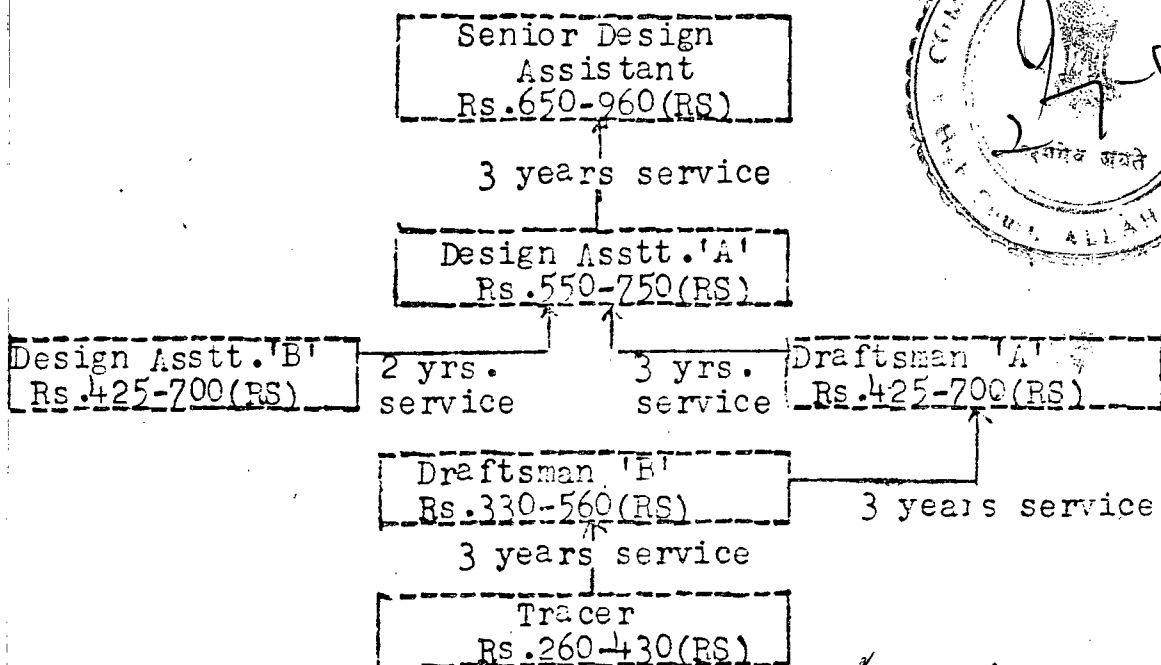
[Signature]

BM/CA
150

Chart showing avenues of promotion
in respect of Drawing Office Staff
of the following Directorates/Wings
including their seniority groups in
juxta position.

....

Directorate/Wings.	Seniority groups
1. Carriage Directorate.	1 to 3) Carriage, Wagon & MRS Directorates.
2. Wagon Directorate.	
3. MRS Directorate.	
4. Motive Power Directorate	4. Motive Power Directorate.
5. Civil Design Directorate	5. a) Civil Design Track Wing and MRS (Track). b) Civil Design R&S Wing (including staff in TEN's office)
6. Electrical Directorate	6. Electrical Directorate (including staff in Elec. Maint. Section)
7. T.I. Directorate	7. a) TI Directorate (Electrical). b) TI Directorate (OHE Civil).
8. Research Mech. Wing.	8. Research Mech. Wing and M&C Directorate.
9. Research Civil Wing.	9. Research Civil Wing (including FE & R&F etc.)
10. S&T Directorate (excluding Rly. Electrification Wing)	10. S&T Directorate (excluding Rly. Electrification Wing).



L. C. Aggarwal

AMR h
(AS)

Revised R&P Rules for Drawing Office Staff
of Architectural Directorate.

.....

Designation & Scale

Tracer, Scale Rs.260-430(RS).

1. Method of recruitment.

Direct recruitment from outside on selection basis or by transfer of suitable staff from Zonal Railways/Production Units, on selection basis.

2. Minimum qualifications and/or experience.

i) for transfer from Railways/Production Units.

Tracers working in Civil Engineering Department on Zonal Railways/Production Units. The candidates should possess the following qualifications/experience:-

Matriculation or its equivalent and certificate/Diploma in Draftsmanship of ITI standard or its equivalent from a recognised Institution in Civil Engineering/Architectural discipline.

ii) for direct recruitment.

Matriculation or its equivalent and certificate/Diploma in Draftsmanship of ITI standard or its equivalent from a recognised Institution in Civil Engineering/Architectural discipline.

3. Age limit for direct recruitment.

18 to 25 years.

4. Channel of promotion.

a) From - Nil.

b) To -Draftsman 'B'
scale Rs.330-560(RS).

LC. Aggarwal



Revised R&P Rules for Drawing Office Staff
of Architectural Directorate.

.....

BM P. R. h
AS2

Designation & Scale

Draftsman 'B' Scale Rs. 330-560 (RS)

1. Method of recruitment.

Normally by promotion of Tracers working in Architectural Dte. or MTP(Arch) of RDSO on seniority-cum-suitability basis. In case of non-availability of suitable departmental candidates, by direct recruitment, on selection basis.

2. Minimum qualifications and/or experience:

- i) for promotion of Tracers, working in RDSO.
- ii) for direct recruitment.

Three years service as Tracer in RDSO.

Matriculation or its equivalent and certificate/diploma in Architectural Assistantship from a recognised Institution.

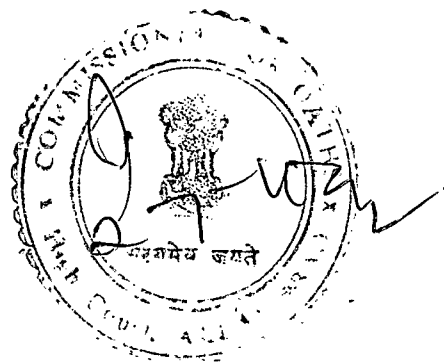
3. Age limit for direct recruitment.

20 to 30 years.

4. Channel of promotion

- a) From - Tracers
Scale Rs. 260-430 (RS)
- b) To - Draftsman 'A'
Scale Rs. 425-700 (RS)

L. C. Aggarwal



-47-

A53

Revised R&P Rules for Drawing Office Staff
of Architectural Directorate.
...

Designation & Scale

Draftsman 'A', scale Rs 425-700 (RS)

1. Method of recruitment -

/of RDSO

Normally by promotion of Draftsman 'B' working in Architectural Directorate or MTP(Arch.) on selection basis. In case of non-availability of suitable departmental candidates by direct recruitment, on selection basis.

2. Minimum qualifications and/or experience :

- i) for promotion of - Draftsman 'B' working in RDSO.
- ii) for direct recruitment -

Three years service as Draftsman 'B' in RDSO.

Matriculation or its equivalent and certificate/Diploma in Architectural Assistantship or its equivalent from a recognised Institution followed by one year's experience in a qualified Architect's office or Architectural firm of repute.

3. Age limit for direct recruitment

20 to 30 years

4. Channel of promotion

a) From - Draftsman 'B' scale Rs.330-560(RS)

b) To - Arch.Assistant 'A' scale Rs.550-750(RS).

L.C. Aggarwal



Revised R&P Rules for Drawing Office Staff
of Architectural Directorate.,

...

Designation & Scale

Architectural Assistant 'A'
scale Rs.550-750(RS).

1. Method of recruitment

50% of the sanctioned posts by promotion of Draftsman 'A' working in Arch. Directorate or MTP(Arch.) on selection basis and the remaining 50% by direct recruitment, on selection basis.

2. Minimum qualifications and/or experience :

i) for promotion of Draftsman 'A' working in RDSO.

Three year's service as Draftsman 'A' in RDSO.

ii) for direct recruitment

Matriculation or its equivalent and certificate/Diploma in Architectural Assistantship or its equivalent from a recognised Institution followed by 3 years suitable experience in a qualified Architect's office or Architectural firm of repute OR a degree in Architecture or its equivalent from a recognised Institution.

3. Age limit for direct recruitment.

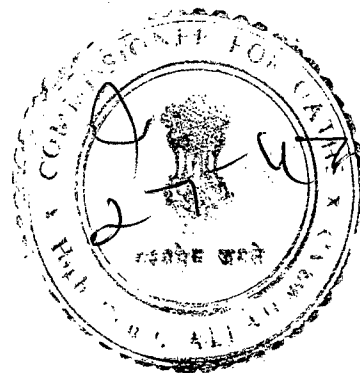
20 to 30 years.

4. Channel of promotion

a) From - Draftsman 'A'
scale Rs.425-700(RS)

b) To - Senior Arch. Assistant
scale Rs.700-900(RS)

L.C. Aggarwal



MR. S
AS4

Revised R&P Rules for Drawing Office Staff
of Architectural Dte.

.....

Designation & Scale

Senior Architectural Asstt.,
Scale Rs.700-900 (RS)-

1. Method of recruitment.

Normally by promotion of Architectural Asstt.'A' working in Architectural Directorate or MTP(Arch) of R.D.S.O. on selection basis. In case of non-availability of suitable departmental candidates by direct recruitment, on selection basis.

2. Minimum qualifications and/or experience.

i) for promotion of Architectural Asstt.'A' working in RDSO.

Three years service as Architectural Asstt.'A' in RDSO.

ii) for direct recruitment.

A degree in Architecture from a recognised Institution followed by two years suitable experience in a qualified Architect's office or Architectural firm of repute OR Master's degree in Architecture from a recognised Institution.

3. Age limit for direct recruitment.

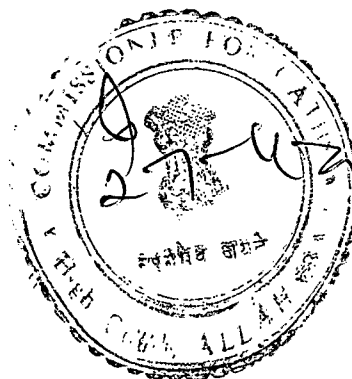
25 to 35 years.

4. Channel of promotion.

a) From - Architectural Asstt.'A' Scale Rs.550-750(RS)

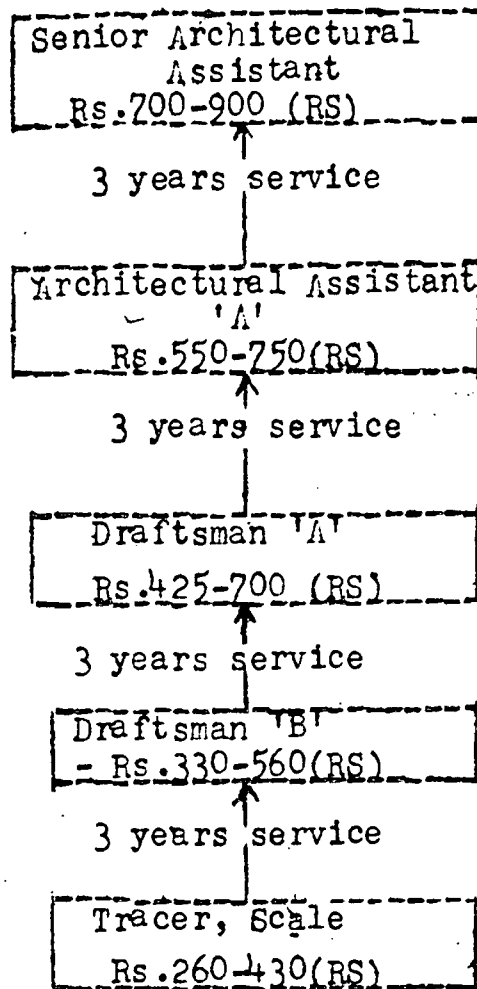
b) To - As per rules.

A.C. Aggarwal



50 - 5/12/21

Chart showing avenue of promotion of Drawing
office staff of Architectural Directorate.



K.C. Agarwal



IN THE HON'BLE CENTRE ADMINISTRATIVE TRIBUNAL ALLAHABAD

LUCKNOW BENCH, LUCKNOW

Registration No.T.A. No: 1100/87

K.C. Aggarwal & others ----- Petitioners

V/s

Union of India & others ----- Respondents

REPORT
OF THE
THIRD CENTRAL PAY COMMISSION.
1973
VOLUME-I

" Electrostate copies abstracted from the recommendations of 3rd Central Pay Commission, Govt. of India, Volume-I, Chapter-14, Engineering Services, Page-153 to 154, Paras 79, 80, 81 & Table No.XVII adherable by all concerned are enclosed herewith for ready reference and perusal by the Hon'ble Central Administrative Tribunal".

MINISTRY OF FINANCE
GOVT., OF INDIA

K.C. Aggarwal



(A56)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDL. BENCH, LUCKNOW.

Counter Reply of the Respondents

IN

15.7.92

Regn. Contempt No. 23 of 1992 (L)

Connected with TA No. 1100/87, 1101/87 &
1101-A/87.

K.C. Agarwal & Others Applicants.

Versus

Union of India & Others Respondents.

FT
J.S.H.
That in pursuance of the Orders of this Hon'ble Tribunal, I, O.P. Jain, Director General, R.D.S.O., Lucknow, the Respondent No.2, am filing the reply on behalf of myself as well as on behalf of the Chairman, Railway Board, New Delhi who has authorised me to file the reply on his behalf as well.

2. That in the above case, the Hon'ble Tribunal vide its Judgement dated 6.5.91 have directed the Respondents No.1 and 2 as follows :

"(1) To consider and award an appropriate scale of pay above Rs. 425-700 to DA'C' redesignated as DA'B' in Annexure - C2 dated 4.10.74 with effect from 1.1.73.

.....2


Director General
Research, Designs & Standards Organisation
Ministry of Railways
LUCKNOW

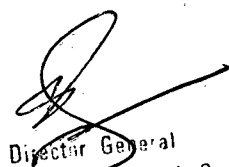
AST

- (2) To make notional fixation of applicants' salary in the scale awarded under (i) w.e.f. 1.1.73, and award the financial benefits with effect from the first day of the month of the year of filing of Writ Petitions respectively by each of the applicants;
- (3) To comply with these directions within a period of six months from the date of receipt of a copy of this Judgement bearing in mind the observations contained in the body of this judgement."

3. That for the reasons disclosed in an application filed in the above noted T.A. cases, some delay took place in implementing the judgement and accordingly an application for extension of three months further time to implement the judgement was moved before this Hon'ble Tribunal.

4. That thereafter immediate action was taken to consider allotting the scale in terms of para 14 of the said judgement wherein it has been stated that the proper thing to do was to award a scale of pay higher than the scale of pay of Draftsman 'A' and lower than the scale of pay of DA'B' merged in DA'A'. Accordingly, the scale of Rs.455-700 which is above ~~the~~ scale of Draftsman 'A' (scale Rs.425-700) and below the scale of DA'A' (scale Rs. 550-750) was allotted to the petitioners and thus Posting Order has been issued vide Staff Posting Order No.25 of 1992 dated 17.2.92, copy at Annexure No. CA-1.

Annexure
CA-1.


Director General
Research, Designs & Standards Organisation
Ministry of Railways
LUCKNOW

450

3

Annexure
CA-2.

5. That even prior to filing the present contempt petition a compliance report for implementing the Judgement dated 6.5.91 has also been filed in this Hon'ble Tribunal on 18.2.92, a copy of which is annexed as Annexure CA-2. The applicant has tried to create a confusion to mis-lead this Hon'ble Tribunal by not properly connecting the position brought out in the Compliance Report filed in this Hon'ble Tribunal on 18.2.92 in case TA/1100/87 connected with TA No. 1101/87 and 1101-A/87.

6. That the Orders of the Hon'ble Tribunal dated 06.05.91 have been fully complied with by the Administration.

That parawise comments to the contempt petition are given as under :

7. That as regards para 1 of the application the same needs no comments.

8. That as regards para 2(i) of the application, it is submitted that the contents thereof are denied as in terms of para 14 of the judgement dated 6.5.91, the Petitioners have been allotted scale above Draftsman 'A' (Rs. 425-700) and below Design Assistant 'A' (Rs. 550-750). The scale of Rs. 550-750 which is allotted to Design Assistants 'A' cannot be given to the Petitioners as per the orders of this Hon'ble Tribunal, therefore, there is no confusion in the mind of the Respondents, rather the applicant wants to create un-necessary confusion by misinterpretation of the judgement passed by this Hon'ble Tribunal.

Director General

Research, Designs & Standards Organisation
Ministry of Railways

ASG

4

9. That the Administrative Ministry after considering the merits of the case allotted the scale of Rs. 455-700 to the petitioners and the same was notified vide Staff Posting Order No. 25 of 1992.

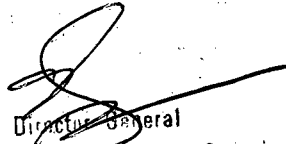
10. That as regards para 2 (ii) of the application, the representations from the petitioners were duly received and considered.

11. That as regards para 2(iii) and 2(iv) of the Petition, it is stated that as per para 14 of the judgement the scale of pay above Rs. 425-700 of Draftsman 'A' and below the scale of pay of Design Assistant 'A' Rs. 550-750 has been allotted to the petitioners correctly and the other statements made therein have no relevance in view of the specific orders of this Hon'ble Tribunal.

12. That as regards para 2(v) of the petition, it is submitted that the Hon'ble Supreme Court of India dismissed the S.L.P. "Without expressing any opinion on the question of law raised - Since there are only 4 or 5 people remained who are to get the benefit of the judgement of the Tribunal." A copy of the orders passed by Hon'ble Supreme Court is enclosed as Annexure II of the Application.

13. That as regards para 2 (vi) of the Petition, it is submitted that since the S.L.P. had been filed, the Administration was to wait for the disposal of the SLP.

.....5


Director General
Research, Designs & Standards Organisation
Ministry of Railways
LUCKNOW

A60

14. That as regards para 2(vii) of the application, the contents thereof are denied. The Staff Posting Order No.25 of 1992 was issued in compliance of the order of Hon'ble Central Administrative Tribunal as soon as the S.L.P. was dismissed by the Hon'ble Supreme Court of India without expressing any opinion on the question of law and merits of the case.

15. That as regards para 2(viii) of the petition, it is submitted that no orders whatsoever of this Hon'ble Tribunal have been flouted but on the other hand the same have been implemented.

16. That as regards para 2(ix) of the petition, the same calls for no comments.

17. That as regard para 2(x), 2(xi) and 2(xii) of the petition, it is stated that the same has no relevance to this specific issue. As per the directions of the Hon'ble Tribunal to allot scale above the pay scale of Rs. 425-700 and below the pay scale of Rs.550-750, the same has been done.

18. That from the fore-going submissions it is quite apparent that the judgement dated 6.5.91 of this Hon'ble Tribunal has been fully complied with by the Respondents and the compliance report to this effect was also filed in this Hon'ble Tribunal on 18.2.92 and as such there is no force in the Contempt Petition filed by the petitioner and the same is liable to be dismissed.

...6

19. That the Deponent has highest regard for this Hon'ble Tribunal and in case this Hon'ble Tribunal comes to the conclusion that the deponent is guilty of having committed contempt, the Deponent tenders his unconditional apology.

Place : LUCKNOW.

Dated : 01 - 07 - 92.

(O.P. JAIN)
Deponent.

Director General
Research, Designs & Standards Organisation
Ministry of Railways

VERIFICATION LUCKNOW

I, O.P. Jain, aged about 58 years, S/o Late Shri Laxmi Chand Jain, working as Director General, R.D.S.O., Lucknow do hereby verify that the contents of para 1 to 19 are true to my personal knowledge and are based on records relating to the instant case kept in the official custody of the Respondent, and that I have not suppressed any material facts.

Place : LUCKNOW.

Dated : 1st July , 1992.

(O.P. JAIN)
DEPONENT

Director General
Research, Designs & Standards Organisation
Ministry of Railways
LUCKNOW

Annexure- CA-I

A62

Government of India
Ministry of Railways
Research Designs and Standards Organisation
Manak Nagar, Lucknow.

STAFF POSTING ORDER NO. 25 OF 1992

As per the judgement dated 06.05.1991 of the Hon'ble Central Administrative Tribunal, Lucknow Bench, Lucknow delivered in the cases TA No. 1100/87, connected with No. 1101/87 and 1101-A/87, K.C. Agarwal, P.P. Gupta, Umrao Singh and others, the competent authority has decided to allot the scale Rs. 455-700 (AS) w.e.f. 1.1.73 to S/Shri K.C. Agarwal, P.P. Gupta, G.B. Sinha Umrao Singh and late Shri Nirranjan Singh.

2. The aforesaid applicants are entitled to the notional fixation of salary in the pay scale of Rs. 455-700 (AS) w.e.f. 1.1.73. They will, however, be awarded the financial benefits with effect from the first day of the month of the year of their filing of the writ petition & respectively as per Hon'ble Tribunal's orders.

3. The arrears due are being worked out and will be paid to the above staff concerned shortly.

/ if any Hindi version will follow.

(T.M. Murali)
for Director General

Encl: NIL.
File No. A/EP-1290
Lucknow-11.
Dated: 7.2.92.

Distribution.

1. JDS(C-I) 2. JDS(M-Stats.) 3. JDS(IGL) 4. JDRM(S) 5. DDE-I(10 copies) 6. SO/C 7. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 8. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 9. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 10. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 11. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 12. SO/C-III. The arrears of pay in favour of the individual may kindly be drawn as early as possible through supplementary bill. 13. Shri P.P. Gupta, SI/Wagon(IGL)/RDSO/Lucknow. 14. Shri Nirranjan Singh, EX DM'A'/Wagon, C/o Shri Bhupinder Singh, Manak Nagar, Lucknow. 15. G.B. Singh, DAA(adhoc), Res. Mech./RDSO/Lucknow. 16. Umrao Singh, EX DM'A', MP Directorate, RDSO, C/o A/20/3, RDSO Colony, Lucknow. 17. Hony. Secretary, CTSA/RDSO/Lucknow with reference to their letter No. GS/K.C. Agarwal/91/192, GS/K.C. Agarwal, Supreme Court/Decision/91/193 dt. 9.12.91, CTSA/GS/K.C. Agarwal-SLP/92/5 dt. 7.1.92.

Director General
Research, Designs & Standards Organisation
Ministry of Railways
LUCKNOW

Annexure CA-2

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BRANCH, LUCKNOW.

Civil Misc. Application No.

of 1992 (L). S.No 3

IN Re.

Registration TA No. 1100/87 connected with
TA No. 1101/87 and
TA No. 1101-A/87.

K.C. Agarwal, P.P. Gupta and
Umrao Singh and Others Applicants.

Varans

Union of India & Others Respondents.

Vide their Judgement/Order dated 06.05.91,
this Hon'ble Tribunal has directed the Respondents
No. 1 & 2 that to consider and award an appropriate
scale of pay above Rs. 425-700 to DAB redesignated
as DAB with effect from 01.01.73 and also to make
notional fixation of applicants salary in the
scale awarded w.e.f. 01.01.73 and award the
financial benefits with effect from the first day
of the month of the year of filing of the writ
Petitions respectively by each of the applicants.

2. The matter was referred to the competent
authority who has taken the decision on 28.01.92
to allot the scale of Rs. 455 - 700 (RP) to the

applicants with the benefit of having notional fixation of their pay w.e.f. 01.01.73 and the financial benefits w.e.f. the first day of the month of the year of filing of the Writ Petition by each of the applicants.

3. Accordingly the benefits as directed by this Hon'ble Tribunal have been extended to the applicants by way of issue of the Staff Posting Order No. 25 of 1992, a copy of which is annexed as Annexure B.1.

Place : Lucknow.

Dated : 18-02-92.

(S. BHATIA)
RESPONDENT.
अनुसंधान अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

VERIFICATION

I, S. Bhatia S/o Late Shri U.C. Bhatia aged about 56 years presently working as Dy. Director/Estt-I, in the Office of RDSO (Ministry of Rlys.), Lucknow do hereby verify that the contents of paras 1 to 3 of this application are true to my knowledge and are believed by me to be true on the basis of the records and legal advice.

Place: Lucknow

Dated : 18-02-92.

(S. Bhatia)
Dy. Director / Estt-I.
R.D.S.O., Lucknow-11.
अनुसंधान अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011

(165)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, Lucknow

REJOINDER AFFIDAVIT OF THE APPLICANTS IN REGARD
CONTEMPT PETITION (CIVIL) No. 23 OF 1992(L)

in re :

T.A. No.1100/1987, 1101/87 & 1101-A/87

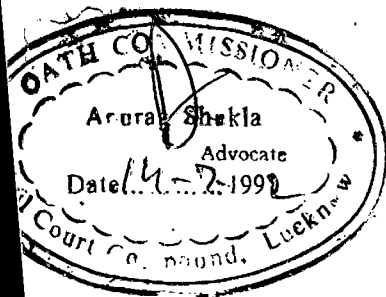
K.C. Agarwal and others ... Petitioners

versus

Shri Y.P. Anand and another ... Respondents

I, K.C. Agarwal, aged about 56 years, son of late Shri Kanchi Ram Agarwal, resident of C-63/3, Manak Nagar, R.D.S.O. Colony, Lucknow, deponent, do hereby solemnly affirm and state on oath as hereunder :-

1. That the contemnor No. 2, though has taken up responsibility to controvert the present contempt petition against himself and opposite party no. 1 as well, but he has failed to adduce ^{any} authority of opposite party no. 1 in favour of opposite party no. 2 to ensure the correct position, as alleged.
2. That in reply to contents of paragraph No. 2 its sub-paras 1, 2 and 3 are according to last operative directions of the judgment dated 06.05.91 meaning thereby that what compliance was required in the judgment is that the opposite parties have minutely to take into account for consideration and allot the appropriate scale of pay next above to Rs.425-700 to the category of the applicants as per Annexure C-2 as mentioned in the operative direction no. 1 of the judgment after making simultaneous study of "Annexured nos. C-3 and C-2 respectively" annexed to the counter affidavit filed by the respondents which they did not take into consideration
- contd...2



and it leads to only one conclusion that both the opposite parties are guilty of committing contempt of their own authorities in not allotting the appropriate pay scale to the applicants within the correct meaning, interpretation and compliance of operative direction No. 1 of the judgment of the Hon'ble C.A.T. including paragraphs 10, 11 and 15. The relevancy and materiality of para 13 of Supplementary Rejoinder Affidavit (mentioned in para 15 of the judgment) read with the above also could not be assessed in value, therefore, all the required norms remained unheeded and unattended by the opposite parties who have filed the counter affidavit of the Contempt Petition here.

3. Had the opposite parties been able to bear in mind to comply with the judgment of Hon'ble C.A.T., there could have been no need born out to bring the present ~~contempt~~ contempt petition but the mishappening and blunders took place on the part of the opposite parties who had made the applicants to come over here for lawful justice. The reply in para 3 of the opposite parties is nothing but the attempts have been made to confuse the Hon'ble C.A.T. by adopting zig-zag manners, pick and choos policy including divide and rule policy by the contestants.

4. The opposite parties in para 4 of counter affidavit took up only para 14 of the said judgment and twisted the real spirit whimsically in allotting inappropriate pay scale to the petitioner by the impugned order contained in Posting Order No. 25



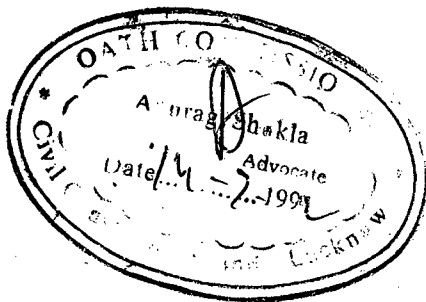
K.C. Aggarwal

167

-3-

of 17.2.1992 which is still a subject of dispute. In para 5 of the counter affidavit the opposite parties have attempted to give their explanation of perfection of compliance or implementing the judgment of the Hon'ble C.A.T. dated 6.5.91. Actually speaking, no compliance has been made and the absurdity which has been pointed out is that in this instant matter the opposite parties had failed to distinguish Annexure C-2 and C-3, as accurately as possible, and the purpose of judgment/justice is not becoming fast but already more than 19 years elapsed thereby service career of the applicants remained over-whelmed, over crushed and penetrated at large scale beyond all the controls.

5. In para 6 of the counter affidavit the opposite parties drew incorrect sketch of the case merely to confuse the Hon'ble C.A.T. on the point of compliance while there was no compliance without legs, head and tail in the existence. These opposite parties demanded to be strictured for not discouraging their misleading and misconceiving acts in their counter affidavit (to writ petition) paragraphs 10, 11, 12, 15, 18 and 20 have been seriously objectionable for being punished of the offence of Purjury of Records, concealments of evidence and facts but the opposite parties have been enjoying hundred percent arbitrary and discriminatory exercisable powers as a dictatorship rule and nothing else.



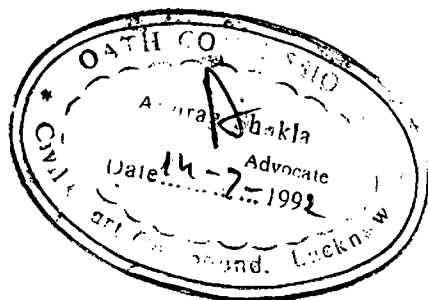
6. Parawise controvertions by opposite parties from paragraphs 7 to 19 is contested as follows:-
What opposite parties have taken in paragraphs 7, 8 and 9 in respect of pay scale Rs.455-700

H. C. Aggarwal

168

applicable to the categories specified below without covering the category of the applicant. Specification of class, category and cadre entitled for revised scales with reference from the Report of the IIIrd Central Pay Commission Recommendations.

IN THE HON'BLE		
K. C. AGGARWAL		
Y. P. ANAND		
S.No	REVISED SCALE	CLA
1	Rs. 455-700	Head (M)
2	Rs. 455-700	Coal (M)
3	Rs. 455-700	Comm (M)
4	Rs. 455-700	Class (M)
5	Rs. 455-700	ASM (M)
6	Rs. 455-700	Imps (M)
7	Rs. 455-700	Trai
8	Rs. 455-700	Nw (M)
9	Rs. 455-700	Pa (M)
10	Rs. 455-700	ST (D)
11	Rs. 455-700	En (F)
12	Rs. 455-700	As (M)
13	Rs. 455-700	T3 (M)
14	Rs. 455-700	Fas (D)
15	Rs. 455-700	Ca (M)
16	Rs. 455-700	A2
17	Rs. 455-700	As (M)



K. C. Aggarwal

(A69)

While the scale of Rs. 455-700 has no concern with the category of the petitioner and the Ministry of Railways accepted the recommendations of the 3rd Central Pay Commission Report as per Annexure IX of the contempt petition for the non-gazetted ~~xxxx~~ Engineering Drawing staff, accordingly for which the Railway Board issued a G.O. for ~~xxxx~~ Schedule of Revised ³ scales applicable to the Design staff of R.D.S.O on 4.10.74 vide their letter No. PC -III/ 73/PS/Schedule/RDSO i.e. Annexure 1/1 to the Contempt Petition (Ref : last two lines of para 11 of the judgment of the Hon'ble C.A.T.), so as per that the scale above Rs. 425-700 should be considered and awarded to the petitioners as mentioned in Operative Direction No. 1 of the judgment of the Hon'ble C.A.T.

7. The opposite parties have manufactured manifestly ~~let~~ manipulation of their reported compliance neglecting to allot appropriate pay scale of Rs. 550-750 with effect from 1.1.73 revisable further at the due turn but they could not prefer, to do so, and inadmissible, inapplicable scale of pay have been allotted without having the prescribed authority for the purpose, contrary to the spirit of the standing circulars of the Railway Board, Ministry of Railways, New Delhi. The Chairman, Railway Board had been kept into dark about the otherwise there could have been no occasion further real story of the case to continue to the same litigation for the last 19 years, right from the year 1973 to date. The unintelligent observations of the opposite parties are ostentatiously flatulent to fabricate the constructive lines into



K. C. Agarwal

APM

-7-

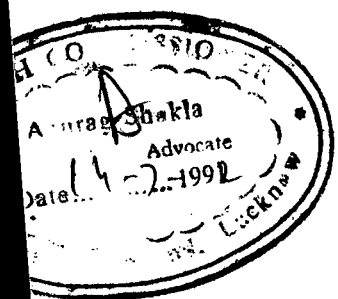
justice, as well.

10. In paragraphs 16 to 19 the opposite parties have tried to misguide, misinform, misstate and misgive the Hon'ble C.A.T. that they have not complied with the judgment date 6.5.91 at least a single percent of compliance has seemed to have been not done by them. The correct position cannot be ascertained by any reference till today mindfully and not otherwise. The reality is that both the answering opposite parties are contemnors beyond doubt, they are liable to be punished for the lapses of contempt as their unconditional apology is ~~unsincere~~ ~~apology~~ apology tendered ungenerally by the opposite parties after resisting a long duration of 19 years for justice is deliberately unsincere apology, therefore opposite parties cannot be freed unpunished.

While allotting appropriate pay scale to ~~xxx~~ categories, classes and cadres of the applicants by the opposite parties they should have kept in view calculation of duties, functions, nature of job performed, so as to not to occur any difficulty in the fixation of the salary and pay scale of that post subject to invite objection, if any, but acceptable by all as a final. Responsibilities, duties, requisite qualification norms of the post held ~~carrying~~ higher job to get higher pay scale. (Ref. Paragraphs 4 and 5 of the judgment of the Hon'ble C.A.T.).

The contesting opposite parties avoided to see and to consult R&F rules and the extracts of

contd...8



C. Jagannath

(Refer Annexure VIII, particularly page 44 and Annexure IX annexed to the Contempt Petition), what to say they failed to attend the annexures of contempt petition in the real spirit to classified their own position before the Hon'ble C.A.T. fairly and reasonably.

and its mandate.
K. C. Agarwal
 (K. C. AGARWAL)
 DEPONENT

DISTRICT COURT
JUDGE
Arundh Shukla
Advocate
Date: 14-1-1992
Lucknow

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 10 are true to my own knowledge and those of paragraphs — to — are believed to be true as per legal advice. Nothing material has been concealed and mixed with those of incorrect facts. So help me God.

LUCKNOW :
Dated : 14-07-1992.

K. C. Agameal
DEPONENT

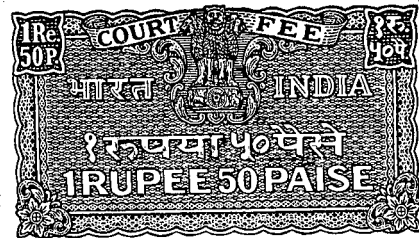
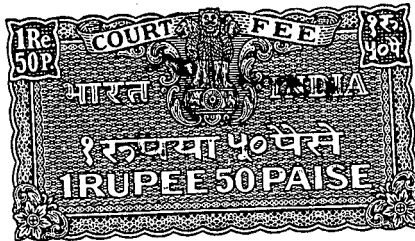
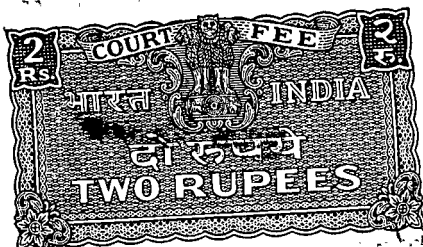
Personally know the
applicant who has
resided before me
today.

LUCKNOW

Dated

2/SS Kanchan

14/7/92



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
Allahabad.

Circuit Bench Lucknow

Misc. App.No. 609 of 1992

Inre: -

Civil Contempt Petition No. 23 of 1992

Inre: -

(T.A. No 1100/1987, 1101/87 & 1101A/87)

K.C. Aggarwal & others

.... Petitioners

Versus

1. Sri Y.P. Anand,
Chairman, Rly. Board, New Delhi.
2. Sri O.P. Jain,
Director General, R.D.S.O., Lucknow

.... Respondents/
Contemnors.

Fixed for 28-8-1992

Application for fixing early date within July,
1992 as the opp. party No. 2 is going to be
retired w.e.f. 31.7.1992.

The humble petitioner begs to state as here under : -

1. That the Lordships of the Hon'ble Central Administrative Tribunal were pleased to issue notices to respondents No. 1 and 2 to Show Cause as to why the proceedings under the Contempt of Courts Act may not be initiated against them for not implementing the Judgment dated 6/5/91 and 1.5.92.

2. That the Counter Affidavit was filed on 6/7/92 and the Rejoinder Affidavit stood exchanged on 14/7/92 and the arguments were started in the early hours on the date fixed i.e. on 15/7/92. The learned counsel for the opposite parties did not appear to controvert the advanced arguments face to face even after Lunch hour.

Not possible

on first week

of August

may be

16/7/92

f.t. p
oyu
16/7/92

filed
16/7/92

Place before
the Hon'ble
V.C. in Chamber
for order
16.7.92

A74

on the same day i.e. on 15.7.92. Now the general date i.e. 28.8.92 has been fixed for final hearing and disposal of the matter in hand.

3. That the date fixed as above would be most inconvenient because Sri O.P.Jain, Director General R.D.SO., Lucknow shall stand retired on 31.7.1992, then it will be very difficult to get his personal appearance before the Hon'ble C.A.T. to face the result of the Contempt otherwise the vast periodicity shall come to be wasted on his personal appearance in future, in the absence of his availability or his whereabouts after the effect of retirement from service supernuarily.

WHEREFORE, it is most respectfully prayed that your Lordships may be graciously pleased to curtail the above date and further fix the next date of final hearing within the month of July 1992 to meet the ends of justice as expeditiously as possible.

Lucknow:

Dated :

16/7/92

(R.S. SHARMA)

Advocate,

COUNSEL FOR THE APPLICANT.

Sno 35
01-05-92

e.c.c. No - 23/1992

Honble Central Administrative Tribunal
At Allahabad
Lucknow Bench Lucknow

ब अदालत श्रीमान

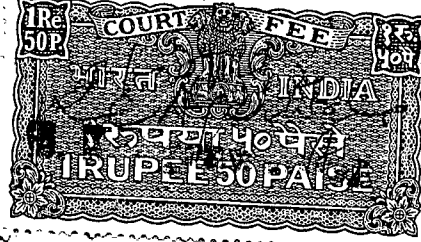
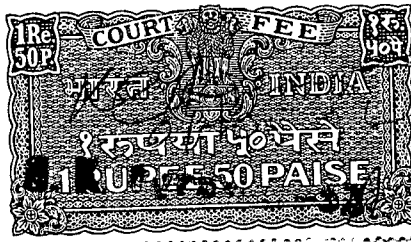
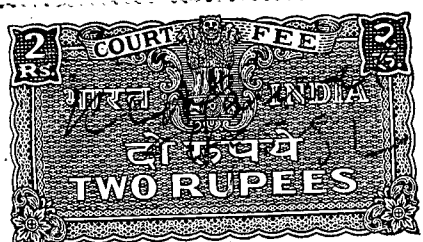
[बादो अपोलान्ट]

प्रतिवादी [रेस्पाडेन्ट]

महोदय

वकालतनामा

R.C. Aggarwal



Dr. Y.P. Anand + Anand

बनाम

(प्रतिवादी रेस्पाडेन्ट)

नं. मुकद्दमा

सन

पेशी की ता. 01-05-92 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

R.P. Sharma

Y. Ashwari
for content

वकील

महोदय

एडवोकेट

व

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकवाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने वा हमारे हस्ताक्षर युक्त (दस्तखती) रसीद में लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन ९८

ई०

स्वीकृत

R.P. Sharma
01/05/92

(A76)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,

Central Administrative Tribunal CIRCUIT BENCH, LUCKNOW.
Circuit Bench, Lucknow M.P. No 798/92
Date of Filing ... 4-9-92 Contempt Case No. 23 of 1992(L)
Date of Receipt by Post
T.A. No. 1100/87(T)
Deputy Registrar

Shri K.C. Aggarwal ... Applicant
Versus
Shri Y.P. Anand and others. ... Respondents

64

The above named humble applicant most humbly and respectfully states as under :-

1. That the humble applicant by moving case application for recalling the order dated 28.8.92 passed by Hon'ble Mr. Justice U.C. Srivastava, V.C. and Hon'ble Mr. K. Obayya, A.M. in the aforesaid contempt matter which subsists more than indicated to the effect that the respondents contemnors have definitely committed contempt of the Hon'ble Tribunal.
2. That the opposite parties respondents/contemnors not controvert the contempt petition dated 27.4.92 para wise and have failed to file any supplementary or additional counter affidavit of my rejoinder affidavit dated 14.7.92. But being guilty conscience, the contemnors voluntarily offered/tendered unconditional written apology in their counter affidavit dated 6.7.92.
3. That in para 2 of the rejoinder affidavit it is clearly stated that due compliance as required in the operative directions of the judgement dated 6.5.91 o

conte..

K.C. Aggarwal

1192

Hon'ble Central Administrative Tribunal has not been done as a result of which did not allot appropriate scale of pay above than Rs.425-700 (RS) to the category of the Engineering set up as per Annexure C-2(Authority of Ministry of Railways, Scheduled Revised Pay Scales applicable to the technical engineering categories ⁰cadre inclusive of the petitioners in R.D.S.O for allotment of revised scales by which a revised scale of Rs.425-700 was allotted to the petitioners. Please ~~refer~~ refer last 3 lines of para 11 of the judgement of Hon'ble Tribunal, annexed as Annexure - 1) therefore, as indicated in paragraphs 10, 11 and 15 the relevant and material aspects including para 13 of the supplementary rejoinder affidavit and the judgement itself could not be taken into consideration.

4. That as actually speaking no compliance of the judgement has been made but the ~~absurdity~~ ^{absurdity} has been pointed out in this case that the opposite parties have utterly failed to distinguish the Annexure No. C-2 accurately demanded to do so hence the purpose of justice is not becoming fast which already took more than 19 years of duration over-whelmingly to darken the future career and the fate of the petitioner at large scale as has been stated in para 4 of the rejoinder affidavit .

5. That as stated in para 7 of the rejoinder affidavit the opposite parties have manufactured manifestly manipulation of their reported compliance neglecting allot appropriate pay scale of Rs.550-750 with effect from 1.1.73 revisable further at the due turn but they could not prefer to do so, and inadmissible, inapplicable scale of pay have been allotted without having the prescribed authority for the purpose , contrary to

contd...

A78

spirit of the standing circulars of the Railway Board, Ministry of Railways, New Delhi i.e. Annexure C-2 dated 4.10.74(annexed as Annexure No. I/I). The Chairman, Railway Board, had been kept into dark about the otherwise there could have been no occasion further real story of the case to continue to the same litigation for the last 19 years, right from the year 1973 to date. The unintelligent observations of the opposite parties are ostentatiously flatulent to fabricate the constructive lines into destructive line of action. Therefore, the Posting Order No. 25 of 17.2.1992 is an instrument misfit to the applicant from all the four corners.

6. That the staff Posting Order No. 25 dated 17.2.92 is a misfit instrument as not the single percent of compliance as required has been made to implement the lawful observations of the Hon'ble Central Administrative Tribunal and the Hon'ble The Supreme Court of India. The opposite parties have wilfully flouted away due compliance of lawful order knowingly as unto word feared from any of the four corners as darest as possible, as unmindfully as possible without even perusal of unavoidable Annexure No C-2 on the reverse it speaks out that the scale of pay Rs.550-750 should be allotted to the Engineering set up. The plea that not even a single percent of the compliance is made is already taken in para 10 of my rejoinder affidavit, which has remained uncontroverted throughout.

7. That the error apparent on the face of record is very clear that neither the record of the contempt case had been ever perused nor the advanced argument made by the petitioner's counsel have been incorporated in the order dated 28.8.92 which appears to be an ex-parte order

whereby the contentions of the learned counsel for the respondent has been incorporated without its verification of substantial truth and the test of law. In these events the said order dated 28.8.92 is unconstitutional and unfundamental also which deserve to be clarified, modified or record so that the judgement on merit of the case may be had in due course of time in the forthcoming period after perusal of the records and verifying the substantial truth of the compliance made by the opposite parties as has been contended by the learned counsel for the opposite parties.

P R A Y E R

Wherefore, it is most humbly and respectfully prayed that the Hon'ble Central Administrative Tribunal may kindly be pleased to recall, clarify or modify its order dated 28.8.92 to their real extent, so that, the defaulters opposite parties may be punished adequately as the guilt of committing contempt has been proved against them beyond all shadow of doubt, from the consequences of which they do not deserve to be freed.

Lucknow :

Dated : September 14th, 1992 COUNSEL FOR THE PETITIONERS

(R.S. SHARMA),
Advocate,

H.C. Aggarwal

14/9/92