

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 117/89

Transfer Application No: --

DATE OF DECISION: 17-3-94

1. All India Junior Engineer's Association
P&T Civil Wing, Bombay Branch.

2. C.G. Achari _____ Petitioner

C.G. Achari _____ Advocate for the Petitioners

Versus

Union of India & one another

----- Respondent


Mr. P.M. Pradhan _____ Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, Vice-Chairman

The Hon'ble Shri R. Rangarajan, Member(A)

1. To be referred to the Reporter or not ? no.
2. Whether it needs to be circulated to other Benches of the Tribunal ? no.


(M.S. Deshpande)

VC

M

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.117/89

1. All India Junior Engineer's Association(P&T Civil Wing)
Bombay Branch.
2. C.G.Achari
Junior Engineer,
Telecom Civil Circle,
Sion Post Office Building,
2nd Floor, Bombay - 22. .. Applicants

-versus-

1. Union of India
and one another. .. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman

Hon'ble Shri R.Rangarajan, Member(A)

Appearances:

1. C.G.Achari
Applicant No.2
for applicants.
2. Mr.P.M.Pradhan
Counsel for
respondents.

ORAL JUDGMENT:
(Per M.S.Deshpande, V.C.)

Date: 17-3-94

By this application the applicant which is the All India Junior Engineer's Association (P&T Civil Wing) and one of the employees seek a direction to the respondents to grant them the pay scale of Rs.1640-2900 to the members of the applicant association and arrears.

2. The method of recruitment to the cadre of Junior Engineers to which the applicants belong was that 83 1/3% direct recruitment from outside candidates and 16 2/3 by promotion from departmental candidates by competitive examination. Present applicants belong to the cadre of direct recruits. Original scale of pay for this cadre was Rs.425-700.

Pursuant to the recommendation of IVth Pay Commission scales of pay were revised to Rs.1400-2300 and Rs.1640-2900. The first pay scale was available upto 5th year and higher scale was available from 6th year. The contention of the applicants is that there is no justification of splitting the cadre into two pay scales when all the employees were performing the same work and there could not have been unequal pay for equal work. They also submitted that the feeder channel for promotion was from Draftsman cadre.

Initially there were two cadres of Draftsmen in the scale of pay of Rs.425-700 and Rs.550-750 which came to be raised to Rs.1400-2300 and Rs.1600-2660 respectively. The consequence according to the applicants was that the Draftsmen who were the feeder cadre were drawing a higher pay than the initial pay in Rs.1400-2300 which was to be paid to the Junior Engineers during the first five years.

Reference was also made to notification dt. 26-5-87 by which a different and favourable treatment was meted out to Junior Engineer Gr.I and Gr.II in the C.P.W.D. The Gr.I category was awarded Rs.1640-2900 that being a non-selection post and Gr.II category was given Rs.1400-2300 and this discrimination in case of the applicants was unwarranted.

3. On the other hand the respondents contended that by notification dt. 26-5-87, 75% of the Junior Engineers of the CPWD were to be paid Rs.1640-2900 and rest 25% in the scale of pay of Rs.1400-2300 but this was done in pursuance of the IVth Pay Commission which has specifically recommended a functional grade in the scale of pay of Rs.1640-2900 in the cadre of Junior Engineers of the CPWD apart

from the lower grade in the scale of pay of Rs.1400-2300. Such a recommendation had not been made in respect of JEs in the P&T Department.

4. The case was argued by the 2nd applicant for the applicants and Shri P.M.Pradhan for the respondents. It is apparent that initially there were two cadres of draftsmen as we already indicated above and the scale of draftsmen came to be revised as a sequel to the recommendation of IVth Pay commission. A special treatment was meted out to the JEs of the CPWD but that was on the basis of the recommendations of expert body such as IVth Pay Commission. We have no material before us to indicate ~~the~~ what were the duties and responsibilities of the Junior Engineers of the P&T Department such as the applicants and what were the duties and responsibilities of JEs in the CPWD. It is not therefore possible merely going by nomenclature and designation to conclude that the duties and responsibilities must have been identical. A similar question arose before the Supreme Court in Secretary, Finance Department and others vs. West Bengal Registration Service Association and others (1993) 24 ATC 403 where it was observed :

"Equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and Court's interference is absolutely necessary to undo the injustice. Court has jurisdiction and the aggrieved employees have remedy only if they are unjustly treated by arbitrary State action or inaction. Job evaluation is both a difficult and time consuming task. This would call for a constant study of the

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external comparisons and internal relationships on account of the changing nature of job requirements. The factors which may have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of contribution expected of him (iii) the extent of his responsibility and accountability in the discharge of his diverse duties and functions (iv) the extent and nature of freedoms/limitations available or imposed on him in the discharge of his duties (v) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to co-ordinate with other departments, etc. Reduction in the number of pay scales has to be achieved by resorting to broadbanding of posts by placing different posts having comparable job charts in a common scale. Substantial reduction in the number of pay scales must inevitably lead to clubbing of posts and grades which were earlier different and unequal. While doing so care must be taken to ensure that such rationalisation of the pay structure does not throw up anomalies. Ordinarily a pay structure is evolved keeping in mind several facts e.g. (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relationships with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well."

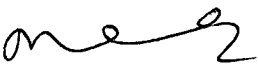
5. We find that ~~the applicants~~ have not placed any material to show that the difference in the scale of pay given to the JEs of these two departments was arbitrary and that a grave error had been crept in fixing the pay scales of the applicants.

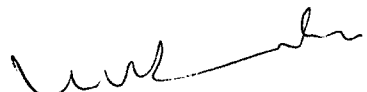
6. Reference was made on behalf of the applicants to a letter written by the Minister of Communication, Govt. of India, New Delhi in August, 1987 to Shri H.C.S. Rawat, Member of Parliament wherein he had said that the Ministry had taken up the matter with the Ministry of Finance to adopt the same pattern of pay scales for Junior Engineers (Civil/Elect) as is applicable for the Junior Engineers (Civil/Elect.) of C.P.W.D. The applicants grievance is that inspite of such an higher level assurance held out in respect of the applicants cadre no action had been taken for nearly seven years. Merely because the matter was under consideration and had been referred to the Finance Ministry it would not indicate that the applicant had made out a case for granting the same benefit. The matter obviously was still under consideration and we cannot on the basis of this letter alone hold that the applicants were entitled to the same treatment as their counter part in CPWD.

7. With regard to the contention that there could not have been different scale of pay for the same work and that the rise to be given to the employees could not be based merely on the number of years that had been put in a particular cadre, we find that the contention of the learned counsel for respondents that this was done in order to avoid stagnation and

that the rise in the pay after 5th year was on non selection basis and in order to remove stagnation is correct. There is no vice in the approach of the respondents in this matter. What pay scales should be given is a matter of policy which is within the executive domain of the Government and it is not for the Courts to prescribe what policy should be adopted. In the present case we are satisfied that the applicants have not been able to make out that the policy adopted by the respondents was arbitrary and was entirely without justification. No interference is therefore called for and we find that it is not possible for us to grant any relief in this case. However, while dismissing the case we only express the hope that the government would pursue the matter in view of the letter written by the Hon'ble Minister of Communication in August, 1987 and do justice to the cause of the applicants if it is found on facts they deserved the same treatment as their counterparts in the CPWD.

8. With this observation the application is dismissed. No order as to costs.


(R. Rangarajan)
Member(A)


(M. S. Deshpande)
Vice-Chairman