

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 511/89

XXX No.

198

DATE OF DECISION

1/4/92

Shri S.N.Dudhane & Ors. Petitioner

Shri A.G.Abhyankar Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri A.I.Bhatkar for Mr.M.I. Advocate for the Respondent(s)
Sethna

CORAM

The Hon'ble Mr. U.C.Srivastava, Vice Chairman

The Hon'ble Mr. M.Y.Priolkar, Member (A)

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

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(9)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

OA.NO. 511/89

Shri S.N.Dudhane & Ors. ... Applicant
v/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice U.C.Srivastava
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Mr.A.G.Abhyankar
Advocate
for the Applicant

Mr.A.I.Bhatkar
for Mr.M.I.Sethna
Advocate
for the Respondents

JUDGEMENT

Dated: 14/12

(PER: U.C.Srivastava, Vice Chairman)

By means of this application the applicants have prayed for an issuance of direction and order to the respondents for fixing the salary of the applicants who are draftsmen in the India Meteorological Department that can be hereinafter known as I.M.D. in the pay-scale of Rs.425-15-500-EB-15-560-20-700 w.e.f. 1.1.1973 and revise it and fix it in the scale of Rs.1400-2300 on the basis of IV Pay Commission Report, as from 1.1.1986. It may further be declared that they are entitled to the said pay-scale of Rs.425-700 from 1.1.1973 and Rs.1400-2300 from 1.1.1986, and all the benefits thereof from the said dates and the respondents be also directed to pay the said arrears of salary and allowances accordingly.

2. The applicants joined the service of India Meteorological Department on various dates which are governed by the Recruitment Rules framed under Article 309 of the Constitution of India which is a Class III

Non-Ministerial Non-Gazetted Posts. The qualifications for the post of Draftsmen are as follows :

- (1) H.S.C. OR equivalent, i.e.
 - (i) 11th standard of 11 + 3 - old course,
 - or (ii) Pre-degree (old course),
 - or (iii) 12th standard of 10 + 2 + 3 New course.
- (2) Certificate Course in Draftsman (Mech.) with Proficiency in Mechanical and Model Drawing,
- (3) Desirable : Knowledge of Photography.

All these applicants have undergone the course in the trade of Draftsman which is of a duration of two years, including the 6 months' practical training in various Industrial Training Institutes recognised by the Government and hold certificates for the same. The applicants are also required to undergo the basic training course in Meteorology of the duration of four months which is taken as necessary qualification for retention in service. The Draftsmen are required to carry out engineering, scientific, topographical and artistic category of work and they are also required to draw weather maps with topographical details, alongwith other scientific data and symbols and also required to do the work of mechanical instrument drawings, structural drawings, electronic circuit diagrams, scientific charts, drawings on litho-plates, colouring of maps and charts, colour-transparancies of various fields to which Meteorology is closely related, and for publication of weather atlases, research work and for research papers, exhibitions etc. for national and inter-national seminars for which, according to them, higher skills, knowledge and expertise is necessary. The III Pay Commission fixed the pay-scales of the applicants in the pay-scales of Rs.150-5-175-6-205-EB-7-240 which were

also applicable to Draftsmen Grade II in Central Public Works Department. The Second Pay Commission while recommending the said scale observed that "in recommending pay-scales for various categories of staff, we have kept in view the broad principle that services and posts whose duties and responsibilities are comparable should, other relevant circumstances being the same, carry substantially the same or comparable rates of remuneration". The III Pay Commission fixed the pay-scales of different categories of Government servants. The III Pay Commission considered the distribution of the posts of Draftsmen in various Departments and they were covered under 21 other Departments in the pay-scale of Rs.150-5-175-6-205-EB-7-240. The pay-scale of the applicants was also revised and was fixed in the pay-scale of Rs.330-560 which was also made applicable to the Draftsmen Grade II in the Central Public Works Department, and Draftsmen in Geological Survey of India. The applicants have stated that the Government including the respondents accepted the principle: "equal pay for equal work", and the Government of India also accepted the same principles in cases of Meteorological Department, Central Public Works Department and Geological Survey of India and this intimation that the same pay-scale was awarded to them on account of the duties and responsibilities attached to the post as is evident from the memorandum which was sent to them on 18th July, 1974. It appears that because of some anomalies the Board of Arbitration was set up and the Board of Arbitration gave an award whereby the pay-scales of the various categories of Government servants were fixed. The pay-scales for the Draftsmen Grade I, II and III working in the Central Public Works Department were fixed. Thereafter, the Joint Consultation Machinery which was set up by the Central Government to consider the request that the revised pay-scales allowed to Draftsmen of various Grade in the C.P.W.D. on the basis of the Award of the Board of Arbitration may be extended to the Draftsmen

Grade I,II and III in all the offices of the Government of India. The award which was given on 20.6.1980 was made applicable w.e.f. 1.1.1973. It was decided by the Government that the pay-scales of Draftsmen Grade I,II and III in the offices of Government of India, other than C.P.W.D. be revised, provided their recruitment qualifications are similar to those prescribed in the case of Draftsmen in C.P.W.D. The pay-scale of Draftsmen was revised to Rs.425-700. It has been stated by the applicant that the recruitment qualifications and other relevant factors are similar in respect of the posts held by them and their counter part in the C.P.W.D. and the Government accepted the similarity and identicity of these posts. The applicant also prayed for the benefit of the said award but their request was turned down. And as such after exhausting the remedies with the Department they have approached this Tribunal praying the reliefs as mentioned above. The respondents have resisted the claim made by the applicant and have stated that the pay scale of the Draftsmen employed with the Respondents have not been equated with the pay scale drawn by such persons employed with C.P.W.D., precisely because the same was not found proper and correct in accordance with the guidelines laid down by the said Joint Consultative Machinery. The Government considered the recommendation of the said Joint Consultative Machinery in this regard and came to the conclusion that the qualifications required for a person to be employed as a Draftsmen in C.P.W.D., is not the same as the qualifications required to work as a Draftsmen in the India Meteorological Department and as such the Government did not adopt the same pay scale, it had followed the recommendation of the said Joint Consultative Machinery. It has been pointed out that the essential qualifications for a Draftsman in the India Meteorological Department and C.P.W.D. Gr.II Draftsman are as follows. It has been stated that the recruitment rules of categories are not identical.

IMD Draftsman

1. Hr.Sec. or equivalent
2. Certificate in D'manship from a recognised institution with proficiency in Mechanical and Model drawing.

CPWD Draftsman(Gr.II)

Certificate or diploma in D'manship (Mechanical or Electrical from a recognised institution of not less than 2 years (incl. 6 months practical training) plus practical experience of atleast 1 year in the line in an organisation of repute after getting the diploma.

It has been confirmed that one year experience in the CPWD D'man Gr.II is an essential qualification.

The Directorate General of Employment & Training, Ministry of Labour vide his letter dated 26th December 1966 has decided that trade certificates in trades other than those included in the Directorate General of Employment and Training programme awarded by different ministries, departments, etc. may also be recognised by this Ministry.

Now regarding the qualification we have already made reference and there is no substantial difference. The recruitment rules and educational qualifications are rather identical for practical purposes notwithstanding the difference. The qualifications include, in both the department, a certificate from a recognised institution or diploma course in draftsmanship of not less than two years including some practical training plus practical experience. The promotion is to be made to Grade I from Grade II after a particular experience in both the cases.

It has been observed in the case of Grah Kalyan Kendra Workers' Union v. Union of India & Ors. AIR 1991 SC 1173 that the similarity need not be found by mathematical formula and by applying the principle of equal pay for equal work, the mathematical accuracy is not needed. The court observed "While considering the principle of equal pay for equal work, it is not necessary to find

out similarity by mathematics formula but there must be a reasonable similarity in the nature of work, performance of duties, the qualification and the quality of work performed by them. It is permissible to have classification in services based on hierarchy of posts, pay scales, value of work and responsibility and experience. The classification must, however, have a reasonable relation to the object sought to be achieved." Before ~~46~~ certain judgements of the various benches of Central Administrative Tribunal have been placed to indicate that the grade which has been given to the draftsman in C.P.W.D. has now been made not even by the Government but under the orders of the Tribunal to the draftsman Gr.II also working in various other Ministries. In the instant case, we do not find that merely because there is some difference in the recruitment rules, ~~but~~ that is no ground for rejecting the plaint of the applicant where it cannot be said that so far as functions, duties and responsibilities are concerned there is any difference or rather even substantial difference. In this connection, reference may also be made to the document by which the scale of Rs.425-700 pre-revised also extended to the draftsman w.e.f. 1.1.1973. There appears to be no reason why the prayer of the applicant on this ground keeping the same also in the light cannot be allowed. But we are of the view that the applicant has succeeded in making out a strong case for grant of the same pay-scale or enhancement of the pay-scale as has been done in the case of draftsmen Gr.II in C.P.W.D. But instead of ourselves directing that the same may be done, we direct the respondents that let them take a decision within a period of three months in this behalf taking into consideration the position as has been stated in this judgement. And in case this benefit is extended to the draftsmen of this department, the date for the same may also be specified and the arrears to which, if any, they may be entitled may also be paid. There is no order as to costs.

(M.Y.PRIOLKAR)
MEMBER (A)

(U.C.SRIVASTAVA)
VICE CHAIRMAN