

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 401/1999

Dated this, the 14th day of February, 2003.

V.B. Umbarje ... Applicant
(Applicant by Shri M.S.Ramamurthy, Advocate)

Versus

UOI & Ors. Respondents
(Respondents by Shri V. S. Masurkar, Advocate).

CORAM:

HON'BLE SHRI A.S.SANGHAVI, MEMBER (J)
HON'BLE SHRI G.C. SRIVASTAVA, MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library.

G.C.Srivastava
(G.C.Srivastava)
Member (A)

sj*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application no. 401/99

Dated this the 14th day of February, 2003.

CORAM: HON'BLE SHRI A.S. SANGHVI, MEMBER (J)
HON'BLE SHRI G.C. SRIVASTAVA, MEMBER (A)

Vilas Balappa Umbarje,
employed as Mechanical Draftsman-
cum-Lab Assistant, in the Regional
Design & Technical Development
Centre, Mumbai and residing at
Pandhari Bhoir Chawl, Room No.5,
Mohanand Nagar, Manjarli,
Badlapur (West),
Thane District,
Maharashtra.

..... Applicant

(Applicant by Shri M.S. Ramamurthy, Advocate)

vs.

1. Union of India,
through the Secretary,
Ministry of Textiles,
Govt. of India,
New Delhi.
2. The Development Commissioner
(Handicrafts)
Office of the Development
Commissioner (H), West Block
No.VII, R.K. Puram,
New Delhi 110 066.
3. The Assistant Director (III),
Office of the Development
Commissioner (H), West Block
No.VII, R.K. Puram,
New Delhi 110 066.
4. The Regional Director,
Office of the Development
Commissioner (Handicrafts),
(Western Region),
294, Haroon House,
Nariman Street, Fort,
Mumbai 400 001.
5. The Deputy Director,
Regional Design & Technical Development
(RD & TD) Centre,
Sitaram Mill Compound,
Municipal School Building,
Lower Parel, Mumbai 400 011. Respondents.

(Respondents by Shri V.S. Masurkar, Advocate)

Cca

O R D E R

[Per: G.C. Srivastava, Member (A)]:

The applicant who is working as a Mechanical Draftsman cum Laboratory Assistant under the respondents is aggrieved on account of rejection of his request for upgradation of his pay scale to Rs.425-700 in terms of Government Circular dated 19.10.1994 vide their letter dated 8.3.1999 (Annex.A) and has prayed for the following reliefs:

(a) That this Hon'ble Tribunal be pleased to hold and declare that the decision conveyed under letter dated 8.3.1999 declining to grant the scale of Rs.425-700 and the corresponding IV Pay Commission pay scale from 1.1.1986 and the corresponding V CPC scale from 1.1.1996 and be extended the benefit of fixation and actual benefit from 13.5.1982 and from 1.11.1983, as provided under the office memorandum, dated 19.10.1994.

(c) That this Hon'ble Tribunal be pleased to quash and set aside the decision conveyed under letter dated 8.3.1999 declining to grant the scale of Rs.425-700 to the applicant.

(d) That this Hon'ble Tribunal be pleased to direct the Respondents to allot the Applicant the scale of Rs. 425-700 in place of the scale of Rs.330-560 and the corresponding IV Pay Commission scale of pay from 1.1.1986 and the V CPC scale of Rs.5000-8000 from 1.1.1996 and grant the benefit of fixation from 13.5.1982 and actual benefits from 1.11.1983 as granted to all Draftsmen, working in all the Government of India offices/Departments, as provided under O.M. dated 19.10.1994.

(e) That such other and further order or orders be passed, as the nature and circumstances of the case may require.

(f) that the costs of this Petition be provided for.

2. According to the applicant he was initially appointed as Mechanical Draftsman cum Laboratory Assistant in the scale of Rs.330-560 in 1979. He has been working as Mechanical Draftsman and has never worked as Laboratory Assistant. Of late he is also

working as Assistant Design Artist who are being paid in the scale of Rs.425-700 but he continues to be paid in the scale of Rs.330-560. His main grievance is that as per Govt. of India O.M. dated 13.3.1984 (Annex.B) and Circular dated 19.10.1994 (Annex. F) he has not been allowed the upgradation of pay scale of Rs. 425-700 with notional benefit from 1.11.1983 and actual benefit from 1.1.1984 and his request has been turned down by the respondents vide the impugned order dated 8.3.1999.

3. The respondents have opposed the O.A. and have filed detailed reply.

4. We have heard Mr. M.S. Ramamurthy and Mr. V.S. Masurkar, the learned counsel for the applicant and the respondents respectively and have carefully examined the pleadings.

5. The main grounds advanced by Mr. Ramamurthy for the applicant are (i) when Govt. of India vide its circular dated 13.3.1984 and 19.10.1984 has directed that the Draftsman in all the offices in the Government be given the higher scale of pay of Rs.425-700 (corresponding to Rs.1400-2300 RP) and applicant is working as a Draftsman in a Govt. of India office under Ministry of Textiles there is no reason to deny the same to him. (ii) His designation of Mechanical Draftsman cum Laboratory Assistant cannot make his post different from the post of Mechanical Draftsman as he has always worked as Mechanical Draftsman and not as Laboratory Assistant. The qualifications for recruitment to the two posts are almost similar. (iii) He possesses the requisite qualifications for being granted the upgraded scale of

pay of Draftsman (iv) the stand of the respondents that the post held by him is not covered by the Govt. O.M. dated 19.10.1994 is capricious and ignores the true character of the post held by him (v) the decision of rejecting his claim vide the impugned order dated 8.3.1999 is arbitrary, discriminatory and violative of Article 14 and 16 of the Constitution of India as all Mechanical Draftsman have been given the higher scale of pay while he has been denied the same. Mr. Ramamurthy has relied on the order of R.B. New Delhi in O.A. No.245/87 decided on 1.8.1991.

6. On the other hand Mr. Masurkar for the respondents has contended that the applicant was appointed as Mechanical Draftsman cum Laboratory Assistant against a post which has been created in accordance with the requirement of the Regional Design and Technical Development Centre, Mumbai. According to him he would be assigned the job of Laboratory Assistant if and when found necessary. He has also strongly denied that he has ever worked in the Higher scale of Rs. 425-700 or ordered to perform the duties of the post of Design Assistant. He has also contended that the post or duties of Draftsman and Mechanical Draftsman cum Laboratory Assistant are not of similar nature and this is why the department has created both the posts viz. Draftsman and Mechanical Draftsman cum Laboratory Assistant. He has also argued that even the qualifications prescribed for direct recruitment to the two posts are different (Exh.R.1 and R.2). As the applicant has been appointed to the post of Mechanical Draftsman cum Laboratory Assistant he is not eligible for upgradation of payscale to Rs.425-700 at par with Draftsmen of other departments in terms of O.M. dated 19.10.1994. Moreover,

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according to him the O.M. extended the upgraded scale to draftsman Grade I, II and III of all Govt. of India offices and not to Mechanical Draftsman cum Laboratory Assistant. He has also contented that the revision of pay scales by Govt. of India Notification dated 13.3.1984 related to the post of Draftsman and not to the Mechanical Draftsman cum Laboratory Assistant. According to him the Department has separately created the post of Draftsman in the office where he is working as per Recruitment Rules (Annex. R.1 and R.2). Under the circumstances he has pleaded that his claim has been rightly rejected and the O.A. deserves to be dismissed. He has relied on the judgement of the Hon'ble Supreme Court reported in 2002 (I) SC SLJ 488 in support of his case.

7. We have carefully examined the rival contentions. It is not in dispute that the applicant was initially appointed as Mechanical Draftsman cum Laboratory Assistant in the scale of Rs.330-560. It is also not in dispute that in spite of his claim that he has been performing the duties of Design Artist which is in the scale of Rs.425-700 he has continued to be placed in his own lower post in the scale of Rs.330-560. The short question before us for consideration is whether the post of Mechanical Draftsman cum Laboratory Assistant which he is holding can be treated to be the same or equivalent to the post of Draftsman and if so whether the upgradation of the pay scale to Rs.425-700 as modified vide O.M. dated 19.10.1994 can be extended to him. His main argument is that he has never worked as Laboratory Assistant and has been only working as Mechanical Draftsman and therefore, his post should be treated at par with that of Draftsman as per O.M. dated

19.10.1994. The main argument of the respondents is that the post and duties of Draftsman and the Mechanical Draftsman cum Laboratory Assistant are not of similar nature and qualifications for recruitment to both the posts are also different. We have examined the relevant extract of Recruitment Rules for recruitment of Draftsman and Mechanical Draftsman cum Laboratory Assistant and find that while the relevant minimum qualification for Draftsman is Diploma in civil or mechanical Draftsmanship from a recognised institution the same for Mechanical Draftsman Cum Laboratory Assistant is a Certificate in Draftsmanship from ITI/any other recognised institution. Notwithstanding the claim of the applicant that while working as Mechanical Draftsmanship cum Laboratory Assistant he has never worked as Laboratory Assistant the fact remains that the post to which he was initially appointed and which he has been holding all along is the post of Mechanical Draftsman cum Laboratory Assistant and not Draftsman. The respondents have clearly stated in their reply that a post of Draftsman for the centre where he is working has already been separately created as per Recruitment Rules and that the scales revised for the post of Draftsman by the Govt. vide notification dated 13.3.1984 as claimed by the applicant do not pertain to the post of Mechanical Draftsman cum Lab. Assistant. Mr. Ramamurthy has tried to convince us that since the applicant has been working as Mechanical Draftsman and has never worked as Lab Assistant his post is eligible for upgradation of pay scales prescribed for Draftsman as per Govt. of India O.M. dated 19.10.1994.

8. We have given anxious consideration to the arguments of both the parties and are of the considered view that since the two posts viz. Mechanical Draftsman cum Lab Assistant and Draftsman are two different posts with different nature of duties and qualifications and are governed by different Recruitment Rules they can not bee equated or treated as identical. Mere fact that the applicant has been working as Mechanical Draftsman and has never been assigned the functions of the Laboratory Assistant cannot be a ground for his claim that the post he is holding is that of a Draftsman. The designation of the post remains as Mechanical Draftsman cum Laboratory Assistant and the fact ~~that~~ he has not been given the job of a Laboratory Assistant cannot in any situation mean that he is a Draftsman. There is only one post of Mechanical Draftsman cum lab Assistant in the Centre which has been created keeping in view the requirements of the Centre and there is already a post of Draftsman created separately. Hence there is no justification for the claim that post needs to be equated with that of Draftsman of other departments of Govt. of India.

9. We have also examined the Order of P.B. New Delhi in O.A.No.245/87 decided on 1.8.1991 relied upon by Mr. Ramamurthy for the applicant and find that the question involved in the above case was whether junior Draftsman in establishment of Director General of Employment and Training should be granted the same scale of pay as allotted to the Draftsman Grade II in the CPWD on the ground that the former possesses equivalent or higher qualifications than those obtaining in the CPWD for the latter.

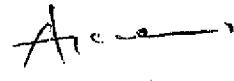
In the instant case, however, the question pertains to the equivalence of the posts of Mechanical Draftsman cum Laboratory Assistant and Draftsman of other departments of the Govt of India and hence the above O.A. is clearly distinguishable and accordingly the order passed by P.B. New Delhi in the O.A. No. 245/87 cannot be of any application to the present case.

10. Relying on various judgements of the Hon'ble Supreme Court, Mr. Masurkar for the respondents has drawn out attention to the recent judgement of the apex court in the case of *State Bank of India and Anr. vs. M.R. Ganeshbabu and Ors.* 2002 (1) SC SLJ 488. We have examined this judgement and find that while dealing with the validity of decision of administrative authorities of the Bank giving a higher starting pay to a certain general list officers, the Hon'ble Supreme Court had observed that the judgement of the administrative authorities concerning the responsibilities which attach to the post and the degree of reliability expected of an incumbent would be a value judgement of the authorities concerned, which if arrived at *bonafide*, reasonably, and rationally is not open to interference by the Court. The Hon'ble Supreme Court had further observed that as far as the plea for equal pay for equal work is concerned the same has to be examined with reference to Article 14 and the burden is upon the Petitioner to establish his right to equal pay or the plea of discrimination as the case may be. In the instant case, the applicant has not been able to make out any case of arbitrariness or discrimination on the part of the respondents, in having rejected his request for upgradation of his pay scale.

11. In the light of the foregoing discussions, we are of the considered view that the OA is devoid of any merit and deserves to be dismissed.

12. In the result, the O.A. is dismissed with no order as to costs.


(G. C. Srivastava)
Member (A)


(A. S. Sanghvi)
Member (J)

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