

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 181 of 1999

Dated this Monday the 28th day of April, 2003

1. Mrs. Shambhavi
2. Shri Satish Govind Phatak

Advocate Shri D.V. Gangal

For the Applicants

VERSUS

Union of India & others

Shri R.K. Shetty

Advocate for Respondents

CORAM : Hon'ble Shri A.S. Sanghvi - Member (J)
Hon'ble Shri Shankar Prasad - Member (A)

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| (i) | To be referred to the Reporter or not ? | } NO |
| (ii) | Whether it needs to be circulated to other Benches of the Tribunal ? | |
| (iii) | Library ? ✓ | |

Sh
(Shankar Prasad)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this the 28 th day of April, 2003

O.A. 181 OF 1999

Coram: Hon'ble Mr.A.S.Sanghvi - Member (J)
Hon'ble Mr.Shankar Prasad - Member (A)

1. Mrs. Shambhavi,
Chandrashekar Laghate,
working as Draughtsman - II,
in CQAE, Pune.
R/o 14, Vishwakarma Society,
Plot No.54,
Rambaug Colony,
Paud Road, Pune.
2. Shri Satish Govind Phatak,
Working as Draughtsman - II,
in CQAE, Pune.
R/o at 1146, Sadashiv Peth,
Pune - 411 090.
(By Advocate Shri D.V.Gangal)

- Applicants

Vereins

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General of
Quality Assurance,
New Delhi.
3. The Controller,
Controllerate of Quality
Assurance, Engineering Equipment,
Aundh Camp, Pune.
4. The Controller of
Defence Accounts, Southern Command,
Pune - 411 001.
(By Advocate Shri R.K.Shetty)

- Respondents

O R D E R

By Hon'ble Shri Shankar Prasad - Member (A) -

Aggrieved by the orders Annexure-A-1, the Applicants have preferred the present O.A. The orders annexed are -

- (a) Daily Order Part-II dated 4.3.99 regarding appointment of Nikhil Bhowmik Temporary Chargeman Grade II, and fixation of pay on promotion of Shri C.S.Nalamwar, Chargeman Grade I.
- (b) Pay fixation statement of Draughtsman.
- (c) Sanction of increment to Draughtsman.

2. This appears to be the third round of litigation between two sets of Draughtsman belonging to a very small cadre. The Applicants along with three others had filed OA 563 of 1998. The same was allowed to be withdrawn vide orders dated 13.11.1998. The issue of seniority was left open. The very five persons were private respondents in the earlier OA.

Some other persons had filed OA 687 of 1998 claiming that the five applicants of OA 563 of 1998 had been appointed dehors the rules. The said OA was rejected.

3. The case of the Applicants in brief is that Applicants are working as Draughtsman Grade II from 1982 or thereabout. The private respondents and others were working as Draughtsman Grade II from 1986 onwards as per their date of joining. However, by impugned orders they have been promoted as Draughtsman Grade -

I. The further case of the Applicants is that the private [[[respondents have already been given the benefits of the order dated 15.9.1995 and a second benefit is also being given as per clarifications issued by the Audit Wing. This is improper. It was challenged in the earlier OA also.

The Applicants have accordingly sought for the following reliefs -

- (a) That this Hon'ble Tribunal be graciously pleased to call for the records of the case from the Respondents and after examining the same, order and quash and set aside the impugned order dated 4.3.1999 at Annexure-A-1.
- (b) To hold and declare that the seniority list at Annexure -A-2 prepared and produced by the Applicants is legal and valid.
- (c) To hold and declare that the non-publication of the Seniority List of Draughtsman Grade - II by the Respondents is illegal.
- (d) To hold and declare that the Applicants are senior to Respondent Nos.5 to 9 and others.

- (e) To hold and declare that the impugned order dated 4.3.1999 is illegal and should be quashed.

4. The case of respondent defence administration in brief is that the Central Government took a policy decision on 15.9.1995 to revise the pay scale of Draughtsman. These orders were subsequently clarified. The action has been taken in accordance with these instructions.

The further case of the Respondents is that as the impugned orders do not take away any existing rights of the Applicants they are not persons aggrieved within the meaning of Section 19 of Administrative Tribunals Act. PIL is not maintainable in CAT. The claim of the Applicants that they were appointed as Draughtsman Grade II since 1982 is not correct. They were initially appointed as Draughtsman Grade II and were placed in the higher pay scale of Rs.425-700/- as per CPWD Award notified by circular of September, 1995. The private respondents were working in the category of Draughtsman Grade III prior to the Applicants and were promoted also as Draughtsman Grade II. They have been placed in the grade of Draughtsman Grade I as per policy directive and clarifications issued by Audit authorities in June, 1998. The seniority list produced by the Applicants is fraudulent. The earlier orders were withdrawn pursuant to orders of C.A.T. and fresh orders have been issued in pursuance of policy directives.

The OA needs to be dismissed.

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5. The private respondents have also filed a reply. They have stated that they and others were directly recruited as Draughtsman Grade - III and were also promoted as Draughtsman Grade - II. They were now being given placement in Grade - I as per the policy instructions. They are senior to the Applicants. Their pay has been properly fixed. The Applicants are misrepresenting the facts. They were not present at the time of hearing.

6. On the basis of Award of Board of Arbitration in the case of Draughtsman of CPWD the Ministry of Finance issued orders dated 13.3.1994 extending those pay scales to Draughtsman of other department subject to their having qualifications similar to those in case of CPWD. The Finance Ministry Circulars were issued vide Ministry of Defence circular dated 3.7.1984.

The Ministry of Finance issued revised instructions in respect of Draughtsman not fulfilling those conditions and extended to them the pay scales on completion of certain length of service. These instructions were adopted by the Defence Ministry vide their letter dated 15.9.1995, subject to the conditions mentioned in that circular. However, while indicating the revised pay scales they have also given a revised designation to the post. This revised designation is not in accordance with the existing recruitment rules. The position has been explained in para 7 below.

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How the promotions in the intervening period will be regulated has been stated in para 3 of CGDAs letter of June, 1997. The said para is as follows:

3. Ministry of Finance (Department of Expenditure) to whom the case was referred have clarified; as follows:-

"The position has been made clear in Para 3 (1) & (2) of Order dated 15.9.95 issued by Ministry of Defence. Those who were in position as on 13.5.82 may be given benefit of pay revision on completion of requisite number of years of service as indicated in Para 3 (1) and the pay is to be fixed accordingly in the revised scale. Further promotion is to be given in accordance with para 3 (2). If this criteria has been adopted, then pay scale (revised) can be given as indicated in the illustration" (Annexure to this letter).

7. A comparison of designation in Para 2 of the 1995 circular with the designations in Department of Defence Production (Directorate General of Inspection) Class III Non-Gazetted (Chief Draughtsmen, Draughtsmen Grades I, II, III & IV and Tracer) Posts Recruitment Rules show the following positions. The nomenclature of the post has been changed vide SRO 39/70 and Grade II was deleted.

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Post under Recruitment Rules	Pay Scale	Revised Pay Scale as per 1995 order	Revised Designation.
1. Tracer	975- 1540 (260-430)	1200-2040 (330-560)	Draughtman Gr.III
2. Draughtsman Gr.III	1200-2040 (330-560)	1400-2300 (425-700)	Draughtman Gr.II
3. Draughtsman Gr.II	1400-2300 (425-700)	1600-2660 (550-750)	Draughtman Gr.I
4. Draughtsman Gr.I	1600-2660 (550-750)	-	Nothing indicated
5. Chief Draughtsman	Not available (700 - 900)	-	-do-

. It appears that the Recruitment Rules have not been modified to reflect this position and this appears to be the basic cause relating to seniority.

8. The Applicants have challenged the subsequent pay fixation in favour of the respondents primarily on the ground that they have been given pay fixation for the second time under the September, 1995 orders. The Application has been resisted primarily on the ground that the Applicants not being the aggrieved persons within the meaning of the Administrative Tribunals Act, 1985. Reliance has also been placed on the decision of the Apex Court in the case of Dr.Duryodhan Sahu and others etc.etc. Vs. Jitendra Kumar Mishra and others etc.etc., 1998 (2) S.C. Services Law Judgments 305. The Apex Court in Paras 16 and 19 of the said judgment has held as follows:-

"16. In Thammana Vs.K.Veera Reddy and others, 1980 (4) SCC 62, it was held that although the meaning of the expression person aggrieved may vary according to the context of the statute and the facts of the case, nevertheless normally a person aggrieved must be a man who has suffered a legal grievance, a man against whom a

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decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his life to something."

"19. Our attention has been drawn to a judgment of the Orissa Administrative Tribunal in Smt. Amitarani Khuntia Vs. State of Orissa 1996 (1) OLR (CSR) 2. The Tribunal after considering the provisions of the Act held that a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal. The following passage in the judgment is relevant.

"A reading of the aforesaid provisions would mean that an application for redressal of grievances could be filed only by a person aggrieved within the meaning of the Act.

Tribunals are constituted under Article 323-A of the Constitution of India. The above Article empowers the Parliament to enact law providing for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or any local or other authority within the territory of India or under the control of the Government of India or of any Corporation owned or controlled by the Government and such law shall specify the jurisdiction, powers and authority which may be exercised by each of the said Tribunals. Thus, it follows that Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts. Its jurisdiction and powers have been well-defined in the Act. It does not enjoy any plenary power."

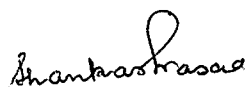
9. It is clear from paragraphs 2 and 3 above that the Applicants and Respondents have been recruited by different sources of recruitment. The 1995 circular in the matter of revision of pay scales treats them differently. Accordingly in view of the Apex Court judgment cited above, the Applicant have no locus standi to challenge pay fixation made in favour of the Respondents. The remedy is left to administrative authority or

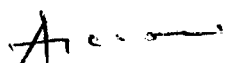
the Audit organisation to take appropriate action if the pay fixation is incorrect.

10. The OA is not barred by res judicata as there was no decision on merits in the earlier OA filed by the Applicants.

11. The Applicants had also joined the relief for finalisation of the seniority list. As per Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987 multiple reliefs can be joined only if they are consequential to one another and arise out of the same cause of action. Accordingly, the said relief is held to be barred by Rule 10.

12. In view of what has been discussed above, there is no merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.


(Shankar Prasad)
Member (A)


(A.S. Sanghvi)
Member (J)

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