

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 789/2000

Date of Decision : 7.10.2003

R.L.Singh Applicant

Shri A.I.Bhatkar Advocate for the Applicant.

VERSUS

Union of India & Ors. Respondents

Shri R.K.Shetty Advocate for the Respondents

CORAM :

The Hon'ble Shri Justice B.Panigrahi, Vice Chairman

The Hon'ble Shri S.P.Arya, Member (A)

- (i) To be referred to the reporter or not ? X
- ✓(ii) Whether it needs to be circulated to other Benches of the Tribunal ? X
- (iii) Library X


(B.PANIGRAHI)
VICE CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.789/2000

Tuesday this the 7th day of October,2003.

CORAM : Hon'ble Shri Justice B.Panigrahi, Vice Chairman

Hon'ble Shri S.P.Arya, Member (A)

1. Ram Lakhan Singh
2. J.Kanchan
3. K.D.Singh
4. S.N.Shinde
5. Jagdeesh Prasad
6. N.M.Gawale
7. T.N.Pathak
8. V.L.Kataria
9. N.M.Biswas
- 10.A.D.Powar
- 11.J.P.Patel
- 12.S.P.Singh
- 13.J.Chandrasekhar

...Applicants

All are Technical Asstt.
Grade-I, Chief Quality
Assurance Estt.(MS),
Naval Dockyard, Mumbai.

By Advocate Shri A.I.Bhatkar

vs.

1. Union of India
through the Secretary,
Ministry of Defence,
DHQ PO, New Delhi.
2. The Director,
DTE of Quality Assurance (N),
West Block No.5,
R.K.Puram, New Delhi.

...Respondents

By Advocate Shri R.K.Shetty

..2/-

O R D E R (ORAL)

{Per : Shri Justice B.Panigrahi, Vice Chairman}

The applicants are working in the Technical Grade under the Director General of Quality Assurance. The Applicants No. 1 to 12 are presently working as Technical Assistants Gr.I whereas Applicant No.13 is working as Technical Assistant Gr.II. At present there are also grades of Senior Technical Assistant Gr.I and Gr.II after implementation of Vth Central Pay Commission. Prior to implementation of the recommendations of Vth Central Pay Commission, the only post of Senior Technical Assistants and Technical Assistants were available. Technical Assistants were eligible to be promoted to the post of Senior Technical Assistants. Since the promotional avenues were not sufficient and adequate compared to the staffing pattern, therefore there were few recommendations of the Vth Central Pay Commission for restructuring of the cadre of Senior Technical Assistants and Technical Assistants in DGQA Organisation wherein 41% of the Senior Technical Assistants were placed in the grade of STA Gr.I and 59% of Senior Technical Assistants were placed in the grade of STA Gr.II. Similarly, 50% of Technical Assistants were to be placed in the grade of Technical Assistants Gr.I and 50% of Technical Assistants were to be placed in the grade of Technical Assistants Gr.II. The Govt. of India, Ministry of Defence by order dated 12.2.1998 sanctioned for restructuring of these two grades as under :-



<u>S.No.</u>	<u>Post</u>	<u>Existing Strength</u>	<u>Revised Strength</u>	<u>Pay Scales</u>
1.	STA	190	STA-II 112	Rs.6500-10500
			STA-I 78	Rs.7450-11500
2.	TA	127	TA-II 64	Rs.5000-8000
			TA-I 63	Rs.5500-9000

The order further stipulates that the post of STA Gr.I will be filled up by following normal DPC procedures from the existing STAs on the same basis as followed for placement of Senior Scientific Assistants. It further envisages that the post of Technical Assistants Gr.I will be filled in after finalising the recruitment rules and by following the usual DPC procedures. It is thus clear that the post of STA Gr.I and TA Gr.I are to be filled up by following normal DPC procedures. It is further stated by the applicants that so far as the grade of STA Gr.I is concerned, 78 STAs have been placed/promoted as STA Gr.I in the scale of Rs.7450-11500 w.e.f. 1.1.1996 vide DGQA Order No.2745/DGQA(N)Pers. dated 8.5.1998. There scale of pay was fixed w.e.f. 1.1.1996 although they were promoted some times in 1998. But in so far as the applicants are concerned, the authorities made a discriminatory treatments by giving them the scale of pay w.e.f. 31.1.2000 following the framing up of recruitment rules. Therefore, the applicants have been aggrieved by the action of the respondents by fixing of the scale of pay on the basis of Vth Central Pay Commission recommendations w.e.f. 31.1.2000. They have filed this case seeking the direction for implementation of scale of pay just like Senior Technical Assistants Gr.I w.e.f. 1.1.1996.



..4/-

2. The respondents pursuant to the application filed their reply wherein they have stated that it is open to the authorities to take administrative decision even by giving a future date for implementing the Vth Central Pay Commission recommendations. It is further stated that it does not necessarily mean that invariably the respondents would implement the recommendations of the Vth Central Pay Commission. In some cases where it is necessary for framing of the rules and after framing of such rules, it is open to the respondents to implement from the date of publication of Rule of the Vth Central Pay Commission recommendations. Similar situation arises in other Senior Technical Gr.I who were given the scale of pay under the Vth Central Pay Commission recommendations from 1.1.1996 as there was no recruitment procedure needed to be adopted for them but in so far as the applicants are concerned, the implementation will be determined as per the recommendations of the Vth Central Pay Commission report. Therefore, it took some time in consulting with other departments. Thus, in course of time, the recruitment rules were also framed, the respondents notified from which date the Vth Central Pay Commission report shall be applicable in case of applicants.

3. While appreciating the contentions of the respective parties, we have carefully gone through the recruitment rules. In the recruitment rules, it is explicitly noted that they shall come into force from the date of publication in the official gazettee. It shall presumably follow that after framing of the rules it must have been notified in the Government Gazettee and accordingly the respondents have implemented w.e.f.

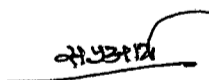



31.1.2000. From the correspondence, as per Ex.R-6, it is clear that there was 10% cut of the strength and the posts were accordingly surrendered. Since, it is an administrative decision, the Court need not interfere with such decision. Mr.Bhatkar, learned counsel appearing for the applicants has strongly contended that the respondents would not have adopted two different standards while implementing Vth Central Pay Commission recommendations. The Senior Technical Assistants Gr.I had been permitted to draw high scale of pay on the basis of the recommendations of the Vth Central Pay Commission w.e.f. 1.1.1996 whereas for no fault of the applicants they were given such scale of pay w.e.f. 31.1.2000. To fortify his stand, he has submitted a judgement reported in 1973 A.I.SLJ 352 in the case of Purshottam Lal & Ors. vs. Union of India. On a plain reading of the judgement, we, however, find that in the aforesaid case, there was no question of framing of recruitment rules on the basis of suggestions made by the Pay Commission. Therefore, as per the general principles, Hon'ble Supreme Court has laid down that while implementing the report if there is some discrimination, then such discrimination cannot sustain as it has breached the provision of Article 14 & 16 of the Constitution. In the instant case, we find that the recommendations of the Commission is dependant upon the framing of recruitment rules. Of course, it was suggested that the recruitment rules might be finalised within two months but in reality it took reasonable time for enforcing the rules in consultation with the different departments of the Union of India.



..6/-

4. Shri Shetty, learned counsel appearing for the respondents has relied upon the judgement passed by the Principal Bench in OA.No.1723/2001 wherein the case of Senior Technical Assistants and Technical Assistants has been considered. Of course, in the aforesaid case the Hon'ble Principal Bench took a decision with regard to principle of ACP Scheme but in this case the only question which requires our consideration is whether the applicants had been given scale of pay on the basis of Vth Central Pay Commission recommendations w.e.f. 1.1.1996 or from 31.1.2000. Since the implementation of the scheme depends upon the policy to be adopted by the Union of India, Court/Tribunal seldom interfere in such administrative decision, particularly the recruitment rules unmistakeably that it shall be enforced from the date of publication of official gazettee. In the Vth Central Pay Commission recommendations, it was specifically noted that such scale of pay would be given only after rules are framed and in that view of fact since they are considered fit on and from 31.1.2000, we, however, do not find any adequate reasons to ask the respondents to give effect from 1.1.1996. Accordingly, the application stands disposed of. No costs.


(S.P. ARYA)
MEMBER (A)


(B. PANIGRAHI)
VICE CHAIRMAN

mrj.