

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY BENCH, MUMBAI.

ORIGINAL APPLICATION NO.604/2000.

Friday, this the 7th day of November, 2003.

Hon'ble Shri Anand Kumar Bhatt, Member (A),
Hon'ble Shri S.G.Deshmukh, Member (J).

1. R.L.Fulpagare,
2. J.R.Gaikwad,
3. Rangarao S.Gholap,
4. Smt. K.U.Mahadik,
5. R.P.Tannu,
6. L.G.Patil,
7. V.S.Garud,
All are working as Lab. Asstt.
Gr.II under Respondent No.2,
C/o.Shri R.S.Gholap,
Residing at C-57, Staff Colony,
CWPRS-Khadakwasla,
Pune - 411 024.

(By Advocate Shri S.S.Karkera)

...Applicants.

v.

1. The Union of India through
the Secretary,
Ministry of Water Resources,
Having his office at Shrama Shakti Bhavan,
Rafi Marg,
New Delhi - 110 001.
2. The Director,
Central Water & Power Research Station,
Khadakwasla,
Pune - 411 024.
3. Smt.V.V.Samudra, L.A. - II,
4. D.R.Gangavane, L.A. - II,
working at Ports & Harbour Sn.,
CWPRS, Singhgad Road,
Khadakwasla,
Pune - 411 024.
5. S.J.Waghmare, L.A. - II,
Working at Instrumentation Sn.,
CWPRS, Singhgad Road,
Khadakwasla,
Pune - 411 024.

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6. A.B.Lad, L.A. - II,
Working at Flood Control Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
7. A.S.Joshi, L.A.-II,
Working at Instrumentation Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
8. K.R.Deshpande, L.A.-II,
Working at United Nations
Development Programme Sn.,
CWPRS, Singhgad Road,
9. Smt.V.B.Marhate, L.A.-II,
Working at Ports & Harbour Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 10.A.K.Shinde, L.A.-II,
Working at Gates & Walve Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 11.D.A.Khollam, L.A. - II,
Working at Maritime Structure Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 12.H.G.Khndagale, L.A.-II,
Working at Procurement & supply Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 13.B.B.Nevase, L.A.-II,
Working at Ship Testing Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 14.R.C.Nath, L.A.-II,
Working at Mathematical Modelling Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- 15.Smt. J.R.Mate, L.A.-II,
Working at Computer Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.

16. B.M. Rokade, L.A.-II,
Working at Surface Wave Study Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
17. A.B. Gaikwad, L.A.-II,
Working at Earthquake Engineering Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
18. P.B. Shinde, L.A.-II,
Working at High Structure Research Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
19. V.S. Mate, L.A. - II,
Working at H.H.S. Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
20. C.B. Gadgil, L.A.-II,
Working at, S & C Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
21. S.P. Shindekar, L.A.-II,
Working at H.H.S. Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
22. M.J. Deshpande, L.A.-ii,
Working at, Ph-I Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
23. R.K. Chaudhari, L.A.-II,
working at Ph-II Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
24. G.G. Ghag, L.A. - II,
Working at, Dept. Canteen - II, Sn.,
CWPRS, Singhgad Road, Khadakwasala,
Pune - 411 024.
25. J.B. Thitte, L.A.-II,
Working at A.E.E. (C) Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.

26. R.D. Gaikwad, L.A.-II,
Working at SH, Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 27. R.B. Pillai, L.A.-II,
Working at R & C Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 28. G.J. Momin, L.A.-II,
Working at, HAPT, Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 29. B.D. Parmale, L.A.-II,
Working at HSRC, Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 30. A.S. Chitnis, L.A.-II,
Working at EE (C), Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 31. M.C. Shah, L.A.-II,
Working at PHI, Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 32. H.R. Bhujbal, L.A. -II,
Working at R.M. Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 33. B.S. Yewle, L.A.-II,
Working at R&C Sn.,
CWPRS., Singhgad Road,
Khadakwasala,
Pune - 411 024.
 34. N.P. Dhamdhare, L.A.-II,
Working at Dept. Canteen Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
 35. N.S. Jagtap, L.A. - II,
Working at SH, Sn.,
CWPRS, Singhgad Road,
Khadakwasala,
Pune - 411 024.
- (Shri V.G. Rege for Respondents No.1 & 2.
None present on behalf of private
respondents).
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...Respondents.

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: O R D E R :

{Anand Kumar Bhatt, Member (A)}

The applicants in the present O.A. are aggrieved by the provisional seniority list in the grades of Laboratory Assistant Gr.I (L.A. Gr.I) & Laboratory Assistant Gr.II (L.A. Gr.II) circulated by the Central Water and Power Research Station (CWPRS).

2. The facts in brief are that, in CWPRS in the Auxillary Technical Services on the one hand they were Observers (Rs.260-430), Senior Observers (Rs.380-560) and on the other hand Computer - B (Rs.260-400) and two different grades of Computer A (Rs.330-560 and Rs.425-700). On the basis of the recommendations made by the High Level Committee under the Chairmanship of Dr.M.S.Swaminathan, the Government Orders were issued on 23.12.1980, by which it was decided to merge the grades of Computers and Observers. Three Grades of L.As. Gr.III, Gr.II and Gr.I in the pay scales of Rs.260-430, Rs.380-560 and Rs.425-700 were created. It may be noted here that ~~as~~ in the grade of Computer - A, 80% of the staff were in the lower scale and 20% in the higher scale. The lower scale Computer - A were designated as L.A. Gr.II and higher scale Computer Gr. A were re-designated as L.A. Gr.I. As there were two grades in the posts of Computer-A, this was agitated by the aggrieved officials and the Tribunal had in a number of decisions of different Benches held that all officials of Computer Gr.A should get the same pay scale i.e. Rs.425-700. In the result, all the officials belonging to Computer - A were equated to L.A. Gr.I. In O.A. 380/90 decided by the Tribunal on 05.12.1994 in the case of A.D.Kshirsagar & Ors which was agitated by the Senior

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Observers came to the conclusion that ^{as} Senior Computers have been ~~consistently~~ ^{uniformly} given the pay scale of Rs.425-700 and in that background, the Senior Observers who are now clubbed with the Junior Scale of Computers should also be given the same pay as given to Senior Computers in those Judgments. This order has been implemented by the Department. Now, the Judgment in Kshirsagar's case (supra) was based on the earlier decision of the Tribunal in T.A. No.335/1985 in relation to B.S.Saini. Some other applicants, later on came to the Tribunal who were initially appointed as Observers and promoted as Senior Observers claiming that they are entitled to the same pay scale as given to the re-designated post of L.A. Gr.I as per the Judgment of this Tribunal in Kshirsagar's case (supra). This matter was referred to the Full Bench of the Tribunal and in the two O.As. viz. 856/96 and 352/97, the Full Bench decision on 23.03.1999 was that the Senior Observers are not entitled to get the same pay scale as given to the Junior Computers as per the Judgment of the Tribunal in Saini's case in T.A. No.335/1985 and other Judgments of the Tribunal. Aggrieved by this Judgment of the Full Bench, the applicants have gone to the Hon'ble High Court, where the Writ Petition is still pending. Now, some of the applicants who have filed the writ petition (W.P. No.6214/99) in the High Court of Judicature at Bombay have presented the present O.A. before the Tribunal. In the present O.A., the main grievance of the applicants is that the Junior Computers who got the benefit as a result of the Judgment of the Tribunal in Saini and Kshirsagar's cases, should not be placed above the present applicants.

3. In the oral submissions, the Learned Counsel for the

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applicants stressed that the Kshirsagar's case (supra) which has been implemented by the Respondents, only revised pay scale was given and the interse seniority between those who benefitted by the said case and the present applicants cannot be disturbed as no seniority was given by the said case. The only award given was giving of the scale of Rs.425-700 and there was no order with respect to seniority. They have, therefore, tried to distinguish ^{to the present GA and} between the case that they lost in the Tribunal in the Full Bench Judgment and the consequent judgment of the Division Bench of the Tribunal and the subsequent writ petition is pending in the High Court.

4. In the detailed reply submitted by the respondents, it has been stated that after the decision of the Tribunal in O.A. No.380/1990 and 534/1990, the Respondents implemented the said order and the impugned seniority list was prepared. The present applicants did not join the applicants in the two O.As. and filed O.A. 856/96 in which they failed. The Respondents have said that the Full Bench opined that the decision given by the Division Bench of the Tribunal in O.A. No.380/90 (A.D.Kshirsagar & Ors.) and T.A. No.335/1985 (B.S.Saini) were not correct. However, the order of the Full Bench will have only prospective effect and the benefit given as a result of earlier Judgments of the Tribunal in B.S.Saini etc. have not been disturbed. The respondents have stated that the present applicants after the order dt. 05.12.1994 have come with the present application which suffers from delay and laches. The implementation of the Tribunal's order in Kshirsagar's case (supra) was completed by the Respondents in

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1996 and the present application of 20000 is wholly barred by time.

5. The respondents have very firmly stated that the applicants herein who are in the lower cadre carrying the lower pay scale are not entitled to challenge the seniority of those who are in the higher cadre carrying the higher pay scale.

6. In rebuttal, the Learned Counsel for the applicants has reiterated that he is concerned mainly with the seniority and not with the pay scale and therefore, the fact of their not succeeding in the Full Bench Judgment and the fact of the petition pending in the High Court does not bar the present application.

7. We have heard the Learned Counsel on both sides at length and have perused the documents of the case. Some applicants were given benefit by the Tribunal in {B.S.Saini and Kshirsagar (supra)}. This kind of benefit has been considered by the Full Bench in O.A. Nos. 856/96 and 352/97 in which the earlier judgments were considered ⁺bad. Against this Judgment of the Full Bench, the present applicants among others have now gone to the High Court of Judicature, where the case is pending. Now, for the same benefit where they have lost earlier in the Tribunal and they have gone to the High Court, they are not entitled to agitate the matter in the present application. The averment of the applicants that they could not succeed in the matter of pay scale for which they have gone to the High Court, ^{and sh} the present application is not concerned with that question and is related only to inter se seniority ^{it is} between the persons who benefitted earlier and the present applicants ^{is} [are taking the things a little

too far and by no stretch of imagination it ^{can} ~~can~~ be considered to be an issue separate from the one which is pending before the Hon'ble High Court. Thus, we do not consider that at the present stage, specially when the applicants have not succeeded in the Tribunal and have gone to the High Court of Judicature, they can agitate ^a ~~a~~ necessarily related matter in the present application.

8. On the question of merit also, we find it unable to agree with the applicants. Once a new cadre having feeder and higher cadre is created by merger of old cadres in the new cadre, the employees ^{in the new cadre} ~~who~~ are in the higher scale can by no stretch of imagination be put below the people who are in the lower scale of pay. This would lead to absurd situation which cannot be accepted.

9. We do not think that there is any ground made out by the applicants to give any kind of relief. The O.A. is dismissed. No costs.


(S. G. DESHMUKH)
MEMBER (J)


(ANAND KUMAR BHATT)
MEMBER (A)

B.