

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 8-12-87

APPLICATION NO S. 711 to 714 /87 (F)

W.P.No.

APPLICANT

Vs

RESPONDENTS

Shri M. Jawaharlal & 3 Ors
To

The Director, Central Institute of Coastal
Engineering for Fishery, Bangalore & another

1. Shri M. Jawaharlal
B-112, Block No. 10
C.P.W.D. Quarters
Koramangala
Bangalore - 560 034
2. Shri Raja Rao Moro
B-198, Block No. 17
C.P.W.D. Quarters
Koramangala
Bangalore - 560 034
3. Shri B.J. Parthasarathy
No. 431/1, Upstairs
17th Main Road,
Banashankari I Stage, I Block
Bangalore - 560 050
4. Shri A. Vincent Paul
No. 575, 14th Cross
Lingarajapuram
St. Thomas Town Post
Bangalore - 560 084
5. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar, Bangalore - 560 009
Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

6. The Director
Central Institute of Coastal
Engineering for Fishery
No. 64, Palace Road
Bangalore - 560 052

7. The Secretary
Ministry of Agriculture
(Department of Agriculture &
Co-operation)
Krishi Bhavan
New Delhi - 110 001

8. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Received applicants
Copies 1 to 4 and
Advocate's Copy (5)
on 12-12-87
(L/128)

Please find enclosed herewith the copy of ORDER/STAN

~~ORDER~~ passed by this Tribunal in the above said applications
on 1-12-87.

RECEIVED 9/12/87

Diary No. 147/1/CR/9

Date: 10-12-87 S

Encl: as above.

BA Deputy Registrar
DEPUTY REGISTRAR
(JUDICIAL) S

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE FIRST DECEMBER, 1987.

Present: Hon'ble Justice Shri K.S. Puttaswamy .. Vice Chairman
Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NOS. 711 TO 714 OF 1987.

1. Shri M. Jawaharlal
Chief Draughtsman
Block No.10, B-112
C.P.W.D. Quarters
Koramangala
Bangalore - 560 034.
2. Shri Raja Rao Moro
Draughtsman
Block No.17, B-198
C.P.W.D. Quarters
Koramangala
Bangalore - 560 034.
3. Shri B.J. Parthasarathy
Draughtsman
No.431/1, Upstairs
17th Main Road, B.S.K. I Stage
I Block, Bangalore - 560 050.
4. Shri A. Vincent Paul
Draughtsman
No.575, 14th Cross
Lingarajapuram
St. Thomas Town Post
Bangalore - 560 084.
(Dr. M.S. Nagaraja, Advocate) .. Applicants

Vs.

1. The Director
Central Institute of Coastal
Engineering for Fishery
Government of India
No.64, Palace Road
Bangalore - 560 052.
2. The Secretary to the
Government of India
Ministry of Agriculture
(Department of Agriculture & Cooperation)
Krishi Bhavan
New Delhi - 110 001.
(Shri M. Vasudeva Rao, Advocate) .. Respondents



P. Srinivasan

This application has come up for hearing before this Tribunal today, Hon'ble Shri P. Srinivasan, Member (A), made the following:

O R D E R

In the Central Institute of Coastal Engineering for Fisheries at Bangalore (CICEF) there are two grades of Draughtmen, one known simply as Draughtsman and the other as Chief Draughtsman. Shri M. Jawaharlal, the applicant in Application No.711 of 1987 (the first applicant) joined as a Draughtsman in CICEF on 14.2.1979. The applicant in Application No. 712 of 1987, Shri Raja Rao Moro (Second applicant) was appointed as Draughtsman on 1.7.1969. The applicants in Application Nos. 713 and 714 of 1987, Shri B.J. Parthasarathy and Shri A. Vincent Paul (third and fourth applicants) were appointed as Draughtsmen on 6.8.1983 and 1.8.1984 respectively. The time scale of Draughtsman prior to the implementation of the recommendations of the Fourth Pay Commission was Rs 330-560. All the applicants were working as Draughtsmen on that grade till some time in 1984 when the first applicant was promoted as Chief Draughtsman. The pay scale of Chief Draughtsman prior to the implementation of the recommendations of the 4th Pay Commission was Rs 425 - 700. As mentioned earlier, there were only two grades

P. J. - 185

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of Draughtsmen - one of Chief Draughtsman in the pay scale of Rs 425-700 and the other of Draughtsman in the scale of Rs 330-560 in CICEF.

In the Central Public Works Department (CPWD) of Government of India, there were 3 grades of Draughtsmen with effect from 1.1.1973 viz.,

Draughtsman Grade-I, Draughtsman Grade-II and

Draughtsman Grade-III the pay scales being

respectively Rs 425-700, Rs 330-560 and Rs 260-430.

The Draughtsmen in CPWD agitated for better pay scales and a Board of Arbitration was appointed.

As a result of the award of the said Board, the pay scales of each grade of Draughtsman were revised as follows:

| | <u>Original Scale</u> | <u>Revised scale on the basis of award</u> |
|-----------------------|-----------------------|--|
| Draughtsman Grade-I | Rs 425-700 | Rs 550-750 |
| Draughtsman Grade-II | Rs 330-560 | Rs 425-700 |
| Draughtsman Grade-III | Rs 260-400 | Rs 330-560 |

The pay scale of Chief Draughtsman in the CICEF which was the same as the original pay scale of Draughtsman Grade-I in CPWD and of Draughtsman in CICEF which was the same as the original pay scale of Draughtsman Grade-II in CPWD were not revised when the scales in the CPWD were revised. The revised pay scales were given to the Draughtsmen in CPWD notionally with effect from 13-5-1982 while the actual benefits were extended from 1.11.1983. The contention of the applicants is that similar benefits should have been extended to them.

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2. Shri S.K. Srinivasan, learned counsel for the applicants made the following submissions: The two grades of Draughtsmen in CICEF prior to 1982 were borne on the same scale of pay as Draughtsman Grade-I and Draughtsman Grade-II in the CPWD. A Chief Draughtsman in CICEF was in the pay scale of Rs 425-700 which was the same scale as that of Draughtsman Grade-I in CPWD, the pay scale of Draughtsman in CICEF was Rs 330-560 which was the same as that of Draughtsman Grade-II in the CPWD. After these scales in CPWD were revised Government in the Ministry of Finance, issued a circular on 13-3-1984 (Annexure-A4) which, inter alia, stated as follows:

"The President is now pleased to decide that (sic) of the Scales of Pay of Draftsman Grade-III, II & I in Offices/Department of the Government of India, other than the CPWD may be revised as above provided their recruitment qualifications are similar to those prescribed in the case of Draftsman in CPWD".

In pursuance of this circular letter pay scales of Draughtsmen in the Geological Survey of India, All India Radio and Posts and Telegraphs Departments were revised to fall in line with the revision of scales in the CPWD, but no such revision was made in CICEF and thereby the applicants have been discriminated against. The applicants made representations which were rejected by letter dated 21-8-1985 (Annexure-A14) of the Director CICEF. Further representation was addressed to the Secretary,



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Government of India, Ministry of Agriculture and Rural Development on 30.10.1985 which was forwarded by the Director, CICEF on 8.11.1985 (Annexure-A16), followed up by reminders in March 1986 and July 1986. But, these representations had not so far been disposed of. The condition prescribed for extending the benefit of revision of pay scales accorded to Draughtsmen in CPWD to persons like the applicants working in CICEF in the letter of the Government of India dated 13-3-1984 was that the recruitment qualifications should be similar. The Educational qualifications for appointment as Draughtsman and Chief Draughtsman in CICEF were identical with those prescribed for appointment as Draughtsman Grade-II and Grade-I in CPWD respectively. The experience qualification was also more or less the same. Therefore, the recruitment qualifications being similar to those in CPWD, the benefit of revised pay scales should have been extended to all the applicants in the grade of Draughtsman and in the grade of Chief Draughtsman to the first applicant.

3. Shri M. Vasudeva Rao, appearing on behalf of the respondents countered the arguments of Shri Srinivasan. The recruitment qualifications for the posts of Draughtsman and Chief Draughtsman in CICEF, he said, were not exactly the same with those prescribed for the post of Draughtsmen Grades-II and Grade-I in CPWD. The duties performed by



P. S. 18

Draughtsman and Chief Draughtsman in CICEF were also not the same as those of Draughtsman Grade-I and Grade-II in CPWD. It was due to these reasons that the respondents had declined the extend the benefit of the revised scales to the applicant. There was no question of discrimination involved because the applicants and officials working as Draughtsman in the other Departments were not equal in all respects. Shri Vasudeva Rao also contended that these applications are barred by limitation, the cause of action having arisen when representation of the applicants was rejected on 21.8.1985. The applications should have been filed on or before 1.5.1986. In so far as they were filed only on 10.8.1987, they are badly delayed and should be rejected on that ground.

4. We may first deal with the objection relating to limitation. No doubt the rejection of the representation of the applicants was conveyed in letter dated 21.8.1985. The rejection was by the Director of CICEF. The applicants took up the matter with the next higher authority, namely, the Secretary to Government of India through a representation dated 30.10.1985. The latest reminder to the Secretary, Government of India was sent on 30.1.1987 but there was no response. In view of this, even if we reckon ~~the~~ limitation from the letter dated 21.8.1985 by which the representation of the applicant was

P. S. 4

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rejected, we would hold that the applicants have shown reasonable cause for delay in filing the applications because they were pursuing the matter with the higher authorities at Delhi and only when they got no response after waiting for a reasonable period, did they come to this Tribunal. We, therefore, condone the delay, if any, in filing these applications.

5. We have given very careful thought to the contentions raised in these applications and reiterated by Shri S.K. Srinivasan and the reply filed by the respondents and elaborated by Shri M. Vasudeva Rao before us. The entire question as to whether the applicants should be given the revised scales applicable to Draughtsmen Grades I and II in CPWD turns upon a proper construction of Government of India's letter dated 13.3.1984 (Annexure-A4) which for the purpose of convenience is reproduced below:

" No.F.5.(59)-E.III/82
Government of India
Ministry of Finance, Deptt. of Expenditure
New Delhi, the 13th March 1984.

Sub: Revision of pay scales of Draftman Gr.III, II, I in all Government of India offices on the basis of the award of board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to state that a committee of the national council (Joint Consultative Machinery) was set up to consider the request of the staff side that the following revised scales of pay



P. J. B.

allowed to the Draughtsman Gr.I, II and III working in Central Public Works Department on the award of Board of Arbitration may be extended to Draftsman Gr.III, II and I in all Government of India.

| Original Scale | Revised scale on the Basis of the award |
|-------------------|---|
| Draftsman Gr.I | Rs 425-700 |
| Draftsman Gr. II | Rs 330-560 |
| Draftsman Gr.III | Rs 260-400 |

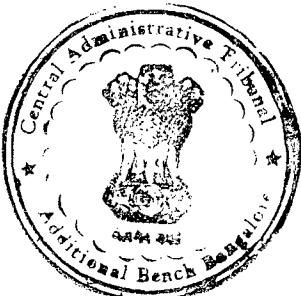
2. The President is now pleased to decide that of the scales of Pay of Draftsman Gr. III, II & I in offices/Department of the Government of India other than the CPWD may be revised as above provided their recruitment qualifications are similar to those prescribed in the case of draftsman in CPWD. Those who do not fulfill the above recruitment qualifications will contain in the pre-revised scales. The benefit of this revision of scales of pay would be given notionally with effect from 13.5.1982 of the actual benefit being allowed with effect from 01-11-1983.

3. Hindi version will follow.

sd/-
Secretary to the Govt. of India.

A Chief Draughtsman in CICEF would be eligible for the revised grade of Rs 550-750 provided the recruitment qualifications for the post are similar to those prescribed for the post are similar to those prescribed for the post of Draughtsman Grade-I in CPWD. A comparative table of the qualifications required has been ^{set out in} attached with the reply of the respondents. Appointments to the post of Draughtsman Grade-I in CPWD is entirely by promotion from Draughtsman Grade-II. Draughtsman Grade-I is a non-selection post and promotion to that post is to be made on the basis of seniority cum-fitness.

Draughtsman Grade-II with 8 years of service in that Grade are eligible for promotion. In order to ascertain the educational qualifications required for the post of Draughtsman Grade-I we have therefore to refer to the qualifications prescribed for appointment as Draughtsman Grade-II because the latter are eligible for promotion after 8 years of service. The educational qualifications for direct recruitment to the post of Draughtsman Grade-II in CPWD is a certificate of Diploma in Draughtsmanship (Civil) from a recognised institute of not less than 2 years including 6 months practical experience. The educational qualification for appointment as Chief Draughtsman in CICEF is a diploma in Civil Engineering or a Certificate of Draughtsmanship of two years duration. The second mentioned qualification for the post of Chief Draughtsman in CICEF is identical with that prescribed for the post of Draughtsman Grade-II in CPWD and ergo the same as required for the post of ¹ Draughtsman Grade-I in CPWD. So far as experience is concerned, a person who holds a certificate in Draughtsmanship can be recruited directly as Chief Draughtsman in CICEF if he had 5 years of experience as Draughtsman. For the post of Draughtsman Grade-I in CPWD there is no provision for direct recruitment. But, promotions can be made of persons who have completed 8 years of service as



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Draughtsman Grade-II. Adding to this one year's experience required for direct recruitment as Draughtsman Grade-II, the total experience required for appointment as Draughtsman Grade-I in CPWD is nine years. In our view, this difference in regard to experience required is not such as to make recruitment qualifications for the two posts dissimilar. The condition laid down in Government's letter dated 13.3.1984 is that the recruitment qualifications of the two posts should be similar, not identical and that condition is satisfied. We need not go into the nature of duties of the two posts as that is not required to be examined for the purpose of the said Government letter. Suffice it to say that the identity of pay scales of the two posts upto 1982 suggests that even though the duties were different, as they are bound to be as between different departments, the posts were regarded as equal for the purpose of remuneration. We, therefore, see no justification in not according the first applicant the same pay scale as that of Draughtsman Grade-I in CPWD from the date of his promotion as Chief Draughtsman ~~which~~ in 1984.

6. Coming to the post of Draughtsman in CICEF which all the applicants held till 1984 and the second, third and fourth applicants continue to hold till today, we find the position is not very different.

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As explained in the earlier paragraph, the educational qualification for the post of Draughtsman Grade-II in CPWD is a Certificate in Draughtsmanship (Civil) from a recognised institution of not less than 2 years including 6 months practical experience. The educational qualification for the post of Draughtsman in CICEF is a National Trade Certificate in Draughtsmanship (Civil) from a recognised Institute (minimum duration of 2 years). So far as the requirement of experience is concerned, a person is eligible for recruitment as Draughtsman Grade-II in the CPWD if he has at least one year's experience in an organisation of repute after getting the diploma. A person is eligible to be appointed as a Draughtsman in CICEF only if he has 2 years experience in a drawing office. Thus, if anything, the recruitment qualification in regard to ~~the~~ experience is, if anything, higher so far as Draughtsmen in CICEF are concerned. This being so, in terms of Government letter dated 13-3-1984 we see no reason why the revised pay scale of Draughtsman Grade-II in CPWD should not be extended to the Draughtsmen in CICEF particularly when the same benefit was extended to Draughtsmen working in other Departments of Government of India.

7. In view of the above discussion, we would direct the respondents to:

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- (1) Place the Applicant in A. Nos. 711 and 712 of 1987 in the scale of Rs 425-700 notionally with effect from 13.5.1982 with actual financial benefit from 1.11.1983 as in the case of Draughtsman grade-II in CPWD.
- (2) Place applicants in A.Nos. 713 and 714 of 1987 in the scale of Rs 425-700 with effect from the dates on which they were appointed as Draughtsman in CICEF with all consequential financial benefits from those dates.
- (3) Place the Applicant in A.711 of 1987, viz., Shri M. Jawaharlal in the pay scale of Rs 550-750 from the date he was appointed as Chief Draughtsman in CICEF with all consequential benefits from that date.

The applicants should also be fitted in the corresponding pay scales on the basis of the recommendations of the 4th Pay Commission with effect from 1.1.1986 and be given the financial benefits flowing therefrom.

8. In the result, the applications are allowed. Parties to bear their own costs.



Sd/-
(K.S. PUTTASWAMY)
VICE-CHAIRMAN

Sd/-
(P. SRINIVASAN)
MEMBER (A)

True Copy.

Mr.

R. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
8/12