

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 31 MAY 1988

APPLICATION NO

12

/88(F)

W.P. NO.

Applicant

Shri B.R. Narayana Prasad

Respondent

V/s The Director, NTI, Bangalore & 2 Ors

To

1. Shri B.R. Narayana Prasad
No. 35, NTI Society Layout
Nagasettyhalli
H.A. Farm Post
Bangalore - 560 024
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Director
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003
4. The Director General of Health Services
Govt. of India
Nirman Bhavan
New Delhi - 110 001
5. The Secretary
Ministry of Health & Family Welfare
Nirman Bhavan
New Delhi - 110 001
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/INTERIM ORDER
passed by this Tribunal in the above said application on 24-5-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 24TH DAY OF MAY , 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 12/1988

Shri B.R. Narayana Prasad,
No.35, NTI Society Layout,
Nagasettyhalli, H.A. Farm Post,
Bangalore-24.

.... Applicant.

(Shri S.K. Srinivasan, Advocate)

v.

1. The Director,
National Tuberculosis Institute,
No.8, Bellary Road,
Bangalore-3.
2. The Director General of
Health Services,
Nirman Bhavan,
New Delhi.
3. Union of India by its Secretary
to the Government, M/o Health
and Family Welfare, Nirman Bhavan,
New Delhi.

.... Respondents.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

This application having come up for hearing to-day,

Vice-Chairman made the following:

ORDER

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985
(the Act').

2. The applicant with the educational qualification
of an S.S.L.C. and a certificate of Draughtsman (Civil)
issued by the Board of Technical Examination, Government
of Karnataka joined service on 8.12.1971 as Draughtsman

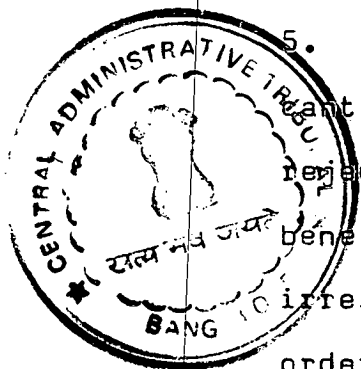
in the National Tuberculosis Institute, Bangalore (NTI) in the then time scale of Rs. 205-7-240-8-280 and the same has been revised from time to time. From 1.1.1973 the pay scale of the applicant has been revised to Rs.425-15-500-E8-15-560-20-700 in pursuance of an order made by the High Court of Karnataka in Writ Petition No.6631 of 1982.

3. On 13.3.1984 (Annexure-A2) Government of India in its Memorandum No.F.5(59)E.III/82 extended certain benefits to Draughtsman of Grade I, II and III as set out in that order. On the basis of this order, the applicant claimed that his pay scale of Rs.425-700 should be revised to Rs.550-750. On 13.11.1987 the Director General of Health Services, Delhi (DGHS) had rejected the same and the same had been communicated to the applicant on 24.11.1987 (Annexure-A9) by the Director NTI. Hence this application, for appropriate reliefs.

4. In their reply, the respondents have supported the order of the DGHS.

5. Shri S.K. Srinivasan, learned Counsel for the applicant contends that the two reasons on which the DGHS had rejected the claim of the applicant for extending the benefits of the order dated 13.3.1984 of Government were irrelevant, erroneous and on a true construction of that order he was entitled for the benefits of that order.

6. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents sought to justify the order of the DGHS on the very grounds stated by him and other grounds also.

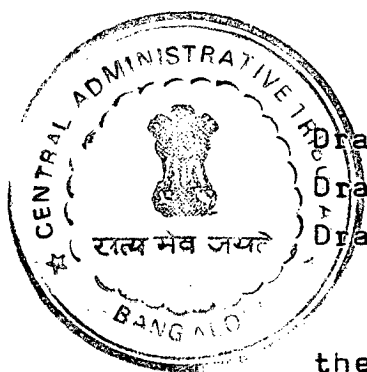


7. From 1.1.1973 the applicant has been allowed the time scale of Rs.425-700 which is the time scale of pay allowed to Draughtsman Grade-I of the Central Public Works Department (CPWD) of Government of India.

8. The time scale of Rs.425-700 allowed to Draftsman Grade-I in the CPWD had been revised to Rs.550-750 in pursuance of an award made by a Board of Arbitration. With due regard to this, Government in its order dated 13.3.1984 had directed thus:

"Subject: Revision of pay scales of Draughtsman Grade III, II and I in all Government of India Office 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 allowed to the Draughtsman Grade, I, II and III working in Central Public Works Department on the basis of the Award of Board of Arbitration may be extended to Draughtmen Grade III, II and I in Government of India Offices.



	<u>Original Scale</u>	<u>Revised scale on the basis of the Award.</u>
Draughtsman Grade-I	Rs.425-700	Rs.550-750
Draughtsman Grade-II	330-560	Rs.425-700
Draughtsman Grade-III	260-430	Rs.330-560

The President is now pleased to decide that the scales of pay of Draughtsman Grade III, II and I in Office/Department of the Public Works Department may be revised as above provided their recruitment qualifications are similar to those

prescribed in the case of Draughtsman in Central Public Works Department. Those who do not fulfil the above recruitment qualification will continue in the pre-revised scales. The benefit of this revision of scales of pay would be given notionally with effect from 13.5.1982, the actual benefit being allowed with effect from 1.11.1983."

This order, directs that the revised time scale of pay of Draughtsmen of different grades of the CPWD be also extended to the comparable posts existing in all other departments of Government subject to the two conditions stipulated therein. On the very terms of this order, the applicants claim for revision of his time scale of pay from Rs.425-700 to Rs.550-750 on the terms and conditions stipulated therein cannot be denied to him. But notwithstanding this, the DGHS had rejected the claim of the applicant on two grounds namely (1) that the post held by the applicant in the NTI was an isolated post and (2) that the post was not a promotional post as in the CPWD. We will now examine the correctness of these grounds on the basis that they are factually correct.

9. The fact that the post is an isolated post is neither here nor there. That position however unique to the NTI makes no difference to the application of the order, as Government itself had made no such distinction at all.

10. When there is only one post of Draughtsman in NTI the question of promoting the applicant as Draughtsman Grade-I will not at all arise. On this position itself the



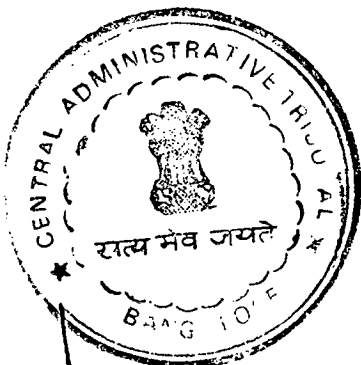
requirement of promotion to Draughtsman Grade-I in the CPWD of Draughtsman Grade-II will not and cannot arise. Law does not expect the impossible to be performed. Even otherwise a draughtsman Grade-II who had completed 8 years of service and is holding the post on a permanent or quasi permanent basis is automatically entitled for promotion to the post of Draughtsman Grade-I in the CPWD. The applicant satisfied these requirements as on 1.1.1981. and he should be deemed to have been promoted as Draughtsman Grade-I as on 1.1.1981.

11. On any view, the claim of the applicant for extending him the benefit of the Government order dated 13.3.1984 in terms of that very order itself cannot be denied. We therefore uphold the same.

12. In the light of our above discussion, we make the following orders and directions:

1) We quash the order of the
Director General Health
Services dated 13.11.1987
communicated by the
Director NTI on 24.11.1987
(Annexure-A9).

2) We direct the respondents to revise the time scale of the applicant from Rs. 425-700 to Rs.550-750 in terms of the order of Government dated 13.3.1984 and extend him all such benefits to which he is

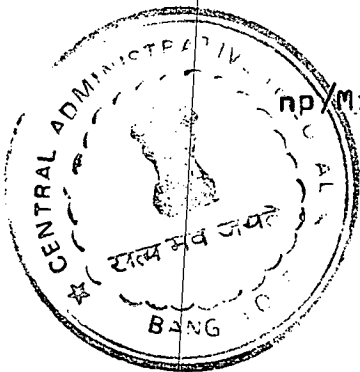


entitled to with all such expedition as is possible in the circumstances of the case and in any event within a period of 4 months from the date of receipt of this order.

13. Application is allowed. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
VICE-CHAIRMAN
24/5/1987

Sd/-
MEMBER (A)
24-5-1987



TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
31/5/87