

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated **23 NOV 1993**

APPLICATION NO(s) 269 and 270 of 1990.

APPLICANTS: G.S.Srinivasa Rao
Phadnis and A.M.Thomas

RESPONDENTS: Soil Survey Officer,
All India Soil and Land Use Survey,
Bangalore and Others.

TO.

1. Dr.M.S.Nagaraja, Advocate, No.11,
First Cross, Second Floor,
Sujatha Complex, Gandhinagar,
Bangalore-9.
2. The Soil Survey Officer,
All India Soil and Land Use Survey,
424/95/2, Sixth Main, Fifteenth Cross,
Malleswaram, Bangalore-560 003.
3. Sri.M.Vasudeva Rao, Central Govt.Stng.Counsel,
High Court Building, Bangalore-1.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 17-11-1993.

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

28/11/93

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

ORIGINAL APPLICATION NO.269 AND 270/90

DATED THIS THE SEVENTEENTH DAY OF NOVEMBER, 1993

Present: Shri V.Ramakrishnan, Member (A)

Shri A.N.Vujjanaradhya, Member (J)

1. Sri G.S.Srinivasa Rao Phadnis,
Aged about 31 years,
Son of Sri Govinda Rao Phadnis,
No.2684, 17th 'D' Cross,
Banashankari Second Stage,
Bangalore-560 070

... Applicant
in OA 269/90

2. Sri A.M.Thomas,
Aged 42 years,
"PREM NIVAS", MES Road,
Pipe Line, Gokula,
Bangalore-560 054

... Applicant
in OA 270/90

By Advocate Dr.M.S.Nagaraja

Versus

1. The Soil Survey Officer,
All India Soil and Land Use Survey,
424/95/2, 6th Main, 15th Cross,
Malleswaram,
Bangalore-560 003.
2. The Chief Soil Survey Officer,
All India Soil and Land Use Survey,
I.A.R.I. Building,
New Delhi-110 012.
3. The Union of India
By its Secretary to
Government of India,
Ministry of Agriculture and
Rural Development,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi-110 001.

... Respondents

By Advocate Shri M.Vasudeva Rao -
Central Govt. Standing Counsel

.....2/-



O R D E R

The applicants in this case are serving in the All India Soil and Land Use Survey, Bangalore. The first applicant Shri.Srinivasa Rao is presently holding the post of Draughts man and the second applicant Shri.A.M.Thomas is posted as Tracer (Lower grade Draughts man). They have sought for higher scale of pay to their respective posts at par with the Draughts man Gr.II and Gr.III respectively in CPWD with effect from their date of appointment.

2. The third Central Pay Commission in its report submitted in 1973 recommended higher scales of pay to three categories of Draughts man working in CPWD. The Govt. of India, however, referred the matter to Arbitration and on the basis of the Arbitration Award enhanced the pay scales of Draughts man in CPWD as under:

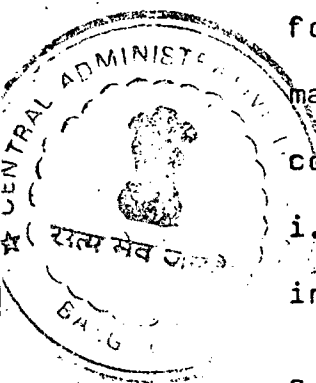
<u>Category of Draughtsman</u>	<u>Original Scale</u>	<u>Revised Scale</u>
Draughtsman-III	Rs.260-430	Rs.330-560
Draughtsman-II	Rs.330-560	Rs.425-700
Draughtsman-I	Rs.425-700	Rs.550-750

The revision was done with effect from 1-1-1973 notionally but the monetary benefits were given from 16-11-1978.

This was done by order dated 10-11-1980 by the Ministry of Works and Housing. Subsequently by letter dated 13-3-1984 from the Ministry of Finance (Annexure A2), it was decided that the benefit of higher pay scales as available to Draughtsman in CPWD may also be extended to the Draughtsman in other Departments of Govt. of India,

provided their recruitment qualifications are similar to those prescribed in the case of Draughtsman in the CPWD. Where such benefit would be admissible, the same would be given notionally with effect from 3.5.1982 and the actual monetary benefit being allowed with effect from 1-11-1983. It appears that pursuant to the visit of an officer of the Ministry of Agriculture to the Calcutta Regional Centre of All India Soil and Land Use Organisation, the question of extending the benefit of higher pay scale to the Draughtsman in this organisation was examined. The Headquarters of the organisation in New Delhi had apparently sent a letter dated 9th January, 1977 in this regard to the Ministry of Agriculture, which examined the same in consultation with the Finance Ministry. On such examination the Government decided that there was no justification for further upward revision of pay in the case of Draughtsman in Soil and Land Use Survey Organisation. This was communicated by letter dated 11th March, 1987 (Annexure R1) i.e. after 10 years from the date of receipt of the letter in January, 1977.

3. The applicants are aggrieved that they are not given the higher pay scales and had sought for a direction that the respondents should grant higher pay scales of Rs.425-700 (pre revised) with effect from 21.7.1980 to the first applicant and the higher pre-revised pay scale of Rs.330-560 with effect from 28-3-1974 to the second applicant. We had directed the Ministry to produce the relevant files, which led to the issue of their letter dated 11.3.1987 (Annexure R1) turning down the representation for higher pay scale to the Draughtsman in the organisation, as it would indicate the materials which were considered. It transpired that the concerned



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file was destroyed in the normal course of weeding of records during the year 1989 and is no longer available,

4. We have heard Dr.M.S.Nagaraja for the applicants and Shri.M.V.Rao the learned standing counsel for the respondents.

5. Dr.Nagaraja submits that the pay scales of Draughtsman was revised in the case of a number of other departments of Govt. of India on the same line as in the case of C.P.W.D. It was inequitable on the part of the Govt. to deny the upward revision of pay scales to the applicants. He further asserts that the applicants are entitled to the higher pay scales on the basis of Finance Ministry's letter dated 13-3-1984 as at Annexure A2, which extended the benefit of higher pay scales to Draughtsman to other departments, subject to fulfilment of some conditions. He contends that the ~~condition~~ ^{condition} referred to in the letter namely "provided their recruitment qualification are similar to those prescribed in the case of Draughtsman in C.P.W.D." is satisfied in the present case, as according to him, the recruitment qualification in this case was similar to those in the C.P.W.D. He also argued that as the nature of duties performed by the applicants are similar to those performed by Draughtsman Gr.II and Gr.III respectively in C.P.W.D., they are entitled to higher pay scales on the ground of equal pay for equal work. The counsel for the applicant has relied upon a number ^{of} decisions, both of the Central

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Administrative Tribunal and the Supreme Court to buttress his contention. To quote some instances, he has referred to the case of Inder Singh Vs. Muni Misra (1987) 5 ATC 239, where it was held that, Courts can direct equal pay to remove unreasonable discrimination and treating the similarly situated groups equally. He has also cited AIR 1988 an SC 1505 Jaipal Vs State of Haryana to contend that similar work does not mean complete identity in all respects. The case of State of Kerala Vs T.P.Roshana AIR 1979 SC 765 was also referred to, where Supreme Court had observed "Mini classification based on micro distinctions are false to our egalitarian faith and only straight forward substantial classification can have constitutional validity. To overdo classification is to undo equality". He has therefore ^{argued that} ~~argued that~~ similar qualification does not mean identical qualification and some differences in the recruitment qualification laid down should not stand in the way of giving relief to the applicants. He also emphasised that if the duties performed are similar, then, parity in pay scales should be extended even if designations are different. He had submitted a comparative statement showing recruitment qualification of Draughtsman in various departments as also the nature of duties performed by them. He contended that in the light of these facts, there was no justification to deny the benefit of higher pay scales to the applicants serving in the Soil and Land Use organisation, particularly when the Govt. of India had extended the benefit of higher scales to Draughtsman in a number of other departments besides C.P.W.D.



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6. After making the above submissions, Dr. Nagaraja has produced a copy of letter from the Ministry of Agriculture dated 17th August, 93 addressed to the Chief Soil Survey Officer, All India Soil and Land Use Organisation, New Delhi. This letter, which has been taken on record deals with the subject of pay scales of Draughtsman in this organisation. Relevant portion of the letter is extracted below:

"It may please be clarified that the post of Draughtsman in AIS & LUS is comparable with other depts. Where pay scales have been revised. It may also be clarified in which Depts. the pay scales of Draftsman have been revised and a copy thereof each may please be furnished together with complete proposal.

In this connection it may be stated that revision of pay scales of the following posts have also been recommended.

1. Tracer
2. Draftsman
3. Jr. Car. Asstt.
4. Sr. Cart. Asstt.
5. Jr. Cart.

However, it may be stated that the proposal had already been turned down by the M/o Finance, how they will agree now for the revision of pay scale of Draftsman in AIS & LUS. Proposals for each above posts giving full justification may please be submitted to this Deptt. separately, so as to justify the comparable duties/posts in other Deptts.....xxxxxxxxxxxxxxxxx"

7. From this communication dated 17th August, 1993, it is clear that the question of revision of pay scales of Draughtsman has not been treated as a closed chapter after issue of the communication dated 11th March, 1987 (Annexure R1) referred to

supra and that the matter is still alive and has since been re-opened. As the Chief Soil Survey Officer, who is Respondent No.2 (R2) has been asked by the Ministry, which is Respondent No.3 (R3) to furnish the detailed justification for revision of pay scales of Tracer, Draughtsman etc., he would no doubt be sending a reply with relevant details. We accordingly direct that R2 should submit the various clarification/justification sought for by the Ministry (R3) within a period of four months from the date of receipt of a copy of this order. It is also open to the applicants to submit a detailed representation bringing out various materials which in their opinion will be relevant for favourable consideration of the proposal for upgradation of pay scales. In case the applicants desire to submit a representation, they should do so within two weeks to be addressed to the Soil Survey Officer, Bangalore, who should forward the same to the Chief Soil Survey Officer, New Delhi with his comments within a fortnight of receipt of such representations. The Chief Soil Survey Officer (R2) should consider such representation while making his recommendation to the Ministry in response to the letter dated 17th August, 1993, so that the Ministry (R3) takes a final decision in this regard in accordance with the usual procedure within a reasonable time. The contentions raised in this petition are left open.

8. With these observations, the application is finally disposed off with no orders as to cost.

Sd-

(A.N.VUJJA NARADHYA)
MEMBER (J)

Gaja

Sd-

(V.RAMAKRISHNAN)
MEMBER (A)

TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE
ADDITIONAL DEPUTY
BANGALORE
28/11/93

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

B-662

CONTEMPT PETITION NO. 42/ 1994

IN

ORIGINAL APPLICATION NOS. 269 & 270/ 1990

THURSDAY, THE 22ND DAY OF SEPTEMBER, 1994

SHRI V. RAMAKRISHNAN	...	MEMBER (A)
SHRI A.N. VUJJANARADHYA	...	MEMBER (J)

Between

1. Shri G.S. Srinivas Rao Phadnis,
Aged 35 years,
S/o Shri Govind Rao Phadnis,
No. 1/2, 7th Main Road,
Tata Silk Farm,
Behind Kumaran's Schools,
Thyagarajanagar - RD.,
Bangalore - 560 028.

2. Shri A.M. Thomas,
Aged 42 years,
S/o Shri A.M. Mathai,
Prem Nivas, Mess Road,
Pipeline, Gokula,
Bangalore - 560 054.

... Complainants

(By Advocate Dr. M.S. Nagareja)

And

1. Shri K. Venkataramaiah,
Soil Survey Officer,
All India Soil & Land Use Survey,
424/95/2, 6th Main, 15th Cross,
Mallewaram,
Bangalore - 560 003.

2. Shri S.N. Dass,
Chief Soil Survey Officer,
All India Soil & Land Use Survey,
I.A.R.I. Buildings,
New Delhi - 110 012.

3. Shri R.N. Sethi,
Secretary to Govt. of India,
Ministry of Agriculture,
Department of Agriculture & Cooperation,
Krishi Bhavan,
New Delhi - 110 001.

... Respondents

(By Advocate Shri M.V. Rao, Additional
Central Govt. Standing Counsel)

...2/-

O R D E R

Shri V. Ramakrishnan, Member (A)

We have heard Dr. M.S. Nagaraja for the complainants and Shri M.V. Rao for the alleged contemners. Shri M.V. Rao has filed a statement of objection dated 16.9.94 with which he has annexed a copy of a letter dated 6.9.94 from the Ministry of Agriculture to the Chief Soil Survey Officer, All India Soil & Land Use Survey Organisation, New Delhi. In this letter, it is brought out that the Ministry had taken up the matter in consultation with the Ministry of Finance and for reasons furnished in the letter, they found that there was no case for allowing revision of pay-scale as sought for by the applicant. In our judgement dated 17.11.93 in OA 269 & 270/90, we had observed as follows:

"As the Chief Soil Survey Officer, who is Respondent No.2 (R2) has been asked by the Ministry, which is Respondent No.3 (R3) to furnish the detailed justification for revision of pay scales of Tracer, Draughtsman etc., he would not doubt be sending a reply with relevant details. We accordingly direct that R2 should submit the various clarification/ justification sought for by the Ministry (R3) within a period of four months from the date of receipt of a copy of this order. It is also open to the applicants to submit a detailed representation bringing out various materials which in their opinion will be relevant for favourable consideration of the proposal for upgradation of pay scales. In case the applicants desire to submit a representation, they should do so within two weeks to be addressed to the Soil Survey Officer, Bangalore, who should forward the same to the Chief Soil Survey Officer, New Delhi with his comments within a fortnight of receipt of such representations. The Chief Soil Survey Officer (R2) should consider such representation while making his recommendation to the Ministry in response to the letter dated 17th August, 1993, so that the Ministry (R3) takes a final decision in this regard in accordance with the usual procedure within a reasonable time. The contentions raised in this petition are left open."

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From the reply filed by the alleged contemners, it is noticed that even though there has ^{been} some delay in complying with the decision of this Tribunal for which they have expressed their regret, they had substantially complied with our directions. In view of this we find no merit in this contempt petition and this CP is dismissed and the alleged contemners are discharged.

3. Dr. Nagaraja at this stage states that the applicants may be given the liberty to file a fresh OA. The applicants are at liberty to file a fresh application, if they want to.

Sd-

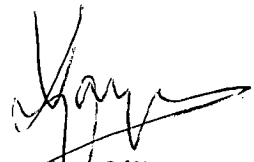
(A.N. Vujjaneradhya)
Member (J)

Sd-

(V. Ramakrishnan)
Member (A)

TRUE COPY

TCV


Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore