

TRK

CORAM: Hon. Shri Justice U C Srivastava, V C
Hon. Shri M Y Priolkar, Member (A)

APPEARANCE

Mr. S G Hartalkar
Advocate
for the applicant

Mr. R K Shatty
Counsel
for the respondents

ORAL JUDGMENT
(PER: U C Srivastava, V.C.)

DATED: 8-10-91

In all these four cases a common question of law and facts arise and as such the same are being disposed of together. The applicants were employees who are working in the office of the Chief Engineers of various commands of Military Engineering Service (for short, MES) ^{and} are claiming the benefit of certain judgment which has been given by the Central Administrative Tribunal, Circuit Sitting at Nagpur, Bombay Bench in respect of their counterparts who approached the Tribunal. A similar matter ^{had} been decided by various Benches of the Tribunal in different States. In one case as the question of pay scale which is the subject matter of dispute in this application was referred to the board of arbitration and the award given by the board of arbitration has been accepted by the Government of India and it has decided to give revised pay scale with effect from 30.5.1982 which is not being given. They have also claimed similar benefits relying on the said judgment of the Administrative Tribunal.

The applicants ~~make~~ claim is that there is a separate common cadre of Draughtsman Gr.I serving in different offices under the control of Chief Engineer, Southern Command, Pune, and a common seniority list is prepared and maintained for all Draughtsmen working in different offices under

the control of the Chief Engineer, and only one scale of pay is fixed for all Draughtsmen Gr. I in various departments, and these applicants perform the same duties as all Draughtsmen Gr. I in MES Perform. They all are placed similarly in the cadre of Draughtsman Gr. I.

The Board of Arbitration in respect of revision of pay scales of Draughtsmen Gr. I, II, & III serving in the central CPWD awarded pay scale to the Draughtsmen of Rs.550-750 from Rs. 425-700. The award was accepted by the Government and implemented in CPWD. But the same award was not extended to all the departments thought the same was extended to some of the departments, some of the employees of the MES approached the Calcutta Bench of the Tribunal (O.A. No. 9/1987) claiming revised scale of pay as per award dated 20.6.1980. The application filed by them was allowed. Similarly some of the MES employees approached the Tribunal ^{at} Chandigarh and their application was also allowed.

Being dissatisfied by the decision of the Calcutta Bench of CAT the Union of India approached the Supreme Court. But the S.L.P. filed by the Union of India was dismissed on 20.4.1988, whereafter the Union of India implemented the said judgment of the Calcutta Bench and granted pay scale to the MES employees of that Command.

MES

Similarly the employees in the jurisdiction of Chandigarh Command were also granted the pay scales. But the employees of the Pune region are not given the pay scale and hence they have approached this

Tribunal and have prayed that the benefit of the same may also be extended to them.

The application has been opposed by the Union of India as usual and the same pleas have been taken. It has been contended that the Calcutta Bench judgment or the Chandigarh Bench judgment are not correct judgments and as a matter of fact they should have seen that equal pay and equal wages has to be given to the employees who perform similar duties and responsibilities.

All these matters were considered and have been set at rest by the Supreme Court, in the case referred to above. Although not all the cases but the Calcutta Bench of the Tribunal has considered all these points wherein also the same principle was laid down, after taking into consideration that the respective duties being performed by the Draughtsmen Gr.I, II, III were similar to that of the duties and functions performed by the Draughtsmen Gr.I, II & III of CWD, and allowed the claim.

There is no denial of the fact that the duties of Draughtsmen of MES and other departments in the country is one and the same. When one section can get the benefit there appears to be no reason why the other section cannot get the same. In case the State accepts the judgment in respect of one part of the country and does not accept in respect of other part of country because the employees were placed in that part of the country and have not approached the Tribunal it would be a clear case of violation of Article 14 of the Constitution of India as it would be a denial of the benefit of equality by the State itself.

We have while sitting at Nagpur considered this question in OA 138/91 which was decided on 11.7.1991 and agreed with the decision given by the

Calcutta Bench and Chandigarh Bench of the Tribunal and we have also allowed the claim of the MES employees who approached the Nagpur Bench.

We do not find any ground to distinguish with the Calcutta or Chandigarh Bench's judgment and our own judgment at Nagpur and consequently this application deserves to be allowed, though the same was vehemently opposed by the learned counsel Shri R K Shetty for the respondents.

Accordingly we direct the respondents to grant the revised pay scale at par with the Central Public Works Department with effect from 13.5.1982 on notional basis and with effect from 1.11.1983 on actual basis with all consequential benefits since they are similarly placed as the applicants in OA No.8/1987 of Calcutta Bench, OA No.1001/PB/88 dated 22.6.1989 of Chandigarh Bench, OA No.111/1989 dated 1.11.1989 of Calcutta Bench and OA No.823/1989 dated 14.12.1989 of Hyderabad Bench.

In view of the fact that the respondents unnecessarily have deprived the applicants the benefit of same pay scale on par with CPWD for which they have been agitating and there has also been verdicts in favour of ^{similarly placed} these persons, all these four cases are fit cases in which the respondents should be saddled with cost.

Accordingly this application is allowed with Rs.1000 (Rupees One Thousand only) as cost to the applicants. A copy of this judgment should also be sent to the Secretary to the Govt. of India, Ministry of Defence for appropriate action.

None for the applicant.

Mr. R. K. Shetty for the respondents.

Learned counsel for the respondents submit that 95% of the directions in the judgment have been implemented and the rest could not be implemented due to financial sanction to be obtained from the Government. Also details were to be collected from the various MES establishments throughout India.

2. Learned counsel for the respondents states that as Lt. Gen. V. N. Kapoor who was directed to appear before this Tribunal on 27-11-1992 is busy due to his posting at the border. In view of the disturbances, it will be difficult for him to appear on that date. He further assures that complete implementation of the judgment will be reported by 27-11-1992 and he will place the proof before the Tribunal. In the circumstances the name of Brig. J. N. Kohli be substituted in place of Lt. Gen. V. N. Kapoor to appear before the Tribunal. In the event of failure of respondents for implementing the order as assured by the learned counsel for the respondents, suitable orders will be passed.

M.P. disposed of ~~ixit~~ with the above directions.

Pray
(C.J. ROY)
Member (J)

Law and
(USHA SAVARA)
Member (A)