

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 030.

Dated: **6 APR 1995**

APPLICATION NO. 650 of 1994.

APPLICANTS: **Sri.B.S.Ramamurthy, Bangalore.**

V/S.

RESPONDENTS: **Secretary, Deptt. of Communications, New Delhi
and others.**

To

1. **Sri.M.Narayanaswamy, Advocate,
No.844,Upstairs,17th-G-Main,
Fifth Block,Rajajinagar,
Bangalore-560 010.**

2. **Sri.M.S.Padmarajaiah, Senior Central
Govt.Standing Counsel, High Court Bldg,
Bangalore-560001.**

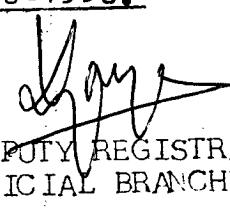
Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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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 31-03-1995.

Issued on
6/4/95

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DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 650/ 1994

FRIDAY, THE 31ST DAY OF MARCH, 1995

SHRI V. RAMAKRISHNAN

...

MEMBER (A)

SHRI A.N. MUJJOANARADHYA

...

MEMBER (J)

Shri B.S. Ramamurthy,
S/o late Shri B. Srinivasamurthy,
Aged about 61 years,
Draughtsman Higher Grade,
Department of Telecommunications,
Government of India,
(since retired), presently
residing at No. 77/7, 6th Main,
Malleswaram, Bangalore-560 055.

...

Applicant

(By Advocate Shri M.N. Swamy)

Vs.

1. The Union of India
rep. by its Secretary to Govt.,
Department of Communications,
New Delhi - 110 011.
2. The Director General,
Telecommunications,
New Delhi.
3. The Chief General Manager,
Telecommunications Working Circle,
Bangalore - 560 009.
4. The General Manager,
Bangalore Telecom District,
Bangalore - 560 001.
5. The Divisional Engineer,
(Rural),
Bangalore Telecom District,
Bangalore - 560 009.

... Respondents

(By Shri M.S. Padmarajaiah, Senior Central
Government Standing Counsel)



ORDER

Shri V. Ramakrishnan, Member (A)

The applicant, who retired as Draughtsman Higher Grade (DM HG for short), Department of Telecommunications has filed the present application seeking the following reliefs:

- " i) Declare by the issue of an appropriate order or direction as the case may be, the provisions of nets below column 4 of the 86 Rules which are come into effect w.e.f. 3.5.86 (Annexure A-5) in so far it prescribes 5 years service in the scale of pay of Rs. 330 - 560 for earning the benefit of revised scale of pay of Rs. 330 - 560 for earning the benefit of revised scale of pay of Rs. 425 - 700 in respect of those who possess the requisite qualifications prescribed in column No.7 of the said Rules, like the applicant is arbitrary, illegal and discriminatory, with a further direction directing the Respondents to extend the benefit of the revised scales of pay of Rs. 425 - 700 to the applicant nationally w.e.f. 22.8.73 with the actual benefit from 1.11.83 as has been extended to Draughtsman (Higher Grade) who possess qualifications by extending equal treatment in the matter of applying the law laid down by this Hon'ble Tribunal in Application No. 93 to 109/89 (F) (Annexure-A6) on principles of equal pay for equal work, with a further direction directing the respondents to grant all consequential benefits, including financial benefits that would accrue consequent on refixation pay of the applicant with interest to be determined by this Hon'ble Tribunal at the time of final hearing of the above application, in the interest of justice and equity;
- ii) Pass such other orders just and expedient in the circumstances of the case, including the award of exemplary costs. "

2. The applicant was recruited to the cadre of Draughtsman in 1957 as per the Rules then in force which prescribed the educational qualification as Matriculation or alternatively certificate in Engineering or Draughtsmanship course from a recognised institution. He (DM HG for short) was promoted to the level of Draughtsman HG with effect from 16.9.63.

The Draughtsman HG which was in the scale of Rs. 330 - 560 (pre-revised)

got upgraded to Rs. 425 - 700 (pre-revised scale) in respect of those who are holding a Diploma/ Certificate in Draughtsmanship from a recognised institution. This was done for the reason that the pay scale of comparable category of draughtsmen in CPWD got upgraded to Rs. 425 - 700 on the basis of an arbitration award. There was a Government decision which was communicated by its letter dated 13.3.84 that the pay of Draughtsmen in Departments other than the CPWD may also be upgraded provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in CPWD. Accordingly, in the P&T department, the pay scale of DM HG was upgraded provided they possess a Diploma/ Certificate in Draughtsmanship by order dated 6.2.85 as at Annexure A-4. This order further stated that the benefit of the revision of pay scale may be given notionally with effect from 13.5.82 and the actual benefit to be allowed with effect from 1.11.83. Some P&T employees approached the Tribunal in OA Nos. 93 - 109/89 seeking advancement of the date of effect of the higher pay scale. The Tribunal by its order dated 5.10.89 directed the benefit to be given notionally with effect from 22.8.73 and actually with effect from 1.11.83.

The Telecommunications Deptt. (Draughtsmen) Recruitment Rules 1986 were promulgated on 3.5.86. This laid down the educational qualifications for DM HG as Diploma/ Certificate in Draughtsmanship from a recognised institution and prescribed the scale of pay of Rs. 425 - 700/-. As some persons had been recruited as Draughtsmen earlier who did not have this qualification but had only acquired matriculation qualification as per the eligibility criterion under the earlier rules, a note was inserted in the Recruitment Rules to the effect that such persons shall be placed in the scale of Rs. 425 - 700 after completion of 5 years of service in the scale of Rs. 425 - 700. The applicant who is a matriculate and who had been drawing pay in the scale of Rs. 330 - 560 with effect

from 1.1.73 was given the higher pay scale of Rs. 425 - 700 with effect from 3.5.86 when the Recruitment Rules took effect.

The present applicant approached the Tribunal in OA No.433/91 seeking the benefit of the higher pay scale notionally with effect from 22.8.73 and actually with effect from 1.11.83. The applicant was directed by the Tribunal by its order dated 6.7.92 to submit a comprehensive representation duly supported by necessary documents, particularly, relating to his qualifications to the department and if it was found the applicant had the necessary qualifications, the revised pay scales should be extended to him in the light of the decision of the Tribunal in this matter, and in accordance with law. Pursuant to this order, the applicant submitted his representation (Annexure A-9) dated 24.7.92 but the department turned down the request for giving him the higher pay of scale from an earlier date for the reason that he had not produced any proof showing that he possesses the requisite qualification for considering grant of higher pay scale in the cadre of DMHC ^{as in} letter dated 21.1.93 (Annexure A-10).
The applicant approached the Tribunal again in OA No. 699/93, but withdrew the same, but was given liberty to file a fresh application urging additional grounds. He has accordingly filed the present application praying for the reliefs referred to above.

3. We have heard Shri M.N. Swamy for the applicant and Shri M.S. Padmarajaiah for the department.

4. Shri M.N. Swamy contends that the applicant was recruited as per the earlier rules. He states that he has only matriculation qualification and does not possess any diploma/ certificate in draughtsmanship. As he fulfilled the eligibility criterion at the time of his

initial appointment as Draughtsman, it will not be legal and just to deny him the higher pay scale notionally with effect from 22.8.73 and actually with effect from 1.11.83 which had been made available to others who possessed the alternative qualification of holding a certificate. Shri Swamy further argues that the note in the Recruitment Rules of 3.5.86 which requires matriculates to complete 5 years of service in the scale of Rs. 330 - 560 before being given the higher scale of Rs. 425 - 700 is grossly discriminatory as no such condition has been laid down for Diploma/ Certificate holders. This note, according to him makes an invidious discrimination and deserves to be struck down. He submits that if such a note were not there, the applicant would have been entitled to higher scale of Rs. 425 - 700 notionally with effect from 23.8.73 and actually with effect from 1.11.83, as had been extended to his colleagues who possessed Diploma/ Certificate in Draughtsmanship. The learned counsel submits that in any case, the applicant should be given the pay scale of Rs. 425 - 700 with effect from 1.1.78 when he had completed 5 years of service in the scale of Rs. 330 - 560 and this may be regarded as the alternative prayer of the applicant.

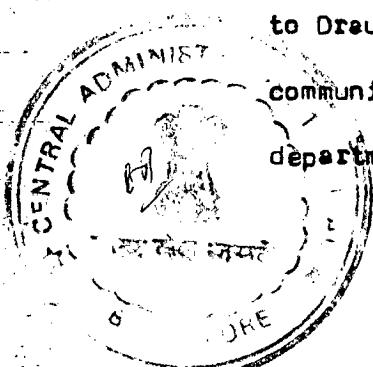
5. The learned standing counsel opposes the application. He brings out that the higher scale of pay of Rs. 425 - 700 was extended to Draughtsmen in CPWD on the basis of the award of Board of Arbitration. As there was a demand from other departments to extend the same benefit to draughtsmen in the corresponding category, the Govt. decided to grant the same to the Draughtsmen in departments like Telecommunications provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in CPWD. This is made clear in the Finance Ministry's letter dated 13.3.84 enclosed to the reply statement. On

the basis of this letter, the Telecommunications Department decided to allow the higher pay scale to DM HG provided they possessed the Diploma/Certificate in Draughtsmanship from a recognised institution which is the requisite qualification for Draughtsmen in CPWD. This decision was conveyed by the Deptt. of Telecommunications by their letter dated 6.2.85 as at Annexure A-4. The standing counsel contends that the demand of the employees in other departments was for getting the same benefit as Draughtsmen in CPWD, ^{and} it was only right and proper on the part of the Govt. to insist upon the same qualifications prescribed for Draughtsmen in CPWD before extending the benefit to Draughtsmen in other departments and such an approach is not at all discriminatory. Shri Padmarajaiah also highlights the fact that the applicant had never challenged the Finance Ministry's letter dated 13.3.84 or the P&T's communication dated 6.2.85 (Annexure A-4) at any time. As per these letters, the applicant who is only a matriculate would not be entitled for higher pay scale at all. The Recruitment Rules, however, gave a concession to persons such as the applicant, who did not possess Diploma/Certificate qualification to be brought over to the higher scale on completion of 5 years of service in the scale of Rs. 330 - 560 and by virtue of this note, the applicant got the benefit of the higher scale with effect from 3.5.86. According to the Standing Counsel, if such a note had not been there, the applicant would not have been entitled to the higher pay scale at all.

Shri Padmarajaiah also stresses the fact that this is the third round of litigation by the applicant and the applicant had not been straightforward. While filing the application in OA No. 433/91, the fact that he was not a Diploma or a Certificate holder was not made known to the Tribunal even when the Tribunal had specifically enquired

enquired about the same. The Tribunal had directed that if it was found that the applicant had the necessary qualification, the revised pay scales shall be extended to him and he was directed to submit a representation supported by necessary documents relating to his qualifications. In his representation, he did not produce any evidence that he was a holder of Diploma/ Certificate in Draughtsmanship (Civil) from a recognised institution of not less than 2 years duration including practical training for 6 months which was the requisite qualification for being given the higher scale of Rs. 425 - 700. The Standing Counsel states, the applicant could not furnish such evidence as he in fact did not possess the requisite qualification. He admits now that he is only a matriculate and did not have the requisite qualifications for being given the higher pay scale, but has challenged the differential treatment given to persons who have the requisite qualifications as against those who do not possess them. Shri M.S. Padmajaiah forcefully contends that the applicant is indulging in frivolous litigation and exemplary costs should be imposed on him.

6. We have carefully considered the submissions of both sides. We do not agree with the contention that insisting on certain specialised qualifications such as Diploma/ Certificate in Draughtsmanship from a recognised institution or not less than 2 years duration before being given the higher pay scale amounts to discrimination. As has been brought out by the standing counsel, the higher pay scale of Rs. 425 - 700 was extended to DM HG in Telecommunication when there was a demand that the benefit given to Draughtsmen in CPWD should be extended to similar categories in other departments. When such a higher pay scale as was allowed to Draughtsmen in CPWD was extended to corresponding categories in Telecommunications department, Govt. could insist on the draughtsmen in other departments possessing the same recruitment qualifications as draughtsmen



in CPWD. There is nothing discriminatory in such an approach. Besides, the note in the Recruitment Rules extended the benefit to those who did not possess Diploma/ Certificate in draughtsmanship provided they had completed 5 years of service in the scale of Rs. 330 - 560. As the applicant had completed 5 years of service on 3.5.86, when the Recruitment Rules were promulgated, he was given the benefit of that scale with effect from that date. We do not see as to how the note in the Recruitment Rules has adversely affected the applicant. What he wants is that he should be given the benefit contained in the Finance Ministry's OM dated 13.3.84 and the Telecommunication's letter dated 6.2.85, even though he does not possess the requisite qualifications as laid down in these communications and also wants the notional benefit with effect from 22.8.1973 as per the directions of the Tribunal in OA No.93 - 109/89 disposed of on 5.10.89. He had never challenged the Finance Ministry's letter of 13.3.84 or the Telecommunication's letter of 6.2.85 but he is now asking for is the extension of the benefit of the judgement of the Tribunal in OA No. 93 - 109/89 read with the Telecommunication's letter dated 6.2.85. The applicants in that OA had contended that they fulfilled the requisite conditions of eligibility set out in the letter of the DG, P&T dated 6.2.85 that is they had the requisite educational qualifications of Diploma/ Certificate in Draughtsmanship. The main ground urged by them in seeking the earlier date of notional promotion is that the Draughtsmen in CPWD got such a notional benefit from 22.8.73 while the Govt. had given the national benefit to Telecom Draughtsmen only from 13.5.82. The Tribunal allowed the application and said that in the DG, P&T's letter the words "notional with effect from 13.5.82" shall be substituted by the words "notional with effect from 22.8.73". The Tribunal specifically observed that all the other conditions set out in the letter dated 6.2.85 will remain unaffected. The applicant

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who did not possess the requisite qualification laid down in the letter dated 6.2.85 is not entitled to the higher pay scale either in terms of the letter dated 6.2.85 or in terms of the Tribunal's direction in OA No. 93 - 109/89. There is no force at all in the contention that removal of the note in the Recruitment Rules would have automatically given the applicant the benefit of the higher pay scale notionally with effect from 22.8.73.

7. We also do not subscribe to the view that the applicant would be entitled to the higher pay scale at least notionally with effect from 1.1.78 when he completed 5 years of service in the scale of Rs. 330 - 560 in terms of the note in the Recruitment Rules of May, 1986. The Recruitment Rules were promulgated from 3.5.86 and took effect prospectively only from that date. As such, there is no merit in the contention that the benefit of the higher pay scale to the applicant should be given from 1.1.78.

8. For the reasons stated above, we hold that the application is totally devoid of any merit and we accordingly dismiss the same with no order as to costs.

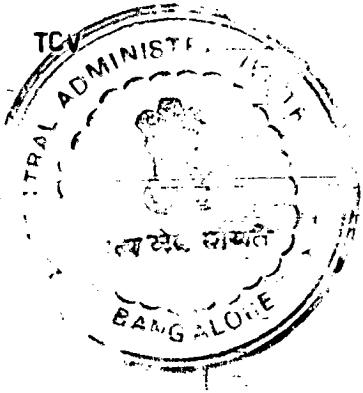
Sd/-

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31/3/89

(A.N. MUJJANARADHYA)
MEMBER (J)

(V. RAMAKRISHNAN)
MEMBER (A)



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06/4/95
Section Office
Central Administrative Tribunal

Bangalore Bench
Bangalore