

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

'B' FOLDER

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 038.

Dated: 19.11.96

M.A. No 429/96

IN APPLICATION NO. 1337/94 & 1364 To 1375/94

APPLICANT(S) : B.N. Kadapalli and ors

V/s.,

RESPONDENTS : Govt by Secy., M/o Def. & ors.

To.

1. Shri N.G. Phadke, Advocate,  
502/40, 5th Cross,  
(II) Block, Rajaji Nagar,  
Bangalore - 560010

2. Sh. M. Vasudeva Rao,  
Addl. Central Govt. Standing Counsel,  
High Court Building,  
Bangalore - 560001

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

-x-x-x-

A copy of the Order/~~Stay Order~~/~~Interim Order~~,  
passed by this Tribunal in the above stated applicatio(s)  
is enclosed for information and further necessary action.  
The Order was pronounced on 15.11.1996



  
For Deputy Registrar  
Judicial Branches.

**In the Central Administrative Tribunal  
Bangalore Bench  
Bangalore**

Application No. 1337/94 & 1364 of 199  
to 1375/94  
**ORDER SHEET (Contd.)**

Date	Office Notes	Orders of Tribunal
		<p>VR(MA)/GRR(MJ) ----- Dt. 15-11-1996 M.A.NO.429/1996</p> <p>The case has come up before us today for dealing with M.A.No.429/1996 which seeks extenstion of time by three months to comply with the direction of the Tribunal in O.A. Nos. 1337/94 &amp; 1364 to 1375/94. This MA is dated 29th October, 1996. Subsequently an affidavit has been filed dated 6-11-1996 which affirms that the department had fully complied with the directions in the OAs referred to supra. In view of this subsequent affidavit, the MA No.429/96 has become infructuous and is dismissed accordingly.</p> <p style="text-align: right;">...2/-</p>



Date	Office Notes	Orders of Tribunal
		<p style="text-align: center;">- 2 -</p> <p>2. Smt.Meera Bai, Counsel for the applicant submits that the respondents have not fully and effectively complied with the directions of the Tribunal and the original applicants are aggrieved with the manner of the implementation of the directions of the Tribunal. If it is so the original applicants are at liberty to take appropriate action as per law.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p><i>Sd/-</i></p> <p>M(J)</p> </div> <div style="text-align: center;"> <p><i>Sd/-</i></p> <p>M(A)</p> </div> </div> <div style="text-align: center; margin-top: 20px;"> <p><b>TRUE COPY</b></p>  <p>Section Officer Central Administrative Tribunal Bangalore Bench Bangalore</p> </div>

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 038.

Dated: **6 APR 1995**

APPLICATION NO. 1337 and 1384 to 1375 of 1994.

APPLICANTS: Sri.B.N.Kadapatti and twelve others.,

V/S.

RESPONDENTS: The Secretary, Ministry of Defence,  
New Delhi and another.

To

1. Sri.N.G.Phadke, Advocate,  
'Kausalya', No.502/40,  
Fiftyfourth Cross, III-Block,  
Rajajinagar, Bangalore-560 010.
2. Sri.M.Vasudeva Rao, Additional Central  
Government, Standing Counsel,  
High Court Bldg, Bangalore-560 001.

*Issued on  
6/4/95  
\$*

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.

*Copy  
recd  
6/4/95  
(S.No.1)*

*9c* *for* *dy*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

O.A. No. 1337 & 1364 TO 1375/94

FRIDAY THIS THE THIRTY FIRST DAY OF MARCH 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

1. Shri B.N. Kadapatti,  
S/o Ningayya Kadapatti,  
Aged about 54 years,  
C/o AGE [I] AF Samba,  
Belgaum.
2. Shri P.R. Malkari,  
S/o Ramachandra Malkari,  
Aged about 54 years,  
C/o AGE [I], AF Samba,  
Belgaum.
3. Shri M.M. Shirur,  
S/o Mahadevappa Shirur,  
Aged about 48 years,  
C/o G.E., Camp, Belgaum.
4. Shri V.L. Chavan,  
S/o Iaxman Chavan,  
Aged about 41 years,  
C/o G.E., Camp Belgaum.
5. Shri S.L. Dubbanmardi,  
S/o Lingaraj Y. Dubbanmardi,  
Aged about 35 years,  
C/o AGE [I], AF Samba,  
Belgaum.
6. Shri S.N. Muchanmdi,  
S/o Narayan Muchandi,  
Aged about 32 years,  
C/o G.E., Camp, Camp-Belgaum.
7. Narayan Tarihalkar,  
S/o Rama Tarihalkar,  
Aged about 32 years,  
C/o G.E., Camp-Belgaum.
8. A.J. Jolly,  
S/o Joseph,  
Aged about 30 years,  
C/o G.E., Panaji, Goa.



9. Shri Anilkumar, P.K.,  
S/o P.V. Krishnan,  
Aged about 29 years,  
C/o Garrison Engineer,  
Camp Belgaum-590 009.
10. S.B. Iaad,  
S/o Babu Rao I. Iaad,  
Aged about 33 years,  
C/o G.E., Camp-Belgaum.
11. Shri S.R. Hosurkar,  
S/o R.K.Hosurkar,  
Aged about 32 years,  
C/o AGE [I], AF, Sambra,  
Belgaum.
12. Shri V.B. Padmanabhan,  
S/o Shri V.B. Krishnan Gurukkas,  
Aged about 33 years,  
AC/o AGE [I] AF, Sambra.  
Belgaum.
13. Shri Mathew Baby,  
S/o Shri P. Mathi,  
Aged about 52 years,  
C/o G.E., Camp  
Belgaum.

... Applicants

[By Advocate Shri N.G. Phadke]

vs.

1. Union of India  
represented by its  
Secretary,  
Ministry of Defence,  
New Delhi.

2. The Engineer-in-Chief,  
Kashmira House,  
Army Headquarters,  
DHQ Post Office,  
New Delhi-110 011.

... Respondents

[By Advocate Shri M. Vasudeva Rao ...  
Addl. Standing Counsel for Central Govt.]

ORDER

ORDER

Shri A.N.Vujjanaradhya, Member [J]:

1. The applicants are aggrieved by the order of

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Respondent ['R' for short] No.2 dated 8.4.1994 as in Annexure A-10 rejecting their claim regarding pay parity in the grade of Superintendents ['Supdt.' for short] 1 and 2 in the Military Engineering Service ['MES' for short] on par with Junior Engineers ['JE' for short] of Central Public Works Department ['CPWD' for short] have filed these applications.

2. Briefly stated the case of the applicants is as below:

Applicants are working as Grade II Supdt. in the branch of buildings and roads, electrical, mechanical and supervising assistants in the MES of the Defence Ministry. The post of Supdt. Gr.II in the MES is equivalent to the post of JE in CPWD. The pay scales of Supdt. Gr.II in MES and that of JE in CPWD before 3rd Pay Commission ['PC' for short], during 3rd PC and during 4th PC was the same. Gr.II Supdts. were placed throughout in the higher grade as that of Draughtsmen ['Dmen' for short] were different as also their natures of duties. The pay scales of Dmen Gr.I, II and III in CPWD were revised upwards on the basis of the award of the Board of Arbitration and, therefore, Govt. of India issued order dated 13.3.1984 as in Annexure A-1 and the pay scale of Dmen in all the departments of CPWD were revised upwards. However, the Dmen of MES who were in the lower rank and grade to that of Supdt. Gr.II were not provided with upper



revision and, therefore, those people approached various benches of this Tribunal and sought for a direction for grant of revision of pay scales as comparable to that of Dmen of CPWD which were allowed. Keeping the recommendation of 4th PC in mind Govt. of india in its Ministry of Urban Development ['MUD' for short], revised the pay scales of selection grade JE of CPWD by letter/order dated 22.3.1991 as in Annexure A-2 ie., the scale of pay at the time of entry Rs.1400-2300; after five years Rs.1640-2900; after total 15years on personal basis Rs.2000-3500. In pursuance of the said order CPWD issued Office Memorandum dated 27.3.1991 adopting the same as in Annexure A-3. The applicants having come to know that the Dmen in MES who are in the lower rank and grade and responsibility have been provided with the pay scales of Rs.1400-2300, the scale of Gr. II Supdts. and also JES of CPWD who are performing similar nature of job have been benefitted with the higher pay scale of Rs.1640-2900 and the other two scales referred to supra, made representations to R-2 which were rejected. Therefore, the applicants have filed O.A. Nos.329 and 330/92 as in Annexure A-4 which was disposed of by order dated 28.7.1993 as in Annexure A-8 giving the direction that the Government would dispose of the representations of the applicants within three months from that date. The applicants made representations dated 9.9.1993 as in Annexure A-9 along with

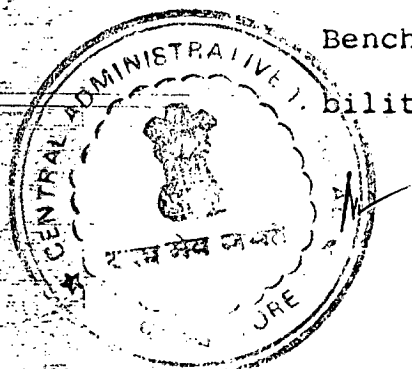




the copy of the order for necessary relief. The respondents did not comply with the directions given by this Tribunal and, therefore, they filed C.P. No. 18/94 against the respondents. After receipt of notice from the Tribunal respondents issued order dated 8.4.1994 as in Annexure A-10 stating that considering all aspects the Ministry had referred the matter for the decision of 5th PC. Therefore, the CP filed by the applicants was disposed of on 21.7.1994 as in annexure A-11 giving liberty to the applicants to challenge the order issued by R-2. Thus, the applicants have made these applications seeking the following reliefs:

- a] To quash the order issued by R-2 dated 8.4.1994 as in annexure A-10;
- b] To grant the claim of the applicants for higher scales of pay as that paid to JEs of CPWD in the pay scale of Rs.1640-2900 to this grade II Supdts., as and when they completed 5 years of service in the grade with effect from 1.1.1986 and who have completed 15 years service in that grade and the scale of pay of Rs.2000-3500 with effect from 1.1.1991 by holding that action of the respondents in rejecting the claim of Gr.II and Gr.I Supdts. of MES as bad and for consequent reliefs.

3. The respondents oppose the applications contending that the same are belated, that Dmen in MES were granted the relief in view of the directions of the various Benches of CAT; that evaluation of duties and responsibilities and fixation of pay scales can be gone into



only by expert body like PC and that the action of the department is not open to judicial review.

4. We have heard Shri N.G. Phadke, learned counsel for applicants and Shri M. Vasudeva Rao, learned Standing Counsel for the respondents.

5. Learned counsel for the applicants contended that the entire qualifications, duties and responsibilities of both Supdts. Gr. II in MES and the JEs in CPWD are identical and similar and the rejection of the request of the applicants is not justifiable particularly when Dmen Gr.I, II and III of MES have been given the relief even though they were earlier in a lower scale compared to Supdts. Gr.I and II. He also contended that 3rd and 4th PCs have recommended the same scales of pay for both Supdts. Gr.II in MES and JEs in CPWD and, therefore, when the pay scales of JEs in CPWD was revised upwardly the same benefit ought to have been extended to the applicants also. It was also pointed out that there has been very little promotional opportunity for the Supdts. Gr.II and they have been stagnating and for this reason also they are justified in urging for grant of equal pay scale as that of JEs in CPWD. Shri Rao on the other hand contended that evaluation of duties and responsibilities and fixation of pay scales can be gone into only by expert body like PC which is seized of the matter and, therefore, the applicants are not entitled

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Respondent ['R' for short] No.2 dated 8.4.1994 as in Annexure A-10 rejecting their claim regarding pay parity in the grade of Superintendents ['Supdt.' for short] 1 and 2 in the Military Engineering Service ['MES' for short] on par with Junior Engineers ['JE' for short] of Central Public Works Department ['CPWD' for short] have filed these applications.

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revision and, therefore, those people approached various benches of this Tribunal and sought for a direction for grant of revision of pay scales as comparable to that of Dmen of CPWD which were allowed. Keeping the recommendation of 4th PC in mind Govt. of india in its Ministry of Urban Development ['MUD' for short], revised the pay scales of selection grade JE of CPWD by letter/order dated 22.3.1991 as in Annexure A-2 ie., the scale of pay at the time of entry Rs.1400-2300; after five years Rs.1640-2900; after total 15years on personal basis Rs.2000-3500. In pursuance of the said order CPWD issued Office Memorandum dated 27.3.1991 adopting the same as in Annexure A-3. The applicants having come to know that the Dmen in MES who are in the lower rank and grade and responsibility have been provided with the pay scales of Rs.1400-2300, the scale of Gr. II Supdts. and also JEs of CPWD who are performing similar nature of job have been benefitted with the higher pay scale of Rs.1640-2900 and the other two scales referred to supra, made representations to R-2 which were rejected. Therefore, the applicants have filed O.A. Nos.329 and 330/92 as in Annexure A-4 which was disposed of by order dated 28.7.1993 as in Annexure A-8 giving the direction that the Government would dispose of the representations of the applicants within three months from that date. The applicants made representations dated 9.9.1993 as in Annexure A-9 along with



the copy of the order for necessary relief. The respondents did not comply with the directions given by this Tribunal and, therefore, they filed C.P. No. 18/94 against the respondents. After receipt of notice from the Tribunal respondents issued order dated 8.4.1994 as in Annexure A-10 stating that considering all aspects the Ministry had referred the matter for the decision of 5th PC. Therefore, the CP filed by the applicants was disposed of on 21.7.1994 as in annexure A-11 giving liberty to the applicants to challenge the order issued by R-2. Thus, the applicants have made these applications seeking the following reliefs:

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to any relief in these applications. Relying on the decision of STATE OF UTTAR PRADESH V. J.B. CHOWRASIA and other decisions, Shri Rao contended that fixation of pay scales is the duty of expert body after taking into consideration the various factors and it would not be proper for this Tribunal to go into the claim of the applicants. He also contended that the applications are belated and the relief granted to Dmen in MES was only on the basis of the direction of the various Benches of this Tribunal.

7. It is not disputed that the scale of pay of Gr.II Supdts. in MES and JEs in CPWD before 3rd PC, during 3rd PC and during 4th PC was identical ie., Rs.180-380, Rs.425-700 and Rs.1400-2300 respectively. But Gr.II Supdts. were placed through out in the higher grade as compared to Dmen working in MES, which are as below:.

	Gr. II Supdts.	Draughtsmen
<u>Before 3rd PC</u>	Rs.180-380	Rs.150-240
<u>During 3rd PC</u>	Rs.425-700	Rs.330-560
<u>During 4th PC</u>	<u>Rs.1400-2300</u>	Rs.1200-2040

Admittedly the pay scales of Dmen Gr.I, II and III working in CPWD were revised upward on the basis of the award of Board of Arbitration and thereafter Govt. of India issued order dated 13.3.1984 [Annexure A-1]. But Dmen in MES who were lower in rank and grade to



that of Gr.II Supdt. were not provided with upward revision of pay scales. These Dmen approached various Benches of this Tribunal for grant of revision of pay scales comparable to that of Dmen in CPWD, which were allowed granting the pay scale of Rs.1400-2300 from 1.1.1986. On the recommendation of 4th PC, Union of India took remedial measures in pursuance of which MUD revised the pay scales of Selection Grade JEs of CPWD by order dated 22.3.1991 [Annexure A-2] as follows:

Scale at the time of entry Rs.1400-2300

After five years Rs.1640-2900

After total 15 years on personal basis Rs.2000--  
3500

Pursuant to the same Annexure A-3 O.M. dated 27.3.1991 came to be issued by Director General of Works, CPWD.

As the representation of applicants in this regard for upward revision of their pay scale was rejected, they filed O.A. No.329 to 330/92 which was disposed of by order dated 28.7.1993 by this Tribunal directing the Government to dispose off the representation taking into consideration the pleadings also. The representation was considered and rejected by R-2 on 8.4.1994 [Annexure A-10] inter alia stating --

"The case regarding award of time scale promotion to Supdt B/R & E/M Gde II and Gde I at par with Jr. Engrs. of CPWD on the basis of award given by Board of Arbitration of CPWD to their personnel has been taken up with Min. of Def. for their consideration. Min. of Def. after

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careful consideration of the proposal has decided to refer the matter for the consideration of Pay Commission when constituted."

In view of the stand of Government, Contempt Petition filed by applicants in C.P. No.18/94 was disposed off by order dated 27.7.1994 [Annexure A-11] granting liberty to the applicants to challenge the order in Annexure A-10 dated 8.4.1994. Thus once again the present applicants are before us.

8. When the applicants - Gr.II Supdts. have been treated on par with JEs of CPWD before 3rd PC, during 3rd PC and during 4th PC and when the Dmen in MES who were in scale lower than that of ~~Dmen in MES~~, <sup>Gr.I and II Supdts.</sup> whose applications for upward revision of their pay scale were allowed on par with that of the revised pay scale of JEs in CPWD which was revised in pursuance of Arbitration Award, we see no justification for the rejection of the representation of the applicants. The rejection is highly arbitrary and unjust. The contention of the respondents that upward revision of pay scales of Dmen was only in pursuance of the directions of the various Benches of this Tribunal, implying thereby that because there is no such direction of the Tribunal in respect of the applicants and as such, their pay scales cannot be revised is nothing but an act of discrimination calling for our interference.

The learned counsel for the applicants drew our



attention to para 10.482 of 4th PC report which reads thus:

"10.482. The qualification for recruitment as well as duties and responsibilities of these posts compare with similar posts in other organisations like junior engineer in CPWD, B&R Cadre in MES and inspector of works cadre in Railways. The posts in the scale of Rs.425-700 in other departments are eligible for promotion to posts/-selection grade in the scale of Rs.550-900, but in the case of GREF the posts of superintendent B&R grade I and E&M grade-I have been placed in the scale of Rs.550-750. We recommend that these posts in the scale of Rs.550-750 may be placed in the scale of Rs.1640-2900 to bring uniformity at this level in various organisation."

and justified his contention to treat the applicants in the post of Gr.II Supdts. on par with that of JES in CPWD. When the 4th PC has considered the posts like JE In CPWD, B&R Cadre in MES to which the applicants belong and Inspector of Works cadre in Railways are comparable and had recommended the same scale of pay of Rs.1640-2900, it is now not open to the respondents to contend that only expert body like 5th PC to which the matter is said to have been referred alone will have to consider. We do not find any substance in this contention of the respondents that only expert body like 5th PC can go into the question. The respondents cannot avoid to consider the claim of the applicants on the ground that 5th PC would be competent to consider their problem. It is rather curious to note that while the respondents contend that the applications are belated, they also contend

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careful consideration of the proposal has decided to refer the matter for the consideration of Pay Commission when constituted."

In view of the stand of Government, Contempt Petition filed by applicants in C.P. No.18/94 was disposed off by order dated 27.7.1994 [Annexure A-11] granting liberty to the applicants to challenge the order in Annexure A-10 dated 8.4.1994. Thus once again the present applicants are before us.

8. When the applicants - Gr.II Supdts. have been treated on par with JEs of CPWD before 3rd PC, during 3rd PC and during 4th PC and when the Dmen in MES who were in scale lower than that of ~~Dmen in MES~~, <sup>Gr.II and II Supdts.</sup> whose applications for upward revision of their pay scale were allowed on par with that of the revised pay scale of JEs in CPWD which was revised in pursuance of Arbitration Award, we see no justification for the rejection of the representation of the applicants. The rejection is highly arbitrary and unjust. The contention of the respondents that upward revision of pay scales of Dmen was only in pursuance of the directions of the various Benches of this Tribunal, implying thereby that because there is no such direction of the Tribunal in respect of the applicants and as such, their pay scales cannot be revised is nothing but an act of discrimination calling for our interference.

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that 5th PC alone is competent to consider the question. These are irreconcilable contentions and are mutually destructive.

10. Coming to the objections of delay taken by respondents, we have to point out that the applicants have been agitating since 1992 when they filed OA No.329/92 after rejection of their claim on 28.6.1991. They are aggrieved because of upward revision of pay scales of JEs in CPWD in pursuance of arbitration award as in Annexure A-2 dated 22.3.1991 which was implemented by OM dated 27.3.1991 [Annexure A-3] which in turn was not made applicable to them. The grievance of the applicants in these applications is in respect of Annexure A-10 dated 8.4.1994 and they have filed these applications on 19.8.1994. What is stated herein is so eloquent that no discussion is called for to demonstrate that the applications are in time and not belated as sought to be made out by respondents.


11. There is no force in the contention that the order as in Annexure A-10 rejecting the representations of the applicants and deciding to refer the matter for consideration of the 5th PC is not open to judicial review. The applicants had approached the Tribunal earlier in O.A. No.329 and 330/92 and they had prayed for a direction to the respondents to treat them on same footing as their counterparts in CPWD. The said OA was disposed of by the Tribunal on 20.7.1993 with



a direction that the Government should consider and dispose of the representations made by the applicants seeking parity in the pay scales and to pass appropriate orders thereon.

12. The Tribunal had expected the Government to consider the points made in the representations of the applicants as also the pleadings in the applications particularly relating to their claim that they are similarly situated as JEs in CPWD in respect of duties and responsibilities and problem of stagnation, and had always been treated at par with the JEs of CPWD and also their contention that Dmen in MES who had all along been given a lower scale as compared to the applicants had now been brought at par with them.

After such consideration the department was required to take appropriate decision thereon. It is not clear from the communication dated 8.4.1994 as at Annexure A-10 as to whether the department had applied its mind to the points raised by the applicants and taken any view. They have simply stated that the Ministry of Defence after careful consideration of the proposal has decided to refer the matter for the consideration of PC when constituted and then proceeded to reject the representations of the applicants. We do not subscribe to the view that it is only the PC which has to decide on the question of parity with the JEs of CPWD asked for by the applicants. In fact as has



been brought out earlier the successive PCs had treated Gr. II Supdts. of MES at par with JEs of CPWD and had prescribed the same pay scales to both categories. The parity in pay scales date back prior to the recommendation of 3rd PC and was continued both at the time of revised pay scales given on the basis of recommendations of 3rd and 4th PCs. In fact from the observation of the PC in para 10.482 it is clear that the PC had taken the view of the duties and responsibilities of JEs in CPWD are similar compared with the post in B&R cadre in MES and had recommended the same pay scales to both the categories. It was only after the Arbitration Award given pertaining to Dmen the pay scales of JEs in CPWD got upgraded. As such it is not a case where the PC has to consider afresh the question as to whether the applicants should be treated at par with JEs of CPWD, as successive PCs had in fact been holding that they were similarly situated and had to be given the same treatment. The respondents have not taken their stand that there has been any qualitative increase in the duties and responsibilities of JEs in CPWD as compared to their counterparts in MES after the implementation of the 4th PC. In the reply statement filed by the respondents, we find there is a reference that the respondents cannot be expected to offer reply on all services conditions prevailing in CPWD. From the tenor of the reply it would seem that the Government does not



think that there is any material difference between the duties and responsibilities of JEs of CPWD as compared to their counterparts in MES.

13. We may also mention that the PC will make its recommendations keeping in view the suggestions of various departments. It cannot undertake a task of conducting a job evaluation to determine relative work of charge and different posts. We may in this context refer to para 11.9 of the report of the 4th PC which reads as follows:

11.9. We have considered the matter. We feel that these suggestions actually relate to job evaluation to determine relative worth of charge of different posts. It is not possible for us to undertake this work. At a certain point of time a post in an establishment may have equation to a post in another establishment, but due to changes brought about by modernisation, change in the pattern of work, etc. it may have been necessary to regard the post and the question of maintaining parity may not really arise. We therefore do not agree that the parities wherever they are said to be, should always be maintained. It may be mentioned that the scales of pay of different levels of draftsmen were revised upwards on the basis of an Arbitration award to remove certain grievances arising out of implementation of Third Pay Commission's recommendations. Revision of pay scales of draftsmen does not therefore entitle the junior engineers to ask for similar benefits."

As such the 5th PC will also expect the departments to furnish the details with regard to the nature of duties and responsibilities of various posts so that it has a basis for making comparative assessment. It is therefore incumbent upon the department to make such a study and to formulate specific views on this

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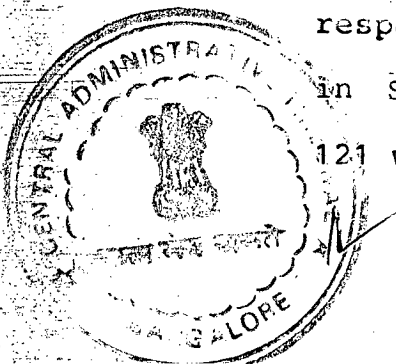


question and this responsibility cannot be simply passed on to the PC.

14. The reference to 5th PC has also another implication which has to be taken into consideration. If on the basis of various materials before it, the 5th PC also takes the same view as its predecessors and recommend parity in pay scales between JEs of CPWD and Supdts. Gr.II in MES and if Government were to accept such recommendations, this will only have prospective effect. If Gr. II Supdts. in MES in fact deserve to be treated at par with the JEs in CPWD it would be unreasonable if there is substantial delay in extending these benefits when they had been agitating for these benefits for a number of years.

15. It is submitted before us that the Dmen in MES were all along given pay scales which were lower as compared to the Gr.II Supdts. in MES. Pay scale of Dmen has since been upgraded to the same level as that of Gr.II Supdts. in MES. The applicants contend that in order to maintain relativity, their pay scales also should be upgraded to be at par with JEs in CPWD. There is force in this contention and this has not been met by the respondents.


16. Having regard to our earlier discussion, the respondents cannot get much support from the decision in STATE OF UTTAR PRADESH -V. CHOURASIA [1989] 1 SCC 121 which deals with the case having factors justifying



differenciatiion depending on the evaluation of duties and responsibilities. In the case of hand the posts of Gr.II Supdt. and JEs in CPWD have always been treated on par and there is no question of evaluation of duties that is required to be gone into by expert body. The difference between Gr. II Supdts. and JEs in CPWD sought to be made out by the respondents is without any distinction in view of the parity in pay scales maintained since prior to 3rd PC as also the observations in the report of 4th PC.

17. It is the further plea of applicants that their promotional opportunities is very bleak and the said position is not seriously disputed by the respondents. This is yet another factor weighing in favour of the applicants for their claim to be treated on par with that of JEs in CPWD getting higher grades on completion of service of 5 years and 15 years with effect from 1.1.1986 and 1.1.1991 as in Annexures A-2 and A-3.

18. For the reasons discussed above we deem it proper to allow the applications and grant the reliefs sought. Consequently Annexure A-10 order dated 8.4.1994 issued by R-2 is hereby quashed. We further direct the respondents to grant higher pay scales as that paid to JEs in CPWD in the scale of Rs.1640-2900 to the applicants in Gr.II Supdt. who as and when complete 5 years of service in the grade with effect from 1.1.1986 and who as and when complete 15 years of service in that grade the scale of Rs.2000-3500 with effect from



1.1.1991 on the same lines as contained in the communication of MUD dated 21.3.1991 addressed to DG [Works], CPWD as in Annexure A-2. The direction should be complied with within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

31/3/91

MEMBER [J]

Sd/-

MEMBER [A]



TRUE COPY

Section Officer

Central Administrative Tribunal  
Bangalore Bench  
Bangalore