

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.229/97

Dated this the 4th day of March 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Shri S.K.Agarwal, Member (A)A)

1. C.V.Kulkarni
2. S.V.Bhuse
3. S.N.Joshi
4. P.R.Patil
5. P.D.Bandale
6. S.F.Vaiti
7. P.B.Lagwankar
8. A.R.Raut
9. A.K.Potphode
10. H.A.Shinde
11. D.A.Kirpekar
12. D.B.Shinde
13. G.G.Subhedar
14. K.P.Gursale
15. D.N.Darjee
16. M.B.Kumbhar
17. P.M.Nerlekar
18. V.D.Warke
19. V.R.Mahadkar
20. M.K.Shinde
21. P.C.Chaudhari
22. V.D.Bhirud
23. H.G.Marathe
24. M.A.Yelegaonkar
25. P.L.Surve
26. R.B.Morey
27. K.B.Joshi
28. P.D.Kulkarni
29. L.S.Hiwale

...Applicants

C/o. Shri Rohin Kumar,
36/A, Veer Bhuvan,
Hughes Road, Mumbai.

By Advocate Shri D.V.Gangal

vs.

Union of India
through The General Manager,
Central Railway, CST, Mumbai.

By Advocate Shri R.R.Shetty

O R D E R

{Per : Shri S.L.Jain, Member (J)}

The applicants sought the relief of declaration that they are entitled for fixation of pay as per Memo dated 19.10.1994 (Exhibit-'A-1') on the basis of the pay scale and the post they were holding as on 13.5.1982 notionally w.e.f. 13.5.1982 and actually from 1.11.1983 and payment of the arrears with interest at the rate of 18% p.a. with a direction to the respondents to fix the pension, gratuity and all other retiral benefits on the basis of revised fixation of pay as per Memo dated 19.10.1994 with further interest thereon at the rate of 18% p.a.

2. The applicants joined the service of Respondents as Tracer and Assistant Draftsman as shown in Annexure-'A-3'. The Second and Third Pay Commission prescribed the pay scale as noted therein for the post of Tracer and Assistant Draftsman which was equivalent to Draftsman Grade III and II of CPWD respectively. They were entitled to fixation of pay on the basis of post and pay scale they were holding as on 13.5.1982. The Tracer who were equal to Draftsman Gr.III of CPWD were granted the pay scale of Rs.260-430 by the Third Pay Commission which was subsequently changed to Rs.330-560. The Assistant Draftsman who were equivalent to Draftsman Grade II were granted the pay scale of Rs.350-560 by the Third Pay Commission were subsequently changed to Rs.425-700. The Draftsman-B in the Railway who were

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equivalent to the Draftsman Grade I were granted the pay scale of Rs.425-700 by the Third Pay Commission which was subsequently changed to Rs. 550-750. As such, the applicants claim that they are entitled to the changed pay scale as per Exhibit-'A-1' on the basis of the post they were holding as on 13.5.1982 and fixation of payment on each promotion post as per Annexure-'A-1'.

3. The changes are brought by the Govt. of India on the basis of the award rendered in case of CPWD Draftsman. The recommendations of the CPWD award made applicable to all the Draftsman of Central Government including the Railway. The benefit of the letter dated 13.3.1984 was extended to only to such draftsman whose recruitment qualification were similar to those prescribed in the case of draftsman in CPWD. In letter dated 13.3.1984, all those who do not fulfil the above qualification will continue in pre-revised scale. The applicants claim that though their educational qualification were similar to the CPWD, they were not given the benefit of the letter dated 13.3.1984 by the Railways which was addressed to the Railway for implementation (Exhibit-'A-4'). Vide letter dated 19.10.1994, all Draftsman were made eligible for the minimum pay scale of Rs.330-560 irrespective of the qualification. The condition was that the minimum period of service for placement from the post carrying scale of Rs.975-1540 to Rs.1200-2040 (pre-revised Rs.260-430 to Rs.330-560) is that one must complete 7 years service in the pre-revised grade of Rs.260-430. The Third Pay Commission

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had placed the tracer of Railway in the grade of Rs.260-430 and they are entitled to the pay scale of Rs.330-560 on completion of 7 years of service as Tracer. The Tracer of Railway and Tracer of CPWD were in the pay scale of Rs.110-200 prior to the Third Pay Commission. After completion of 7 years service in the grade of Tracer, it is their claim that they are entitled to the pay scale of Rs.330-560. The Draftsman in the pay scale of Rs.330-460 and completed 5 years of service in the grade were made entitled to the scale of Rs.425-700 revised Rs.1400-2300. The letter dated 19.10.1994 provides that once the Draftsman are placed in the regular scales, further promotion would be made against available vacancies in the higher grade in accordance with the normal eligibility criteria laid down in accordance with the Recruitment Rules. As such, they are entitled to be placed in the scale.

4. In the Railway following grades were existing as per the recommendations of the IInd Pay Commission before the Third Pay Commission :-

	<u>Pay Scale</u>
i) Tracer	Rs.110-240
ii) Assistant Draftsman	Rs.150-240
iii) Draftsman 'B'	Rs.205-380
iv) Head Draftsman	Rs.335-485
v) Chief Draftsman	Rs.450-575

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5. The Third Pay Commission has recommended as under :-

" We find that fully qualified Draftsman who have to undergo a two year course after their Matriculation are now being recruited on a scale of Rs.150-240 or in some cases even on the lower scale of Rs.110-200. We feel that the scale of Rs.150-240 is rather low whether from the point of view of the qualification demanded or of the duties normally performed. Similarly, it seems incongruous that the three year holders in Engineering recruited for the drawing office should have a scale of Rs.205-280, while the lower scale for those recruited to the regular engineering line is Rs.180-380, where the maximum is higher by Rs.100/-. Regarding the complaint about the non-availability of Class II posts, we have felt that these posts in the gazetted ranks should not be created merely to improve prospects of promotion. We would however recommend that Draftsman who possess a three year diploma in engineering should be provided with an opening to posts in the scale of Rs.550-750 in the revised terms in the regular engineering line. This should enable them progress further and achieve gazetted status in that line if they are found suitable.

80. We feels that there is no justification for the existence of as many as thirty different pay scale in the range of pay from Rs.110/- to Rs.575, in a category where the levels of the skills required are fairly well established and he expected to be homogeneous among the various departments. We recommend that Draftsman should be assigned the following revised scale and should satisfy the qualification requirements noted against each for purpose of direct recruitment.

TABLE XVII

Level	Proposed Scale(Rs.)	Qualification for direct recruitments
1.	260-430	Matric plus one year's experience.
2.	330-560	Matric plus 2 years diploma in Draftsmanship or its equivalent.
3.	425-700	Matric plus 3 years diploma in engineering or its equivalent.
4.	550-750	Degree in engineering or its equivalent.
5.	700-900	Degree in engineering or its equivalent with experience.

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81. Our specific recommendations for the revision of the popular grade are as follows :-

(1) all the posts which are now in the pay scale of Rs.110-200 should be brought on to the scale of Rs.260-430. In the Post and Telegraph Department (outside its Civil Engineering Wing) where the prescribed qualification for Rs.110-200 is Matriculation with a diploma in Draftsmanship, the duties in these posts should be examined to see if any of the posts would deserve to be placed in the next higher grade. Such posts should be placed in Level II, the remaining posts should be in Level I, the grades of Draftsman III (Rs.110-200) and Draftsman II (Rs.110-225) in the Geological Survey of India should be merged and placed in Level I, however, here too the qualification for direct recruitment are Matriculation with two year diploma course in Draftsmanship the duties in posts should be examined and such of the posts as would deserve to be upgraded may be placed in Level II. In future the qualification requirements for recruitment to the grade of Rs.110-200 should be prescribed above.

11. All the posts now in the scale of pay Rs.150-240 should be brought on to the scale of Rs.330-560.

111. The posts in the scale of Rs.180-380 should be placed in Rs.425-700. Half the number of posts in the scale of Rs.205-280 should also be placed in the same scale, the remaining half of the posts should be placed in the scale Rs.330-560, provided that where the number of posts in the scale of Rs.205-280 is less than 10% of those in Rs.150-240 all the posts in the scale of Rs.205-280 should be placed in higher scale of Rs.425-700. In the Railways the existing scale of Rs.205-380 is the result of a fairly recent merger of the scale of Rs.205-280 and Rs.250-380. As a transitional measure, persons on the present scale of Rs.205-380 may be given the pay scale of Rs.425-700. for the future recruits the general scheme should be adopted. Direct recruits with a diploma in Draftsmanship or its equivalent should be placed in the scale of Rs.330-560 and those with a diploma in Engineering should be placed in the scale of Rs.425-700.

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IV. The senior draftsman in the Archaeological Survey of India, the senior Architectural Assistant in the Central Public Works Departments and Draftsman C in the department of Atomic Energy are in the scale of Rs.325-575, Draftsman B in the Department of Atomic Energy is on Rs.250-475. In view of the need for maintaining the existing internal parity of the Draftsman in these grades with other categories in the same organisation, we recommend for these two grades, the revised scale of Rs.550-900 and Rs.470-750 respectively. For similar reason, the Draftsman grades in the Survey of India should be revised as indicated in the chapter on the department of Science and Technology, there are 13 posts of senior Architectural Assistant in the Architectural wing of the Central Works Departments, there is direct recruitment to all these posts from among graduates in architecture, these posts should be in the pay scale of Rs.550-900.

6. In the Central Public Works Departments, no qualification for various grades of Draftsman were prescribed till August, 1949. It was only in August, 1949 that the qualification for the various cadre of Draftsman were prescribed by the Chief Engineer of the C.P.W.D. that time three type of posts were there, namely :-

"(a) Technical Assistant, Estimator, Grade I and Senior Draftsman in the scale of Rs.150-225 - Qualification (1) B.E., (2) Qualified Overseers with 5 years experience.
(b) Estimator Grade II, Divisional head Draftsman and Junior Draftsman (formerly 11 grade Draftsman) in the scale of pay Rs.100-185. Qualification qualified Overseer or Draftsman and (c) Estimator Grade 11 Draftsman Computer or Draftsman Tracer in the scale of Rs.60-150. Qualification - two years experience in the line, need not be Matriculate. The posts at serial No.(c) as mentioned above was the same as now known as Draftsman, Grade III, the scale was on the basis of the recommendations of the First Central Pay Commission and remained into force with effect from January 1, 1947. In 1959, the

second Central Pay Commission, while recommending the pay scale of Rs.110-200 for Draftsman, Grade III in the C.P.W.D. In view of the fact that they were required to do simple works and for whom the prescribed qualification for recruitment was Matriculation and some experience of drawing works, had clearly observed that for the next higher grade, for which a diploma in draftsmanship is the minimum qualification, a scale Rs.150-240 would be appropriate. This was given in the second Central Pay Commission's report in para 58 of the chapter XIV. The President in exercise of the powers conferred by the Proviso to Article 309 of the Constitution, framed Recruitment Rules which came into force on September 1, 1965. These prescribed the qualification of certificate or Diploma from a recognised institution of less than two years duration for the post of Draftsman Grade III, provided that the said certificate or Diploma Course should include at least a six month period of practical experience. The higher pay scale of Rs.150-240, however was not prescribed or given."

7. The recommendations of Third Pay Commission are as under :-

"Draftsman II (Rs.110-225) in the Geological Survey of India should be merged and placed in Level-I. However, as hereto the qualification for direct recruitment are Matriculation with a 2 year Diploma course in Draftsmanship the duties in the posts should be examined and such of the posts as would deserve to be upgraded may placed in Level-II. In further the qualification requirement for recruitment to the grade of Rs.110-200 should be already prescribed above. The recommendations of the Third Central pay Commission were not implemented by the Government for the Draftsman of the Central Public Works Department though theiri counter-parts in certain other organisations were given the scales. A job evaluation study of the work of the Ferro-printers and Draftsman in the Central Public Works Department was undertaken in pursuances of the discussion in the Departmental Council (JCM) of the Ministry of Works and Housing. This was with the object of finding out the nature of the jobs of Draftsmen with a view of revision of scales of the staff. The following observations and recommendations were

made in the report submitted by the work study Unit in January 1977.

"From the detailed comparative picture given above it will be seen that the three grades of Draftsmen in the C.P.W.D. who are doing the same duties and whose qualifications for the posts are also similar to the ones in the Ministry of Railways, Ministry of Engineering Services, etc. are not given the same it is recommended that the scale of pay for the three grades of Draftsman in the C.P.W.D. should be revised as follows :-

Name of post	Pay scale allowed at present	Pay scale re- commended
Draftsman Grade III	Rs.260-430	Rs.330-560
Draftsman Grade II	Rs.330-560	Rs.425-700
Draftsman	Rs.425-700	Rs.550-750"

The Ministry of Railways, Department of Engineering despite the aforesaid findings of the work study Unit to the effect that the duties performed by the Draftsmen of the Central Public Works Department were similar to those performed by the Draftsmen in other Ministries/Departments, the Ministry of Works, Housing and Supply still did not concede the demand of the Draftsmen and continued to maintain that the duties of Draftsmen Grade III were not comparable with those performed by similar categories of Draftsmen in other Ministries/Departments. Ultimately, the matter was referred to the arbitration of Mrs.Justice Jeswant Sing, Chairman, Shri G.Ramanujam, Member-Staff side and Shri D.S.Makra, Member-Official side in May,1977. The Board of Arbitrators after hearing of official side and staff side and having examined the merits of the case in the light of the entire material gave the Award to the effect that the scale of Draftsmen Grade III should be Rs.330-560 and consequently that of Draftsmen Grade II as Rs.425-700 and that of Draftsman Grade I Rs.550-750.

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8. The Third Pay Commission had recommended 5 scale of pay to the Draftsmen and at the relevant time in the C.P.W.D. only three grade were existing Draftsmen grade III (Rs.260-430), Draftsmen Grade II (Rs.330-560) and Draftsmen Grade-I (Rs.425-700), while in Railways, there were 5 Grades. The C.P.W.D. employees were not satisfied with the revision of pay scale and they have claimed that they should be placed in higher pay scale. The Board of Arbitration had given an award on June 20, 1980 where the pay scale of the Draftsmen were revised as under :-

"Name of Grade	Recommended by 3rd Pay Commi- ssion	Recommended by Arbitration Award
Draftsmen Grade III	Rs.260-430	Rs.330-560
Draftsmen Grade II	Rs.330-560	Rs.425-560
Draftsmen Grade I	Rs.425-560	Rs.550-750

By the award, it was directed that the above mentioned categories of Draftsmen shall be fixed notionally in their respective scale of pay as aforesaid from January 1, 1973 but for the computation of arrears the date of reckoning shall be July 28/29, 1978. In accordance with the said award, the pay scale of Draftsmen in C.P.W.D. were revised vide order dated November 10, 1980. The Draftsmen employed in department other than C.P.W.D.

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claimed the revision of their pay scale in the light of the revision of pay scales in the C.P.W.D. and on March 13, 1984, the Government of India, Ministry of Finance (Department of Expenditure) issued an Office Memorandum whereby it was directed that the scale of pay of Draftsmen Grade III, II, and I in the other Departments of the Govt. of India other than the C.P.W.D. may be revised as per the revised scale of C.P.W.D. provided that their confirm recruitment qualification are similar to those prescribed in the case of Draftsmen in C.P.W.D. are those who do not fulfill the said qualification would continue in the pre revised scales. The said Memorandum dated 13.3.1984 though addressed to the Railway Ministry, the Railway Ministry had not implemented it nor had circulated to any one or brought to the notice of the concerned employees who were to be benefited by the Memorandum dated 13.3.1984.

9. The Tracer in Railways has all along been treated as equivalent to Tracer/Draftsmen Grade III in C.P.W.D. and Assistant Draftsmen in Railways has all along been treated on equivalent to Assistant Draftsmen/Draftsmen Grade in C.P.W.D. Draftsmen 'B' in the Railways has all along been treated on equivalent to Draftsmen/Draftsmen Grade II in the C.P.W.D. As a result of the revision of pay scale in C.P.W.D. on the basis of the award of the Board of Arbitration, the pay scale of Draftsmen Grade III was revised to Rs.330-560 while that of the Draftsmen Grade II was revised to Rs.425-700 and of Draftsmen Grade I was revised to

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Rs.550-750. The denial of similar revision of pay scale to Draftsmen in railway would result in their downgraded level of Tracer/Draftsmen Grade III. The Office Memorandum dated 13.3.1984 cannot be construed as such.

10. The educational qualifications for the post of Tracer in Railways, Draftsmen Grade III in C.P.W.D. is equivalent and ^{as} such as the Draftsmen Grade III in the C.P.W.D. had itself compared them with the Draftsmen of the Railway with regard to their educational qualification while pleading their case in the Arbitration for getting their scale upgraded and hence it is undisputed. The educational qualification is not equivalent to the Draftsman Grade III. All the applicants were retired after being promoted to the next grades. Representation was made on 9.3.1995 through proper channel which was forwarded to the Railway Board by the Mumbai Office (Exhibit-'A-5' & 'A-6'). Hence, this OA. for the above said reliefs.

11. The claim of the applicant is based on Exhibit-'A-1' which is as under :-

No. 13910-IC/91
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Expenditure)
New Delhi, the 19th October, 1994

OFFICE MEMORANDUM

Subject :- Revision of Pay Scales of Draughtsmen Grade III, II and I in all Government of India offices on the basis of the award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's O.M.No.F.5(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to any 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 Scale of pay allowed to the Draughtsmen 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 Draughtsmen Grade III, II and I in all Government of India offices :-

	Original Scale	Revised Scale on the basis of the award
Draughtsmen Grade I	Rs.425-700	Rs.550-750
Draughtsmen Grade II	Rs.330-560	Rs.425-700
Draughtsmen Grade III	Rs.260-430	Rs.330-560

2. The President is now pleased to decide that the Scales of pay of Draughtsmen Grade III, II and I in Offices/Departments of the Government of India, other than the Central Public Works Department, may also be placed in the Scales of pay mentioned above subject to the following :-

- (a) Minimum period of service for placement from the post carrying scale of Rs.975-1540 to Rs.1200-2040 (pre-revised Rs.260-430 to Rs.330-560).
- (b) Minimum period of service for placement from the post carrying scale of Rs.1200-2040 to Rs.1400-2300 (pre-revised Rs.330-560 to Rs.425-700).
- (c) Minimum period of service for placement from the post carrying scale of Rs.1400-2300 to Rs.1600-2660 (pre-revised Rs.425-700 to Rs.550-750).

3. Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of Scale of pay would be given with effect from 13.5.1982 notionally and actually from 1.11.1983.

Sd/-

(Shyam Sunder)

Under Secretary to the Government of India

To

All Ministries/Departments of the Government of India (As per standard list with usual number of spare copies)."

12. The respondents have not filed any written statement and argued the case orally. We have heard this OA. along with other OA. Nos. 901/96 & 956/96. The respondents' counsel stated that the defence raised in the said OAs. also applies to the present OA. Hence, the reply filed in the said OA. be also treated as reply to the present OA. to which the learned counsel for the applicant has no objection. Hence, we proceed to decide the OA. treating the reply filed in the said OAs. as the reply of the respondents in the present OA.

13. The learned counsel for the respondents has stated that for Assistant Draftsmen in the Railways, only I.T.I. Certificate is required while for the post in the same scale in C.P.W.D., Diploma in Draftsmanship of 2 years duration is required. The higher scales have both a direct recruit component and a promotion component with 4 years minimum service to reach the scale of Rs. 1600 - 2660/- in the Railways while in C.P.W.D., there is only one promotion component with a minimum period of 7 years requirement to reach that scale.

14. The respondents counsel has also contended that Railways are autonomous organisation with full control over their own service conditions and Government orders are not automatically applicable to the Railways. They have to be approved by the Railway Board and then made applicable to the Railway employees. The Railway Board did consider the notification issued by the Ministry of Finance, (Department of Expenditure), and for reasons which we consider are valid, decided not to implement them.

15. Besides, the Railway department is entirely separate and independent for all matters of administration including in the matter of payment of wages for their employees. The nature of work is also different when compared with the Draftsmen of CPWD. It may be probably after taking into consideration the nature of duties of workers that the Board of Arbitration had recommended the revision of pay scales of Draftsmen category of C.P.W.D. employees. When such a recommendation is made and consequently, the Government acted upon it and increased the pay and revised the scales in CPWD, the applicants cannot come to this Court for similar increase when similar recommendatory Bodies are there in the Railways. The applicants could have approached such Bodies to make them recommend revision of pay and get the same benefit. Without doing the same, the applicants have prematurely chosen the path of having approached this Tribunal for redressal of their grievance. The approach of the applicants is, therefore, in wrong direction and we, therefore, feel that the application is ill conceived.

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16. Besides, the respondents have also stated that the Railways being a separate department, unlike the C.P.W.D., it is an industry by itself under the Government of India governed by the provisions of I.D. Act, Payment of Wages Act, Payment of Gratuity Act, Railway Establishment Manual and other separate Statutory Rules, governing the service matters so much so that the employees of Railways are in an entirely different position when compared with the Government Servants working under the CPWD. Hence, no parity can be assumed as claimed by the applicants. It has been held that unequal pay for posts with the same nomenclature but different fields is permissible vide Kewal Ram Sharma and Ors. Vs. State of Punjab and Ors. {1989 (3) SLR 507}. In another case in 1989 (3) SC 296, their Lordships of the Hon'ble Supreme Court held that equal pay principle does not apply if the managements are different even though under the same owner in spite of the fact that the posts carry the same nomenclature.

17. Besides, the respondents have stated in their reply that the recruitment qualifications required for recruiting Draftsmen in the Central Railway are not the same as that of the C.P.W.D. Whereas in the C.P.W.D. there are three grade structure of Draftsmen, in the Central Railway there are four grade structure for Draftsmen. In view of the same, the respondents have submitted that the OM dated 19.10.1994 is not applicable to Draftsmen of the Central Railway. This is also because the prescribed qualification for recruitment is also not equivalent.

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The Draftsmen of C.P.W.D. in Grade - III are required to have diploma in Draftsmanship, whereas the equivalent of Assistant Draftsmen in the Railway has been prescribed as Matriculation with ITI Certificate. Accordingly qualification for recruitment of Draftsmen in C.P.W.D. and Railways are not similar and as such, the claim made by the applicants that they should be granted the grade on par with C.P.W.D. staff should not be accepted.

18. We find that ~~not~~ⁱⁿ similar facts, Draftsmen working in Southern Railway had filed OA 1179/1995 before CAT, Ernakulam Bench, seeking direction that their pay scale may be revised at par with the Draftsmen working in CPWD. However, CAT, Ernakulam Bench dismissed the said OA vide their judgement dated 22.7.1997. Similarly, A Division Bench of this Tribunal had held vide its judgement dated 5.7.1994 in OA 466/1988 filed by the Railway Laboratory Staff Association Vs. Union of India and Ors. that pay scales are to be decided by the Government on recommendation of a specialised Body like the Pay Commission, Anomalies Committee, etc. On similar basis, Draftsmen working in RDSO, Lucknow, had filed a Writ Petition in the High Court of Lucknow which stood transferred to CAT at Lucknow subsequently and was numbered as T.A. 1916/1987, wherein a direction was sought that the Ministry of Finance letter dated 13.3.1984 be implemented in favour of the Draftsmen working in the Railways. The said transferred application was dismissed by C.A.T. Lucknow, vide its judgement dated 3.6.1997.

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19. Heard the learned counsel for both sides.

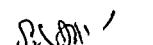
20. After going through the facts of the case and the submissions made by the counsel for both sides, the position set out above emerges that the post of Draftsmen in the Railways cannot be equated to posts in other Departments like CPWD. The pay scales are under constant review by the Railways internally and by various Expert Bodies like the Pay Commission and the Anomalies Committee externally. The Apex Court has stressed time and again that the fixation of pay scales are to be left to such Expert Bodies and the scope of judicial intervention is limited to cases of patent discrimination between identically situated categories. We do not, however, see any such discrimination between identically situated persons and we consider that the case of the applicants does not merit judicial intervention on the ground of equal pay for equal work.

21. In view of the above, we do not find any merit in the above OA. and the same is accordingly dismissed with no order as to costs.



(S.K.AGARWAL)

MEMBER (A)



(S.L.JAIN)

MEMBER (J)

mrj.