

ANNEXURE - 1

Form of Index

List of Papers in ORIGINAL APPLICATION NO 883 / 89

| Sl. No. Of Papers. | Date of Paper or Date of filing | Description of Papers. |
|-----------------------|---------------------------------------|--|
| | 24.9.91 | <u>Part - I</u> Original Judgment |
| | 6.10.89 | Original Application & Material Papers. |
| | 23.9.90 | Counter |
| | — | Reply Counter. |
| <i>Destroyed</i> | | |
| | 6.10.89 | <u>PART - II</u> Copy of O.A. |
| | — | Copies of Material Papers. |
| | 23.9.90 | Copy of Counter |
| | — | Copy of Reply Counter. |
| | 24.9.91 | Copy of Judgment. |
| <i>A 19/10/90</i> | | |
| | 6.10.89 | <u>PART - III</u> Vakalatnama |
| | 21.12.89 | Memo |
| | 16.11.89 | Notice. |

Part - II and Part - III Destroyed.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

Transferred APPLICATION No. 883 of 1989
ORIGINAL

DATE: 16/2/90

Finally eight weeks time
granted for filing Counter,
at the request of Standing
Counsel/Respondents, There-
after post the case for final
hearing according to its turn
in usual course.

bij
BNJ
VC

DSR
M(J)

MANUA/90

10/8/90

Respondents are directed
to file a Counter by
1st week of September
1990. Post on 17-9-90
as expedite case.

MA is accordingly
disposed of.

bij
(BNJ
buz

| Date | Office Note | Orders. |
|------------|---|---|
| 12/11/1990 | <p>Mr. E. Madan Mohan Rao v/s Mr. V. Jagayya Parma</p> <p>Heard Mr. E. Madan Mohan Rao, learned Adv. Case for Defence. Delay in filing Counter- is condoned and O.A. is fixed off. Post the O.A. for final hearing the usual course.</p> <p>(BVI) (BNJ)</p> | <p>O.A. 883/89 in O.A. 883/89</p> <p>D (DSR)</p> |
| 10.7.91 | | <p>OA 883/89.</p> <p>Learned counsel for appellant says that according to his information the sub matter of the case is covered by a decision of Telangana bench and requested for taking up with the court next week. Post to 17.7.91 for hearing.</p> <p>(K.W) HVC.</p> |

~~Palash
12/12/91~~

~~Palash
12/12/91~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. / T. NO. 883 1989

Applicant(s)

Versus

Respondent(s)

| Date | Office Note | Orders |
|-------------|---|---|
| 8/11/89 | | Admit and issue notices. |
| 16-11-89 | NS. issued to the Respondents 1&2. Fixing for hearing on 19-12-89. | Post after six weeks. <i>frw</i> <i>(RNS)</i> |
| 22-12-1989: | HE REGISTRAR: Respondents Counsel present and requests time for four weeks for filing Counter. Call on 29-1-1990 for Counter. | <i>mg</i> REGISTRAR |
| 29-1-90: | 29-1-90: Counsel of both sides absent. Counter not filed. Time extended till 5-2-90 for Counter. | <i>frw</i> Dy. Fegr. (J) |
| 5-2-90: | HE REGISTRAR: Counsel of both sides absent. Counter not filed. REGISTRAR | Time Post before Court for Orders. |
| 9/2/90 | | <u>O.A. NO 883/89.</u> |

Post the matter of the ~~time~~ weeks
as requested by learned Counsel for the applicant.

frw
BR
JRC

JWM
JRC

OA 883/89

| Date | Office Note | Orders |
|---------|--|---|
| 29-4-91 | | Arguements heard in part from V. Jagayya Sarma. Post OA 31-4-91 as part Hard. |
| | | HJM B/O HR BS H(O) C/O H(A) C/O |
| 31.7.91 | | At the request on behalf of Appellants Counsel P. H. A. 7.8.91 as P. H. |
| 7.8.91 | Mr. V. Jagayya Sarma Mr. M. B. Ramana, Advocate | HJM B/O HR BS H(O) C/O H(A) C/O |
| 24-9-91 | | Record on both side reserved for along side |
| | | HJM B/O HR BS H(O) C/O H(A) C/O |
| | | OA is disposed of with directions vide orders on separate sheets. No order of to costs. |
| | | (JNM) M(O) P (RBS) H(A) |

(P.T.O.)

15h

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 883/89.

Date of Decision : 24.9.1991

-T.A.No.-

S.J.Sathe & 12 others

Petitioner.

Shri V.Jogayya Sarma

Advocate for the
petitioner (s)

Versus

Union of India, rep. by its Secretary,

Respondent.

Min. of Defence Production,

South Block, New Delhi & another

Shri N.V.Ramana.

Advocate for the
Respondent (s)

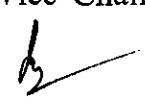
Addl. CGSC

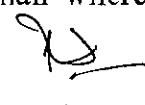
CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *Ys.*
3. Whether their Lordships wish to see the fair copy of the Judgmen
4. Whether it needs to be circulated to other Benches of the Tribuna
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not c


HJNM
M(J)


HRBS
M(A)

(Signature)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.883/89.

Date of Judgment 24.9.1991.

1. S.J.Sathe
2. G.Ramachandran
3. P.Surendra Nath
4. C.K.Balakrishnan
5. G.Siva Prasad Rao
6. T.Satyanarayana
7. P.Gangadhar
8. Ratan Singh
9. Mohan Singh
10. Poruri Rama Rao
11. Mukul Mathur
12. R.L.Prajapathi
13. S.Giridhar Rao

.. Applicants

Vs.

1. Union of India,
rep. by its Secretary,
Min. of Defence Production,
South Block,
New Delhi.

2. Director,
Technical Development &
Production (AIR),
'H' Block,
New Delhi-110011. .. Respondents

Counsel for the Applicants : Shri V.Jogayya Sarma

Counsel for the Respondents : Shri N.V.Ramana,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri S.J.Sathe and 12 others under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, rep. by its Secretary, Min. of Defence Production, South Block, New Delhi and another.

2. The applicants are Senior Scientific Assistants in the Directorate of Technical Development and Production (AIR), at Hyderabad. The applicants No.1 to 7 were promoted

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156

to the post of Junior Scientific Officers on temporary basis in July, 1988. The posts of Senior Scientific Assistants form a category of Scientific Staff under the Ministry of Defence. The Senior Scientific Assistants, working in the establishment of DTD & P (AIR) are governed by SRO 217 published in the Gazette of India dated 5th August, 1972. The qualifications prescribed for the Senior Scientific Assistants are:

- (i) Master's Degree in Science or equivalent or Degree in Engineering or equivalent with one year experience in the appropriate technical field, or
- (ii) Bachelor's Degree in Science or equivalent with 4 years experience in the field, or
- (iii) Diploma in Engineering or equivalent with 4 years of experience in the appropriate Technical Field.

3. The Senior Scientific Assistants, working in DRDO are governed by SRO 213 of 68 dated 26.6.1968. The qualifications prescribed for appointment as Senior Scientific Assistants are:

- (i) Master's Degree with Science/Maths. or equivalent or Degree in Engineering with one year experience, or
- (ii) B.Sc., with 4 years experience, or
- (iii) Diploma in Engineering with 4 years experience, or
- (iv) Bachelor's Degree in Library Science (one year duration after graduation) of a recognised University or Institute or equivalent qualifications with 3 years experience in the field of documentation, or
- (v) Diploma in Photography/Commercial Art from recognised Institution.

4. The Senior Scientific Assistants, working in D G I are governed by SRO 109 dated 21.3.1964. The qualifications prescribed for appointment as Senior Scientific Assistants are M.Sc.,/B.Sc., (Hons) (3 years course) in the required field of technology with one year experience

26

in the field of work, or Diploma in Technology with 2 years experience.

- (i) Degree in Engineering or equivalent with 2 years experience in the relevant field, or
- (ii) Master's Degree in Science with 2 years experience in the relevant field, or
- (iii) Diploma in Engineering with 4 years experience in the relevant field, or
- (iv) Degree in Science with 4 years experience in the field (SRO 270 dt. 4.10.85).

5. It is stated that all the 3 units namely: DTD & P (AIR), DRDO and DGI formed a single service for the posts, over and above Senior Scientific Assistants and they were all governed by Defence Service Rules issued in SRO 51 dt. 25.1.1967. The lowest post in the Defence Science Service Rules is Junior Scientific Officer and this post has to be filled by promotion from non-gazetted Civilians/ Scientific and Technical staff of the categories specified in column 1 viz: Sr. Scientific Assistant, Foreman, Chief Draftsman and Senior Library Supervisors. The Senior Scientific Assistants could be from any of the 3 units namely: DTD & P (AIR), DRDO and DGI. This position continued to be so till Defence Science Service Rules were trifurcated into 3 units namely:

- (i) Defence Research & Development Service (DRDS) under Defence Research Development Organisation,
- (ii) The Defence Quality Assurance Service (DQAS) under the Directorate General of Inspection, and
- (iii) Defence Aeronautical Quality Assurance Service (DAQAS) under the Directorate, Technical Development & Production (AIR). Separate rules called Directorate of Technical Development & Production (AIR), Organisation, Ministry of Defence Group B Junior Scientific Officers Recruitment Rules, 1980 published vide SRO dt. 10th January, 1980

Defence Research & Development Organisation Junior Scientific Officers (Recruitment Rules, 1980) published vide SRO 81 dt. 23rd February, 1980, Directorate General of Inspection (DGI) Organisation (Junior Scientific Officers) Recruitment Rules, 1981 were issued. Thus, the posts of Senior Scientific Assistants in all the 3 units viz: DRDO, DGQA and DTD & P (AIR) were treated as a single unit, falling under the Defence Science Service. A common seniority roll was also prepared with the name SP Roles non-gazetted staff. The list is maintained gradewise and subjectwise for confirmation and promotion to the Junior Scientific Officer grade. The Senior Scientific Assistants working in all the three departments were interchangeable and intertransferable. In other words, all the Senior Scientific Assistants are entitled to be promoted as Junior Scientific Officers in any of the wings.

6. When there was an anomaly relating to the pay structure, it was referred to arbitration. The award made on 12.8.1985 by the Board consisting of Justice M.L.Jain, Chairman, Shri Bagaram Tulpule, Member, Staff Side and Shri R.D.Thaper, Member, Official Side refers to Scientific Staff under the Ministry of Defence approximating to Number 6,400. In the body of the award, they referred to Directorate of Technical Development & Production (AIR), (AAIW) to which category the applicants belong. The qualifications for appointment, the work allotment and above all, the chances of promotion were all common to the Senior Scientific Assistants working in all the 3 units. The total number of Senior Scientific Assistants in all the 3 units would only come to 6,400 and if the category to which the applicants belong, namely: DTD & P (AIR) is excluded, the number will not come to 6,400. Taking all the facts into consideration, the Board gave the award, stating that the demand of the Staff Side for the grant of

pay scale of Rs.840-1040 to Senior Scientific Assistants and Draftsman working in the Research & Development Organisation and Directorate General of Inspection (both in the Ministry of Defence) is accepted. Taking advantage of the word "Directorate of Technical Development and Production (AIR)" ^{appendage} was missing, the recommendation was not extended to the staff working in DTD & P (AIR) Organisation.

7. The applicants and similarly placed candidates made a representation dated 8.12.88 for including them also in this scale. It is their contention that it covers all Senior Scientific Assistants and they cannot be excluded. However, the DTD & P (AIR) informed them that the matter was taken up with the Ministry of Defence and was turned down stating that the award given by the Board of Arbitration could be implemented only in respect of categories of establishments covered by the award. The applicants point out that senior officers of their organisation represented the cases of Senior Scientific Assistants before the Board of Arbitration and it would therefore indicate that they are also covered by the award. Moreover, the Board relied heavily on the Expert Committee headed by Justice Shri K.C.Puri and would therefore simply that they are also covered.

8. It is further contended by the applicants that the Senior Scientific Assistants working in all the 3 units formed a single indivisible category and are eligible for promotion in all the 3 units. They are also borne on a common seniority roll and if a particular section like the applicants are to be excluded they should have been given notice for doing this. The applicants draw attention to T.A.No.18/87 of this Bench and hold that this is discrimination.

9. It is, therefore, prayed that the award made by the Board of Arbitration be extended to the applicants also and to treat all the Senior Scientific Assistants in the DTD & P (AIR) having been placed in the scale of Rs.840-1040 in the same manner as the Senior Scientific Assistants of other wings of the Defence Ministry.

10. The respondents have filed a counter affidavit and oppose the application. In the counter affidavit they give the background to the setting up of the Arbitration Board. It is their case that after going through all the processes the Board of Arbitration gave the award of the pay scale only to Scientific Staff of two arms i.e., R&D Organisation and DGI. In other words, the Board of Arbitration excluded the Senior Scientific Assistants of the DTD & P (AIR) from this scale.

11. It is also contended that the award which also signed by a Member, Staff Side had already been approved by the Cabinet and implemented. It is pleaded that an award which has been approved by the Cabinet cannot be modified or amended or challenged in a Court of Law and any such modification/amendment can be carried out only with the approval of the Parliament.

12. It is also contended that the figure of 6,400 indicated in the award covers not only the Senior Scientific Assistants but also of all categories of Scientific Staff and they do not accept accept the claim of the applicants that the mere indication of 6,400 would indicate that the award should be applicable to them also.

13. We have examined the case and heard the learned counsel for the applicants and the respondents. The short questions before us are:

(a) Is the exclusion of the applicants from the award a conscious decision or a mere oversight.

(b) Whether any modification at this stage requires the approval of the Parliament as claimed by the respondents.

(16)

14. C.A. Reference No.9 was with reference to Scientific Staff in all the units including the DTD & P (AIR). C.A. Reference No.10 related to other non-technical cadres like Store Keeping Staff, Draftsmen and Drivers. Award 1(a) relates to Scientific Staff. The Scientific Staff of the various units are interchangeable. ~~and nowhere~~ in the scrutiny of various aspects of the case Senior Scientific Assistants of the DTD & P (AIR) had been singled out to be excluded from the award. In Award 1(a) the demand of the Senior Scientific Assistants and Draftsmen working in the R&D Organisation and DGI have been accepted. The award is silent on DTD & P (AIR) in respect of both the cadres - Senior Scientific Assistants and Draftsmen. But the subsequent Award 1(c) is specific about the cadre of Draftsmen only. This portion says that the Draftsman working in other organisations of the Ministry of Defence is rejected. This may, by some imagination, be treated as excluding the Draftsman of the DTD & P (AIR) from the award. No conscious exclusion of the Senior Scientific Assistants of the DTD & P (AIR) has been made unlike in the case of the Draftsmen. It is, therefore, clear that the omission of the Senior Scientific Assistants of the DTD & P (AIR) ^{purely} in the award is ~~only~~ unintentional and not the result of the careful application of the mind. The fact that the Member of the Staff Side has signed the award can only mean that he too had missed the essential aspect by oversight and this cannot be taken to mean that he had agreed to the exclusion of the Senior Scientific Assistants of the DTD & P (AIR) from the award. Besides, the other grounds raised by the applicants also appeal to us. For all these reasons we find that the Senior Scientific Assistants of the DTD & P (AIR) ^{also} should get the benefit ^{of the award} in the same manner as the Senior Scientific Assistants of the other units in the Ministry of Defence.

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15. The respondents have raised the question of approval of the Parliament. We find from a copy of the statement ~~to be~~ laid by the Hon'ble Defence Minister before the Rajya Sabha (R3) that it ^{was} necessary to obtain the approval of the Parliament for making any modification to the award. We find from the note that the approval of the Parliament had to be obtained for changing the date of effect of the award. Such being the case, approval of the Parliament ^{as in this case} for filling in the omission in the award is also necessary.

16. In view of the above, we direct the respondents to initiate steps for extending the award to the Senior Scientific Assistants of the DTD & P (AIR) also by moving the Parliament at the next available opportunity for approval.

17. With the above directions we dispose of the application with no order as to costs.

MS

R. Balasubramanian

(J. Narasimha Murthy)
Member (Judl).

(R. Balasubramanian)
Member (Admn).

Rb

Dated 24th September 91

Registrar.

8/10/91

To

1. The Secretary, Union of India, Min. of Defence Production, South Block, New Delhi.
2. The Director, Technical Development & Production (AIR), 'H' Block, New Delhi-11.
3. One copy to Mr. V. Mogayya Sarma, Advocate, CAT. Hyd.
4. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
5. One spare copy.
6. Copies to all Members and Report of the C.A.T. Standard Way.

pvm

*8th Oct 1991
Rb
20/10/91*

TYPED BY
CHECKED BY

COMPAED BY
APPROV'D BY

IN THE CENTRAL ADMINISTRATIVE

JUDICIAL BENCH AT HYDERABAD

JUDICIAL

AD

THE HON'BLE MR.

AND

THE HON'BLE MR.

AND

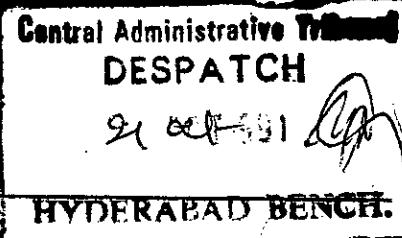
THE HON'BLE MR. J. Narayana Murthy M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN M(A)

DATED: 24 - 9 - 1991

ORDER / JUDGMENT



M.A./R.A./C.A. NO.

O.A. NO. 883/89

T.A. NO.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.