

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 394 OF 1996

Dated, the 9th December, 1998

BETWEEN :

1. Vaitla Laxmi Narayana
2. Airedy Varaprasada Rao
3. Boppudi Gopelaswamy
4. Kurella Nageswara Rao
5. PH Praveen Kumar
6. Ponkam Srinivas Yadav
7. Buddapalli Deva Dass
8. Katra Harilal
9. Balingola Bandaiah
10. BAVB Pratap Kumar
11. Sadu Pratap Reddy

... Applicants

A N D

1. Government of India
Represented by the Secretary,
Ministry of Defence (Civil-I),
Sena Bhavan, DHQ Post Office,
New Delhi-11.
2. The Director General of Quality
Assurance, Department of Defence
Production, Ministry of Defence,
Government of India,
DHQ Post Office,
NEW DELHI-11.
3. The Controller,
Controllerate of Quality Assurance,
(Infantry Combat Vehicles),
Ministry of Defence,
Government of India,
Yeddumailaram,
Dist. Medak (A.P.)

R ... Respondents

Contd...2

72

O.A. 394 OF 1996

-: 2 :-

COUNSELS :

For the Applicants : Mr. P. Naveen Rao

For the Respondents : Mr. N. R. Devaraj

CORAM :

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDL)

O R D E R

(PER : HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (J))

1. Heard Mr. P. Naveen Rao, Learned Counsel for the applicants and Mr. N.R. Devaraj, Learned Standing Counsel for the respondents.
2. This is an application filed under Section 19 of the Central Administrative Tribunals Act, 1985. The application was filed on 21.2.96.
3. The applicants No.1 to 4 and 7 to 9 are presently working as Draughtsman Gr.III (revised as Gr.II) and the 3rd applicant after getting promotion as Draughtsman Gr.III got direct promotion as Chargeman in the scale of pay of Rs.1400-2300 through open interview and the applicant No.8 while working as Draughtsman Gr.II (revised as Gr.III) participated in the Limited Departmental Recruitment for the SC/ST Internal Candidates for Recruitment as Draughtsman Gr.II and was appointed as Draughtsman Gr.II and is presently working as Draughtsman Gr.II (revised as Gr.I) and the remaining applicants 10 and 11 are working as Tracers (revised as Draughtsman Gr.III). All the applicants were initially appointed as Tracers (redesignated as Draughtsman Gr.III) revised as Gr.II. The service particulars of

O.A. 394 of 1996

-: 3 :-

of the applicants are described in Annexure-AI to the O.A.

4. A separate establishment known as Directorate of Quality Assurance was created and headed by the Director of Quality Assurance. An office of the Controller of Quality Assurance is located at Yeddumailaram Village, Medak District and the local office is headed by a Controller. The local Office has posts of Draughtsman in various grades. They are governed by SRO 51 dt. 8.2.69. / ^{The} Department of Defence Production (Director General of Inspection)

Class III Non-Gazetted (Chief Draughtsman Gr.I, II, III & IV and Tracers) Recruitment Rules, 1968 (in short "the Rules 1968"). The Rules 1968 were amended by SRO 25 dt. 20.10.94 by the amended rules 1985 (in short "the amended Rules 1985") providing opportunities for filling up the posts of Tracers. As per the Rules 1968 the posts of Tracers was to be filled up by direct recruitment. Qualifications prescribed for the post then was a pass in Matriculation/HSC Examination with experience in tracing or with an ITI certificate. It is stated that the amended rules 1985 modified and prescribed the qualification for the post of Tracers. As per the amended Rules 1985 qualification prescribed was a Diploma in Electrical, or Mechanical or Draughtsman Course from a recognised Institute. All the applicants were recruited after the amended Rules. All of them possess the certificate from I.T.I. in Draughtsmanship (Mechanical).

5. At the time of their appointment, the posts of Tracer carried the p scale of pay of Rs.260-430 (revised

Contd..4

74

O.A. 394 of 1996

-: 4 :-

Rs.975-1540). The service particulars of the applicants are described in Annexure-AI. They were appointed as Tracers between 1986 and 1991. The applicants 1 to 9 were promoted as Draughtsman Gr.III between 1989 and 1991.

6. They submit that Draughtsmen working in the Central Public Works Department agitated for upward revision of the scales of pay, as per the award of the Board of Arbitration dt. 20.6.80. The scales of pay for Draughtsmen in the CPWD were revised as under :

<u>Grade</u>	<u>Scale of Pay</u>
i) Draughtsman Gr.I	Rs.550-750
ii) Draughtsman Gr.II	Rs.425-700
iii) Draughtsman Gr.III	Rs.330-560

7. Thereafter, various organisations of the Government of India having cadre for Draughtsmen agitated for revision of the scales of pay at par with that of the Draughtsmen working in CPWD. Then the Union of India constituted a Committee of the National Council. It is stated that the Committee recommended for revision of scales of pay of the Draughtsmen working in the other Departments subject to the condition that the recruitment qualification for Draughtsmen was the same or similar to those of the Draughtsmen working in the CPWD. The effect of revision of scales of pay was given from 15.5.82 (notionally) and monetary benefits were given w.e.f. 1.11.85. The decision of the Govt. of India was communicated by the Department of Expenditure in its OM No.F.(59)-E.III/82 dt. 13.3.84 (Annexure-AII).

-:5:-

8. It is submitted that the qualification prescribed for appointment of Tracers in the Direct Recruitment is same as or similar to those prescribed for Tracers in the CPWD. Thus the applicants claim for fixation of pay in the scale of pay of Rs.330-560 (pre-revised) as per the OM dt.13.3.84.

9. The applicants submitted a representation to the respondents to provide higher scales of pay. They were informed that the matter was under consideration. They submitted that this issue is pending before the Hon'ble Supreme Court.

10. While the matter was pending adjudication, the Govt. of India, issued OM dt. 19.10.94 at Annexure-AIII by which the benefits were extended to the Draughtsmen in other Departments irrespective of the qualifications. Further, in so far as the non-qualified persons were concerned the minimum qualifying service was prescribed for being eligible to get the revised scales of pay.

11. The Hon'ble Supreme Court considered the OMs dated 13.3.84 and 19.10.94 and dismissed the SLPs and Civil Appeals as per their Judgment dt. 27.10.95. A copy of the judgment is at Annexure-VI (page 24).

12. Based on the decision of the Hon'ble Supreme Court, the Ministry of Defence issued letter dated 15.9.95, redesignating the Tracers as Draughtsmen Gr.III with a scale of pay of Rs.1200-2040. It is stated that the said scale of pay was applicable only after 7 years of qualifying service.

13. The applicants have submitted a copy of the letter dt. 15.9.95 at Annexure-IV (pages 19 to 22 of the O.A). We feel it proper to reproduce herein below the para 4^a(i) and (b) of the said O.M.

-:8:-

- "(a) Tracers/D'men appointed in the scale of pay of Rs.975-1540/- (pre-revised Rs.260-430) may be placed in the scale of Rs.1200-2040 as and when they complete the requisite length of service prescribed in para 3(1) (a).
- (b) In case of D'men appointed in scale of Rs.1200-2040 (pre-revised Rs.330-560), they may be placed in the revised scale of Rs.1400-2300 if they have been appointed with a qualification of Certificate or Diploma in Draughtsmanship from a recognised institution of not less than 2 years (including 6 months practical training) with 1 year's experience as D'men. If they have been recruited with a qualification of Certificate or Diploma in Draughtsmanship of less than 2 years (including 6 months practical training) without 1 year's experience, they will continue in the the scale of Rs.1200-2040. Those appointed to this post by promotion may be placed in the revised scale of pay of Rs.1400-2300 as and when they complete the requisite length of service prescribed under para 3(1) (b)".

14. The applicants have filed this O.A. praying to call for the relevant records leading to the issue of the letter dt. 15.9.95 of the R-1 and to declare the provisions contained in para 4(a) and (b) therein as illegal, arbitrary, discriminatory, unconstitutional and without jurisdiction and consequently to direct the respondents to revise the scale of pay of the applicants in the Tracer post.

15. The respondents have filed their counter contending that the benefit of revision of scales of pay was extended to the D'men working in various organisations of the Govt. of India with specific condition that the revised scales would be applicable provided the recruitment qualifications were similar to those qualifications prescribed for Draughtsmen working in the CPWD. In this connection, the O.M. dated 13.3.84 is relevant. Further, it is stated that the categorisation of Draughtsmen covered under the award of Board of Arbitration are Draughtsmen Gr.I, Gr.II and Gr.III only and not the Tracers. They submit that the Draughtsmen Gr.III to Gr.I working under the R-2 were already in receipt of the revised scale of pay at par with the Draughtsmen working in the CPWD in accordance

R

-:7:-

with the award dt. 20.6.80 of the Board of Arbitration. It is submitted that the said revision of scales of pay of the Draughtsmen Gr.III, II and I were upheld by the Jabalpur Bench of this Tribunal in O.A. 203/87 decided on 4.9.90. They have produced a copy of the order at Annexure-AIV.

16. In view of the above, the contention of the applicants to place them or the Tracers in the higher scale of pay from the date of their appointment is unjustified, baseless and not within the purview of the O.M. dt.13.3.84 and 19.10.94. They further submit that in the O.M. dt. 19.10.94 as a special dispensation, with a view to bring about rationalisation of the Draughtsmen in various Defence Establishments, Tracers were given the re-designated pay scale appropriate for the Grade. Hence, the present application filed in 1996 is barred by limitation.

17. They submit that the Hon'ble Supreme Court, in its judgement dt. 20.7.95 had observed that Tracers of CPWD were redesignated as Draughtsmen Gr.III in the year 1965. Taking that position as it is, even at that time, the posts of Tracers and Draughtsmen Gr.III were separately existing in DGQA. As such, reference to the said decision is not relevant. Further they submit as follows :

"(i) D'man III in DGQA were already in higher scale given to D'man III in other Departments on the basis of Ministry of Finance OM dt. 13.3.84.

(ii) There is no comparison between Tracers in DGQA and D'man III of CPWD. Since Tracers continued as such in DGQA inspite of redesignations of Tracers as Draughtsmen Gr.III in CPWD. The D'man Gr.III, II & I of DGQA were already getting the higher scale given in MOF OM dt. 13.3.84.

(iii) The Ministry of Finance OM is concerned in the D'man Gr.III, II & I only and the category of Tracers was not included in OM dt. 13.3.84, whereas D'man Gr.III in CPWD were given a scale of Rs.260-430 and Gr.II the scale of Rs.330-560. D'man Gr.III and II were already enjoying in DGQA higher scales of Rs.330-560 and 425-700 respectively. When MOF OM dt. 13.3.84 brought out rationalisation of pay scales for D'man Category in Gr.III, II & I in all Govt. Depts where CPWD qualifications are operative, the Tracers or D'man Gr.III in DGQA cannot seek still

higher scale and perpetuate the inequalities vis-a-vis D'man in other Govt. Departments.

- (iv) Further, Supreme Court had found that Tracers were redesignated as D'man Gr.III in CPWD. In DGQA Tracers had not been redesignated as D'man Gr.III and the D'man Gr.III category was existing independently of Tracers category."

18. Thus they submit that the impugned letter dt. 15.9.95 issued by the Ministry of Defence is not only in conformity with the length of service prescribed in OM dt. 19.10.94 for placement from one scale to another but also has given additional benefits of higher pay scale to the applicants and others not envisaged in the OM dt. 19.10.94. They have also relied upon the observations made by the Hon'ble Supreme Court in its judgment dt. 20.7.95.

19. Prior to 13.8.84, the department had the following types of D'men and Tracers :

<u>Grade</u>	<u>Scale of Pay</u>
i) Chief Draughtsman	Rs.450-575/-
ii) Draughtsman Gr.I	Rs.334-425/-
iii) Draughtsman Gr.II	Rs.250-280/-
iv) Draughtsman Gr.III	Rs.205-280/-
v) Draughtsman Gr.IV	Rs.150-240/-
vi) Tracer	Rs.110-200/-

20. From the above particulars, it is disclosed that there was a post of Draughtsman Gr.III along with the post of Tracers in the Department of Defence and there were Tracers appointed with lesser qualifications in accordance with the Recruitment Rules 1968 and Tracers appointed with higher qualifications in accordance with the amended Rules, 1985. We do not know as to how the Department of Defence had equated the posts of Tracers with that of Draughtsman Gr.III working in the CPWD.

-:9:-

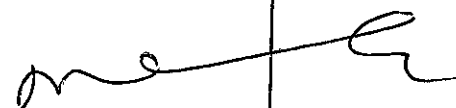
21. The Department of Defence issued the impugned letter dt. 15.9.95 to make certain points clear as regards the OMs dt. 13.3.84 and 19.10.94. The applicants have produced the OM dt. 13.3.84 (at Annexure-A2 (page 15) of the O.A. and the O.M. dt. 19.10.94 at Annexure-A3 (page 17) of the O.A.

22. In our opinion, the impugned letter dt. 15.9.95, has affected the persons working in the cadre of Draughtsman Gr.III in the Defence organisations. It has far reaching consequences.

23. Hence, we feel it proper to consider the legality of otherwise of the letter dt. 15.9.95 by a Larger Bench of this Tribunal.

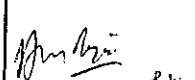
24. The registry is accordingly directed to place the records of this O.A. before the Hon'ble Chairman, Central Administrative Tribunal, Principal Bench, New Delhi for placing the matter before a Larger Bench.


(B.S. JAI PARAMESHWAR)
MEMBER (J)


(R. RANGARAJAN)
MEMBER (A)

Dated, the 9th December, '98.

CS


DnOI

Referred to Full Bench

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESWAR :
M(J)

DATED: 9/12/98.

ORDER/JUDGMENT

MA/R.A./C.P.No.

in

DA.NO. 394/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

CA. to be placed before the
Hon'ble chairman, CAT, P.B. Bench,
New Delhi.

