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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.207 of 1999

DATE OF JUDGMENT: 21st MARCH, 2000

BETWEEN:

1. Ch.RAMA RAO,
2. M.A.BASHA,
3. E.EDUKONDALU,
4. S.A.NAIDU,
5. D.CHANDRASEKHAR,
6. Y.RATNAKUMARI,
7. A.HANUMANTHA RAO,
8. M.KONDAIAH.

.. APPLICANTS

AND

1. Union of India rep. by
The Secretary to the Govt,
Ministry of Defence,
New Delhi,
2. The Chief of the Naval Staff
(for Directorate of Civilian Personnel),
Naval Headquarters,
New Delhi,
3. The Flag Officer Commanding-in-Chief,
Headquarters Eastern Naval Command,
Naval Base,
Visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.O.MANO HAR REDDY

COUNSEL FOR THE RESPONDENTS: Ms.SHAMA, Addl.CGSC

CORAM:

HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

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

JUDGEMENT

ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Sastry for Mr.O.Manohar Reddy for the
applicant. None for respondents. ~~Hence, the case is disposed of~~
~~by order of the relevant rule of the Central Administrative~~
~~Tribunal (Procedure) Rules, 1987.~~

2. There are 8 applicants herein. All of them are
working as Draughtsmen Grade-III to Grade-I in various the

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Departments under R-3. They submit that they are having the qualification of ITI Draughtsman and they were initially appointed to the post of Tracer. They were further promoted in terms of circular of Ministry of Defence bearing No.1(6)/94/D(Civ.I), dated 15.9.95 (Annexure-III at page 21 to the OA) to the post of Draughtsman Gr.III, II and I as per the revised scales revising the earlier scales.

3. Para 4 of the circular is very relevant. This para is reproduced below:-

4. D'men appointed on or after 13.5.1982 may be placed in the revised scales of pay in the following manner.

(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 requisite length of service prescribed in para 3(i)(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 D'menship from a

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recognised institution of not less than two years (including six months practical training) with one year experience as D'man if they have been recruited with a qualification of certificate or diploma in D'manship of not less than two years (including six months practical training) without one year experience, they will continue in the scale of Rs.1200-2040. Those appointed to these posts by promotion may be placed in the revised scale of pay of Rs.1400-2300 as and when they complete requisite length of service prescribed under para 3(i)(b).

(c) The D'men appointed by promotion to the scale of Rs.1400-2300 may be placed in the revised scale of Rs.1600-2660 as and when they complete requisite service mentioned in para 3(i)(c)."

4. The post of Draughtsman Gr.III can be filled as per SRO 71/85 enclosed as Annexure R-I to the reply which is also relied upon by the applicants. The proceedings No.CEO/B/375/98 dated 8.9.98 were issued stating that Tradesmen who have been promoted to the post of Draughtsman would be entitled to the revised pay scale and they are placed in the revised scale of pay of Rs.5000-8000. The

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applicants submit that such a benefit had been extended to the persons who had been promoted along with them and who had joined the post along with them. When such a higher scale is not extended to the applicants herein even though they possess the required qualification required for the post and the experience in the same field, it is arbitrary and discriminatory and hence violative of Articles 14 and 16 of the Constitution of India. They also contend that there is no basis for treating other employees, who had done Diploma in other trades, equivalent to the qualification required for the post. They contend that persons who had completed 36 months training as Naval Apprentices are taken as equivalent to the ITI certificate holders in Draughtsmanship plus one year experience as Draughtsman and there is no ground to treat that certificate as a higher qualification. Hence they contend that action of the respondents in placing those persons having that certificate on higher scale and denying the same benefit to the applicants herein who are having the requisite qualification, is illegal and arbitrary.

5. This OA is filed praying for a declaration that action of the respondents in not fixing the salary of the applicants in the same grade as that of the employees who have been promoted to the post of Draughtsman Gr.II from the category of Apprentices is illegal, arbitrary and violative of Articles 14 of the Constitution and also the principles of equal pay for equal work and further direct the respondents to pay the revised scales of pay to the Tracers with effect from 13.5.82 in accordance with the Ministry of Defence letter NO.11(6)/97/D(Civ.I), dated

Or

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25.11.1997 to the applicants who were appointed as Tracers with the requisite qualifications.

6. Before we analyse this case, it is essential to note the relevant recruitment rules in this connection. The recruitment to the post of erstwhile Draughtsman (Now Draughtsman Gr.II) is by promotion failing that by transfer and failing both by direct recruitment. The qualifications for direct recruitment to the post of erstwhile Draughtsman in accordance with SRO 71/85 are as follows:-

"(i) Matriculation or equivalent.
Two years diploma in D'Manship or its equivalent or diploma or certificate in commercial art preferably with two years experience

or

(ii) Must have completed apprenticeship of at least 3 years in Naval/Marine/electrical/Mechanical/structure/Workshop/Civil engineering/Drawing office or Naval Architecture and Ship construction.

For promotion, the following are the qualifications prescribed:-

The promotion will be made on the basis of the quota indicated below against each category.

(i) Tracers who have put in not less

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than 20 years service in that grade
.. 10 percent

(ii) Naval apprentices who have successfully completed at least 36 months apprentice ship and are in service in Naval Establishments and Tracers with 5 years of service on the basis of departmental competitive examination .. 90 percent.

Note: In case Tracers with 20 years of service are not available, the remaining posts shall be filled from the category at Sl.No.(ii).

Transfer - persons serving in similar, equivalent or higher grades in the civil posts of the defence services and possessing qualifications specified for direct recruitment."

7. All the applicants herein have been considered for promotion/direct recruitment as per the provisions of qualifications prescribed in SRO 71/85 (Annexure R-1 to the reply) as extracted above. All of them were either directly recruited or promotees before issue of the letter dated 15.9.95 (Annexure R-II to the reply). The 3rd respondent has to select and train the candidates as per the provisions contained in the Apprenticeship Act.

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Certain trades which are not listed in the Apprentices Act are known as Non-designated trades. R-3 is obliged to recruit the trained candidates in the Dockyard Apprentice School of Naval Dockyards for the Non-designated trades only. However, there is no such obligation as regards the designated trades are concerned. The payment of stipend/ other service conditions are governed as per the provisions of the Apprentices Act and Govt. of India letters issued from time to time. The next promotion to the post of Tracer is Draughtsman. The method of recruitment has already been indicated in para 6 supra. The applicants and other Tradesmen were promoted to the post of Draughtsmen Gr.III and further in accordance with the Naval Dockyard letter dated 16.11.95 which is enclosed as Annexure R-II to the reply. Some clarifications were given in the Ministry of Defence letter NO.CP(NG)/2801/NHQ/884, dated 1.7.98 (Annexure R-III to the reply) in regard to the revision of pay scale for Tracers (Redesignated as Draughtsman Gr.III) in the lower formations of the Navy. The revision of the pay scale of Draughtsman Gr.II was also issued by the order NO.CP(NG)/2801/NHQ/132/RR/MDD/D(Apptts), dated 3.7.98 (Annexure R-IV to the reply). As per that letter, those who were recruited as Tradesmen with 36 months of apprenticeship training were given higher scale of pay. The respondents submit that the applicants do not possess that qualification and they only possess the qualification of Matriculation with two years Diploma in Draughtsmanship, less than that of the Tradesmen who were given the higher scale of pay. Hence the applicants are not entitled for the same.



8. In the OA, nowhere it has been stated that the qualification of the applicants is also same as that of the Tradesmen who were promoted along with them as Draughtsman except saying that they also possess the requisite qualification required for the post and have experience in the same field. This submission is not sufficient to come to the conclusion that they possess the qualification as spelt out in the orders dated 3.7.98 (Annexure R-IV to the reply). Further, the applicants after having received the reply could have easily rebutted the above point by filing a rejoinder. They have not filed any rejoinder. An employee possessing higher qualification can be given higher scale of pay, as held by the Apex Court. The applicants have also not challenged the order dated 3.7.98 enclosed as Annexure R-IV to the reply.

9. Considering the above point, it has to be held that the applicants only submit that they are equivalent to the Tradesmen promoted as Tracers and above along with them without explaining as to how they are equal to them. They could have easily compared their qualification and equated the same to that of the Tradesmen who were appointed as Draughtsmen and above. Such a comparison is not available before us. Further, Tradesmen appointed in the Draughtsmen's cadre were possessing 36 months apprenticeship training because of which they were placed in the higher scale of pay of Rs.5000-8000 in accordance with the letter dated 3.7.98. That letter is also not questioned with relevant grounds for setting aside the same.

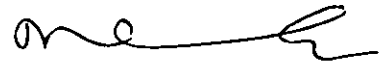


10. Considering the above facts, it is to be held that the applicants have not made out a case for the relief as asked for in this OA. Hence the OA is liable only to be dismissed and accordingly it is dismissed. No order as to costs.


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

31.3.00

DATED: 31st MARCH, 2000


(R. RANGARAJAN)
MEMBER (ADMN.)

vsn

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. HDHND
2. HRRN (ADMN) MEMBER.
3. HBSJP. M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

DATE OF ORDER

31/3/00

MA/RA/GE. NO.

IN

G.A. NO.

207/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED ✓

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

(2 copies)

केन्द्रीय प्रशासनिक अपिलेशन Central Administrative Tribunal हैदराबाद बेंच HYDERABAD BENCH
11 2 APR 2000
Despatch
RECEIVED
न्याय विभाग/REAPPAL SECTION