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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH JAIPUR.

OA NO. 103/95

Date of order: 15-4-1996

APPLICANTS:

Sl.No.	Name	Fat. Name	Dt. of App. (T)	Office of posting
1.	Sh.M.Vijayarajan	Late K.Meenakshi Sundaram	20.3.81	HQ CE JZ Jaipur
2.	Sh.R.P.Yadav	Sh.Bhururam Yadav	6.4.83	HQ CE JZ Jaipur
3.	Sh.Pramod Kumar Sharma	Sh.Vijay Lal Sharma	18.4.83	HQ CE JZ Jaipur
4.	Sh.Umeshankar Sharma	Sh.Chiranji Lal Sharma	10.10.83	HQ CE JZ Jaipur
5.	Sh.N.R.Verma	Sh.Ramdayal	29.2.84	HQ CE JZ Jaipur
6.	Sh.Ghanshyam Das Sindhi	Sh.(late)Ram Chand	31.10.83	HQ CE JZ Jaipur
7.	Sh.Rachiter Singh Gill	Sh.Sewa Singh	07.11.83	GE Jaipur
8.	Sh.Sudarshan Kumar	Sh.(late)Tej Bhan Khattar	22.9.82	CE JZ Jaipur
9.	Sh.Vikas Wadhkani	Sh.Govind Ram wadhkani	4.4.83	CWE Jaipur
10.	Sh.Gordhan Lal	Sh. . .	9.8.80	GE Nasirabad
11.	Sh.Gowardhan Lal Tiwari	Moti Lal Tiwari	3.12.81	CE Jaipur
12.	Sh.Modhukar Pandey	Sh.Diwakar Pandey	8.10.82	GE Jaipur
13.	Sh.Babu Lal Verma	Sh.Ramdayal	1.4.85	CE JZ Jaipur

All the applicants are employed on the post of Tracer in the offices mentioned against their names.

Versus

RESPONDENTS

1. Union of India through Secretary to the Govt.I, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Engineer in Chief, Army Headquarters, D.H.Q.,Kashmir House, New Delhi-110011.

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3. Chief Engineer, Southern Command,
Pune.

4. Chief Engineer, Jaipur Zone, Jaipur.

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Mr.J.K.Kaushik, counsel for the applicant
Mr.V.S.Gurjar, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

OR D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

Applicant M. Vijayarajan and 12 others have again approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek a declaration that impugned order dated 8.11.1994 (Annex.A-1) rejecting the claim of the applicants for revision of pay be quashed and respondents be directed to revise the pay scale of the applicants from Rs.260-400 and 925-1540 to the scale Rs.330-560/ 1200-2040 on the post of Tracer, Draftsman III in pursuance of order dated 27.4.1984 (Annex.A-4) with all consequential benefits.

2. Facts in brief are that the applicants were appointed on the post of Tracer on various dates between 20.3.1981 to 1.4.1985 as detailed in the title of the application. All of them possess High School as their qualification and they have been allowed pay scale of Rs.260-400/975-1540. It is the case of the applicants that consequent upon an Arbitration Award

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pay-scales of Draftsman were revised in Central Public Works Department (for short 'C.P.W.D.') as under:-

	<u>Original Scale</u>	<u>Revised</u>
D'Man Gd. I	425-700	550-750
D'Man Gd. II	330-560	425-700
D'Man Gd.III	260-400	330-560

The same benefits were extended to the Draftsmen working in similar other departments provided that they possess the recruitment qualification as laid down in the order dated 27.4.1984 (Annex.A-2). It is further the case of the applicants that post of Tracer in the Department of M.E.S. has been re-designated as Draftsman Gr.III and that such persons have been allowed the benefits of revised pay scales as per the judgments of various benches of the Central Administrative Tribunal. One such judgment is dated 24.11.1991 passed by New Bombay Bench of the Tribunal in CA 138/91 in the matter of A.M.Gadge and others vs. Union of India and others (Annex.A-3). It is the grievance of the applicants that on implementation of the judgment of the Bombay Bench Shri M.D.Chokhanda and Shri V.T. Santakke have been allowed revision in the pay scale equal to that of Draftsman Gr.III. The matter was represented to the Headquarters for extending the same benefits to the other Tracers possessing same qualification and performing similar duties as that of the applicants in the aforesaid case but it was

dis-allowed vide letter dated 8.10.1992 (Annex.A-5). The applicants approached this Tribunal in OA 41/93 M.Vijay Rajan and others Vs. U.O.I. & Ors. claiming the same benefits of revision of pay scales as available to the Draftsman Gr.III in C.P.W.D. That OA was disposed of with the following directions:

"In the circumstances of the present case, we are of the view that the decision of the Jodhpur Bench of the Tribunal referred to above should be applied to the cases of the applicants also. In other words, the respondents shall consider the judgment of the Bombay Bench of the Tribunal and if the applicants are performing the duties and responsibilities which are identical with those performed by Draftsman Grade III in the CPWD and are working as Draftsman Grade III in the MES, they should be given the same benefit, which has been granted by the New Bombay of the Tribunal in the case of A.M.Gadge & Others."

Consequent thereto, the respondents rejected the claim of the applicants by order dated 8.11.1994 (Annex.A-1) on the ground that since they are working as Tracers in M.E.S. and not as M/Man Gr.III and that they do not possess equivalent qualification required for Draftsman Gr.III in C.P.W.D. Aggrieved, the applicants have now approached this Tribunal to claim the aforesaid reliefs.

3. The respondents have opposed this application by filing Q Preliminary Objections and written reply to which applicants have not filed any rejoinder. The stand of the respondents has been that since the applicants are working as Tracers and there is a major difference between the work done and qualitative job requirement of the Draftsman Gr.III of the C.P.W.D.

and that they do not possess the requisite qualifications as are required for Draftman Gr.III in C.P.W.D., they are not entitled to claim parity in the pay scale with that of Draftmen Gr.III in the C.P.W.D. The respondents have also raised the preliminary objection that since the matter of equation of pay and equation of post lies in the domain of the executive and expert bodies like Pay Commission, the claim advanced by the applicants cannot be sustained. A plea of limitation has also been raised on the ground that since the applicants have based their claims on the judgments given in some other cases, they cannot get any relief in this OA. It has, therefore, been claimed that this application deserves rejection since there has been no illegality in the issuance of the impugned order dated 8.11.1994 (Annex.A-1).

4. I heard the learned counsel for the applicants as also the respondents in great detail.

5. The only point for determination in this OA now is whether even after revision of pay scales of the Draftsman Gr.III working in the CPWD on the basis of the Award of the Board of Arbitration and its extension to Draftsman Gr.III working in all Government of India Offices vide order dated 24.7.1984 (Annex.A-2), can also be extended to the Tracers (applicants) working in the M.E.S. even though they are not in possession of recruitment qualifications similar to those prescribed in the case of Draftsman in the C.P.W.D.?

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6. Before delineating on the issue raised above, it is necessary to mention that during the pendency of this OA, the respondents have also filed MA 71/96 to take on record a communication dated 15.9.1995 (Annex MA-R/2) with a covering letter dated 6.11.1995 (Annex MA-R/1) issued by the Government of India, Ministry of Defence extending the CPWD pay scales for Draftsmen Gr.I, II & III in the Government Departments irrespective of fulfilment of recruitment qualifications, however, subject to completion of certain length of service. Through this MA also it has been urged that since Tracer, Draftsman of any designation having been ~~now~~^{now} provided revised pay scales of 1200-2040 (330-560 pre-revised), the controversy raised by the applicants in the OA has come to an end and as such the OA has become infructuous. Therefore, in the beginning of the arguments, the learned counsel for the parties were heard on this MA as well. The applicants in the OA having filed no reply to this MA, the documents annexed with this Misc. Application dated 15.9.1995 (MA-R/2) and 6.11.1995 (MA-R/1) are not being taken on record as they bring out the latest stand of the respondents in the controversy raised in this OA.

7. Coming now to the issue raised in this OA, it is necessary to reproduce Paras 2 & 3 of the GM dated 28.3.1984 circulated on 27.4.1984 (Annex A-2), which runs as under:-

#2. The President is now pleased to decide that the scales of pay of D'Man Gde-III, II and I in Offices/Deptts. of the G of I, other than the Central Public

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Works Dep'tt may be revised as above provided their recruitment qualifications are similar to those prescribed in the case of D'Man in Central Public Works Dep'tt. Those who do not fulfil the above recruitment rules qualifications will continue in the pre-revised scales. The benefit of this revision of scales of pay would be given notionaly with effect from 1-5-82, the actual benefit being allowed with effect from 1-11-83.

3. Hindi version will follow.

II. It is seen from Min of Fin (Dept of Empdtr) OM dated 13.3.84 that the revised scales of pay D'Man Gde-III, II and I are applicable only in cases where the recruitment qualification are similar to those prescribed in the case of D'Man in C P W Dep'tt. This aspect may please be ensured before revised scale are made applicable to D'Man serving in Def Services."

Further a perusal of the impugned order dated 8.11.1994 (Annex.A-1) exhibits that the respondents have rejected the claim advanced by the applicants mainly on the ground that when one of the applicants Sh. M. Vijaya Rajan was recruited in the respondents Department M.E.S. as Tracer w.e.f. 20.3.1981, the recruitment qualifications for Tracer at that time was only Matric with one year experience in a Drawing Office as per the Recruitment Rules then in vogue. It has also been observed in this order that recruitment qualifications of Tracer have now been amended w.e.f. 21.3.1990 only at par with Draftsman Gr.III of C.P.W.D. with additional qualification of Certificate or Diploma in Draftsman (Civil) Engineering from a recognised Institute. Accordingly the applicant's case was rejected on the plea that since he has been working in the Grade of Tracer in the M.E.S. and not as Draftsman Gr.III and did not possess equivalent qualifications required as per Recruitment

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Rules of C.P.W.D. Draftsman Gr.III, he is not entitled for equation in the grades. In this regard, it is pertinent to look at the directions given by this Tribunal in the earlier OA No.41/93 filed by the applicants in this bench. In para 7 of the directions given in its order dated 10.8.1994 (Annex.A-6) it has been observed that:

"the respondents shall consider the judgment of the Bombay Bench of the Tribunal and if the applicants are performing the duties and responsibilities which are identical with those performed by Draftsman Grade III in the CPWD and are working as Draftsman Grade III in the MES, they should be given the same benefit, which has been granted by the New Bombay of the Tribunal in the case of A.M. Gadga & Others." (emphasis supplied).

This direction given by the Tribunal has to be read alongwith the directions given by the Jodhpur Bench of the Tribunal in OA No.138/91 which has also been reproduced in para 6 of the earlier OA No.41/93. In effect it has been made clear by Jodhpur Bench of the Tribunal in OA 138/91 that the respondents have to consider the judgment of the Bombay Bench and to decide the case of the applicants and if the applicant fulfils all requirements of qualification and is working as Draftsman Gr.III, then he should be given the same benefits which have been extended by Bombay and other benches. Similar direction has been adhered to by this bench in the earlier OA No.41/93 filed by the applicants M.Vijaya Rajan and others and decided on 10.8.1994. It has, therefore, become necessary to find out whether the applicants who are working on the post of Tracers are in possession of the same recruitment

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qualifications as have been prescribed for Draftsman Gr.III in the C.P.W.D. It is only if the recruitment qualifications of the Tracers are found to be at par with Draftsman Gr.III of the C.P.W.D. then only the applicants can stake their claim for parity in the pay scales of Draftsman Gr.III of the CPWD which has been extended to Draftsmen Gr.III in other Government of India Offices. The stand of the respondents from the beginning has been that firstly there is no post of Draftsman Gr.III in the M.E.S. and secondly () there is a major difference in the recruitment qualifications prescribed for Tracers and that of Draftsmen Gr.III in initially the C.P.W.D. As stated earlier, the recruitment qualifications of Tracers, () when the applicants were inducted as Tracers, has been Matriculation with one year experience in a Drawing Office and it continued to remain so till they were amended w.e.f. 21.3.90 and made at par with Draftsman Gr.III of the CPWD. The qualifications prescribed for Draftsman Gr.III of C.P.W.D. have been a Matriculation with an additional qualification of Certificate or Diploma in Draftsman (Civil) Engineering from a recognised institute and with not less than two years experience including the practical training of six months. Admittedly, the applicants are not in possession of any additional qualification of certificate or Diploma (Civil) Engineering from a recognised Institute. They are also not in possession of the required experience. It is in this perspective that after examining the matter in great detail in pursuance of the directions given by this Bench in the

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earlier OA the respondents issued the impugned order dated 8.11.1994 (Annex.A-1). It is not the end of the matter as is evidenced by a further order issued by the Government of India, Ministry of Defence on 15.9.1995 (Annex.MA-R/2) through which it has been laid down that consequent to the issue of Ministry of Defence OM dated 19.10.1994 extending the CFWD pay scales for Draftsman Gr.I, II and III in the Government Departments irrespective of fulfilment of recruitment qualifications; revised pay scales of Draftsman in Defence Establishments have been implemented but subject to completion of certain length of service. According to this order, Draftsman of any designation who was in the present pay scales of Rs.975-1540 (260-430 pre revised) would be given revised pay scales of Rs.1200-2040 (330-560 pre revised) with the revised designation of Draftsman Gr.III. By virtue of Clause 3(1)(a) of this order dated 15.9.1995, it has also been made clear that such individuals i.e. Tracers/Draftsmen of any designation will be granted the revised scale from the date on which they complete the required minimum length of service of seven years. It is on the basis of this order dated 15.9.1995 that it has been argued by the learned counsel for the respondents that the applicants are being extended the revised pay scales in compliance with the order dated 15.9.1995 and the process has already started. It has however been contended by the learned counsel for the respondents that the applicants being not in possession of the requisite recruitment

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qualifications as prescribed for Draftsman Gr.III in the C.P.W.D. merely on the basis of orders issued by the Government of India, Ministry of Defence vide their OM dated 28.3.1984, the applicants cannot claim the revised pay scales notionally w.e.f. 1.5.1982 and actually w.e.f. 1.11.1983 without fulfilling the conditions of completing seven years of service as Tracer. I am of the opinion that there is great force in the argument of the learned counsel for the respondents. Had it been the intention of the Government of India to extend the benefit of the OM dated 28.3.84 circulated vide letter Annexure A-2 to the category of Tracers working in the respondents department of M.E.S. as well and to equate them with the Draftsman Gr.III of CPWD, they would not have insisted for adhering on the recruitment qualifications prescribed for Draftsman Gr.III in the CPWD. The contention of the learned counsel for the applicants that by virtue of the judgment of the Bombay and other benches of the Tribunal Tracers have been allowed the revised pay scales equal to the Draftsman Gr.III of the C.P.W.D. and hence the applicants in this QA should also be accorded the same benefits being similarly situated individual, has no substance. The reason is, firstly, no material has been placed before the bench as to whether the applicants in the QA as decided by the Bombay bench and the other benches of the Tribunal were not in possession of the recruitment qualifications prescribed for Draftsman Gr.III of the CPWD. Secondly, if the insistence of possessing the requisite recruitment qualifications i.e. of being a Matriic with Certificate

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or Diploma in Civil Engineering from a recognised Institute with experience of two years and six months practical experience, would not have been there in the order dated 24.3.1984. every individual entering in the respondents department in the year 1981 could have staked the claim for equation with Draftsman Gr.III of the CPWD w.e.f. 1.11.1983 which is being done by the applicants in this OA as well. It is to overcome because a disparity created ~~by~~ of recruitment qualifications of the Tracer vis-a-vis Draftsman Gr.III in the C.P.W.D. and to equate each one of them at par, that the Government of India has now prescribed the minimum period of qualifying service before the conferment of the revised pay scale to a Tracer by re-designating it as Draftsman Gr.III irrespective of the qualification possessed by the Tracers. Since it has been stated by the learned counsel for the respondents at bar that the respondents have started processing the conferment of the revised pay scales and re-designating the Tracers like the applicants in this OA, all benefits which have to be conferred in consequence of the order dated 15.9.95 (Annex. MA-R/2) which has been issued in consonance with order dated 28.3.84 of the Government of India circulated vide letter Annexure A-2; applicants would be given the due benefit w.e.f. the date when they complete the minimum prescribed years of experience given in para 3(i)(a) of the order dated 15.9.95.

8. In view of what has been said and discussed above, I am of the firm view that the applicants herein, in this OA cannot take any advantage of the decisions given

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by the Bombay and other benches of the Tribunal.

9. Consequently, the issue raised in this OA is answered in the negative. Accordingly, there being no infirmity or illegality in the order dated 8.11.94 (Annex.A-1) the OA being without any merit is dismissed. It is however made clear that the respondents without any further delay would extend the benefits and revised pay scales to the applicants in this OA in pursuance of the guidelines given in the order of the Government of India, Ministry of Defence dated 15.9.1995 (Annex.MA-E,2) from the date of completion of the minimum period of service prescribed in para 3(1) (a) of the said order with all consequential benefits.

10. No costs.



15.9.96

(Ratan Prakash)
Member (J)