

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 362/95  
~~XXXXXX~~

~~XXXX~~

DATE OF DECISION 29-8-02

G.C. Arya and two others Petitioner

Mr. S.K. Jain Advocate for the Petitioner (s)

Versus

U.O.I and another Respondent s

Mr. N.C. Goyal Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. Gopal Singh, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*I agree*

*(signed)*  
Mr. Gopal Singh  
Hon'ble Member(A)

*May will see*

*(signed)*  
( G.L. Gupta )  
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR.

Original Application No. 362/95

1. G.C. Arya,  
S/o Shri D.N. Arya  
r/o No E-433, Murlipura  
Jaipur
2. B.S. Rawat  
S/o Shri Matabar Singh  
r/o 11/558, Malviya Nagar  
Jaipur
3. B.L. Sharma  
S/o Shri R.S. Sharma  
r/o III/52, G.S.I. Colony  
Jaipur

: Applicants.

rep. by Mr. S.K. Jain : Counsel for the applicants

-versus-

1. Union of India through the  
Secretary to the Government  
Ministry of Finance,  
Government of India  
Shastri Nagar,  
New Delhi.
2. The Director General  
Geological Survey of India  
27 J.N. Road,  
Calcutta- 16

: Respondents.

rep. by Mr. N.C. Goyal : Counsel for the respondents.

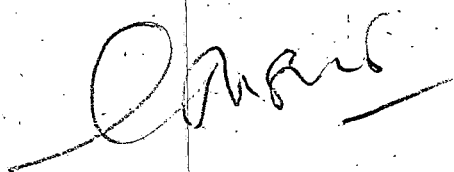
CORAM : The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman  
The Hon'ble Mr. Gopal Singh, Administrative Member

Date of the order : 25.08.02

Per Mr. Justice G.L. Gupta:

ORDER

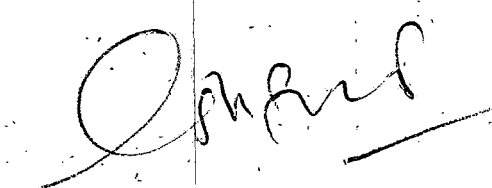
Three applicants working as J.T.As in  
the Geological Survey of India(GSI for short) have  
filed this application. The reliefs claimed in



this O.A. are as follows:

- " i) By an appropriate writ, order or direction, the respondents be ordered to revise the pay scales of the Survey stream in the initial post to a higher pay than the initial grade of Rs.425-700. In the alternative the applicants further pray that the respondents be ordered to at least revise the pay scales at par with that of the Drawing stream.
- ii) The respondents be ordered to pay the arrears of salaries and fixation of pay accordingly since 1973 as has been done in the case of Drawing stream on the basis of the recommendations of the J.C.M. In the alternative, the applicants further pray that they be given the benefit of the higher pay scales in the scale of pay of Rs.425-750 since 1980 as recommended by the Arbitrators in C.A. No. 17 of 1982 vide dated 29.2.84 along with interest at the rate of 24% per annum on the arrears of salaries.
- iii) Any other relief which this Hon'ble Tribunal deems fit may also be granted to the applicants looking to the facts and circumstances of the case. "

2. It is averred that there is disparity in the pay scales of the employees working in two streams viz (i) Survey and (ii) Draftsman in the GSI. It is stated that there were three grades in the Draftsman stream, i.e. Draftsman Gr.III in the pay scale of Rs.110-200; Draftsman Gr.II in the scale of pay of Rs.110-225 and Draftsman Gr.I in the scale of pay of Rs.150-240 and in the Survey stream the lowest grade was carrying the pay scale of Rs.150-240 and after the 3rd Pay Commissions

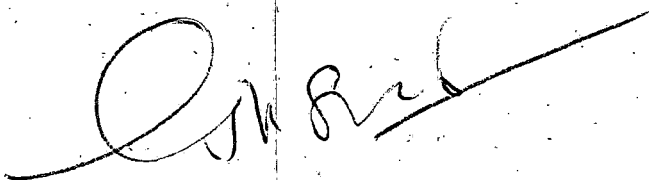


Recommendations the following scales were granted to the Draftsman and Surveyors:

<u>Draftsman</u>	<u>Surveyor</u>
i) Draftsman Gr.III- Rs.260-430	i) Survey (JR)Rs.330-560
ii) Draftsman Gr.II Rs.260-430	ii) Survey (SR)Rs.425-700
iii) Draftsman Gr.I Rs.330-560	iii) S.TA (Survey) Rs.550-750
iv) Draftsman Sr. Rs.425-700	iv) Officer (Surveyor)Rs.650-1200
v) Head D. Man Rs.550-750	
vi) Artists. Rs.650-1200	

i.e. to say that the pay scale of Survey stream at the initial stage was kept at a higher level. On redesignation and merger of Survey and Drawing streams in 1980, common pay scales of Rs.330-560 Rs.425-700 and Rs.550-900, were allowed. Vide order dated 15.3.84, the pay scales of Draftsman were revised. After the IV Pay Commission recommendations, the pay scales of Draftsman were revised as Rs.1400-2300, Rs.1600-2600 and Rs.1640-2900, whereas the pay scales in the Survey stream were kept as Rs.1200-2040, Rs.1400-2300 and Rs.1640-2900. In otherwords, in the Survey stream, the pay scales of first two grades were kept lower than the pay scales of Draftsman grades. The employees in the Survey stream made representations for the revision of their pay scales at par with the pay scales of Draftsman, but their grievance was not redressed.

It is the case for the applicants that

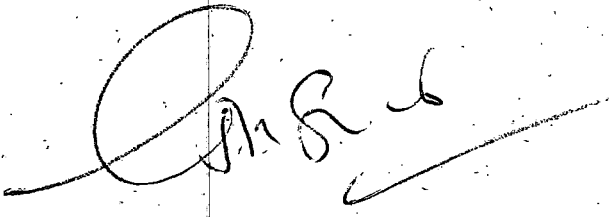


there is not much difference in the educational qualifications in both the streams rather more arduous duties are required to be performed by the Surveyors in as much as they have to work not only in the office but also in the field and hence their pay scales could not be less than that of the Draftsman.

The applicants' further case is that consequent upon the award, the pay scales of Draftsman in CPWD were revised and in order to make the Draftsman in GSI at par with that of the Draftsman in CPWD, the pay scales of Draftsman in GSI was further revised whereas the pay scales in Survey stream were not revised.

It is stated that in the 3rd Pay Commission report in 1973, it was observed that for the posts in Survey stream and Draftsman stream, common pay scale was recommended, yet when the pay scales of Draftsman were revised the pay scales of employees in Survey stream were not revised. It is further stated that the Director General, GSI had recommended the case for the Surveyors to grant them pay scales at par with Draftsman vide his letter dated 21.10.87 but no relief has been granted yet.

3. In the reply, the respondents have resisted the claim of the applicants mainly on the ground that the concept of "equal pay for

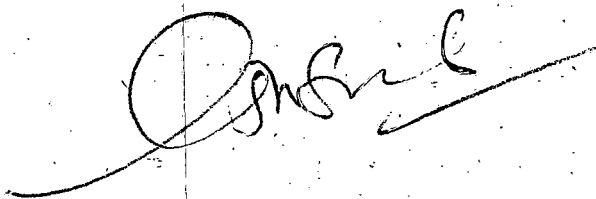


equal work" is not applicable in the case of the applicants as their duties and responsibilities are not similar to that of Draftsman. It is further stated that the claim is hopelessly barred by limitation. It is averred that the revision of pay scales of Draftsman does not confer any right on the Surveyors to have their pay scale revised. It is also stated that the pay scales of the Draftsman were revised since it was accepted that their duties and responsibilities are similar to their counterparts working in CPWD. It is also stated in the reply that the Surveyors had filed OAs earlier also in various Benches but their applications were rejected.

4. In the rejoinder, the applicants have reiterated the facts stated in the O.A.

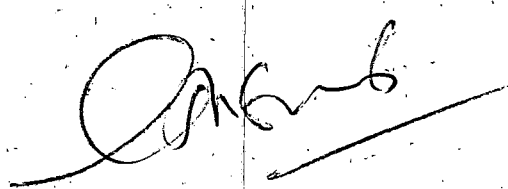
5. Applicants have filed an additional affidavit on 23.4.2001, wherein it has been stated that the pay scales of Surveyors in other departments have been revised but the pay scales of the Surveyors in GSI have not been revised by the 5th Pay Commission.

6. We have heard the learned counsel for the parties and perused the documents placed on record.

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7. Mr. Jain, learned counsel for the applicants contended that there being no material difference in the educational qualifications for the posts of Draftsman and Surveyors, there cannot be any valid justification for difference in their pay scales. He pointed out that the Director General GSI, had recommended the case for the applicants vide letter dated 23.5.95, which according to him, shows that the respondents have agreed in principle that injustice had been done to the applicants when their pay scales were not revised. Relying on the cases of Indian Council of Agricultural Research vs. A.N. Lahiri ( 1997-(10)-SCC-691) Shri N.S. Chakravarthy vs. Union of India and others ( 1993 (3)-SLR-161) (CAT), he canvassed that the Court should give directions to the respondents to revise the pay scales of the Surveyors so as to make them at par with that of the Draftsman.

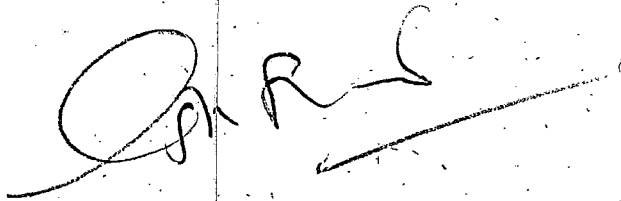
8. Mr. Goyal, learned counsel for the respondents, on the other hand, contended that the educational qualifications of the Draftsman and Surveyors are not the same. According to him Draftsman job is more important and keeping in view the pay scales of the Draftsman in the CPWD the pay scales of Draftsman in the GSI were revised. He submitted that the alleged disparity in pay scales is going on for the last



more than 12 years and the applicants have filed this application only in the year 1995, which should be dismissed on the ground of limitation. His main contention was that the court cannot be justified in granting higher pay scales than the one recommended by the expert bodies like the Pay Commission. According to him the matter of granting pay scales should be left to the discretion of the expert bodies like Pay Commissions. Relying on the cases of Shiba Kumar Dutta and others vs. Union of India and others ( 1997-(3)-SCC-545) Dy. Director General of Geological Survey of India and another vs. R. Yadaiah and others (2000.LAB.I.C. 3321) he canvassed that the O.A should be dismissed.

9. We have given the matter our thoughtful consideration. Before we proceed to examine the facts of the case, it is appropriate to refer to the various decisions of the Supreme Court on the scope of judicial review in pay scale matters.

In State of U.P. vs. J.P. Chaurasia (1989.SCC.(L&S)-71) it was observed that equation of posts or equation of pay must be left to the Executive and the Court should not normally interfere in the determination made by the Expert Bodies. The relevant observations of their Lordships at para 18 of the report are reproduced

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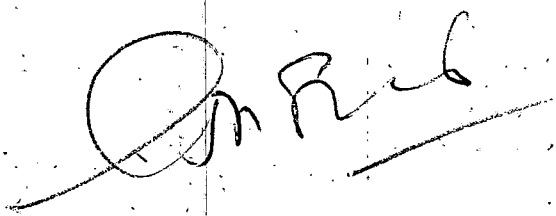
hereunder:

" The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration. "

In the case of Union of India and another vs. P.V. Hariharan and another ( 1997-SCC-(L&S)-838 )

it was observed that the Tribunal should not interfere in the matter of pay scales. It is profitable to re-produce the observations of their Lordships at para 5 of the report hereunder:

" We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims

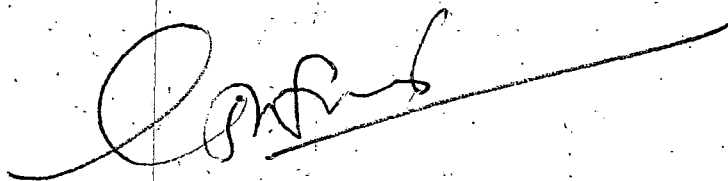


on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and mis applied, freely revising and enhancing the pay scales across the Board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales.

( emphasis supplied )

The same principle was reiterated in the case of Union of India and others vs. Makhan Chandra Roy (AIR.1997.SC.2391). In that case the Tribunal had accepted the case of a Laboratory Assistant for the grant of higher pay scales equivalent to that of Auxiliary Nurses and Midwives. Their Lordships set aside the order of this Tribunal and observed that what enhanced pay scale should be given to a particular employee is within the domain of the authorities themselves who appoint them and the Tribunal should not have ventured in this forbidden field.

In the case of R. Yadaiah(supra) it was observed that unless some error apparent is found on the basis of the material produced, Courts/ Tribunals should not go into the question of



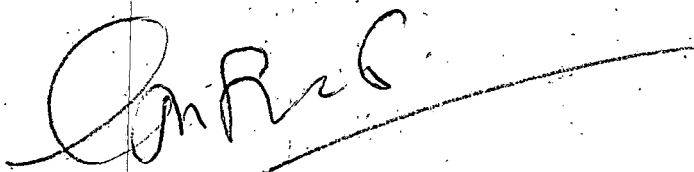
fitment of pay scales and leave the matter to the discretion of expertise of Special Commission like Pay Commission.

In the case of Shiba Kumar Dutta and others (supra), it was held that Courts cannot go into the nomenclature and fitment and evaluate the job criteria and scales of pay prescribed for each category.

10. Thus the consistent view of the Apex Court in the matter of pay scales is that the Courts should not interfere in the administrative determination.

It is significant to point out that it is not the case for the applicants that they are performing identical duties which are performed by the Draftsman. Rather it is stated in the O.A that the duties and responsibilities of the two streams are different. Therefore there cannot be any question <sup>of</sup> parity of the pay scales of the employees of the two streams.

11. As to the cases relied on by the learned counsel for the applicants it may be stated that in the case of A.N. Lahiri (supra) the order was passed under Article 141 of the Constitution of India. What was noticed by their Lordships was that the respondent (Petitioner in the Writ Petition) was a

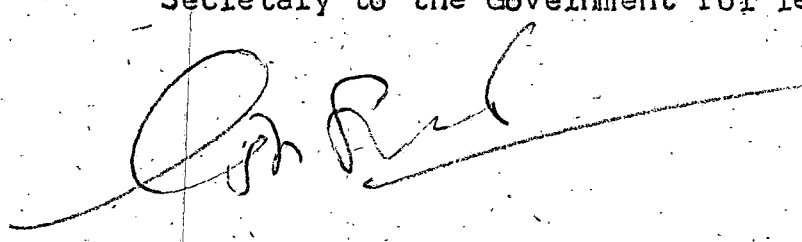


retired employee and his case was an isolated one. It was observed that decision should not be treated as a precedent. That being so the ruling does not assist the applicants.

As to the decision of the Tribunal in the case of N.S. Chakravarthy (supra) it is seen that the Chief Engineers ( Civil ) working in the Department of Posts and Telegraphs and the Chief Engineers( Civil ) working in the CPWD were performing similar functions. Moreover, keeping in view the ~~various~~ principles enunciated in various judgements of the Supreme Court, cited above, the decision of the C.A.T. in N.S. Chakravarthy cannot be followed.

12. <sup>be</sup> It may/that earlier at the initial stage the pay scales of Draftsman were less than the pay scales of the Surveyors, but that does not give a right to the applicant Surveyors for revision of their pay scales. It is relevant to point out that the scale of pay of Draftsman were revised on the basis of an Award passed in the matter of Draftsman of CPWD when it was accepted in principle that the duties performed by the Draftsman in GSI are similar to that of Draftsman in CPWD.

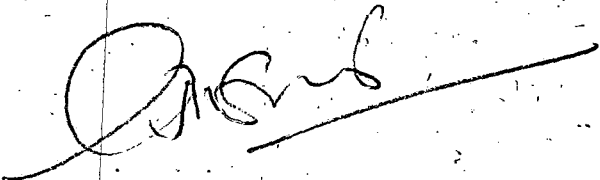
13. <sup>be</sup> It may/that a letter was written by the Deputy Director General of the GSI to the Secretary to the Government for revision of the



pay scales of Surveyors to make them at par with Draftsman and Scribe, but on that basis the applicants cannot succeed. As already stated, it is for the Government to decide what pay scale should be fixed for a particular post. The pay scales are fixed keeping in view the educational qualification required for the post, duties to be performed, responsibilities on the post and many other factors. This Court does not have all datas required for determining pay scales and therefore no direction can be given on the basis of the letter of Deputy Director General of 1987 ( Annex. A.1 )


14. It seems, the applicants did not approach the 5th Pay Commission when it was seized of the matter. Admittedly, disparity has not arisen pursuant to the 5th Pay Commissions recommendations. It is continued since 1980 . If the applicants have failed to put up their case before the 5th Pay Commission this Tribunal cannot grant any relief to them. It is not disputed that the applicants have been granted pay scales as per the recommendations of the 5th Pay Commission and they had been granted pay scales as per the recommendations of IV Pay Commission also.

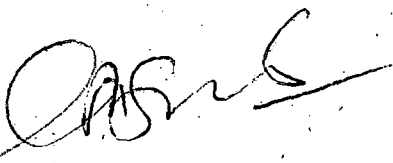
15. Having considered the entire material on record, we do not find any case in favour of



the applicants. There is no justification of giving directions to the respondents to revise the pay scales of the applicants and make them at par with that of Draftsman in GSI.

16. Consequently, this application is dismissed with no order as to costs.

  
( Gopal Singh )  
Administrative Member

  
( G.L. Gupta )  
Vice Chairman.

jsv.