

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

31/X/17

A' found to (3 H) Round not Return

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 322 / 06
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Ashok Mandal & Ors VS Union of India & Ors

Advocate for the Applicant(s) M. Chandra S. Nath
Ms. Le. Datta

Advocate for the Respondent(s) M. Das

Notes of the Registry	Date	Order of the Tribunal
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Application is in form
GDC P. P. No. 20-

286 934802

26.12.06

sd/-
By Registrar

[Signature]

12.1.07

The applicants are working as Draftsman under the Director, Assam & Nagaland GDC prays for parity of pay equal to that of the pre-revised scale with all consequential monetary benefits in terms of para 2 (c) of O.M. dated 19.10.1994. The applicants contended that identically placed persons had approached this Tribunal in O.A.14/2002 and the Tribunal granted the relief as under:

"For all the reasons cited above and in the facts and circumstances of case, the impugned order dated 1.8.2001 is liable to be set aside and the same is accordingly set aside. The respondents are directed to grant the revised higher pay scale of Rs.550-750/- (pre-revised) corresponding to Rs. 1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs.5500-9000 as per the Vth Central Pay commission.

contd.

recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant".

Subsequently the matter was taken on appeal before the High Court by filing W.P.(C) No. 9786/2003 which was dismissed by High Court. It is averred that the said order was implemented by the respondents by granting the benefit to the 32 applicants. Since the present applicants were not approached the Tribunal they have not been granted the same benefit.

Heard Mr M.Chanda, learned counsel for the applicant and Mrs M.Das, learned Addl.C.G.S.C for the respondents. The applicants submitted that as per Annexure-12 letter dated 22.10.2001 the applicants are not entitled to the benefit. However, since the larger issue involved in this matter, I am of the view that O.A is to be admitted. O.A is accordingly admitted. Issue notice to the respondents.

Post on 26.2.07 for further order.

Vice-Chairman

pg

Notice duly served
on R-1 to 4.

26.2.07. Learned counsel for the respondents prays for four weeks time to file reply statement. Let it be done. Post the matter on 27.3.07.

Vice-Chairman

No Wks have been
filed.

lm

26.3.07.

Steps taken on
7th Feb. 2007.

6
9/2/07.

Notice order sent to
D/Section for issuing
to R-1, 2 & 4 by regd.
A/D post and another
R-3 received by
hand.

17/2/07
D/M.

23.2.07

Notice issued on 19.2.07.
Service report awaited -
by.

27.3.07.

Four weeks further time is granted to file written statement. post the matter on 30.4.07.

Vice-Chairman

lm

No Wks has been
biled.

24
27.4.07.

30.4.2007

Further time to file reply statement was sought on Respondents' behalf. Let it be done.

Post on 17.05.2007.

No Wks has been
biled.

Vice-Chairman

/bb

17.5.07.

At the request of learned counsel for the respondents four weeks time is granted to file written statement. post the matter on x 19.6.07.

Vice-Chairman

No Wks has been
biled.

24
16.5.07.

lm

19.6.07.

At the request of learned counsel for the respondents further three weeks time is granted to the respondents to written statement. Counsel for the app has submitted that it is covered case can be disposed of. post the matter on 17.7.07.

Vice-Chairman

not biled

24
16.7.07.

lm

17.7.2007

Three weeks granted
written

Day Scale matter

26/11

man

it

24.9.07

WS has not been filed in this case by the respondents. Call on 4.10.07 awaiting WS.

Vice-Chairman

04.10.07. Call this matter on 26.11.07 awaiting
WS not filed, reply from the respondents.

221
3.10.07

(Khushiram)
Member(A)

Monoranjan Mahanty
Vice-Chairman

bu

26.11.2007

Mr.S.Nath, learned counsel for the Applicant is present. Ms.U.Das, learned Addl. C.G.S.C. seeks three week's behalf of Mrs.M.Das, learned Adr to file reply statement. Allowed.

WS not filed.

221
12.12.07.

Call this matter on 13.12.20L awaiting written statement from the Respondents.

(Khushiram)
Member (A)

/bb/

12.12.2007

This case was admitted on 12.01.2007. Thereafter, learned Adl. Standing counsel took time on 26.02.2007, 27.03.2007, 30.04.2007, 17.05.2007, 19.06.2007, 17.07.2007, 24.9.2007, 04.10.2007 and on 26.11.2007 for filing counter/written reply; which has not yet been done.

Contd.....

Contd.
13.12.2007

Mrs.M.Das, learned Addl. Standing counsel appearing for the Union of India, even today seeks an adjournment to enable the Respondents to file written statement.

Mr.M.Chanda, learned counsel appearing for the Applicant vehemently opposes for adjournment; as eleven months have already elapsed in between. Call this matter on 19.12.2007 awaiting written statement from the Respondents.

Having heard learned counsel appearing for both the parties, last opportunity is granted to the Respondents to put up their written statement in the matter. Unless counter/written statement is/are filed by 31.12.2007; Respondents be set ex parte and we shall proceed to dispose of this case ex parte.

Call this matter on 24.01.2008. 31.12.07

Send copies of this order to all Respondents in the addresses given in the Original Application and a free copy of this order be supplied to Mrs.M.Das, learned Addl. Standing counsel.

(Gautam Ray)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

order dt. 13/12/07 sent
to D/Section for issuing
to all the respondents and
another copy issuing to
Mrs M. Das, Addl. C.C.S.C.
12.12.07

5

-6 5A.322/06

31.12.2007

Written statement has already been filed in this case and Mrs.U.Dutta, learned counsel appearing for the Applicant seeks four week time to file rejoinder.

Call this matter on 29.01.2008 awaiting rejoinder from the Applicant.

(M.R.Mohanty)
Vice-Chairman

/bb/

1.1.08

W/c filed by
the Respondent Nos.
1 to 4.

2007

1

O.A.17 of 2007

28.01.2008

Dr.J.L.Sarkar learned counsel appearing for the Applicant is present. Ms.Usha Das, learned Addl. Standing counsel appearing for the Respondent Nos. 1 to 4 is also present.

Despite opportunity, the Applicants have not filed rejoinder as yet. The Respondent No.5 (Subrata Choudhury), Respondent No.6 (M.I.Singh), Respondent

4-3-08

rejoinder filed
the Applicant.
served.

2007

2007

1.1.08

ie

PTO

7-
O.A.322 of 06

29.01.2008 On the prayer of learned counsel appearing for the Applicant call this matter on 28.02.2008 awaiting rejoinder from the Applicant.

Rejoinder not
filed.

M
27.2.08.

(Khushiram)
Member(A)

(M.R.Mohanty
Vice-Chairman

Im

28.02.2008 Mrs.U.Dutta, learned counsel for the Applicant and Mrs.M.Das, learned Addl. Standing counsel for the Respondents are present. Learned counsel for the Applicant wants some time to take instruction on the matter.

Call this matter on 04.03.2008.

(Khushiram)
Member (A)

/bb/

O.A.322 of 06

04.03.2008 Mrs.U.Dutta, counsel for Applicant is present. Mrs. M.Das, Addl Standing Counsel appearing Respondents could not attend the Court today.

Call this matter on 05.03.2008.

(Khushiram)
Member (A)

Im

05.03.2008

Call this matter on 25.04.2008.

/bb/

(Khushiram)
Member (A)

25.04.2008

Mrs.U.Dutta, learned counsel appearing for the Applicant is present. None appears for the Respondents.

Call this matter on 19.05.2008.

/pg/

(M.R.Mohanty)
Vice-Chairman

19.05.2008

By filing M.P.52/08 the applicant has sought amendment of the Original Application and by filing M.P.53/08 the Applicant intends to implead Secretary to Government of India, Ministry of Finance, Department of Expenditure, North Block, New Delhi as a party Respondent in this case. Heard. Subject to question of limitation and other legal pleas to be examined at the final hearing the amendment as sought for in M.P.52/08 and the prayer made in M.P.53/08 are allowed.

The Applicant is to incorporate the amendments in the O.A and to file the consolidated O.A by 23.05.2008.

A copy of the consolidated application incorporating the amendment should be served on the

The case is ready,
16.5.08.

ourt

19.05.08

learned Addl. Standing counsel by 23.05.2008. Five extra copies of the consolidated O.A (incorporating amendments) and required postages should be filed in the Registry by the Applicant by 23.05.2008.

Registry to issue notice to Respondents No. 1 to 5 along with copies of the consolidated O.A (incorporating amendment); requiring all the Respondents to file their Additional written statement/written statement by 21.07.2008.

Call this matter on 21.07.2008.

Send copies of this order to the Applicant and to all the Respondents in the address given in the O.A. Free copies of this order be handed over to the counsel appearing for the parties.

(M.R. Mohanty)
Vice-Chairman

pg

21.07.2008

Mrs. U. Dutta, learned counsel appearing for the Applicant is present. None appears for the Respondents. No additional written statement has been filed as yet by the Respondents in this case.

Call this matter on 28th August 2008, awaiting additional written statement from the Respondents.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Notice & order dt. 19/5/08
sent to D/Section for
being to respondents by
speed post. A/D at the
post of applicants, vide
capt. no. 2687, Dt. 28/5/08
469/- only.

Free copies of this
order handed over to the
counsel for the parties.

19/5/08

D/A/0-2601 to

2605

D/ 30/5/08

O.A. No. 322/2006

Notice duly served
on R-4.

18/6/08.

18.7.08

10 ADJ filed on
amendment.

10.

28.08.2008

Additional Written Statement is

undertaken to be filed in course of the day.

Mrs U. Dutta, learned Counsel appearing
for the Applicant, seeks three weeks time to
file an additional Rejoinder.

Call this matter on 19.09.2008
awaiting additional Rejoinder from the
Applicant.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nk m

19.09.2008

Mrs U. Dutta, learned Counsel

appearing for the Applicant is present. Mrs
M. Das, learned Standing Counsel for the
Union of India, is represented by Ms
Nimsim Wasum. In this case written
statement and rejoinder have already been
filed.

Mrs U. Dutta wants to file an
additional Rejoinder.

Call this matter on 24.11.2008 for
hearing; by which time the Applicant shall
remain free to file additional Rejoinder.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nk m

Copies of orders
dated 21/7/08 sent
to D/Section for
issuing to respondents
by post.

29/7/08.

The case is ready
for hearing.

27.08.08.

12-9-08
Additional wife
submitted by the
Respondents. Copy
not stored.

8-11-08.

The case is ready
for hearing.

21/11/08

24.11.2008

O.A.322 of 06
Call this matter on 8th January, 2009

lm

(M.R.Mohanty)
Vice-Chairman

09.01.2009

Mrs. U.Dutta, learned counsel
appearing for the Applicant is
present. Mrs. M.Das, learned Addl.
Standing Counsel appearing for
the Respondents is present.

Call this matter on
12.2.2009.

(M.R.Mohanty)
Vice-Chairman

lm

12.02.2009

Call this matter on 02.04.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

02.04.2009

Call this matter on 20.05.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

/bb/

20.05.2009

On the prayer of learned counsel
for both the parties, call this matter on
19.06.2009.

(N.D.Dayal)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

24
11.2.09.

The case is ready
for hearing.

25
18.5.09.

/bb/

O.A.322-06

19.06.2009

Call this Division Bench matter on 17.08.2009 for hearing.

The case is ready for hearing.

14.8.09

(M.R.Mohanty)
Vice-Chairman

/bb/

17.08.2009

On the prayer of learned counsel for both the parties, call this matter on 16.09.2009.

The case is ready for hearing.

15.9.09

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

16.09.2009

Learned counsel appearing for the parties are present. Call this matter on 20.10.2009.

The case is ready for hearing.

19.10.09

(M.K.Chaturvedi)
Member (A)

/lm/

20.10.2009

Mr.M.Chanda learned counsel appearing for the Applicant has filed certain documents in O.As. No.322 of 2006 and 163 of 2007, which is stated to be arising other the same Memoranda. Mrs. M.Das. learned Sr. Standing Counsel appearing for the Respondents seeks an adjournment to obtain proper instructions.

20.10.09

Advocate for the Applicant filed some decisions in the Court on 20.10.09. at flag 'A'.

15/10/09

The case is ready for hearing.

23.10.09

In the facts and circumstances and on request of learned counsel appearing for both sides, list these matter on 26.10.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

Central Administrative Tribunal

Guwahati Bench

Guwahati - 5

CA 202/2010

with 16

no 01/11

no 02/11

CAV on 29-4-2013

Admission to App. M.C.S. Hazarika

" " Resp. Mr. M. C. Ahmed
ACBSC

on
29/4/13

26.10.2009

Let a copy of the judgment rendered in respect of Draftsman Grade II from time to time and the manner in which they have been implemented/carried on appeal either before the High Court or the Supreme Court be placed on record in a tabulated form. This should be done within a period of four weeks.

The case is ready
for hearing.

List on 25.11.2009.

24.11.09

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

25.11.2009

Respondents are heavily relied upon Principal Bench Judgment of O.a.457/2005 dated 27.2.2006, Draughtsmens' (Cartographic Association and another vs. Union of India & Ors. While the applicant's contention is that the said judgment has been carried to the Hon'ble Delhi High Court in Writ Petition No.17207/2006.

Let the applicant file specific affidavit apprising what is the status of the said Writ Petition that has been filed against the Tribunal's order in the above case. This shall be done within period of 2 weeks.

List on 16.12.09.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

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1

O.A 322/06

16/12/09

Heard counsel for the parties.

Hearing concluded. Judgment pronounced in open court.

For the reasons recorded separately the O.A. is disposed of.

31/12/09

Judgment/Final order

dated 16/12/09 prepared

and sent to the D/Secy in
for issuing the all the respondents' list
and applicant's Advocate

By Post.

via No. — 11 to 16

dated — 20/10

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

1/5/13

original A Part file
has not received
from the Hon'ble High
Court, Shillong bench.
Hence a part of file
has been prepared by
photocopy.

done At
1/5/13
w/c

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 322 of 2006.

Date of Order: This, the 11th Day of June 2013.

THE HON'BLE MR S. K. KAUSHIK, JUDICIAL MEMBER
THE HON'BLE MR V. N. GAUR, ADMINISTRATIVE MEMBER

1. Shri Ashok Mandal Draftsman Gr.II
2. Shri Dharmananda Bora, Draftsman Div.I
3. Smt Manri Dkhar, Draftsman Gr.II
4. Shri Sudip Das Purkayastha, Draftsman Gr.II
5. Smt Jhuma Dutta Choudhury, Draftsman Gr.II
6. Shri Marshal Langstich, Draftsman Gr.II
7. Smt Anjali Chakraborty, Draftsman Gr.II
8. Smti Ratna Mondal, Draftsman Gr.II
9. Shri Herman K. Phanbuh, Draftsman Gr.II
10. Smti Everine L. Nongkynrih, Draftsman Gr.II
11. Smti Mita Purkayastha, Draftsman Gr.II
12. Shri R.S.Baidya, Draftsman Gr.II
13. Shri Dungal Ram Sharma, Draftsman Gr.II
14. Shri Kajal Kumar Bhattacharjee, Draftsman Gr.II

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15. Smt Arati Joshi, Draftsman Gr.II
16. Shri Kunja Behari Singha, Draftsman Gr.II
17. Shri Ebrestster Marbaniang, Draftsman Div.I
18. Shri Abdus Samad, Draftsman Gr.II
19. Shri Purna Chandra Mundari, Chief Draftsman

...Applicants

All the applicants are working as Draftsman under Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India.

By Advocate: Mr.M.Chanda.

-Versus-

1. Union of India
represented by Secretary to the
Government of India,
Ministry of Science & Technology,
New Mehrauli Road,
New Delhi – 110016.
2. The Surveyor General,
Survey of India,
Block A, Hathibarkala Estate,
Dehradun – 248001, Uttaranchal.
3. The Director,
Assam & Nagaland GDC,
Survey of India,
Ganeshguri, Guwahati-6.

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4. The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Malki, Shillong-793001.
5. The Secretary to the
Government of India,
Ministry of Finance,
Deptt. of Expenditure,
North Block, New Delhi - 110001.

.Respondents

Date of hearing : 02.05.2013

Date of Order : .2013

ORDER**HON'BLE MR S.K.KAUSHIK, MEMBER(J)**

By means of the present O.A filed under Section 19 of the Administrative Tribunal, 1985 the applicants make the following prayer:-

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant the revised higher pay scale of Rs.550-750 (pre-revised) corresponding to Rs.1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs.5500-9000 (as per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M. dated 19.10.1994

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issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants and also in the light of the judgment and order dated 30.05.2003 passed in O.A.14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court to the present applicants.

8.1A. That the Hon'ble Tribunal be pleased to set aside and quash the impugned Group 'C' Non Ministerial Draftsman Cadre Posts Recruitment Rule 2006 (Annexure-14).

8.1B. That the Hon'ble Tribunal be pleased to set aside and quash the impugned O.M bearing No.6/1/98-IC dated 01.06.2001 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi.

The facts noted not to be spelt out for the reason that the applicants are seeking similar benefit which have already been extended to the applicants of the O.A.14/2002 which attained finality upto the Hon'ble Supreme Court. It is the case of the applicants that they are similarly situated persons like the applicants in the O.A.14/2002. Therefore, direction be given to the respondents to extend the same benefit as granted to the applicants therein. The matter came up for hearing on 16.12.2009 whereby this Tribunal disposed of the O.A and directed the respondents to extend the said benefit after the pronouncement of judgment in W.P(C) 17207/2006 which is pending before the Hon'ble

V

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High Court. The said order was challenged by the applicants before the Hon'ble High Court by way of W.P(C) No.SH 285/2010. The Hon'ble High Court vide its order dated 02.07.2009 had remanded the matter back to this Tribunal to re-consider and decide afresh expeditiously preferably within a period of 3 months. It is in this way the present O.A came up for hearing.

2. We have heard Mr M.Chanda, learned counsel for the applicants and Mrs S.Bora, learned Addl. C.G.S.C for the respondents. It is not disputed by Mrs Bora, learned counsel for the respondents that the applicants are similarly situated persons that of O.A.14/2002. The only ground taken by the respondents is that since the applicants are not the applicants in the said Original Application therefore the benefit which was granted to the applicants of that application cannot be extended to applicants herein. It is also urged by Mrs Bora that since a Writ Petition is pending before the Delhi High Court against the orders of the Principal Bench of this Tribunal rejecting the O.A on behalf of the Association. Therefore, the applicants herein are not entitled to get the benefit which was extended by the applicants of O.A.14/2002. Mr

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Chanda, learned counsel for the applicant argued that once an issue has attained finality upto the Apex Court and the judgment have been implemented qua the applicants therein of the respondent department then it is imperative upon the respondents to extend the same benefit to the similarly situated persons without forcing them to approach the Court of law for the same relief which has been adjudicated and have been extended to the similarly situated persons. He also urged that following the order in O.A.14/2002 the Calcutta Bench of this Tribunal in case of Gautam Mitra and ors. vs. Union of India & Ors., O.A.No.184/2005 decided on 21.08.2009 have allowed the O.A and have granted the same benefit which have been granted to the applicants of O.A.14/2002. To buttress his submission he placed reliance upon the judgment of the Hon'ble Supreme Court rendered in the case of **K.T.Veerappa & Ors. vs. State of Karnataka & Ors, (2006) 2 SCSLJ 49** and submitted that once the benefit of revision of pay scale is given to one set of employees who approached the court of law, those who did not approach cannot be denied the benefit only on the ground that they are not party to the proceeding and as such they are not entitled for the benefit.

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3. We have considered the rival submissions and have gone through the record. The orders of this Tribunal dated 16.12.2009 disposing of the O.A till the pronouncement of the judgment in Writ Petition(C) No.17207/2006 pending before the Hon'ble Delhi High Court has been set aside by the Hon'ble Gauhati High Court in judicial review filed by the applicants herein before the Hon'ble High Court. While setting aside the orders of this Tribunal dated 16.12.2009 the Hon'ble High Court observed as under :

"Be that as it may, we are not going into the aforesaid factual aspects inasmuch as the records of the aforesaid application, O.A No.457 of 2005 pending before the Delhi High Court are not before this Court. However, we are of the view that mere pendency of an application, even though on identical issue before Hon'ble Delhi High Court will not be a bar for the Central Administrative Tribunal, Guwahati Bench, Guwahati to consider the claim of the 19 petitioners, if the aforesaid 19 petitioners are similarly situated as the aforesaid 63 Draftsman Grade-II in whose favour the Central Administrative Tribunal, Guwahati Bench, Guwahati had already given a direction to give the benefit of revised pay scale vide order dated 30.5.2003 passed in O.a.No.14 of 2002, which has already been upheld by this Court as well as by the Apex Court, as stated above. We are of the view that the aforesaid direction of the Central Administrative

Tribunal, Guwahati Bench, Guwahati issued on 30.05.2003 in O.A.No.14 of 2002 having attained finality having not been interfered by the Apex court, cannot be ignored on the ground that similar matter is pending before the Hon'ble Delhi High Court, as stated in the order of the Central Administrative Tribunal, Guwahati Bench, Guwahati. Accordingly, we set aside the order dated 16.12.2009 passed in O.a.322 of 2006 and remand the matter to the learned Central Administrative Tribunal, Guwahati Bench, Guwahati to reconsider the application of the petitioners for granting the same benefits to the present applicants as given to the aforesaid 63 Draftsman Grade-II in O.A.No.14 of 2002 since they are claiming that they are similarly situated as the aforesaid 63 Draftsman Grade-II. The learned Central Administrative Tribunal, Guwahati Bench, Guwahati may dispose of the application as expeditiously as possible preferably within a period of three months."

Perusal of the above makes it clear that while setting aside the order of this Tribunal and remanding the matter back to the Tribunal the Hon'ble High court has categorically held that once the order dated 30.05.2003 passed in O.A.14/2002 has already been upheld by this Court as well as by the Apex court and it attained finality. Therefore, the orders in O.A.14/2002 cannot be ignored on the ground that a similar matter is pending before the Hon'ble Delhi High Court. Considering the fact that the respondents have only taken objection

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that the applicants cannot be granted the benefit as that of applicants in O.A.14/2002 on the ground that they were not party to the earlier proceeding cannot be accepted. It is also admitted fact that in the written statement the respondents have taken only this objection that the applicant are not party to earlier O.A. It is the law of the land that once an issue has been decided by the competent Court of law then it is for the respondents to implement the same to all similarly situated persons without forcing them to approach the Court of law for redresses of grievances which has already been put to rest. Reliance in this regard is placed on a judgment of Hon'ble Supreme Court reported in (2006) 2 SCC 747 .State of Karnataka and others Vs C. Lalitha. Even otherwise, following the order in O.A.14/2002 the Calcutta Bench of this Tribunal has already extended the benefit to 27 applicants in O.A.184/2005 decided on 21.08.2009. Therefore, we are of the considered view that once an issue has already been attained finality then merely that the applicant are not party to the earlier proceeding the benefit cannot be rejected. Accordingly the O.A is allowed in the same terms as that of O.A.14/2002 decided on 30.05.2003. Let the

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benefit be extended to the applicants herein within a period of 3 months from the date of receipt a certified copy of this order.


(V. N. GAUR)
ADMINISTRATIVE MEMBER

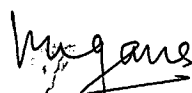

(S. K. KAUSHIK)
JUDICIAL MEMBER

pg

01.05.2013

An oral request has been made by Mr.M.Chanda, learned counsel for the applicant that the Hon'ble Gauhati High Court has passed an order directing this Tribunal to decide the matter expeditiously. Therefore, he prayed that the present OA be taken up for hearing tomorrow. Mrs.S.Bora, learned Addl. C.G.S.C., who is present in court for the respondents, did not dispute this fact.

Registry is directed to list the matter tomorrow i.e., 02.05.2013.


(V.N. Gaur)
Administrative Member


(S.K. Kaushik)
Judicial Member

1-5-2013
Memo of appearance
filed by Mr. S. Bora
Addl. C.G.S.C.

1-5-2013
On receipt of mention slip from the Court, it is found that 'A' file of the OA was sent to the Hon'ble Gauhati High Court, Shillong Bench as desired by them. Till now the same has not been received so far by this Registry.

Also the copy of the order passed by Hon'ble Shillong Bench of the High Court not received by this Registry.

02.05.2013

Heard Mr.M.Chanda, learned counsel for the applicant and Mrs.S.Bora, learned Addl. C.G.S.C. for the respondents.

Order is reserved.

(V.N. Gaur)
Administrative Member


(S.K. Kaushik)
Judicial Member

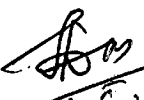
Therefore, the same has been constructed as A file. Filed order dt. 2.7.12 passed in W.P.(C) NO. (SH) 285/10 arising out from the above OA, the matter has been demanded back to the Tribunal for final adjudication.

/bb/


11.6.2013

Judgment pronounced in open Court. Kept in separate sheets. Application is allowed. No costs.


(Manjula Das)
Member (J)


01.5.13
S.O. (J)

bb

copy - minute


Received copy
dt. 11.6.13
S.Bora
Addl. C.G.S.C.
19/6/13

Order Communicatio

Vide M/No- 1675-1679

of 18-9-13.

Ch
16-9-13.

37

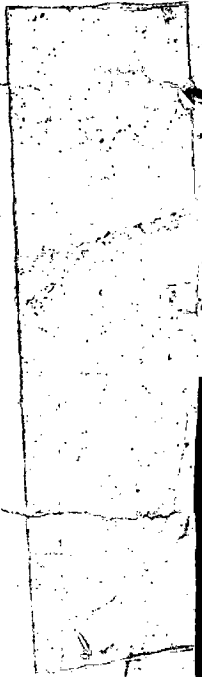
Draft order in O.A.NO. 322 of 2010 for consideration please. If approved, you may kindly pronounce the judgment on my behalf or to be pronounced by other Member of Guwahati Bench on our behalf.

1
(SANJEEV KAUSHIK),
MEMBER(J).

Hon'ble Mr. V.N. Gaur,
Member(A).

I have agreed & signed
this order.

V. Gaur



Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamp and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
5. 4. 13	5. 4. 13	5. 4. 13	5. 4. 13	5. 4. 13

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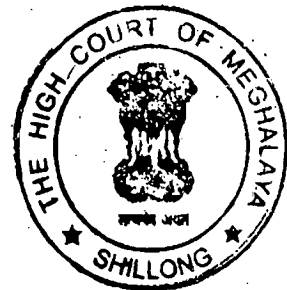
IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR AND TRIPURA)
SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W. P. CC No (SH) 285 / 2010 of 20
Civil Rule

Shri. Ashok Mondal & Ors Appellant
Petitioner

Versus

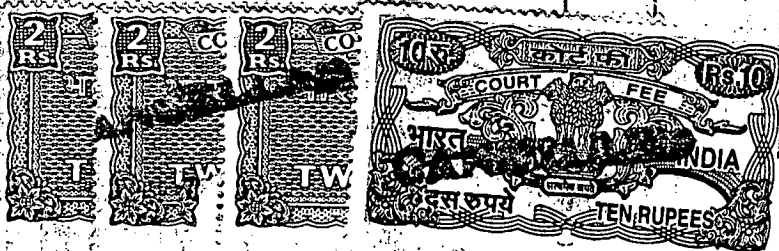
Union of India & Ors Respondent
Opposite-Party



For Appellant Mr M Chanda, S. Nath,
Petitioner P. Nongboi, Nmozika

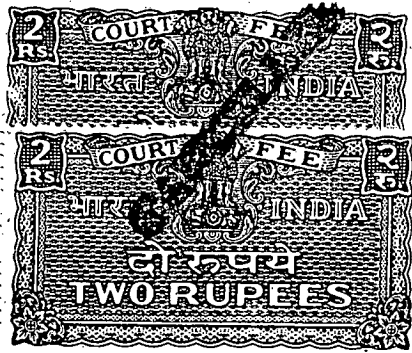
For Respondent SC Shyam, CEC
Opposite-Party

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4



IN THE MATTER OF:

1. Shri Ashok Mondal. Draftsman Grade- II
2. Smti. Manri Dkhar. Draftsman Grade- II.
3. Shri Sudip Das Purkayastha. Draftsman Grade- II.
4. Smti. Jhuma Dutta Choudhury. Draftsman Grade- II
5. Shri Marshal Langstieh. Draftsman Grade- II
6. Smti. Anjali Chakraborty. Draftsman Grade- II
7. Smti. Ratna Mondal. Draftsman Grade- II
8. Shri Herman K. Phanbuh. Draftsman Grade- II
9. Smti Everine L. Nongkynrih. Draftsman Grade- II
10. Smti Mita Purkayastha. Draftsman Grade- II
11. Shri Dungal Ram Sharma. Draftsman Grade- II
12. Shri Kajal Kumar Bhattacharjee. Draftsman Grade- II
13. Shri Ebrestster Marbaniang. Draftsman Div. I
14. Shri Abdus Samad. Draftsman Grade- II.

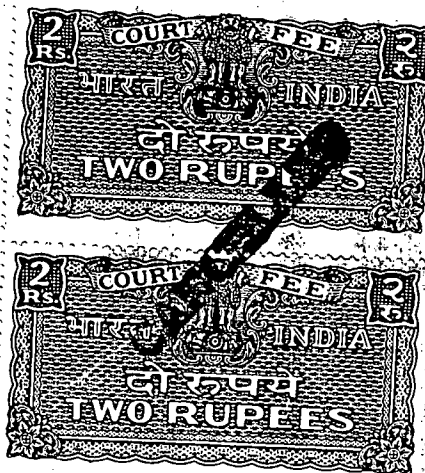
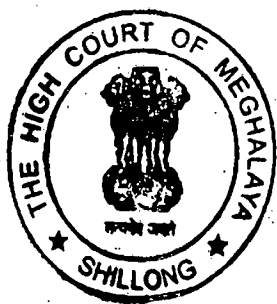


All the petitioners are working as Draftsman Gr. II/Div. I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India, under Ministry of Science & Technology, Government of India, New Delhi.

-----Applicants/
Writ petitioner.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Science & Technology,
New Mehrauli Road,
New Delhi- 110016.
 2. The Surveyor General
Survey of India,
Block A, Hathibarkala Eastate,
Dehradun- 248001, Uttaranchal.
 3. The Director
Assam & Nagaland GDC,
Survey of India,
Ganeshguri, Guwahati- 781006.
 4. The Director
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Malki, Shillong- 793001.
 5. The Secretary to the
Govt. of India,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi- 110001.
- Respondents.

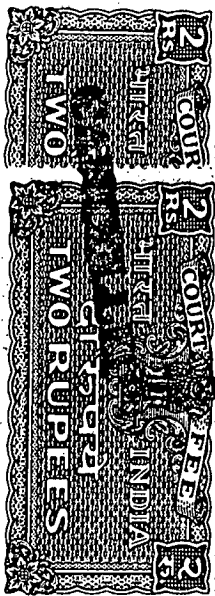


BEFORE
THE HON'BLE MR.JUSTICE N.KOTISWAR SINGH
THE HON'BLE MR.JUSTICE S.R.SEN

02.7.2012

Heard Mr.M.Chanda, learned counsel appearing for the petitioners and Mr.S.C.Shyam, learned CGSC appearing for the respondents.

[2] The present petition has been preferred against the order dated 16.12.2009 passed in O.A. No.322 of 2006 by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati, by which the claim of the 19 petitioners therein for revision of pay in terms of the office memorandum dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure was rejected on the ground that an identical issue is pending for consideration before the Hon'ble Delhi High Court and directing that the respondents shall extend the benefit of judgment to be rendered and pronounced in W.P(C) No.1720 of 2006 pending before the Hon'ble Delhi High Court on its disposal.



[3] Brief facts of the case as may be relevant for disposal of the writ petition may be stated as follows.

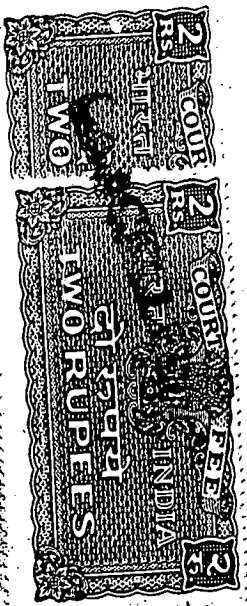
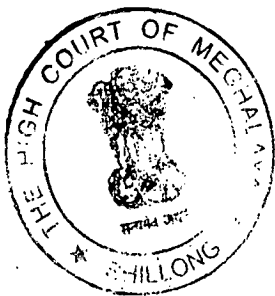
The petitioners, 19 in number, are presently working as Draftsman Grade-II in the Survey of India, Shillong on regular basis. It is their case that in the year 1994, Govt. of India, Ministry of Finance issued an office memorandum dated 19.10.1994 by which Draftsman Grade-II, who were enjoying pay scale of Rs. 330-560 would get the revised pay scale of Rs. 425-700 after rendering service for 5 years in the pre-revised pay scale. Subsequently, another office memorandum was issued by the Govt. of India on 01.6.2001 by which the pay scale was further revised with certain conditions mentioned therein.

However, it was subsequently clarified by the Govt. of India stating that the said office memorandum dated 06.6.2001 issued by the Ministry of Finance will not be applicable to the Draftsman Grade-II who are serving in Survey of India. In view of

the said clarification, the office memorandum dated 19.10.1994 would continue to be applicable to the eligible employees who are serving in Survey of India.

[4] It seems 63 Draftsman Grade-II, who were working under the Survey of India, North Eastern Circle, Shillong had approached the Central Administrative Tribunal, Guwahati Bench, Guwahati by filing the Original Application No.14 of 2002 for enjoyment of the aforesaid revised pay scale which was denied to the aforesaid persons by the authorities. The Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati after considering the claims of the aforesaid 63 Draftsman Grade-II and also the contentions of the respondents authorities, allowed their application and directed the respondents to grant the revised higher pay scales and subsequent revisions as per the 4th and 5th Central Pay Commission recommendations with all the consequential benefits with effect from the date applicable in the case of each applicant vide order dated 30th May, 2003 passed in the aforesaid Original Application No.14 of 2002. The aforesaid decision of the Central Administrative Tribunal, Guwahati Bench, Guwahati dated 30.5.2003 passed in Original Application No.14 of 2002 was challenged by the Union of India before this Court by filing writ petition being W.P(C) No.9786 of 20063, which however was dismissed by this Court vide order dated 9.12.2003 stating that Central Administrative Tribunal, Guwahati Bench, had rightly given the pay scale to the aforesaid workmen and there is no reason to interfere with the order passed by the Tribunal. The Union of India carried the matter to the Hon'ble Supreme Court by filing an SLP, which was, however, dismissed by the Hon'ble Supreme Court vide order dated 19.7.2004. Accordingly, the aforesaid direction of the Central Administrative Tribunal, Guwahati Bench, Guwahati had attained finality.

[5] The present 19 petitioners have thereafter, approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for the same benefit on the plea that the present petitioners who are also Grade-II Draftsmen and who are serving in the Survey of India are similarly placed as the aforesaid 63 persons



whose claim had been allowed by the Central Administrative Tribunal, Guwahati Bench, Guwahati as stated above and accordingly, have filed O.A. No.322 of 2006. However, the Central Administrative Tribunal, Guwahati Bench, Guwahati dismissed the application, O.A. No.322 of 2006 filed by the aforesaid 19 petitioners on the ground that the Principal Bench of the Tribunal at Delhi vide order dated 27.2.2008 had rejected the same plea raised by the Draftsman Grade-II (Cartographic) Association in O.A. No.457 of 2005 before the Principal Bench, Delhi against which the said Association had preferred a writ petition being W.P(C) No.17207 of 2006 before the Hon'ble Delhi High Court, which is pending consideration. Accordingly, the Central Administrative Tribunal, Guwahati Bench, Guwahati considering the fact that an identical issue is pending consideration before the Hon'ble Delhi High Court, the Tribunal declined to interfere and go into the merits and demerits of the claim of the applicants and disposed the aforesaid application, O.A. No.322 of 2006 by stating that the respondents shall extend the benefit of the judgment to be rendered and pronounced in W.P(C) No.17207 of 2006 pending before the Hon'ble Delhi High Court on its disposal.



[6] The grievance of the present petitioners is that the present petitioners are similarly situated as the aforesaid 63 persons, in whose case, the Tribunal had already allowed their claim for revision of pay scale, which had been affirmed by the highest Court of this land and as such, mere pendency of similar matter before the Hon'ble Delhi High Court ought not come in the way of the claim of the petitioners.

[7] Learned counsel appearing for the petitioners has also stated that in fact dismissal of the aforesaid Original Application No.457 of 2005 before the Principal Bench of Central Administrative Tribunal, was because of the reason that the Central Government respondents had not apprised the Tribunal of the existence of the order dated 22.10.2001 issued by the Ministry of Finance, Government of India clarifying that the subsequent office memorandum/order dated 01.6.2001 was not applicable to the Draftsman Grade-II serving in Survey of India.



[8] Mr.M.Chanda, learned counsel appearing for the petitioners has also submitted that the Calcutta Bench of the Central Administrative Tribunal in O.A. No.184 of 2005 has also acted upon the judgment rendered by the Guwahati Bench of the Central Administrative Tribunal in O.A. 14 of 2002 on 30.5.2003 and issued direction to the Authority to give the same benefits within a time frame of three months. A copy of the aforesaid order dated 30.05. 2003 passed in O.A. No.184 of 2005 is placed on record.

[9] Be that as it may, we are not going into the aforesaid factual aspects inasmuch as the records of the aforesaid application, O.A No. 457 of 2005 pending before the Delhi High Court are not before this Court. However, we are of the view that mere pendency of an application, even though on identical issue before Hon'ble Delhi High Court will not be a bar for the Central Administrative Tribunal, Guwahati Bench, Guwahati to consider the claim of the 19 petitioners, if the aforesaid 19 petitioners are similarly situated as the aforesaid 63 Draftsman Grade-II in whose favour the Central Administrative Tribunal, Guwahati Bench, Guwahati had already given a direction to give the benefit of revised pay scale vide order dated 30.5.2003 passed in O.A. No.14 of 2002, which has already been upheld by this Court as well as by the Apex Court, as stated above. We are of the view that the aforesaid direction of the Central Administrative Tribunal, Guwahati Bench, Guwahati issued on 30.5.2003 in O.A. No.14 of 2002 having attained finality having not been interfered by the Apex Court, cannot be ignored on the ground that similar matter is pending before the Hon'ble Delhi High Court, as stated in the order of the Central Administrative Tribunal, Guwahati Bench, Guwahati. Accordingly, we set aside the order dated 16.12.2009 passed in O.A. No.322 of 2006 and remand the matter to the learned Central Administrative Tribunal, Guwahati Bench, Guwahati to reconsider the application of the petitioners for granting the same benefits to the present applicants as given to the aforesaid 63 Draftsman Grade-II in O.A. No.14 of 2002 since they are claiming that they are similarly situated as the aforesaid 63 Draftsman Grade-II. The



learned Central Administrative Tribunal, Guwahati Bench, Guwahati may dispose of the application as expeditiously as possible preferably within a period of three months.)

[10] With the above observations and directions, the present writ petition is allowed and disposed of accordingly.

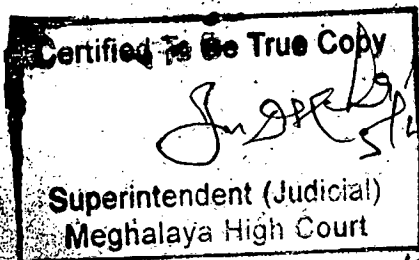
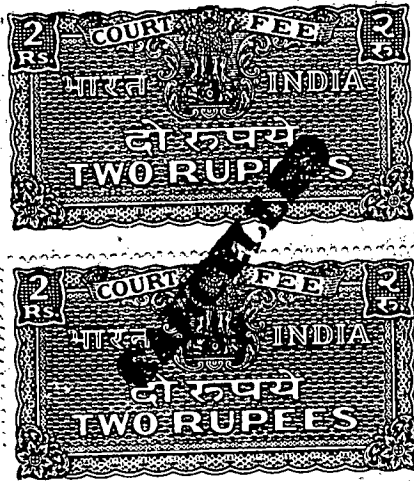
Opendra(r)

JUDGE

Opendra(r)

Opendra(r)

JUDGE



Typed By
 Read By
 Examined By

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

O.A. Nos. 322 of 2006.

DATE OF DECISION : THIS IS THE 16TH DAY OF DECEMBER, 2009.

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Shri Ashok Mandal Draftsman Gr.II
2. Shri Dharmananda Bora, Draftsman Div.I
3. Smt Manri Dkhar, Draftsman Gr.II
4. Shri Sudip Das Purkayastha, Draftsman Gr.II
5. Smt Jhuma Dutta Choudhury, Draftsman Gr.II
6. Shri Marshal Langstich, Draftsman Gr.II
7. Smt Anjali Chakraborty, Draftsman Gr.II
8. Smti Ratna Mondal, Draftsman Gr.II
9. Shri Herman K. Phanbuh, Draftsman Gr.II
10. Smti Everine L. Nongkynrih, Draftsman Gr.II
11. Smti Mita Purkayastha, Draftsman Gr.II
12. Shri R.S. Baidya, Draftsman Gr.II
13. Shri Dungal Ram Sharma, Draftsman Gr.II
14. Shri Kajal Kumar Bhattacharjee, Draftsman Gr.II
15. Smt Arati Joshi, Draftsman Gr.II
16. Shri Kunja Behari Singha, Draftsman Gr.II
17. Shri Ebrestster Marbaniang, Draftsman Div.I
18. Shri Abdus Samad, Draftsman Gr.II
19. Shri Purna Chandra Mundari, Chief Draftsman ... Applicants

All the applicants are working as Draftsman under Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India.

By Advocate Mr M.Chanda.

-Versus-

1. Union of India
represented by Secretary to the
Government of India,
Ministry of Science & Technology,
New Mehrauli Road,
New Delhi - 110016.
2. The Surveyor General,
Survey of India,
Block A, Hathibarkala Estate,
Dehradun - 248001, Uttaranchal.

3. The Director,
Assam & Nagaland GDC,
Survey of India,
Ganeshguri, Guwahati-6.
4. The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Malki, Shillong-793001.
5. The Secretary to the
Government of India,
Ministry of Finance,
Deptt. of Expenditure,
North Block, New Delhi - 110001.

..... Respondents

By Advocate Mrs M. Das, Addl.C.G.S.C.

ORDER (ORAL)

MR MUKESH KUMAR GUPTA, MEMBER (A)

19 Draftsman Gr.II/Div. I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India in this O.A seek grant of revised higher pay scale of Rs. 550-750/- further revised to Rs.1600-2680/- and Rs.5500-9000/- with all consequential benefits. On the other hand learned counsel for the respondents states that Draftsman (Cartographic) Association preferred O.A.457/2005 before Principal Bench of the Tribunal seeking identical relief, which has been dismissed vide order dated 27.2.2006, against which said Association has preferred W.P.(C) No.17207/2006 before Hon'ble Delhi High Court, which is pending consideration. Learned counsel further states that respondents would extend the benefit of said judgment, to be rendered and pronounced by Hon'ble Delhi High Court in said W.P.(C) to

applicants, they being the member of said Association. On the other hand learned counsel for applicants states that applicants are not members of said Association having resigned from the membership of said Association. Be that as it may, since identical issue is pending consideration before Hon'ble High Court, we do not want to interfere and go into merits and demerits of claim laid at this stage particularly in view of undertaking given, as noticed hereinabove.

O.A is disposed of. Respondents shall extend benefit of judgment to be rendered and pronounced in W.P.(C) No.17207/06 pending before Hon'ble Delhi High Court on its disposal.



Sd/- M.K. Gupta
Member (J)

Sd/-M.K.Chaturvedi
Member (A)

TRUE CO.
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati

No. 26

From

W. P. (C) No. (SH) 285/2010/1873

The Registrar of the High Court of Assam, Nagaland, Meghalaya

Manipur and Tripura

SHILLONG BENCH



Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

853

7 6 OCT 2010

Guwahati Bench.

গুৱাহাটী ন্যায়ালয়

The

Registrar,

Central Administrative Tribunal,

Guwahati Bench,

Guwahati.

Dated Shillong, the

200 .

In the matter of an application u/a 226 of the Constitution of India for issuance of a Writ of Certiorari, and / or Mandamus and / or any other appropriate Writ, Order or direction etc.

Section 145 of the Code of Civil Procedure 1908
Appeal from
25 of the Provincial Small Cause Courts Act, 1897

(S.C.)

Immediate
reply to be given

Decree Order

W. P. (C) No. (SH) 285 / 2010 26/10

And

In the matter of

Petitioner

Shri. Ashok Mondal & Ors Appellants

Versus

Opposite-party

Union of India & Ors

Respondent



Sir,

I am directed to forward the accompanying Rule No. 285 (SH) 10, dated the 10.09.10, together with annexure issued by this Court in the above matter, for your information and guidance and to request that you will be good enough to cause the same to be duly served upon, the Opposite-party/ Respondent, to submit your return of service with the least possible delay and to transit to this Court forthwith the record connected with this matter.

* O.A. No. 332 of 2006
Dt. 16.12.2009

Yours faithfully

Registrar

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IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR AND TRIPURA)
SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W. P. CC No (SH) 285/2010 of 20 _____
Civil Rule

Shri. Ashok Mondal & Ors Appellant
Petitioner


Versus

Union of India & Ors Respondent
Opposite-Party

For Appellant Mr M Chanda, S. Nath,
Petitioner P. Nongbri, N Mozika

For Respondent SC Shyam, CEC
Opposite-Party



Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4
			

B E F O R E
THE HON'BLE MR JUSTICE T VAIPHEI
THE HON'BLE MR JUSTICE PK MUSAHARY
WP(C) No.(SH)285/2010

10.09.2010

Heard Mr M Chanda, the learned counsel for the petitioners.

Issue notice of motion returnable within four weeks.

As Mr SC Shyam, the learned CGC had already entered his appearance on behalf of the respondents, no formal notices are called for.



Sd/- **TRUE COPY** Sd/-
 P.K. MUSAHARY *[Signature]* T. VAIPHEI
 JUDGE Court Master JUDGE
 Gauhati High Court
 Shillong Bench
[Signature]

dr

21 MAY 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

An application under Section 19 of the Administrative Tribunals Act, 1985)

AMENDED ORIGINAL APPLICATION

O. A. No. 322 /2006

Shri Ashok Mondal & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

Applicants are presently working as Draftsman Gr. II/Div.I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India, under Ministry of Science & Technology, Government of India.

- 13.03.1984. Govt. of India agreed to revise scale of pay of the Draftsman Gr. I, II and III of the Central Public Works Department. However, the benefit of revised scale of pay was extended only to the Draftsman in other Central Govt. offices provided their recruitment qualification are similar to those prescribed in the case of Draftsman in C.P.W.D. The benefit of O.M dated 13.03.84 was not extended to the present applicants. (Annexure-1)
- 19.10.1994. Govt. of India issued O.M dated 19.10.94 extending benefit of revised pay scale granted vide O.M dated 13.03.84 to all the Draftsman Gr. I, II and III working in the Govt. of India offices irrespective of their recruitment qualification. Minimum 5 years of service prescribed for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700). (Annexure-2)
- 11.11.1994. Respondent No. 1 vide letter dated 11.11.94 addressed to Respondent No. 2 forwarded the O.M dated 19.10.94 for revision of pay scales of Draftsmen. But the respondent No. 2 did not take any action for implementation of O.M dated 19.10.94. (Annexure-3)
- 31.01.1996. Respondents rejected claim of similar situated Draftsmen of Survey of India for extension of benefit of O.M dated 19.10.94. (Annexure-4)
- 17.07.1997. This Hon'ble Tribunal in O.A. No. 52/1996 directed the respondents to revise scale of those applicants in O.A. No. 52/1996 in terms of O.M dated 19.10.94. (Annexure-5)
- Respondents approached the Hon'ble Gauhati High Court against the direction of this Hon'ble Tribunal by filing Civil Rule No. 4733/97. However, the Hon'ble High Court upheld the direction of this Hon'ble Tribunal on 31.07.99. Respondents still

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dissatisfied with the judgment of Hon'ble High Court filed SLP before Hon'ble Supreme Court and the said SLP was also dismissed.

16.10.2000 Respondents partially granted the benefit of O.M dated 19.10.1994 to those applicants of O.A. No. 52/1996. (Annexure- 6)

27.03.2001 Respondents granted revised scale under para 2 (b) of O.M dated 19.10.1994 to those applicants of O.A. No. 52/1996. (Annexure- 7)

01.06.2001 Union of India issued O.M dated 01.06.01 for providing higher revised scale of pay to the left out Draftsmen in other Central Govt. offices. (Annexure- 11)

06.04.2001 Applicants of O.A. No. 52/96 submitted representation for grant of benefit of O.M dated 19.10.94. However respondents rejected the claim of those applicants by order dated 01.08.01, which led those applicants to approach this Hon'ble Tribunal by filing O.A. No. 14/2002

22.10.2001 Respondent No. 1 informed the respondent No. 2 that the O.M dated 01.06.2001 was taken up with the Ministry of Finance, however it has been informed by the Ministry of Finance that the order dated 01.06.2001 is not applicable in Survey of India. (Annexure- 12)

30.05.2002 Hon'ble Tribunal in O.A. No. 14/2002 directed the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant. (Annexure- 8)

Union of India in their additional written statement submitted in O.A. No. 14/2002, it is specifically stated in para 9 that the O.M dated 01.06.01 issued by the Govt. of India, Ministry of Finance is not applicable to the Draftsman working in Survey of India which was clarified by the Department of Science and Technology, Govt. of India vide letter dated 22.10.2001 after consultation with the Ministry of Finance, as such respondents are barred by law of estoppel to contend at this stage that applicants are not entitled to the benefit of higher revised scale in terms of O.M dated 19.10.94. (Annexure- 13)

09.12.2002 Respondents being aggrieved with the judgment and order dated 30.05.03 in O.A. No. 14/2002 approached the Hon'ble Gauhati High Court by filing W.P (C) No. 9786/03, which was dismissed vide judgment and order dated 09.12.03. However, Union of India approached the Hon'ble Apex Court by filing SLP and the said SLP was also dismissed. (Annexure- 9)

Respondents thereafter implemented the judgment dated 30.05.03 passed in O.A. No. 14/02 and provided the benefit of scale of pay of Rs. 5500-9000/- to those applicants in O.A. No. 14/02.

08.11.04/09.11.04- Applicants approached the respondents by submitting representations, praying for extension of benefit of judgment and order dated 30.05.03 passed in O.A. No. 14/2002 as because the applicants are similarly situated Draftsmen like those applicants of O.A. No. 14/2002. But to no result. (Annexure- 10 Series)

29.06.2006- Gr. 'C' Non-ministrial Draftsman Cadre post RR 2006 notified in the Gazette of India. It appears that the impugned RR 2006 has been framed with a malafide intention just to deny the benefit of higher revised scale granted to other similarly situated employees of Survey of India who were applicants in O.A. No. 52/96 and 14/2002 in terms of the O.M dated 19.10.1994. (Annexure- 14)

Hence this Original Application.

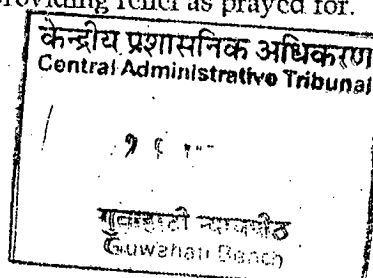
PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants and also in the light of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court to the present applicants.
1. A That the Hon'ble Tribunal be pleased to set aside and quash the impugned Group 'C' Non-Ministerial Draftsman Cadre Posts Recruitment Rule 2006 (Annexure- 14).
- 1.B That the Hon'ble Tribunal be pleased to set aside and quash the impugned O.M bearing No. 6/1/98-IC dated 01.06.2001 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi.
2. Costs of the application.
3. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

AMENDED ORIGINAL APPLICATIONTitle of the case : O.A. No. 322 /2006

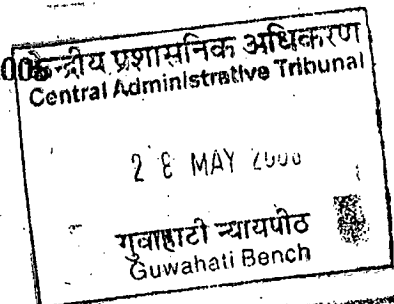
Shri Ashok Mondal & Ors. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Date: -

Advocate

Ashok Mondal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

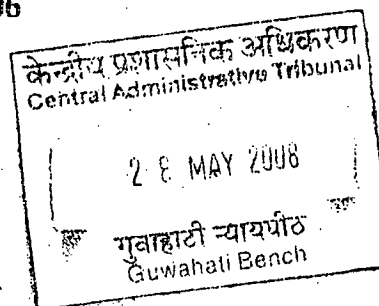
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

AMENDED ORIGINAL APPLICATIONO.A. No. 322 /2006

BETWEEN:

1. Shri Ashok Mondal. Draftsman Grade- II
2. Shri Dharmanada Bora. Draftsman Div. I.
3. Smti. Manri Dkhar. Draftsman Grade- II.
4. Shri Sudip Das Purkayastha. Draftsman Grade- II.
5. Smti. Jhuma Dutta Choudhury. Draftsman Grade- II.
6. Shri Marshal Langstich. Draftsman Grade- II
7. Smti. Anjali Chakraborty. Draftsman Grade- II
8. Smti. Ratna Mondal. Draftsman Grade- II
9. Shri Herman K. Phanbuh. Draftsman Grade- II
10. Smti Everine L. Nongkynrih. Draftsman Grade- II.
11. Smti Mita Purkayastha. Draftsman Grade- II
12. Shri R.S. Baidya. Draftsman Div. I
13. Shri Dungal Ram Sharma. Draftsman Grade- II
14. Shri Kajal Kumar Bhattacharjee. Draftsman Grade- II
15. Smti. Arati Joshi. Draftsman Grade- II
16. Shri Kunja Behari Singha. Draftsman Grade- II
17. Shri Ebrester Marbariang. Draftsman Div. I
18. Shri Abdus Samad. Draftsman Grade- II.
19. Shri Purna Chandra Mundari. Chief Draftsman.



All the applicants are working as Draftsman Gr. II/Div. I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh CDC, Survey of India, under Ministry of Science & Technology, Government of India, New Delhi.

-----Applicants.

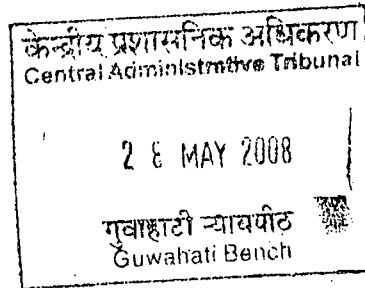
-AND-

1. The Union of India.
Represented by Secretary to the
Government of India,
Ministry of Science & Technology.
New Mehrauli Road.
New Delhi- 110016.

Ashok Mondal -

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Filed by the applicant
through U. Dutta, advocate
on 28-05-08

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2. The Surveyor General
Survey of India,
Block A, Hathibarkala Eastate.
Dehradun- 248001. Uttaranchal.
 3. The Director
Assam & Nagaland CDC,
Survey of India,
Caneshguri, Guwahati- 781006.
 4. The Director
Meghalaya & Arunachal Pradesh CDC,
Survey of India,
Malki, Shillong- 793001.
 5. The Secretary to the
Govt. of India,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi- 110001.



..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made not against any particular order but praying for a direction upon the respondents for extension of benefit of pay scale of Rs. 550-750/- (Pre-revised), corresponding revised scale of Rs. 1600-2660/- (As per IVth Pay Commission) and further revised scale of Rs. 5500-9000/- (As per Vth Central Pay Commission) in terms of Para 2 (c) of O.M dated 19.10.1994 and also in the light of judgment and order dated 30.05.2003 in O.A. No. 14 of 2002 (Shri Tulsiram Sharma & Ors. -Vs- Union of India & Ors.) passed by this Hon'ble Tribunal.

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

Ashok Mandal

4. Facts of the case:

- 4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. All the applicants are presently serving as Draftsman Gr. II/Div.I/Chief Draftsman under the Director Survey of India, N.E. Circle, Shillong in the revised scale of Rs. 5000-8000/-.
- 4.2 That your applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That the applicants were initially entered into the service under the respondent No. 2 and 3 as Topo Trainees Type B (in short T.T.T.B) Draftsman. The requisite qualification for the post of T.T.T.B Draftsman was initially Matriculation with Mathematics, which is now amended and after amendment the educational qualification now required is Pre-University with Mathematics. In the department of Survey of India T.T.T.B, Draftsman require, two years training, out of two years one year training is imparted in the Circle Office/Regional Office and another one year is required to be imparted in the Training Institute at Hyderabad. The pay scale of the T.T.T.B, Draftsman were Rs. 260-430 (pre-revised) per month. After completion of T.T.T.B training the applicants are required to appear for classification test and after passing the said test they are treated as Draftsman Gr. IV and used to place in the scale of Rs. 260-430 (Revised Rs. 975-1540) and thereafter on completion of 3 years service in Draftsman Gr. IV applicants again appeared theoretical and practical tests conducted by the Department for upgradation to Draftsman Grade III and thereafter on completion of 2 years of service as Draftsman Grade III the applicants are again required to appear in the theoretical test and supervisory level test conducted by the department for upgradation to the post of Draftsman Gr. II. Be it stated that Gr. III Draftsman and Gr. II Draftsman in the Survey of India by 3rd Pay Commission were merged together and

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28 MAY 2008

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placed in the scale of Rs. 330-560 (pre-revised). However, Government granted the pay scale of Grade III Draftsman Rs. 330-480 and Grade-II Draftsman were placed in the scale of Rs. 425-600 (Revised pay scale of Rs. 1350-2200). Be it stated that applicant No. 2, 12 and 17 are promoted to the post of Draftsman Gr. I have been promoted to the post of Chief Draftsman, but the benefit of higher revised scale in terms of the judgment and order dated 30.05.2003 has not been granted to those applicant, as such they are also similarly situated and praying for similar benefit of pay scale. Applicant No. 19 although promoted to the post of Chief Draftsman but benefit of higher pay scale in the cadre of Grad-II has not been paid to him in terms of the judgment and order dated 30.05.2003. Hence they are also approaching for similar benefit like other applicants of this Original Application.

- 4.4 That the applicants beg to state that in the Survey of India after recommendation of the IIIrd Central Pay Commission merged together category III and II Draftsman in the same pay scale of Rs. 330-560. However, Government of India granted the pay scale of Rs. 330-480 for Grade III Draftsman and the pay scale of Rs. 425-600 for the Grade II Draftsman although the III rd CPC recommended in para 81 (iii) of Chapter 14 of its report relating to replacement of scale of Rs. 330-560 to Rs. 425-700. However, the Survey of India granted the aforesaid pay scale of Rs. 330-480 and 425-600 to the category III and II Draftsman in the Survey of India respectively. The scale of Rs. 425-600 granted to the Draftsman Gr. II were placed in the corresponding revised scale of Rs. 1350-2200 by the IVth CPC.
- 4.5 That your applicants beg to stated that in the Survey of India Draftsman in the initial grade are known as T.T.T.B Draftsman i.e. called initial grade having the scale of Rs. 260-430 and after completion of 5 years of service in the pay scale of Rs. 260-430 (including 2 years of training) the draftsman are used to be upgraded in the cadre of Gr. III Draftsman in the scale of Rs. 330-480 and treated them as Draftsman Gr. III. Thereafter again on completion of 2 years of service in the cadre of Gr. III Draftsman they are used to upgraded to the post of Draftsman Gr. II in the pay scale of Rs. 425-600 revised pay scale of Rs. 1350-2200 and thereafter next promotion in the

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cadre of Division I Draftsman used to be considered on the basis of All India combined seniority list of Draftsman Cr. II. Therefore there is hardly any chance for all the Cr. II Draftsman in the department of Survey of India for further promotion. As a result the scope of promotion/upgradation is very limited for the Draftsman working in the Survey of India under the Ministry of Science and Technology.

- 4.6 That your applicants beg to state that the Government of India agreed to revise the scale of pay of the Draftsman Cr. I II and III of the Central Public Works Department following an award of Board of Arbitration as follows:

	ORIGINAL SCALE	REVISED SCALE
Draftsman Grade I	Rs. 425-700	Rs. 550-750
Draftsman Grade II	Rs. 330-560	Rs. 425-700
Draftsman Grade III	Rs. 260-430	Rs. 330-560

This benefit of revision of pay scale was given notionally with effect from 13.05.1982 and actual benefit being allowed with effect from 01.11.1983. The Govt. of India, Ministry of Finance, Department of Expenditure vide O.M No. F. 5 (59)-E.III/82 dated 13.03.1984 extended the similar benefit of revised scale of pay to the Draftsman Cr. I II and III under all Govt. of India Offices. However, this benefit was extended only to the Draftsman in other Central Govt. Offices provided their recruitment qualification are similar to those prescribed in the case of Draftsman in C.P.W.D. The benefit of office memorandum dated 13.03.1984 was not extended to the present applicants.

Copy of the O.M dated 13.03.1984 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- 1.

- 4.7 That after issuance of the O.M dated 13.03.1984 Draftsman working in many Central Government offices were excluded from the benefit of the O.M dated 13.03.84. Thereafter the Govt. of India vide Office Memorandum bearing No. 13 (1)-IC/91 dated 19.10.1994 issued by Govt. of India, Ministry of Finance, Department of Expenditure extended the benefit of

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revised pay scale which was initially granted through O.M dated 13.03.1984 to all the Draftsman Gr. L II and III and in all Government of India offices irrespective of their recruitment qualification. The relevant portion of the O.M dated 19.10.1994 is reproduced below:

- "2. The President is now pleased to decide that the Draughtsman Grade L II and III in Offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following:
 - a. Minimum period of service for 7 years placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-3040 (pre-revised Rs. 260-430 to 330-560).
 - b. Minimum period of service for placement 5 years from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700).
 - c. Minimum period of service for placement 4 years from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (revised Rs. 1600-2660) (pre-revised Rs. 425-500 to Rs. 550-750).
3. Once the Draughtsman are placed in the regular scales, further promotions could be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.
4. The benefit of this revision of scales of pay would be given with effect from 13.05.1982 notionally and actually from 01.11.1983."

The above scheme and revision of pay scale laid down in para 2 of the Office Memorandum dated 19.10.1994 formulated to place the working Draftsman of other Central Government offices other than the Draftsman working in C.P.W.D with the intention to replace them in a better pay scale with better service condition like the Draftsman of C.P.W.D. Therefore condition of particular working period is also laid down in paragraph 2 of the said O.M to replace the Draftsman in higher

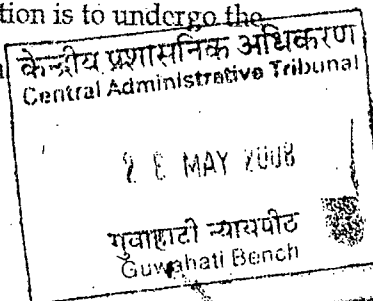
pay scale on expiry of prescribed working period such as 7 years, 5 years and 4 years respectively in the respective grade. After publication of this O.M dated 19.10.94 the Govt. of India, Ministry of Science & Technology, Deptt. of Science and Technology vide their letter No. 1-12/93 CDN dated 11.11.1994 issued the same letter dated 19.10.1994 addressing the Surveyor General of India, Mathiberkala Estate, Dehradun wherein it was stated that the O.M dated 19.10.1994 was forwarded for revision of pay scales of Draftsman of Grade I, II and III in all Govt. of India Offices on the basis of the award of the Board of Arbitration in the scale of C.P.W.D. for information, guidance and necessary action. But surprisingly the Surveyor General of India did not take any action as regard implementation of O.M dated 19.10.1994. As such the present applicants were sought to be deprived of their legitimate claim for pay parity with the Draftsman working in other Central Govt. offices. The non-implementation of the O.M dated 19.10.1994 resulted indiscrimination and the action of the respondents was violative of Article 14 and 16 of the Constitution of India.

A copy of the O.M dated 19.10.94 and letter dated 11.11.94 are annexed herewith for perusal of Hon'ble Tribunal as Annexures- 2 and 3 respectively.

- 4.8 That the Draftsman working in the Survey of India are entrusted with very high standard of drawing works including drawing with Computer, compilation of Maps and Cartography scribing and they are required to carry out topographical drawing on various skills covering the whole country. The topographical maps, topographical thematic maps, guide maps, tourist maps, state maps, three dimensional plastic relief maps and other project maps are generally prepared by the Draftsman of Survey of India. These maps are important and useful for defence and all other Ministries, State Govt. as well as for educational purposes and for map users/readers in general. All the above maps are prepared by the fair drawing or cartographic scribing techniques/Computer. The fair mapping in both the methods used are mainly carried out by the Draftsman in the department after completion of the field work. The fair mapping is allotted to the Circle Drawing offices of the department. Hence right from the

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compilation, drawing to final proof stage of any map, the main job of preparing original for printing and publishing is carried out by the Draftsman of Survey of India. The map under preparation is to undergo the following various stages in the hands of the Draftsman



1. Projection
2. Plotting of Control Points
3. Compilation (where necessary)
4. Mossicing
5. Drawing/ Carteographic scribing/ Plastic relief mapping.
6. Drafting of technical correspondence with the local Governments, the deputy Director General of Military Survey (C.S.C.S.), Ministry of Defence and Ministry of External Affairs and other indenters.
7. Preparation of History sheets and publication Instructions.
8. Examination of Preliminary proofs and preparation of ancillary or originals etc. (i.e. Grid, Colour separation Guides, Shade Originals etc.).
9. Examination/Preparation of Final P.O. P.S.; ascertaining the correctness of the External/Internal Boundaries and the Coast line with the available records and Circulars etc.
10. Preparation of Area Statements, and submission of area figures of Indian States/Union Territories for each Census of India.
11. Scrutiny of all such maps containing External/International Boundaries and cost line published by the private agencies.
12. Besides the above a Draughtsman has to prepare the publications used in the department including all charts, Indexes, Hand Books etc.
13. A Draughtsman has to have a very high standard of technical knowledge also of printing & publishing of all kinds of maps and basic knowledge of field work. This is being confirmed by the Circle Offices by means of trade test periodically.
14. A Draughtsman has to prepare and supply date for gazettes published by the Govt. of India.

For systematic processing of the job mentioned in paragraphs 1 to 12 above, the Draftsman of the following grades are employed:

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1. Draughtsman (Cartographic) Grade IV (After completion of the training) of two years and after passing the prescribed tests.
2. Draughtsman Grade III (After completion of 3 years by trade test & subject to qualify).
3. Draughtsman Grade II (After completion of two years by trade test and subject to qualify).
4. Draughtsman (Cartographic) Division I (By D.P.C on vacant posts).
The only promotion one gets after 30-33 years of service. Trade tests are not promotion as per Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi dated 13th September, 1991 in para 2 (c).

It is, further to say that the Draughtsman of Survey of India employed in various kinds of map making, in which fair drawing/ cartographic, scribing requires a high class of accuracy, consistency, uniformity and achieving the highest standard of precision mapping."

Therefore, it appears that the Draftsman of Survey of India, the present applicant not only performing the similar nature of work like Draftsman of CPWD of the corresponding grade rather discharging the very high standard of drawing work which cannot be equated with the Draftsman of any other department of the Central Govt. offices. Therefore, the present applicants deserve rather a higher pay scale than the other Central Govt. offices Draftsman working in the corresponding grades. But unfortunately the present applicants have been deprived of the revised scale of pay which was granted to the CPWD Draftsman long back following the award of Board of Arbitration. The non-extension of revised pay scale to the present applicants had violated the principles laid down in Article 14 and 16 of the Constitution of India.

- 4.9 That your applicants declare that they are performing similar nature of work which are being performed by the Draftsman Gr. II in CPWD. Therefore they are also entitled to the benefit of revised pay scale granted under O.M dated 19.10.1994 issued by the Ministry of Finance, Govt. of India, Department of Expenditure, more so in view of the judgment and

Ashok Mondal

order dated 30.05.2003 passed in O.A. No. 14/2002, in the case of similarly situated employees of the same department. It is categorically submitted that similarly situated employees of the same department have already been granted the benefit of higher scale in terms of O.M dated 19.10.1994 as such the present applicants are also entitled to the similar benefit.

4.10 That your applicants beg to state that the Survey of India is the National Survey and Mapping Organisation of our Country under the Ministry of Science and Technology and is the oldest Scientific Department of the Govt. of India. It was set up in the year 1967. This is the only organization for preparing the maps of land surveys of India and abroad. Therefore the present applicants who are working as Draftsman Gr. II should not be deprived from the benefit of extension of revised pay scales which was granted to other similarly situated Draftsman working in other Central Govt. offices.

4.11 That by the Office Memorandum dated 19.10.1994 issued by the Government of India, Ministry of Finance, Department of Expenditure desired to provide a better, uniform future prospect to all the Draftsman Grade I, II and III of all Central Govt. offices irrespective of their recruitment qualification. The O.M dated 19.10.1994 having waived the conditions mentioned in O.M dated 13.03.1984, with the sole object to cover the left out Draftsman not fully satisfying the said conditions serving in other Central Government offices, and the Central Government is obliged to grant higher revised pay scale in an uniform rate to the Draftsman working in various Central Government Office as the present office Memorandum dated 19.10.1994 provides a better future prospects to the Draftsman Grade-II serving under Government of India and particularly this O.M is also beneficial to the present applicants who are serving in the cadre of Grade-II Draftsman in the Survey of India, under the Ministry of Science and Technology. Therefore the present applicants are also entitled to the full benefit of revised pay scale granted under O.M dated 19.10.1994 as the same provided better promotional avenues to the cadre of Draftsman Grade-II. It is further stated that the O.M dated 19.10.1994 is the improvement over the O.M dated 13.03.1984 to extend the benefit of

revised pay scale i.e. Rs. 425-700 and Rs. 550-750 to all the Draftsman of different Central Government departments by further relaxing and waiving the recruitment qualification and the O.M dated 19.10.1984 has been issued for career advancement system. Therefore implementation of the O.M dated 19.10.1994, in all stages is essential in respect of the Draftsman Cr. II of Survey of India for further advancement of service career of the present applicants. Be it stated that if the O.M dated 19.10.1994 would have been implemented in time in that event the present applicants would have readily fitted in the present scheme of revised pay scale issued under O.M dated 19.10.1994.

4.12 That your applicants beg to state that similarly situated Draftsman Cr. II of Survey of India, Shillong being aggrieved with non-providing the benefit of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, approached this Hon'ble Tribunal through O.A. No. 135/95 which was disposed of by this Hon'ble Tribunal on 20.07.1995 with the direction to the respondents to consider and decide whether the benefit of the revised pay scales should be extended to those applicants. The applicants were given liberty to approach this Hon'ble Tribunal if the decision of the respondents went against them. The respondents thereafter issued the order No. SM/06/001/95 dated 31.01.1996 rejecting the claims of those applicants for grant of revised pay scale. Situated thus, those applicants again approached this Hon'ble Tribunal, challenging the validity of the impugned letter dated 31.01.1996 through O.A. No. 52/1996. It is relevant to mention here that present respondents, by the above order came to the conclusion that the benefit of the O.M dated 19.10.1994 cannot be extended to the Draftsman of the Survey of India on the ground that their qualifications of recruitment were not similar with that of the Draftsman of the CPWD or other departments and also on the ground that the scope of promotion was not similar with that of the Draftsman of the CPWD, their type and nature of works, duties and responsibilities were not similar with those of the Draftsman under the CPWD and also concluded that the applicant's of O.A. No. 135/95 and 52/96 pay structure had not been and was not at par with the pay structures in the CPWD or other organizations. The

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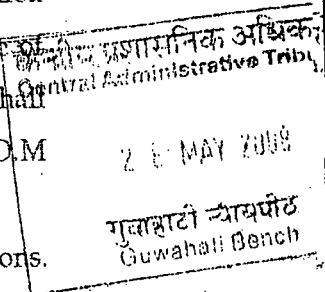
respondents in other words vehemently contested the O.A. No. 52/1996 and the said O.A. was ultimately decided by this Hon'ble Tribunal on 17.07.1997 with the following observations:

"In our view under the facts and the circumstances stated hereinabove the terms of the aforesaid O.M dated 19.10.1994 are applicable to the applicants. Accordingly, we set aside the impugned order No. SM/06/001/95 dated 31.1.1996. Further, we direct the respondents to place the applicants in the pay scale of Rs. 425-700 (Pre-revised)/1400-2300 (revised) (revised) in the manner stipulated in the O.M No. 13(1)-IC/91 dated 19.10.1994 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively. This shall be complied with by the respondents within 3 (three) months from the date of receipt of this order by Respondent No. 3. The respondents shall also allow the consequential benefits provided in para 3 of the O.M dated 19.10.1994 mentioned above to the applicants.

The application is allowed in terms of the above directions.

No order as to costs."

Copy of letter dated 31.01.96 and copy of the judgment and order dated 17.07.97 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 respectively.



- 4.13 That it is stated that the respondents being dissatisfied with the judgment and order dated 17.07.1997 preferred an appeal before the Hon'ble Gauhati High Court through Civil Rule No. 4733/97, however, the Hon'ble Gauhati High Court affirmed the judgment and order of this Hon'ble Tribunal on 31.07.1999. The respondents being still dissatisfied with the judgment and order dated 31.07.1999 preferred a Special Leave Petition before the Hon'ble Supreme Court through SLP to Appeal (Civil) 2000 CC 2082/2000. The Hon'ble Supreme Court also was pleased to dismiss the said Appeal after condoning the delay in filing the same and thereby upheld the judgment and order dated 17.07.1997 passed in O.A. No. 52/96 and 31.07.1999 passed by the Hon'ble High Court in Civil Rule No. 4283/97.

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4.14 That it is stated that even after the Hon'ble Supreme Court order dated 31.03.2000 passed in the SLP preferred by the respondents Union of India, confirming the judgment and order dated 17.07.97 passed by this Hon'ble Tribunal the same was not implemented by the respondents Union of India and in such compelling circumstances those applicants in O.A. No. 52/96 finding no other alternative filed C.P. No. 3/2000. However, after receipt of the notices and after long persuasion the judgment and order of the Hon'ble Tribunal dated 17.07.1997 passed in O.A No. 52/96 was partially extended to those applicants. The period of 5 (five) years service for placement from the post carrying scale of Rs. 120-240 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700) was calculated by the Respondents taking into consideration the initial 5 (five) years, service in the 2 (two) grade combined service i.e. in the Grade III and Grade II Service on the pay scale of Rs. 330-480 and Rs. 425-600. Accordingly in terms of the instructions issued under letter No. SM/04/010/2000 dated 16.10.2000 and also in terms of Surveyor General of India's letter bearing No. F.2-2300/1196-B (TRS) dated 27.3.2001, the benefit of revised scale under Para 2 (b) of O.M dated 19.10.1994 has been extended to the those applicants with arrear monetary benefits.

Copies of the letter dated 16.10.2000 and letter dated 27.03.01 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- 6 and 7 respectively.

4.15 That those applicants in O.A. No. 52/96 being aggrieved submitted detailed representation on 06.06.01 for grant of benefit of O.M dated 19.10.94 but most unfortunately the Surveyor General of India rejected the prayer of the applicants for extension of the benefit of Para (2) of the O.M dated 19.10.94 and without application of mind issued the order dated 01.08.2001. Those applicants of O.A. No. 52/1996 again approached this Hon'ble Tribunal by filing an O.A. No. 14/2002 (Shri Tulsi Ram Sharma & Ors. -Vs- U.O.I & Ors.) with the following prayers:

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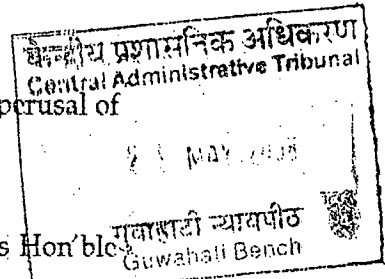
- "8.1 That the impugned order issued under letter bearing No. E-2-12553/1196-B-TR Sharma dated 1st August 2001 be set aside and quashed.
- 8.2 That the respondents be directed to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants.
- 8.3 To pass any other order or orders or direction to grant adequate relief to the applicants as the Hon'ble Tribunal may deem fit and proper.
- 8.4 Costs of the application."

However, the O.A. No. 14/2002 came before this Hon'ble Tribunal on 30.05.2003 for hearing and this Hon'ble Tribunal after hearing the arguments of the parties and on perusal of materials on record, was pleased to allow the O.A. No. 14/2002 with the following direction:

- "11. For all reasons cited above and the in the facts and circumstances of the case, the impugned order dated 1.8.2001 is liable to be set aside and the same is accordingly set aside. The respondents are directed to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant.
12. The application is thus allowed. There shall, however, be no order as to costs."

Copy of the order dated 30.05.03 is enclosed herewith for perusal of

Hon'ble Tribunal as Annexure- 8.



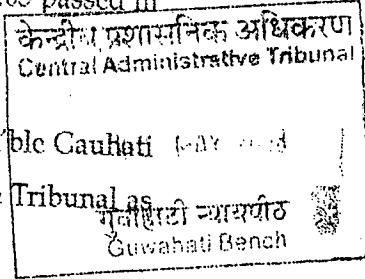
4.16 That the Union of India being aggrieved with the decision of this Hon'ble Tribunal passed on 30.05.03 in O.A. No. 14/2002 approached the Hon'ble Gauhati High Court by filing a Writ Petition (Civil) No. 9786/2003 (Union of India & Ors. -Vs- Sri Tulsi Ram Sarma & Ors.). However, the Hon'ble Gauhati High Court Vide its judgment and order dated 09.12.2003 dismissed the W.P (C) No. 9786/2003 and upheld the judgment and order dated 30.05.03 passed in O.A. No. 14/2002. The Hon'ble Gauhati High Court while dismissing the contention of the respondents Union of India raised in W.P (C) No. 9786/2003 held as follows:

"The respondents who were Draftsman Grade-II in Survey of India Department have given pay scale of Rs. 425-700/- on completion of 5 years of service, as provided under the Circular of the Govt. of India dated 19-01-1994. In that pay scale the respondents have further completed 4 years of service and claimed the pay scale of Rs. 1600-2600/-, as provided under Circular dated 19-10-1994. The Central Administrative Tribunal, Guwahati Bench complying the circular of the Govt. of India has directed payment of the pay scale of Rs. 1600-2600/- to the Draftsman Grade-II. Admittedly, the respondents were in the pay scale of Rs. 425-700/-. On completion of their 5 years of service and on completion of further period of 4 years they are entitled to get the revised pay scale as provided under Clause 2 (c) of the Circular. We may make it clear that this is a revision in the pay scale on account of the particular number of years of service rendered by the respondents and it does not mean that they have been given promotion to the higher post. The Central Administrative Tribunal has rightly given the pay scale to the respondents. We do not find any good or sufficient reason to interfere with the order passed by the Tribunal.

The petition is dismissed."

Ashok Mondal.

However, the Union of India being aggrieved with the judgment and order dated 09.12.2003 passed by the Hon'ble Gauhati High Court approached the Hon'ble Supreme Court by filing Special Leave Petition and the said Special Leave petition was dismissed by the Hon'ble Supreme Court. As such the judgment and order dated 30.05.03 passed in O.A. No. 14/2002 has attained finality.



Copy of judgment and order dated 09.12.03 of the Hon'ble Gauhati High Court is enclosed herewith for perusal of Hon'ble Tribunal as

Annexure- 9.

- 4.17 That it is stated that the respondents thereafter implemented the judgment and order of this Hon'ble Tribunal passed on 30.05.06 in O.A. No. 14/2002 and provided the benefit of scale of pay of Rs. 5500-9000/- to those applicants of O.A. No. 14/2002 with retrospective effect.
- 4.18 That it is stated that the present applicants are similarly situated like those applicants in O.A. No. 14/2002 working in the Survey of India, Shillong as Draftsman Grade II/Div. I/Chief Draftsman. Be it stated that present applicants although similarly situated in every respect working in the cadre of Draftsman Grade II/Div. I/Chief Draftsman, as such they are entitled to the same benefit of scale of pay of Rs. Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per recommendation of IVth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per the Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant i.e. from the date the applicants completed 4 years service in the scale of pay of Rs. 5000-8000/-. But the respondents most unfortunately denied the said benefit to the present applicants which is in violation of Article 14 and 16 of the Constitution of India. As such the applicants are praying before this Hon'ble Tribunal for a direction upon the respondents to provide benefit of pay scale of Rs. 550-750/- (Pre-revised), corresponding revised scale of Rs. 1600-2660/- (As per IVth Pay Commission) and further revised scale of Rs. 5500-9000/- (As per Vth Central Pay Commission) in

the light of the judgment and order dated 30.05.2003 in O.A. No. 14 of 2002

(Shri Tulsiram Sharma & Ors. -Vs- Union of India & Ors.).

Detail particulars of the applicants showing date of completion of 4 years of regular services in the scale of pay of Rs. 5000-8000/-.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2003

पुणे न्यायाधीश
Pune Bench

Name	Date of Appoint-Ment	Date of Gr. III	Date of Gr. II	Date of Receipt of scale of Rs. 5000-8000	Date of completion of 4 years after receipt of Rs. 5000-8000
Dharmanda Bora	28.12.1974	01.01.83	01.01.86	01.01.88	01.01.1992
Mauri Dkhar	12.04.1979	01.01.85	01.01.89	01.01.90	01.01.1994
Sudipa Das	01.12.1983	01.01.89	01.01.92	01.01.94	01.01.1998
Purkayastha					
Jhuma Dutta	25.05.1987	01.01.94	01.01.96	01.01.99	01.01.2003
Choudhury					
Marshal Lengstieh	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Anjali Chakraborty	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Ratna Mondal	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Herman K.	29.08.1989	01.01.96	01.01.98	01.01.01	01.01.2005
Phanbuh					
Everine I.	29.08.1989	01.01.96	01.01.98	01.01.01	01.01.2005
Nongkynrih					
Mita Purkayastha	05.06.1991	01.01.97	01.01.99	01.01.02	01.01.2006
R.S. Baidhya	04.12.1971	01.01.78	01.01.80	01.01.83	01.01.1987
Dwngal Ram	12.08.1971	01.01.81	01.01.83	01.01.86	01.01.1990
Sharma					
Kajal Kumar	01.12.1983	01.01.89	01.01.91	01.01.94	01.01.1998
Bhattiacharjee					
Arati Joshi	01.12.1983	01.01.89	01.01.93	01.01.96	01.01.2000
Kunja Bhari	12.04.1979	01.01.85	01.01.87	01.01.90	01.01.1994
Singha					
Ebrestster	12.04.1979	01.01.85	01.01.87	01.01.90	01.01.1994
Marhamang					
Ashok Mondal	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Abdus Samad	05.06.1991	01.01.97	01.01.99	01.01.02	01.01.2006
Purna Chandra	13.12.1976	01.01.82	01.01.84	01.01.97	01.01.2001
Mundari					

From the above table it is very much clear that all the applicants has completed 4 years of regular service in the scale of Rs. 5000-8000, as such they are entitled to get the benefit of revised scale of Rs. 5500-9000 from the date they have completed 4 years regular service, as provided

Ashok Mondal

28 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

under Clause 2 (c) of the O.M dated 19.10.1994. Moreover, they are similarly situated employees working in the Survey of India, like those applicants (Sri Tulsi Ram Sharma & Ors.) in O.A. No. 14/2002, who have earned scale of pay of Rs. 5500-9000 from the date of completion 4 years of regular service in the scale of pay of Rs. 5000-8000 in the light of the judgment and order dated 30.05.2003 passed by this Hon'ble Tribunal in O.A. No. 14/2002, which was upheld by the Hon'ble High Court as well as Hon'ble Supreme Court as such the applicants being similarly situated employees of the same respondent department, cannot be denied the benefit of the judgment and order dated 30.05.2002 passed in O.A. No. 14/2002. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to extend benefit of judgment and order dated 30.05.2002 passed in O.A. No. 14/2002 to the present applicants and to provide the scale of pay of Rs. 5500-9000 to the applicants from the date they have completed 4 years of regular service in the scale of Rs. 5000-8000/-.

- 4.19 That the applicants beg to state that finding no response from the respondents regarding extension of the benefit of Para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi as well as the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court, therefore they have approached the respondents by filing representations on 08.11.2004/09.11.2004, praying for extension of the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002. In their representations the applicants categorically stated that they are similarly situated Draftsman Grade-II working in the respondent department and have acquired the requisite eligibility criteria laid down in the O.M dated 19.10.1994 as such they are entitled to get the monetary benefits including arrear of pay in the scale of Rs. 5500-9000 from the date, at par with the applicants in O.A. No. 14/2002. However, the representations submitted by the applicants were duly forwarded by the Deputy Director, Survey of India, Shillong, vide his letter dated 19.11.2004 to the Surveyor General of India, but to no result. Therefore finding no other alternative the applicants are approaching before this Hon'ble

Central Government
20 MAY 2006
Guwahati Bench

Tribunal for a direction upon the respondents to extend the benefit of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 to them as because they are similarly situated employees like those applicants in O.A. No. 14/2002 and to grant the present applicants higher revised scale of pay of Rs. 550-750/- (pre-revised) corresponding to Rs. 1600-2600 (as per IVth CPC) and Rs. 5500-9000 (as per Vth CPC) in terms of para 2 (c) of O.M dated 19.10.1994 with all consequential benefits including arrear monetary benefits with immediate effect. The representations submitted by the applicants were duly forwarded by the respondent No. 3 to the respondent No. 2 on 19.11.2004 but to no result.

A few copy of the representation dated 08.11.04/09.11.04 along with forwarding letter dated 19.11.04 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 10 (Series).

- 4.20 That it is stated that the applicants are suffering huge financial loss in each and every month due to denial of the benefit of higher revised scale of pay of Rs. 550-750/- (pre-revised) corresponding to Rs. 1600-2600 (as per IVth CPC) and Rs. 5500-9000 (as per Vth CPC) in terms of para 2 (c) of O.M dated 19.10.1994 to the applicants and as such loss is recurring in nature, and such denial gives rise to continuous cause of action in each and every month when the applicants are drawing their salary at a lower scale.
- 4.21 That it is stated that Govt. of India, Ministry of Finance, Department of Expenditure has issued another memorandum bearing No. 6/1/98-IC dated 01.06.2001 subsequently modifying the earlier memorandum dated 19.10.1994 and extended the benefit of higher revised pay scale to other left out Draftsman working in other Central Govt. departments. It is relevant to mention here that residency period was extended in the subsequent memorandum while extending the revised higher scale. However, it is humbly submitted that the said O.M dated 01.06.2001 is not applicable in the instant case of the present applicants as because the present applicants are similarly situated like those applicants of O.A. No. 14/2002 and as such they are entitled to same benefit whatsoever given to the other Draftsman working in Survey of India following the decision rendered in O.A. No.

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14/2002 which was upheld by the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
7 MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

It is humbly submitted that department of Science & Technology, Govt. of India, Ministry of Science & Technology vide their letter bearing No. SM/04/10/2000 dated 22.10.2001, it is informed to the respondent No. 2 that the O.M dated 01.06.2001 was taken up with the Ministry of Finance, however it has been informed by the Ministry of Finance that the order dated 01.06.2001 is not applicable in Survey of India. It is relevant to mention here that whatever benefit extended to the applicants of O.A. No. 14/2002, the present applicants being similarly situated like those applicants of O.A. No. 14/2002 are entitled to exactly similar benefit of higher revised scale after completion of 4 years residency period in the scale of pay of Rs. 5000-8000/-, liable to be placed in the higher revised scale of pay of Rs. 5500-9000/-, otherwise again there will be a discrimination in the matter of extension of benefit of higher pay scale to the similarly situated employees like the applicants. It is a settled position of law that once the benefit of revision pay scale is given by the Union of India to it's employees in terms of Courts order, the other employees identically placed would be given the same benefit. In this connection the applicants like to place reliance on the decision render by the Hon'ble Supreme Court on 12.04.2006 in Civil Appeal No. 1216-1256/2003 (K.T. Veerappa & Ors. -Vs- State of Karnataka & Ors.).

That the applicants waiting for so long in anticipation that the similar benefit of higher revised pay scale will be extended to them like those applicants of O.A. No. 14/2002, but finding no response from the respondents, the applicants in the compelling circumstances approaching before this Hon'ble Court praying interalia the extension of benefit of the judgment and order dated 13.05.03 in O.A No. 14/2002 with immediate effect with all consequential service benefit including arrear monetary benefit by way of re-fixing the pay of the applicants.

Copy of the O.M dated 01.06.01 and letter dated 22.10.01 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 11 and 12 respectively.

A. Lakshmi

4.21 A. That it is stated that the respondents Union of India in their additional written statement submitted in O.A. No. 14/2002, which was disposed of on 30.05.03 wherein it is specifically stated in para 9 that the O.M dated 01.06.01 issued by the Govt. of India, Ministry of Finance is not applicable to the Draftsman working in Survey of India which was clarified by the Department of Science and Technology, Govt. of India vide letter No. SM/04/10/2000 dated 22.10.2001 after consultation with the Ministry of Finance, as such respondents are barred by law of estoppel to contend at this stage that applicants are not entitled to the benefit of higher revised scale in terms of O.M dated 19.10.94.

Copy of the additional written statement and letter dated 22.10.01 are enclosed herewith as Annexure- 13.

4.21 B That it is stated that once the benefit of higher revised pay scale has been granted in terms of O.M dated 19.10.1994 to the similarly situated employees of the respondent department following a decision rendered by a competent Court of law i.e. O.A. No. 52/2006 decided by this Hon'ble Tribunal on 17.07.1997 and also in O.A. No. 14/02 disposed of on 30.05.03 which were subsequently carried on appeal by the respondents before the Hon'ble Gauhati High Court as well as before the Hon'ble Supreme Court and the Hon'ble Apex Court confirmed the judgment of this Hon'ble Tribunal. Therefore the respondents are not entitled to deny the similar benefit to the present applicants on the pretext of O.M dated 01.06.01 rather the applicants have acquired a valuable legal right for grant of higher revised scale of pay in terms of the O.M dated 19.10.1994 as prayed in the O.A.

4.21 C That the respondent Union of India in order to deny the higher revised scale of pay in terms of O.M dated 19.10.1994 have also framed a new Recruitment Rule 2006 which is called as Cr. 'C' Non-ministrial Draftsman Cadre post RR 2006 wherein scale of pay of Rs. 5500-9000/- has been prescribed for Draftsman Grade-I by way of promotion having 8 years regular service in the grade of Draftsman Cr. IIL provided other conditions laid down in the note given below. For Draftsman Cr. II scale

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of pay of Rs. 5000-8000 has been prescribed by way of promotion from amongst the Draftsman Grade- III with 8 years regular service in the grade with other conditions laid down in the note given below.

Therefore it appears that the impugned RR 2006 has been framed with a malafide intention just to deny the benefit of higher revised scale granted to other similarly situated employees of Survey of India who were applicants in O.A. No. 52/96 and 14/2002 in terms of the O.M dated 19.10.1994. In other words, it can rightly be said that the O.M dated 01.06.01 which was initially declared by the respondent Union of India not applicable to the employees of the department of Survey of India by filing an additional written statement duly signed by the Director, N.E Circle, enclosing the Ministry's letter bearing No. SM/04/10/2000 dated 22.10.2001, as such framing a recruitment rule subsequently after pronouncement of the judgment in O.A. No. 52/1996 and in O.A. No. 14/2002 by a competent Court of law declaring that the employees of the Survey of India working in the cadre of Draftsman Cr. II are entitled to the benefit of higher revised scale of pay in terms of O.M dated 19.10.94 that too in April 2003, long after the issuance O.M dated 01.06.2001. It is an admitted position that while judgment in OA No. 14/2002 has been rendered by the Hon'ble Tribunal, the O.M dated 01.06.01 was a part of the record and in view of the additional written statement submitted by the Union of India, the learned Tribunal in detail consideration and on perusal of materials on record was pleased to held that the Draftsman Cr. II of the department of Survey of India are entitled to the benefit of higher revised scale of Rs. 5500-9000 in terms of para 2 (c) of the O.M dated 19.10.1994. As such the impugned recruitment rule 2006 which has been issued by the respondents with the malafide intention to deprive the present applicants from getting the similar benefit of higher revised scale in terms of judgment and order dated 30.05.03 passed in OA. No. 14/2002 is liable to be set aside and quashed.

Copy of the impugned RR 2006 is enclosed herewith and marked as Annexure- 14.

Achok M. M. 1

4.21 D That it is stated that the benefit of entitlement of higher revised scale of pay declared by a competent court of law, which was further confirmed by the Hon'ble High Court in W.P (C) No. 9786/2003 as well as by the Hon'ble Apex Court in SLP No. CC No. 5398/2004 and more so when the said order was implemented by the respondents Union of India and extended the benefit of higher scale to the applicants of O.A. No. 14/2002, as such the respondents are not entitled to deny the same benefit to the similarly situated employees like the present applicants, otherwise such action of the respondents will attract violation of Article 14 and 16 of the Constitution of India and on that score alone the impugned RR 2006 notified by the Govt. of India on 29.06.2006 is liable to be set aside and quashed.

4.21 E That it is stated that the impugned recruitment rule 2006 notified in the Gazette of India on 29.06.2006 with a malafide intention to deny the benefit of higher revised scale to the present applicants, as such the impugned recruitment rule 2006 is liable to be set aside and quashed.

4.21 F That it is stated that by the impugned O.M dated 01.06.01 issued by the Govt. of India has in fact introduced a revised set of criteria/norms for grant of higher revised scale, which was earlier extended by the Govt. of India through O.M dated 19.10.94 to the different categories of Draftsman working in various Central Govt. establishment. In other words residency period of the Draftsman has been enhanced by the O.M dated 01.06.2001 for grant of a particular scale of pay in comparison of residency period laid down by the earlier O.M dated 19.10.1994. Therefore it is submitted that the Govt. of India is not entitled to introduce two sets of criteria for grant of same higher revised scale, more so in the O.M dated 01.06.2001 for enhancement of residency period for the similarly situated employees. As such the impugned O.M dated 01.06.2001 issued by the Govt. of India, Ministry of Finance, department of Expenditure, New Delhi is highly arbitrary, illegal and such action of offends Article 14 of the Constitution of India. The quantum of work of the Draftsman in different grades in the department of Survey of India also remained same and the present applicants performing the same duties and responsibilities as done by the

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applicants of O.A. No. 14/2002. As such the impugned O.M. dated 01.06.2001 as well as recruitment rule 2006 are liable to be set aside and quashed.

4.21 G That it is stated that similarly situated employees cannot be denied similar benefit of higher revised scale of pay, more so when the recruitment rule 2006 came into force only on 29.06.06 whereas the present applicants have attained eligibility of revised scale of Rs. 5500-9000/- (as per Vth Central Pay Commission) in terms of O.M dated 19.10.1994 and also in the light of the judgment and order dated 30.05.2003 in O.A. No. 14 of 2002 long before the recruitment rule 2006 came into force. As such the recruitment rule 2006 cannot be made applicable retrospectively in order to deny the benefit of revised scale of pay to the present applicants."

4.22 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicants have acquired a valuable and legal rights as well as attained the eligibility for grant of benefit of higher revised scale of pay of Rs. 550-750/- (revised) in terms of Para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi in view of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002, which was upheld by the Hon'ble High Court and the Apex Court.
- 5.2 For that, this Hon'ble Tribunal has already held in the judgment and order dated 17.07.1997 passed in O.A. No. 52/1996 that those applicants are entitled to the benefit of the revised scale of pay in terms of the Scheme issued under office memorandum dated 19.10.1994 by the Govt. of India. The present applicants are being similarly situated also entitled to the same benefit under the office memorandum dated 19.10.1994.
- 5.3 For that, denial of benefit of para 2 (c) of O.M dated 19.10.1994 communicated to the similarly situated Draftsman Grade II working in the Survey of India is in violation of Article 14 of the Constitution of India.

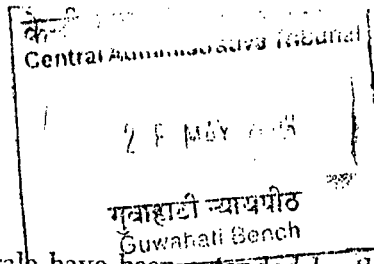
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21 MAY 2003

गुवाहाटी न्यायपीठ
Guwahati Bench

- 5.4 For that, the Scheme of 19.10.1994 has been issued by the Govt. of India for providing better service prospects and uniform pay scale to all the Draftsman working all other Govt. of India Office who were not covered earlier under O.M dated 13.03.1984, and the applicants have acquired eligibility as laid down in para 2 (c) of O.M dated 19.10.1994.
- 5.5 For that, all other similarly situated Draftsman working in other Govt. of India as well as applicants in O.A. No. 135/1995, O.A. No. 52/96 and O.A. No. 14/2002 working in the respondent department already been granted benefit of Para 2 (c) of O.M dated 19.10.1994 and as such denial of the same pay scale to the present applicants is violative of Articles 14 and 16 of the Constitution of India.
- 5.6 For that, the decision of this Hon'ble Tribunal passed in O.A. No. 14/2002 are also applicable to the present applicants as because they are similarly situated Draftsman Cr. II working in the respondent Department.
- 5.7 For that, the present applicants are similarly situated Draftsman Cr. II working in the Survey of India, Shillong like those applicants in O.A. No. 14/2002 as such they are also entitled to same and similar benefit of Para 2 (c) of O.M dated 19.10.1994.
- 5.8 For that the O.M dated 01.06.2001 is not applicable in the instant case of the present applicants, which is also confirmed by the Department of Science & Technology, New Delhi vide their letter dated 22.10.01, as because the present applicants are praying for extension of the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002.
- 5.9 For that, the present applicants have submitted representations before the respondents for extension of the higher revised pay scale in terms of Para 2 (c) of the O.M dated 19.10.1994 as well as in the light of the judgment and order dated 30.05.2003, but the same has been arbitrarily denied to the present applicants without any valid justification.

Ashok Mondal

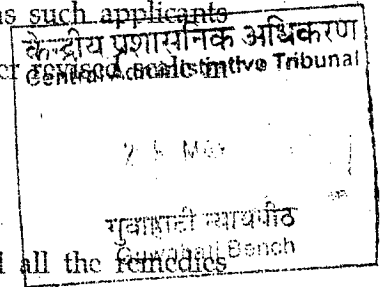


77

- 5.10 For that once the benefit of higher pay scale ~~have been extended~~ by the Union of India to its employees by a Courts order as such the said benefit of higher pay scale cannot be denied to the similarly situated employees like the present applicants.
- 5.11 For that, non-payment of higher revised pay scale as claimed by the applicants give rise to the continuous cause of action each and every month and the same is a continuous wrong till the applicants are settled with higher revised scale as prayed in this application.
- 5.12 For that the O.M dated 01.06.2001 cannot be made applicable in the department of Survey of India in disguise in the form of impugned recruitment rule 2006 to deny the benefit of higher revised scale of pay in terms of O.M dated 19.10.1994 and also in terms of judgment and order dated 30.05.2003 in O.A. No. 14 of 2002, the validity of which has already been confirmed by the Hon'ble High Court and also by the Hon'ble Supreme Court.
- 5.13 For that the respondents are barred by the law of estoppel to deny the benefit of higher revised scale in terms of O.M dated 19.10.1994 in view of the submission made before this Hon'ble Tribunal in additional written statement in O.A. No. 14/2002 declaring that the O.M dated 01.06.2001 is not applicable in the department of Survey of India after obtaining clarification from the Ministry of Finance as indicated in their letter dated 22.10.01 in the earlier O.A. No. 14/2002.
- 5.14 For that the O.M dated 01.06.2001 is highly arbitrary illegal, unfair and discriminatory as because a revised set of criteria has been introduced by the impugned O.M dated 01.06.01 for grant of higher revised scale for the same set of employees which offends Article 14 of the Constitution. More so no reason has been indicated in the said O.M dated 01.06.2001 for introducing revised set of criteria/norms for grant of same set of scale and on that score alone the impugned O.M dated 01.06.2001 is liable to be set aside and quashed.

Ashok Mandal

- 5.15 For that the applicants have attained their eligibility long back prior to notification of the impugned recruitment rule 2006, as such applicants have acquired a valuable legal right for grant of higher revised scale in terms of O.M dated 19.10.1994.



6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for.

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants and also in the light of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court to the present applicants.

Ashok Mandal -

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8.1 A That the Hon'ble Tribunal be pleased to set aside and quash the impugned Group 'C' Non-Ministerial Draftsman Cadre Posts Recruitment Rule 2006 (Annexure- 14).

8.1 B That the Hon'ble Tribunal be pleased to set aside and quash the impugned O.M bearing No. 6/1/98-IC dated 01.06.2001 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi.

8.2 Costs of the application.

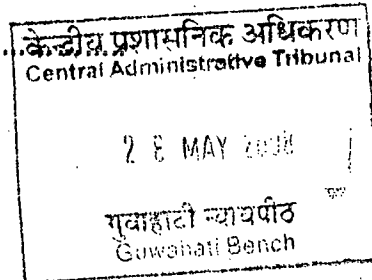
8.3 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

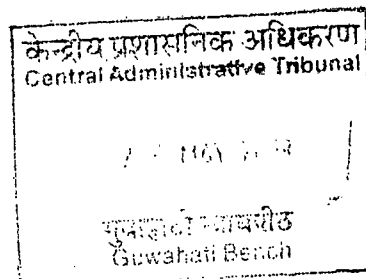


11. Particulars of the I.P.O

- i) I.P.O No. :
- ii) Date of issue :
- iii) Issued from :
- iv) Payable at :

12. List of enclosures:

As given in the index.

VERIFICATION

I, Shri Ashok Mondal, S/o- Late Nirmal Mondal, aged about 49 years, working as Draftsman Grade-II, in the office of the Assam & Nagaland CDC, Survey of India, Caneshguri, Guwahati- 6, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements in this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 26th day of May 2008.

Ashok Mondal.

No. F.5(59)-E.III/82
GOVERNMENT OF INDIA
MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi the 13th March '84

Annexure-1

OFFICE MEMORANDUM

Subject :- Revision of Pay Scale of Draftsmen II, II and I in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to state that a committee of the National Council (Joint Consultative Machinery) was set up to consider to the request of the staff side that following revised scales of pay allowed to the Draughtsmen Grade I, II and III working in Central Public Works Department on the basis of the Award of Board of Arbitration may to extend to Draughtmen Grade II, I in all Government of India offices :-

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

	ORIGINAL SCALES	REVISED SCALES ON THE BASIS OF AWARD
2 8 MAY Draughtsman Grade I	Rs. 425-700	Rs. 550-750
महोदय सचिव Draughtsman Grade II	Rs. 330-560	Rs. 425-700
गुवाहाटी Draughtsman Grade III	Rs. 260-430	Rs. 330-560

2. The President is now pleased to decide that the scales of pay of Draughtsman Grade III, II and I in offices/ Department of the Government of India, other than the Central Public Works Department, may be revised as above provided their recruitment qualification are similar to those prescribed in the case of Draughtsman in Central Public Works Department. Those who do not fulfil the above qualification will continue in the pre-revised scales. The benefit of this revision of pay of scale should be given notionally with effect from 13.05.82, and the actual benefit being allowed w.e.f. 01.11.83.

3. Hindi version will follow.

Sd/- Illegible
Deputy Secretary to the Govt. of India

To

All Ministries/Departments of the Govt. of India (as per standard list with _____ (copies).

Attended
Adilla
Advocate

Not to be true Copy

Central Administrative Tribunal

2 F M

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE-5

ANNEXURE -

Annexure-2

43

No. 13(1)-IC/91

Government of India
Ministry of Finance
Department of Expenditure

New Delhi the 19th Oct. 1994

OFFICE MEMORANDUM

Subject : Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's O.M. No. F(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the Staff side that the following scales of pay allowed to the Draughtsmen Grade I, II and III working in CPWD on the basis of the Award of Board of Arbitration may be extended to Draughtsmen Grade I, II, & III irrespective of their recruitment qualification, in all Government of India Offices.

	Original Scale (Rs.)	Revised scale on the basis of the Award
7 Draughtsmen Grade I	425-700	550-750
7 Draughtsmen Grade II	330-560	425-700
7 Draughtsmen Grade III	260-430	330-560

2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

- (a) Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (pre-revised scale Rs. 260-430 to Rs. 330-560). 7 years
- (b) Minimum period of service for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 pre-revised Rs. 330-560 to Rs. 425-700). 5 years
- (c) Minimum period of service for placement from the post carrying scale of Rs. 1400-2300 to Rs. 1600-2660 (Pre-revised Rs. 425-700 to Rs. 550-750). 4 years

Attested
Dutta
Advocate

- 32 -

83

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42(a)

Annexure-5⁵ (Contd.)

3. Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of scale of pay scale be given with effect from 13.5.82 notionally and actually from 1.11.88.

Sd/- SHYAM SUNDER
Under Secretary to the Government of India

To All Ministries/ Departments of the Government of India (As per standard list with usual number of spare copies.)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
28 MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

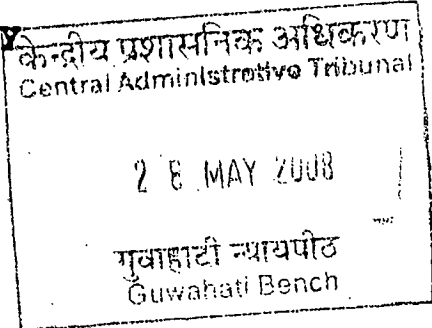
GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Technology Bhawan, New Delhi

No. 1-12/93-Cdn

Date 11th November, 94

To

1. Surveyor General of India
S.O.I.
Block B, Hathibarkala Estate
Dehradun (UP) - 248001
2. The Director General of Meteorology
I.M.D., Lodi Road,
New Delhi-110003
3. The Director,
NATMO
MSO Bldg. DF Block
7th Floor, Salt Lake
Calcutta-700064



Subject :- Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

Sir,

I am directed to forward herewith a copy of Ministry of Finance (Deptt. of Expenditure)'s O.M. No. 13(1)-IC/91 dated the 19th October, 94 on the above subject for information, guidance and necessary action.

Yours faithfully,

Sd/- KAMAL PRAKASH
Section Officer

*Attested
Munir
Advocate*

Government of India
Ministry of Science & Technology
Department of Science & Technology
Technology Bhavan, New Mohrauli Road, New Delhi 110016

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

No. SM/06/001/95

Dated 31st January, 1996

28 MAY 2008

ORDER

गुवाहाटी न्यायपीठ
Guwahati Bench

The Central Administrative Tribunal, Guwahati Bench, Guwahati, on an application filed by Shri Tulsi Sarna, Draughtsman Grade II in Survey of India, North Eastern Circle, Shillong and seventyseven other Draughtsman in Survey of India, pass an order directing the Government to consider the grievance of the applicants and to take a decision as to whether the benefit of the revised pay scales extended to Draughtsman in Government offices other than CPWD vide Ministry of Finance Office Memorandum No. 13(1)-IC/91 dated 19th October, 1994 can be extended to the applicants. The Government after careful consideration of the matter observes and makes the following order.

2. The applicants have requested for implementation of the Ministry of Finance, Government of India Office Memorandum No. 13(1)-IC/91 dated 19th October, 1994 extending the benefit of revised pay scales for Draughtsman in Government offices and Departments other than C.P.W.D.

3. The Department has considered the existing pay structure of Draughtsman in Survey of India (SOI). Draughtsman in Survey of India is a part of the topographical cadre which includes other employees like planetablers, topo-auxilliary, air-survey draughtsman, Survey Assistants, Topo-Computers, etc. The qualification for recruitment is kept as Inter-mediate with Mathematics as one of the subjects. No candidate in the Draughtsman cadre at any level is required to have the qualification of Certificate/diploma in Draughtsmanship. Further the promotions in the Survey of India from the level of B. 260-350, B. 260-430, 330-480 upto the level of B. 425-600 are flexible whereas in C.P.W.D. the promotions are based on functional basis against sanctioned strength at each level. In Survey of India, the Draughtsman get promotion on passing departmental examination after completion of fixed tenure of service and get promotion without linkage to vacancies at higher level.

4. It would thus be seen on the one hand the Draughtsman in Survey of India are not required to possess the qualification of Draughtsman for appointment to any level and on the other hand they get their promotion after fixed periodicity on passing departmental examination without linkage to vacancies. Accordingly, there is no comparison between Draughtsman in CPWD and other organisations vis-a-vis Draughtsman in SOI. Again whereas the Draughtsman in CPWD and other organisations are required to handle varied types of draughtsmanship related jobs ~~xxxxxx~~ whereas the Draughtsman in SOI have confined themselves only with respect to survey. The requirement in their case is knowledge of drawing/~~xxxxxx~~ cartography as against draughtsmanship in other organisations. Thus, any order issued in respect of Draughtsman in CPWD or Draughtsman in other Ministries/Departments or Organisation cannot automatically be made applicable to Draughtsman in Survey of India.

Attended
Dutta
Advocate

5. The pay structure of Draughtsman in Survey of India had not been and at present also is not at par with pay structure for Draughtsman existing in other Organisations. At one stage, the employees have got higher pay scale through the Joint Consultative Machinery and Arbitration Award. In case the present Office Memorandum is considered for implementation, this will infringe upon the benefits already accrued to the employees of SOI which may not hold good.

6. The above issues have been considered carefully in the Government and it has not been found possible to agree with the request of the Draughtsman in Survey of India for revision of their pay scales based on the Office Memorandum of Ministry of Finance, Govt. of India dated 19.10.94. All the applicants in the O.A. No. 135/95 dated 20.7.95 filed in the Central Administrative Tribunal, Guwahati Bench, Guwahati are hereby informed of the above decision of the Government.

Sd/- H.N.K. Sardana
Joint Secretary to the Government of India.

Shri Tulsi Ram Barma,
Draughtsman Grade-II
North Eastern Circle, Survey of India,
SHILLONG.

Copy to the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, Assam with reference to their order in the original application No. 135/95 dated 20th July, 1995.

Copy to the Surveyor General of India, Survey of India, Dehra Dun -248 001.

Copy to Brig. P.K. Gupta, Director, North Eastern Circle, Survey of India, Survey of India Estate, Shillong 793001 with a request to kind deliver the copies of this order to all the applicants individually in the above case.

Sd/- H.N.K. Sardana
Joint Secretary to the Government of India.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal
21 JUL 1995
गुवाहाटी न्यायपीठ Guwahati Bench

~~44-36~~ 98
Annexure-5
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 52/1996.

Date of Order : This the 17 th July, 1997.

HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN
HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Shri Tuladram Shanka & Others.

(All the 76 applicants are working as Draftsman Gr. II under the Director, Survey of India, North Eastern Circle, Shillong under Ministry of Science and Technology, Govt. of India, New Delhi.)

By Advocate Mr. A. Roy, Mr. J. L. Sarkar, Mr. M. Chand.

-Vs-

1. The Secretary, Ministry of Science & Technology
New Delhi.

2. The Surveyor General,
Survey of India,
Block B, Hathibarkala Estate,
DEHRADUN.

3. The Director, Survey of India,
North Eastern Circle,
Shillong.

By Advocate Mr. A. K. Choudhury, Adl. C. G. S. C.

O R D E R.

SANGLYINE, MEMBER(A):

All the 76 applicants are Draftsman/Draughts-men Grade II under the Director, Survey of India, North Eastern Circle, Shillong. They have been permitted vide our order dated 9-4-96 to join in this Single application.

2. The applicants are drawing pay in the scale of pay of Rs. 1350-2200. In this application they claim that they are entitled to draw pay in the scale of pay of Rs. 1400-2300 which is equivalent to the pre-revised scale of Rs. 425-700 and for payment of arrears monetary benefits either in terms of O.M. No. S(13)-E.III/87 dated 11-2-1987 or D.M. No. 13(1)-... dated 10-10-94. In the Survey of India there...

contd./..

*Attended
Advocate*

*Attended
Advocate*

17.7.97

Central Administrative Tribunal
7 MAY 2008
Guwahati Bench

different grades of Draftsman, namely; (1) Topo Trainee Type B, (2) Draftsman Gr. IV, (3) Draftsman Grade III, (4) Draftsman Grade II and Draftsman Grade I. In this application we are concerned with Draftsman Grade II. In the 2nd Central Pay Commission the scale of pay of Draftsman Grade II of Survey of India was Rs. 205-280. The 3rd Pay Commission merged Grade II and Grade III Draftsman and placed them in the scale of pay of Rs. 330-560/-. However, later on the Government of India decided by O.M. dated 19-3-77 to retain Grade II and Grade III separately and placed them in the scale of pay of Rs. 330-480 and Rs. 425-600/- respectively. As a result of the 4th Pay Commission, the scale of pay of Draftsman Grade II in the Survey of India became Rs. 1350-2200. The scale of pay of Senior Draftsman in Ordnance Factory was also Rs. 205-280 on the basis of the 2nd Pay Commission. In the 3rd Pay Commission the scale of pay of Draftsman was placed at Rs. 330-560. The Draftsman of Ordnance Factory who were drawing for pay in the scale of pay agitated in the Court of law against this scale of pay of Rs. 330-560. Ultimately in Civil Appeal No. 3121/81 (P. Sabita and others Vs. Union of India), the Hon'ble Supreme Court allowed the replacement of the scale of pay by the scale of pay of Rs. 425-700/-. Consequent to the judgment the Government of India, Ministry of Finance, Department of Expenditure issued the Office Memorandum F.No. 5(13)-E.II/87 dated 11-9-87 extending the benefit of the judgment to similarly placed Draughtsmen in other Ministries/Departments of the Government of India to the effect that the Draughtsmen as were in the pay scale of Rs. 330-560 based on the recommendation of the 3rd Central Pay Commission may be

contd/-

17.7.97

given the scale of Rs.425-700 notionally from 1-9-1973 and actually from 1-9-87. In the Central Public Works Department (CPWD) the scale of pay of Draftsman based on the (2nd Pay Commission) was Rs. (180-380). In the 3rd Pay Commission the scale of Draftsman Grade II was Rs.330-560. The Draftsman of C.P.W.D. agitated against this scale of pay and according to the Award of the Board of Arbitration the scale of pay was raised from Rs. 330-560 to Rs. 425-700/-. The Government of India, Ministry of Finance,

Department of Expenditure issued O.M.No.F.6/59-E.III/82 dated 13-3-84 to the effect that Draughtsmen Grade II in other offices/Departments of the Government of India may also have the scale of pay of Rs. 425-700 as those of the C.P.W.D. provided the recruitment qualifications of Draughtsmen in these offices or departments are similar to those prescribed in the case of Draughtsmen in the Central Public Works Department. The benefit was to be given notionally with effect from 13-05-82 and actual benefit to be allowed from 1-11-83. The staff side further agitated against the clause of recruitment qualification placed in the above referred to O.M, dated 13-3-84. The Government of India (conceded and revised) this decision according to the office Memorandum No.13(1)-IC/91 dated 19-10-1994. As a result, the Draughtsmen Gr.II in the offices/Department of the Government of India other than CPWD, who were drawing pay in the scale of pay of Rs.330-560/-, also were granted the revised scale of

Rs. 425-700/- subject to the conditions laid down in the O.M. (The condition relevant to Draughtsmen Grade II is) that the minimum period of service for placement from the post carrying scale of Rs. 1200-2040/- to the post carrying the scale of Rs. 1400-2300 (Pre-revised scale of

contd/-

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केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

28 MAY 2008

गुवाहाटी न्यायाधीश
Guwahati Bench

96
pay Rs.330-560 to 425-700) (is 5 years.) This benefit was allowed notionally with effect from 13-5-82 and actually from 1-11-83.

3. Some of the applicants submitted O.A.No.135/95 which was disposed of by the Tribunal on 20-7-95 with a direction to the respondents to consider and decide whether the benefit of the revised pay scales should be extended to the applicants. The applicants were given liberty to approach the Tribunal, if so advised, if the decision of the respondents is against them. The respondents thereafter had issued the order No. SM/06/001/95 dated 31-1-96 which is impugned in the present Original Application No.52/96. According to this order the respondents had considered the question whether the benefit of the revised pay scale extended to the Draftsman in Government office other than the C.P.W.D. vide Ministry of Finance O.M.No.13(1)-IC/91 dated 19-10-1994 referred to above can be extended to the applicants. They had come to the conclusion that the benefit of the O.M. dated 19-10-94 can not be extended to the Draughtsmen of the Survey of India. on the ground that their qualification for recruitment is not similar with that of the Draughtsmen of the C.P.W.D. or other departments, the scope of their promotion is not similar with that of the Draughtsmen of the CPWD, their type and nature of works, duties and responsibilities are not similar with those of the Draughtsmen under the C.P.W.D.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

17.7.97

contd/-

and their pay structure had not been and is not at par with the pay structure of Draughtsman in the CPWD or in other Organisations.

4. Mr. A. Roy, learned counsel for the applicant, submitted that the grounds given by the respondents in support of their refusal to grant the benefit provided in the O.M. dated 19-10-1994 to the applicants are untenable in view of the stipulations in the O.M. and that the applicants are entitled to the higher pay scale of Rs. 1400-2300/- (Pre-revised scale Rs. 425-700) in terms of the aforesaid O.M. dated 19-10-1994. Mr. A. K. Choudhury, the learned Additional Central Government Standing Counsel, on the other hand, vehemently supported the impugned action of the respondents. We have heard counsel of both sides. We are now to see whether the rejection to grant the benefit provided in the O.M. dated 19-10-1994 to the applicants is at all sustainable.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

28 MAY 2008

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Guwahati Bench

5. At the outset, we reject the plea of the respondents that the applicants cannot now agitate against the pay scale granted to them as they had accepted the scale of Rs. 425-600/- since 1977 and had never earlier sought for the benefit conferred by the O.M. dated 13-3-1984. It may be true that the applicants did not earlier seek relief from the respondents with regard to the pay scale. But it is clear that the cause of action of the applicants in this Original Application arose after the O.M. dated 19-10-1994 by which the recruitment qualification clause stipulated in the O.M. dated 13-3-1984 was substituted by the minimum period of service clause. This revised order took effect from 13-5-1982 notionally and from 1-11-1983 actually. With the issue of the O.M. dated 19-10-1994 the applicants

contd/-

are in a different situation and they were of the view that they could thereafter get the benefit provided in the O.M. from the respondents. They sought for the same but their prayer was rejected by the respondents as per the impugned order dated 31-1-1996. It is this rejection that has given rise to the present Original Application.

6. The O.M. dated 19-10-1994 is concerned with application of the scales of pay of Draughtsman Grade I, II and III in the CPWD to the corresponding Grades of Draughtsmen in other offices/departments of the Government of India. The applicants are Draughtsman Grade II in the Survey of India, which is one of the offices/departments of the Government of India. They are drawing pay in the pay scale of Rs. 1350-2200 (pre-revised Rs. 425-600). The question in this O.A.

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Central Administrative Tribunal

28 MAY 1996

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Guwahati Bench

whether the applicants are entitled to draw pay in the scale of pay of Rs. 1400-2300 (Pre-revised 425-700). The Draughtsman Grade II in the Survey of India had the same pay scales as those of Draughtsman in other offices/Departments of the Government of India. For instance, their scale of pay on the basis of the 2nd Central Pay Commission was 205-280 as was that of Sr. Draughtsman in Ordinance Factory. In the 3rd Pay Commission their scale of pay was 330-560/- since 1-1-1973 which was same with (those of the Draughtsman II in the CPWD) and in the Ordinance Factory in whose cases the scales had been raised from 330-560 to Rs. (425-700/-). It was only in 1977

contd/- 2

that the pay scale of the applicants was raised to 425-600/-. Therefore, the applicants, Grade II Draughtsman of Survey of India, were in the scale of pay of Rs. 330-560/- initially and were drawing pay in the same pay scale as those mentioned in the O.M. dated 19-10-1994. The respondents seem to be labouring under a conception that the Draughtsmen of the Survey of India are inferior to or, at least, different from the Draughtsmen in other offices/ Departments of the Government of India. Therefore, according to them, the applicants, who are Draughtsman Grade II in the Survey of India, are not entitled to draw pay in the pre-revised scale of Rs. 425-700 or in the revised scale of Rs. 1400-2300/-. Hence they denied the applicants the benefits granted to Draughtsmen Grade II of other offices/Departments by the O.M. dated 19-10-1994. We are however, unable to agree with the contentions of the respondents in this O.A. The scales of pay granted by the Award of the Board of Arbitration to the Draughtsmen Grade I, II and III of the CPWD were made applicable to the Draughtsmen Grade I, II and III respectively of other offices/ departments of the Government of India, other than the CPWD, by the O.M. Dated 13-3-1984 on condition that their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in the CPWD. Further, those who did not fulfil the condition will continue to draw pay in the corresponding pre-revised scales. These were the only conditions placed in the O.M. dated 13-3-1984 and

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Officer

28 MAY

गुवाहाटी बेंच
Guwahati Bench

these conditions were done away with by the O.M. dated 19-10-1994. Para 2 of this O.M. dated 19-10-1994 reads:

"2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

- (a) Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (Pre-revised scale Rs. 260-430 to Rs. 330-560). 7 years
- (b) Minimum period of service for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (Pre-revised Rs. 330-560 to Rs. 425-700). 5 years
- (c) Minimum period of service for placement from the post carrying scale of Rs. 1400-2300 to Rs. 1600-2660 (Pre-revised Rs. 425-700 to Rs. 550-750). 4 years

The terms of the O.M. above are clear and unambiguous. No distinction on any ground whatever is made between Draughtsmen Grade I, II and III of one office/department of the Government of India from those of another office or department or CPWD. The O.M. simply lays down that minimum period of service in a particular grade would determine the eligibility and entitlement to be placed in a particular pay scale. It is only the respondents who have brought into the O.M. interpretations extraneous to it in their efforts to deprive the applicants of the benefits granted by the O.M. dated 19-10-1994. This is arbitrary and unfair. The Draughtsmen Grade II in CPWD who were originally placed in the scale of pay of Rs. 330-560 were placed in the scale of Rs. 425-700/- on the basis of the Award, The O.M.

contd/-

केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

4.3.97

गुवाहाटी न्यायपीठ
Guwahati Bench

17.7.97

states that Draughtsman Gr.II in offices/departments of the Government of India other than in CPWD who were drawing pay in the scale of pay Rs. 330-560 may also be placed in the scale Rs. 425-700/-(Pre-revised) subject to certain conditions. The Draughtsman Grade II in the Survey of India were initially in the scale of pay of Rs. 330-560 on the basis of the recommendations of the 3rd Pay Commission till 1977 when their pay scale was raised to Rs. 425-600/-.*In our view under the facts and the circumstances stated herein above the terms of the aforesaid O.M. dated 19-10-1994 are applicable to the applicants. Accordingly, we set aside the impugned order No.SM/06/001/95 dated 31-1-1996. Further, we direct the respondents to place the applicants in the scale of pay of Rs. 425-700(Pre-revised)/1400-2300 (revised) in the manner stipulated in the O.M. No.13(1)-IC/91 dated 19-10-1994 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively.

This shall be complied with by the respondents within 3(three) months from the date of receipt of this order by Respondent No.3. The respondents shall also allow the consequential benefits provided in para 3 of the O.M. dated 19-10-1994 mentioned above to the applicants.

The application is allowed in terms of the above directions. No order as to costs.

Certified to be true Copy
verified

SD/-VICE CHAIRMAN
SD/-MEMBER (A)

*Delivered
to
Advocate*

विज्ञान और प्रौद्योगिकी विभाग
विभाग अति मेधाविराजित भवन
ई-मेल: scitech@nic.in, scitech@nic.in, scitech@nic.in

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Technology Bhavan, New Mahauli Road, New Delhi-110016

Min/Telegram : SCIENTECH
Min/Phone : (ISPAIX)
686231, 68623119
Min/Telex : 73381, 73317, 73380
Min/Fax : 6861570, 6862118

-45-

Annexure-6

No.SM/04/010/2000

Dated : 16 October, 2000.

To

The Surveyor General of India,
Survey of India,
Delra Dun - 24 6001.

(Attention: Shri Jaswant Rai, Deputy Surveyor General)

Sub:- Implementation of directions of C.A.T., Guwahati Bench in O.A. No. 52
Of 1996 - Shri Tulsi Ram Sharma and others Vs Union of India.

Sir,

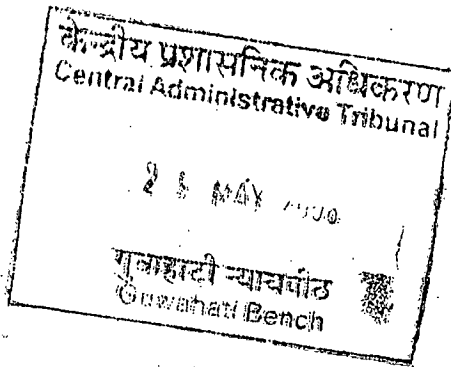
I am directed to refer to your letter No.E2-5736/1196-D(T.R. Sharma) dated 28.9.2000 on the subject mentioned above. The problems being faced in implementation of the Tribunal's directions has been considered in the Department and SOI is requested to implement the directions of the Tribunal by taking the service already rendered in the grade of Rs. 330-480 (Grade-III) and keep them in the scale of pay of Rs. 425-600 (Grade-II) till completion of five years. After completion of five years service in the two Grade combined, Grade-III and Grade-II in the pay scale of Rs. 330-480 and Rs. 425-600, they may be placed in the scale of pay of Rs. 425-700. By applying this the eligibility conditions of five years prescribed for placing them in the scale of pay of Rs. 425-700 would be met. After 1.1.1996, the applicants would be placed in the scale of pay of Rs. 5000-8000 instead of Rs. 4500-7000. SOI is requested to take immediate necessary action and intimate the Department the action taken in the matter.

Yours faithfully,

(Signature)
(K.P. Nair)
Officer on Special Duty

See p. 30 & WS

*Attested
Advocate*



SURVEY OF INDIA

Annexure 7 (131)

TELEPHONE: 0091-135-744064
FAX: 0091-135-744064
E-MAIL: surveys@nic.in
WWW: www.surveys.in

**FAX
MOST URGENT**

महसर्वेक्षक का कार्यालय
SURVEYOR GENERAL'S OFFICE
डाक बक्सा नं० 37, POST BOX No.37,
देहरादून-248001 (उत्तरांचल)-भारत।
DEHRA DUN-248001 (Uttaranchal) INDIA

No. E2-2308/1196-B (TRS)

Dated: 27-03-2001

To

The Directors: ☒ NEC/ ☒ WC/ ☒ NC/ ☒ EC/ ☒ SSEC/ Survey (Air)/ NWC

Sub:

**IMPLEMENTATION OF DIRECTIONS OF THE HON'BLE C.A.T.,
GUWAHATI BENCH IN O.A. No.52 OF 1996 - SHRI TULSI RAM
SHARMA AND OTHERS V/S UNION OF INDIA**

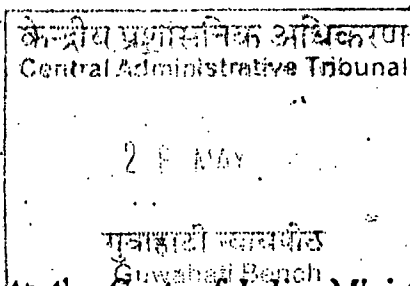
The petitioners - Shri Tulsi Ram Shanna and other Draftsmen have filed a Contempt Case No.3/2000 in Hon'ble CAT, Guwahati which has come for hearing on 27.3.2001. In view of the proceedings of the hearing on 27.3.2001 in the Contempt Case No.3/2000, the orders conveyed vide this office letter No.E2-6463/1196-B (TRS) dated 6.11.2000 (photo copy enclosed) have been reviewed. It has now been decided that the instructions issued vide DST's letter No.SM/04/010/2000 dated 16.10.2000 (photo copy enclosed) may be followed for fixation of pay in respect of petitioners, after they fulfill all the conditions stipulated therein, the benefit of this revision of scales of pay scale be given w.o.f. 13.5.1982 notionally and actually from 1.11.1983. This supersedes all other orders on the subject issued earlier by this office.

In view of the proceedings dated 27.3.2001 in contempt case filed by the petitioners, please ensure that the arrears in respect of the petitioners posted in your Directorate/ Circle be drawn and paid by 17.4.2001 as per the instructions issued vide DST's letter No.SM/04/010/2000 dated 16.10.2000.

Also please confirm compliance by Fax to this office by 17th April, 2001 positively. A list of petitioners is enclosed for your information and necessary action.

Urgent action may please be taken.

Encls: As above.



(S.P. GOEL)
Deputy Surveyor General
for Surveyor General of India

Copy by FAX to:

1. The Secretary to the Govt. of India, Ministry of Science & Technology, (Department of Science & Technology), New Delhi (Attention: Shri Avinash)

Attended by
Advocate
13/4/01

17/4/01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2002

Date of decision: This the 30th day of May 2003

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr S.K. Hajra, Administrative Member

Shri Tulsiram Sharma and 62 others

.....Applicants

The applicants are working as Draftsman Grade II under the Director, Survey of India, North Eastern Circle, Shillong under Ministry of Science & Technology. Government of India, New Delhi.

By Advocates Mr M. Chanda and Mr G.N. Chakraborty.

- versus -



1. The Union of India, through the Secretary, Ministry of Science & Technology, New Delhi.

2. The Surveyor General, Survey of India, Block A, Nathibarkala Estate, Dehradun.

3. The Director, Survey of India, North Eastern Circle, Shillong.

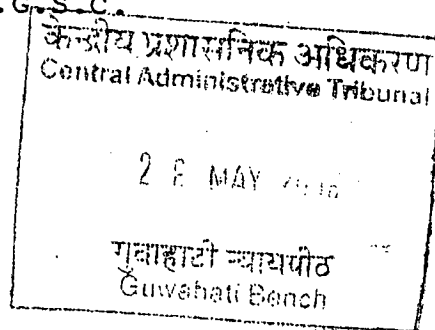
.....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R

CHOWDHURY. J. (V.C.)



*Directed
Advocate*

This application under Section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the order passed by the respondent No.2 communicated to the Additional Surveyor General, Eastern Zone, Kolkata vide Memo No.E-2-12553/1196-B-T.R. Sharma dated 1.8.2001 rejecting the prayer for extension of the benefit of the pay scale of Rs.550-750 (Pre-revised),

corresponding revised scale of Rs.1600-2600 (as per IVth Pay Commission) and further revised scale of Rs.5500-9000 as per Vth Central Pay Commission in terms Para 2(c) of the O.M. dated 19.10.1994. The applicants also prayed for a direction on the respondents for extending the aforementioned benefit as per Para 2(c) of the O.M. dated 19.10.1994 with respective date of eligibility attained by the individual applicants in terms of the directions contained in the O.M. dated 19.10.1994.

2. The applicants are 63 (sixtythree) in number who had filed this application. Considering the fact that the applicants have common interest in the matter and having regard to the nature of relief prayed for leave is accordingly granted to espouse their cause by a single application.

3. All the applicants are serving as Draftsman Grade II under the Director, Survey of India, N.E. Circle, Shillong in the revised scale of pay of Rs.5000-9000. The core issue relates to revision of pay scale of Draftsman Grades I, II and III in all Government of India Offices on the basis of the Award of the Board of Arbitration in the case of Central Public Works Department (CPWD for short). The Government of India accordingly issued O.M.

dated 19.10.1994 which is reproduced below:

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

7 May

गुवाहाटी न्यायपीठ
Guwahati Bench

Subject: Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's O.M. No.F(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the Staff side that the following scales of pay allowed to the Draughtsmen Grade I, II and III working in CPWD on the basis of the Award of Board of Arbitration may be extended to Draughtsmen Grade I, II & III

irrespective.....

	Original Scale(Rs)	Revised scale on the basis of the Award
Draughtsmen Grade I	425-700	550-750
Draughtsmen Grade II	330-560	425-700
Draughtsmen Grade III	260-430	330-560

2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in Offices/ Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

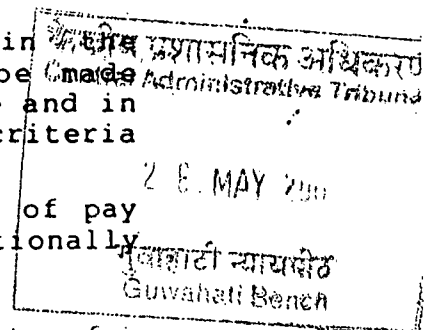
- Minimum period of service for placement from the post carrying scale of Rs.975-1540 to Rs.1200-2040 (pre-revised scale Rs.260-430 to Rs.330-560).
- Minimum period of service for placement from the post carrying scale of Rs.1200-2040 to Rs.1400-2300 pre-revised Rs.330-560 to Rs.425-700).
- Minimum period of service for placement from the post carrying scale of Rs.1400-2300 to Rs.1600-2600 (Pre-revised Rs.425-700 to Rs.550-750).

Once the Draughtsmen are placed in regular scales, further promotion would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

- The benefit of this revision of scale of pay scale be given with effect from 13.5.82 notionally and actually from 1.11.83."

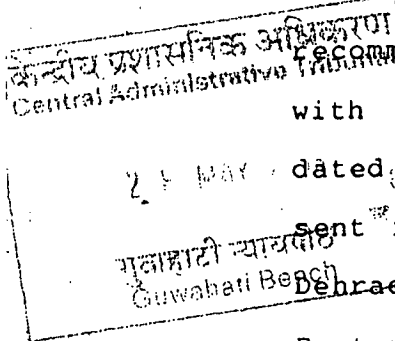
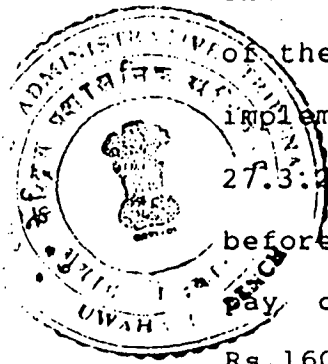
4. The applicants first moved the authority for giving effect to the aforementioned O.M.. Failing to get appropriate remedy from the department, the applicants moved this Tribunal by way of O.A.No.135 of 1995. The Tribunal by order dated 20.7.1995 disposed of the same with a direction to the respondents to consider and decide whether the benefit of the revised pay scale could be extended to the applicants. By order dated 31.1.1996 the claim of the applicants was rejected and therefore, the applicants moved this Tribunal again by way of O.A.No.52 of 1996. The said O.A. was finally disposed of

by.....



17.7.1997 held that the O.M. dated 19.10.1994 was squarely applicable to the applicants. The order dated 31.1.1996 passed by the authority accordingly was set aside. The respondents were directed to place the applicants in the scale of pay of Rs.425-700 (pre-revised) in the manner stipulated in the O.M. dated 19.10.1994 and to allow the applicants to draw the scale with effect from the date applicable in the case of each applicant respectively. The respondents thereafter moved the High Court by way of an application under Article 226 and the High Court by Judgment and Order dated 31.7.1999 in Civil Rule No.4733 of 1997 rejected the Writ Petition. The respondents thereafter also moved the Supreme Court by an SLP. The Supreme Court declined to interfere and the SLP accordingly was rejected. The Judgment and Order of the Tribunal dated 17.7.1997 was finally ordered to be implemented by the respondents vide communication dated 27.3.2001. The applicants thereafter made representations before the authority praying for grant of higher scale of pay of Rs.550-750 corresponding to revised scale of Rs.1600-2600 and the further corresponding scale of Rs.5500-9000 as per the Vth Central Pay Commission recommendations in terms of the O.M. dated 19.10.1994 with all consequential benefits. By the impugned order dated 1.8.2001 the claim was rejected by communication sent from the Surveyor General's Office, Survey of India, Dehradun addressed to the Additional Surveyor General, Eastern Zone, Kolkata. The full text of the order dated 1.8.2001 reads as follows:

"It is to inform you on th subject in regards to Ministry of Finance O.M.No.13(1) IC/91 dated 19.10.94 para 2 (c) that the Draughtsmen Gde I post.....



Department.

2. In the Department D/Man Gde II are promoted to D/Man Dir.I through DPC. The posts of D/Man, Div.I are fixed post and promotion are given through DPC and against available vacancies.

In this regard your attention is invited to paragraph 3 of Ministry of Finance O.N. dated 19.10.94."

Hence this application assailing the legitimacy of the action of the respondents.

5. The respondents submitted their written statement denying and disputing the claim of the applicants.

6. The demand of the applicants centred round their claim to the effect that they had completed four years of service as Grade II Draftsman and therefore, they were all eligible by virtue of further four years of service

to be elevated to

the next higher grade of Draftsman in the pre-revised

scale of Rs.550-750 which after the revision of the pay

scales by the Vth Central Pay Commission was equivalent

to Rs 5500-9000. According to the applicants on the

strength of the order dated 19.10.1994 the incumbents of

the post of Draftsman of the Organisation were entitled

for the weightage on account of the service rendered for

placement in different scales of pay. In short, the

applicants claimed that the authority sought to device a

scheme for parity of pay to the Draftsman with the CPWD.

The applicants contended that by the aforementioned O.M.,

the Government of India, taking into consideration the

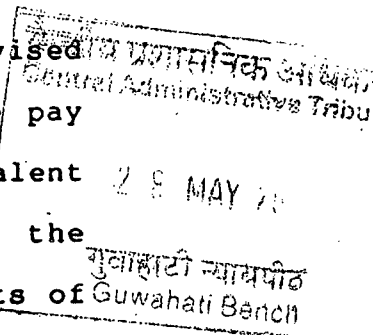
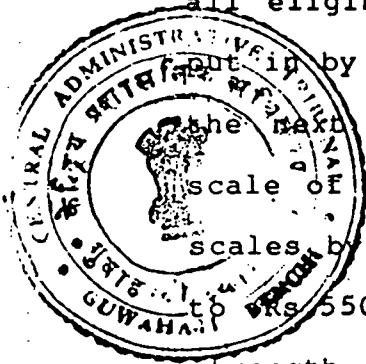
Award of the Board of Arbitration in favour of the

Draftsman Grade I, II and III working in the CPWD took a

conscious decision to the effect that the Draftsman Grade

I, II and III in the Offices/Departments of the

Government.....



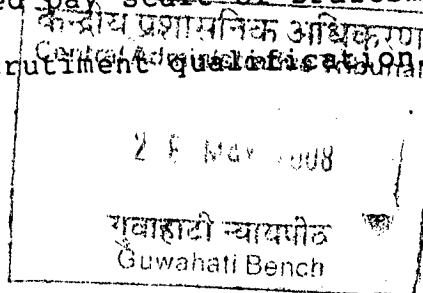
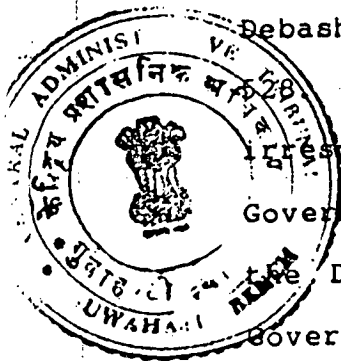
in the revised scale of pay on the basis of the Award subject to minimum period of service as mentioned in Clauses (a) (b) and (c) in para 2 of the O.M. dated 19.10.1994.

7. The respondents seriously contested the claim and contended that the Draftsman who found his place in the hierarchy and when a regular scale was provided, the same could be revised/upgraded only by way of promotion subject to DPC and availability of vacancy.

8. The answer to the controversy is discernible on bare perusal of paras 2 and 3 of the O.M. dated 19.10.1994 which was reproduced earlier. The issue is no longer res integra in view of the decision rendered by the Supreme Court in Union of India and others Vs.

Debashis Kar and others, reported in 1995 Supp (3) SCC

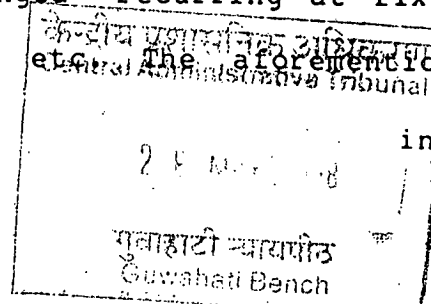
The O.M. dated 19.10.1994 itself indicated that irrespective of the recruitment qualification in all Government of India Offices the authority decided that Draftsman Grade I, II and III in Office under the Government of India other than CPWD were to be placed under the revised pay scale subject to the minimum period of service as mentioned in clauses (a) (b) and (c) of para 2 of the O.M. The benefit of the revision was given retrospectively with effect from the same date as was given by the O.M. dated 13.3.1984 i.e. notionally from 13.5.1982 and actually from 1.11.1983. The Draftsman who fulfilled the requirement relating to the period of service mentioned in the O.M. on the relevant date would be entitled to the revised pay scale of Draftsman in CPWD irrespective of their recruitment qualification.



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9. Mr A.K. Chaudhuri, learned Addl. C.G.S.C., strenuously urged that providing higher scale meant for higher grade could be given only after promotion. Higher scale cannot be given automatically by virtue of number of years of service. The learned Addl. C.G.S.C. particularly stressed on para 3 of the O.M. dated 19.10.1994 and emphasised on the expression, "Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules".

10. A perusal of paras 2 and 3 of the O.M. dated 19.10.1994 makes the position clear. The O.M. communicated the decision of the President of India to revise the pay scale of Draftsman Grade I, II and III in all Government of India Offices on the basis of Award of the Board of Arbitration into the pay scale of CPWD. By that the minimum service for placement for carrying the post was defined. The order was for placement in the scales, that means to put in the proper position. The scale only mentioned the succession or progression of the rates of pay. Para 3 of the O.M. resolves the doubt, whereby it indicated the decision of the authority in placement of the Draftsman. It was made clear that once the Draftsman were placed in the regular scale, i.e. the scale cited in the communication, further promotions would be made against available vacancies in higher grade in accordance with the normal eligibility criteria. The expression 'regular' is an adjective which means "evenly" or "uniformly arranged" recurring at fixed times like regular incumbents etc. The aforementioned O.M. only

indicated.....



indicated that pay scales conform to some defined norm. Minimum period of service for placement were defined for Draftsman in Grade I, II and III. In Debashis Kar's case (Supra), similar argument was advanced on behalf of the Union of India which was turned down. Paras 2 and 3 of the O.M., read conjointly leaves no scope to refuse the benefit of para 2 (c) of the O.M. dated 19.10.1994 to the applicants.

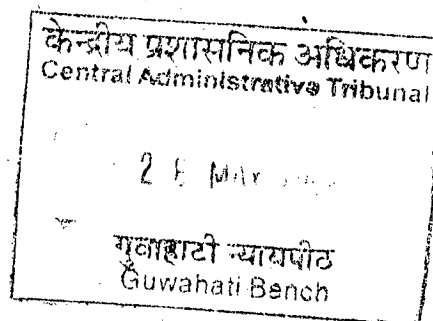
11. For all the reasons cited above and the in the facts and circumstances of the case, the impugned order dated 1.8.2001 is liable to be set aside and the same is accordingly set aside. The respondents are directed to grant the revised higher pay scale of Rs.550-750 (pre-revised) corresponding to Rs.1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs.5500-9000 as per the Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant.

12. The application is thus allowed. There shall, however, be no order as to costs.

Sd/ vice-CHAIRMAN
Sd/ MEMBER (A)

Verified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (D)
C.A.T. GUWAHATI BENCH
Guwahati-781 005



nkmm

on for

Date fixed for notifying
the requisite number of
stamps and folios.

Date of
requisite stamps and
folios.

was read

on	8/1/04	8/1/04	8/1/04
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Annexure-9

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

W.P.(C) No. 9786 of 2003

Civil Rule

Appellant

Petitioner

The Union of India & ors

Versus

Sri Dulai Ram Sarma & ors.

Respondent

Opposite Party

Appellant

M.R. C. Chowdhury

For

Petitioner

Sr. C.S.C.

Respondent

Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	1	1	

12/5/11

Attested
by
Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 February 2011

गुवाहाटी न्यायपीठ
Guwahati Bench

- 56 -
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AND

IN THE MATTER OF

Union Of India
Through The Director,
Survey Of India,
North Eastern Circle,
Shillong

Vs.

1. Sri Tulsi Ram Sharma
2. Smt. Jaya Adhikari
3. Sri Satvajit Kumar Dey
4. Sri Pradip Kumar Neogi
5. Smti Nandita Das
6. Sri Krishna Bahadur Gurung
7. Smti Pandora Seldket
8. Smti Meries Nareen Laloo
9. Sri Arun Kumar Paldip
10. Smti Shanti Kumari
Ghimire
11. Smti Lamzuali
12. Smti Rekha Mech
13. Sri Dilip Kumar Deka
14. Sri Sudip Dutta Choudhary
15. Sri Dondor Singh Lantang
16. Sri Prehash Paul
17. Smti Erholine Majaw
18. Smti Spician Kharangi
19. Smti Everymai Warji
20. Smti Evelynora Rynksa
21. Smti Ritikoina Majaw

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2020

गुवाहाटी न्यायपीठ
Guwahati Bench

12/5/20

22. Shri Mustaquer Ahmed Swer
23. Smti Bortila Khyllap
24. Smti Arunima Dutta
25. Smti Sofiana Kharkongor
26. Smti Manjula Bhattacharjee
27. Smti Hildaline Mawkhiew
28. Smti Tapashi Misra
29. Smti Arubha Roy
Choudhury
30. Smti Caroline Lamo
31. Smti Fedalis Jurwe
32. Sri Sitesh Chandra Roy
33. Shri Syed Azizer Rahman
34. Sri Biswadatta Das
35. Sri Maflinson Mollien
Umkeg
36. Sri Abdul Mannan
37. Sri Thrasternal Lyndoh
38. Sri Lok Bahadur Pradhan
39. Sri Durgesh Purkayastha
40. Sri Emphiwal Jartang
41. Sri Brington Dohkrut
42. Sri Sunil Chandra Sabdakar
43. Smti Golzona Mary Soheten
44. Smti Regina Ceali Nongbri
45. Smti Davorah Majaw
46. Smti Shanta Ghosh
47. Km. A. Tombi Singha
48. Smti Kbina Lyngdoh
Nongbri
49. Smti. Hassibon Lyngdoh
50. Smti Kitalin Mukhim
51. Smt Rufina Kharbuki

21.10.1971

12/10/71

52. Smti. Maria Auxilia

Kharbuki

53. Smti. Nestinola Kharbent

54. Smti Sara Daplying

Nongbsap

55. Smti Dipti Kar

56. Knt Kanta Nongkynrih

57. Smt Merdalyng diengdoh

58. Smt Margarita Sanian

59. Smt Pita Tarafdar

60. Smt Junu Sernah

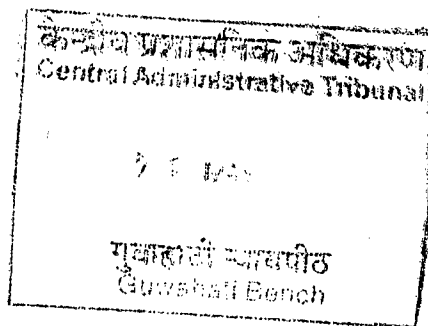
61. Smt Aruna Gupta

62. Sri Tapan Kumar Mondal

63. Sri Tara Prasad Kharel

All the respondents are working as
Draftsman Gr.II under the Director,
Survey of India, North Eastern Circle
Shillong, under Ministry of Science &
Technology, Government of India,
New Delhi.

Respondents



1287

by Officer or
Advocate

Serial
No.

Date

Office notes, reports, orders or proceedings
with signature

4

WP(C) NO. 9786/2003
BEFORE
HON'BLE THE CHIEF JUSTICE MR PP NAOLEKAR
HON'BLE MR JUSTICE IA ANSARI

09-12-2003

Heard Mr C Choudhury, learned Sr Central
Govt Standing Counsel appearing for the petitioners.
Also heard the learned counsel for the respondents.

The respondents who were Draftsman Grade-II
in Survey of India Department have been given pay
scale of Rs.425-700/- on completion of 5 years of
service, as provided under the Circular of the Govt
of India dated 19-10-1994. In that pay scale the
respondents have further completed 4 years of
service and claimed the pay scale of Rs.1600-2600/-,
as provided under Circular dated 19-10-1994. The
Central Administrative Tribunal, Guwahati Bench
complying the circular of the Govt of India has
directed payment of the pay scale of Rs.1600-2600/-
to the Draftsman Grade-II. Admittedly, the
respondents were in the pay scale of Rs.425 - 700/-.
On completion of their 5 years of service and on
completion of further period of 4 years they are
entitled to get the revised pay scale as provided
under Clause 2 (c) of the Circular. We may make it
clear that this is a revision in the pay scale on
account of the particular number of years of service
rendered by the respondents and it does not mean
that they have been given promotion to the higher
post. The Central Administrative Tribunal has rightly
given the pay scale to the respondents. We do not

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

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- 60 - 6

110

Any Officer or Advocate	Serial No.	Date	Office notes, reports, orders or process with signature
	2	3	4

find any good or sufficient reason to interfere with the order passed by the Tribunal.
The petition is dismissed.

Sd/- T. A. Anusari
Judge

Sd/- P. P. Maabokar
Clerk Justice

P NO 6369
8/1/04

CERTIFIED TO BE TRUE COPY
Date 96
Superintendent (Copying Section)
Gauhati High Court
Authorised U/s 76, Act 1, 1872

8/1/04

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
28 MAY 2008
गुवाहाटी न्यायापीठ
Guwahati Bench

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To

59
- 61 -

Annexure - 10 (series)

The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

(through proper channel)

SUB :

PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

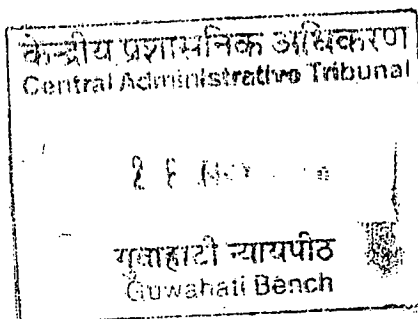
REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir,

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14/2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D/Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D/Man Gde-II and have acquired the requisite illegibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14/2002. This is for your kind information and necessary action please.

Thanking you.



Yours faithfully.

Dated : Shillong Nov
the 9th Oct, 2004.

Signature : Ashok Mongdal
Name : ASHOK MONGDAL
Designation : D/Man Gde II
Unit : Assam & Nagaland GDC

Attested
Mulla
Advocate

09/11/04 9/11
-62-
11/2

The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

(Through Proper Channel)
The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

SUB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

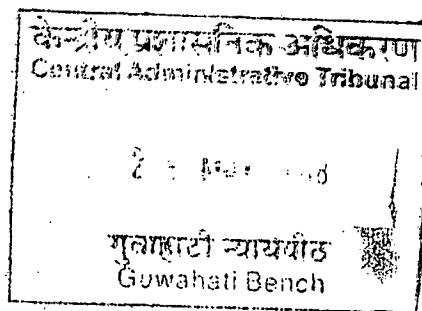
REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir.

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14 2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D-Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D Man Gde-II and have acquired the requisite illigibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14 2002. This is for your kind information and necessary action please.

Thanking you.



Yours faithfully.

Dated : Shillong
the 8th Nov
Oct 2004.

Signature :
Name : CHUMA DUTTA CHOUDHURY
Designation : Dman Gde II
Unit : Data Transformation Wing

हायरी सं०..... फाइल सं०..... दिनांक.....
1157 J.D.C. 09-11-04
Dairy No.... File No..... Date...

113 ✓
The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

(Through proper Channel)
The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

SUB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

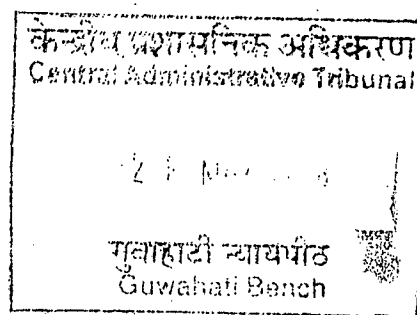
REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir,

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14/2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D/Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D/Man Gde-II and have acquired the requisite eligibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14/2002. This is for your kind information and necessary action please.

Thanking you.



Yours faithfully.

R. Mendol

(Ratna Mendol)

D/Man, Gde-II

Dated : Shillong
the 5th Nov
Oct, 2004.

Signature : R. Mendol
Name : Ratna Mendol
Designation : D/Man, Gde-II
Unit : Data Transformation Wing

डायरी नं०..... फाइल नं०..... दिनांक.....
1155- R-M- 09 11-04
Diary No., File No., Date

To

The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

(Through Proper Channel)

The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

64 C
C9/11/CY 9/11

114

2
9/11

SUB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

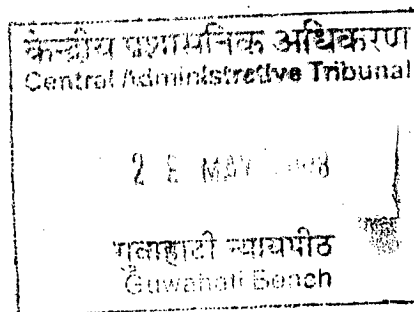
REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir,

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14/2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D-Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D-Man Gde-II and have acquired the requisite illegibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14/2002. This is for your kind information and necessary action please.

Thanking you.



Yours faithfully,

Ahokorbor

(Anjali Chakraborty)
D/man, Gd-II

Dated : Shillong
the 3rd Oct, 2004.

Signature : Ahokorbor
Name : Anjali Chakraborty
Designation : D/man, Gd-II
Unit : Extra Transferrance

हायरी सं०..... फाइल सं०..... दिनांक.....
1156 A C-B 9-11-04
Dairy No.... File No..... Date....

☎ 0364-224937
GRAM: "SURNOREAST"
FAX 0364-224937
E-Mail soil@sancharnet.in



MEGHALAYA & ARUNACHAL
PRADESH GDC
POST BOX NO. #89
MALKI, SHILLONG - 793 001

SURVEY OF INDIA

Annexure - 10 (series)

No. C 197 117 Y-9 (TRS)

Dated, the 22nd Nov, 2004

To

The Surveyor General of India,
Dehra Dun.

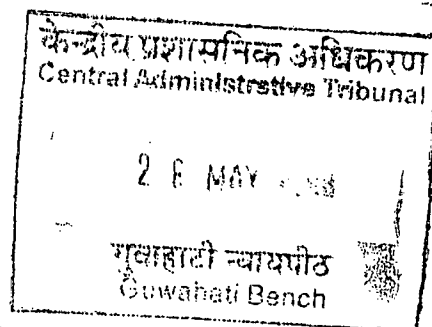
Sub: PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30.05.2003 IN O.A. NO.14/2002

Please find enclosed one copy each of 8 (eight) applications all dated 08 Nov'04, received from Smt. Anjali Chakraborty, D'man Grade II and 7 (seven) other Draftsman Grade II of this Centre for favour of your perusal and further action at your end, please.

Encl: As above.


(U.N. MISHRA)

DEPUTY DIRECTOR,
(ON CURRENT DUTY CHARGE)
FOR DIRECTOR, MEGHALAYA & Ar.P. GDC



-66-

ANNEXURE -

No. 6/1/91-IC
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
(IMPLEMENTATION CELL)

Annexure-11

New Delhi, dated June 1, 2001.

Subject: Recommendations of the Fifth Central Pay Commission - Revision of pay scales of Draughtsmen in Government of India Offices.

1111

In pursuance of an award of the Board of Arbitration, Draughtsmen in Grades I, II and III in the Central Public Works Department in the 3rd CPC pay scales of Rs.425-500, Rs.330-560 and Rs.260-430 respectively were placed in the higher pay scales of Rs.550-750, Rs.425-700 and Rs.330-560 respectively. Orders were also issued subsequently in this Department's O.M. No.F.5(59)-E.III/82 dated March 13, 1984 extending these scales of pay to Draughtsmen in all the Government of India offices notionally from May 13, 1982 and actually from November 1, 1983, subject to their recruitment qualifications being similar to those applicable in the Central Public Works Department. Following further consideration, orders were issued in this Department's O.M. No.13(1)-IC/94 dated October 19, 1994 extending the corresponding 4th CPC pay scales to even those not possessing the prescribed qualifications, subject to the condition that they had instead rendered the length of service prescribed therein specifically for the purpose.

2. The Fifth Central Pay Commission having been appointed in the meantime, the benefits of the higher scales had not flown, as envisaged, to all personnel in various departments who had not completed the prescribed service in the applicable scales of pay. The Fifth Central Pay Commission had also further revised the scales of pay of the common category of Draughtsmen.

3. The Staff Side had invited attention to the anomalous situation that had arisen as a consequence in the National Anomalies Committee. They had raised the demand that the revised pay scales recommended by the Fifth Central Pay Commission should be extended to the Draughtsmen in all Central Government offices due weightage being given for the service rendered by personnel not possessing the prescribed qualifications in different departments as envisaged in this Department's O.M. dated October 19, 1994. Following consideration of this demand in consultation with the Staff Side, the President is now pleased to decide that Draughtsmen in different departments other than the Central Public Works Department who do not possess the prescribed qualifications and excluding those who have already derived the benefits envisaged in the O.M. dated October 19, 1994, may be placed in the scales of pay recommended by the 5th CPC on completion of the minimum service (including service rendered in the corresponding pre-revised scales) as indicated below:

Minimum period of service to be rendered for placement from the scale of Rs.3200-4900 (pre-

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal
7 MAY 2001
गुवाहाटी न्यायाधीश Guwahati Bench

Attended
Mulla
Advocate

revised: Rs. 975-1540) to the
scale of Rs. 4000-6000 (pre-
revised: Rs. 1200-2040)

117

Minimum period of service to be
rendered for placement from the
scale of Rs. 4000-6000 (pre-
revised: Rs. 1200-2040) to the
scale of Rs. 5000-8000 (pre-
revised: Rs. 1400-2300 revised
to Rs. 1500-2660 by the 5th C.P.C.)

8 years

Minimum period of service to be
rendered for placement from the
scale of Rs. 4500-7000 (pre-
revised: Rs. 1400-2300) to the
scale of Rs. 5500-9000 (pre-
revised: Rs. 1640-2900)

6 years

4. In determining the eligibility to be placed in the revised scales of pay, the service already rendered in the pre-revised scales will also be duly taken into account. Once the Draughtsmen in various Central Government Departments are placed in the applicable revised scales of pay, further promotions to the higher grades will be made only against available vacancies in such higher grades in accordance with the normal eligibility criteria prescribed in the Recruitment Rules.

5. Those orders shall be applicable to such of those Draughtsmen in various Central Government Departments who had not derived the benefits envisaged in this Department's O.M. dated October 19, 1994 as on January 1, 1996. The revised pay scales shall also be extended to them only on their fulfilling the revised eligibility criteria now prescribed in paragraph 3 above.

6. Draughtsmen who have already been covered by the orders contained in the O.M.s dated March 13, 1994 and October 19, 1994 shall be eligible to be placed only in the applicable revised scales of pay already approved for the common category of Draughtsmen in pursuance of the recommendations of the Fifth Central Pay Commission.

7. Ministries/Departments of the Government of India may also initiate immediate action, in consultation with the Department of Personnel & Training, to amend the Recruitment Rules in respect of the posts of Draughtsmen administered by them so that these conform to the recommendations of the Fifth Central Pay Commission.

8. Hindi version will follow.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
28 MAY 1996 To
गुवाहाटी न्यायपीठ
Guwahati Bench

(MANOJ JOSHI)
Deputy Secretary to the Government of India

All Ministries/Department of the Government of India
as per Standard Mailing List.

भारत सरकार
विज्ञान और प्रौद्योगिकी मंत्रालय
विज्ञान और प्रौद्योगिकी विभाग
टेक्नोलॉजी भवन, नया महरौली रोड, नई दिल्ली-110016

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY.
Department of Science & Technology
Technology Bhavan, New Mehrauli Road, New Delhi-110018

Dated: October 22, 2001

No.SM/04/10/2000

To
The Surveyor General of India,
Survey of India,
Dehra Dun - 248001.

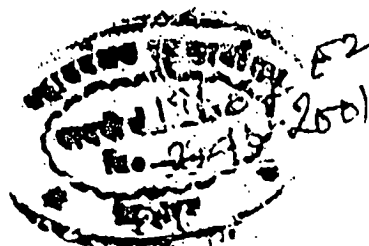
(Attention: Lt. Col. V.R. Mahendra, Deputy Surveyor General)
Sub:- Recommendation of the Fifth Central Pay Commission - revision of pay
scales of Draughtsmen in govt. of India offices.

Sir,

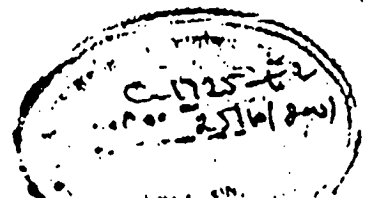
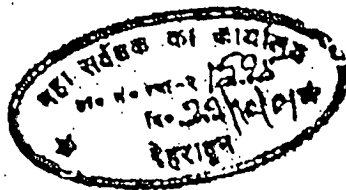
I am directed to refer to your letter No E2-7588/1904-PC-V dated 9th
October, 2001 on the subject mentioned above and to inform that the proposal for
granting benefits under Ministry of Finance, Department of Expenditure
(Implementation Cell)'s OM No. 6/198-IC dated 1.6.2001 was taken up with
Ministry of Finance. However, they have informed that MQF order of 1.6.2001 is
not applicable to the Draughtsmen in Survey of India. In this connection,
reference is invited to this Department's letter No. SM/04/010/2000 dated
19.10.2001 (copy enclosed for ready reference).

Yours faithfully,

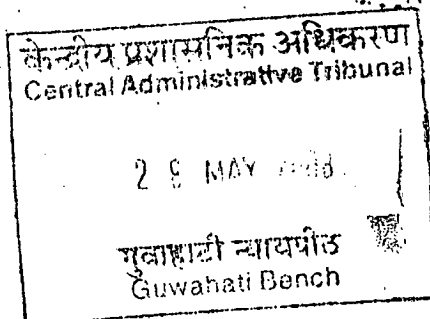
Encl: as above.

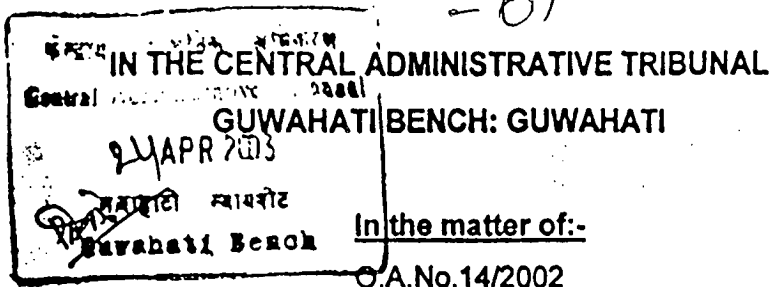


[Signature]
P. Nelli
Staff Officer



*Shree D
Dutta
Advocate*





Shri Tulsiram Sharma & Others

Applicants

-Versus-

Union of India & Others

Respondents:

Additional written statement on behalf of the Respondents-

Most Respectfully beg to state that:-

1. That Survey of India recruitment rules in the Cadre of Draftsman provides the promotion to Draftsman Grade I Division I selected from those in Division II Grade II.

2. That the benefit of O.M. No.13-(1)-IC/91 dated 19.10.94 of Ministry of Finance was extended to the Draftsman of Survey of India on the implementation of Judgement dated 17.7.1997 in O.A.No.52/96 of this Hon'ble Tribunal.

3. After implementation of this O.M. the scale of pay and residency period for Draftsman Cadre in Survey of India is as under:-

(i) For Draftsman Grade-IV (Rs.3200-4900) to
 Draftsman Grade III (Rs.4000-6000)

:7 years

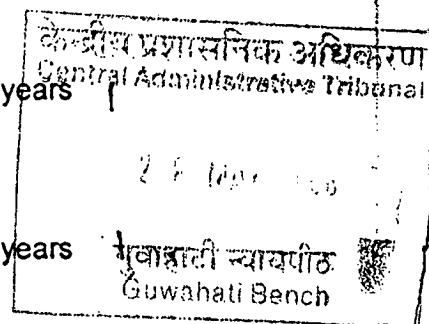
(ii) For Draftsman Grade-III (Rs.4000-6000) to
 Draftsman Grade II (Rs.5000-8000)

:5 years

(iii) For Draftsman Grade-II (Rs.5000-8000) to
 Draftsman Division-I Draftsman Grade-I
 (5500-9000)

:4 years*

*Subject to availability of vacancy and recommendation of DPC (Total number of sanctioned post for Draftsman Division-I is 300 in Survey of India) on seniority cum-fitness basis.



Attested
 Author
 Subordinate

That as per para 3 of O.M.No.13-(1)-IC/91 dated 19.10.94 of Ministry of Finance, once Draftsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility laid down in the recruitment rules.

In the above case the Draftsmen were placed in the regular pay scale of Grade II, Rs.5000-8000, as per the O.M. dated 19.10.94. The further promotion to Division-I in the pay scale of Rs.5500-9000 will get when the vacancy will be available and recommended by the DPC, because as per the recruitment rules in Survey of India, promotion to Division -I is done by the DPC on seniority cum-fitness basis and subject to the availability of vacancies.

The 4 years period shown in the para 2(c) of O.M. dated 19.10.1994 is the minimum residency period in the scale of pay for the promotion to higher grade. The conditions shown in para 3 of O.M. may also be kept in consideration while reading the para 2(c) of the O.M. dated 19.10.1994.

The claim of the applicants pretending to have obtained eligibility for being placed in the higher scale of Rs.5500-9000 as per Annexure-A to the additional rejoinder of the applicants is not correct and it is not the fundamental right to claim for the promotion.

5. That in the present additional rejoinder filed by the applicants in O.A.No.14/2002 they are claiming for pay scale of Rs.5500-9000 on completion of 5+4=9 years service, while the minimum residency period is 7+5+4=16 years service as per O.M. dated 19.10.1994.

A copy of O.M. dated 19.10.94 is annexed hereto and marked as Annexure 'A'.

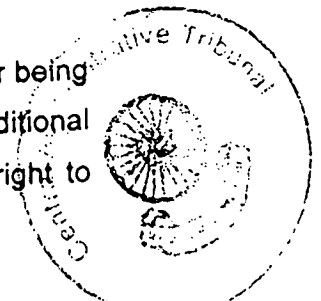
6. That at present in Survey of India, Placement in the pay scale of Rs.4000-6000 and Rs.5000-8000 is subject to qualifying Trade Test on completion of residency period of 7 years and 5 years respectively. The applicants have already been placed in the pay scale of Rs.4000-6000 and 5000-8000 accordingly on implementation of Judgement dated 17.7.1997 in O.A.No.52/96 of this Hon'ble Tribunal.

7. That the next promotion from Draftsman Grade II (Pay scale Rs.5000-8000) is to the post of Draftsman Division-I (pay scale Rs.5500-9000). There is

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Trib.

28 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

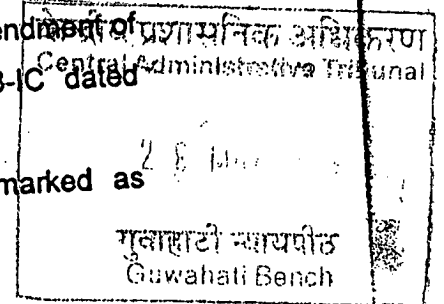


fixed sanctioned strength of 300 Draftsman Division I in Survey of India. For promotion to the post of Draftsman Division I, the minimum residency period in Draftsman Grade-II is 4 years. Draftsman Grade II to which the applicants

belong, do not become eligible for promotion to the higher Grade on completion of minimum residency period. By mere completion of residency period of 4 years in Draftsman Grade II stage the applicant can not claim to be promoted to the pay scale of Rs.5500-9000 as they are entitled to get the pay scale of Rs.5500-9000 subject to availability of vacancy in Draftsman Division I and recommendations of the DPC on seniority-cum-fitness basis as per the recruitment rules in Survey of India, in view of fixed numbers of sanctioned posts i.e. 300 posts of Draftsman Division-I.

8. That applicants filed Misc. Petition No.166/2002 praying for amendment of the Original Application basis on the subsequent O.M. No.6/1/98-IC dated 1.6.2001 of Ministry of Finance in regards to pay scale of Draftsman.

A copy of O.M. dated 1.6.2001 is annexed hereto and marked as Annexure 'B'.

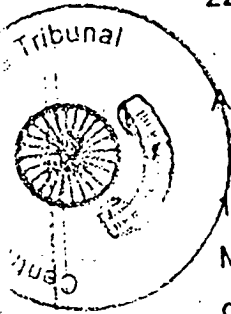


9. In the above O.M. in para 5, it is stated that " these orders shall be applicable to such of those Draughtsmen in various Central Government Departments who had not derived the benefits envisaged in this Department's O.M. dated 19.10.1994 as on 1.1.1996. The revised pay scale shall also be extended to them only on their fulfilling the revised eligibility criteria now prescribed in Paragraph 3 above".

This aspect also clarifies from Ministry of Finance and Ministry of Finance has also informed that O.M. No.6/1/98-IC dated 1.6.2001 is not applicable to the Draughtsman in Survey of India vide D.S.T's letter No.SM/04/10/2000 dated 22.10.2001.

A copy of DST's letter dated 22.10.2001 is annexed hereto and marked as Annexure 'C'.

10. That as regard the submission made by the applicants in Para 4.20B of Misc. Petition that "in C.P.W.D. the revised pay scale of Grade I, II and III are granted after completion of a fixed tenure of service in each grade without any linkage to any vacancies, i.e. " is totally false and the misleading the Hon'ble Court. In this connection a copy of letter No.H-12016/9/2002-E.C.-6/453-H dated 20.12.2002 from Sectional Officer, Govt. of India, Director General, C.P.W.D., Nirman Bhawan, New Delhi is attached herewith for Hon'ble Court's reference. It



-72-
4-

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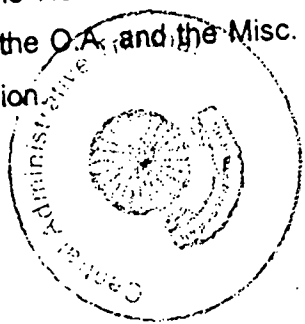
clearly mentioned in the letter that "Promotion is based on the availability of the Vacancies".

A copy of CPWD's letter dated 20.12.2002 is annexed hereto and marked as Annexure 'D'.

11. That in past, in similar case of Shri B.N. Jena -Vs- Union of India & others, the Hon'ble Tribunal, Cuttack Bench in O.A.No.893/96 disposed of on 27.11.2000, categorically observed on page No.5 of the Judgement that the applicants are not entitled to the scale of pay Rs.1600-2660 on the basis of O.M. dated 19.10.1994 and had not allowed it.

A copy of O.A. dated 27.11.2000 is annexed hereto and marked as Annexure 'E'.

12. That in view of the above explanations, the placement of Draftsman in the scale of Rs.5500-9000 can not be de-linked from the criteria of availability of vacancy and recommendation of DPC as the total numbers of Draftsman Division-I posts can not exceed the sanctioned strength of 300 posts in Survey of India. The Hon'ble Tribunal, Guwahati Bench, Guwahati is therefore prayed to dismiss the O.A. and the Misc. Petition arising out of O.A. in view of the above submission.

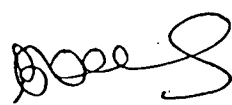


VERIFICATION

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal
2.8 MAR 2003
गुवाहाटी न्यायपीठ Guwahati Bench

I, Brigadier B.D. Sharma, Director, Survey of India, North Eastern Circle Office, Shillong being authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in above paragraphs 1, 2, 3, 4, 6, 7 & 12 of the written statements are true to my knowledge, those made in paragraphs 5, 8, 9, 10 & 11 being matter of record are true to my information derived there from which I believe to be true and those made in the rest are humble submission before the Hon'ble tribunal. I have not suppressed any material facts.

AND I sign this Verification on this the day 16th of Apr 2003 at Shillong.


DEPONENT
(B. D. SHARMA) Brigadier
Survey of India, North Eastern Circle

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भारत सरकार
विज्ञान और प्रौद्योगिकी मंत्रालय
विज्ञान और प्रौद्योगिकी विभाग
टेक्नोलॉजी भवन, नया महाराष्ट्र रोड, नई दिल्ली-110016

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY.
Department of Science & Technology
Technology Bhavan, New Mahrauli Road, New Delhi-110018

No.SM/04/10/2000

To
The Surveyor General of India,
Survey of India,
Dehra Dun - 248001.

(Attention: Lt. Col. V.R. Mahendra, Deputy Surveyor General)
Subj:- Recommendation of the Fifth Central Pay Commission - revision of pay
scales of Draughtsmen in govt. of India offices.

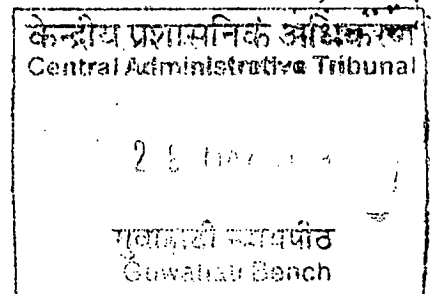
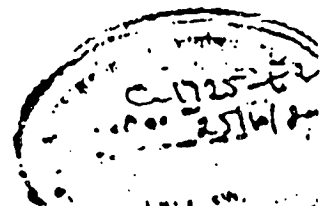
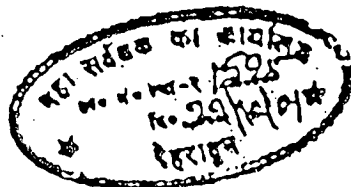
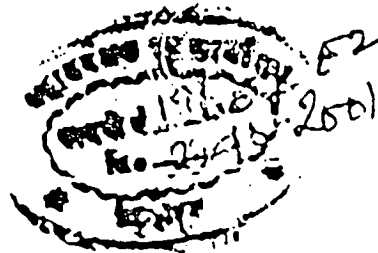
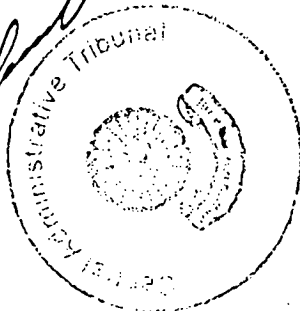
Sir,

I am directed to refer to your letter No E2-7588/1904-PC-V dated 9th
October, 2001 on the subject mentioned above and to inform that the proposal for
granting benefits under Ministry of Finance, Department of Expenditure
(Implementation Cell)'s OM No. 6/1/98-IC dated 1.6.2001 was taken up with
Ministry of Finance. However, they have informed that MQF order of 1.6.2001 is
not applicable to the draughtsmen in Survey of India. In this connection
reference is invited to this Department's letter No. SM/04/010/2000 dated
19.10.2001 (copy enclosed for ready reference).

Yours faithfully,

[Signature]
V.P. Nair
Staff Officer

Encl: as above.





भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

नई दिल्ली, जुलाई 9-जुलाई 15, 2006, शनिवार/आषाढ़ 18-आषाढ़ 24, 1928
सं. 28]
No. 28] NEW DELHI, JULY 9-JULY 15, 2006, SATURDAY/ASADHA 18-ASADHA 24, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप—खण्ड (i)
PART II—Section 3—Sub-section (i)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) और केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा विधि के अंतर्गत बनाए और जारी किए गए साधारण सांविधिक नियम (जिनमें साधारण प्रकार के आदेश), उप-नियम आदि सम्मिलित हैं)

General Statutory Rules (Including Orders, Bye-laws etc. of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administrations of Union Territories)

विधि एवं न्याय मंत्रालय

(न्याय विभाग)

नई दिल्ली, 29 जून, 2006

सा.का.नि. 162.—राष्ट्रपति, भारत के संविधान के अनुच्छेद 222 के खंड (2) के अनुसरण में एतद्वारा निम्नलिखित आदेश देते हैं,

अर्थात् :-

राजस्थान उच्च न्यायालय के न्यायाधीश, न्यायविद् श्री यादराम मीणा, जिन्हें गुजरात उच्च न्यायालय के न्यायाधीश के रूप में स्थानांतरित किया गया है, अपने मूल उच्च न्यायालय अर्थात् राजस्थान उच्च न्यायालय से बाहर अपने कर्तव्यों का निर्वहन करने की अवधि तक, अपने वेतन के अतिरिक्त, मूल वेतन के 10% और प्रतिमाह स्वीकार्य मंहगाई वेतन के 10% की दर से प्रतिपूर्ति भत्ता पाने के पात्र होंगे।

[सं. के-11017/3/2006-यूएस-1/II]

डॉ. पी. के. सेठ, संयुक्त सचिव

*Attested
Dated
Advocate*

1978 GU/2006

(789)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 JUN 2006

गुवाहाटी न्यायापीठ
Guwahati Bench

Note: The principal rules were published vide notification number G.S.R. 1475, dated the 30th July, 1968 and subsequently amended by:—

- (i) No. G.S.R. 506, dated 10-04-1971.
- (ii) No. G.S.R. 57, dated 07-01-1975
- (iii) No. G.S.R. 382, dated 18-03-1980
- (iv) No. G.S.R. 749, dated 03-08-1981
- (v) No. G.S.R. 53, dated 23-12-1982.

विज्ञान और प्रौद्योगिकी मंत्रालय

(विज्ञान और प्रौद्योगिकी विभाग)

नई दिल्ली, 29 जून, 2006

सा.का.नि. 175.-राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए विज्ञान और प्रौद्योगिकी मंत्रालय के अधीन विज्ञान और प्रौद्योगिकी विभाग, भारतीय सर्वेक्षण विभाग में (नक्शानवीस काडर) समूह 'ग' के पदों पर भर्ती की पद्धति का विनियमन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. संक्षिप्त नाम और प्रारंभ.- (1) इन नियमों का संक्षिप्त नाम भारतीय सर्वेक्षण विभाग, समूह 'ग', अननुसचिवीय, नक्शानवीस काडर पद भर्ती नियम, 2006 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. पद-संख्या, वर्गीकरण और वेतनमान.- उक्त पदों की संख्या, उनका वर्गीकरण और उनका वेतनमान वे होंगे, जो इन नियमों से उपाबद्ध अनुसूची के स्तंभ (2) से स्तंभ (4) में विनिर्दिष्ट हैं।

3. भर्ती की पद्धति, आयु-सीमा, और अन्य अर्हताएं आदि.- उक्त पदों पर भर्ती की पद्धति, आयु-सीमा और अर्हताएं और उससे संबंधित अन्य बातें वे होंगी जो उक्त अनुसूची के स्तंभ (5) से स्तंभ (14) में विनिर्दिष्ट हैं।

4. आरंभिक गठन.- इन नियमों से उपाबद्ध अनुसूची में वर्णित पदों के ऐसे पदधारियों को, जो इन नियमों के प्रारंभ होने की तारीख को नियमित आधार पर ऐसे पद धारण किए हुए हैं, इन नियमों के अधीन नियुक्त किया गया समझा जाएगा।

5. निरर्हता.- वह व्यक्ति-

(क) जिसने ऐसे व्यक्ति से जिसका पति या जिसकी पत्नी जीवित है, विवाह किया है, या

(ख) जिसने अपने पति या अपनी पत्नी के जीवित रहते हुए किसी अन्य व्यक्ति से विवाह किया है,

उक्त पद पर नियुक्त का पात्र नहीं होगा :

परन्तु यदि केन्द्रीय सरकार का यह समाधान हो जाता है कि ऐसा विवाह, ऐसे व्यक्ति और विवाह के अन्य पक्षकार को लाभ स्वीय विधि के अधीन अनुज्ञेय है और ऐसा करने के लिए अन्य आधार हैं, तो वह किसी व्यक्ति को इस नियम के प्रवर्तन से छूट दे सकेगा।

6. शिथिल करने की शक्ति.- जहां केन्द्रीय सरकार की यह राय है कि ऐसा करना आवश्यक या समीचीन है, वहां वह उसके लिए जो कारण हैं उन्हें लेखबद्ध करके इन नियमों के किसी उपबंध को किसी वर्ग या वर्गों के व्यक्तियों की बाबत, आदेश द्वारा शिथिल कर सकेगा।

7. व्यावृत्ति.- इन नियमों की कोई बात, ऐसे आरक्षणों, आयु-सीमा में छूट और अन्य रियायतों पर प्रभाव नहीं डालेगी, जिनका केन्द्रीय सरकार द्वारा इस संबंध में समय-समय पर निकाले गए आदेशों के अनुसार अनुसूचित जातियों, अनुसूचित जनजातियों भूतपूर्व सैनिकों तथा अन्य विशेष वर्गों के व्यक्तियों के लिए उपबंध करना अपेक्षित है।

1978 GI/06-7

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवांरंटी मंच
Guaranteed Bench

अनुसूची

पद का नाम	पदों की संख्या	वर्गीकरण	वेतनमान	चयन अथवा अचयन पद	सेवा में जोड़े गए वर्षों का फायदा केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 के नियम 30 के अधीन अनुज्ञेय है या नहीं	सीधे भर्ती किए जाने वाले व्यक्तियों के लिए आयु-सीमा
1	2	3	4	5	6	7
1. नक्शानवीस श्रेणी-1	300* (2006) *कार्यभार के आधार पर परिवर्तन किया जा सकता है।	साधारण केन्द्रीय सेवा समूह 'ग' (अराजपत्रित, अननुसूचित)	5500-175- 9000 रु.	चयन	लागू नहीं होता	लागू नहीं होता

सीधे भर्ती किए जाने वाले व्यक्तियों के लिए अपेक्षित शैक्षिक और अन्य अर्हताएं	सीधे भर्ती किए जाने वाले व्यक्तियों के लिए विहित आयु और शैक्षिक अर्हताएं, प्रोन्नत व्यक्तियों की दशा में लागू होंगी या नहीं	परिवीक्षा की अवधि, यदि कोई हो	भर्ती की पद्धति : भर्ती सीधे होगी या प्रोन्नति द्वारा या प्रतिनियुक्ति द्वारा या आमेलन द्वारा तथा विभिन्न पद्धतियों द्वारा भरे जाने वाले पदों की प्रतिशतता
8	9	10	11
लागू नहीं होता	लागू नहीं होता	लागू नहीं होता	प्रोन्नति द्वारा

प्रोन्नति/प्रतिनियुक्ति/आमेलन द्वारा भर्ती की दशा में वे श्रेणियां जिनसे प्रोन्नति/प्रतिनियुक्ति/आमेलन किया जाएगा	यदि विभागीय प्रोन्नति समिति है तो उसकी संरचना	भर्ती करने में किन परिस्थितियों में संघ लोक सेवा आयोग से परामर्श किया जाएगा
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12	13	14
प्रोन्नति : ऐसे नक्शानवीस श्रेणी II जिन्होंने उस श्रेणी में नियमित रूप से छः वर्ष सेवा की है। टिप्पण : जहां ऐसे कनिष्ठ व्यक्तियों के संबंध में जिन्होंने अपने अर्हक/पात्रता सेवा पूरी कर ली है, प्रोन्नति के लिए विचार किया जा रहा हो वहां उनसे ज्येष्ठ व्यक्तियों के संबंध में भी विचार किया जाएगा परंतु यह तब जब कि उसके द्वारा की गई ऐसी अर्हक/पात्रता सेवा, अपेक्षित अर्हक/पात्रता सेवा के आधे से अधिक से या दो वर्ष से, इनमें से जो भी कम हो, कम न हो और उन्होंने अपने ऐसे कनिष्ठ व्यक्तियों सहित जिन्होंने ऐसी अर्हक/पात्रता सेवा पहले ही पूरी कर ली है, अगली उच्चतर श्रेणी में प्रोन्नति के लिए अपनी परिवीक्षा की अवधि सफलतापूर्वक पूरी कर ली हो।	समूह 'ग' विभागीय प्रोन्नति समिति में निम्नलिखित होंगे: 1. उप महासर्वेक्षक, (प्रशासन) -अध्यक्ष 2. भारतीय सर्वेक्षण से भिन्न किसी कार्यालय से समूह 'क' का एक अधिकारी 3. समूह 'क' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो (जिसके न हो सकने पर समूह 'ख' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो) 4. सहायक महासर्वेक्षक -सदस्य	लागू नहीं होता

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
-सदस्य

28 MAY 2006

गुवाहाटी न्यायापीठ
Guwahati Bench

	2	3	4	5	6	7
2. नक्शानवीस श्रेणी-II	400* (2006) *(कार्यभार के आधार पर परिवर्तन किया जा सकता है)	साधारण केन्द्रीय सेवा समूह 'ग' (अराजपत्रित, अननुसचिवीय)	5000-150-8000 रु.	चयन	लागू नहीं होता	लागू नहीं होता

8	9	10	11
लागू नहीं होता	लागू नहीं होता	लागू नहीं होता	प्रोन्नति द्वारा

12	13	14
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प्रोन्नति : समूह 'ग' विभागीय प्रोन्नति समिति में निम्नलिखित होंगे : लागू नहीं होता

ऐसे नक्शानवीस श्रेणी III जिन्होंने उस श्रेणी में नियमित रूप से आठ वर्ष सेवा की है।

टिप्पणी : जहाँ ऐसे कनिष्ठ व्यक्तियों के संबंध में जिन्होंने अपनी अर्हक/पात्रता सेवा पूरी कर ली है, प्रोन्नति के लिए विचार किया जा रहा हो वहाँ उनके ज्येष्ठ व्यक्तियों के संबंध में भी विचार किया जाएगा परंतु यह तब जब कि उसके द्वारा की गई ऐसी अर्हक/पात्रता सेवा, अपेक्षित अर्हक/पात्रता सेवा के आधे से अधिक से या दो वर्ष से, इनमें से जो भी कम हो, कम न हो और उन्होंने अपने ऐसे कनिष्ठ व्यक्तियों सहित, जिन्होंने ऐसी अर्हक/पात्रता सेवा पहले ही पूरी कर ली है, अगली उच्चतर श्रेणी में प्रोन्नति के लिए अपनी परिवीक्षा की अर्वाध सफलतापूर्वक पूरी कर ली हो।

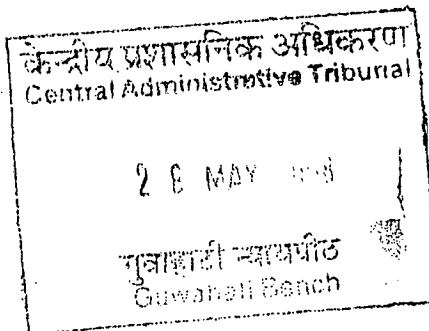
1. उप महासर्वेक्षक, (प्रशासन) —अध्यक्ष

2. भारतीय सर्वेक्षण से भिन्न किसी कार्यालय से समूह 'क' का एक अधिकारी

3. समूह 'क' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो (जिसके न हो सकने पर समूह 'ख' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो) —सदस्य

4. सहायक महासर्वेक्षक —सदस्य

1	2	3	4	5	6	7
3. नक्शानवीस श्रेणी-III	**641*(2006) *(कार्यभार के आधार पर परिवर्तन किया जा सकता है)	साधारण केन्द्रीय सेवा समूह 'ग' (अराजपत्रित, अननुसचिवीय)	4000-100-6000 रु.	चयन	नहीं	18 से 27 वर्ष के बीच। (केन्द्रीय सरकार द्वारा समय-समय पर जारी किए गए अनुदेशों या आदेशों के अनुसार सरकारी सेवकों के लिए ऊपरी आयु-सीमा शिथिल करके 35 वर्ष तक की जा सकेगी।) टिप्पण : आयु-सीमा अवधारित करने के लिए निर्णायक तारीख भारत में अभ्यर्थियों से आवेदन प्राप्त करने के लिए नियत की गई अंतिम तारीख होगी (न कि वह तारीख जो असम, मेघालय, अरुणाचल प्रदेश, मिजोरम, मणिपुर, नागालैंड, त्रिपुरा, सिक्किम, जम्मू-कश्मीर राज्य के लद्दाख खंड,



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[PART II—S

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हिमाचल प्रदेश के लाहोल और स्पीति जिले तथा चम्बा-जिले के पांगी उपखंड, अंदमान और निकोबार द्वीप या लक्षद्वीप के अभ्यर्थियों के लिए विहित की गई है।

रोजगार कार्यालयों के माध्यम से की जाने वाली नियुक्ति की दशा में, आयु-सीमा अवधारित करने के लिए निर्णायक तारीख वह अंतिम तारीख होगी जिस पर रोजगार कार्यालयों से नाम भेजने के लिए कहा गया है।

8.	9	10	11
<p>आवश्यक :</p> <p>(1) 10+2 या समतुल्य जिसमें गणित एक मुख्य विषय के रूप में हो।</p> <p>(2) नक्शानवीस (सिविल) में या औद्योगिक प्रशिक्षण संस्थान में सिविल इंजीनियरी में दो वर्ष का पाठ्यक्रम या समतुल्य।</p> <p>(3) जो सर्वांगीण दृष्टि रखता हो।</p>	लागू नहीं होता	दो वर्ष	<p>सीधे भर्ती द्वारा</p> <p>टिप्पण : श्रेणी IV/स्थला-कृतिक प्रशिक्षार्थी प्रकार 'ख' (नक्शानवीस) में वर्तमान पद-धारियों के प्रोन्नत/सेवानिवृत्त किए जाने तक व्यवसाय परीक्षण के द्वारा शतप्रतिशत प्रोन्नति। उसके पश्चात् शतप्रतिशत सीधे भर्ती द्वारा।</p>
12	13	14	
लागू नहीं होता	<p>समूह 'ग' विभागीय प्रोन्नति समिति (विभागीय स्तर) :</p> <ol style="list-style-type: none"> उप महासर्वेक्षक, (प्रशासन) —अध्यक्ष भारतीय सर्वेक्षण से भिन्न किसी कार्यालय से समूह 'क' का एक अधिकारी समूह 'क' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो (जिसके न हो सकने पर समूह 'ख' का ज्येष्ठतम अधिकारी जो अनुसूचित जातियों/अनुसूचित जनजातियों का हो) —सदस्य सहायक महासर्वेक्षक —सदस्य <p>सर्किल स्तर</p> <ol style="list-style-type: none"> संबंधित निदेशक —अध्यक्ष भारतीय सर्वेक्षण से भिन्न किसी कार्यालय से समूह 'क' का एक अधिकारी —सदस्य 	लागू नहीं होता।	

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

3. समूह 'क' का ज्येष्ठतम अधिकारी - सदस्य
जो अनुसूचित जातियों/अनुसूचित
जनजातियों का हो (जिसके न हो
सकने पर समूह 'ख' का ज्येष्ठतम
अधिकारी जो अनुसूचित जातियों/
अनुसूचित जनजातियों का हो)
4. संबद्ध सकल का उप निदेशक - सदस्य
(प्रशासन)

टिप्पणी :- वर्तमान में, इन पदों में नक्शानवीस श्रेणी IV भी सम्मिलित है। जब नक्शानवीस श्रेणी IV प्रोन्नति द्वारा या अन्यथा सेवानिवृत्त किए जाएं तब सभी 641 पद, नक्शानवीस श्रेणी III के लिए होंगे। वर्तमान पदधारी (स्थलाकृतिक प्रशिक्षार्थी प्रकार 'ख' (नक्शानवीस) और नक्शानवीस श्रेणी IV); नक्शानवीस श्रेणी III के पद पर, स्थलाकृतिक प्रशिक्षार्थी प्रकार 'ख' (नक्शानवीस) और नक्शानवीस श्रेणी IV में सात वर्ष की सेवा पूर्ण किए जाने पर प्रोन्नत होंगे। रिक्तियों की उपलब्धता के आधार पर विभागीय प्रोन्नति समिति द्वारा प्रोन्नति की जाएगी। नक्शानवीस श्रेणी II के 400 पर आने तक नक्शानवीस श्रेणी III के पद से कोई प्रोन्नति नहीं की जाएगी।

[फा. सं. एस. एम./02/023/2004]

आर. प्रसाद, अवर सचिव

MINISTRY OF SCIENCE AND TECHNOLOGY

(Department of Science and Technology)

New Delhi, the 29th June, 2006

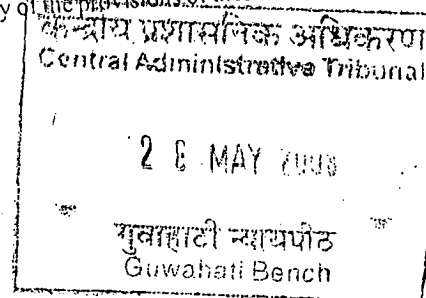
G.S.R. 175.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the Group 'C', (Draftsman Cadre) in the Survey of India, Department of Science and Technology under the Ministry of Science and Technology, namely :—

1. **Short title and commencement.**—(1) These Rules may be called the Survey of India, Group 'C', Non-Ministerial, Draftsman Cadre posts Recruitment Rules, 2006.
- (2) They shall come into force on the date of their Publication in the Official Gazette.
2. **Number of Posts, Classification and Scale of Pay.**—The number of the said posts, their classification and the scale of pay attached thereto shall be as specified in columns (2) to (4) of the Schedule, annexed to these rules.
3. **Method of recruitment, age-limit and other qualifications, etc.**—The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns (5) to (14) of the said Schedule.
4. **Initial Constitution.**—The incumbents of the posts mentioned in the Schedule annexed to these rules who are holding such posts on regular basis on the date of commencement of these rules shall be deemed to have been appointed under the provisions of these rules.
5. **Disqualifications.**—No persons,—
(a) who has entered into or contracted a marriage with a person having a spouse living, or
(b) who, having a spouse living, has entered into or contracted a marriage with any person,
shall be eligible for appointment to the said post :

Provided that the Central Government may, if satisfied that such a marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing exempt any person from the operation of this rule.

6. **Power to relax.**—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

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Part II - Sec 7
Not applicable

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7. Saving.—Nothing in these rules shall affect reservations, relaxations of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, Other Backward Classes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of the post	Number of posts	Classification	Scale of pay	Whether selection post or non-selection post	Whether benefit of added years of service admissible under rule 30 of the Central Civil Services (Pension) Rules, 1972
	2	3	4	5	6
Draftsman Grade-I	300* (2006) *Subject to variation dependent on workload.	General Central Service, Group 'C', Non-Gazetted, Non-Ministerial.	Rs. 5500-175-9000	Selection	Not applicable
Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods.	
7	8	9	10	11	
Not applicable	Not applicable	Not applicable	Not applicable	By promotion.	
In case of recruitment by promotion/deputation/absorption grades from which promotion/deputation/absorption to be made		If any Departmental Promotion Committee exists what is its composition		Circumstances in which Union Public Service Commission is to be consulted in making	
12.		13.		14.	
Promotion : Draftsman Grade III with eight years regular service in the grade.		Group 'C' Departmental Promotion Committee consisting of :—		Not applicable.	
Note : Where juniors who have completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying/eligibility service.		<ol style="list-style-type: none"> 1. Deputy Surveyor General (Administration) 2. One Group 'A' Officer from Office other than Survey of India. 3. Senior most Group 'A' Officer belonging to Scheduled Castes/ Scheduled Tribes (failing which senior most Group 'B' officer belonging to the Scheduled Castes/ Scheduled Tribes. 4. Assistant Surveyor General 		<p>Chairman केन्द्रीय प्रशासनिक अधिकारी Central Administrative Tribunal</p> <p>Member 26 MAY 2008</p> <p>गुवाहाटी न्यायपीठ Guwahati Bench</p> <p>Member</p>	
	2	3	4	5	6
2. Draftsman Grade-II	(**641*)(2006) *Subject to variation dependent	General Central Service, Group 'C', Non-Gazetted, Non-Ministerial.	Rs. 5000-150-8000	Selection	No applicable

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7	8	9	10	11
Not applicable	Not applicable	Not applicable	Not applicable	By promotion.

12	13	14
Promotion:	Group 'C' Departmental Promotion Committee consisting of:—	Not applicable.

Draftsman Grade III with eight years regular service in the grade.
 Note:—Here juniors who have completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service, or two years, whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying/eligibility service.

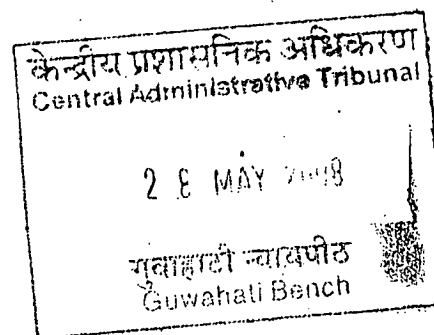
1. Deputy Surveyor General (Administration) — Chairman
2. One Group 'A' Officer from Office other than Survey of India. — Member
3. Senior most Group 'A' Officer belonging to Scheduled Castes/ Scheduled Tribes (failing which senior most Group 'B' officer belonging to the Scheduled Castes/ Scheduled Tribes. — Member
4. Assistant Surveyor General — Member

2	3	4	5	6
Draftsman Grade-III **641* (2006) *Subject to variation dependent on workload.	General Central Service, Group 'C', Non-Gazetted, Non-Ministerial.	Rs. 4000-100-6000	Selection	No applicable

7	8	9	10
Between 18 to 27 years (Upper age limit relaxable for Government servants up to 35 years in accordance with the instructions or orders issued by the Central Government time to time in this regard).	Essential:— (1) 10+2 or equivalent with Mathematics as one of the main subject. (2) Two years Course in Draftsman (Civil) or in Civil Engineering of Industrial Training Institute or equivalent. (3) Should possess stereoscopic vision.	Not Applicable	Two years

Note:—The crucial date for determining the age limit shall be closing date for receipt of application from the candidates in India (other than those in Assam Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu & Kashmir Lahaul and Spiti District and Pangi Sub-Division of Chamba District of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep).

In case of recruitment through the Employment Exchange, the crucial date for determining the age limit shall be the last date up to which the Employment Exchange is asked to submit the names of the candidates.

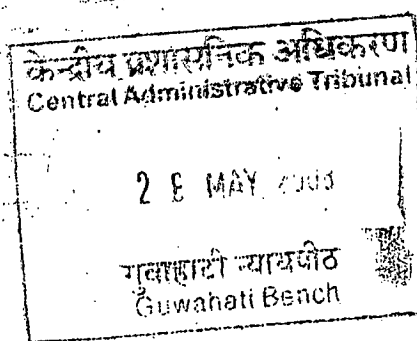


11	12	13	14
By direct recruitment Note:—100% by promotion by trade test till present incumbents in Grade IV/Topo Trainee Type 'B' (Draftsman) are promoted/ wasted	Not applicable	Group 'C' Departmental Promotion Committee (Departmental Level) consisting of:— 1. Deputy Surveyor General (Administration) — Chairman	Not Applicable.

out. Thereafter, 100% by direct recruitment.

2. One Group 'A' Officer from an Office other than Survey of India. —Member
3. Senior most Group 'A' Officer belonging to Scheduled Castes/Scheduled Tribes (failing which senior most Group 'B' officer belonging to the Scheduled Castes/Scheduled Tribes. —Member
4. Assistant Surveyor General Circle Level. —Member

1. Director Concerned —Chairman
2. One-Group 'A' Officer from an office other than Survey of India—
3. Senior most Group 'A' Officer belonging to Scheduled Castes/Scheduled Tribes (Failing which senior most Group 'B' officer belonging to the Scheduled Castes/Scheduled Tribes. —Member
- Deputy Director (Administration) of Concerned Circle. —Member



**** NOTE.**—At present these posts include Draftsman Grade IV also. When Draftsman Grade IV are wasted out by promotion or other wise, all the 641 posts will be for Draftsman Grade III. The present incumbents (Topo Trainee Type 'B' (Draftsman) and Draftsman Grade IV) will be promoted to the post of Draftsman Grade III after completion of 7 years service in the Topo Trainee Type 'B' (Draftsman) and Draftsman Grade IV Promotion will be done by the Departmental Promotion Committee subject to availability of vacancies. No promotion will be made from the post of Draftsman Grade III till the Draftsman Grade II comes to 400.

[F. No. SM/02/023/2004]

R. PRASAD, Under Secy.

MINISTRY OF HEALTH AND FAMILY WELFARE

CORRIGENDUM

New Delhi, the 7th July, 2006

G.S.R. 176.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Ministry of Health and Family Welfare, Regional Drug testing Laboratory, Guwahati (Senior Scientific assistant, Group 'B' Recruitment Rules 2004, namely :—

1. (1) These Rules may be called the Ministry of Health and Family Welfare, Regional Drug Testing Laboratory, Guwahati, (Senior Scientific Assistant, Group B) (Amendment) Recruitment Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the opening paragraph of the Ministry of Health and Family Welfare, Regional Drug Testing Laboratory, Guwahati, (Senior Scientific Assistant, Group B) Recruitment Rules, 2004, for the words "Senior Technical Assistant", the following words shall be substituted, namely :—

"Senior Scientific Assistant".

[F. No. A-12018/17/2--2-D]

NITA KEJREWAL, Under Secy.

Foot Note.—The principal rules were published *Vide* G. S. R. No. 279 dated 30th July, 2004 in the Gazette of India Notification.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 322 /2006

Shri Ashok Mondal & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

Applicants are presently working as Draftsman Gr. II/Div.I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India, under Ministry of Science & Technology, Government of India.

- 13.03.1984- Govt. of India agreed to revise scale of pay of the Draftsman Gr. I, II and III of the Central Public Works Department. However, the benefit of revised scale of pay was extended only to the Draftsman in other Central Govt. offices provided their recruitment qualification are similar to those prescribed in the case of Draftsman in C.P.W.D. The benefit of O.M dated 13.03.84 was not extended to the present applicants. (Annexure-1)
- 19.10.1994- Govt. of India issued another O.M dated 19.10.94, whereby the benefit of revised pay scale which was initially granted vide O.M dated 13.03.84 has been extended to all the Draftsman Gr. I, II and III working in the Govt. of India offices irrespective of their recruitment qualification. (Annexure- 2)
- 11.11.1994- Respondent No. 1 vide letter dated 11.11.94 addressed to Respondent No. 2 forwarded the O.M dated 19.10.94 for revision of pay scales of Draftsmen. But the respondent No. 2 did not take any action for implementation of O.M dated 11.11.94. (Annexure- 3)
- 31.01.1996- Respondents rejected claim of similar situated Draftsmen of Survey of India for extension of benefit of O.M dated 19.10.94. (Annexure-4)
- 17.07.1997- This Hon'ble Tribunal in O.A. No. 52/1996 directed the respondents to revise scale of those applicants in O.A. No. 52/1996 in terms of O.M dated 19.10.94. (Annexure-5)

Respondents approached the Hon'ble Gauhati High Court against the direction of this Hon'ble Tribunal by filing Civil Rule No. 4733/97. However, the Hon'ble High Court upheld the direction of this Hon'ble Tribunal on 31.07.99. Respondents still dissatisfied with the judgment of Hon'ble High Court filed SLP before Hon'ble Supreme Court and the said SLP was also dismissed.

- 16.10.2000- Respondents partially granted the benefit of O.M dated 19.10.1994 to those applicants of O.A. No. 52/1996. (Annexure- 6)
- 27.03.2001- Respondents granted revised scale under para 2 (b) of O.M dated 19.10.1994 to those applicants of O.A. No. 52/1996. (Annexure- 7)
- 06.06.2001- Applicants of O.A. No. 52/96 submitted representation for grant of benefit of O.M dated 19.10.94. However respondents rejected the claim of those applicants by order dated 01.08.01, which led those applicants to approach this Hon'ble Tribunal by filing O.A. No. 14/2002.
- 30.05.2003- Hon'ble Tribunal in O.A. No. 14/2002 directed the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant. (Annexure- 8)
- 09.12.2003- Respondents being aggrieved with the judgment and order dated 30.05.03 in O.A. No. 14/2002 approached the Hon'ble Gauhati High Court by filing W.P (C) No. 9786/03, which was dismissed vide judgment and order dated 09.12.03. However, Union of India approached the Hon'ble Apex Court by filing SLP and the said SLP was also dismissed. (Annexure- 9)
- Respondents thereafter implemented the judgment dated 30.05.03 passed in O.A. No. 14/02 and provided the benefit of scale of pay of Rs. 5500-9000/- to those applicants in O.A. No. 14/02.
- 08.11.04/09.11.04- Applicants approached the respondents by submitting representations, praying for extension of benefit of judgment and order dated 30.05.03 passed in O.A. No. 14/2002 as because the applicants are similarly situated Draftsmen like those applicants of O.A. No. 14/2002. But to no result. (Annexure- 10 Series)

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- 01.06.2001- Union of India issued O.M dated 01.06.01 for providing higher revised scale of pay to the left out Draftsmen in other Central Govt. offices. (Annexure- 11)
- 01.06.2001- Respondent No. 1 informed the respondent No. 2 that the O.M dated 01.06.2001 was taken up with the Ministry of Finance, however it has been informed by the Ministry of Finance that the order dated 01.06.2001 is not applicable in Survey of India. (Annexure- 12)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants and also in the light of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court to the present applicants.
2. Costs of the application.
3. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 322 /2006

Shri Ashok Mondal & Ors. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Date:-

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 322 /2006

BETWEEN:

1. Shri Ashok Mondal. Draftsman Grade- II
2. Shri Dharmanada Bora. Draftsman Div. I.
3. Smti. Manri Dkhar. Draftsman Grade- II.
4. Shri Sudip Das Purkayastha. Draftsman Grade- II.
5. Smti. Jhuma Dutta Choudhury. Draftsman Grade- II
6. Shri Marshal Langstieh. Draftsman Grade- II
7. Smti. Anjali Chakraborty. Draftsman Grade- II
8. Smti. Ratna Mondal. Draftsman Grade- II
9. Shri Herman K. Phanbuh. Draftsman Grade- II
10. Smti Everine L. Nongkynrih. Draftsman Grade- II
11. Smti Mita Purkayastha. Draftsman Grade- II
12. Shri R.S..Baidya. Draftsman Div. I
13. Shri Dungal Ram Sharma. Draftsman Grade- II
14. Shri Kajal Kumar Bhattacharjee. Draftsman Grade- II
15. Smti. Arati Joshi. Draftsman Grade- II
16. Shri Kunja Behari Singha. Draftsman Grade- II
17. Shri Ehrestster Marbaniang. Draftsman Div. I
18. Shri Abdus Samad. Draftsman Grade- II.
19. Shri Purna Chandra Mundari. Chief Draftsman.

All the applicants are working as Draftsman Gr. II/Div. I/Chief Draftsman under the Director, Assam & Nagaland GDC and Meghalaya & Arunachal Pradesh GDC, Survey of India, under Ministry of Science & Technology, Government of India, New Delhi.

-----Applicants.

-AND-

Ashok Mondal.

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Filed by the applicants
Through: S. Nath
Alwarak
27/12-06

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1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Science & Technology,
New Mehrauli Road,
New Delhi- 110016.

2. The Surveyor General
Survey of India,
Block A, Hathibarkala Estate,
Dehradun- 248001, Uttaranchal.

3. The Director
Assam & Nagaland GDC,
Survey of India,
Ganeshguri, Guwahati- 781006.

4. The Director
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Malki, Shillong- 793001.

*
Impleaded as Resp. no-5, vide
order dt. 5/3/08 passed in
MP No-53/08 in OA 322/06.
11/3/08.

* 5. The Secretary, Govt. of India, Respondents.
Ministry of Finance, Deptt. of
Expenditure, North Block,
New Delhi-1

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made not against any particular order but praying for a direction upon the respondents for extension of benefit of pay scale of Rs. 550-750/- (Pre-revised), corresponding revised scale of Rs. 1600-2660/- (As per IVth Pay Commission) and further revised scale of Rs. 5500-9000/- (As per Vth Central Pay Commission) in terms of Para 2 (c) of O.M dated 19.10.1994 and also in the light of judgment and order dated 30.05.2003 in O.A. No. 14 of 2002 (Shri Tulsiram Sharma & Ors. -Vs- Union of India & Ors.) passed by this Hon'ble Tribunal.

2. Jurisdiction of the Tribunal:

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The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

- 4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. All the applicants are presently serving as Draftsman Gr. II/Div.I/Chief Draftsman under the Director Survey of India, N.E. Circle, Shillong in the revised scale of Rs. 5000-8000/-.
- 4.2 That your applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the reliefs sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That the applicants were initially entered into the service under the respondent No. 2 and 3 as Topo Trainees Type B (in short T.T.T.B) Draftsman. The requisite qualification for the post of T.T.T.B Draftsman was initially Matriculation with Mathematics, which is now amended and after amendment the educational qualification now required is Pre-University with Mathematics. In the department of Survey of India T.T.T.B, Draftsman require, two years training, out of two years one year training is imparted in the Circle Office/Regional Office and another one year is required to be imparted in the Training Institute at Hyderabad. The pay scale of the T.T.T.B, Draftsman were Rs. 260-430 (pre-revised) per month. After completion of T.T.T.B training the applicants are required to

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appear for classification test and after passing the said test they are treated as Draftsman Gr. IV and used to place in the scale of Rs. 260-430 (Revised Rs. 975-1540) and thereafter on completion of 3 years service in Draftsman Gr. IV applicants again appeared theoretical and practical tests conducted by the Department for upgradation to Draftsman Grade III and thereafter on completion of 2 years of service as Draftsman Grade III the applicants are again required to appear in the theoretical test and supervisory level test conducted by the department for upgradation to the post of Draftsman Gr. II. Be it stated that Gr. III Draftsman and Gr. II Draftsman in the Survey of India by 3rd Pay Commission were merged together and placed in the scale of Rs. 330-560 (pre-revised). However, thereafter the Government granted the pay scale of Grade III Draftsman Rs. 330-480 and Grade-II Draftsman were placed in the scale of Rs. 425-600 (Revised pay scale of Rs. 1350-2200). Be it stated that applicant No. 2, 12 and 17 are promoted to the post of Draftsman Gr. I have been promoted to the post of Chief Draftsman, but the benefit of higher revised scale in terms of the judgment and order dated 30.05.2003 has not been granted to those applicant, as such they are also similarly situated and praying for similar benefit of pay scale. Applicant No. 19 although promoted to the post of Chief Draftsman but benefit of higher pay scale in the cadre of Grad-II has not been paid to him in terms of the judgment and order dated 30.05.2003. Hence they are also approaching for similar benefit like other applicants of this Original Application.

- 4.4 That the applicants beg to state that in the Survey of India after recommendation of the IIIrd Central Pay Commission merged together category III and II Draftsman in the same pay scale of Rs. 330-560. However, Government of India granted the pay scale of Rs. 330-480 for Grade III Draftsman and the pay scale of Rs. 425-600 for the Grade II Draftsman although the IIIrd CPC recommended in para 81 (iii) of Chapter 14 of its report relating to replacement of scale of Rs. 330-560 to Rs. 425-700.

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However, the Survey of India granted the aforesaid pay scale of Rs. 330-480 and 425-600 to the category III and II Draftsman in the Survey of India respectively. The scale of Rs. 425-600 granted to the Draftsman Gr. II were placed in the corresponding revised scale of Rs. 1350-2200 by the IVth CPC.

4.5 That your applicants beg to stated that in the Survey of India Draftsman in the initial grade are known as T.T.T.B Draftsman i.e. called initial grade having the scale of Rs. 260-430 and after completion of 5 years of service in the pay scale of Rs. 260-430 (including 2 years of training) the draftsman are used to be upgraded in the cadre of Gr. III Draftsman in the scale of Rs. 330-480 and treated them as Draftsman Gr. III. Thereafter again on completion of 2 years of service in the cadre of Gr. III Draftsman they are used to upgraded to the post of Draftsman Gr. II in the pay scale of Rs. 425-600 revised pay scale of Rs. 1350-2200 and thereafter next promotion in the cadre of Division I Draftsman used to be considered on the basis of All India combined seniority list of Draftsman Gr. II. Therefore there is hardly any chance for all the Gr. II Draftsman in the department of Survey of India for further promotion. As a result the scope of promotion/upgradation is very limited for the Draftsman working in the Survey of India under the Ministry of Science and Technology.

4.6 That your applicants beg to state that the Government of India agreed to revise the scale of pay of the Draftsman Gr. I, II and III of the Central Public Works Department following an award of Board of Arbitration as follows:

	ORIGINAL SCALE	REVISED SCALE
Draftsman Grade I	Rs. 425-700	Rs. 550-750
Draftsman Grade II	Rs. 330-560	Rs. 425-700
Draftsman Grade III	Rs. 260-430	Rs. 330-560

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This benefit of revision of pay scale was given notionally with effect from 13.05.1982 and actual benefit being allowed with effect from 01.11.1983. The Govt. of India, Ministry of Finance, Department of Expenditure vide O.M No. F. 5 (59)-E.III/82 dated 13.03.1984 extended the similar benefit of revised scale of pay to the Draftsman Gr. I, II and III under all Govt. of India Offices. However, this benefit was extended only to the Draftsman in other Central Govt. Offices provided their recruitment qualification are similar to those prescribed in the case of Draftsman in C.P.W.D. The benefit of office memorandum dated 13.03.1984 was not extended to the present applicants.

Copy of the O.M dated 13.03.1984 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-1.

- 4.7 That after issuance of the O.M dated 13.03.1984 Draftsman working in many Central Government offices were excluded from the benefit of the O.M dated 13.03.84. Thereafter the Govt. of India vide Office Memorandum bearing No. 13 (1)-IC/91 dated 19.10.1994 issued by Govt. of India, Ministry of Finance, Department of Expenditure extended the benefit of revised pay scale which was initially granted through O.M dated 13.03.1984 to all the Draftsman Gr. I, II and III and in all Government of India offices irrespective of their recruitment qualification. The relevant portion of the O.M dated 19.10.1994 is reproduced below:

"2. The President is now pleased to decide that the Draughtsman Grade I, II and III in Offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following:

- a. Minimum period of service for 7 years placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-3040 (pre-revised Rs. 260-430 to 330-560).

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- b. Minimum period of service for placement 5 years from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700).
 - c. Minimum period of service for placement 4 years from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (revised Rs. 1600-2660) (pre-revised Rs. 425-500 to Rs. 550-750).
3. Once the Draughtsman are placed in the regular scales, further promotions could be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.
4. The benefit of this revision of scales of pay would be given with effect from 13.05.1982 notionally and actually from 01.11.1983."

The above scheme and revision of pay scale laid down in para 2 of the Office Memorandum dated 19.10.1994 formulated to place the 'working Draftsman of other Central Government offices other than the Draftsman working in C.P.W.D with the intention to replace them in a better pay scale with better service condition like the Draftsman of C.P.W.D. Therefore condition of particular working period is also laid down in paragraph 2 of the said O.M to replace the Draftsman in higher pay scale on expiry of prescribed working period such as 7 years, 5 years and 4 years respectively in the respective grade. After publication of this O.M dated 19.10.94 the Govt. of India, Ministry of Science & Technology, Deptt. of Science and Technology vide their letter No. 1-12/93 CDN dated 11.11.1994 issued the same letter dated 19.10.1994 addressing the Surveyor General of India, Mathiberkala Estate, Dehradun wherein it was stated that the O.M dated 19.10.1994 was forwarded for revision of pay scales of Draftsman of Grade I, II and III in all Govt. of India Offices on the basis of

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the award of the Board of Arbitration in the scale of C.P.W.D. for information, guidance and necessary action. But surprisingly the Surveyor General of India did not take any action as regard implementation of O.M dated 19.10.1994. As such the present applicants were sought to be deprived of their legitimate claim for pay parity with the Draftsman working in other Central Govt. offices. The non-implementation of the O.M dated 19.10.1994 resulted in discrimination and the action of the respondents was violative of Article 14 and 16 of the Constitution of India.

A copy of the O.M dated 19.10.94 and letter dated 11.11.94 are annexed herewith for perusal of Hon'ble Tribunal as Annexures- 2 and 3 respectively.

- 4.8 That the Draftsman working in the Survey of India are entrusted with very high standard of drawing works including drawing with Computer, compilation of Maps and Cartography scribing and they are required to carry out topographical drawing on various skills covering the whole country. The topographical maps, topographical thematic maps, guide maps, tourist maps, state maps, three dimensional plastic relief maps and other project maps are generally prepared by the Draftsman of Survey of India. These maps are important and useful for defence and all other Ministries, State Govt. as well as for educational purposes and for map users/readers in general. All the above maps are prepared by the fair drawing or cartographic scribing techniques/Computer. The fair mapping in both the methods used are mainly carried out by the Draftsman in the department after completion of the field work. The fair mapping is allotted to the Circle Drawing offices of the department. Hence right from the compilation, drawing to final proof stage of any map, the main job of preparing original for printing and publishing is carried out by the Draftsman of Survey of India. The map under preparation is to undergo the following various stages in the hands of the Draftsman.

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1. Projection
2. Plotting of Control Points
3. Compilation (where necessary)
4. Mossicing
5. Drawing/Cartheographic scribing/Plastic relief mapping.
6. Drafting of technical correspondence with the local Governments, the deputy Director General of Military Survey (C.S.C.S.), Ministry of Defence and Ministry of External Affairs and other indenters.
7. Preparation of History sheets and publication Instructions.
8. Examination of Preliminary proofs and preparation of ancillary or originals etc. (i.e. Grid, Colour separation Guides, Shade Originals etc.).
9. Examination/Preparation of Final P.O. P.S.; ascertaining the correctness of the External/Internal Boundaries and the Coast line with the available records and Circulars etc.
10. Preparation of Area Statements, and submission of area figures of Indian States/Union Territories for each Census of India.
11. Scrutiny of all such maps containing External/International Boundaries and cost line published by the private agencies.
12. Besides the above a Draughtsman has to prepare the publications used in the department including all charts, Indexes, Hand Books etc.
13. A Draughtsman has to have a very high standard of technical knowledge also of printing & publishing of all kinds of maps and basic knowledge of field work. This is being confirmed by the Circle Offices by means of trade test periodically.
14. A Draughtsman has to prepare and supply date for gazettes published by the Govt. of India.

For systematic processing of the job mentioned in paragraphs 1 to 12 above, the Draftsman of the following grades are employed:

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1. Draughtsman (Cartographic) Grade IV (After completion of the training) of two years and after passing the prescribed tests.
2. Draughtsman Grade III (After completion of 3 years by trade test & subject to qualify).
3. Draughtsman Grade II (After completion of two years by trade test and subject to qualify).
4. Draughtsman (Cartographic) Division I (By D.P.C on vacant posts). The only promotion one gets after 30-33 years of service. Trade tests are not promotion as per Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi dated 13th September, 1991 in para 2 (c).

It is, further to say that the Draughtsman of Survey of India employed in various kinds of map making, in which fair drawing/ cartographic, scribing requires a high class of accuracy, consistency, uniformity and achieving the highest standard of precision mapping."

Therefore, it appears that the Draftsman of Survey of India, the present applicant not only performing the similar nature of work like Draftsman of CPWD of the corresponding grade rather discharging the very high standard of drawing work which cannot be equated with the Draftsman of any other department of the Central Govt. offices. Therefore, the present applicants deserve rather a higher pay scale than the other Central Govt. offices Draftsman working in the corresponding grades. But unfortunately the present applicants have been deprived of the revised scale of pay which was granted to the CPWD Draftsman long back following the award of Board of Arbitration. The non-extension of revised pay scale to the present applicants had violated the principles laid down in Article 14 and 16 of the Constitution of India.

- 4.9 That your applicants declare that they are performing similar nature of work which are being performed by the Draftsman Gr. II in CPWD.

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Therefore they are also entitled to the benefit of revised pay scale granted under O.M dated 19.10.1994 issued by the Ministry of Finance, Govt. of India, Department of Expenditure, more so in view of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002, in the case of similarly situated employees of the same department. It is categorically submitted that similarly situated employees of the same department have already been granted the benefit of higher scale in terms of O.M dated 19.10.1994 as such the present applicants are also entitled to the similar benefit.

4.10 That your applicants beg to state that the Survey of India is the National Survey and Mapping Organisation of our Country under the Ministry of Science and Technology and is the oldest Scientific Department of the Govt. of India. It was set up in the year 1967. This is the only organization for preparing the maps of land surveys of India and abroad. Therefore the present applicants who are working as Draftsman Gr. II should not be deprived from the benefit of extension of revised pay scales which was granted to other similarly situated Draftsman working in other Central Govt. offices.

4.11 That by the Office Memorandum dated 19.10.1994 issued by the Government of India, Ministry of Finance, Department of Expenditure desired to provide a better, uniform future prospect to all the Draftsman Grade I, II and III of all Central Govt. offices irrespective of their recruitment qualification. The O.M dated 19.10.1994 having waived the conditions mentioned in O.M dated 13.03.1984, with the sole object to cover the left out Draftsman not fully satisfying the said conditions serving in other Central Government offices, and the Central Government is obliged to grant higher revised pay scale in an uniform rate to the Draftsman working in various Central Government Office as the present office Memorandum dated 19.10.1994 provides a better future prospects to the Draftsman Grade-II serving under Government of India and particularly

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this O.M is also beneficial to the present applicants who are serving in the cadre of Grade-II Draftsman in the Survey of India, under the Ministry of Science and Technology. Therefore the present applicants are also entitled to the full benefit of revised pay scale granted under O.M dated 19.10.1994 as the same provided better promotional avenues to the cadre of Draftsman Grade-II. It is further stated that the O.M dated 19.10.1994 is the improvement over the O.M dated 13.03.1984 to extend the benefit of revised pay scale i.e. Rs. 425-700 and Rs. 550-750 to all the Draftsman of different Central Government departments by further relaxing and waiving the recruitment qualification and the O.M dated 19.10.1984 has been issued for career advancement system. Therefore implementation of the O.M dated 19.10.1994, in all stages is essential in respect of the Draftsman Gr. II of Survey of India for further advancement of service career of the present applicants. Be it stated that if the O.M dated 19.10.1994 would have been implemented in time in that event the present applicants would have readily fitted in the present scheme of revised pay scale issued under O.M dated 19.10.1994.

- 4.11 That your applicants beg to state that similarly situated Draftsman Gr. II of Survey of India, Shillong being aggrieved with non-providing the benefit of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance approached this Hon'ble Tribunal through O.A. No. 135/95 which was disposed of by this Hon'ble Tribunal on 20.07.1995 with the direction to the respondents to consider and decide whether the benefit of the revised pay scales should be extended to those applicants. The applicants were given liberty to approach this Hon'ble Tribunal if the decision of the respondents went against them. The respondents thereafter issued the order No. SM/06/001/95 dated 31.01.1996 rejecting the claims of those applicants for grant of revised pay scale. Situated thus, those applicants again approached this Hon'ble Tribunal, challenging the validity of the impugned letter dated 31.01.1996 through O.A. No. 52/1996. It is relevant to mention here that

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present respondents, by the above order came to the conclusion that the benefit of the O.M dated 19.10.1994 cannot be extended to the Draftsman of the Survey of India on the ground that their qualifications of recruitment were not similar with that of the Draftsman of the CPWD or other departments and also on the ground that the scope of promotion was not similar with that of the Draftsman of the CPWD, their type and nature of works, duties and responsibilities were not similar with those of the Draftsman under the CPWD and also concluded that the applicant's of O.A. No. 135/95 and 52/96 pay structure had not been and was not at par with the pay structures in the CPWD or other organizations. The respondents in other words vehemently contested the O.A. No. 52/1996 and the said O.A. was ultimately decided by this Hon'ble Tribunal on 17.07.1997 with the following observations:

"In our view under the facts and the circumstances stated hereinabove the terms of the aforesaid O.M dated 19.10.1994 are applicable to the applicants. Accordingly, we set aside the impugned order No. SM/06/001/95 dated 31.1.1996. Further, we direct the respondents to place the applicants in the pay scale of Rs. 425-700 (Pre-revised)/1400-2300 (revised) (revised) in the manner stipulated in the O.M No. 13(1)-IC/91 dated 19.10.1994 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively. This shall be complied with by the respondents within 3 (three) months from the date of receipt of this order by Respondent No. 3. The respondents shall also allow the consequential benefits provided in para 3 of the O.M dated 19.10.1994 mentioned above to the applicants.

The application is allowed in terms of the above directions.
No order as to costs."

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Copy of letter dated 31.01.96 and copy of the judgment and order dated 17.07.97 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 respectively.

4.12 That it is stated that the respondents being dissatisfied with the judgment and order dated 17.07.1997 preferred an appeal before the Hon'ble Gauhati High Court through Civil Rule No. 4733/97, however, the Hon'ble Gauhati High Court affirmed the judgment and order of this Hon'ble Tribunal on 31.07.1999. The respondents being still dissatisfied with the judgment and order dated 31.07.1999 preferred a Special Leave Petition before the Hon'ble Supreme Court through SLP to Appeal (Civil) 2000 CC 2082/2000. The Hon'ble Supreme Court also was pleased to dismiss the said Appeal after condoning the delay in filing the same and thereby upheld the judgment and order dated 17.07.1997 passed in O.A. No. 52/96 and 31.07.1999 passed by the Hon'ble High Court in Civil Rule No. 4283/97.

4.13 That it is stated that even after the Hon'ble Supreme Court order dated 31.03.2000 passed in the SLP preferred by the respondents Union of India, confirming the judgment and order dated 17.07.97 passed by this Hon'ble Tribunal the same was not implemented by the respondents Union of India and in such compelling circumstances those applicants in O.A. No. 52/96 finding no other alternative filed C.P. No. 3/2000. However, after receipt of the notices and after long persuasion the judgment and order of the Hon'ble Tribunal dated 17.07.1997 passed in O.A No. 52/96 was partially extended to those applicants. The period of 5 (five) years service for placement from the post carrying scale of Rs. 120-240 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700) was calculated by the Respondents taking into consideration the initial 5 (five) years, service in the 2 (two) grade combined service i.e. in the Grade III and Grade II Service on the pay scale of Rs. 330-480 and Rs. 425-600. Accordingly in terms of the instructions issued under letter No. SM/04/010/2000 dated 16.10.2000 and

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also in terms of Surveyor General of India's letter bearing No. F.2-2300/1196-B (TRS) dated 27.3.2001, the benefit of revised scale under Para 2 (b) of O.M dated 19.10.1994 has been extended to the those applicants with arrear monetary benefits.

Copies of the letter dated 16.10.2000 and letter dated 27.03.01 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- 6 and 7 respectively.

4.14 That those applicants in O.A. No. 52/96 being aggrieved submitted detailed representation on 06.06.01 for grant of benefit of O.M dated 19.10.94 but most unfortunately the Surveyor General of India rejected the prayer of the applicants for extension of the benefit of Para (2) of the O.M dated 19.10.94 and without application of mind issued the order dated 01.08.2001. Those applicants of O.A. No. 52/1996 again approached this Hon'ble Tribunal by filing an O.A. No. 14/2002 (Shri Tulsi Ram Sharma & Ors. -Vs- U.O.I & Ors.) with the following prayers:

- "8.1 That the impugned order issued under letter bearing No. E-2-12553/1196-B-TR Sharma dated 1st August 2001 be set aside and quashed.
- 8.2 That the respondents be directed to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants.

Ashok Mehta

8.3 To pass any other order or orders or direction to grant adequate relief to the applicants as the Hon'ble Tribunal may deem fit and proper.

8.4 Costs of the application."

However, the O.A. No. 14/2002 came before this Hon'ble Tribunal on 30.05.2003 for hearing and this Hon'ble Tribunal after hearing the arguments of the parties and on perusal of materials on record, was pleased to allow the O.A. No. 14/2002 with the following direction:

"11. For all reasons cited above and the in the facts and circumstances of the case, the impugned order dated 1.8.2001 is liable to be set aside and the same is accordingly set aside. The respondents are directed to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per 1Vth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant.

12. The application is thus allowed. There shall, however, be no order as to costs."

Copy of the order dated 30.05.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8.

4.15 That the Union of India being aggrieved with the decision of this Hon'ble Tribunal passed on 30.05.03 in O.A. No. 14/2002 approached the Hon'ble Gauhati High Court by filing a Writ Petition (Civil) No. 9786/2003 (Union of India & Ors. -Vs- Sri Tulsi Ram Sarma & Ors.). However, the Hon'ble Gauhati High Court Vide its judgment and order dated 09.12.2003

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dismissed the W.P (C) No. 9786/2003 and upheld the judgment and order dated 30.05.03 passed in O.A. No. 14/2002. The Hon'ble Gauhati High Court while dismissing the contention of the respondents Union of India raised in W.P (C) No. 9786/2003 held as follows:

"The respondents who were Draftsman Grade-II in Survey of India Department have given pay scale of Rs. 425-700/- on completion of 3 years of service, as provided under the Circular of the Govt. of India dated 19-01-1994. In that pay scale the respondents have further completed 4 years of service and claimed the pay scale of Rs. 1600-2600/-, as provided under Circular dated 19-10-1994. The Central Administrative Tribunal, Guwahati Bench complying the circular of the Govt. of India has directed payment of the pay scale of Rs. 1600-2600/- to the Draftsman Grade-II. Admittedly, the respondents were in the pay scale of Rs. 425-700/-. On completion of their 5 years of service and on completion of further period of 4 years they are entitled to get the revised pay scale as provided under Clause 2 (c) of the Circular. We may make it clear that this is a revision in the pay scale on account of the particular number of years of service rendered by the respondents and it does not mean that they have been given promotion to the higher post. The Central Administrative Tribunal has rightly given the pay scale to the respondents. We do not find any good or sufficient reason to interfere with the order passed by the Tribunal.

The petition is dismissed."

However, the Union of India being aggrieved with the judgment and order dated 09.12.2003 passed by the Hon'ble Gauhati High Court approached the Hon'ble Supreme Court by filing Special Leave Petition and the said Special Leave petition was dismissed by the Hon'ble

Blackboard

Supreme Court. As such the judgment and order dated 30.05.03 passed in O.A. No. 14/2002 has attained finality.

Copy of judgment and order dated 09.12.03 of the Hon'ble Gauhati High Court is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 9.

4.16 That it is stated that the respondents thereafter implemented the judgment and order of this Hon'ble Tribunal passed on 30.05.06 in O.A. No. 14/2002 and provided the benefit of scale of pay of Rs. 5500-9000/- to those applicants of O.A. No. 14/2002 with retrospective effect.

4.17 That it is stated that the present applicants are similarly situated like those applicants in O.A. No. 14/2002 working in the Survey of India, Shillong as Draftsman Grade II/Div. I/Chief Draftsman. Be it stated that present applicants although similarly situated in every respect working in the cadre of Draftsman Grade II/Div. I/Chief Draftsman, as such they are entitled to the same benefit of scale of pay of Rs. Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2600 (revised as per recommendation of IVth Central Pay Commission) and the further corresponding scale of pay of Rs. 5500-9000 as per the Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant i.e. from the date the applicants completed 4 years service in the scale of pay of Rs. 5000-8000/-. But the respondents most unfortunately denied the said benefit to the present applicants which is in violation of Article 14 and 16 of the Constitution of India. As such the applicants are praying before this Hon'ble Tribunal for a direction upon the respondents to provide benefit of pay scale of Rs. 550-750/- (Pre-revised), corresponding revised scale of Rs. 1600-2660/- (As per IVth Pay Commission) and further revised scale of Rs. 5500-9000/- (As per Vth Central Pay Commission) in the light of the judgment and order dated 30.05.2003 in O.A. No. 14 of 2002 (Shri Tulsiram Sharma & Ors. - Vs- Union of India & Ors.).

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Detail particulars of the applicants showing date of completion of 4 years of regular services in the scale of pay of Rs. 5000-8000/-.

Name	Date of Appoint- Ment	Date of Gr. III	Date of Gr. II	Date of Receipt of scale of Rs. 5000-8000	Date of completion of 4 years after receipt of Rs. 5000- 8000
Dharmanda Bora	28.12.1974	01.01.83	01.01.86	01.01.88	01.01.1992
Manri Dkhar	12.04.1979	01.01.85	01.01.89	01.01.90	01.01.1994
Sudipa Das	01.12.1983	01.01.89	01.01.92	01.01.94	01.01.1998
Purkavastha Jhuma Dutta Choudhury	25.05.1987	01.01.94	01.01.96	01.01.99	01.01.2003
Marshal Lengstieh	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Anjali Chakraborty	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Ratna Mondal	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Herman K. Phanbuh	29.08.1989	01.01.96	01.01.98	01.01.01	01.01.2005
Everine L. Nongkynrih	29.08.1989	01.01.96	01.01.98	01.01.01	01.01.2005
Mita Purkavastha R.S. Baidhya	05.06.1991 04.12.1971	01.01.97 01.01.78	01.01.99 01.01.80	01.01.02 01.01.83	01.01.2006 01.01.1987
Dungal Ram Sharma	12.08.1971	01.01.81	01.01.83	01.01.86	01.01.1990
Kajal Kumar Bhattacharjee	01.12.1983	01.01.89	01.01.91	01.01.94	01.01.1998
Arati Joshi	01.12.1983	01.01.89	01.01.93	01.01.96	01.01.2000
Kunja Behari Singha	12.04.1979	01.01.85	01.01.87	01.01.90	01.01.1994
Ebrestster Marbaniang	12.04.1979	01.01.85	01.01.87	01.01.90	01.01.1994
Ashok Mondal	23.05.1988	01.01.94	01.01.96	01.01.99	01.01.2003
Abdus Samad	05.06.1991	01.01.97	01.01.99	01.01.02	01.01.2006
Purna Chandra Mundari	13.12.1976	01.01.82	01.01.84	01.01.97	01.01.2001

From the above table it is very much clear that all the applicants has completed 4 years of regular service in the scale of Rs. 5000-8000, as such they are entitled to get the benefit of revised scale of Rs. 5500-9000

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from the date they have completed 4 years regular service, as provided under Clause 2 (c) of the O.M dated 19.10.1994. Moreover, they are similarly situated employees working in the Survey of India, like those applicants (Sri Tuls Ram Sharma & Ors.) in O.A. No. 14/2002, who have earned scale of pay of Rs. 5500-9000 from the date of completion 4 years of regular service in the scale of pay of Rs. 5000-8000 in the light of the judgment and order dated 30.05.2003 passed by this Hon'ble Tribunal in O.A. No. 14/2002, which was upheld by the Hon'ble High Court as well as Hon'ble Supreme Court as such the applicants being similarly situated employees of the same respondent department, cannot be denied the benefit of the judgment and order dated 30.05.2002 passed in O.A. No. 14/2002. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to extend benefit of judgment and order dated 30.05.2002 passed in O.A. No. 14/2002 to the present applicants and to provide the scale of pay of Rs. 5500-9000 to the applicants from the date they have completed 4 years of regular service in the scale of Rs. 5000-8000/-.

- 4.18 That the applicants beg to state that finding no response from the respondents regarding extension of the benefit of Para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi as well as the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court, therefore they have approached the respondents by filing representations on 08.11.2004/09.11.2004, praying for extension of the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002. In their representations the applicants categorically stated that they are similarly situated Draftsman Grade-II working in the respondent department and have acquired the requisite eligibility criteria laid down in the O.M dated 19.10.1994 as such they are entitled to get the monetary benefits including arrear of pay in the scale of Rs. 5500-9000 from the date, at par with the applicants in O.A. No. 14/2002. However, the

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representations submitted by the applicants were duly forwarded by the Deputy Director, Survey of India, Shillong, vide his letter dated 19.11.2004 to the Surveyor General of India, but to no result. Therefore finding no other alternative the applicants are approaching before this Hon'ble Tribunal for a direction upon the respondents to extend the benefit of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 to them as because they are similarly situated employees like those applicants in O.A. No. 14/2002 and to grant the present applicants higher revised scale of pay of Rs. 550-750/- (pre-revised) corresponding to Rs. 1600-2600 (as per IVth CPC) and Rs. 5500-9000 (as per Vth CPC) in terms of para 2 (c) of O.M dated 19.10.1994 with all consequential benefits including arrear monetary benefits with immediate effect. The representations submitted by the applicants were duly forwarded by the respondent No. 3 to the respondent No. 2 on 19.11.2004 but to no result.

A few copy of the representation dated 08.11.04/09.11.04 along with forwarding letter dated 19.11.04 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 10 (Series).

- 4.19 That it is stated that the applicants are suffering huge financial loss in each and every month due to denial of the benefit of higher revised scale of pay of Rs. 550-750/- (pre-revised) corresponding to Rs. 1600-2600 (as per IVth CPC) and Rs. 5500-9000 (as per Vth CPC) in terms of para 2 (c) of O.M dated 19.10.1994 to the applicants and as such loss is recurring in nature, and such denial gives rise to continuous cause of action in each and every month when the applicants are drawing their salary at a lower scale.
- 4.20 That it is stated that Govt. of India, Ministry of Finance, Department of Expenditure has issued another memorandum bearing No. 6/1/98-IC dated 01.06.2001 subsequently modifying the earlier memorandum dated 19.10.1994 and extended the benefit of higher revised pay scale to other left out Draftsman working in other Central Govt. departments. It is relevant to

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 mention here that residency period was extended in the subsequent memorandum while extending the revised higher scale. However, it is humbly submitted that the said O.M dated 01.06.2001 is not applicable in the instant case of the present applicants as because the present applicants are similarly situated like those applicants of O.A. No. 14/2002 and as such they are entitled to same benefit whatsoever given to the other Draftsman working in Survey of India following the decision rendered in O.A. No. 14/2002 which was upheld by the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court.

It is humbly submitted that department of Science & Technology, Govt. of India, Ministry of Science & Technology vide their letter baring No. SM/04/10/2000 dated 22.10.2001, it is informed to the respondent No. 2 that the O.M dated 01.06.2001 was taken up with the Ministry of Finance, however it has been informed by the Ministry of Finance that the order dated 01.06.2001 is not applicable in Survey of India. It is relevant to mention here that whatever benefit extended to the applicants of O.A. No. 14/2002, the present applicants being similarly situated like those applicants of O.A. No. 14/2002 are entitled to exactly similar benefit of higher revised scale after completion of 4 years residency period in the scale of pay of Rs. 5000-8000/-, liable to be placed in the higher revised scale of pay of Rs. 5500-9000/-, otherwise again there will be a discrimination in the matter of extension of benefit of higher pay scale to the similarly situated employees like the applicants. It is a settled position of law that once the benefit of revision pay scale is given by the Union of India to it's employees in terms of Courts order, the other employees identically placed would be given the same benefit. In this connection the applicants like to place reliance on the decision render by the Hon'ble Supreme Court on 12.04.2006 in Civil Appeal No. 1216-1256/2003 (K.T. Veerappa & Ors. -Vs- State of Karnataka & Ors.).

That the applicants waiting for so long in anticipation that the similar benefit of higher revised pay scale will be extended to them like

As per Mandal.

those applicants of O.A. No. 14/2002, but finding no response from the respondents, the applicants in the compelling circumstances approaching before this Hon'ble Court praying interalia the extension of benefit of the judgment and order dated 13.05.03 in O.A No. 14/2002 with immediate effect with all consequential service benefit including arrear monetary benefit by way of re-fixing the pay of the applicants.

Copy of the O.M dated 01.06.01 and letter dated 22.10.01 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 11 and 12 respectively.

4.21 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicants have acquired a valuable and legal rights as well as attained the eligibility for grant of benefit of higher revised scale of pay of Rs. 550-750/- (revised) in terms of Para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi in view of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002, which was upheld by the Hon'ble High Court and the Apex Court.
- 5.2 For that, this Hon'ble Tribunal has already held in the judgment and order dated 17.07.1997 passed in O.A. No. 52/1996 that those applicants are entitled to the benefit of the revised scale of pay in terms of the Scheme issued under office memorandum dated 19.10.1994 by the Govt. of India. The present applicants are being similarly situated also entitled to the same benefit under the office memorandum dated 19.10.1994.
- 5.3 For that, denial of benefit of para 2 (c) of O.M dated 19.10.1994 communicated to the similarly situated Draftsman Grade II working in the Survey of India is in violation of Article 14 of the Constitution of India.

AsheK Mondal.

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- 5.4 For that, the Scheme of 19.10.1994 has been issued by the Govt. of India for providing better service prospects and uniform pay scale to all the Draftsman working all other Govt. of India Office who were not covered earlier under O.M dated 13.03.1984, and the applicants have acquired eligibility as laid down in para 2 (c) of O.M dated 19.10.1994.
- 5.5 For that, all other similarly situated Draftsman working in other Govt. of India as well as applicants in O.A. No. 135/1995, O.A. No. 52/96 and O.A. No. 14/2002 working in the respondent department already been granted benefit of Para 2 (c) of O.M dated 19.10.1994 and as such denial of the same pay scale to the present applicants is violative of Articles 14 and 16 of the Constitution of India.
- 5.6 For that, the decision of this Hon'ble Tribunal passed in O.A. No. 14/2002 are also applicable to the present applicants as because they are similarly situated Draftsman Gr. II working in the respondent Department.
- 5.7 For that, the present applicants are similarly situated Draftsman Gr. II working in the Survey of India, Shillong like those applicants in O.A. No. 14/2002 as such they are also entitled to same and similar benefit of Para 2 (c) of O.M dated 19.10.1994.
- 5.8 For that the O.M dated 01.06.2001 is not applicable in the instant case of the present applicants, which is also confirmed by the Department of Science & Technology, New Delhi vide their letter dated 22.10.01, as because the present applicants are praying for extension of the benefit of judgment and order dated 30.05.2003 passed in O.A. No. 14/2002.
- 5.9 For that, the present applicants have submitted representations before the respondents for extension of the higher revised pay scale in terms of Para 2 (c) of the O.M dated 19.10.1994 as well as in the light of the judgment

Ashok Mondal -

and order dated 30.05.2003, but the same has been arbitrarily denied to the present applicants without any valid justification.

5.10 For that once the benefit of higher pay scale have been extended by the Union of India to its employees by a Courts order as such the said benefit of higher pay scale cannot be denied to the similarly situated employees like the present applicants.

5.11 For that, non-payment of higher revised pay scale as claimed by the applicants give rise to the continuous cause of action each and every month and the same is a continuous wrong till the applicants are settled with higher revised scale as prayed in this application.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Ashok Mondal.

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant the revised higher pay scale of Rs. 550-750 (pre-revised) corresponding to Rs. 1600-2660 (as per IVth CPC) and further revised corresponding scale of pay of Rs. 5500-9000 (As per Vth CPC) with all consequential benefits including arrear monetary benefits, in terms of direction contained in para 2 (c) of O.M dated 19.10.1994 issued by the Govt. of India, Ministry of Finance, Department of Expenditure to the applicants and also in the light of the judgment and order dated 30.05.2003 passed in O.A. No. 14/2002 which were upheld by the Hon'ble High Court and the Hon'ble Apex Court to the present applicants.

8.2 Costs of the application.

8.3 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the L.P.O

i)	L.P.O No.	: 286 93 4802 .
ii)	Date of issue	: 26.12.06.
iii)	Issued from	: G.P.O. Guwahati .
iv)	Payable at	: G.P.O. Guwahati .

12. List of enclosures:

As given in the index.

Achok Mondal

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VERIFICATION

I, Shri Ashok Mondal, S/o- Late Nirmal Mondal, aged about 48 years, working as Draftsman Grade-II in the office of the Assam & Nagaland GDC, Survey of India, Ganeshguri, Guwahati- 6, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements in this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25th day of December 2006.

Ashok Mondal.

(Department of Expenditure)

New Delhi the 13th March '84

OFFICE MEMORANDUM

Subject :- Revision of Pay Scale of Draftsman II, II and I in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to state that a committee of the National Council (Joint Consultative Machinery) was set up to consider to the request of the staff side that following revised scales of pay allowed to the Draughtsman Grade I, II and III working in Central Public Works Department on the basis of the Award of Board of Arbitration may to extend to Draughtsman Grade III, II, I in all Government of India offices :-

	ORIGINAL SCALES	REVISED SCALES ON THE BASIS OF AWARD
Draughtsman Grade I	Rs. 425-700	Rs. 550-750
Draughtsman Grade II	Rs. 330-560	Rs. 425-700
Draughtsman Grade III	Rs. 260-430	Rs. 330-560

2. The President is now pleased to decide that the scales of pay of Draughtsman Grade III, II and I in offices/ Department of the Government of India, other than the Central Public Works Department, may be revised as above provided their recruitment qualification are similar to those prescribed in the case of Draughtsman in Central Public Works Department. Those who do not fulfil the above qualification will continue in the pre-revised scales. The benefit of this revision of pay of scale should be given notionally with effect from 13.05.82, and the actual benefit being allowed w.e.f. 01.11.83.

3. Hindi version will follow.

Sd/- Illegible
Deputy Secretary to the Govt. of India

To

All Ministries/Departments of the Govt. of India (as per standard list with _____ (copies)).

Attested
Advocate

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ANNEXURE-2

Annexure-2

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ANNEXURE-5

No. 13(1)-IC/91
 Government of India
 Ministry of Finance
 Department of Expenditure

New Delhi the 19th Oct. 1994

OFFICE MEMORANDUM

Subject : Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's O.M. No. F(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the Staff side that the following scales of pay allowed to the Draughtsmen Grade I, II and III working in CPWD on the basis of the Award of Board of Arbitration may be extended to Draughtsmen Grade I, II, & III irrespective of their recruitment qualification, in all Government of India Offices.

	Original Scale (Rs.)	Revised scale on the basis of the Award
7 Draughtsmen Grade I	425-700	550-750
7 Draughtsmen Grade II	330-560	425-700
7 Draughtsmen Grade III	260-430	330-560

2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

- | | | |
|-----|---|---------|
| (a) | Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (pre-revised scale Rs. 260-430 to Rs. 330-560). | 7 years |
| (b) | Minimum period of service for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (pre-revised Rs. 330-560 to Rs. 425-700). | 5 years |
| (c) | Minimum period of service for placement from the post carrying scale of Rs. 1400-2300 to Rs. 1600-2660 (Pre-revised Rs. 425-700 to Rs. 550-750). | 4 years |

Attested
 Advocate

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Annexure-⁵ (Contd.)

3. Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.
4. The benefit of this revision of scale of pay scale be given with effect from 13.5.82 notionally and actually from 1.11.88.

Sd/- SHYAM SUNDAR
Under Secretary to the Government of India

To All Ministries/ Departments of the Government of India (As per standard list with usual number of spare copies.)

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Technology Bhawan, New Delhi

No. 1-12/93-Cdn

Date 11th November, 94

To

1. Surveyor General of India
S.O.I.
Block B, Hathibarkala Estate
Dehradun (UP) - 248001
2. The Director General of Meteorology
I.M.D., Lodhi Road,
New Delhi-110003
3. The Director,
NATMO
MSO Bldg. DF Block
7th Floor, Salt Lake
Calcutta-700064

Subject :- Revision of pay scales of Draughtsmen Grade
I, II and III in all Government of India Offices
on the basis of the Award of Board of Arbitration
in the case of Central Public Works Department.

Sir,

I am directed to forward herewith a copy of
Ministry of Finance (Deptt. of Expenditure)'s O.M. No.
13(1)-IC/91 dated the 19th October, 94 on the above
subject for information, guidance and necessary action.

Yours faithfully,

Sd/- KAMAL PRAKASH
Section Officer

Attested
Advocate

Government of India
Ministry of Science & Technology
Department of Science & Technology
Technology Bhavan, New Mohrauli Road, New Delhi 110016

No. SM/06/001/95

Dated 31st January, 1996

O R D E R

The Central Administrative Tribunal, Guwahati Bench, Guwahati, on an application filed by Shri Tulsi Sarma, Draughtsman Grade II in Survey of India, North Eastern Circle, Shillong and seventyseven other Draughtsman in Survey of India, pass an order directing the Government to consider the grievance of the applicants and to take a decision as to whether the benefit of the revised pay scales extended to Draughtsman in Government offices other than CPWD vide Ministry of Finance Office Memorandum No. 13(1)-IC/91 dated 19th October, 1994 can be extended to the applicants. The Government after careful consideration of the matter observes and makes the following order.

2. The applicants have requested for implementation of the Ministry of Finance, Government of India Office Memorandum No. 13(1)-IC/91 dated 19th October, 1994 extending the benefit of revised pay scales for Draughtsman in Government offices and Departments other than C.F.W.D.
3. The Department has considered the existing pay structure of Draughtsman in Survey of India (SOI). Draughtsman in Survey of India is a part of the topographical cadre which includes other employees like planetablers, topo-auxilliary, air-survey draughtsman, Survey Assistants, Topo-Computers, etc. The qualification for recruitment is kept as Inter-mediate with Mathematics as one of the subjects. No candidate in the Draughtsman cadre at any level is required to have the qualification of Certificate/diploma in Draughtsmanship. Further the promotions in the Survey of India from the level of M. 260-350, M. 260-430, 330-480 upto the level of M. 423-600 are flexible whereas in C.F.W.D. the promotions are based on functional basis against sanctioned strength at each level. In Survey of India, the Draughtsman get promotion on passing departmental examination after completion of fixed tenure of service and get promotion without linkage to vacancies at higher level.
4. It would thus be seen on the one hand the Draughtsman in Survey of India are not required to possess the qualification of Draughtsman for appointment to any level and on the other hand they get their promotion after fixed periodicity on passing departmental examination without linkage to vacancies. Accordingly, there is no comparison between Draughtsman in CPWD and other organisations vis-a-vis Draughtsman in SOI. Again whereas the Draughtsman in CPWD and other organisations are required to handle varied types of draughtsmanship related jobs ~~xxxxxxxxxxxx~~ whereas the Draughtsman in SOI have confined themselves only with respect to survey. The requirement in their case is knowledge of drawing/~~xxxxxxxx~~ cartography as against draughtsmanship in other organisations. Thus, any order issued in respect of Draughtsman in CPWD or Draughtsman in other Ministries/Departments or Organisation cannot automatically be made applicable to Draughtsman in Survey of India.

Contd....

Attested
Advocate

5. The pay structure of Draughtsman in Survey of India had not been and at present also is not at par with pay structure for Draughtsman existing in other Organisations. At one stage, the employees have got higher pay scale through the Joint Consultative Machinery and Arbitration Award. In case the present Office Memorandum is considered for implementation, this will infringe upon the benefits already accrued to the employees of SOI which may not hold good.

6. The above issues have been considered carefully in the Government and it has not been found possible to agree with the request of the Draughtsman in Survey of India for revision of their pay scales based on the Office Memorandum of Ministry of Finance, Govt. of India dated 19.10.94. All the applicants in the O.A. No. 135/95 dated 20.7.95 filed in the Central Administrative Tribunal, Guwahati Bench, Guwahati are hereby informed of the above decision of the Government.

8d/- M.M.K. Sardana
Joint Secretary to the Government of India.

Shri Tulsiram Sarma,
Draughtsman Grade-II
North Eastern Circle, Survey of India,
SHILLONG.

Copy to the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, Assam with reference to their order in the original application No. 135/95 dated 20th July, 1995.

Copy to the Surveyor General of India, Survey of India, Dehra Dun -248 001.

Copy to Brig. P.K. Gupta, Director, North Eastern Circle, Survey of India, Survey of India Estate, Shillong 793001 with a request to kind deliver the copies of this order to all the applicants individually in the above case.

8d/- M.M.K. Sardana
Joint Secretary to the Government of India.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 52/1996.

Date of Order : This the 17 th July, 1997.

HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN
HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Shri Tulashram Sharma & Others.

(All the 76 applicants are working as Draftsman Gr.II under the Director, Survey of India, North Eastern Circle, Shillong under Ministry of Science and Technology, Govt. of India, New Delhi.)

By Advocate Mr. A.Roy, Mr.J.L.Sarkar, Mr.M.Chandra.

-Vs-

1. The Secretary, Ministry of Science & Technology New Delhi.
2. The Surveyor General, Survey of India, Block B, Bathibarkala Estate, DEHRADUN.
3. The Director, Survey of India, North Eastern Circle, Shillong.

By Advocate Mr.A.K.Choudhury, Adl.C.O.S.C.

O R D E R.

SANGLYINE, MEMBER(A) :

All the 76 applicants are Draftsman/Draughtsmen Grade II under the Director, Survey of India, North Eastern Circle, Shillong. They have been permitted vide our order dated 9-4-96 to join in this Single application.

2. The applicants are drawing pay in the scale of pay of Rs. 1350-2200. In this application they claim that they are entitled to draw pay in the scale of pay of Rs. 1400-2300 which is equivalent to the pre-revised scale of Rs. 425-700 and for payment of arrears monetary benefits either in terms of O.M. 5(13)-E.111/87 dated 11-2-1987 or P.M.No.13(1)-... dated 12-10-94. In the Survey of India there are...

*Attended
Advocate*

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different grades of Draftsman, namely; (1) Topo Trainee Type B, (2) Draftsman Gr. IV, (3) Draftsman Grade III, (4) Draftsman Grade II and Draftsman Grade I. In this application we are concerned with Draftsman Grade II. In the 2nd Central Pay Commission the scale of pay of Draftsman Grade II of Survey of India was Rs. (205-280). The 3rd Pay Commission merged Grade II and Grade III Draftsman and placed them in the scale of pay of Rs. 330-560/-. However, later on the Government of India decided by O.M. dated 19-3-77 to retained Grade II and Grade III separately and placed them in the scale of pay of Rs. (330-480) and Rs. (425-600/-) respectively. As a result of the 4th Pay Commission, the scale of pay of Draftsman Grade II in the Survey of India became Rs. 1350-2200. The scale of pay of Senior Draftsman in Ordnance Factory was also Rs. 205-280 on the basis of the 2nd Pay Commission. In the 3rd Pay Commission the scale of pay of Draftsman was placed at Rs. 330-560. The Draftsman of Ordnance Factory who were drawing for pay in the scale of pay agitated in the Court of law against this scale of pay of Rs. 330-560. Ultimately in Civil Appeal No. 3121/81 (P. Sabita and others Vs. Union of India), the Hon'ble Supreme Court allowed the replacement of the scale of pay by the scale of pay of Rs. (425-700/-). Consequent to the judgment the Government of India, Ministry of Finance, Department of Expenditure issued the Office Memorandum F.No. 5(13)-E.II/87 dated 11-9-87 extending the benefit of the judgment to similarly placed Draughtsmen in other Ministries/Departments of the Government of India to the effect that the Draughtsmen as were in the pay scale of Rs. 330-560 based on the recommendation of the 3rd Central Pay Commission may be

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Adjusted
Advocate

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given the scale of Rs.425-700 notionally from 1-9-1973 and actually from 1-9-87. In the Central Public Works Department (CPWD) the scale of pay of Draftsman based on the (2nd Pay Commission) was Rs. 180-380. In the 3rd Pay Commission the scale of Draftsman Grade II was Rs.330-560. The Draftsman of C.P.W.D. agitated against this scale of pay and according to the Award of the Board of Arbitration the scale of pay was raised from Rs. 330-560 to Rs. 425-700/-. The Government of India, Ministry of Finance, Department of Expenditure issued O.M.No.F.6/59-E.III/82 dated 13-3-84 to the effect that Draughtsmen Grade II in other offices/Departments of the Government of India may also have the scale of pay of Rs. 425-700 as those of the C.P.W.D. provided the recruitment qualifications of Draughtsmen in these offices or departments are similar to those prescribed in the case of Draughtsmen in the Central Public Works Department. The benefit was to be given notionally with effect from 13-05-82 and actual benefit to be allowed from 1-11-83. The staff side further agitated against the clause of recruitment qualification placed in the above referred to O.M. dated 13-3-84. The Government of India (conceded and revised) this decision according to the office Memorandum No.13(1)-IC/91 dated 19-10-1994. As a result, the Draughtsmen Gr.II in the offices/Department of the Government of India other than CPWD, who were drawing pay in the scale of pay of Rs.330-560/-, also were granted the revised scale of Rs. 425-700/- subject to the conditions laid down in the O.M. (The condition relevant to Draughtsmen Grade II is that the minimum period of service for placement from the post carrying scale of Rs. 1200-2040/- to the post carrying the scale of Rs. 1400-2300 (Pre-revised scale of

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pay Rs.330-560 to 425-700) (is 5 years. This benefit was allowed notionally with effect from 13-5-82 and actually from 1-11-83.

3. Some of the applicants submitted O.A.No.135/95 which was disposed of by the Tribunal on 20-7-95 with a direction to the respondents to consider and decide whether the benefit of the revised pay scales should be extended to the applicants. The applicants were given liberty to approach the Tribunal, if so advised, if the decision of the respondents is against them. The respondents thereafter had issued the order No. SM/06/001/95 dated 31-1-96 which is impugned in the present Original Application No.52/96. According to this order the respondents had considered the question whether the benefit of the revised pay scale extended to the Draftsman in Government office other than the C.P.W.D. vide Ministry of Finance O.M.No.13(1)-IC/91 dated 19-10-1994 referred to above can be extended to the applicants. They had come to the conclusion that the benefit of the O.M. dated 19-10-94 can not be extended to the Draughtsmen of the Survey of India. on the ground that their qualification for recruitment is not similar with that of the Draughtsmen of the C.P.W.D. or other departments, the scope of their promotion is not similar with that of the Draughtsmen of the CPWD, their type and nature of works, duties and responsibilities are not similar with those of the Draughtsmen under the C.P.W.D.

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and their pay structure had not been and is not at par with the pay structure of Draughtsman in the CPWD or in other Organisations.

4. Mr. A. Roy, learned counsel for the applicant, submitted that the grounds given by the respondents in support of their refusal to grant the benefit provided in the O.M. dated 19-10-1994 to the applicants are untenable in view of the stipulations in the O.M. and that the applicants are entitled to the higher pay scale of Rs. 1400-2300/- (Prc-revised scale Rs. 425-700) in terms of the aforesaid O.M. dated 19-10-1994. Mr. A. K. Choudhury, the learned Additional Central Government Standing Counsel, on the other hand, vehemently supported the impugned action of the respondents. We have heard counsel of both sides. We are now to see whether the rejection to grant the benefit provided in the O.M. dated 19-10-1994 to the applicants is at all sustainable.

5. At the outset, we reject the plea of the respondents that the applicants cannot now agitate against the pay scale granted to them as they had accepted the scale of Rs. 425-600/- since 1977 and had never earlier sought for the benefit conferred by the O.M. dated 13-3-1984. It may be true that the applicants did not earlier seek relief from the respondents with regard to the pay scale. But it is clear that the cause of action of the applicants in this Original Application arose after the O.M. dated 19-10-1994 by which the recruitment qualification clause stipulated in the O.M. dated 13-3-1984 was substituted by the minimum period of service clause. This revised order took effect from 13-5-1982 notionally and from 1-11-1983 actually. With the issue of the O.M. dated 19-10-1994 the applicants

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are in a different situation and they were of the view that they could thereafter get the benefit provided in the O.M. from the respondents. They sought for the same but their prayer was rejected by the respondents as per the impugned order dated 31-1-1996. It is this rejection that has given rise to the present Original Application.

6. The O.M. dated 19-10-1994 is concerned with application of the scales of pay of Draughtsman Grade I, II and III in the CPWD to the corresponding Grades of Draughtsmen in other offices/departments of the Government of India. The applicants are Draughtsman Grade II in the Survey of India, which is one of the offices/departments of the Government of India. They are drawing pay in the pay scale of Rs. 1350-2200 (pre-revised Rs. 425-600). The question in this O.A. is whether the applicants are entitled to draw pay in the scale of pay of Rs. 1400-2300 (Pre-revised 425-700). The Draughtsman Grade II in the Survey of India had the same pay scales as those of Draughtsman in other offices/Departments of the Government of India. For instance, their scale of pay on the basis of the 2nd Central Pay Commission was 205-280 as was that of Sr. Draughtsman in Ordnance Factory. In the 3rd Pay Commission their scale of pay was 330-560/- since 1-1-1973 which was same with those of the Draughtsman II in the CPWD and in the Ordnance Factory in whose cases the scales had been raised from 330-560 to Rs. 425-700/-. It was only in 1977

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that the pay scale of the applicants was raised to 425-600/-. Therefore, the applicants, Grade II Draughtsman of Survey of India, were in the scale of pay of Rs. 330-560/- initially and were drawing pay in the same pay scale as those mentioned in the O.M. dated 19-10-1994. The respondents seem to be labouring under a conception that the Draughtsmen of the Survey of India are inferior to or, at least, different from the Draughtsmen in other offices/ Departments of the Government of India. Therefore, according to them, the applicants, who are Draughtsman Grade II in the Survey of India, are not entitled to draw pay in the pre-revised scale of Rs. 425-700 or in the revised scale of Rs. 1400-2300/-. Hence they denied the applicants the benefits granted to Draughtsmen Grade II of other offices/Departments by the O.M. dated 19-10-1994. We are however, unable to agree with the contentions of the respondents in this O.A. The scales of pay granted by the Award of the Board of Arbitration to the Draughtsmen Grade I, II and III of the CPWD were made applicable to the Draughtsmen Grade I, II and III respectively of other offices/ departments of the Government of India, other than the CPWD, by the O.M. Dated 13-3-1984 on condition that their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in the CPWD. Further, those who did not fulfil the condition will continue to draw pay in the corresponding pre-revised scales. These were the only conditions placed in the O.M. dated 13-3-1984 and

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these conditions were done away with by the O.M. dated 19-10-1994, Para 2 of this O.M. dated 19-10-1994 reads:

"2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in offices/Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

- (a) Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (Pre-revised scale Rs. 260-430 to Rs. 330-560). 7 years
- (b) Minimum period of service for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (Pre-revised Rs. 330-560 to Rs. 425-700). 5 years
- (c) Minimum period of service for placement from the post carrying scale of Rs. 1400-2300 to Rs. 1600-2660 (Pre-revised Rs. 425-700 to Rs. 550-750). 4 years

The terms of the O.M. above are clear and unambiguous. No distinction on any ground whatever is made between Draughtsmen Grade I, II and III of one office/department of the Government of India from those of another office or department or CPWD. The O.M. simply lays down that minimum period of service in a particular grade would determine the eligibility and entitlement to be placed in a particular pay scale. It is only the respondents who have brought into the O.M. interpretations extraneous to it in their efforts to deprive the applicants of the benefits granted by the O.M. dated 19-10-1994. This is arbitrary and unfair. The Draughtsmen Grade II in CPWD who were originally placed in the scale of pay of Rs. 330-560 were placed in the scale of Rs. 425-700/- on the basis of the Award. The O.M.

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states that Draughtsman Gr.II in offices/departments of the Government of India other than in CPWD who were drawing pay in the scale of pay Rs. 330-560 may also be placed in the scale Rs. 425-700/-(Pre-revised) subject to certain conditions. The Draughtsman Grade II in the Survey of India were initially in the scale of pay of Rs. 330-560 on the basis of the recommendations of the 3rd Pay Commission till 1977 when their pay scale was raised to Rs. 425-600/-.*In our view under the facts and the circumstances stated herein above the terms of the aforesaid O.M. dated 19-10-1994 are applicable to the applicants. Accordingly, we set aside the impugned order No.SM/06/001/95 dated 31-1-1996. Further, we direct the respondents to place the applicants in the scale of pay of Rs. 425-700(Pre-revised)/1400-2300 (revised) in the manner stipulated in the O.M. No.13(1)-IC/91 dated 19-10-1994 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively. This shall be complied with by the respondents within 3(three) months from the date of receipt of this order by Respondent No.3. The respondents shall also allow the consequential benefits provided in para 3 of the O.M. dated 19-10-1994 mentioned above to the applicants.

The application is allowed in terms of the above directions. No order as to costs.

Certified to be true Copy
with

SE/-VICE CHAIRMAN
SE/-MEMBER (A)

Disputed
Advance

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सिद्धान्त और प्रयोगिक विज्ञान
विभाग
सिद्धान्त और प्रयोगिक विज्ञान
विभाग
सिद्धान्त और प्रयोगिक विज्ञान
विभाग

Min/Telegram : SCIENCE
Min/Phone : (EP/11X)
656733/662819
Min/Telex : 73381, 73317, 73380
Min/Fax : 6864370, 6862118

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Technology Bhavan, New Mehrauli Road, New Delhi-110016

Annexure-6

No.SM/04/010/2000

Dated : 16 October, 2000.

To
The Surveyor General of India,
Survey of India,
Delira Dun - 211001.

(Attention: Shri Jaswant Rai, Deputy Surveyor General)

Sub:- Implementation of directions of C.A.T., Guwahati Bench in O.A. No. 52
Of 1996 - Shri Tulsiram Sharma and others Vs Union of India.

Sir,

I am directed to refer to your letter No.E2-5736/1196-U(T.R. Sharma) dated 28.9.2000 on the subject mentioned above. The problems being faced in implementation of the Tribunal's directions has been considered in the Department and SOI is requested to implement the directions of the Tribunal by taking the service already rendered in the grade of Rs. 330-480 (Grade-III) and keep them in the scale of pay of Rs. 425-600 (Grade-II) till completion of five years. After completion of five years service in the two Grade combined, Grade-III and Grade-II in the pay scale of Rs. 330-480 and Rs. 425-600, they may be placed in the scale of pay of Rs. 425-700. By applying this the eligibility conditions of five years prescribed for placing them in the scale of pay of Rs. 425-700 would be met. After 1.1.1996, the applicants would be placed in the scale of pay of Rs. 5090-8000 instead of Rs. 4500-7000. SOI is requested to take immediate necessary action and intimate the Department the action taken in the matter.

Yours faithfully,

K.P. Nair
(K.P. Nair)
Officer on Special Duty

See p. 30 & WS

भारतीय सर्वेक्षण विभाग
SURVEY OF INDIA

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BY SPEED POST

Annexure-7

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महसर्वेक्षक का कार्यालय

SURVEYOR GENERAL'S OFFICE

डाक बक्सा नं० 37, POST BOX No.37,

देहरादून-248001 (उत्तरांचल) भारत।

DEHRA DUN-248001 (Uttaranchal) INDIA

Dated: 27-03-2001

No. E2-2368/1196-B (TRS)

To

The Directors: ✓ NEC/ ✓ WC/ ✓ NC/ ✓ EC/ ✓ SSBC/ ✓ Survey (Air)/ ✓ NWC

Subj:

IMPLEMENTATION OF DIRECTIONS OF THE HON'BLE C.A.T.,
GUWAHATI BENCH IN O.A. No.52 OF 1996 - SHRI TULSI RAM
SHARMA AND OTHERS V/S UNION OF INDIA

The petitioners - Shri Tulsi Ram Sharma and other Draftsmen have filed a Contempt Case No.3/2000 in Hon'ble CAT, Guwahati which has come for hearing on 27.3.2001. In view of the proceedings of the hearing on 27.3.2001 in the Contempt Case No.3/2000, the orders conveyed vide this office letter No.E2-6463/1196-B (TRS) dated 6.11.2000 (photo copy enclosed) have been reviewed. It has now been decided that the instructions issued vide DST's letter No.SM/04/010/2000 dated 16.10.2000 (photo copy enclosed) may be followed for fixation of pay in respect of petitioners, after they fulfill all the conditions stipulated therein, the benefit of this revision of scales of pay scale be given w.e.f. 13.5.1982 notionally and actually from 1.11.1983. This supersedes all other orders on the subject issued earlier by this office.

In view of the proceedings dated 27.3.2001 in contempt case filed by the petitioners, please ensure that the arrears in respect of the petitioners posted in your Directorate/ Circle be drawn and paid by 17.4.2001 as per the instructions issued vide DST's letter No.SM/04/010/2000 dated 16.10.2000.

Also please confirm compliance by Fax to this office by 17th April, 2001 positively. A list of petitioners is enclosed for your information and necessary action.

Urgent action may please be taken.

Encls: As above.

(S.P. GOEL)

Deputy Surveyor General
for Surveyor General of India

Copy by FAX to:

1. The Secretary to the Govt. of India, Ministry of Science & Technology,
(Department of Science & Technology), New Delhi (Attention: Shri Avinash)

...2

1/3/2001
17/4/01

Attested
Advocate

ANNEXURE-8IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2002

Date of decision: This the 30th day of May 2003

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr S.K. Hajra, Administrative Member

Shri Tulsiram Sharma and 62 others

.....Applicants

The applicants are working as Draftsman
Grade II under the Director, Survey of
India, North Eastern Circle, Shillong
under Ministry of Science & Technology.
Government of India, New Delhi.

By Advocates Mr M. Chanda and
Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the
Secretary,
Ministry of Science & Technology,
New Delhi.

2. The Surveyor General,
Survey of India,
Block A, Nathibarkala Estate,
Dehradun.

3. The Director,
Survey of India,
North Eastern Circle,
Shillong.

.....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E RCHOWDHURY. J. (V.C.)

This application under Section 19 of the
Administrative Tribunals Act, 1985 has arisen and is
directed against the order passed by the respondent No.2
communicated to the Additional Surveyor General, Eastern
Zone, Kolkata vide Memo No.E-2-12553/1196-B-T.R. Sharma
dated 1.8.2001 rejecting the prayer for extension of
the benefit of the pay scale of Rs.550-750 (Pre-revised),

Attested
Advocate.

corresponding revised scale of Rs.1600-2600 (as per IVth Pay Commission) and further revised scale of Rs.5500-9000 as per Vth Central Pay Commission in terms Para 2(c) of the O.M. dated 19.10.1994. The applicants also prayed for a direction on the respondents for extending the aforementioned benefit as per Para 2(c) of the O.M. dated 19.10.1994 with respective date of eligibility attained by the individual applicants in terms of the directions contained in the O.M. dated 19.10.1994.

2. The applicants are 63 (sixtythree) in number who had filed this application. Considering the fact that the applicants have common interest in the matter and having regard to the nature of relief prayed for leave is accordingly granted to espouse their cause by a single application.

3. All the applicants are serving as Draftsman Grade II under the Director, Survey of India, N.E. Circle, Shillong in the revised scale of pay of Rs.5000-9000. The core issue relates to revision of pay scale of Draftsman Grades I, II and III in all Government of India Offices on the basis of the Award of the Board of Arbitration in the case of Central Public Works Department (CPWD for short). The Government of India accordingly issued O.M. dated 19.10.1994 which is reproduced below:

"Subject: Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India Offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to refer to this Department's O.M. No.F(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the Staff side that the following scales of pay allowed to the Draughtsmen Grade I, II and III working in CPWD on the basis of the Award of Board of Arbitration may be extended to Draughtsmen Grade I, II & III

irrespective.....



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irrespective of their recruitment qualification, in all Government of India Offices.

	Original Scale(Rs)	Revised scale on the basis of the Award
Draughtsmen Grade I	425-700	550-750
Draughtsmen Grade II	330-560	425-700
Draughtsmen Grade III	260-430	330-560

2. The President is now pleased to decide that the Draughtsmen Grade I, II and III in Offices/ Departments of the Government of India other than in CPWD may also be placed in the scales of pay mentioned above subject to the following

- (a) Minimum period of service for placement from the post carrying scale of Rs.975-1540 to Rs.1200-2040 (pre-revised scale Rs.260-430 to Rs.330-560).
- (b) Minimum period of service for placement from the post carrying scale of Rs.1200-2040 to Rs.1400-2300 prerevised Rs.330-560 to Rs.425-700).
- (c) Minimum period of service for placement from the post carrying scale of Rs.1400-2300 to Rs.1600-2600 (Pre-revised Rs.425-700 to Rs.550-750).

Once the Draughtsmen are placed in the regular scales, further promotion would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of scale of pay scale be given with effect from 13.5.82 notionally and actually from 1.11.83."

4. The applicants first moved the authority for giving effect to the aforementioned O.M.. Failing to get appropriate remedy from the department, the applicants moved this Tribunal by way of O.A.No.135 of 1995. The Tribunal by order dated 20.7.1995 disposed of the same with a direction to the respondents to consider and decide whether the benefit of the revised pay scale could be extended to the applicants. By order dated 31.1.1996 the claim of the applicants was rejected and therefore, the applicants moved this Tribunal again by way of O.A.No.52 of 1996. The said O.A. was finally disposed of

by.....



by this Tribunal. The Tribunal by Judgment dated 17.7.1997 held that the O.M. dated 19.10.1994 was squarely applicable to the applicants. The order dated 31.1.1996 passed by the authority accordingly was set aside. The respondents were directed to place the applicants in the scale of pay of Rs.425-700 (pre-revised) in the manner stipulated in the O.M. dated 19.10.1994 and to allow the applicants to draw the scale with effect from the date applicable in the case of each applicant respectively. The respondents thereafter moved the High Court by way of an application under Article 226 and the High Court by Judgment and Order dated 31.7.1999 in Civil Rule No.4733 of 1997 rejected the Writ Petition. The respondents thereafter also moved the Supreme Court by an SLP. The Supreme Court declined to interfere and the SLP accordingly was rejected. The Judgment and Order of the Tribunal dated 17.7.1997 was finally ordered to be implemented by the respondents vide communication dated 27.3.2001. The applicants thereafter made representations before the authority praying for grant of higher scale of pay of Rs.550-750 corresponding to revised scale of Rs.1600-2600 and the further corresponding scale of Rs.5500-9000 as per the Vth Central Pay Commission recommendations in terms of the O.M. dated 19.10.1994 with all consequential benefits. By the impugned order dated 1.8.2001 the claim was rejected by communication sent from the Surveyor General's Office, Survey of India, Dehradun addressed to the Additional Surveyor General, Eastern Zone, Kolkata. The full text of the order dated 1.8.2001 reads as follows:

"It is to inform you on th subject in regards to Ministry of Finance O.M.No.13(1) IC/91 dated 19.10.94 para 2 (c) that the Draughtsmen Gde I post.....

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post mentioned therein is not existing in this Department.

2. In the Department D/Man Gde II are promoted to D/Man Dir.I through DPC. The posts of D/Man, Div.I are fixed post and promotion are given through DPC and against available vacancies.

In this regard your attention is invited to paragraph 3 of Ministry of Finance O.N. dtd 19.10.94."

Hence this application assailing the legitimacy of the action of the respondents.

5. The respondents submitted their written statement denying and disputing the claim of the applicants.

6. The demand of the applicants centred round their claim to the effect that they had completed four years of service as Grade II Draftsman and therefore, they were all eligible by virtue of further four years of service rendered by them and therefore, they were to be elevated to the next higher grade of Draftsman in the pre-revised scale of Rs.550-750 which after the revision of the pay scales by the Vth Central Pay Commission was equivalent to Rs.5500-9000. According to the applicants on the strength of the order dated 19.10.1994 the incumbents of the post of Draftsman of the Organisation were entitled for the weightage on account of the service rendered for placement in different scales of pay. In short, the applicants claimed that the authority sought to device a scheme for parity of pay to the Draftsman with the CPWD. The applicants contended that by the aforementioned O.M., the Government of India, taking into consideration the Award of the Board of Arbitration in favour of the Draftsman Grade I, II and III working in the CPWD took a conscious decision to the effect that the Draftsman Grade I, II and III in the Offices/Departments of the Government.....



Government of India other than in CPWD was to be placed in the revised scale of pay on the basis of the Award subject to minimum period of service as mentioned in Clauses (a) (b) and (c) in para 2 of the O.M. dated 19.10.1994.

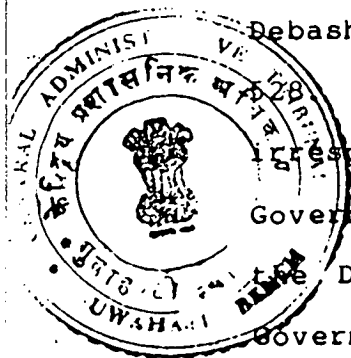
7. The respondents seriously contested the claim and contended that the Draftsman who found his place in the hierarchy and when a regular scale was provided, the same could be revised/upgraded only by way of promotion subject to DPC and availability of vacancy.

8. The answer to the controversy is discernible on bare perusal of paras 2 and 3 of the O.M. dated 19.10.1994 which was reproduced earlier. The issue is no longer res integra in view of the decision rendered by the Supreme Court in Union of India and others Vs.

Debashis Kar and others, reported in 1995 Supp (3) SCC

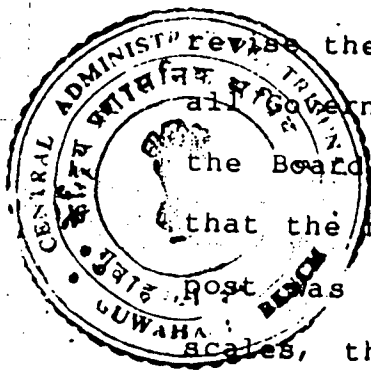
The O.M. dated 19.10.1994 itself indicated that irrespective of the recruitment qualification in all Government of India Offices the authority decided that Draftsman Grade I, II and III in Office under the Government of India other than CPWD were to be placed

under the revised pay scale subject to the minimum period of service as mentioned in clauses (a) (b) and (c) of para 2 of the O.M. The benefit of the revision was given retrospectively with effect from the same date as was given by the O.M. dated 13.3.1984 i.e. notionally from 13.5.1982 and actually from 1.11.1983. The Draftsman who fulfilled the requirement relating to the period of service mentioned in the O.M. on the relevant date would be entitled to the revised pay scale of Draftsman in CPWD irrespective of their recruitment qualification.



9. Mr A.K. Chaudhuri, learned Addl. C.G.S.C., strenuously urged that providing higher scale meant for higher grade could be given only after promotion. Higher scale cannot be given automatically by virtue of number of years of service. The learned Addl. C.G.S.C. particularly stressed on para 3 of the O.M. dated 19.10.1994 and emphasised on the expression, "Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules".

10. A perusal of paras 2 and 3 of the O.M. dated 19.10.1994 makes the position clear. The O.M. communicated the decision of the President of India to revise the pay scale of Draftsman Grade I, II and III in all Government of India Offices on the basis of Award of the Board of Arbitration into the pay scale of CPWD. By that the minimum service for placement for carrying the post was defined. The order was for placement in the scales, that means to put in the proper position. The scale only mentioned the succession or progression of the rates of pay. Para 3 of the O.M. resolves the doubt, whereby it indicated the decision of the authority in placement of the Draftsman. It was made clear that once the Draftsman were placed in the regular scale, i.e. the scale cited in the communication, further promotions would be made against available vacancies in higher grade in accordance with the normal eligibility criteria. The expression 'regular' is an adjective which means "evenly" or "uniformly arranged" recurring at fixed times like regular incumbents etc. The aforementioned O.M. only indicated.....



indicated that pay scales conform to some accepted norm. Minimum period of service for placement were defined for Draftsman in Grade I, II and III. In Debashis Kar's case (Supra), similar argument was advanced on behalf of the Union of India which was turned down. Paras 2 and 3 of the O.M., read conjointly leaves no scope to refuse the benefit of para 2 (c) of the O.M. dated 19.10.1994 to the applicants.

11. For all the reasons cited above and the in the facts and circumstances of the case, the impugned order dated 1.8.2001 is liable to be set aside and the same is accordingly set aside. The respondents are directed to grant the revised higher pay scale of Rs.550-750 (pre-revised) corresponding to Rs.1600-2600 (revised as per IVth Central Pay Commission) and the further corresponding scale of pay of Rs.5500-9000 as per the Vth Central Pay Commission recommendations, with all consequential benefits with effect from the date applicable in the case of each applicant.

12. The application is thus allowed. There shall, however, be no order as to costs.

Sd/ vice-CHAIRMAN

Sd/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

nkm

Section Officer, CP
C.A. L. G. H. P. S. R. H.
Gwalior, M.P.

27/6

Attested
Advocate.

206

on for	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
on	8/1/04	8/1/04	8/1/04	8/1/04

Annexure-9

IN THE GAUTAM HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

Civil Rule

WP (C) No. 9786 of 2003

Appellant

Petitioner

The Union of India & ors

Versus

Shri Dulai Ram Barma & ors

Respondent

Opposite Party

Appellant

MR. C. Chowdhury

Petitioner

Shri C. S. S. C.

Respondent

Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Attested
Advocate.

V. S. S. C.

AND

IN THE MATTER OF

Union Of India
Through The Director,
Survey Of India,
North Eastern Circle,
Shillong.

Vs.

1. Sri Tuls Ram Sharma
2. Smt. Jaya Adhikari
3. Sri Satvjit Kumar Dey
4. Sri Pradip Kumar Neogi
5. Smti Nandita Das
6. Sri Krishna Bahadur Gurung
7. Smti Pandora Soluklet
8. Smti Meries Nareen Laloo
9. Sri Annu Kumar Paldip
10. Smti Shanti Kumari
Ghimire
11. Smti Lamzuali
12. Smti Rekha Mech
13. Sri Dilip Kumar Deka
14. Sri Sudip Dutta Choudhary
15. Sri Dondor Singh Lathang
16. Sri Prehash Paul
17. Smti Erboline Majaw
18. Smti Spizian Kharangi
19. Smti Everymai Warjri
20. Smti Evelynora Rengksa
21. Smti Ritikoina Majaw

12/5/11

208

22. Shri Mustaqua Ahmed Swer
23. Smti Portila Khyllap
24. Smti Arunima Dutta
25. Smti Soliana Kharkongor
26. Smti Manjula Bhattacharjee
27. Smti Hildaline Mlawkhiew
28. Smti Tapashi Misra
29. Smti Arubha Roy
Choudhury
30. Smti Caroline Lamo
31. Smti Fedalis Jurve
32. Sri Suresh Chandra Roy
33. Shri Syed Azizur Rahman
34. Sri Biswadatta Das
35. Sri Maflinson Mellicon
Umloig
36. Sri Abdul Mannan
37. Sri Thrasternal Lyndoh
38. Sri Lok Bahadur Pradhan
39. Sri Durgesh Pukayastha
40. Sri Emphiwal Jartang
41. Sri Brington Dolkrut
42. Sri Sunil Chandra Sabdakar
43. Smti Golzona Mary Sohten
44. Smti Regina Ceali Nongbri
45. Smti Davorali Majaw
46. Smti Shanta Ghosh
47. Km. A. Tombi Singha
48. Smti Kbina Lyngdoh
Nongbri
49. Smti. Hassibon Lyngdoh
50. Smti Kitalin Mukhin
51. Smti Rufina Kharbuki

1/20/1

52. Smti. Maria Auxilia

Kharbuki

53. Smti. Nestinola Kharbtem

54. Smti Sara Daplying

Nonghsap

55. Smti Dipti Kar

56. Emt. Kanta Nongkynrili

57. Smt Merdalyng diengdoh

58. Smt Margarita Sanian

59. Smt Rita Tarafdar

60. Smt Junu Sarmah

61. Smt Aruna Gupta

62. Sri Tapan Kumar Mondal

63. Sri Tara Prasad Kharel

All the respondents are working as

Draftsman Gr.II under the Director,

Survey of India, North Eastern Circle

Shillong, under Ministry of Science &

Technology, Government of India,

New Delhi.

... Respondents

12/11/87

210

- 57

5

Filed by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>WP(C) NO. 9786/2003</p> <p>BEFORE HON'BLE THE CHIEF JUSTICE MR PP NAOLEKAR HON'BLE MR JUSTICE IA ANSARI</p> <p>09-12-2003</p> <p>Heard Mr C Choudhury, learned Sr Central Govt Standing Counsel appearing for the petitioners. Also heard the learned counsel for the respondents.</p> <p>The respondents who were Draftsman Grade-II In Survey of India Department have been given pay scale of Rs.425-700/- on completion of 5 years of service, as provided under the Circular of the Govt of India dated 19-10-1994. In that pay scale the respondents have further completed 4 years of service and claimed the pay scale of Rs.1600-2600/-, as provided under Circular dated 19-10-1994. The Central Administrative Tribunal, Guwahati Bench complying the circular of the Govt of India has directed payment of the pay scale of Rs.1600-2600/- to the Draftsmen Grade-II. Admittedly, the respondents were in the pay scale of Rs.425 - 700/- On completion of their 5 years of service and on completion of further period of 4 years they are entitled to get the revised pay scale as provided under Clause 2 (c) of the Circular. We may make it clear that this is a revision in the pay scale on account of the particular number of years of service rendered by the respondents and it does not mean that they have been given promotion to the higher post. The Central Administrative Tribunal has rightly given the pay scale to the respondents. We do not</p>

12/8/01

Any Officer or Advocate	Serial No.	Date	Office notes, reports, orders or process with signature

Find any good or sufficient reason to interfere with the order passed by the Tribunal.
The petition is dismissed.

Sd/- T. A. Anusari
Judge

Sd/- P. P. Maabokevi
Chief Justice

CERTIFIED TO BE TRUE COPY
Shri Anusari T. A.
 Date 8/11/04
 Superintendent (Copying Section)
 Garhwal High Court
 Authorised U/S 76, Act I, 1872.

P NO 6329
8/11/04

Attested
Advocate

212
59-
Annexure - 10 (Series)
The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

✓ The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

(through proper channel)

SUB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT. GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir.

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14 2002 of Hon'ble CAT. Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D'Man Gde-II and have acquired the requisite illegibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14 2002. This is for your kind information and necessary action please.

Thanking you.

Yours faithfully.

Dated : Shillong Nov
the 9th Oct, 2004.

Signature : Amranda
Name : ASHOK MONDAL
Designation : D'Man Gde II
Unit : Assam & Nagaland GDC

Attested
Advocate

- 60 -

2/3

The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

(Through Proper Channel)
The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

SUB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

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That Sir, I being the similarly placed D Man Gde-II and have acquired the requisite eligibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14 2002. This is for your kind information and necessary action please.

Thanking you.

Yours faithfully,

Dated : Shillong
the 8th Nov
Oct 2004.

Signature : [Signature]
Name : CHHUMA DUTTA CHAUDHURY
Designation : D.Man Gde II
Unit : Data Transformation Wing

डायरी नं०..... फाइल नं०..... दिनांक.....
1157 J.D.C. 09-11-04
Daily No.... File No..... Date...

214
C
09/11/04
9/11
- 61 -
(42)
The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

Through proper Channel
The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

UB : PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

REF : Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir,

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14 2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 as already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D.Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D.Man Gde-II and have acquired the requisite eligibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14 2002. This is for your kind information and necessary action please.

Thanking you.

Yours faithfully.

R. Mendon

(Ratna Mendon)

D/Man, Gde-II

Dated : Shillong
the 5th Nov
Oct, 2004.

Signature : R. Mendon
Name : Ratna Mendon
Designation : D/Man, Gde-II
Unit : Data Transformation Wing

डाक्टो ह'०..... फाइल नं'०..... दिनांक.....
1155- R-M- 09 11-04
Daisy No., File No., Date..

To

The Director,
Meghalaya & Arunachal Pradesh GDC,
Survey of India,
Shillong.

(Through Proper Channel)

The Director,
Assam & Nagaland GDC,
Survey of India,
Guwahati.

SUB: PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30-05-2003 IN O.A. NO.14/2002

REF: Your No.C-353/17-Y-9 (TRS) dated 23-07-2004.

Respected Sir,

With reference to the subject above, I have the honour to state that the applicants in the O.A. No.14/2002 of Hon'ble CAT, Guwahati Bench, and its Judgment and order dated 30-05-2003 has already been implemented in revised scale of pay to them vide your letter under reference in the scale of pay Rs.5500-9000 to D Man Gde-II as per the O.M. dated 19-10-94 issued by Govt. of India and the same O.M. was upheld by the Hon'ble Supreme Court of India.

That Sir, I being the similarly placed D Man Gde-II and have acquired the requisite eligibility criteria laid down in the aforesaid O.M. dated 19-10-94. As such, I am now entitled to get the monetary benefits including arrear of pay in the scale of Rs.5500-9000 from the retrospective date due to me as laid down in the O.M. dated 19-10-94. There fore, I request you kindly to grant the benefits of financial up-gradation due to me in the scale of pay Rs.5500-9000 from the due date admissible as per the applicants in O.A. No.14/2002. This is for your kind information and necessary action please.

Thanking you.

Yours faithfully.

Ahankorobly
(Anjali Chakraborty)
D/man (Gd-II)

Dated : Shillong
the 3rd Oct, 2004.

Signature : Ahankorobly
Name : Anjali Chakraborty
Designation : D/man, Gd-II
Unit : Data Transformation

हायरी सं०..... फाइल सं०..... दिनांक.....
1156 A C-B- 9-11-04
Dairy No.... File No.... Date...

2/6
☎ 0364-224937
GRAM: "SURNOREAST"
FAX 0364-224937
E-Mail soil@sancharnet.in



MEGHALAYA & ARUNACHAL
PRADESH GDC
POST BOX NO. #89
MALKI, SHILLONG - 793 001

197
SURVEY OF INDIA

No. C 117-Y-9/TRS

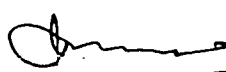
Annexure - 10 (series)
Dated, the 22nd Nov, 2004

To
The Surveyor General of India,
Dehra Dun.

Sub: PRAYER FOR IMPLEMENTATION OF HON'BLE CAT, GUWAHATI BENCH,
JUDGEMENT AND ORDER DATED 30.05.2003 IN O.A. NO.14/2002

Please find enclosed one copy each of 8 (eight) applications all dated 08 Nov'04, received from Smt. Anjali Chakraborty, D'man Grade II and 7 (seven) other Draftsman Grade II of this Centre for favour of your perusal and further action at your end, please.

Encl: As above.


19/11/04
(U.N. MISHRA)
DEPUTY DIRECTOR,
(ON CURRENT DUTY CHARGE)
FOR DIRECTOR, MEGHALAYA & Ar.P. GDC

Attested
Advocate

No. 6/1/98-IC
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
(IMPLEMENTATION CELL)

2/1
Annexure-11

New Delhi, dated June 1, 2001.

Subject: Recommendations of the Fifth Central Pay Commission - Revision of pay scales of Draughtsmen in Government of India Offices.

In pursuance of an award of the Board of Arbitration, Draughtsmen in Grades I, II and III in the Central Public Works Department in the 3rd CPC pay scales of Rs. 425-700, Rs. 330-560 and Rs. 260-430 respectively were placed in the higher pay scales of Rs. 550-750, Rs. 425-700 and Rs. 330-560 respectively. Orders were also issued subsequently in this Department's O.M. No. F. 5(59)-E.III/82 dated March 13, 1984 extending these scales of pay to Draughtsmen in all the Government of India offices notionally from May 13, 1982 and actually from November 1, 1983, subject to their recruitment qualifications being similar to those applicable in the Central Public Works Department. Following further consideration, orders were issued in this Department's O.M. No. 13(1)-IC/94 dated October 19, 1994 extending the corresponding 4th CPC pay scales to even those not possessing the prescribed qualifications, subject to the condition that they had instead rendered the length of service prescribed therein specifically for the purpose.

2. The Fifth Central Pay Commission having been appointed in the meantime, the benefits of the higher scales had not flown, as envisaged, to all personnel in various departments who had not completed the prescribed service in the applicable scales of pay. The Fifth Central Pay Commission had also further revised the scales of pay of the common category of Draughtsmen.

3. The Staff Side had invited attention to the anomalous situation that had arisen as a consequence in the National Anomalies Committee. They had raised the demand that the revised pay scales recommended by the Fifth Central Pay Commission should be extended to the Draughtsmen in all Central Government offices due weightage being given for the service rendered by personnel not possessing the prescribed qualifications in different departments as envisaged in this Department's O.M. dated October 19, 1994. Following consideration of this demand in consultation with the Staff Side, the President is now pleased to decide that Draughtsmen in different departments other than the Central Public Works Department, who do not possess the prescribed qualifications and excluding those who have already derived the benefits envisaged in the O.M. dated October 19, 1994, may be placed in the scales of pay recommended by the 5th CPC on completion of the minimum service (including service rendered in the corresponding pre-revised scales) as indicated below:

Minimum period of service to be rendered for placement from the scale of Rs. 3200-4900 (pre-

..... 5 years

Attested
Advocate

2/8

revised: Rs. 715-1540) to the
scale of Rs. 4000-6000 (pre-
revised: Rs. 1200-2040)

Minimum period of service to be
rendered for placement from the
scale of Rs. 4000-6000 (pre-
revised: Rs. 1200-2040) to the
scale of Rs. 5000-8000 (pre-
revised: Rs. 1400-2300 revised
to Rs. 1500-2660 by the 5th C.P.C.)

8 years

Minimum period of service to be
rendered for placement from the
scale of Rs. 4500-7000 (pre-
revised: Rs. 1400-2300) to the
scale of Rs. 5500-9000 (pre-
revised: Rs. 1640-2900)

6 years

4. In determining the eligibility to be placed in the revised scales of pay, the service already rendered in the pre-revised scales will also be duly taken into account. Once the Draughtsmen in various Central Government Departments are placed in the applicable revised scales of pay, further promotions to the higher grades will be made only against available vacancies in such higher grades in accordance with the normal eligibility criteria prescribed in the Recruitment Rules.

5. Those orders shall be applicable to such of those Draughtsmen in various Central Government Departments who had not derived the benefits envisaged in this Department's O.M. dated October 19, 1994 as on January 1, 1996. The revised pay scales shall also be extended to them only on their fulfilling the revised eligibility criteria now prescribed in paragraph 3 above.

6. Draughtsmen who have already been covered by the orders contained in the O.M.s dated March 13, 1994 and October 19, 1994 shall be eligible to be placed only in the applicable revised scales of pay already approved for the common category of Draughtsmen in pursuance of the recommendations of the Fifth Central Pay Commission.

7. Ministries/Departments of the Government of India may also initiate immediate action, in consultation with the Department of Personnel & Training, to amend the Recruitment Rules in respect of the posts of Draughtsmen administered by them so that these conform to the recommendations of the Fifth Central Pay Commission.

8. Hindi version will follow.

(MANGI JOSHI)
Deputy Secretary to the Government of India

To

All Ministries/Departments of the Government of India
as per Standard Mailing List.

-66-

भारत सरकार
विज्ञान और प्रौद्योगिकी मंत्रालय
विज्ञान और प्रौद्योगिकी विभाग
टेक्नोलॉजी भवन, नया महरौली रोड, नई दिल्ली-110016

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY.
Department of Science & Technology
Technology Bhavan, New Mehrauli Road, New Delhi-110018

E-2
29/10/2001

SCIENTECH
(RPABX)
6567373/6962819
73381, 73317, 73280
6864570, 6862418

Annexure-12

Dated : October 22, 2001

No.SM/04/10/2000

To
The Surveyor General of India,
Survey of India,
Dehra Dun - 248001.

(Attention: Lt. Col. V.R. Mahendra, Deputy Surveyor General)
Subj:- Recommendation of the Fifth Central Pay Commission - revision of pay
scales of Draughtsmen in govt. of India offices.

Sir,

I am directed to refer to your letter No E2-7588/1904-PC-V dated 9th October, 2001 on the subject mentioned above and to inform that the proposal for granting benefits under Ministry of Finance, Department of Expenditure (Implementation Cell)'s OM No. 6/1/98-IC dated 1.6.2001 was taken up with Ministry of Finance. However, they have informed that MOF order of 1.6.2001 is not applicable to the Draughtsmen in Survey of India. In this connection, reference is invited to this Department's letter No. SM/04/010/2000 dated 19.10.2001 (copy enclosed for ready reference).

Yours faithfully,

Encl: as above.

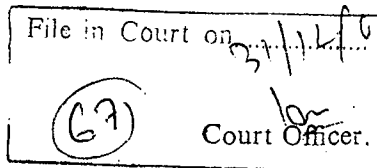
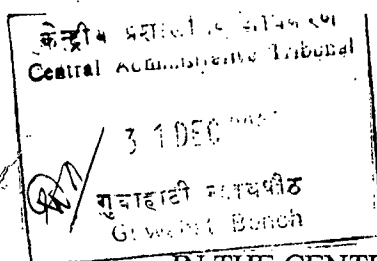
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No. 2443/2001

V.P. Nair
Staff Officer

Attested
Advocate

भारत सरकार का कायदा
नं. 29/10/01
देहरादून

RECEIVED
OCT 25 2001
NO. 2443/2001



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF:

O.A.No.322/06

Ashok Mandal

...Applicant

-Vs-

Union of India and ors.

...Respondent.

-AND-

IN THE MATTER OF:

Written statement on behalf of
respondents no.1 to 4.

(WRITTEN STATEMENT ON BEHALF OF RESPONDENTS NO.1-4)

I, Shri Rajendra Mani Tripathi, son of Sri G. M. Tripathi, presently working as the Director, Assam and Nagaland GDC, Ganeshguri, Guwahati-781006, do hereby solemnly affirm and state as follows:-

1. That I am the Respondent No. 3, the Director, Assam and Nagaland GDC, Ganeshguri, Guwahati. The copies of the aforesaid application have been served upon respondents 1 to 4. I have gone through the same and being the Superintending Surveyor for the Director, Assam and Nagaland GDC, have understood the contents thereof. I have been authorized to file this written statement on behalf of the respondents no. 1, 2 and 4. I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

2. That Sri T.R.Sharma and 75 other applicants who were draftsmen Grade II under the Director, Survey of India, Northern Eastern Circle, Shillong, filed a case bearing O.A.no.52/96 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, claiming pay scale of Rs.425/- - Rs.700/- (3rd CPC) corresponding scale of Rs.1400/- - Rs.2300/- (4th CPC) as per conditions incorporated in paragraph 2 (b) of O.M.no.13.(1)-IC/91 dated 19.10.94.

3. The said O.A.no.52/96 was allowed by this Hon'ble Tribunal vide order dated 17.07.97. In the said judgment the Hon'ble Tribunal directed as follows:-

"....Further, we direct the respondents to place the applicants the scale of pay of Rs.425-Rs.700/- (Pre-revised)/ Rs.1400-2300 (revised) in the manner stipulated in the O.M.13 (1)- IC/91 dated 19.10.94 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively....."

Filed by: -
The Respondent No. 1 to 4

Through:-
Marjula Das
Asst. Secy
GAT
31/12/07
220

Signature

22/

2 (68)

4. That being aggrieved with the judgment dated 17.07.97 the respondents preferred a writ petition being Civil Rule no.4733/97 and after hearing the Hon'ble High Court vide judgment dated 31.07.99 affirmed the judgment of the Hon'ble Tribunal. Thereafter the respondents preferred S.L.P. Appeal (Civil) 2000 C.C. 2082/2000 and the Hon'ble Supreme Court was pleased to uphold the above decision order dated 31.03.2000. Accordingly the respondent complied with the Court's order and decided to implement the judgment for applicants only.

5. That since the benefit of the judgment had not been extended to all other similarly situated D/Men of Survey of India, therefore, Draftsman Cartographic Association had filed an O.A.no.2094/2001 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of judgment dated 17.07.97 passed by the Hon'ble Tribunal, Guwahati Bench. The Principal Bench vide order dated 07.02.2002 allowed the application and accordingly the respondents carried out the direction passed in the judgment dated 07.02.2002.

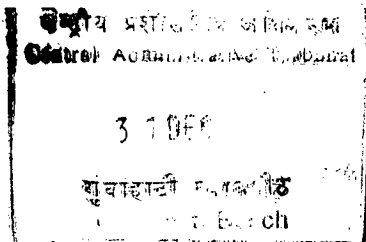
6. That in the meantime Government of India, Ministry of Finance had issued another O.M. no.6/1/98-IC dated 01.06.2001. As per the said O.M. under clause 5 the orders incorporated in the present O.M. is applicable to such D/Men who had not derived the benefits envisaged in O.M. dated 19.10.94 as on 01.01.96. Consequently by the present O.M. dated 01.06.01 superseded the earlier O.M. dated 19.10.94.

7. That, Sri T.R. Sharma and 62 other applicants again approached the Central Administrative Tribunal, Guwahati Bench vide O.A.no.14/2002 for grant of next higher pay scale of Rs.550-750/- (3rd pay Commission) corresponding to Rs.1600-2600/- (4th pay Commission) and corresponding scale of pay of Rs.5500-9000/- (revised as per 5th CPC recommendation). The said O.A. was allowed vide order dated 30.05.03 with a direction to grant them higher scale of pay of Rs.550-750 (3rd pay commission) corresponding to Rs.1600-2600 and corresponding scale of Rs.5500-9000 (5th CPC recommendation) with all consequential benefits with effect from the date applicable in the case of the each applicant.

8. That being aggrieved the respondents preferred a writ petition C.R. no.9786/2003 and the same was dismissed vide order dated 09.12.2003, thereafter a S.L.P. (Civil) CC no.5398/04 was preferred against the said dismissal and the Hon'ble Supreme Court vide order dated 19.07.2004 dismissed the Special Leave Petition.

Thereafter the respondent complied with the Court's order and instructed the concerned department to implement the CAT's order dated 30.05.03 in O.A. no.14/02 for the applicants only vide letter dated 23.08.04.

9. That, thereafter similarly situated D/men (Cartographic) Association vide their letter dated 26.07.04 made prayer to the respondents for implementation of order dated 30.05.03 to all the similarly placed D/men.



10. Thereafter the respondent no.2 wrote a letter dated 11.10.2004 to Department of Science and Technology to issue the necessary instruction into the matter. In this connection the department of Science and Technology vide letter no.SM.04/014/02 dated 15.06.05 has informed as follows:

“ The matter of extending the benefit of the order dated 30.05.2003 in O.A. no.14/02 to all similarly placed D/Men has not been accepted by the Ministry of Finance that as per extent policy the benefit of any judgment can be extended only to all the applicants and not all similarly placed persons.”

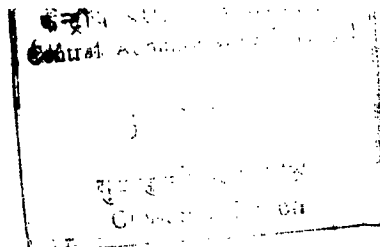
11. That since the benefit of judgment dated 30.05.03 has not been extended to all other similarly placed D/men, therefore D/men Cartographic Association had filed again another O.A. no.457/2005 and M.A. no.433/05 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of judgment and order dated 30.05.03 passed by the Hon'ble CAT, Guwahati Bench in O.A. no.14/02. The said O.A. no 457/05 has been dismissed by the Hon'ble CAT, Principal Bench, New Delhi, vide judgment dated 27.02.06 on the following grounds:-

- (I) With the recommendation and implementation of the 5th CPC with effect from 01.01.96 the earlier O.M. dated 19.10.1994 stands superseded, since the revised pay scale has come into force from 01.01.96, the O.M. dated 19.10.94 loses its significance as well as application.
- (II) If, the applicants were granted the benefit of the scale of Rs.5000-8000 (Pre-revised 1600-2600) only in the year 1994 then even as per the earlier criteria they must wait for 4 years which time would expire only after 01.01.1996 since in the meantime the pay scale were revised one cannot be allowed to content that he would continue to be governed by old O.M. dated 19.10.1994.

12. Thereafter the D/men Cartographic Association has filed a review application no.63/06 in O.A. no.457/05 to review the final judgment dated 27.02.06 passed in 457/05 before the Hon'ble CAT New Delhi. The said review application has also been dismissed by the Hon'ble Tribunal vide order dated 18.08.06.

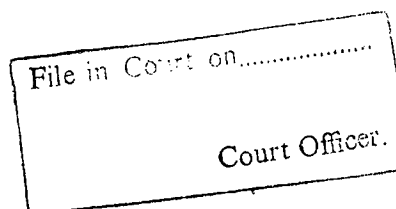
13. Thereafter the respondent authority complied with the order of Tribunal and implemented the judgment dated 27.02.06 in O.A. no.457/05 and 18.08.06 in Review Application 63/06 and consequential benefits have also been allowed to all eligible D/Man of Survey of India. Consequently gazette notification of recruitment rules of draftsmen cadre of Survey of India has been published which has been issued in Gazette of India in accordance with O.M. dated 01.06.2001.

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14. Facts of the case:-

- 14.1 That with regard to the statements made in paragraphs 4.1 and 4.2 of the application the humble answering respondents have no comments to offer.
- 14.2 That with regard to the statements made in paragraph 4.3 of the application the humble answering respondents beg to state that Sri. T.R. Sharma and 62 other applicants approached the Hon'ble CAT, Guwahati Bench vide O.A. no. 14/2002 for grant of next higher pay scale of Rs.550-750/- (3rd Pay Commission) corresponding to Rs.1600-2600/- (4th Pay Commission) and corresponding scale of pay of Rs.5500-9000/- (Revised as per 5th C.P.C. recommendation) as 2(C) of O.M. dated 19.10.94. The said O.A. was allowed vide order dated 30.05.03 with a direction to the respondents to grant them the higher pay scale, corresponding scale of pay of Rs.5500-9000/- (revised as per 5th CPC recommendation) with all consequential benefits with effect from the date applicable in the case of each applicant. Ministry of Finance agreed to implement the Central Administrative Tribunal's order dated 30.05.03 for the applicants only as conveyed vide ^{D.T.} letter no.SM/04/014/2002 dated 23.08.2004. Hence the benefits of judgment dated 30.05.03 cannot be extended to the present applicants.
- 14.3 That with regard to the statements made in paragraphs 4.4 and 4.5 of the application the humble answering respondent has nothing to make comment on it as they are being matters of the records of the case.
- 14.4 That with regard to the statements made in paragraph 4.6 of the application the humble answering respondents beg to state that the benefit of the Office Memorandum dated 13.03.84 was not extended to D/men of Survey of India due to differences in eligibility criteria in regards to the qualification of the recruitment policy of the D/men of Survey of India and D/Men of C.P.W.D.
- 14.5 That with regard to the statements made in paragraph 4.7 of the application the humble answering respondent begs to state that it is not correct that the respondent no.2 did not take any steps regarding implementation of the O.M. dated 19.10.94. The said contention made by the applicant is wrong, baseless, false and imaginary.
It is to be stated here that Sri T.R. Sharma and 75 others D/Men of Survey of India approached before the Hon'ble CAT, Guwahati Bench by filing O.A. no.52/96 claiming the pay scale of Rs.425-700/- (3rd C.P.C) corresponding scale Rs.1400-2300/- (4th C.P.C) as per condition incorporated in paragraph 2(b). The

said O.A. was allowed to the above applicants of the case only vide Tribunal order dated 17.07.97. Thereafter the Hon'ble Gauhati High Court as well as Hon'ble Supreme Court of India upheld the decision vide order dated 31.07.99 and 31.03.2000 respectively to the applicants only. The Department of Science and Technology vide letter no. SM/04/010/2000 dated 19.04.2000 also directed to implement the above judgment for applicants only.

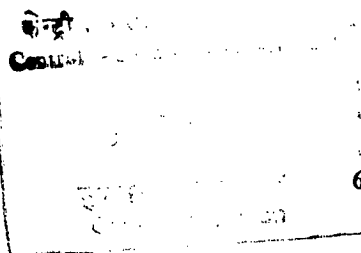
Further since the benefit of above judgment had not been extended to all other similarly placed D/Men of the Survey Of India, the Draftsmen Cartographic Association filed an O.A. no.2094/2001 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of the judgment dated 17.07.97 to all similarly placed persons. The said O.A. no.2094/2001 was allowed by Hon'ble CAT, Principal Bench, New Delhi vide order dated 07.02.02. The respondent respectively implemented the above judgment dated 07.02.02 accordingly.

The humble answering respondents beg to state that in the mean time the Government of India, Ministry of Finance has issued another O.M. no.6/1/98-IC dated 01.06.01 as per the recommendation on 5th C.P.C. The O.M. dated 01.06.01 is applicable to such those draftsmen who had not derived the benefits envisaged in O.M. dated 19.10.94 as on 01.01.96. There is very much difference in the residency period mentioned in O.M. dated 19.10.94 and 01.06.01. Hence O.M. dated 19.10.94 was superceded by O.M. dated 01.06.01 on the recommendation of 5th C.P.C.

14.6. That with regards to the statements made in paragraph 4.8 of the application the humble answering respondents have nothing to make comment on it as they are being matters of records of the case.

14.7. That with regard to the statements made in paragraph 4.9 of the application the humble answering respondent begs to state that Sri T.R. Sharma and 62 others D/Men approached the Hon'ble CAT, Guwahati Bench, vide another O.A. no.14/02 for grant of next higher pay scale of Rs.550-750 (3rd C.P.C) corresponding to Rs.1600-2600 (4th C.P.C) corresponding scale of Rs.5500-9000 as per 5th C.P.C. as per O.M. dated 19.10.1994. The said O.A. was allowed by order dated 30.05.03 with a direction to the respondent to grant them the higher scale of pay with all consequential benefits with effect from the date of applicable in case of each applicant.

The benefit of the above judgment dated 30.05.03 had been given to the applicants only and not all similarly placed person. Hence the applicants claim is wrong and not tenable.



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14.8. That with regard to the statements made in paragraph 4.10 of the applications the humble answering respondent has nothing to make comment on it.

14.9. That with regard to the statements made in paragraph 4.11 of the application the humble answering respondents beg to state that the benefit of Office Memorandum dated 19.10.94 has already been allowed to the present applicant as per judgment and order dated 07.02.02 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, in O.A.no.2094/2001 filed by the Draftsman Cartographic Association. The direction of the order dated 07.02.02 accordingly carried out by the respondents. Thus the benefits of O.M. No.7094/2001 dated 19.10.94 are being enjoyed the applicants.

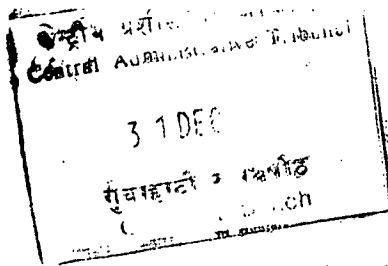
14.10. That with regards to the statements made in paragraph 4.11 of the application the humble answering respondent has nothing to make comment on it as they are being matters of records of the case. He however, does not admit any statements which are contrary to records.

14.11. That with regards to the statements made in paragraph 4.12 of the application the humble answering respondents beg to state that the judgment and order dated 17.07.97 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. no.52/96 was allowed to the applicants of that particular case only, hence the benefit of that judgment has not been extended to other similarly placed Draftsman of Survey of India.

14.12. That with regards to the statements made in paragraph 4.13 of the application the humble answering respondents beg to state that the judgment passed by the Hon'ble Gauhati High Court and Hon'ble Supreme Court of India were duly applicable to the applicants of that case only and the benefits of revised pay scale were duly extended to the applicants in O.A. no. 52/96.

However subsequently Draftsman Cartographic Association filed O.A. no.2094/01 and in pursuance of the judgment and order dated 07.02.02 the present applicants are also enjoying the benefit of Office Memorandum dated 19.10.94.

14.13. That with regards to the statements made in paragraphs 4.14, 4.15 and 4.16 of the application the humble answering respondents beg to submit that as per the order of the Hon'ble



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Tribunal, Central Administrative Tribunal, Guwahati Bench vide order dated 30.05.03 the applicants of that case are enjoying the benefit of higher scale and accordingly the Government complied with the Court's order.

Further it is to be stated here that the matter of extending the benefit of order dated 30.05.03 in O.A. no.14/02 has been extended to the applicants of that O.A. only. However the benefit to the similarly situated Draftsman could not be extended the above judgment has not been ordered to be applied in rem and as per the extent policy decision of the Ministry of Finance Department vide their letter dated 15.06.05.

Hence the contention of the present applicants that the order dated 30.05.03 passed by the Hon'ble Central Administrative, Guwahati Bench in O.A. no.14/02 has attained finality is not correct, as a matter of fact, it was applicable to the applicants and not to all other similarly placed Draftsman.

He notes

14.14.

That with regards to the statement made in paragraphs 4.17, 4.18 and 4.19 of the applicant the humble answering respondent begs to state that the judgment dated 30.05.03 in O.A. no. 14/02 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench is applicable to the applicants of that case only.

The benefits of the judgment dated 30.05.2003 cannot be extended to the present applicants.

Since the benefit of the judgment dated 30.05.03 had not been extended to all others similarly placed Draftsman, therefore Draftsman Cartographic Association had filed again another O.A. no.457/2005 and M.A.no.433/2005 before the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi to extend the benefits of judgments dated 30.5.03 of the Hon'ble CAT, Guwahati in O.A. no.14/02 filed by Sri T.R.Sharma and 62 others to them also being the similarly placed employees.

The above said O.A. no.457/05 has ^{been} dismissed vide judgment dated 27.02.06 of the Hon'ble CAT, Principal Bench, New Delhi on the following grounds:-

- (i) With the recommendation and implementation of the 5th CPC with effect from 01.01.96, the earlier O.M. dated 19.10.1994 stands superseded, since the revised pay scale has come into force from 01.01.96, the O.M. dated 19.10.1994 loses its significance as well as application.
- (ii) If, the applicants were granted the benefit of scale of Rs.5000-8000 (pre-revised 1600-2600) only in the year 1994 then even as per earlier criteria they must wait for 4 years which time would expire only after 01.01.96, since in the meantime the pay scale were revised, one can not

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be allowed to content that he would continue to be governed by old O.M. dated 19.10.94.

Subsequently Draftsman Cartographic Association had filed a Review Application no.63/06 in O.A. no.457/2005 to review the final judgment /order dated 27.02.06 passed in aforesaid O.A. before the Hon'ble CAT, New Delhi on the basis of DST's letter no.SM/04/01/2000 dated 22.10.2001 accordingly. This R.A. has also been dismissed by the Hon'ble Tribunal's order dated 18.08.2006.

The above CAT judgment dated 27.02.06 in O.A. no.457/05 and further judgment passed on dated 18.08.06 in R.A. no.63/06 in O.A. no.457/05 have been implemented dutifully and in true spirit of the decision of the Hon'ble Tribunal by the respondent vide his letter no.14843/1196-B (D/Man Association) dated 18.12.06 and consequential benefits have also been allowed to all eligible Draftsman of Survey of India as per directions of the Hon'ble CAT, Principal Bench, New Delhi accordingly.

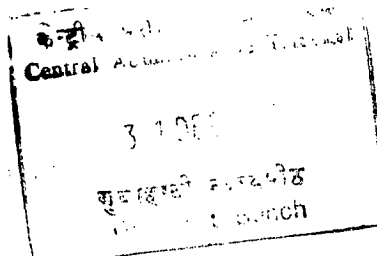
The government of India, Ministry of Finance has also issued another O.M. no.6/1/98-IC dated 01.06.01 as per the recommendation of 5th CPC. The O.M. dated 01.06.01 is applicable to such of those Draftsman who have not derived the benefits envisaged in O.M dated 19.10.94 as on 01.01.96. There is very much difference in the residency period mentioned in O.M. dated 19.10.94 and O.M dated 01.06.01. The earlier O.M. dated 19.10.94 was superseded by the O.M dated 01.06.01 on the recommendation of the 5th CPC.

With the recommendation and implementation of the 5th CPC with effect from 01.01.96, the earlier O.M. dated 19.10.94 stands superseded, since the revised pay scale has come into force from 01.01.96, the O.M dated 19.10.94 loses its significance as well as application.

In view of the above, now the present applicants will be governed by the O.M. dated 01.06.01. Thus the benefit of the judgment dated 30.05.03 passed by the Hon'ble CAT, Guwahati Bench, Guwahati in O.A. no. 14/02 can not be extended to the present applicants.

14.15.

That with regard to the statements made in paragraph 4.20 of the application the humble answering respondents beg to state that so far the letter dated 22.10.01 annexed as annexure 12 in O.A. was based on CAT's judgment dated 17.07.97 in O.A. no.52/96 filed by Sri T.R.Sharma and 75 others. The said clarification infact was made in respect of the applicants of the O.A.no.52/96 filed by Sri T.R.Sharma and 75 others as there is Hon'ble Tribunal's order and thus the O.M. dated 01.06.01 is not applicable to the said persons who approached the Hon'ble Tribunal and got the relief.



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So far the present applicants are concerned there is no such Tribunal's order in that particular period and definitely will be governed by the O.M. which is being forced i.e. 01.06.01. Although the O.M. dated 19.10.94 was superseded by the O.M. dated 01.06.01 the benefits of 19.10.94 was given to the said applicants to that O.A. 14/02 only to comply with the court's order. The said letter dated 22.10.01 is not applicable to the entire Draftsman.

14.16.

That the answering respondents submit that the applicant has failed to make out a good case and there is no merit at all and at such liable to be dismissed.

14.17.

That the answering respondents most respectfully beg to state that Sri Ashok Mandal and 18 others except the applicant no.18, Sri Abdus Samat, Draftsman are the bonafide members of Cartographic Association and the Association has already filed a Writ Petition no.17207/2006 in the Hon'ble High Court of Delhi which is still pending before the court. In the said Writ petition the members of the Association prayed the similar relief as asked for in the present Original Application.

The applicants in paragraph 7 of their present Original Application declared that

"They had not previously filed any application, writ petition or suit before any court or any authority or any other bench of the Tribunal regarding the subject matter of this application nor any such writ petition".

Thus thereby the applicants declared a false statement and only on this ground the present Original Application shall be liable to be dismissed and shall have to be prosecuted for committing perjury.

The copy of the writ petition will be produced as and when the same is called for.

Handwritten signature

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केन्द्रीय सर्वेक्षण विभाग
Central Survey of India

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गुवाहाटी
Guwahati

File in Case on.....

Officer.

VERIFICATION

I, Shri Rajendra Mani Tripathi, son of Sri G.M. Tripathi Director, Assam and Nagaland GDC, Ganeshguri, Guwahati-781006, aged about 51...do hereby verify and state that the statements made in paragraphs 1, 13, 14, 14.1, 14.2, 14.15 and 14.17 are true to my knowledge and belief, those made in paragraphs 2 to 12, 14.2 to 14.7 and 14.14 are being matters of records of the case derived therefrom which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal.

I have not suppressed any material facts.

And I sign this verification on this 31st Dec, 07 at Guwahati.


Signature

(आर० एम० त्रिपाठी)/(R. M. TRIPATHI)
निदेशक / DIRECTOR
असम एवं नागालैण्ड जी.डी.सी.
ASSAM & NAGALAND GDC
भारतीय सर्वेक्षण विभाग, गुवाहाटी
SURVEY OF INDIA, GUWAHATI-6

(77)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

In the matter of:-

O.A. No. 322/2006.

Sri Ashok Mandal & Ors.

... Applicants.

-Versus-

Union of India and Others.

... Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicants
against the written statement submitted
by the respondents.

The applicant most humbly and respectfully beg to state as under:-

1. That with regard to the statements made in paragraph 4, 6, 7 and 8 of the written statement, the applicants beg to say that the applicants being similarly situated employees of the respondent department like those of applicants of O.A. No. 14/2002, as such they are legally entitled to similar benefit of higher revised scale granted to the applicants of O.A. No. 14/2002. So far O.M dated 01.06.2001 is concerned, it is stated that the respondents are barred by the law of estoppel to contend that the said O.M is applicable to the present applicants in view of the submission made before this Hon'ble Tribunal in additional written statement filed on 24.04.03 in O.A. No. 14/2002.
2. That with regard to the statements made in para 9, 10, 11, 12 and 13 of the written statement, it is stated that the judgment passed by the learned CAT, Principal Bench in O.A. No. 457/2005 and M.A 433/05 is distinguishable both in facts as well as in law from the judgment and order passed by the CAT, Guwahati Bench in O.A. No. 14/2002. Moreover, in the aforesaid O.A. before the Principal Bench, the

Filed by the applicants
through: S. N. S.
Advocate
04/03/08.

Ashok Mandal - 230

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respondents have suppressed their stand made in the additional written statement filed on 24.04.03 in O.A. No. 14/02 before the CAT, Guwahati Bench. As such decision of the learned CAT Principal Bench, New Delhi has been passed contrary to the judgment and order dated 30.05.03 passed in O.A. No. 14/2002. The letter dated 15.06.03 as indicated in para 10 of the written statement is void ab initio and contrary to the settled position of law. The respondents also suppressed the material fact in R.A. No. 63/2006 in O.A. No. 457/05 before the CAT Principal Bench. It is further stated that respondents issued the impugned recruitment rule 2006 in order to deny the applicants the benefit of higher revised scale of pay granted vide O.M dated 10.09.1994. In other words the O.M dated 01.06.2001 is made applicable through impugned recruitment rule 2006.

As per Mandal

3. That with regard to the statements made in para 14.2, 14.4, 14.5 and 14.7, the applicants beg to say that while denying the correctness of those statements made in the written statement, it is further submitted that the respondents Union of India did not advance any reasonable or satisfactory grounds for denial of similar higher revised scale to the applicants.

It is settled position of law that once a benefit of higher revised scale of pay is extended to a particular class of employees, the same benefit cannot be denied to the other similarly situated employees who are governed with same service conditions and working in the same department. The O.M dated 01.06.2001 cannot be made applicable to the present applicants in view of the additional written statement submitted by the respondents in O.A. No. 14/2002. Moreover, the conditions laid down in O.M dated 01.06.2001 is highly arbitrary and same is contrary to the conditions laid down in O.M dated 19.10.1994. It is ought to be mentioned here that there cannot be tow sets of criteria for employees working in the same department.

4. That with regard to the statements made in paragraphs 14.9, 14.10, 14.11, 14.12, 14.13 and 14.14 the applicants categorically deny the correctness of the statements in view of the detail explanation given in the preceeding paragraphs and further beg to say that judgment rendered by the Principal Bench in O.A. No. 457/2005 and in M.A No. 433/2005 as well as

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AsheK Mondal

in R.A. No. 63/2006 is per incurium. Moreover, the material facts have been suppressed by the respondents Union of India before the CAT, Principal Bench by concealing the fact regarding their submission in additional written statements filed on 24.04.03 in O.A. No. 14/2002 declaring that the O.M dated 01.06.2001 is not applicable in the department of Survey of India. Moreover, the respondents are not entitled to enhance the residency period in respect to the present applicants who are similarly situated like those of applicants in O.A. No. 14/2002 that too without assigning any legally valid reason and on that score alone the O.M dated 01.06.2001 as well as the impugned recruitment rule 2006 which is framed in accordance with the conditions laid down in O.M dated 01.06.2001 just to deny the fruits of the judgment and order dated 30.05.2003 to the similarly situated employees like the present applicants. As such the impugned recruitment rule 2006 which is framed with mala fide intention in order to defeat the decision of the learned Tribunal passed in O.A. No. 14/2002 is liable to be set aside and quashed.

5. That your applicants deny the correctness of the statements made in paragraphs 14.15, 14.16, 14.17 of the written statement save and accept which are borne out of records.

That with regard to the statements made in paragraph 14.17 of the written statement, it is categorically stated that all the applicants have tendered their resignation long back from the Cartographic Association due to certain differences with the Association, as such statement made in para. 14.17 is not factually correct. Moreover, individual employees of Survey of India working in N.E. Region has full liberty to approach the Hon'ble Tribunal under the relevant provision of the Administrative Tribunal Act 1985 for redressal of their grievances and such statutory right of an employee cannot be curtailed.

In the facts and circumstances as stated above as well as the submission made in the Original application the Original Application deserves to be allowed with cost.

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VERIFICATION

I, Shri Ashok Mondal, S/o- Late Nirmal Mondal, aged about 49 years, working as Draftsman Grade-II, in the office of the Assam & Nagaland GDC, Survey of India, Caneshguri, Guwahati- 6, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements in this rejoinder, do hereby verify that the statements made in Paragraph 1 to 5 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of March 2008.

Ashok Mondal -

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File in Court on 28/8/08

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Court Officer.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Amended O.A. No 322/06

Shri Ashok Mandal

...Applicant.

-Vs-

Union of India and ors.

...Respondents

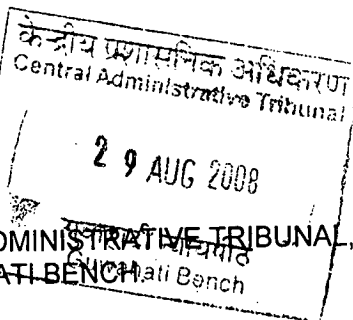
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3.	1	Copy of the judgment and order dated 27/02/06 passed in O.A. no. 457/05	14 to 23
4.	2.	Copy of the order dated 18.08.06 passed in R.A. No. 63/06	24-25

Filed by: Mrs. Manjula Das,
Senior Panel Counsel,
CAT, Guwahati bench,
Guwahati.

Date: 28.08.08.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



IN THE MATTER OF:
Amended O.A. no.322/06

Ashok Mandal and ors.
...Applicant.

-Vs-
Union of India and ors
...Respondents.

-AND-

IN THE MATTER OF:
Additional statement on behalf of
respondents no.1 to 4.

(ADDITIONAL STATEMENT ON BEHALF OF RESPONDENT NO.1 TO 4)

I, Sri R.M. Tripathi..... s/o Shri G.M. Tripathi.....
Presently working as the Director, Assam and Nagaland GDC, Ganeshguri,
Guwahati-781006, do hereby solemnly affirm and state as follows:

1. That I am the Respondent no.3, the Director of Assam and Nagaland GDC, Ganeshguri, Guwahati. The copies of aforesaid application have been served upon the respondents 1 to 4. I have gone through the same and being the Superintending Surveyor from the Director, Assam and Nagaland GDC, have understood the contents thereof. I have been authorized to file this additional statement on behalf of the respondents no.1, 2 and 4.

2. I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

3. That Sri T.R. Sharma and 75 other applicants who were Draughtsman Grade II under the Director, Survey of India, Northern Eastern Circle, Shillong, filed a case bearing O.A. no. 52/96 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, claiming pay scale of Rs.425/- - Rs.700/- (3rd CPC) corresponding scale of Rs.1400/- - Rs.2300/- (4th CPC) as per conditions incorporated in paragraph 2 (b) of O.M. no.13 (1)- IC/91 dated 19.10.94.

Filed by: Respondent Nos. 1 to 4
Through: Mr. Manoj Kumar Das
Sr. Pleader Counsel
M.O.F.
CA + 28/8/08

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केन्द्रीय प्रशासनिक आयोग
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Guwahati Bench

4. The said O.A.no.52/96 was ~~allowed by this Hon'ble Tribunal~~ vide order dated 17.07.97. In the said judgment the Hon'ble Tribunal directed as follows:-

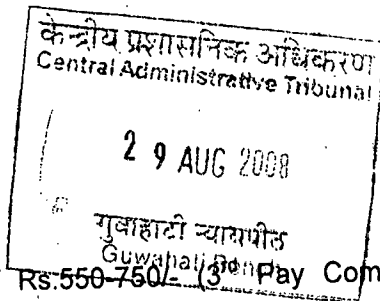
"....Further, we direct the respondents to place the applicants the scale of pay of Rs.425-Rs700/- (Pre-revised), Rs.1400-2300 (revised) in the manner stipulated in the O.M.13 (1) - IC/91 dated 19.10.94 and allow them to draw pay in the scales with effect from the date applicable in the case of each applicant respectively"

5. That being aggrieved with the judgment dated 17.07.97 the respondents preferred a writ petition being Civil Rule no.4733/97 and after hearing the Hon'ble High Court vide judgment dated 31.07.99 affirmed the judgment of the Hon'ble Tribunal. Thereafter the respondents preferred S.L.P. Appeal (Civil) 2000 C.C. 2082/2000 and the Hon'ble Supreme Court was pleased to uphold the above decision order dated 31.03.2000. Accordingly the respondent complied with the Court's order and decide to implement the judgment **for applicants only**.

6. That since the benefit of the judgment had not been extended to all other similarly situated D/Men of Survey of India, therefore, Draughtsman Cartographic Association had filed an O.A. no.2094/2001 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of judgment dated 17.07.97 passed by the Hon'ble Tribunal, Guwahati Bench. The Principal Bench vide order dated 07.02.2002 allowed the application and accordingly the respondents carried out the direction passed in the judgment dated 07.02.2002.

7. That in the meantime Government of India, Ministry of Finance had issued another O.M. no.6/1.98-IC dated 01.06.2001. As per the said O.M. under clause 5 the orders incorporated in the present O.M. is applicable to such D/Men who had derived the benefits envisaged in O.M. dated 19.10.94 as on 01.01.96. Consequently by the present O.M. dated 01.06.01 superceded the earlier O.M. dated 19.10.94.

8. That, Sri T.R. Sharma and 62 other applicants again approached the Central Administrative Tribunal, Guwahati Bench vide O.A. no.14/2002 for



grant of next higher pay scale of Rs.550-750/- (3rd Pay Commission) corresponding to Rs.1600-2600/- (4th pay Commission) and corresponding scale of pay of Rs.5500-9000/- (revised as per 5th CPC recommendation). The said O.A. was allowed vide order dated 30.05.03 with a direction to grant them higher scale of pay of Rs.550-750 (3rd pay commission) corresponding to Rs.1600-2600 and corresponding scale of Rs.5500-9000 (5th CPC recommendation) with all consequential benefits with effect from the date applicable in the case of the each applicant.

9. That being aggrieved the respondents preferred a writ petition C.R. no.9786/2003 and the same was dismissed vide order dated 09.12.2003 thereafter a S.L.P. (Civil) CC no.5398/04 was preferred against the said dismissal and the Hon'ble Supreme Court vide order dated 19.07.2004 dismissed the Special Leave Petition.

Thereafter the respondent complied with the Court's order and instructed the concerned department to implement the CAT's order dated 30.05.03 in O.A. no.14/02 **for the applicants only** vide letter dated 23.08.04.

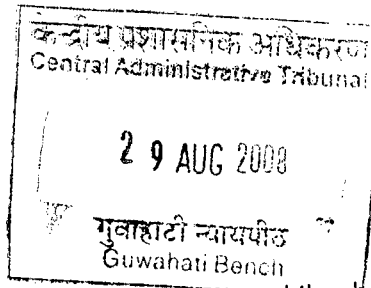
10. That, thereafter similarly situated D/men (Cartographic) Association vide their letter dated 26.07.04 made prayer to the respondents for implementation of order dated 30.05.03 to all the similarly placed D/men.

11. Thereafter the respondents no.2 wrote a letter dated 11.10.2004 to Department of Science and Technology to issue the necessary instruction into the matter. In this connection the department of Science and Technology vide letter no.SM.04/014/02 dated 15.06.05 has informed as follows:

" The matter of extending the benefit of the order dated 30.05.2003 in O.A. no.14/02 to all similarly placed D/Men has not been accepted by the Ministry Of Finance that as per extent policy the benefit of any judgment can be extended only to all the applicants and not all similarly placed persons".

12. That since the benefit of judgment dated 30.05.03 has not been extended to all other similarly placed D/Men, therefore D/men Cartographic Association had filed again another O.A. no.457/2005 and M.A. no.433/05

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before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of judgment and order dated 30.05.03 passed by the Hon'ble CAT, Guwahati Bench in O.A. no.14/02. The said O.A. no.457/05 has been dismissed by the Hon'ble CAT, Principal Bench, New Delhi, vide judgment dated 27.02.06 on the following grounds :-

(I) With the recommendation and implementation of the 5th CPC with effect from 01.01.96 the earlier O.M. Dated 19.10.1994 stands superseded, since the revised pay scale has come into force from 01.01.96, the O.M. dated 19.10.94 loses its significance as well as application.

(II) If, the applicants were granted the benefit of the scale of Rs.5000-8000 (Pre-revised 1600-2600) only in the year 1994 then even as per the earlier criteria they must wait for 4 years which time would expire only after 01.01.1996 since in the meantime the pay scale were revised one cannot be allowed to content that he would continue to be governed by old O.M. dated 19.10.1994.

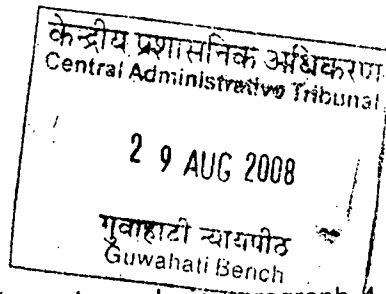
13. Thereafter the D/men Cartographic Association has filed a review application no.63/06 in O.A. no.457/05 to review the final judgment dated 27.02.06 passed in 457/05 before the Hon'ble CAT New Delhi. The said review application has also been dismissed by the Hon'ble Tribunal vide order dated 18.08.06.

14. Thereafter the respondent authority complied with the order of Tribunal and implemented the judgment dated 27.02.06 in O.A. no.457/05 and 18.08.06 in Review Application 63/06 and consequential benefits have also been allowed to all eligible D/Men of Survey of India. Consequently gazette notification of recruitment rules of draftsmen cadre of Survey of India has been published which has been issued in Gazette of India in accordance with O.M. dated 01.06.2001.

15. Reply to the facts of the case:

15.1. That with regard to the statements made in paragraphs 4.1 and 4.2 of the amended application, the humble answering respondents has nothing to make comment on it.

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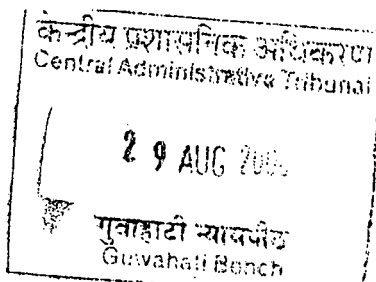
15.2. That with regard to the statements made in paragraph 4.3 of the amended application, the humble answering respondent begs to state that Sri T.R. Sharma and 62 other applicants approached the Hon'ble CAT, Guwahati Bench vide O.A no.14/2002 for grant of next higher pay scale of Rs.550-750/- (3rd Pay Commission) corresponding to Rs.1600-2600/- (4th Pay Commission) and corresponding scale of pay of Rs.5500-9000/- (Revised as per 5th CPC recommendation) as 2 (C) of O.M. dated 19.10.94. The said O.A. was allowed vide order dated 30.05.03 with a direction to the respondents to grant them the higher pay scale, correspondence scale of pay of Rs.5500-9000/- (revised as per 5th CPC recommendation) with all consequential benefits with effect from the date applicable in the case of each applicant. Ministry of Finance agreed to implement the Central Administrative Tribunal's order dated 30.05.03 for the applicants only as conveyed vide letter no.SM/04/014/2002 dated 23.08.2004. Hence the benefits of judgment dated 30.05.03 cannot be extended to the present applicants.

15.3. That, with regard to the statements made in paragraphs 4.4 and 4.5 of the amended application, the humble answering respondents has nothing to make comment on it as they are being matters of the records of the case.

15.4. That, with regard to the statements made in paragraph 4.6 of the amended application, the humble answering respondents beg to state that the benefit of the Office Memorandum dated 13.03.84 was not extended D/Men of Survey of India due to differences in eligibility criteria in regards to the qualification of the Recruitment Policy of the D/Men of Survey of India and D/Men of C.P.W.D.

15.5. That, with regard to the statements made in paragraph 4.7 of the amended application, the humble answering respondents beg to state that it is not correct that respondent no.2 did not take any steps regarding implementation of the O.M. dated 19.10.94. The said contention made by the applicant is wrong, baseless, false and imaginary.

It is to be stated here that Sri T.R.Sharma and 75 others D/Men Survey of India approached before the Hon'ble CAT, Guwahati bench by



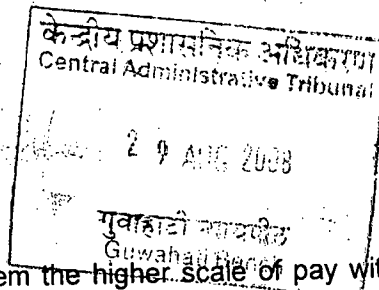
filing O.A. no.52/96 claiming the pay scale of Rs.425-700/- (3rd CPC) corresponding scale Rs.1400-2300/- (4th CPC) as per condition incorporated in paragraph 2 (b). The said O.A. was allowed to the above applicants of the case only vide Tribunal order dated 17.07.97. Thereafter the Hon'ble Gauhati High Court as well Hon'ble Supreme Court of India upheld the decision vide order dated 31.07.99 and 31.03.2000 respectively to the applicants only. The Department of Science and Technology vide letter no.SM/04/010/2000 dated 19.04.2000 also directed to implement the above judgment for applicants only.

Further since the benefit of above judgment had not been extended to all other similarly placed D/Men of the Survey of India, the Draughtsman Cartographic Association field an O.A. no.2094/2001 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefit of the judgment dated 17.07.97 to all similarly placed persons. The said O.A.no.2094/2001 was allowed by Hon'ble CAT, Principal Bench, New Delhi, vide order dated 07.02.02. The respondent respectively implemented the above judgment dated 07.02.02 accordingly.

The humble answering respondents begs to state that in the mean time the Government of India, Ministry of Finance had issued another O.M. no.6/1/98-IC dated 01.06.01 as per the recommendation on 5th CPC. The O.M dated 01.06.01 is applicable to such those D/Men who had not derived the benefits envisaged in O.M. dated 19.10.94 as on 01.01.96. There is very much difference in the residency period mentioned in O.M. dated 19.10.94 and 01.06.01. Hence O.M. dated 19.10.94 was superceded by O.M. dated 01.06.01 on the recommendation of 5th CPC.

15.6. That, with regard to the statements made in paragraph 4.8 of the amended application, the humble answering respondents have nothing to make comment on it as they are being matters of the records of the case.

15.7. That, with regard to the statements made in paragraph 4.9 of the amended application, the humble answering respondent begs to state that Sri T.R.Sarma and 62 others D/Men approached the CAT, Guwahati Bench vide another O.A. no.14/02 for grant of next higher pay scale of Rs.550/-750/- (3rd CPC) corresponding to Rs.1600-2600/- (4th CPC) corresponding scale of Rs.5500-9000/- as per 5th CPC as per O.M. dated 19.10.94. The said O.A. was allowed by order dated 30.05.03 with a



direction to the respondents to grant them the higher scale of pay with all consequential benefits with effect from the date of application in case of each applicant.

The benefit of the above judgment dated 30.05.03 had been given to the applicants only and not all similarly placed person. Hence the applicant's claim is wrong and is not tenable.

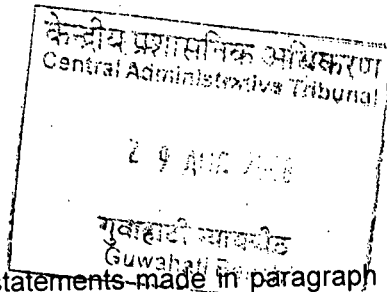
15.8 That, with regard to the statements made in paragraph 4.10 of the amended application, the humble answering respondents have nothing to make comment on it.

15.9. That, with regard to the statements made in paragraph 4.11 of the amended application, the humble answering respondent begs to state that the benefit of O.M. dated 19.10.94 has already been allowed to the present applicant as per judgment and order dated 07.02.02 passed by the Hon'ble CAT, Principal Bench, New Delhi in O.A. no.2094/2001 filed by the D/Men Cartographic Association. The direction of the order dated 07.02.02 accordingly carried out by the respondents. Thus the benefits of O.M. no. 7094/2001 dated 19.10.94 are being enjoyed by the applicants.

15.10. That, with regard to the statements made in paragraph 4.12 and 13 of the amended application, the humble answering respondent has nothing to make comment on it as they are being matters of the records of the case. He however, does not admit any statements which are contrary to records.

15.11. That, with regard to the statements made in paragraph 4.14 of the amended application, the humble answering respondent begs to state that the judgment / order dated 17.07.97 passed by the Hon'ble CAT, Guwahati Bench, Guwahati in O.A. no.52/96 was allowed to the applicants of the case only. Hence the benefit of the judgment has not been extended to other similarly placed D/Men of Survey of India.

The Hon'ble Gauhati High Court and Hon'ble Supreme Court of India upheld the above decision vide their orders dated 31.07.99. and 31.03.2000 respectively to the applicants only.



15.12. That, with regard to the statements made in paragraph 4.15, 4.16 and 4.17 of the amended application, the humble answering respondent begs to state that as per the order of the Hon'ble CAT, Guwahati bench vide order dated 30.05.03. the applicants of that case are enjoying the benefit of higher scale and accordingly the Government complied with the Court's order.

Further it is to be stated here that the matter of extending the benefit of order dated 30.05.03 in O.A.no.14/02 has been extended to the applicants of that O.A. only. However the benefit to the similarly situated D/Men could not be extended the above judgment has not been ordered to be applied in rem and as per the extent policy decision of the Ministry of Finance Department vide their letter dated 15.06.05.

Hence the contention of the present applicants that the order dated 30.05.03 passed by the Hon'ble CAT, Guwahati Bench in O.A. no.14/02 has attained finality is not correct, as a matter of fact, it was applicable to the applicants and not to all other similarly placed D/men.

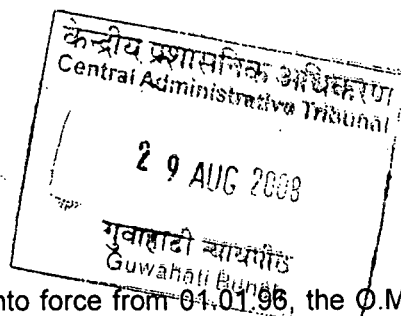
15.13. That, with regard to the statements made in paragraph 4.18, 4.19 and 4.20 of the amended application, the humble answering respondent begs to state that the judgment dated 30.05.03 in O.A.no.14/02 passed by the Hon'ble CAT Guwahati Bench is applicable to the applicants of that case only.

The benefits of the judgments dated 30.05.03 cannot be extended to the present applicants. Since the benefit of the judgment dated 30.05.03 had not been extended to all other similarly placed D/men, therefore D/men cartographic Association had filed again another O.A. no.457/2005 and M.A. no.433/2005 before the Hon'ble CAT, Principal Bench, New Delhi to extend the benefits of judgments dated 30.05.03 of the Hon'ble CAT, Guwahati in O.A. no.14/02 filed by Sri T.R.Sharma and 62 others to them also being the similarly placed employees.

The above said O.A. no.457/05 has been dismissed vide judgment dated 27.02.06 of the Hon'ble CAT, Principal Bench, New Delhi on the following ground:

- (i) With the recommendation and implementation of the 5th CPC with effect from 01.01.96 the earlier O.M. Dated 19.10.1994 stands superseded, since the revised

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pay scale has come into force from 01.01.96, the O.M. dated 19.10.94 loses its significance as well as application.

(II) If, the applicants were granted the benefit of the scale of Rs.5000-8000 (Pre-revised 1600-2600) only in the year 1994 then even as per the earlier criteria they must wait for 4 years which time would expire only after 01.01.1996 since in the meantime the pay scale were revised one cannot be allowed to content that he would continue to be governed by old O.M. dated 19.10.1994.

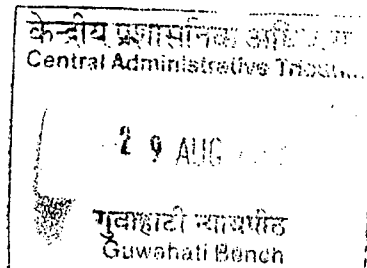
Subsequently Draftsman Cartographic Association had filed a Review Application no. 63/06 in O.A. no. 457/2005 to review the final judgment / order dated 27/02/06 pass in the aforesaid O.A. before the Hon'ble CAT, New Delhi on the basis of DST's letter no. SM/04/01/2000 dated 22/10/2001 accordingly. This R.A. has also been dismissed by the Hon'ble Tribunals order dated 18/08/06.

The above CAT judgment dated 22/07/2006 in O.A. no. 457/05 and further judgment passed on dated 18/8/06 in R.A no. 63/06 in O.A. no.457/05 have been implemented dutifully and in true spirit of the decision of the Hon'ble Tribunal by the respondent vide his letter no.14843/1196-B(D/men Association) dated 18/12/06 and consequential benefits have also been allowed to all eligible Draftsmen of Survey of India as per directions of the Hon'ble CAT Principal Bench, New Delhi accordingly.

The Government of India, Ministry of Finance has also issued another O.A. no.6/1/98-IC dated 1/6/01 as per recommendation of the 5th CPC. The O.M dated 01/06/01 is applicable to such of those Draftsmen who have not derived the benefits envisaged in O.M no. dated 19/10/94 as on 01/01/96. There is very much difference in the residency priod mentioned in O.M. dated 19/10/94 and O.M dated 01/06/01. The earlier O.M dated 19/10/94 was superseded by the O.M. dated 01/06/01 on the recommendation of the 5th CPC.

With recommendation and implementation of the 5th CPC with effect from 01/01/96, the earlier O.M dated 19/10/94 stands superseded, since the revised pay scale has come into force from 01/01/96, the O.M dated 19/10/94 loses its significance as well as application.

In view of the above, now the present applicants will be governed by the O.M. dated 01/06/01. Thus the benefit of the judgment dated 30/05/03



passed by the Hon'ble CAT, Guwahati Bench, Guwahati in O.A. no.14/02/02 cannot be extended to the present applicants.

15.14 That, with regard to the statements made in paragraph 4.21 of the amended application, the humble answering respondent begs to state that so far the letter dated 22/10/01 annexed as Annexure 12 in O.A. was based on CAT's judgment dated 17/07/97 in O.A no.52/96 filed by Sri.T.R.Sharma and 75 others. The said clarification infact was made in respect of the applicants of the O.A no. 52/96 filed by T.R.Sharma and 75 others as there is Hon'ble Tribunal's order and thus O.M. dated 01/06/01 is not applicable to the said persons who approached the Hon'ble Tribunal and got the relief.

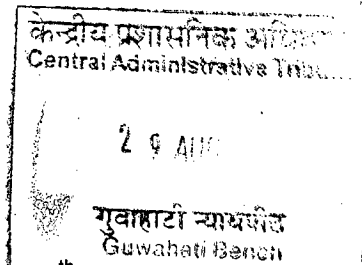
So far the present applicants are concerned there is no such Tribunal's order in that particular period and definitely will be governed by the O.M. which is being forced i.e.01/06/01. Although the O.M. dated 19/10/94 was superseded by the O.M. dated 01/06/01 the benefits of 19/10/94 was given to the said applicants to that O.A.14/02 only to comply with the Court's order. The said letter dated 22/10/01 is not applicable to the entire Draftsmen.

15.15 That, with regard to the statements made in paragraph 4.21 (A) of the amended application, the humble answering respondent begs to state that the order dated 21/10/01 issued by the Ministry of Science and Technology of Government of India regarding the implementation of O.M. dated 01/06/01 infact was based on the judgment dated 17/07/97 passed by this Hon'ble Tribunal in O.A no. 52/96 filed by Sri.T.R.Sharma and 75 others Draftsmen -vs- Union of India. Thus, the rejection order dated 22/10/01 as mentioned above is applicable on the applicants of O.A. no.52/96 only.

Further it is stated that at that relevant time when the judgment of O.A. no.52/96 was passed the O.M. dated 16/01/01 was not available as that was not issued. Therefore the rejection order dated 22/10/01 was applicable only to the applicants of O.A no.52/96 and not applicable to the present applicants.

15.16 That, with regard to the statements made in paragraph 4.21 (B) of the amended application, the humble answering respondent begs to state that the O.M. dated 01/06/01 issued by the Government of India,

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Ministry of Finance in the recommendation of the 5th CPC superseded the earlier O.M. dated 19/10/94 and hence the O.M. dated 19/10/94 has become invalid and infructuous. Thus the applicants of the present application cannot claim for the benefit of O.M. dated 19/10/94 which is non-existence. The applicant infact is covered by O.M. dated 01/06/01.

The benefits of O.M. dated 19/10/94 and dated 01/06/01 were given to the Draftsmen of the Survey of India only to comply with the Court's directives of the order.

Further it is stated that the Draftsmen Cartographic Association had also filed an O.A.no. 457/05 before the Principal Bench, CAT, New Delhi vide O.A. no.457/05 on similar issue and similar relief and the Hon'ble Bench vide order dated 27/02/06 was pleased to dismiss the O.A. by holding that the applicants are not similarly placed to the applicant in O.A. no. 14/02. Further it was noted that the effect and impact of O.M dated 01/06/01 had not been subject matter before the Guwahati Bench in O.A. no. 14/02 and as such the same was not considered.

Thereafter the said association approached before the Hon'ble Principal Bench, New Delhi for review of the order dated 27.02.06 passed in O.A. No. 457/05 vide R.A. No.63/06. The Hon'ble Tribunal after hearing the R.A. was pleased to dismiss the R.A. No.63/06 vide order dated 18.08.06.

Copies of the said judgment and order dated 27/02/06 passed in O.A. no. 457/05 and order dated 18.08.06 passed in R.A. No. 63/06 are annexed herewith as Annexure -I and 2.

15.17. That, with regard to the statements made in paragraph 4.21 (C) of the amended application, the humble answering respondent begs to state that the O.M dated 01/06/01 was issued by the Government of India, Ministry of Finance on recommendation of the 5th CPC w.e.f 01/09/96. Hence Recruitment Rules 2006 of Draftsmen Cadre were notified as per the instruction let down in the memorandum dated 01/06/01.

15.18 That, with regard to the statements made in paragraph 4.21 (D) of the amended application, the humble answering respondent categorically begs to state that the judgment and order dated 30/05/03 passed by this Hon'ble Tribunal in O.A. no. 14/02 was applicable to the applicants of that case only. The applicants of the present application were

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Guwahati Bench

not the applicants in the O.A. no. 14/02. Therefore the benefit of the aforesaid judgment was not extended to the non- applicants.

Further the present applicants are covered by the judgment and order dated 27/02/06 passed by the Hon'ble Principal Bench, CAT, New Delhi in O.A. no.457/05.

15.19 That, with regard to the statements made in paragraph 4.21 (E) and 4.21 (F) of the amended application, the humble answering respondent reiterates and reaffirmed the statements made in paragraph 15.17 of this *additional* statement of the amended application.

15.20 That, with regard to the statements made in paragraph 4.21 (G) of the amended application, the humble answering respondent reiterates and reaffirmed the statements made in paragraph 15.16 of this *additional* statement of the amended application.

16. That the instant application has no merit at all and is liable to be dismissed.

VERIFICATION

I, Sri R.M. Tripathi s/o Shri G.M. Tripathi

Presently working as the Director, Assam and Nagaland GDC, Ganeshguri, Guwahati-781006, aged about 52 years do hereby verify that the statements made in paragraphs ^{15.15 and 15.18} 1, 2, 15.1, 15.4, 15.8, 15.14, are true to my knowledge and belief, those made in paragraphs ^{15.9 to 15.13, 15.16, 15.17, 15.19 and 15.20} 3 to 14, 15.2, 15.3, 15.5 to 15.7, being matters of records of the case are true to my information derived therefrom and rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal,

And I sign this verification on the 28th day of August 2008 at Guwahati.

SIGNATURE

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ANNEXURE-1

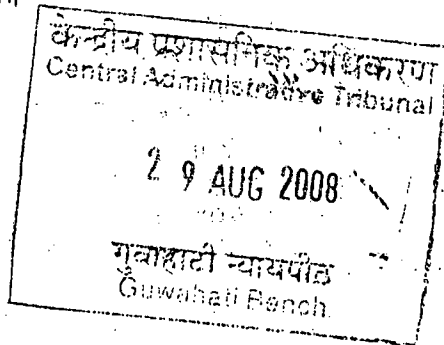
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.457/2005.

New Delhi, this the 27th day of February, 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

1. Draughtsmens' (Cartographic) Association,
Survey of India.
Through : Shri Swapan Das
Secretary General
C/o Business & Publicity Office
Survey of India
Hathibarkala
Dehradun - 248 001.
2. Shri Dilbag Singh
DS (AIR) & DGDC
Survey of India
West Block - IV, R.K. Puram,
New Delhi - 110 066

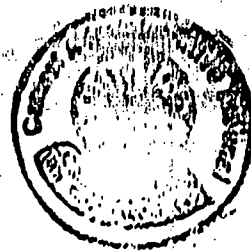


APPLICANTS

(By Advocate Shri Sudarshan Rajan)

VERSUS

1. Union of India
Through the Secretary
Ministry of Science & Tech
New Mehrauli Road
New Delhi - 110 016.
2. The Surveyor General
Survey of India
Block-B, Hathibarkala Estate,
Dehradun - 248 001.



RESPONDENTS

(By Advocate Shri Amit Anand)

ORDER (ORAL)

BY MUKESH KUMAR GUPTA, MEMBER (J):

By the present OA, applicants seek direction to extend benefit of judgment and order dated 13.07.2003 in OA No.14 of 2002 (Shri Tulsi Ram Sharma & Others vs. Union of India & Others) to all Draughtsmen Grade-II of the Survey of India with arrears of pay and interest. They also seek direction to extend benefit of aforesaid judgment to those Draughtsmen who had either retired or died with consequential benefits, revised terminal benefits, revised pension etc. A further prayer is made to impose deterrent costs upon the respondents for

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deliberately failing to grant them upgraded pay scale, based on the law laid down by the Hon'ble Supreme Court in Lucknow Development Authority vs. M.K. Gupta, 1994 (1) SCC 243.

Central Law Board
Administrative Tribunal
29 AUG 1994
Tribunal
Lucknow

2. The core issue relates to revision of pay scale of Draughtsmen Grades-III, II and I. Initially the pay scales of Draughtsmen Grades-III, II and I were revised in the Central Public Works Department based on the Award of the Board of Arbitration. Later a Committee of the National Council (Joint Consultative Machinery) was set up to consider the request of the staff side to revise the scales of pay of Draughtsmen working in all Government of India Offices. Vide Office Memorandum dated 13.3.1984, Ministry of Finance, Department of Expenditure, conveyed the President's decision and extended the revised pay scales to the Draughtsmen of other Departments of the Government of India "provided their recruitment qualifications are similar to those prescribed in the case of Draughtsman in Central Public Works Department". Those who did not fulfill the recruitment qualification, were to continue in the pre-revised scales. Subsequently, vide Office Memorandum dated 19.10.1994, Presidential sanction was conveyed to the effect that the Draughtsmen Grades-I, II and III in the Offices/Departments of the Government of India, other than CPWD, would be placed in the scale of pay as mentioned under para-1 subject to conditions prescribed therein. The relevant excerpts of the said OM reads as under:

"2. The President is now pleased to decide that the Draughtsmen Grade I, II, III in offices/departments of the Government of India other than in CPWD may also be placed in the scale of pay mentioned above subject to the following:

(a) Minimum period of Service for Placement from : 7 years
the post carrying scale of Rs.975-1540 to
Rs.1200-2040 (pre-revised Rs.260-430 to
Rs.330-560).

(b) Minimum period of service for placement from : 5 years
the post of carrying scale of Rs.1200-2040 to
Rs.1400-2300 (pre-revised Rs.330-560 to
Rs.425-700)

(c) Minimum period of service for placement from : 4 years
the post of carrying scale of Rs.1400-2300
to Rs.1600-2660 (pre-revised Rs.425-700 to



✓

(97)

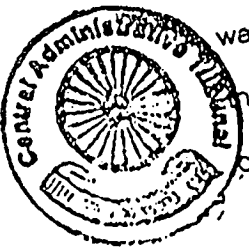
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

Rs.550-750).

3. Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules.

4. The benefit of this revision of scales of pay would be given with effect from 13.5.82 notionally and actually from 1.1.83.

3. 76 applicants (Draughtsmen Grade-II) under the Director, Survey of India, North Eastern Circle, Ministry of Science & Technology, instituted OA No. 52 of 1996 before the Guwahati Bench of this Tribunal, claiming the pay scale of Rs.425-700 (revised to Rs.1400-2300) based upon para 2 (b) of the aforesaid O.M. The said OA was allowed vide order dated 17.7.1997 holding that the terms of the aforesaid OM were applicable to the applicants. The said order had been maintained by the Hon'ble Gauhati High Court as well as the Hon'ble Supreme Court of India vide orders dated 31.7.1999 and 31.3.2000 respectively. Later applicants herein instituted OA No.2094/2001 before this Bench of the Tribunal seeking extension of the aforesaid order as the benefit of the Guwahati Bench judgment had not been extended to them. The said OA No.2094/2001 was allowed by this Bench vide order dated 7.2.2002. It is not in dispute that the aforesaid directions dated 7.2.2002 had been complied with by the respondents. Immediately, thereafter 63 applicants, including the applicants in earlier OA No. 52 of 1996 approached the Guwahati Bench of this Tribunal once again vide OA No. 14 of 2002, challenging communication dated 1.8.2001 vide which their request for grant of next / higher pay scale of Rs.550-750 (Rs.1600-2600 and 5500-8000 revised) w.e.f. 1.1.1988 and 1.1.1996 respectively were rejected. They also sought enforcement of para 2 (c) of OM dated 19.10.1994 with respective date of eligibility attained by the individual applicants. The said OA was allowed vide order dated 30.5.2003 with a direction to respondents to grant them said higher pay scale of Rs.550-750 with all consequential benefits. Later certain typographical mistakes in the aforesaid order were corrected vide order dated 19.6.2003. Writ Petition (Civil) No.1786 of 2003 filed by the Union of India against the aforesaid judgment was dismissed vide order dated 9.12.2003, and



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further affirmed by dismissal of the SLP (C) filed vide CC No. 5398/2004, vide order dated 19.7.2004.

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4. The grievance raised in the present OA is that though the applicants are similarly situated to the applicants in aforesaid OA No.14/2002, yet the respondents have not extended the said higher pay scale of Rs.550-750/- though they fulfilled the eligibility conditions as laid down under para-2(c) of OM dated 19.10.1994. Their representation dated 24.6.2003, followed by reminders elicited no tangible results. Relying upon the dicta laid down by the Hon'ble Supreme Court in *Amrit Lal Berry vs. CCE*, 1975 (4) SCC 714, *K.I. Shephard vs. UOI*, 1987 (4) SCC 431, *Abid Hussain vs. UOI*, JT 1987 (1) SC 147 as well as para 120.5 of the 5th Central Pay Commission, it was contended that the applicants should not have been dragged to litigation and the respondents ought to have extended them the same benefit as granted to *Tularam Sharma & Others* (supra). Since the respondents' action in not extending the said benefit is violative of the principle of legitimate expectation and the respondents have failed to redeem their behaviour, deterrent costs be imposed in terms of the law laid down in *M.K. Gupta's judgement* (supra). *Shri Sudershan Rajan*, learned counsel appearing for the applicants vehemently contended that they are similarly situated and placed at par with the applicants in OA No. 14/2002.

5. The respondents stoutly opposed the claim laid in this OA and raised preliminary objections about its maintainability, contending that the applicants are guilty of suppressing & concealing material facts from this Tribunal. It is pointed out that OM dated 1.06.2001 has been issued by the respondents, which supersedes the earlier OM dated 19.10.1994. Furthermore, para-4 of the said OM provides that: "once the Draughtsmen in various Central Government Departments are placed in the applicable revised scales of pay, further promotions to the higher grades will be made only against available vacancies such higher grades in accordance with the normal eligibility criteria prescribed in the Recruitment Rules." Neither the facts of the said Memorandum of

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GUWAHATI BENCH

1.6.2001 has been challenged in the present proceedings or in earlier proceedings nor issuing such subsequent OM had been disclosed. Moreover, the residency period for grant of next higher pay scale is different than the one prescribed under OM dated 19.10.1994. A perusal of the table herein below would show the difference between the residency period prescribed vide OMs dated 19.10.1994 and 1.6.2001:

Minimum period of service to be rendered for placement from the scale	As per O.M. dated 19.10.1994	As per O.M. dated 1.6.2001
Rs.3200-4900 (pre-revised Rs.975-1540) to the scale of Rs.4000-6000 (pre-revised Rs.1200-2040)	7 Years	5 Years
Rs.4000-6000 (pre-revised Rs.1200-2040) to the scale of Rs.5000-8000 (pre-revised Rs.1400-2300) revised to Rs.1600-2900 by the 5 th CPC).	5 Years	8 Years
Rs.4500-7000 (pre-revised Rs.1400-2300) to the scale of Rs.5500-9000 (pre-revised Rs.1640-2900)	4 Years	6 Years
Total	16 years	19 years

6. Moreover, with the recommendations and implementation of the 5th Central Pay Commission w.e.f. 1.1.1996, the earlier instructions/awards viz. OM dated 19.10.1994 stands superseded. Since the revised pay scale has come into force from the said date, the OM dated 19.10.1994 loses its significance as well as application. The actual grant of higher pay scale is subject to availability of vacancy and all those who completed residency period in the lower pay scale cannot automatically be granted higher pay scale. The benefit as available under the said OM dated 19.10.1994 had been extended to the applicants in terms of directions issued by this Tribunal's order dated 7.2.2002 in No.2094/2001.



7. Applicants controverted the contention raised by the respondents submitting a detailed rejoinder, stating that they have expressly been excluded from the purview of OM dated 1.10.2001 as they had already been granted the initial benefits of the OM dated 19.10.1994 and, therefore, "the OM dated 1.10.2001 is not applicable" to them.

8. We have heard the learned counsel for the parties and perused the pleadings carefully.

9. The first and foremost question which needs determination in the present case is whether the applicants' contention that they are similarly placed as of applicants in OA No.14/2002 decided by Guwahati Bench of this Tribunal is justified or not and secondly, whether the applicants are guilty of suppressing material facts from this Tribunal. Those two issues, in our considered view, overlap and, therefore, we will consider and decide them together.

In terms of law laid down by the Hon'ble Supreme Court in (1995) 1 SCC 745 Chandigarh Administration vs Jagjit Singh & Another, the claim made on the basis that another person similarly situated had been granted such a relief and non-grant of such relief to the person would lead to discrimination, has to be decided by investigating the facts before it could be directed to be followed in case of the petitioner. In the said case, challenge had been made to the Government order cancelling the lease of plot on default in payment of instalments on the ground that in similarly situated cases there had been non-cancellation of lease by the Government and, therefore, the respondents committed illegality and arbitrariness. In these circumstances, the Hon'ble Supreme Court observed as under:

"8. xxxxxx Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and

circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law - indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and convenient to examine the entitlement of the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course - barring exceptional situations - would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial word. What is the position in the case of orders passed by authorities in exercise of their quasi-judicial power, we express no opinion. That can be dealt with when a proper case arises". (emphasis supplied).

केन्द्रीय प्रशासनिक न्याय
Central Administrative Tribunal

29 AUG 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

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10. Keeping in view the dicta laid down in the aforementioned judgment, we are required to examine as to whether the facts in the present case are similar to those of OA No.14/2002 or not. As noticed hereinabove, it is the applicants' own case that the OM dated 1.6.2001 is not applicable to them due to express bar

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laid in the said OM itself. It would thus be expedient to notice the said OM dated 1.8.2001, which reads thus:

*3. The staff side had invited attention to the anomalous situation that had arisen as a consequence in the National Anomalies Committee. They had raised the demand that the revised pay scales recommended by the Fifth Central Pay Commission should be extended to the Draughtsmen in all Central Government Offices, due weightage being given for the service rendered by personnel not possessing the prescribed qualifications in different departments as envisaged in this Department's O.M. dated October 19, 1994. Following consideration of this demand in consultation with the staff side, the President is now pleased to decide that Draughtsmen in different departments other than the Central Public Works Department who do not possess the prescribed qualifications and excluding those who have already derived the benefits envisaged in the O.M. dated October 19, 1994, may be placed in the scales of pay recommended by the 5th CPC on completion of the minimum service (including service rendered in the corresponding pre-revised scales) as indicated below:

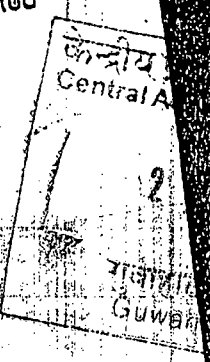
Minimum period of service to be
Rendered for placement from the
Scale of Rs. 3200-4900 (pre-
Revised: Rs. 975-1540) to the
Scale of Rs. 4000-6000 (pre-
Revised: Rs. 1200-2040) 5 years

Minimum period of service to be
Rendered for placement from the
Scale of Rs. 4000-6000 (pre-
Revised: Rs. 1200-2040) to the
Scale of Rs. 5000-8000 (pre-
Revised: Rs. 1400-2300) to the
Scale of Rs. 5000-8000 (pre-
Revised: Rs. 1400-2300) by the 6th CPC 8 years

Minimum period of service to be
Rendered for placement from the
Scale of Rs. 4500-7000 (pre-
Revised: Rs. 1400-2300) to the
Scale of Rs. 5500-9000 (pre-
Revised: Rs. 1640-2800) 6 years

4. In determining the eligibility to be placed in the revised scales of pay, the service already rendered in the pre-revised scales will also be duly taken into account. Once the Draughtsmen in various Central Government Departments are placed in the applicable revised scales of pay, further promotions to the higher grades will be made only against available vacancies in such higher grades in accordance with the normal eligibility criteria prescribed in the Recruitment Rules.

5. These orders shall be applicable to such of those Draughtsmen in various Central Government Departments who had not derived the benefits envisaged in this Department's O.M. dated October 19, 1994 as on January 1,



1996. The revised pay scales shall also be extended to them only on their fulfilling the revised eligibility criteria now prescribed in paragraph 3 above.

6. Draughtsmen who have already been covered by the orders contained in the O.M.s dated March 13, 1984 and October 19, 1994 shall be eligible to be placed only in the applicable revised scales of pay already approved for the common category of Draughtsmen in pursuance of the recommendations of the Fifth Central Pay Commission. (emphasis supplied).

11. During the course of argument, Shri Sudarshan Rajan, learned counsel made a feeble attempt to contend that the aforesaid OM dated 1.6.2001 had been placed by the respondents before the Guwahati Bench in the aforesaid OA No.14/2002. The said contention, in our respectful opinion, is contrary to the pleading raised by them particularly in para 2.2. of the rejoinder wherein it has been specifically averred that "the above said O.M. dated 1st of June 2001 was not relied upon by the respondents".

12. It is not in dispute that the applicants did not disclose the factum of issuance of memorandum dated 01.6.2001 which superseded earlier memorandum dated 19.10.1994. No explanation has come forth from the applicants as to why they did not disclose such fact. In our considered view applicants are guilty of suppressing this material fact from the Tribunal.

13. A close perusal of the aforesaid OM dated 1.6.2001 reveals that the said OM, in specific, excluded those officials who had already derived the benefits from OM dated 19.10.1994 and further stated that: "the revised pay scales shall also be extended to them only on their fulfilling the revised eligibility criteria now prescribed in paragraph 3 above." When it is the applicants' own case that the said OM indeed superseded the earlier OM dated 19.10.1994 and had not been considered by the Guwahati Bench of this Tribunal, how could the benefits prescribed under para 2 (c) of the OM dated 19.10.1994 could be extended at this stage. The contention raised, is misplaced and misconceived. It is not disputed that the applicants were granted the benefits under the aforesaid OA dated 19.10.1994 and also pursuant to directions issued by this

Tribunal in OA No.2004/2001. On a pointed query raised by the Bench as to what is the precise date when such benefit had been granted to the applicants, no answer came forth. We may note that immediately thereafter, the pay scales were revised with effect from 01.1.1996. Perusal of aforesaid OM dated 01.6.2001 also leads to inescapable conclusion that the revised pay scales are available to officials "on their fulfilling the revised eligibility criteria" prescribed under Para-3 of the said OM. On perusal of the table noted under Para-5 hereinabove, we find that the eligibility for grant of such scale has undergone change from four years to six years. If the applicants were granted the benefit of the scale of Rs.5000-8000/- (pre-revised 1860-2000/-) only in the year 1994 then even as per the earlier criteria they must wait for four years, which time would expire only after 01.1.1996. Since in the meantime the pay scales were revised, one cannot be allowed to contend that he would continue to be governed by the old OM dated 19.10.1994. We may also note that the effect and impact of OM dated 01.6.2001 had not been the subject matter before the Guwahati Bench in OA No.14/2002 and as such the same was not considered. On these facts the applicants cannot be allowed to contend that the said OM should be ignored even by this Bench and they being allegedly similarly placed to the applicants in the said OA are entitled to extension of benefit of the said judgment. In our considered view, the applicants are not similarly placed to the applicants in the OA No 14/2002. Moreover, the relief claimed in the present proceedings would also be hit by the principle of constructive res judicata in terms of Section 11, Code of Civil Procedure. The judgments relied as such have no application in the facts and circumstances of the present case.

14. Accordingly, we find no merits in the claim laid and the OA is dismissed. There shall be no order as to costs.

(Mukesh Kumar Gupta)
Member (J)

/PKR/

CERTIFIED TRUE COPY
Date/Date: 10/10/2004
Place/Place: New Delhi
Central Administrative Tribunal
New Delhi

(V.K. Majotra)
Vice-Chairman (A)

Central Administrative Tribunal
Guwahati

-24-

ANNEXURE - 2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. NO.63/2006

in

O.A. NO.457/2005

This the 18th day of August, 2006

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

1. Draughtsmens' (Cartographic) Association,
Survey of India, through Shri Swapan Das,
Secretary General C/O Business & Publicity Office,
Survey of India, Hathibarkala,
Dehradun-248001

2. Shri Dilbagh Singh,
DS (AIR) & DGDC,
Survey of India,
West Block-V, R.K.Puram,
New Delhi-110066.

.... Applicants

(By Shri S. M. Garg for Shri Sudarshan Rajan, Advocate)

VERSUS

1. Union of India through
Secretary, Ministry of Science & Tech.,
New Mehrauli Road,
New Delhi-110016.

2. The surveyor General,
Survey of India,
Block-B, Hathibarkala Estate,
Dehradun-248001.

... Respondents

ORDER

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

Through this application has been sought review of orders dated

27.2.2006 by which OA No.457/2005 was dismissed. It has been

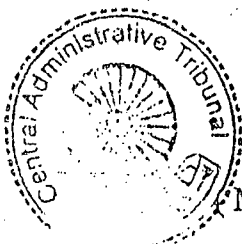


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stated that the Tribunal had relied upon OM dated 1.6.2001, which had superseded OM dated 19.10.1994. It had excluded those officials who had already derived benefits from OM of 19.10.1994. However, OM dated 22.10.2001 had stated that OM dated 1.6.2001 is not applicable to Draughtsmen of Survey of India. Applicants herein have stated that OM of 22.10.2001 ought to have been produced by respondents and that applicants could not lay their hands on OM of 22.10.2001 before disposal of the OA.

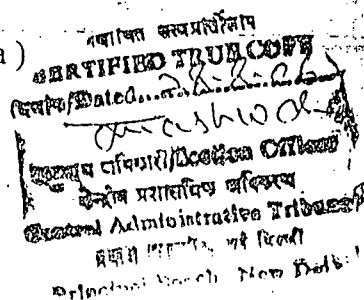
2. The learned counsel contended that applicants had exercised due diligence but had not been able to procure OM of 22.10.2001. No details have been furnished as to what action had been taken by applicants to get evidence against non-applicability of OM of 1.6.2001. If applicants were not able to produce evidence favouring them there is no error factual or legal on the part of the Tribunal in arriving at its findings. It is no new evidence but evidence which could have been easily procured by applicants at the relevant time.

3. Production of OM dated 22.10.2001 at this late stage and attempting rearguing the whole case is beyond the scope of review. Accordingly this application is dismissed.



Mukesh Kumar Gupta)
Member (J)

/as/



(V. K. Majotra)
Vice-Chairman (A)

29/10/09
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Corr. Secor.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 322 /2006

Shri Ashok Mondal & Ors.

-Versus-

Union of India & Ors.

Filed by the applicants
Mr. Rangit S. Nishu.
Adm. Secy.
25/10/2009

The applicants in the Original Application rely on the following decisions:

1. K.T. Veerappa & Ors -Vs- State of Karnataka & Ors. Reported in 2006 (2) SC SLJ 49
2. Union of India and Ors. -Vs- G. Maheswarappa and Ors. Reported in (2005) 4 SLR 220.
3. Judgment and order dated 21.08.2009 in OA No. 184 of 2005 (Goutam Mitra and Ors. Vs- Union of India & Ors.) passed by the Hon'ble CAT Calcutta Bench.

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A.No. 184 of 2005

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Present: HON'BLE MR. K.V. SACHIDANANDAN, VICE-CHAIRMAN
HON'BLE MR. CHAMP'AK CHATTERJI, MEMBER (A).

Shri Goutam Mitra and 26 Ors.

VERSUS

1. Union of India service through the Secretary,
Ministry of Science & Technology, Deptt. of
Science and Technology, Technology Bhawan,
New Mehrauli Road, New Delhi-110 016.

2. The Surveyor General of India,
Office of the Surveyor General,
Govt. of India, Block-1, Hati Barkala Estate,
Dehradun, Uttaranchal, PIN-248 001.

3. The Director, West Bengal Sikkim and
And Andaman & Nicobar Islands, Geospatial
Data Centre, Survey of India, 13, Wood Street,
Kolkata-700 016.

... Respondents

For the applicant : Mr. S.K. Dutta, counsel.

For the respondents : Mr. R. K. De, counsel.

Date of Order: 21.08.2009

ORDER

Per Mr. Champak Chatterji, AM

There are 27 applicants in this case who are working as Draftsman Gr.II in the Survey of India. They are aggrieved that orders given in the Guwahati Bench of this Tribunal in O.A. 14/2002 pronounced on 30.5.2003 had not been extended to them although they are similarly circumstanced.

2. The facts of the case are briefly as follows:-

3. The applicants joined the Survey of India during 1964-93 as TTTB. Subsequently they were promoted to Draftsman Gr.II during the period 1972 to 2001. There are five grades of Draftsman in the Survey of India. The applicants are in Draftsman Gr.II grade. In terms of O.M. dated 19.10.94 (Annexure-A/1) the pay scales

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raftsmen were revised. Similarly placed Draftsmen in the Survey of India and O.A. 14/2002 before Guwahati Bench of this Tribunal. The Guwahati Bench of this Tribunal vide its order dated 30.5.2003 directed that they should be given similar benefits.

3. The case of the applicants is that they are similarly situated as Draftsmen who moved the Guwahati Bench in O.A. 14/2002 and the respondents have deprived them of all benefits as available to the applicants in that case.



4. Their representations to the authorities have not been responded to.

5. In reply the respondents have stated that the applicants have come to this Tribunal prematurely in that their appeal was pending in the department. It has also been stated that the applicants are not similarly circumstanced. They were also not parties or aggrieved persons in respect of O.A. 14/2002 and the decision arrived at by the Tribunal in O.A. 14/2002 cannot be a cause of action for the present application.

6. Heard counsel for the applicant and the respondents.

7. The short point to be considered here is whether the applicants in the present O.A. are similarly situated to the applicants before Guwahati Bench in O.A. 14/2002. The applicants have stated that they are similarly situated. The respondents have not been able to produce any tangible argument to prove that the applicants are not similarly situated. It is seen that both categories belong to the same organization viz. Survey of India and both are Draftsman Gr.II. The applicants themselves belong to the same category of persons viz. draftsman Gr.II who are applicants before the Guwahati Bench in O.A. 14/2002. Being similarly circumstanced and being in the same organization they are entitled to the same benefit as given to the applicants in O.A. 14/2002 of the Guwahati Bench.

8. We have also seen the order dated 11.12.2006 of this Tribunal passed in O.A. 970/2002 in which it has clearly been laid down as follows:-

"It was observed that the Govt. order (O.M. dated 19.10.94) was applicable to the all departments/Ministries of the Govt. and as a responsible organization, the respondents were required to comply with the stipulations made in the aforesaid O.M. expeditiously rather than holding or until the claimants approached the Tribunal and the High Court and later the Hon'ble Supreme Court. The Principal Bench further held that by delaying the payment arising from the provision made in the aforesaid O.M. the respondents have

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made themselves liable under the peculiar circumstances of the case for payment of cost. In spite of that the benefit has not been extended to all the employees similarly situated like the applicants of this O.A. No. 276/2002. We deprecate such attitude of the respondents."



8. It has also been held in S. V. Subramaniam case reported in 1997(35) ATC 3 that a decision containing a declaration in respect of a class of employees is a judgment in rem and not in personam. In Ausan Vs. UOI & Ors., 1996 (32) ATC 37 it has been held that the benefit of a judgment should be extended to all similarly situated employees, otherwise there is contempt of the Tribunal. It is, therefore, clear that the decision arrived at in the Guwahati Bench in O.A. 14/2002 in respect of revision of pay of draftsman Gr.II is not a judgment in personam but a judgment in rem. Since the applicants are similarly situated the benefits of revision of pay as per O.M. dated 19.10.94 consequential should be extended to them. They would be entitled to the benefit of the revised scale of pay and this benefit as may be applicable under the various Pay Commissions and to be extended to them from the day their juniors got the same.

9. Under the circumstances, since there is nothing further to adjudicate but only to reiterate the earlier orders given by the Guwahati Bench in O.A. 14/2002 dated 30.5.2003 and state that the applicants in the present case being similarly situated should be given same benefit within a time frame of three months from the date of issue of this order. The O.A. is allowed and disposed of accordingly. There will be no order

as to cost.

Member (A)

Vice-Chairman

Certified to be true copy

26/8/03

Court Officer

Central Administrative Tribunal
Calcutta Bench

(a) No. of the Appn. 32-67
(b) Name of the applicant. S.K. Dutta
(c) Dt. of presentation of application for copy. 24.7.03
(d) No. of pages. 3
(e) Copying fee charged/urgent or ordinary.
(f) Dt. of preparation of copy. 24/8/2003
(g) Dt. of delivery of copy to the applicant. 12.6.03

those persons were treated as no more in the service of the Avas Vikas Sansthan. That the order of 25.04.1998 was not at all related to dismissal of service of employees as a result of dissolution of the society. It was submitted that the writ petitions challenging the said order dated 25.04.1998 are still pending in the High Court at Jaipur in writ petition Nos. 5370/1998 and 5383/1998. Since this fact was pointed out by Mr. Badridas Sharma during the time of hearing of these appeals, we do not consider the merits of the claim made in this appeal. In view of this, the above appeals are delinked from the batch of appeals in Civil Appeal Nos. 5302/2004 etc. etc. and disposed of accordingly. Both parties are at liberty to pursue the pending writ petitions before the High Court in accordance with law. No costs.

SUPREME COURT OF INDIA

Civil Appeal No. 1216-1256 of 2003

Decided on 12. 4. 2006

K.T. Veerappa & Ors.

Appellants

Versus

State of Karnataka & Ors.

Respondents

PRESENT

The Hon'ble Mr. Justice B.N. Srikrishna

The Hon'ble Mr. Justice Lokeshwar Singh Pantia

Constitution of India, Articles 14 and 16-- Pay Scale-- Revision of-- Once the benefit of revision of pay scale is given by State/University to its officers and employees in terms of court's order, the other employees identically placed would be given the same benefits-- Ordered accordingly.

Cases referred:

1. State of Haryana v. Haryana Civil Secretariat Personal Staff Association, (2002)6 SCC 72.
2. Union of India v. S.B. Vohra, (2004)2 SCC 150.

JUDGMENT

Lokeshwar Singh Pantia, J. — This batch of 41 appeals arising out of the common judgment and order dated 8th March, 2000 passed by the High Court of Karnataka at Bangalore in Writ Appeal Nos. 7000-7555/1999 were taken up for hearing together and are being disposed of by this judgment.

2. The facts, in brief, are that the appellant are holding non teaching posts in the University of Mysore. The pay scales of the employees of the respondent University, after the Tukol Pay Commission Report, were based on the pay scales recommended by the said Commission for the Government employees of the State of Karnataka as adopted by the University after due consideration of the duties and responsibilities of the various posts in the University. The pay scales of Government employees were revised on the basis of 'Narayana Pai Pay Commission report' with effect from 1st January, 1977. The University of Mysore—respondent No.2 herein and other Universities in the State requested the State Government to extend the pay scales recommended by the Narayana Pai Pay Commission in its Report to the University employees also. The State Government appointed a Committee, namely, Muddappa Committee to go into the entire matter and to make recommendations in that respect. The said Committee made a Report with certain recommendations

as to the revision of pay scales to the University employees, in the State of Karnataka. It appears that no satisfactory solution was found in the matter of fixing of pay scales to the University employees with effect from 1st January, 1977 and as a result thereof, a large number of employees especially the academic staff of the University of Mysore have suffered heavily. They filed representations requesting the authorities to look into the grievances of the employees and set right the anomalies. In spite of the recommendations in respect of the pay scales of the employees, the University of Mysore has not implemented the said Report. 23 employees of the respondent-University, similarly placed to the appellants, filed Writ Petition Nos. 21487-21506/1992 before the High Court *inter alia* praying for writ of *mandamus* commanding the State of Karnataka and the University of Mysore to declare that the fixation of revised pay scales with effect from 1.1.1977 in respect of the non-teaching (academic) staff of the University of Mysore insofar as the petitioner (in those petitions) were concerned is arbitrary, unreasonable, discriminatory and violative of Articles 14 and 16 of the Constitution of India and direct the State and the University to revise and re-fix the pay scales with effect from 1st January, 1977 at par with the employees of the State Government on the basis of the Pay Commission Report, 1976 as accepted by the University of Mysore. The State of Karnataka and the University of Mysore had not filed objections/counter affidavits in opposition to the said writ petitions which were allowed by the learned Single Judge by order dated June 21, 1989 directing the University of Mysore to accord revised pay scales to the petitioners on a rational basis with effect from 1st January, 1977 with consequential benefits including the difference of salary and further to consider the question of revision of pay scales with effect from 1st January, 1982 and also subsequently as and when the pay scales of other posts specified in column No. 5 of the statement extracted in the said order have been revised and to grant all consequential benefits.

3. Being aggrieved, against the judgment of the learned Single Judge, the University of Mysore filed Writ Appeal Nos. 2220 to 2230 of 1989. The said appeals were disposed of by the Division Bench on 18th April, 1990 in the following terms:-

"(i) The petitioners may submit their representations against the Report of the Muddappa Committee before the Vice-Chancellor of the University of Mysore for revising the pay-scales. Within 4 weeks from the date of submission of the representations, the Vice-Chancellor shall appoint a Committee of three persons to go into the representations of the petitioner. The Committee so appointed shall hear the petitioners or their counsel and a representative of the University or its counsel and submit its Report to the Vice-Chancellor within four weeks from the date of its appointment. Within six weeks from the date of receipt of the Report of the Committee, the University shall take a decision in the matter in accordance with law regarding the pay-scales of the petitioners. In the event the pay scales are revised, the same shall be given effect to from 1.1.1977 by suitably amending the Statutes. Consequent to revision of pay scales to a higher scale, the petitioners shall also be entitled to all the consequential benefits including difference of salary from 1.1.1977.

(ii) The University is also directed to give effect to the subsequent revisions in the pay-scales with effect from 1.1.1982 and further revisions, if any, subsequent to 1.1.1982, the University and the benefit of the same shall also be extended to the petitioners and the filient in the pay-scales revised with

effect from 1.1.1982 and a further revision, if any, shall be made on the basis on the pay-scale revised with effect from 1.1.1977. This direction shall also be complied with within the aforesaid period.

All the contentions of both sides are left open."

4. In compliance to the directions of the Division Bench of the Karnataka High Court, the Vice-Chancellor of respondent- University constituted a Committee of three members headed by a Chairman- Shri K.Hiriyanna, Deputy Secretary to the Government, Department of Personnel and Administrative Reforms, Karnataka Government. Having heard the affected parties, the Committee made certain recommendations which were accepted by the University and revised pay scales were accordingly sanctioned. However, the revised pay scales were not paid to those petitioners whose petitions were allowed by the learned Single Judge. The said employees initiated contempt proceeding against the University of Mysore, its Vice-Chancellor and the Registrar. The Vice-Chancellor and the Registrar both appeared in person before the High Court on 21st April, 1992 and submitted that the direction of the Court in Writ Appeal Nos. 2220-2230 of 1989 dated 18th April, 1990 and 21st September, 1991 had already been complied with and arrears of salary had been paid to those employees whose writ petitions were allowed by the learned Single Judge. No benefit of pay scales was given to the appellants. The appellants, therefore, represented to the Vice-Chancellor of the University who again appointed Shri Hiriyanna to head a Committee. Shri Hiriyanna retired from service before the Committee could finalise its Report and, thereafter, no Committee was re-constituted to redress the grievances of the appellants who continued to suffer the discrimination and were given lower pay scales.

5. The appellants being similarly placed employees approached the High Court of Karnataka by means of Writ Petition Nos. 11755/94, C/W 3400-3423/1993, 37901-37904/1992, 35996/1992, 2436-3443/1993 and 27004/92. The learned Single Judge of the Court relying upon the earlier decision of the Division Bench dated 18th April, 1990, allowed the writ petitions in the following terms :- (Vide para 6)

"6. It is not in dispute that the revised pay scales of 1977 have been adopted and extended to some of the employees of the University. Since the issue is already concluded, there is no necessity to consider the same once again either by reconstituting the Hiriyanna Committee or any other authority. The University being statutory body cannot make discrimination to its officers and employees in the matter of extending same benefit to others also. Any such discrimination is violative of Article 14 of the Constitution....."

6. It was further observed that in paragraph 6 of the Note on Pay Anomalies dated 2.2.1988 put up by the Registrar of the University, it is stated that "similarly placed employees" were given the benefit of higher pay scales only because they filed writ petitions. The same is the position of the petitioners herein also. As a result, the writ petitions were allowed directing the university of Mysore to extend the revised pay scales of 1977 and the subsequent revision to the petitioners-appellants and pay the difference of monetary benefits to them within two months from the date of receipt of a copy of the order.

7. Being aggrieved against the said judgment and order of the learned Single Judge dated October 29, 1998, the State of Karnataka through the Secretary.

Department of Education, filed writ appeals under Section 4 of the Karnataka High Court Act, praying for setting aside the order of the learned Single Judge. The Division Bench, accordingly, set aside the impugned order of the learned Single Judge and recorded *inter alia* the following order:

"In the present case, it is a matter of record as is even borne out from the affidavit of the Vice-Chancellor of the University filed no 27.1.2003 that no Statutes are framed to implement the revised pay scales as per Scheme formulated by the Division Bench of this Court.

In the above view of the matter, in our considered opinion it was not permissible on the part of the learned Single Judge to issue a direction of the nature impugned herein i.e. directing the University to extend revised pay scales and make payments accordingly within 2 months from the date of the receipt of the order. It can unhesitatingly be held that going by the order of the earlier Division Bench referred to above even the employees who are before the Division Bench were not entitled to any benefit of revised pay scales till the Statutes were framed. It is for the Vice-Chancellor of the University to take appropriate measures to remedy the wrong after giving due notice to the beneficiaries.

Keeping the facts and circumstances of the case, we find it advisable to direct the University to take appropriate measures in term of the Division Bench directions which has to be of general nature regarding revision of pay scales and forward the draft Statutes to the Government for its appropriate action in accordance with law. When such draft Statutes are received by the Government then it will be for the Government to take appropriate decision by taking into account the relevant considerations. Accordingly, the order of the learned Single Judge is set aside. Parties to bear their own costs."

8. Now, the appellants have filed these appeals by special leave.

9. In the counter affidavit filed by the State of Karnataka, it is admitted that the Government of Karnataka have revised the pay scales of its employees with effect from 1st January, 1977 and this revision was also extended to the employees of the Universities, including University of Mysore-respondent No.2. Grant of benefit of revised pay scales by the University to its 23 employees, who had succeeded in the earlier writ petitions, is admitted. It is stated that the order of the Division Bench impugned in these appeals has only directed the implementation of the first order of the Division Bench in its true spirit. The State, for the first time, has taken wholly untenable stand that pursuant to the order earlier passed by the Division Bench, the action of the University granting pay scales to the 23-employees was not in accordance with the provisions of the Karnataka State Universities Act, 1976 as the pay scales of the employees of the University are to be fixed by framing or amending the existing Statute of the University.

10. When the matter came up for consideration before this Court on August 26, 2002 the learned counsel for the University submitted that the State Government has not taken a final decision in the matter with regard to the amendment of the Statute. The matter came up before this Court for consideration on February 7, 2003, when the learned counsel for the State as well as the University submitted that the proposed amendments to the Statute have not been approved by the State

Government.

11. Having heard the learned counsel for the parties, we are satisfied that the appeal filed by the appellants deserve to be allowed. The learned counsel for the appellants submitted that the impugned order of the Division Bench of the High Court has misinterpreted the earlier order of the Division Bench which was binding upon the respondents-State and the University. According to the learned counsel, a Co-ordinate bench is unjustified in commenting upon the earlier decision of the bench to say that even the employees, who were before the Division Bench in the earlier appeals, were not entitled to any benefit of revised pay scales till the Statute was framed or amendment to the existing Statute is approved by the State Government/Chancellor. According to the learned counsel, the action of the State of Karnataka and the University of Mysore, denying the benefits of revised pay scales to the appellants, is wholly arbitrary and discriminatory.

12. Per contra, Mr. Sanjay R. Hegde, learned counsel for the State of Karnataka, has sought to support the judgment of the Division Bench and contended that since the employees of the Universities established in the State of Karnataka are bound by their respected Statutes and unless the Statutes are suitably amended or modified by the University authorities and such amendment is finally approved by the Chancellor of the University, the appellants and other employees of the Universities in the State of Karnataka would not be entitled for the benefits of the revised pay scales at par with the employees of the State Government on the basis of Karnataka Civil Services (Revised Pay) Rules, 1970.

13. He next contended that fixation of pay and parity in duties is the function of the Executive and financial capacity of the Government and the priority given to different types of post under the prevailing policies of the government are also relevant factors. In support of this contention, he has placed reliance in the case of *State of Haryana and Anr. v. Haryana Civil Secretariat Personal Staff Association*, (2002) 6 SCC 72 and *Union of India and Anr. v. S.B. Vohra and Ors.*, (2004) 2 SCC 150. There is no dispute nor can there be any to the principle as settled in the case of *State of Haryana & Anr. v. Haryana Civil Secretariat Personal Staff Association* (supra) that fixation of pay and determination of parity in duties is the function of the Executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well-settled that the courts should interfere with administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors.

14. In *S.B. Vohra's case* (supra), this Court dealing with the fixation of pay scales of officers of the High Court of Delhi (Assistant Registers) has held that the fixation of pay scale is within the exclusive domain of Chief Justice, subject to approval of President/Governor of the State and the matter should either been examined by an expert body or in its absence by Chief Justice and the Central/State Government should attend to the suggestions of the Chief Justice with reasonable promptitude so as to satisfy the test of Article 14 of the Constitution of India. Further, it is observed that financial implications vis-a-vis effect of grant of a particular scale of pay may not always be a sufficient reason and differences should be mutually discussed and tried to be solved.

15. In the present cases, in compliance to the judgment of the learned Single

Judge of the High Court, the vice-Chancellor of the Mysore University constituted a Committee headed by Shri Hiriyanra. The said Committee, in its Report dated 8.6.1991, has recorded the observations that the details of the pay scales assigned by the 'Muddappa Committee', the Manjunath Committee, the Acharya Committee, the Gopala Reddy Committee' as also the pay scales given effect to from 1.1.1977 and the claims of the appellants, on individual basis, could perhaps have been attended to by the University itself after the 'Muddappa Committee' made its recommendations. The Vice-Chancellor and Registrar of the Mysore University while appearing before the Division Bench of the Karnataka High Court in C.C.C.Nos. 84 to 103 of 1992 in compliance to the Order dated 16th Apr. 1992 had brought to the notice of the bench that the direction issued by the learned Single Judge in W.A. Nos. 2220 to 2239/1989 dated 18.4.1990 and 29.1.1991 had already been complied with and arrears of salary had been paid to the employees of the University, who filed the said Writ Petitions. Thereafter, the respondent-University submitted certain proposed amendments to the Statute and the same were sent to the State Government for approval. The State Government, for the reasons best known to it, till date has not been able to state any good reason as to why the amendment of the Statute as proposed by the University in regard to the fixation of the pay scales of its employees could not have been approved by the competent authority. The Vice-Chancellor in its affidavit dated 25.1.2000 filed in the Writ Appeal Nos. 7007-55/1999 has categorically stated that the respondent-University, in its Meeting held on 17.4.1999, decided to comply with the orders of the Court and also to extend the benefit of the revised pay scale with effect from 1.1.1977 to those employees who are eligible for such benefits and have not gone to the Court. This decision was taken on the representation submitted by the appellants.

(16) The defence of the State Government that as the appellants were not the petitioners in the writ petition filed by 23 employees of the respondent-University to whom the benefit of revised pay scales was granted by the Court, the appellants are estopped from raising their claim of revised pay scales in the year 1992-94, is wholly unjustified, patently irrational, arbitrary and discriminatory. As noticed in the earlier part of this judgment, revised pay scales were given to those 23 employees in the year 1991 when the contempt proceedings were initiated against the vice-Chancellor and the Registrar of the University of Mysore. The benefits having been given to 23 employees of the University in compliance with the decision dated 21.6.1989 recorded by the learned Single Judge in W.P. Nos. 21487-21506/1982, it was expected that without resorting to any of the methods the other employees incidentally placed, including the appellants, would have been given the same benefits, which would have avoided not only unnecessary litigation but also the movement of files and papers which only wastes public time.

17. Shri Sobha Nambisan, Principal Secretary to Government, Education Department (Higher Education), Government of Karnataka in his latest affidavit dated 6.3.2006 filed in these proceedings has stated that after 1.1.1977, the Government of Karnataka has revised the pay scales of employees of State Government in 1982, 1987, 1994 and 1999. From 1.1.1977 to 2003, the dearness allowance, house rent allowance and other allowances have also been revised. The revision of pay scales, dearness allowances, house rent allowances and other allowances extended to the State Government employees were also extended to the university employees from

2005(2) Hec. Voluntary Retd. Emps. Welfare Soc. v. Heavy Engineering Corpn. Ltd. 55 time to time. Moreover, a large numbers of Mysore University employees were promoted in terms of the time-bound promotion schemes of 10 years, 15 years and 20 years in terms of the Government Orders issued from time to time. The additional financial implications of Rs. 60 lakhs will have to be borne by the State Government. He has categorically stated that the revision of pay scales extended to the employees of State Government time and again will also be extended to all the University employees.

18. In our view, the impugned judgment of the High Court in W.A. Nos. 7007-55/1999 dated 6.3.2000 is not legally sustainable. It is, accordingly, quashed and set aside.

19. Consequently, the appeals are allowed and the order of the learned Single Judge dated 29.10.1998 in Writ Petition Nos. 11755/94 CW 3400-3423/93, 37901-37904/92, 35996/92, 3426-3443/93 and 27004/92 is restored and maintained. The respondents-State of Karnataka and University of Mysore, both are directed to extend the pay scales of 1977 and subsequent revisions to the appellants and pay the difference of monetary benefits to them within four months from the date of this order. In the facts and circumstances of the case, the parties are left to bear their own costs.

SUPREME COURT OF INDIA

Civil Appeal No. 5367 of 2001

With:

Civil Appeal Nos. 5368-5378 of 2001

(From the Final Judgment/Order dated 5.7.2000 of the Patna High Court in C.W.J.C. No. 227 of 1998 (R))

Decided on 24. 2. 2005

Hec. Voluntary Retd. Emps. Welfare Soc. and Anr.

Appellants

Versus

Heavy Engineering Corporation Ltd. and Ors.

Respondents

For the Appellants:

Mr. S. B. Upadhyay, Mr. Shiv Mangal Sharma and Mr. M.A. Chinnasamy, Advocates.

For the Respondents:

Mr. Ranjit Kumar, Senior Advocate with Ms. Binu Tamta, Mr. A.R. Qureshi and Mohd. Irshad Hanif, Advocates

PRESENT

The Hon'ble Mr. Justice S. B. Sinha

The Hon'ble Mr. Justice Dalveer Bhandari

Voluntary Retirement Scheme-- Pay Scale-- Respondent corporation floated a revised VRS in 1990-- Scheme remained effective initially for one year but has been extended from time to time-- Appellants who have opted in terms of Scheme retired between 1-1-1992 to 31-12-1996-- In 1997 pay scales revised by the Corporation and benefits of revised pay scale given with retrospective effect from 1-1-1992-- Claim benefits of revised pay scale-- Corporation sought clarification from Central Govt. in this regard-- Central Govt. recommended that they are entitled to the benefits of revised pay scale-- No such benefits given-- Whether appellants entitled to such benefits-- Held Corporation is a separate juristic entity and in absence of any Statutory

13. It is admitted position on record that the petitioner was very well aware of the fact that the respondents are conducting an enquiry to find out his correct date of birth. It is admitted on record that the petitioner also participated in the proceedings and was given sufficient opportunity of hearing. It has also been on record that the petitioner also appeared before the Executive Engineer, RSEB, Jodhpur for recording his statements. In his statements, he has stated that he has no objection if his date of birth is changed to 2.11.1950 making correction in the service record. Thereafter, he was also examined by the Medical Board of the M.G. Hospital, Jodhpur, which was constituted to ascertain the clinical age of the petitioner, in which it was opined that the clinical age of the petitioner is about 50 to 60 years. Despite all these facts, nothing has been said in the present writ petition. Thus, it is revealed that the petitioner has not come to the Court with clean hands. From that, there is no iota of evidence that any illegality or material irregularity has been committed by the Department while correcting his date of birth. The question of fact, which cannot be looked into by this Court.

14. In view of the aforesaid admitted position, the date of birth, which was interpolated, has been corrected by the Department, after affording a reasonable opportunity of hearing to the petitioner. Thus, in such a scenario, the petitioner cannot claim for equity and he is estopped to invoke the extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India.

15. In this view of the matter, I do not find any ground to interfere with the impugned order.

16. The writ petition lacks merits and is hereby dismissed. There will be no order as to costs.

KARNATAKA HIGH COURT (D.B.)

Before :- V. Gopala Gowda and H. Billappa, JJ.

Writ Petition Nos. 43234 and 47646-58 of 2001 (S-CAT)

Decided on 3.12.2004

Union of India and others

Versus

G. Maheswarappa and others

For the Petitioners : Mr. M.V. Chandrasekhara Reddy, ACGSC.

For the Respondents : Mr. M.B. Nargund and Mr. Sonavalkund, Advocates.

Constitution of India, Articles 16 and 226—Pay scale—Revised pay scale—Benefit of—Qualification—Grade II Draftsmen in Telecom—Pay scale revised by O.M. dated 19.10.1994—Said order did not prescribe fulfilment of recruitment qualification—Respondents not possess prescribed recruitment qualification—Respondents entitled to benefit of revised pay scale on basis of length of service.

Case referred :

Union of India v. R. Jothimani, W.P. No. 597/2000, decided on 30.10.2001.

JUDGMENT

Gopala Gowda, J.—The respondents are Grade II Draftsmen working with the petitioners. The pay scale of Draftsmen was revised by order dated 19.10.1994. Since the same was not implemented, respondents filed O.A. No. 301/2000 before the Central Administrative Tribunal seeking a direction to implement the same.

scales and the judgment of the Tribunal dated 14.12.1999 in O.S. No. 1998. The application was resisted by the petitioners. After considering the contentions, the Tribunal by the impugned order at Annexure-C, dated 20.10.2001 allowed the application and directions sought for were issued. Challenging the correctness of the same, these writ petitions were filed by the Union of India and others.

According to the petitioners, respondents do not possess the prescribed qualification as per the order dated 13.3.1984 and this aspect was not considered by the Tribunal. It is further contended that question of extending the benefit of revised pay scale to the respondents do not arise as there were no vacancies. In support of the contentions, Mr. M.V. Chandrasekhara Reddy, learned Addl. Govt. Standing Counsel relied upon an unreported decision of the Madras High Court in W.P. No. 597/2000 decided on 30.10.2001 (Union of India v. R. Jothimani).

We have perused the impugned order. The Tribunal at paragraph 10 has considered the contention of the petitioners and has answered as under :-

"10. xxx It would not be out of place to mention here that order dated 13.3.1984 prescribed pay scale of draughtsmen were to be revised subject to fulfilment of recruitment qualifications and those who did not fulfil the recruitment qualification were to be contained in the pre-revised scale. But in O.M. dated 19.10.1994 said condition of fulfilment of recruitment qualification was not prescribed and the benefit of revised scale was extended to all those who did not have prescribed recruitment qualification on the basis of length of service in a particular grade irrespective of their recruitment qualification". Thus, it is clear that O.M. dated 19.10.1994 did not prescribe fulfilment of qualification. Therefore, the contention of the petitioners is wholly untenable.

As could be seen from paragraph 11 of the impugned order, copy of order dated 29.6.2001 passed by this Court in W.P. Nos. 16870-83/2000 challenging the order of the Tribunal in O.S. No. 937/1998 was produced. This Court upheld the order of the Tribunal passed in the said application. Hence, the unreported decision relied upon by the A.C. G.S.C. is not helpful to the petitioners.

In our view, the impugned order is valid and does not warrant interference at all hands. Writ petitions are devoid of merit and liable to be dismissed.

Accordingly, the petitions are dismissed.

Petition dismissed.

KARNATAKA HIGH COURT

Before :- K. Sreedhar Rao, J.

W.P. No. 30386 of 2003 (S-PRO)

Decided on 7.1.2005

H.P. Lakshminarayana

Versus

Karnataka Forest Development Corporation Ltd., Bangalore and others

Petitioner

Respondents

The Petitioner : Mr. M.S. Bhagwat and Mr. H.S. Sheshadri, Advocates.

The Respondent Nos. 1 and 2 : Mr. G.S. Kannur, Advocate.

The Respondent No. 3 : Smt. Rosa Perumal, Govt. Pleader.

Constitution of India, Articles 16 and 226—Promotion—Service rules requiring promotional post to be filled up by deputation or by in-service officers—All posts filled up by deputation—In-service

officers have legitimate expectation of promotion as a just reward for sincere service rendered—Corporation directed to consider all eligible officers for promotion.

ORDER

K. Sreedhar Rao, J.—The petitioner is working as Assistant Manager in the first respondent Corporation and has put in 9 years of the present cadre. The next promotional post is Divisional Manager. According to recruitment rules of the first respondent, the post of Divisional Manager/Project Officer could be filled up by the promotion from the post of Deputy Conservator of Forest from the Forest Department, promotion from the cadre of Assistant Divisional Manager, who has minimum 7 years of service. At present there are 7 Divisional Managers in the 7 divisions of the first respondent and all the 7 posts are filled by deputation.

2. It is the grievance of the petitioner that the eligible Assistant Managers, who are in service of the first respondent, are not being considered for the post of Divisional Manager. Therefore, seeks a direction to regularise deputationists and to fill up 7 posts by promotion from the cadre of Divisional Manager. The petitioner also seeks relief to direct the respondent to promote him to the post of Divisional Manager.

3. The learned counsel for the petitioner relied on the ruling of the Supreme Court in *Jai Ram Sharma and Jammu Development Authority* (AIR 1977 151), in para 4, the following observations are made:

"4. Counter-affidavit has been filed by the respondent contending that the appellant's seniority was considered with effect from the date when the vacancy had arisen after the retirement of the 5th respondent. The action is obviously illegal and an arm twist to nepotism. When the appellant was a regular candidate as Office Superintendent, he was entitled to be considered in preference to the deputationist, who is not a member of the service as on that date. He was wrongly denied of his legitimate right to be considered for appointment on the date when the 5th respondent was appointed. It is, therefore, directed that the appellant must be considered to have been regularly appointed with effect from the date on which the 5th respondent was promoted as P.R.O. and in terms of the order passed by the Court. His entitlement would be considered according to the rule, which provides a period of three months from the date of the receipt of this order."

4. The contentions of the learned counsel for the respondents that filling up the post of Divisional Manager by deputation is perfectly legal in accordance with law and that the petitioners are not entitled to the relief in the petition is untenable in view of the ratio laid down by the Supreme Court in the above cited case. The recruitment rules do provide for deputation and for promotion, the petitioners are in regular service of the Corporation and have legitimate expectation of promotion as a just and legal reward for the sincere service they render to the Corporation. If the Corporation were to adopt the step-motherly attitude of promoting people by deputation denying the legitimate opportunity of the in-service officers, it would badly demoralise the cadres and would kill their zeal to work with institution with sincerity. Besides, it would also hamper their efficiency, thus having telling effect on the performance of the Corporation. Of course, it is permissible for the petitioner to seek that he should be promoted, but it is not the duty on the part of the first respondent to consider all eligible in-service officers for promotion. When they are found unsuitable, the Corporation can resort to importing by deputation as envisaged in the service rules.

In that view of the matter, it is directed that the Corporation shall consider the case of the petitioner and other eligible persons in the cadre of Assistant Divisional Manager for promotion and thereafter takes suitable action in accordance with law. If need be repatriating the deputationists, if the in-service Assistant Divisional Managers are found to be suitable for the promotional posts. Accordingly, the writ petition is disposed. Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before :- G.S. Singhvi, J.

Civil Writ Petition No. 3319 of 1989

Decided on 7.1.2004

Paramjit Singh

Versus

Petitioner

State of Punjab

Respondents

For the Petitioner : Mr. Shashi Bhushan Nagpal, Advocate.

For the Respondents : Ms. Rita Kohli, Deputy Advocate General, Punjab.

Constitution of India, Articles 16 and 226—Seniority list—Challenge as to—Temporary service of petitioner not counted while fixing his seniority—Ad hoc service rendered by an employee prior to regular appointment cannot be taken into consideration for fixation of seniority—Seniority rightly fixed by counting period of regular service.

Cases referred :

1. State of Haryana v. Haryana Veterinary and AHTS Association, 2000(5) SLR 223 [Para 4]

2. Brish Bhan Mittal v. State of Haryana, Civil Writ Petition No. 6235 of 1993, decided on 17.9.1993 [Para 4]

JUDGMENT

G.S. Singhvi, J.—Whether the service rendered by the petitioner pursuant to his ad hoc appointment as Agriculture Sub Inspector w.e.f. 3.9.1966 should have been taken into consideration for fixation of his seniority is the short question which arises for determination in this petition filed by him for quashing the seniority list circulated by Chief Conservator of Soils, Punjab (respondent No.2) vide letter Annexure P-7 dated 22.10.1986.

2. The petitioner was initially appointed as Agriculture Sub Inspector vide order dated 29.8.1966/1.9.1966 issued by Deputy Director of Agriculture, Nabha on purely temporary basis up to 30.9.1966 in Rice Package Programme in Block Samana. After the expiry of initial term, he was permitted to continue albeit without any written order, though, later on, his continuance was regularised vide orders dated 11.4.1967 (Annexure P-2), 14.6.1967 (Annexure P-3) and 1.5.1968 (Annexure P-4), with one day's break on each occasion. In 1971, he was regularly appointed as Agriculture Sub Inspector vide order dated 17.2.1971 issued by respondent No.2 on the recommendation of the Departmental Selection Committee. After 15 years of his regular appointment in the cadre, respondent No.2 circulated the final seniority list of Agriculture Sub Inspectors vide memo dated 22.10.1986 Annexure P-7. The petitioner has averred that as per the existing practice, his ad hoc and temporary service should have been counted for the purpose of fixation of seniority and respondent No.2 committed a serious illegality by ignoring the said service and fixing his seniority at Sr. No. 119. He has further averred that on the basis of his length of service counted from 1.9.1966, he is entitled to be fixed at S. No. 60 and, therefore, a writ in the nature of mandamus be issued directing respondent No.2 to fix his seniority at S. No.60 instead of S. No. 119.

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A.No. 184 of 2005

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Present: HON'BLE MR. K.V. SACHIDANANDAN, VICE-CHAIRMAN
HON'BLE MR. CHAMPAK CHATTERJI, MEMBER (A)

Shri Goutam Mitra and 26 Ors.

-VERSUS-

1. Union of India service through the Secretary,
Ministry of Science & Technology, Deptt. of
Science and Technology, Technology Bhawan,
New Mehrauli Road, New Delhi-110 016.
2. The Surveyor General of India,
Office of the Surveyor General,
Govt. of India, Block-1, Hati Barkala Estate,
Dehradun, Uttaranchal, PIN-248 001.
3. The Director, West Bengal Sikkim and
Andaman & Nicobar Islands, Geospatial
Data Centre, Survey of India, 13, Wood Street,
Kolkata-700 016.

... Respondents

For the applicant : Mr. S.K. Dutta, counsel.

For the respondents : Mr. R. K. De, counsel.

Date of Order: 21.08.2009

ORDER

Per Mr. Champak Chatterji, AM

There are 27 applicants in this case who are working as Draftsman Gr.II in the Survey of India. They are aggrieved that orders given in the Guwahati Bench of this Tribunal in O.A. 14/2002 pronounced on 30.5.2003 had not been extended to them although they are similarly circumstanced.

2. The facts of the case are briefly as follows:-

3. The applicants joined the Survey of India during 1964-93 as TTTB. Subsequently they were promoted to Draftsman Gr.II during the period 1972 to 2001.

There are five grades of Draftsman in the Survey of India. The applicants are in Draftsman Gr.II grade. In terms of O.M. dated 19.10.94 (Annexure-A/1) the pay scales

292 of these Draftsmen were revised. Similarly placed Draftsmen in the Survey of India then moved O.A. 14/2002 before Guwahati Bench of this Tribunal. The Guwahati Bench of this Tribunal vide its order dated 30.5.2003 directed that they should be given similar benefits.

3. The case of the applicants is that they are similarly situated as Draftsmen who moved the Guwahati Bench in O.A. 14/2002 and the respondents have deprived them of all benefits as available to the applicants in that case.

4. Their representations to the authorities have not been responded to.

5. In reply the respondents have stated that the applicants have come to this Tribunal prematurely in that their appeal was pending in the department. It has also been stated that the applicants are not similarly circumstanced. They were also not parties or aggrieved persons in respect of O.A. 14/2002 and the decision arrived at by the Tribunal in O.A. 14/2002 cannot be a cause of action for the present application.

6. Heard counsel for the applicant and the respondents.

7. The short point to be considered here is whether the applicants in the present O.A. are similarly situated to the applicants before Guwahati Bench in O.A. 14/2002.

The applicants have stated that they are similarly situated. The respondents have not been able to produce any tangible argument to prove that the applicants are not similarly situated. It is seen that both categories belong to the same organization viz. Survey of

India and both are Draftsman Gr.II. The applicants themselves belong to the same category of persons viz. draftsman Gr.II who are applicants before the Guwahati Bench

in O.A. 14/2002. Being similarly circumstanced and being in the same organization they are entitled to the same benefit as given to the applicants in O.A. 14/2002 of the Guwahati Bench.

8. We have also seen the order dated 11.12.2006 of this Tribunal passed in O.A. 970/2002 in which it has clearly been laid down as follows:-

"It was observed that the Govt. order (O.M. dated 19.10.94) was applicable to the all departments/Ministries of the Govt. and as a responsible organization, the respondents were required to comply with the stipulations made in the aforesaid O.M. expeditiously rather than holding or until the claimants approached the Tribunal and the High Court and later the Hon'ble Supreme Court. The Principal Bench further held that by delaying the payment arising from the provision made in the aforesaid O.M. the respondents have



made themselves liable under the peculiar circumstances of the case for payment of cost. In spite of that the benefit has not been extended to all the employees similarly situated like the applicants of this O.A No. 970/2002. We deprecate such attitude of the respondents."

8. It has also been held in S. V. Subramanijan case reported in 1997(35) ATC 3 that a decision containing a declaration in respect of a class of employees is a judgment in rem and not in personam. In Ausan Vs. UOI & Ors., 1996 (32) ATC 37 it has been held that the benefit of a judgment should be extended to all similarly situated employees, otherwise there is contempt of the Tribunal. It is, therefore, clear that the decision arrived at in the Guwahati Bench in O.A. 14/2002 in respect of revision of pay of draftsman Gr.II is not a judgment in personam but a judgment in rem. Since the applicants are similarly situated the benefits of revision of pay as per O.M. dated 19.10.94 consequential should be extended to them. They would be entitled to the benefit of the revised scale of pay and this benefit as may be applicable under the various Pay Commissions and to be extended to them from the day their juniors got the same.

9. Under the circumstances, since there is nothing further to adjudicate but only to reiterate the earlier orders given by the Guwahati Bench in O.A. 14/2002 dated 30.5.2003 and state that the applicants in the present case being similarly situated should be given same benefit within a time frame of three months from the date of issue of this order. The O.A. is allowed and disposed of accordingly. There will be no order as to cost.

Member (A)

Vice-Chairman

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 सत्यप्रति प्रमाणित
 Court Officer
 के.सी. प्रसाद उपाध्याय
 Central Administrative Tribunal
 कलकत्ता बेंच
 Calcutta Bench

(a) No. of the appn. 32-67
 (b) Name of the applicant Sh. Dutta
 (c) Dt. of presentation of application for copy 24.8.08
 (d) No. of pages 3
 (e) Copying fee charged/urgent or ordinary
 (f) Dt. of preparation of copy 24/8/2008
 (g) Dt. of delivery of copy to the applicant 26/8/08

