

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Applications No 369 of 2004

Jabalpur, this the 16th day of September, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. P.K. Parshadi,
S/o Shri J.Parshadi,
Aged about 55 years,
R/o 18, Krishna Colony,
Ghamapur, Jabalpur.
and 13 others.

Applicants

(By Advocate -Shri S.Paul alongwith Shri V.Tripathi)

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Defence,
New Delhi.
2. Chairman,
Ordnance Factories Board,
10-A shaheed S.K. Bose Marg,
Kolkata.
3. General Manager,
Vehicle Factory, Jabalpur.

Respondents

(By Advocate - Shri P.Shankaran)

ORDER

By M.P. Singh, Vice Chairman -

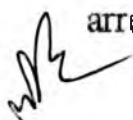
for

M.A. dated 18.4.2004 joining together is allowed.

2. By filing this Original Application, the applicant has sought the following main reliefs :-

“(ii) Set aside the order dated 7.1.2004 Annexure A/1.

(iii) Upon holding the applicants are entitled to get the pay-scale of 550-750/- w.e.f. 13.5.1982 notionally and from 1.11.1983 actually with all consequential benefits including arrears of pay and other benefits arising thereof.”



2.1 The brief facts of the case are that the applicants, 14 in number, who were working as Senior Draughtsman on 11.7.1977, were given the pay scale of Rs.330-560 w.e.f. 1.1.1973. After the decision in the case of **P. Savita Vs. Union of India and others**, AIR 1985 SC 1124, they were directed to be given the pay scale of Rs.425-700. According to the applicants, the post of Senior Draughtsman existed before and after 13.5.1982. The applicants have further stated that the department on its own cancelled the promotion and pay fixation which had taken place after 1.1.1973 till issuance of order dated 12.8.1986 and refixed the pay as directed in order dated 12.8.1986. Thus, all the applicants for all practical purposes shall be treated to be Senior Draughtsman as on 12.8.1986 from the date of their appointment/promotion as Senior Draughtsman. Since the respondents have not granted the benefit of the Award of Board of Arbitration as was given in the case of the Draughtsman of CPWD (hereinafter referred to as 'the CPWD Award'), which was extended to other Departments vide Ministry of Finance order dated 13.3.1984, the applicants have filed this Original Application, claiming the aforementioned reliefs.

3. The respondents in their reply have stated that the applicants were all initially appointed as Draughtsman in Ordnance Factories in the early 1970s. Prior to 1.1.1993(sic), there were only two grades in the Design Trade under Respondents i.e. Senior Draughtsman in the pay scale of Rs.204-280 and feeder grade of Draughtsman in the pay scale of Rs.150-240. Senior Draughtsman was promotional post of Draughtsman. Next promotion of Senior Draughtsman was to Supervisor A (Tech) which in turn was a feeder post to next higher grade of Chargeman Grade-II(Tech). During the period from their date of appointment to 1980, they were promoted to Senior Draughtsman and Supervisor A (Tech) as per rule in vogue. Subsequently, the post of Supervisor A (Tech) in the pay scale of Rs.425-700 was merged with the post of Chargeman Grade-II (Tech) in the pay scale of Rs.425-700 from

1.1.1980 vide order dated 30.1.1980 (Annexure-R-1). Accordingly the post of Supervisor A(Tech) which the applicants was holding was also merged with the post of Chargeman Grade.II (Tech). Subsequently, the applicants earned further promotion in the hierarchy i.e. to Chargeman Grade-I (Tech.) and Assistant Foreman. The post of Supervisor A (Tech) ceased to exist from 1.1.1980. Similarly, in terms of the decision taken after due deliberation at the JCM IIIrd level, an order was issued on 11.5.1981 (Annexure-R-2) for filling up the posts of Senior Draughtsman in the pay scale of Rs.425-700 by appointment of Chargeman Grade-II (Tech) in lieu as both these grades were in the identical scale of pay Rs.425-700. Thus, the posts of Senior Draughtsman after 1981 were filled up in lieu by appointing Chargeman Grade-II (Tech). Subsequently, revised recruitment rules were also issued vide SRO 13 E of 4.5.1989 in which there is only one grade of Draughtsman in the organization and there is no grade of Senior Draughtsman.

3.1 The respondents have further stated that all the applicants were promoted to the post of Supervisor A(Tech) which was merged with Chargeman Grade II(Tech.) and they were re-designated as Chargeman Grade-II from 1.11.1980. Therefore, they were not holding the post of Senior Draughtsman as on 13.5.1982 to become entitled to the pay scale of Rs.550-750 at par with Draughtsman Grade-I in CPWD as claimed by them. This matter has already been adjudicated in similar OA by the Principal Bench of this Tribunal in OA No.1047/1990 (P.Savita & 173 others Vs. Union of India and another) and vide order dated 6.6.1997(Annexure-R-3) the Principal Bench has dismissed the claim of the applicants in the said OA. The present applicants are also claiming the same benefits as claimed in the case of P.Savita (supra). Therefore, the demand put forth by the applicants has already been decided and settled for ever. In view of the aforesaid facts, the present OA is the creation of misrepresentation of the

facts of the case and it is not maintainable and is liable to be dismissed.

4. Heard the learned counsel of parties and carefully perused the pleadings available on record.

5. The learned counsel for the applicants, during the course of arguments has submitted that the pay of the applicants was fixed in the year 1986 as Senior Draughtsman and, therefore, they will have to be treated as Senior Draughtsman for all practical purposes and thus are eligible for the benefit of the CPWD Award, which became effective notionally from 13.5.1982 and actual benefit being allowed with effect from 1.11.1983. The learned counsel has drawn our attention to the order dated 12.8.1986 (Annexure-A-4) whereby the pay of the applicants has been fixed as Senior Draughtsman in the pay scale of Rs.425-700 w. e. f. 11.7.1977 and it has been mentioned in the said order that the earlier fixation of pay as on 1.1.1973 and later dates of promotion stand superseded.

6. On the other hand, the learned counsel for the respondents has categorically stated that these applicants were not holding the post of Senior Draughtsman on the date the CPWD Award was implemented i.e. from 13.5.1982. These applicants were promoted to the next higher grade of Supervisor-A/Chargeman Grade-II from 1.1.1980. He has also submitted that earlier, from 1.1.1973, there were two grades of Senior Draughtsman, and 50% posts of Senior Draughtsman were placed in the scale of Rs.425-700 and 50% were in the scale of Rs.330-560, based on the recommendations of the 3rd Pay Commission. But, it was subsequently reversed and all of them were placed in the revised higher pay scale of Rs.425-700 w.e.f. 1.1.1973 after the judgment of the Apex Court in Savita's case (supra). It was because of the judgment of the Hon'ble Supreme Court that the pay of the applicants was fixed in 1986 in the grade of Senior Draughtsman with effect from 11.7.1977 to 1980 when they were actually holding the post of Supervisor-A/



Chargeman Grade-II. In view of this, the applicants are not entitled for the benefit of the CPWD Award.

7. We have given careful consideration to the rival contention and perused the records carefully.

8. The question for consideration before us is whether the applicants, who were holding the post of Senior Draughtsman, which was equivalent to the post of Draughtsman Grade-I of CPWD, are entitled for the benefit of the CPWD Award, which was made effective notionally from 13.5.1982 and actual benefit being allowed w.e.f.1.11.1983.

9. It is not in dispute that the applicants were not holding the post of Senior Draughtsman as on 13.5.1982 but were already promoted to the post of Supervisor-A/Chargeman Grade-II from 1.1.1980, as stated by the respondents in their reply. This fact, stated by the respondents in their reply filed on 9.2.2005, has not been controverted by the applicants in the rejoinder filed by them on 16.5.2005.

10. The benefit of the CPWD Award was extended to other departments vide OM dated 13.3.1984 (Annexure-A-5) issued by the Ministry of Finance. Para 2 of aforesaid OM dated 13.3.1984 stipulates as under :

“2. The President is now pleased to decide that the scale of pay of Draughtsman Grade III, II and I in office/ Department of the Government of India, other than the Central Public Works Department, may be revised as above provided their recruitment qualifications are similar to those prescribed in the case of Draughtsman in Central Public Works Department. Those who do not fulfil the above qualifications will continue in the pre-revised scales. The benefit of this revision of pay scale should be given notionally with effect from 13.5.1982, the actual benefit being allowed w.e.f.1.11.1983”.

11. In terms of the aforesaid OM, the Senior Draughtsman who were working in the grade of Rs.425-700 were to be given the benefit of higher pay scale of Rs.550-750 notionally with effect from 13.5.1982 and the actual benefit w. e. f. 1.11.1983. However,



since the present applicants were not holding the post of Senior Draughtsman on the crucial date of 13.5.1982, there is no question of granting them the benefit of the CPWD Award. The contention of the applicants that as their pay was revised in 1986 in the grade of Senior Draughtsman, they could be deemed to have been working as Senior Draughtsman in the year 1986, is totally baseless and is rejected. We find from the Factory Order dated 23.12.1985 (Annexure-A-3) that the Ministry of Defence vide OM dated 11.11.1985, received under O.F.Board letter dated 10.12.1985 has passed the following order:

“As per the Judgment/Order of the Hon’ble Supreme Court delivered on 1-5-85 in the Civil Appeal No.3121 of 1981, P.Savita and others vs. Union of India and others, the posts of Senior Draughtsman in O.F. Organization which were placed in the revised pay scale of Rs.330-560 w.e.f.1-1-73 should now be placed in the revised pay scale of Rs.425-700 w.e.f.1-1-73”.

Because of the aforesaid Ministry of Defence’s OM dated 11.11.1985, the respondent no.3 vide their order dated 12.8.1986 revised the pay of the applicants from 11.7.1977 in the pay scale of Rs.425-700 and again revised their pay in the pay scale of Chargeman Grade-II from 1.7.1980. Therefore, it is clear that the applicants were not working as Senior Draughtsman on the crucial date for getting the benefit of the CPWD Award i.e. on 13.5.1982. Thus, the applicants have not come with clean hands and have tried to confuse the issue and have also misled the Tribunal. In para 4.7 of the OA, the applicants have stated that “all the applicants were for all practical purposes shall be treated as Senior Draughtsman as on 12.8.1986 from the date of their appointment/promotion as Senior Draughtsman”. This is totally a vague statement and has been made with a view to suppress the facts that they were not working as Senior Draughtsman in 1986. It was only an order of the fixation of their pay in pursuance of the revision of the scale which was done in pursuance of the judgment of the Hon’ble Supreme Court in the case of P.Savita(supra). Thus, in



view of these facts, we are of the considered view that the applicants are not entitled for the relief sought for in this O.A.

12. In the conspectus of the aforesaid facts and discussions made above, we do not find any merit in this Original Application and accordingly the same is dismissed. Each of the applicants is directed to pay a cost of Rs.1,000/- (Rs.One thousand only) to the respondent-department within a period of two months from the date of receipt of a copy of this order.

13. The Registry is directed to enclose a copy of the memo of parties along with order for record. The Registry is further directed to supply a copy of memo of parties alongwith this order while issuing a copy of the same to the concerned parties.



(Madan Mohan)
Judicial Member

Rkv.



(M.P. Singh)
Vice Chairman

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अग्रे दितः—

- (1) रायिव, उच्च न्यायालय द्वार एसोसिएशन, जबलपुर Shri S Paul. 24/8/05
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल Shri P. Shalcan
(3) प्रत्ययी श्री/श्रीमती/कु.....के काउंसल
(4) वांछपाल, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Fogzel
23/9/05