

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 298 of 1999

Jabalpur, this the 23rd day of March 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

1. I.D. Tiwari, S/o. Late Onkarnath, aged 43 years, Chargeman-II CDO II, Vehicle Factory, Jabalpur (M.P.).
2. Ashok Kumar Tamhane, S/o. Late Shri R.G. Tamhane, aged 41 years, Chargeman Gr.-II, CDO III, Vehicle Factory, Jabalpur (M.P.).
3. P.S. Rai, S/o. Late Shri T.R. Rai, aged 54 years, Chargeman Gr.-I, RDW, Vehicle Factory, Jabalpur (M.P.).
4. G.S. Ahuja, S/o. Shri A.S. Ahuja, aged 35 years, Chargeman-III, UDO, Vehicle Factory, Jabalpur (M.P.).
5. R.L. Tiwari, S/o. Late Shri B.P. Tiwari, aged 42 years, Chargeman Gr.-II, RDW, Vehicle Factory, Jabalpur (M.P.).
6. S.K. Shrivastava, S/o. Shri H.S. Shrivastava, Chargeman-Gr.II(T), R&D, Vehicle Factory, Jabalpur (M.P.).
7. M.K. Sharma, S/o. Shri P.S. Sharma, aged 44 years, Chargeman-II(T), LBTO(IEs), Vehicle Factory, Jabalpur (M.P.).
8. P.K. Mitra, S/o. Late Shri Prashant Kumar Mitra, aged 52 years, Chargeman Gr.-I (Tech.), TMM, Vehicle Factory, Jabalpur (M.P.).
9. J.P. Dubey, S/o. Late Shri M.L. Dubey, aged 47 years, Chargeman-II(T), EDO, Vehicle Factory, Jabalpur (M.P.).
10. Amerika Singh, S/o. Late Shri Abilakh Singh, aged 45 years, Chargeman-II(T)/CCTO-2/Plant-II, Vehicle Factory, Jabalpur (M.P.).



11. P.K. Shrivastava, S/o. Late Shri G.P. Shrivastava, aged 49 years, Chargeman-Gr.I(T)/VPE (Plant-4), Vehicle Factory, Jabalpur (M.P.).

12. A.K. Shukla, S/o. Shri J.P. Shukla, aged 39 years, Chargeman Gr.II(T)/HRD (Plant-4), Vehicle Factory, Jabalpur (M.P.).

... Applicants

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India,
Through its Secretary,
Ministry of Defence, New Delhi.

2. Chairman, Ordnance Factory
Board, 10-A Khudiram Bose Marg,
Calcutta.

3. General Manager,
Vehicle Factory,
Jabalpur (M.P.).

... Respondents

(By Advocate - Shri B.da.Silva)

O R D E R

By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief for direction to the respondents to prescribe/ provide the pay scale of Rs. 6500-200-10500/- to the applicants w.e.f. 1.1.1996 in lieu of Rs. 5000-150-8000/- and further relief to direct the respondents to pay the differences of the said pay scale w.e.f. 1.1.1996 alongwith interest on late payment as the delayed and wrong payment was attributable to the respondents.

2. The brief facts of the case are that the applicants were initially appointed as Draftsmans on various dates with the respondents. Subsequently they were promoted as Chargeman Grade-II(T) Chargeman Grade-I(T) on different dates, details as shown in Annexure A-1, in the pay scale of Rs. 5500-9000/= on acquiring additional qualification of degree in Engineering.



The posts of Draftsman was converted as Chargeman Grade-II (Technical) w.e.f. 31.7.1997 by O.F.B. letter dated 31.7.1997. As per the recommendation of the Vth Pay Commission, vide para 50.37, it was recommended that "Graduate Engineers" recruited against the posts of Drawing/Design Officer should be placed in the pay scale of Rs. 2000-3500/- in present terms. The respondents have issued a notification under Article 309 of the Constitution. A rule was made known as "Civilians in Defence Services (Revised Pay) Rules, 1997. It was also known as SRO 18-E. The said rules were published on 9th October, 1997. Under the said SRO the pay scales of Drawing Office Staff are as under :

	<u>Ivth Pay Commission</u>	<u>Vth Pay Commission</u>
a) Draftsman Gr.II/Sr. Draftsman	1400-40-1800-50-2300	5000-150-8000
b) Draftsman Gr.I/Head Draftsman	1600-50-2300-60-2660	5500-175-9000


Since the applicants are graduate Engineers in the Drawing/ Design Office they are entitled to get the pay scale of Rs. 6500-10500/-. The action of the respondents is against the Rules on account of the fact that they are Graduate Engineers. Being aggrieved by the said action the applicants submitted a representation to the respondents vide Annexure A-4, requesting that they have a valuable right under SRO 18-E and also under the recommendations of the Pay Commission to get the pay scale of Rs. 6500-10500/- in lieu of Rs. 5000-8000/- which is being paid to them. The action of the respondents is violative of paragraph 50.37 of the Pay Commission recommendations and also the mandate of SRO 18-E. The respondents are also showing discrimination among the graduate engineers and the applicants. Aggrieved by this the applicants have filed this Original Application



claiming the aforesaid reliefs.

3. The respondents have filed their reply denying the averments made in the Original Application. They have mentioned in their reply that the applicants are working in the Factory as Chargeman Grade-I (Technical) and Chargeman Grade-II (Technical) in the pay scale of Rs. 5500-9000/- and 5000-8000/- respectively. In Ordnance Factory organisation no staff had been recruited as Draftsman to work in Drawing/Design office in subordinate engineering cadre. As per the 7th CPC the pay scale of Chargeman Grade-I and Chargeman Grade-II are Rs. 5000-8000/- and Rs. 4500-7000/- respectively as per Part A of the first schedule w.e.f. 1.1.1996. Government after due consideration of the pay scale of these categories working in Ordnance Factory organisation has again revised the pay scale of these categories to Rs. 5500-9000/- and 5000-8000/- respectively with effect from 1.1.1996. The applicants relief to grant pay scale of Rs. 6500-10500/- is not applicable to them as any further revision in the pay scale is not possible to be implemented until and unless it is ordered by the Government. Speaking order in reply to the representations of the applicants is at Annexure R-1. In the said order they have clearly mentioned that the qualification as prescribed in the recruitment rules for Draughtsman is Matriculation with 2 years diploma/certificate in D'manship. The respondents further submitted that as the applicants have acquired higher qualification after their recruitment in the organisation, they cannot be considered for giving higher pay scale.


4. Subsequent to filing of the reply the applicants have filed their rejoinder contending that they have acquired the engineering degree during their service but subsequent to



appointment as Chargeman. They are working as Chargeman Grade-II and Chargeman Grade-I which is equivalent to the graduate engineers having appointed as Chargeman Grade-I (T). The applicants have also relied on the recommendations of the Pay Commission in which there is a disparity in pay scale which has to be set right by the Government. Since the Government has not acceded to their request they have approached this Tribunal. The Ordnance Factory Board, VFU published factory order Part-II regarding appointment to the post of Chargeman Grade-II(T) by transfer. The applicants are in the said list. The applicants have also produced rules relating to subordinate engineering services-promotion pattern. Further the applicants have produced the order of the Defence Ministry dated 20th September, 1999 (Annexure R-J-12) in which it is specifically mentioned that the Vth Pay Commission has recommended that future recruitment in Drawing and Design cadre should be from among 3 years Engineering diploma holders. They should be designated as Chargeman Grade-II(T) and placed in the pay scale of Rs. 1600-2660/-. In view of the said recommendation the applicants are also qualified as Engineers and they have been promoted as Chargeman Grade-II(T). Accordingly their case should be treated at par with the regularly recruited engineers as Chargeman Grade-II.

5. Heard the learned counsel for the applicant and the learned counsel for the respondents and perused the records carefully.

6. The admitted facts are that the applicants were initially appointed as Draughtsman in the Ordnance Factory organisation. During their service they acquired additional qualification of degree in engineering and subsequently were promoted as Chargeman Grade-II (T). Those who have



acquired the engineering degree they were recruited against the post of ^{/Design officer} ~~Drawing~~ under direct recruitment quota in the pay scale of Rs. 2000-3500/-, revised scale of Rs. 6500-10500/-. The said pay scale has been recommended by the Vth Pay Commission. The same has been accepted by the Government. The applicants are comparing their services with the persons who were appointed as graduate engineers from direct recruitment quota. As per the documents submitted by the applicants vide Annexure A-3 i.e. notification dated 9th October, 1997, there were three groups in Drawing Office Staff, which is as under :

*X. Drawing Office Staff

a)	Draftsman Gr.II/ Sr. Draftsman	1400-40-1800-50-2300	500-150-800	50.37
b)	Draftsman Gr.I/ Head Draftsman	1600-50-2300-60-2660	500-175-900	50.37
c)	Graduate Engineers recruited against posts of drawing/ design office in subordinate Engg. cadres	1400-40-1800-50-2300 1600-50-2300-60-2660 2000-60-2300-75-3200	6500-20-10500	50.37

The applicants are challenging the impugned order dated 6.12.1999 in which they are also asking for the pay scale of Rs. 6500-10500/- in terms of Govt. notification dated 9.10.1997 and para 30.37 of Vth CPC. As per the notification issued by the Ordnance Factory Board regarding subordinate engineering services-promotion pattern, the recommendation of the Vth Pay Commission has not yet been entered. The applicants have also produced the orders of the Ministry of Defence dated 20th September, 1999 in which it is provided that the Vth Pay Commission has recommended that future recruitment in Drawing and Design cadre should be from among 3 years engineering diploma holders. They should be designated as Chargeman Grade-II(T) and placed in the pay scale of Rs. 1600-2660/-. This has been accepted by the

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Government.

7. The respondents have also contended in their reply that the services of the applicants and that of the services of the engineers those who are appointed as Chargeman Grade-II under direct recruitment quota cannot be compared. ^{Engineers} They have different pay scales. The pay scales are recommended by the Pay Commission. Accordingly the pay scale given to the Engineers those who have been directly appointed as Chargeman Grade-II cannot be treated at par with the services of the applicants who have been promoted as Chargeman Grade-II.


8. Regarding pay scales, the Hon'ble Supreme Court in the case of Union of India and Anr. Vs. P.V. Hariharan and Anr. 1997 SCC (L&S) 838 has held as under :


"Quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. Sometimes orders have been passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member."

Hence we find that the applicants cannot get the benefit of the pay scale which was given to the graduate engineers those who have been directly recruited as Chargeman Grade-II.

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9. In view of the reasons assigned and the judgment of the Hon'ble Supreme Court, the applicants have failed to prove their case for grant of pay scale on par with those Engineers who have been directly appointed as Chargeman Grade-II. Accordingly, the Original Application is dismissed. No costs.

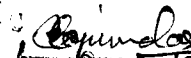

(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

पृष्ठकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अवेधित:-

- (1) सचिव, उच्च न्यायालय द्वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/पु..... को कानून S. Paul
- (3) प्रत्यक्ष श्री/श्रीमती/पु..... के कानून B. Chandra
- (4) श्री/श्रीमती/पु..... के कानून

"SA"


13/3/2014

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31/3/2014