

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 15 day of February, 2010

Original Application No.436/2005

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

1. Rajeev Pareek s/o Shri Hansraj Pareek, r/o 50, Laxman Colony, Shyam Nagar, Jaipur
2. Kamlesh Tanwar s/o Sh.. Ganga Sahai Tanwar, Plot No. C-69, Siwar Area-I, Bapu Nagar, Jaipur
3. Rajesh Yogeshwar s/o Shri Shankar Nath, r/o 10 B Krishnapuri, Hatwara Road, Sodala, Jaiur
4. Chandra Shekhar s/o Shri Gulab Singh, r/o Plot No.12, Gopal Nagar, Near Chitrakoot, Sector -9, DCM, Ajmer Road, Jaipur.
5. Shivji Ram Yogi s/o Malua Ram Yogi, r/o 61/22, Pratap Nagar, Sanganer, Jaipur

.. Applicants

(By Advoate: Shri Rajendra Vaish)

Versus

1. Union of India
through Secretary,
Ministry of Mines, Secretariat,
New Delhi.
2. Geological Survey of India through its
Director General, 27, Chowringhee,
Kolkata.

MV

3. Deputy Director General,
Geological Survey of India,
Western Region,
Jhalana Doongari,
Jaipur

.. Respondents

(By Advocate: Shri Siya Ram proxy counsel for Sh. Tej Prakash
Sharma)

ORDER

Per Hon'ble Mr. M.L.Chauhan, M(J)

The applicants are working as Draftsmen in Geological Survey of India (GSI), Western Region, Jaipur. As can be seen from Para 4(2) of the OA, three applicants have joined the department in the month of December, 1995 whereas two applicants have joined in the year 1996 and 1997. The grievance of the applicants is that the pre-revised scale of Rs. 1400-2300 has been revised to Rs. 4500-7000 vide order dated 22.10.1997 (Ann.A/12) whereas the corresponding revised scale of Rs. 1400-2300 is Rs. 5000-8000, as such, they are entitled to the scale of Rs. 5000-8000 in terms of CCS (Revised Pay) Rules, 1997 w.e.f. 1.1.1996 or from the subsequent date when they joined the department. The applicants have also made a representation to that effect but the same was rejected vide impugned order dated 31.1.2005 (Ann.A/1) whereby it has been stated that pay scale of Rs. 5000-8000 w.e.f. 1.1.1996 shall be granted to the Draftsmen subject to the incumbents fulfilling the prescribed residency period required as on 1.1.1996. As per this order, residency period for placement of Draftsman in the higher

pay scale of Rs. 5000-8000 in GSI is three years. It is this order which is under challenge before this Tribunal.

2. Respondents have filed reply. In the reply, the respondents have stated that corresponding pay scale of Rs. 1400-2300 was Rs. 4500-7000 recommended by the 5th CPC, but the upgraded pay scale of Rs. 5000-8000 was allowed to the Draftsmen w.e.f. 1.1.1996 pursuant to CAT Calcutta Bench order dated 18.3.2004 in OA No.1013/99 filed by Shri T.K.Roy and others subject to the condition that incumbent fulfilling the prescribed residency period required as on 1.1.1996. Thus, according to the respondents, the corresponding pay scale of Rs. 1400-2300 was Rs. 4500-7000 as recommended by the 5th CPC and the applicants can be granted the pay scale of Rs. 5000-8000 only after completion of the residency period of three years.

3. We have heard the learned counsel for the parties and gone through the material placed on record.

4. The learned counsel for the applicants has drawn our attention to the judgment of the Bombay Bench in OA no.2101/04, Shri Sitaram S.Murthy vs.. UOI and Ors. whereby the applicants have also claimed relief regarding grant of pay scale of Rs. 5000-8000 as was being given to Draftsmen Gr.II in the Central Public Works Department (CPWD) and Draftsmen in other departments w.e.f. 1.1.1996. As can be seen from Para-5 of the judgment, the stand taken by the respondents was to the similar effect that only those Draftsmen can be placed in the pay scale of Rs. 5000-8000 w.e.f.

1.1.1996 who fulfill the prescribed residency period as on 1.1.1996. In case these are not fulfilled, the higher scale shall apply from the date the same are fulfilled. The Bombay Bench in para-7 has made the following observations:-

"7. It is an admitted fact from Annexure R-III which is binding on all the departments of Central Government in which there is not mention about the prescribed residence requirement, if that being the fact, the Annexure R-1 cannot go beyond the 5th Pay Commission recommendation. The respondents have not considered the directions of this Tribunal in O.A.No.2239/2000 (Annexure 12. Now the impugned order is not sustainable in the eyes of law, on the ground the directions of this Tribunal in O.A.2239/2000 has not been complied with in *toto*. We have carefully examined order in O.A. 2239/2000 in which there is no direction to consider the prescribed residence period. If such being the fact, the respondents have taken the decision while giving the benefit of 5th Pay Commission the prescribed residence requirement with effect from 1.1.1996 has to be fulfilled. The observations made in the Annexure R-1 is not based on directions of this Tribunal in the eyes of law, we, therefore, quash the same in respect of the applicants no. 14 to 19. the respondents are directed to consider the case of the applicants at 14 to 19 as per directions of this Tribunal in O.A. 2239/2000 dated 14.2.2003 (Annexure 12)."

According to us, the reasoning given by the Bombay Bench in the aforesaid case is squarely applicable in the facts and circumstances of this case.

5. That apart, we have also examined the matter in the light of the CCS (Revised Pay) Rules, 1997. These rules were framed by the Government of India in exercise of the powers conferred under proviso to Article 309 and Clause (5) of Article 148 of the Constitution and they were deemed to have come into force w.e.f. 1.1.1996. Rule 3 contained the definition clause where basic pay, existing scale, present scale and revised scale has been mentioned.

The revised scale has been defined under Rule 3(5) which thus reads:-

(5) "revised scale" in relation to any post specified in column 2 of the first Schedule means that scale of pay specified against that post in column 4 thereof unless a different revised scale is notified separately for that post.

The schedule has been defined to mean a schedule annexed to these rules. The first schedule has been issued under Rule 3 and 4 of the CCS (RP) Rules, 1997. Part-A of the first Schedule mention grade-wise present scale as well as corresponding revised scale whereas Part-B of the said schedule prescribe the present scale as well as revised pay scale in respect of posts. Under Part-B of the first schedule at item No. X under heading 'Drawing Office Staff' scales of three posts have been mentioned, which thus reads:

Sl.No.	Posts	Present scale	Revised scale	Para No. of Report
1.	2.	3.	4.	5.
.....				

"X. DRAWING OFFICE STAFF

(a)	Draftsman Gr.II/ Sr. Drftsman	1400-40-1800-50-2300	5000-150-8000	50.37
(b)	Draftsman Gr.I/ Head Draftsman	1600-50-2300-60-2660	5500-175-9000	50.37
(c)	Graduate Engineer 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	6500-200-10500	50.37

6. Here we are concerned with the post at item-(a) i.e. Draftsman Gr.II which was in the pre-revised scale of Rs. 1400-2300 and the revised scale has been mentioned as Rs. 5000-8000. Since the post of Draftsman has been mentioned at Item No.X, part-B of first schedule, the corresponding pay scale of the said post has to be as per column-4 which is Rs. 5000-8000. Thus, it was not open for the respondents to apply Part-A of the first schedule in the case of the applicants and pay of the applicants was to be revised in terms of the pay scale mentioned under Part-B where the post of Draftsman has categorically been mentioned. Had the post of Draftsman was not mentioned in Part-B of the first schedule, in that eventuality, it was permissible for the respondents to revised the pay scale of the applicants in terms of Part-A of first schedule. Thus on this ground also the corresponding scale of Rs. 1400-2300 of the category of Draftsman working in GSI department comes to Rs. 5000-8000. Thus, looking to the matter from any angle, we are of the view that the applicants have made out a case for grant of relief.

7. Accordingly, the impugned order (Ann.A/1) is quashed. The applicants will be entitled to the pay scale of Rs. 5000-8000 w.e.f. 1.1.1996 in the case of persons appointed prior to that date or from the date of appointment in the department as Draftsman in respect of applicants appointed after 1.1.1996. The respondents shall fix the pay of the applicants in terms of the observations made above and arrears of pay on account of refixation of pay shall also be paid to
WY

the applicants within a period of three months from the date of receipt of a copy of this order.

8. The OA stands disposed of accordingly with no order as to costs.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl. Member

R/