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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 941/2002

R.L.KALA & ORS.

..... Petitioners

Through: Ms. Filza Moonis with Mr. Mukesh
Kumar Singh, Advocates.

versus

UOI & ORS.

..... Respondents

Through: Mr. Vikas Mahajan with Mr. Rohan
Gupta and Mr. S.S.Rai, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

02.09.2015

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1. The petitioners were recruited as drawing staff in the General Reserve Engineering Force which is a part of the Border Roads Organisation. They claim higher pay scales and implementation of the recommendations of the 5th Central Pay Commission, contending that these recommendations have been accepted and implemented w.e.f. 01.01.1996 by the Central Government with respect to several Ministries and Departments of the Central Government, but not to the Border Roads Organisation.

2. The organisational structure of Draughtsmen, with the relative pay scales - in terms of the 4th CPC's recommendations and the revised pay scales in terms of what is claimed in these proceedings

has been set out in the writ petition. This is extracted below in a tabular form:

Post	Old Pay Scale	Revised Pay Scale
D/man Gr.II	1400-2300	5000-8000
D/man Gr.I	1600-2660	5500-9000
Sr. D/man	2000-3200	6500-10500

3. It is submitted that the then Ministry of Surface Transport (now Ministry of Road Transport and Highways) on 17.10.1997 issued an order indicating revised pay scales applicable to Draughtsmen under its Department and other agencies. The petitioners rely upon the said order and subsequent orders giving effect to it. They also rely upon an order pertaining to officers/employees of the CPWD dated 16.10.1997 to similar effect. They further state that the Comptroller General of Defence Accounts (“CGDA”) issued directions to implement the 5th CPC’s recommendations. It is argued that the petitioners - who were initially recruited as Draughtsman Gr.III, Draughtsman Grade-II or as Draughtsman Gr.I in the General Reserve Engineering Force which was subsequently upon its revamping, absorbed in the BRO ought to be given the parity with those working in the CPWD and other organisations.

4. In the counter affidavit as well as in the course of proceedings, the respondents admit that the hierarchy of posts in the BRO comprised of the cadres of Chief Draughtsman (at the apex level), followed by the Senior Draughtsman, Draughtsman Gr.I and Draughtsman Gr.II. It is stated that consequent to the

recommendations of the 5th CPC, the pre-existing hierarchy was maintained so far as the pay structures were concerned. Respondents rely upon a comparative tabular chart which is extracted below: -

<i>Position/scale in BRO</i>		<i>Position in other Govt. Deptt.</i>	
<i>Category/post in BRO</i>	<i>Existing pay scales</i>	<i>Category/post in other Deptt.</i>	<i>Existing pay scales</i>
<i>Chief Draftsman</i>	<i>6500-10500</i>	<i>Chief Draftsman/Head Draftsman</i>	<i>6500-10500</i>
<i>Senior Draftsman</i>	<i>5000-8000</i>	<i>Draftsman Grade-I</i>	<i>5500-9000</i>
<i>Draftsman Grade-I</i>	<i>5000-8000</i>	<i>Draftsman Grade-II</i>	<i>5000-8000</i>
<i>Draftsman Grade-II</i>	<i>4500-7000</i>	<i>Draftsman Grade-III</i>	<i>4000-6000</i>

5. It is stated that both Draughtsman Gr.I and Senior Draughtsman are entitled to a single replacement pay scale of ₹5000-8000 and that such of the petitioners who were either holding the post of Draughtsman Gr.-I or Senior Draughtsman, at the relevant time, were fitted in that pay scale. It is, at the same time, conceded that some of the petitioners might have been promoted or at the time of their superannuation attained the grade of Chief Draughtsman. That post is entitled to the revision pay scale of ₹6500-10,500. The BRO concedes that at some time, a proposal to increase the pay scale of Senior Draughtsman from ₹5000-8000 to ₹5500-9000 was made but was not accepted by the Central Government.

6. The BRO lastly urges that a similar claim of one Shri Kulwant Singh was considered by the Punjab & Haryana High Court in W.P.(C)11892/2000 - *Kulwant Singh v. UOI & Anr.* On that

occasion, the Court directed the Central Government to consider the question of parity and pass speaking order. A copy of the said speaking order has been produced. The relevant extract of the speaking order reads as follows: -

“4. Both the above mentioned issues have been examined by the Dte. GBR in consultation with the concerned authorities. It needs to be mentioned that prior to implementation of the pay scales recommended by the 5th Central Pay Commission, the pay scales of D’Man in Dte. GBR were as under: -

- (i) D’Man Grade-I 1400-40-1800-EB-50-2300*
- (ii) Senior D’Man 1600-50-2300-EB-60-2660*

5. The 5th Central Pay Commission had considered the above pay scales and based on their recommendations, the Govt. have decided the single replacement pay scale of Rs.5000-150-8000/- vide part A of the 1st Schedule of GSR 569 (E) dated the 30th Sept., 1997 (extracts enclosed) for both the pay scales of the D’Man above. Since the replacement scale of Rs.1600-2660/-, in which you were working as Sr. D’Man, is Rs.5000-150-8000, your pay in the revised scale of pay of Rs.5000-175-8000/- has, accordingly, been fixed with effect from 1.1.1996.

6. In so far as the other issue regarding grant of stagnation increment is concerned, it needs to be clarified that you had reached the maximum of the pay scale (Rs.2660/-) in the scale of pay of Rs.1600-50-2300-60-2660 on 1.1.1994. You had been drawing Rs.2660/- per month w.e.f. 1.1.1994. In accordance with the Rules, you were due for grant of a stagnation increment after completion of 2 years of service. Accordingly, on completion of 2 years, that is on 1/1/1996, you were granted the stagnation increment @ Rs.60/- per month. Your pay was raised from Rs.2660/- to Rs.2720/- w.e.f.1.1.1996. Taking into account this basic pay, your pay, in the revised scale of pay, was fixed at the maximum of

Rs.8000/-. You were also granted Rs.206/- per month as personal pay in accordance with the approved formula in terms of Para 7 and Note 5 of Ministry of Finance Notification dated 30/7/1997. (Extracts enclosed). The Dte. GBR have also informed you of this position vide their letter No.17071-E/DGBR/71/T&C dated 20th march, 2001.

7. Your pay cannot be fixed in the revised pay scale of Rs.5500-175-9000/- because this is the replacement pay scale of the erstwhile pay scale of Rs.1640-60-2600-75-2900/- and you were not working in this pay scale prior to 1.1.1996.”

7. We have heard the counsel for the parties and also considered the submissions in the writ petition. Apart from making a bald claim for parity in the pay scales pursuant to the recommendations of the 5th CPC, no attempt has been made by the petitioner to state that all the elements which go to establish the principle of “equal pay for equal work” are present in the case. The BRO asserts - a fact not disputed by the petitioners - that the hierarchy within that organisation in terms of the cadre structure, Recruitment Rules, eligibility norms, the nature of pay and allowances and other perks admissible to its employees were quite different from those admissible and given to members of other services and civilian organisations.

8. Having regard to these undisputed facts, the Court is of the opinion that the declaration sought cannot be granted. At the same time, it is clarified that if any of the petitioners were in fact promoted or treated as Chief Draughtsman, they would be entitled to the pay scales of ₹6,500-10,500 w.e.f. those dates. Such of the petitioners who attained the age of superannuation immediately or just

contemporaneously with the grant of such promotion would be entitled to re-fixation of their pension and payment of differential salary/pension etc.

9. The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 02, 2015

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