

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.8246 of 2003

DATED 14TH SEPTEMBER, 2017

Between:

T.Trinadh ... Petitioner

AND

Union of India and others ... Respondents

Counsel for the petitioner : Sri Vemuri Venkateswara Rao

Counsel for respondents : Smt. S.Siva Kumari, Additional Standing
Counsel for Central Government



THE COURT MADE THE FOLLOWING

ORDER: (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Feeling aggrieved by common order, dated 07.02.2003, to the extent it pertains to O.A.No.1648 of 2001 on the file of the Central Administrative Tribunal, Hyderabad Bench, (for short ' the Tribunal) the applicant therein filed this writ petition.

2, The short issue that fell for consideration before the Tribunal was the date with effect from which the applicant is entitled to the revised pay scales as per the Award of Board of Arbitration in respect of the Central Public Works Department (CPWD) Draughtsmen, as adopted vide office Memorandum dated 13.03.1984 and the later Memorandum dated 19.10.1994.

3. It is not in dispute that the petitioner was appointed as Draftsman temporarily in the office of Director of the Census Operations, Government of India, in Hyderabad, on 04.03.1980 and upon his acquiring the qualification of Diploma in Draughtsman in the year 1984, his services were regularized with effect from 26.04.1984. By Office Memorandum dated 13.03.1984, revised pay scales, recommended under the Award of Board of Arbitration applicable to the CPWD, were extended to the Draughtsmen of Grades I, II and III in all other Government of India Departments. Paragraph 2 of the Office Memorandum reads as under:

"The president is now pleased to decide that the scales of pay of Draftsmen Grade III, II and I in Officer/Departments of the Government of India, other than the Central Public Works Department, may be revised as the above provided their recruitment qualifications are similar to these prescribed in the case of Draftsmen in Central Public Works Departments. Those who do not fulfil the above recruitment qualification will continue in the pre-revised scales. The benefit of the revision of scales of pay would be given notionally with effect from 13.05.1982, the actual benefit being allowed with effect from 1.11.1983."

Though, the petitioner has acquired the Diploma in Draughtsman in the year 1984, for nearly eleven years the revised pay scales were not extended to him. However, on 04.08.1995, the petitioner's pay scale was revised in the pay scale of Rs.425-700 with effect from 26.04.1984. Accordingly, arrears were also paid. However, the respondents have suddenly revised his pay with effect from 26.04.1989. By subsequent order, dated 23.11.2001 re-fixing of his pay in higher grade of pay scale was cancelled, and, his pay scales revised appropriately in respect of different spells. Feeling aggrieved by the said order, the petitioner filed the aforementioned O.A.

4. On consideration of the Office Memoranda, dated 13.03.1984 and 19.10.1994, the Tribunal *inter alia* observed as under:

"32.The applicants in O.A.Nos.1645, 1647, 1648 and 1649 of 2001 namely, S/Sri M.A.Quadeer, B.Raghuram, N.S.Subba Rao, Lakshmi, T.Trinath and Ghulam Hassan Mohiuddin acquired requisite qualifications under the Recruitment rules for appointment as Draughtsman in the Census Organization on 14.04.1984. They had obtained Diploma in Civil Draughtsmanship from the Indian Technical Institute, Dadar Bombay. Sri Devadass, applicant in O.A.No.1644 of 2001 acquired Draughtsmanship Diploma on 10.01.1984. The applicant in O.A.No.1646 of 2001 Sri B.Raghuram was qualified and he was regularly promoted on 12.09.1983. From the foregoing it is clear that the applicant in this batch of O.As will be justified in seeking the benefit of the award from any date after acquisition of academic qualification."

Based on the above findings, the Tribunal has concluded in sub-para (ii) in para 35 as under:

"(ii) The applicants are entitled for re-fixation of pay in accordance with the said Award only if they have the qualifications mentioned the said Award and the Recruitment Rules relevant to the cadre/grade in which they are employed;"

Having held that the petitioner is entitled for re-fixation of pay in accordance with the Award, the Tribunal has curiously dismissed the O.A.

5. From a careful perusal of the order of the Tribunal, it is evident that all the findings are in favour of the petitioner. The Tribunal instead of either allowing or disposing of the O.A. in terms of the said findings, dismissed the above O.A.

6. Learned counsel for the petitioner submitted that as the O.A. was dismissed, the respondents have not been restoring the benefit of re-fixation conferred on 04.08.1995 on the petitioner.

7. In our opinion, the Tribunal has rightly appreciated the purport of the two Office Memoranda, dated 13.03.1984 and 19.10.1994 and held that the petitioner is justified in seeking the benefit of the Award with effect from the date after his obtaining the academic qualification. The respondents have not questioned the order of the Tribunal and therefore the same binds them. If that is so, there is no reason why the benefits of re-fixation, which were conferred on the petitioner by proceedings issued on 04.08.1995, shall not be restored. In other words, as per the Award, the petitioner is entitled for revision of pay scales from the time of his acquiring the prescribed qualification of Diploma in Draughtsman and he need not wait for five years after he has acquired the prescribed qualification since the Memorandum dated 19.10.1994 which prescribes five years period for Draughtsman Grade-II to get regular pay scales applies to those who do not possess the required qualification, as rightly argued by the learned counsel for the petitioner.

8. For the aforementioned reasons, while confirming the findings of the Tribunal contained in para 32 and the concluding portions of the order impugned in this writ petition, the result portion of the said order is modified by allowing the O.A. It is need less to observe that the

petitioner is entitled to the revised pay scales reckoning from the date on which he has acquired the qualification of Diploma in Draughtsman.

9. The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.11268 of 2011 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

14.09.2017

kvrn/bnr

