



2023:DHC:7766



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 10th October, 2023**

+ **W.P.(C) 8484/2006**

DIRECTOR NATIONAL SUGAR INSTIT Petitioner

Through: **Mr.Jaswinder Singh, Advocate**

versus

PRESIDING OFFICER CGIT NEW DEL Respondent

Through: **Mr.A.K. Dave and Mr.H.P.
Chakravorti, Advocates**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following relief:-

“(a) set aside the award dt. 5.5.04 passed in I.O. No. 74/192 by respondent No.1...”

2. The relevant facts leading to the filing of instant petition are as follows:

- a. The petitioner is a sub-ordinate office of the Ministry of Food, involved in the research, training and advisory services to the sugar and allied industries, wherein, 8 Draftsman (respondent no. 2) are working as per the



following schedule:

- i. Head Draftsman/Draftsman Grade I - 3 posts in the pay scale of Rs. 1600-2600/-.
 - ii. Draftsman Grade II - 3 posts in the pay scale of Rs. 1400-2300/-.
 - iii. Draftsman Grade III - 2 posts in the pay scale of Rs. 1200-2040/-.
- b. Vide Office Memorandum no. F 5 (59) – Esst.3/82, dated 13th March 1984, the pay scales of Draftsman Grade I, II and III was revised and the benefit of such revision of scales of pay was allowed notionally w.e.f. 13th May 1982, and the actual benefit was allowed w.e.f. 1st November 1983. The condition precedent to the applicability of the said revision was that the recruitment qualifications of the Draftsman had to be similar to those prescribed in the case of Draftsman working in Central Public Works Department (hereinafter “CPWD”). The said OM of the year 1984 was forwarded to the present petitioner vide Memo no. 39/13/84-PC dated 6th April 1984, for compliance.
- c. The Department of Personnel and Training of Government of India, New Delhi, issued OM No. AB-14012/40/80-Esst. (RR) dated 25th March 1987, by virtue of which the model recruitment rules for various categories of Draftsmen were circulated. Thereafter, the Ministry of Food and Civil



Supplies, New Delhi, vide GSR No. 248 dated 27th March 1989, made certain amendments in the Draftsmen Recruitment Rules for the National Sugar Institute, Kanpur, which were published in the Gazette of India dated 8th April 1989, and subsequently, the present petitioner issued office order no. 38 (1)/83 dated 8th September 1989, thereby, revising the scales of pay of draftsmen from 8th April 1989.

- d. The petitioner herein, did not grant the above said notional benefits w.e.f. 13th May 1982, and the actual benefits w.e.f. 1st November 1983, instead, it was granted from 8th April 1989. The same was granted by the petitioner to the respondent on the basis of above said amended recruitment rules.
- e. Aggrieved by the same, the respondent no. 2 approached the Central Government Industrial Tribunal (hereinafter “CGIT”) in ID No. 74/1992, and the same was decided by the learned CGIT in favour of the workmen/respondent no. 2 vide the Award dated 5th May 2004.
- f. The present petitioner has approached this Court under the extraordinary writ jurisdiction challenging the impugned Award dated 5th May 2004.

3. Learned Counsel appearing on behalf of the petitioner submitted that the learned CGIT failed to appreciate that the employees/respondent no. 2



working under the petitioner organization were regulated under Section 309 of the Constitution of India and were accordingly, were holding 'Civil Posts'. Hence, the respondent no. 2 could not be classified as 'workmen' within the meaning of Industrial Disputes Act, 1947, being the holder of 'Civil Posts' and are governed by the CCS Rules.

4. It is submitted that in view of the fact that the employees in question were not 'workmen', hence an individual dispute could not have been raised and accordingly, the notification under Section 10 issued by the Central Government was not legally tenable. Furthermore, the plea of lack of jurisdiction of the learned CGIT was raised by the petitioner and the same was not considered by it.

5. It is submitted that the learned Tribunal exceeded its jurisdiction by quashing the notification issued by the President of India under Article 309 of the Constitution of India. It is also submitted that the power to adjudicate upon the instant dispute lies with the Central Administrative Tribunal and the learned CGIT failed to appreciate the contentions of the petitioner in this regard.

6. It is submitted that the learned Tribunal failed to appreciate that the disputes referred for adjudication fell exclusively within the jurisdiction of Section 14 of the Administrative Act, 1989 (hereinafter "the Act"), and the learned CGIT ought to have declined the reliefs sought by the respondent no. 2 herein, on the sole ground of lack of jurisdiction to entertain the dispute.

7. It is submitted that the grievance of the respondent no. 2 was primarily *qua* the benefits of O.M dated 13th March 1984, wherein it was



contended that the benefits thereto, should have been granted from an earlier date. However, it was open to the respondent no. 1 Tribunal to quash the decision of the management as the said decision was based on amendment of rules. It is also submitted that the respondent no. 1 Tribunal exceeded its jurisdiction by pronouncing upon the validity of the rules which is clearly illegal and erroneous.

8. It is submitted that in view of the foregoing submissions, the instant petition may be allowed and the reliefs sought be granted.

9. *Per Contra*, learned counsel appearing on behalf of the respondent no. 2 vehemently opposed the instant petition and submitted that the same is liable to be dismissed being devoid of any merits.

10. Learned counsel appearing on behalf of the respondent contended that, the impugned Award passed by the learned Tribunal is in consonance with the settled legal principles and that there is no infirmity with the decision rendered thereto.

11. It is submitted that the employees of National Sugar Institute, Kanpur of Draftsmen category had claimed parity in their pay scales at par with the Draftsmen of CPWD on the ground that their recruitment qualifications and service functions were similar to those of CPWD. Hence, they could not be discriminated in allocation of pay scales granted to the Draftsmen of CPWD.

12. It is submitted that the action of the petitioner in denying the rights of the respondent no. 2, to which they are entitled to, pursuant to the Ministry's directions, is illegal and arbitrary and therefore, the same was held to be unjustified by the learned CGIT.



13. It is submitted that the category under which the respondent/workmen are working is neither a supervisory category nor are they working in a managerial or administrative capacity and thus, it falls within the ambit of 'workman', hence the instant dispute is well within the jurisdiction of the learned CGIT.

14. It is further submitted that it is an admitted fact which is also noted by the learned Court below in its Award that the present petitioner voluntarily did not press the preliminary objections with regard to the maintainability of the dispute before the learned Court below and due to the said reason, the petitioner is bound by the principle of estoppels before this Court and hence, cannot raise such plea.

15. It is therefore submitted that the instant petition may be dismissed being bereft of any merits.

16. Heard learned counsel appearing on behalf of the parties and perused the record.

17. It is the case of the petitioner that the learned CGIT passed the impugned Award dated 5th May 2004, erroneously, since it failed to take into consideration the fact that the employees/respondent no. 2 of the petitioner organization are regulated under Article 309 of the Constitution of India. In this regard, it has been contended that they could not be classified as 'workmen' within the meaning of Industrial Disputes Act, 1947, being the holder of 'Civil Posts'.

18. In rival submissions, the respondent no. 2 has submitted that there is no infirmity in the decision rendered by the learned CGIT rather the



impugned Award has been passed after duly appreciating all the evidence and findings on record. It has been submitted on behalf of the respondent that they fall under the category of the ‘workman’ since their scope of work do not include the administrative/managerial/supervisory work. The respondent no. 2 has further contended before this Court that the petitioner had not pressed its preliminary objection before the learned Court below and the same is an admitted fact as also evident from the bare perusal of the impugned Award, and in view of the same the petitioner cannot raise such pleas of preliminary objections in the instant petition.

19. The learned CGIT passed the impugned Award dated 5th May 2004 and held as follows:

“In view of the above discussions I find that the action of the Management of National Sugar Institute Kanpur in not giving actual benefit of the revised scale of pay of draftsman Gr. I, II and III w.e.f. 1.11.83 is not justified. Hence it is illegal and liable to be quashed. Hence the claimants workmen through its Union were also entitled to get the revised scales of pay and other actual benefits w.e.f. 1.11.83 with all other consequential benefits. In the circumstances of the case parties shall bear their own costs.

Award is given accordingly.”

20. The bone of the contention submitted on behalf of the petitioner is that the dispute raised by the respondent no. 2 before the learned Labour Court could not have been entertained by the learned Court below since it does not have the valid jurisdiction to try the same. In support of the said contention, it has been argued on behalf of the petitioner that the learned Court below



had failed to consider that it lacks the jurisdiction to try the dispute raised by the workmen because the jurisdiction to try such dispute lies with the Central Administrative Tribunal as per Section 14 of the Act.

21. In this regard, this Court has referred to the below mentioned relevant portion of the impugned Award dated 5th May 2004:

“During the course of the arguments preliminary objections raised on behalf of the Management in its WS were not pressed by it’s A.R. besides various case laws were also shown to me and also filed on record by the A/R of the Union of the workman to prove that the National Sugar Institute is an Institute of research in the field of Sugar and the Hon’ble Supreme Court has held in numerous cases that the research institutes are ‘Industry’ between the ambit and scope of I.D. Act. Therefore, the objections raised in the written statement of the opposite parties are not tenable and I hold that the National Sugar Institute, Kanpur is an ‘Industry’ within the meaning of I.D. Act, and this Tribunal has full jurisdiction to decide this dispute.”

22. Upon bare perusal of the above quoted portion, it is evident that it is an admitted fact that the present petitioner had not pressed the preliminary objection with regard to the dispute before the learned Labour Court. Preliminary objections raised by the petitioner were in regard to the maintainability of the dispute before the learned Court below, wherein, as per the contents of the written statement filed by the present before the learned Court below, the petitioner had alleged that the said posts of the respondent no. 2 workmen is covered under Article 309 of the Constitution of India due to which the said posts are ‘Civil Posts’ and in view of the same



it is the Central Administrative Tribunal that has the proper jurisdiction to try the said dispute.

23. To understand the law with regard to the issue narrated above, this Court has referred to the judgment passed in the matter of ***Dhariwal Industries Ltd. v. M.S.S. Food Products, (2005) 3 SCC 63***, wherein, the Hon'ble Supreme Court held that the arguments and documents that were not raised or produced before the Trial Court either at the stage of the trial or at any interim stage cannot be raised and considered during the stage of appeal. Relevant paragraph of the said judgment has been reproduced as under:

“6. Before proceeding to consider the appeal, we may observe that in this appeal, various documents, not produced before the trial court or before the lower appellate court, have been produced and elaborate arguments addressed based on those documents. The present proceeding is an appeal by special leave against an order passed by the High Court in an appeal under Order 43 Rule 1(r) CPC and normally the appeal here must be considered based on the material that was produced before the trial court or before the appellate court in terms of the permission granted by that court under Order 41 Rule 27 CPC. At this interlocutory stage it would not be proper for this Court to enter into an adjudication based on the various documents produced before this Court which are not of undoubted authenticity and the genuineness, acceptability and value of which are mutually questioned. Generally, the arguments based on genuineness, admissibility and so on, are ones to be raised at the trial, though no doubt they could be raised at the interlocutory stage in respect of a prima facie case or in opposition thereto. In other words, we think that it will be proper to confine ourselves to the materials available before



the trial court and those made available before the lower appellate court with the permission of that court while considering this interlocutory appeal.”

24. This Court is of the view that such preliminary objections cannot be entertained by this Court because of the simple reason that the present petitioner had not contended and pressed such arguments before the learned Court below and the same is evident from the bare reading of the impugned Award. The petitioner cannot be allowed to address such arguments. In this regard, the Hon’ble Supreme Court in the matter of ***Mohd. Akram Ansari v. Chief Election Officer***, (2008) 2 SCC 95, which was followed in ***Nirmal Jeet Singh Hoon v. Irtiza Hussain***, (2010) 14 SCC 564, has held as follows:

“14. In this connection we would like to say that there is a presumption in law that a judge deals with all the points which have been pressed before him. It often happens that in a petition or appeal several points are taken in the memorandum of the petition or appeal, but at the time of arguments only some of these points are pressed. Naturally a judge will deal only with the points which are pressed before him in the arguments and it will be presumed that the appellant gave up the other points, otherwise he would have dealt with them also. If a point is not mentioned in the judgment of a court, the presumption is that that point was never pressed before the learned judge and it was given up. However, that is a rebuttable presumption. In case the petitioner contends that he had pressed that point also (which has not been dealt with in the impugned judgment), it is open to him to file an application before the same learned Judge (or Bench) which delivered the impugned judgment and if he satisfies the Judge (or Bench) that the other points were in fact pressed, but were not dealt with in the impugned judgment,



it is open to the court concerned to pass appropriate orders, including an order of review. However, it is not ordinarily open to the party to file an appeal and seek to argue a point which even if taken in the petition or memorandum filed before the court below, has not been dealt with in the judgment of the court below. The party who has this grievance must approach the same court which passed the judgment and urge that the other points were pressed but not dealt with.”

25. Moreover, in the judgment passed by the Hon’ble Supreme Court in ***Tata Industries Ltd. v. Grasim Industries Ltd., (2008) 10 SCC 187***, the Hon’ble Court while rejecting the contentions that were not raised before the High Court stated that it is impessible to raise such objections before the Superior Court in the vent the same has not been raised and pressed before the lower Court. The relevant portion of the aforesaid judgment is as follows:

“53. The argument is obviously incorrect for the following reasons:

.....
(iii)The learned counsel argues that this objection regarding the Apex Investments (Mauritius) Holding (P) Ltd. being foreign party, arose on the face of it, but the merits of the case did not fall for consideration in the Bombay High Court and as such the issue of Apex Investments (Mauritius) Holding (P) Ltd. not being a party to shareholders' agreement can still be raised. The contention is not correct. The non-applicant having raised an objection on the ground that the applicant Apex Investments (Mauritius) Holding (P) Ltd. was a foreign company, and, therefore, could not have filed an application before the Bombay High Court, cannot now turn around and say that Apex Investments (Mauritius)



Holding (P) Ltd. was not a party to the arbitration agreement. That will not be permissible. The learned counsel points out that this objection was raised without prejudice, would also be of no consequence, as having succeeded in stalling the decision of the application under Section 11(6), it cannot now raise the argument before this Court that Apex Investments (Mauritius) Holding (P) Ltd. was never a party. This argument should have been addressed to the Bombay High Court, at least in the alternative form. If in the affidavit before the Bombay High Court filed on their behalf the non-applicant had raised the issue and still chose not to go into the issue whether Apex Investments (Mauritius) Holding (P) Ltd. was or was not a party to the shareholders' agreement, that will not be permitted to be raised before this Court. In fact, in restricting itself to the jurisdictional issue and in not pursuing the issue of Apex Investments (Mauritius) Holding (P) Ltd. not being a party to the shareholders' agreement before the Bombay High Court, the non-applicant abandoned that issue. The argument is, therefore, rejected.”

26. Having heard the learned counsel for the parties and having gone through the record, this Court finds that the issues raised by the petitioner at hand were not even pressed before the learned Labour Court at the time of hearing or even thereafter ultimately leading to adjudication of the matter in favour of the respondent no. 2. Thus, this Court cannot delve into the aspects as raised by the petitioner with regard to the preliminary objections raised thereto.

27. This Court is of the view that the above said contentions *qua* the primary objections of the petitioner are barred to be entertained before this



Court. The petitioner ought to have raised such arguments and contended the same before the learned Court below so that the same could have been dealt with properly.

28. While interpreting the observations of the Hon'ble Supreme Court mentioned above, this Court is of the considered view that in light of the admitted fact, that the present petitioner having not being raised its issues before the learned Court below, has voluntarily conceded to the jurisdiction of the learned Labour Court and therefore, the learned Court below proceeded to deal with the dispute of the workmen.

29. It is a settled legal proposition that the Court is supposed to respond only to the issue agitated before it and in case at the time of hearing, the issue was not taken, therefore, this Court cannot deal with it. The same is rightly decided by the learned Court below and hence, this Court is, hereby, rejecting the contention of the petitioner with regard to the learned Labour Court's lack of jurisdiction to try the respondent no. 2's dispute.

30. Now advertent to the another issue raised before this Court by the petitioner, that the learned Labour Court wrongly decided the applicability of the revised pay scale as notional benefits w.e.f. 13th May 1982, and the actual benefits w.e.f. 1st November 1983.

31. The petitioner has contended that the benefit of the OM dated 13th March 1984, could be extended to the respondent workmen only by making suitable amendments in the recruitment rules. The rules were accordingly amended and given effect from 8th April 1989. The respondent whilst opposing the said contention has argued that the recruitment rules of



draftsmen working with the petitioner organisation were similar to that of the draftsmen working in the CPWD and also that the work is of similar nature, and hence, they are entitled to the benefit as per the prescribed date i.e., notional benefits w.e.f. 13th May 1982, and the actual benefits w.e.f. 1st November 1983, and not from 8th April 1989.

32. This Court, before analysing the same deems it prudent to refer to the judicial pronouncement in this regard. In this connection, we are referring to the decision of the Hon'ble Supreme Court in ***Union of India v. Debashis Kar, 1995 Supp (3) SCC 528***. The relevant paragraphs have been reproduced herein below:

“12. By the said office memorandum, the Government of India, after considering the request of the staff side that the scales of pay, allowed to the Draughtsmen Grade I, II and III working in CPWD on the basis of the above Award of Board of Arbitration may be extended to Draughtsmen Grade I, II and III irrespective of their recruitment qualifications in all Government of India offices, has decided that Draughtsmen Grade I, II and III in offices/departments of the Government of India other than in CPWD may also be placed in the revised scales of pay on the basis of the award subject to certain minimum period of service as mentioned in clauses (a), (b) and (c) in para 2 of the office memorandum. The benefit of this revision of scales of pay under the Office Memorandum dated 19-10-1994 has been given retrospectively with effect from the same dates as was given by the Office Memorandum dated 13-3-1984, i.e., from 13-5-1982 notionally and actually from 1-11-1983. In respect of draughtsmen who fulfilled the requirement relating to the period of service mentioned in the said Office Memorandum dated 19-10-1994 on the relevant date the question whether their recruitment qualifications were similar



to those in the case of draughtsmen in CPWD would not arise and they would be entitled to the revised pay scales as granted to the draughtsmen in CPWD irrespective of their recruitment qualifications. But in respect of those draughtsmen who did not fulfil the requirement relating to the period of service prescribed in para 2 of the Office Memorandum dated 19-10-1994 the question whether their recruitment qualifications are similar to those prescribed for draughtsmen in CPWD is required to be considered for the purpose of deciding whether they are entitled to the benefit of the revision of pay scales as per the office memorandum dated 13-3-1984.

13. We will first take up the case of draughtsmen in the Ordnance Factories. In CPWD the qualifications for direct appointment on the post of Draughtsman Grade II is Certificate or Diploma in Civil, Mechanical or Electrical Engineering from a recognised Institution with 6 months' practical training plus additional one year employment experience in an organisation or firm of repute and the posts not filled by direct recruitment are filled primarily by appointment of Draughtsmen Trainees. The Jabalpur Bench of the Tribunal, in its judgment dated 21-4-1987, has stated that it has been admitted by the Ordnance Factories Board that the relevant recruitment rules, namely SRO, 4 of 1956, is silent on the mode of filling posts of draughtsman and that the practice followed by the Ordnance Factory Board is as follows:

“By gradation of D'men trainees on successful completion of training as per scheme for the training of D'men at ATS/OFTI Ambarnath introduced vide M of D letter referred to above. Posts of D'men in OF's are filled primarily by appointment of D'men Trainees. However, a few posts are also filled by promotion of tracers with minimum 3 years' experience in that trade.”



14. The Tribunal has observed that the scheme of training of draughtsmen at ATS Ambarnath was laid down in the Ministry of Defence's letter of 14-11-1969 which prescribes the various entrance qualifications and the curriculum and the period of training and that the entrance qualification is matriculation with two years' practical experience in Tools Room or 1-1/2 years' Draughtsman's course of ITI and that after selection 2-1/2 years' training is given which includes six months' working in factories and that according to clause 10 of the Scheme a Draughtsman Trainee will be graded either for the post of Senior Draughtsman or Draughtsman and that the scheme nowhere lays down that those trainees can be posted as Tracers. According to the Tribunal, the qualifications prescribed for draughtsmen in Ordnance Factories are similar or equivalent to those prescribed for recruitment in CPWD. The Tribunal has held that the decision of the Ordnance Factory Board based on the Sub-Committee report that the applicants (respondents herein) should be equated with Tracers and Draughtsmen Grade III of CPWD was fallacious. In this context, it would be relevant to mention that as per the pay scales fixed on the basis of report of the First Pay Commission of 1947 there was no difference in the pay scales of Draughtsmen and Tracers in the Ordnance Factories and the pay scales of Draughtsmen and Tracers in CPWD Senior Draughtsmen in the Ordnance Factories and Draughtsmen in the CPWD were placed in the pay scale of Rs 150-225, Draughtsmen in the Ordnance Factories and Assistant Draughtsmen in CPWD were placed in the scale of Rs 100-185 and Tracers in Ordnance Factories as well as in CPWD were placed in the scale of Rs 60-150. On the basis of the report of the Second Pay Commission in 1959 there was a slight modification in the pay scale of Senior Draughtsmen in Ordnance Factories. Tracers in the Ordnance Factories and CPWD were placed in the same pay scale of Rs 110-200 and Draughtsmen in Ordnance Factories and Assistant



Draughtsmen in CPWD were placed in the same pay scale of Rs 150-240. Senior Draughtsmen in Ordnance Factories were placed in the pay scale of Rs 205-280 while Draughtsmen in CPWD were placed in the pay scale of Rs 180-380. By Notification dated 1-9-1965, there was change in the designation of posts of drawing office staff in CPWD and Draughtsman was designated as Draughtsman Grade I, Assistant Draughtsman was designated as Draughtsman Grade II and Tracer was designated as Draughtsman Grade III. Thereafter on the basis of the report of the Third Pay Commission in 1973, Tracers in the Ordnance Factories and Draughtsmen Grade III in CPWD were placed in the same pay scale of Rs 260-430, Draughtsmen in Ordnance Factories and Draughtsmen Grade II in CPWD were placed in the same pay scale of Rs 330-560 and Senior Draughtsmen in Ordnance Factories and the Draughtsmen Grade I in CPWD were placed in the same pay scale of Rs 425-700. This would show that Tracer in Ordnance Factories has all along been treated as equivalent to Tracer/Draughtsman Grade III in CPWD and Draughtsman in Ordnance Factories has all along been treated as equivalent to Assistant Draughtsman/Draughtsman Grade II in CPWD. As a result of the revision of pay scales in CPWD on the basis of the Award of the Board of Arbitration, the pay scale of Draughtsman Grade III was revised to Rs 330-560, while that of Draughtsman Grade II was revised to Rs 425-700 and of Draughtsman Grade I was revised to Rs 550-750. The denial of similar revision of pay scale to Draughtsmen in Ordnance Factories would result in their being downgraded to the level of Tracer/Draughtsman Grade III in CPWD. Office Memorandum dated 13-3-1984 cannot, in our opinion, be construed as having such an effect.

x

x

x

16. Dealing with draughtsmen in the Army Base Workshops in the EME, the Principal Bench of the Tribunal has observed that in the EME for the post of draughtsman, the qualifications that



are prescribed are “Matriculation or its equivalent with two years' Diploma in Draughtsmanship Mechanical or its equivalent”. The Tribunal has referred to the Report of the Third Pay Commission wherein, while dealing with draughtsmen who were in the pay scale of Rs 150-240 (as per report of Second Pay Commission), it is stated:

“(ii) for the next higher grade of Rs 150-240 the requirement is generally a Diploma in Draughtsmanship or an equivalent qualification in Architecture (both of 2 years' duration after Matriculation).”

17. The Tribunal has observed that Tracer in the EME could not be treated in any other manner but on a par with Grade III Draughtsman of CPWD, keeping in view their recruitment qualifications. The Tribunal held that the benefit of Office Memorandum dated 13-3-1984 had been rightly extended to Draughtsmen in EME and that its withdrawal was illogical and irrational. The learned counsel for the appellants has been unable to show that the said view of the Tribunal suffers from an infirmity which would justify interference by this Court.”

33. In that case the Tribunal had granted parity of treatment to the Draftsmen working in ordnance factories as well as army base workshops so far as rise in their pay scales on the same lines as the hike given to their counterparts in CPWD by the Government Memorandum dated 13th March 1984, was concerned. It was observed that the pay scales fixed on the basis of First, Second and Third Central Pay Commissions shows that Tracers in ordnance factories had all along been treated equivalent to Tracer/Draftsman Grade II in CPWD and Draftsman in ordnance factories had all along been treated as equivalent to Assistant Draftsman/Draftsman Grade II in CPWD,



and accordingly they were entitled to the benefit of OM dated 13th March 1984. The above said decision, therefore, upheld the action of the authorities based on the aforesaid OM. It is this OM which has been given effect to by the Tribunal in the said judgment in favour of the appellants therein.

34. Adverting to facts of the instant case; this Court has perused the records which include the relevant notifications/OMs being referred to herein above, the claim statement and the written statement of the parties before the learned Court below, the impugned Award and the reasoning mentioned therein.

35. It is observed that the only condition that was laid down in effecting the revised basic pay scales vide order passed in the year 1984, is that the 'recruitment qualifications' of the draftsmen working in government offices were similar to those prescribed in CPWD.

36. It has been observed by this Court that as per the finding of the learned Court below, the qualifications in recruitment rules at CPWD for Draftsmen Grade III and the post of Draftsmen Grade II and I of CPWD are to be filled in by 100% promotion from the Draftsmen Grade II and III. The recruitment rules of Draftsmen at the present petitioner's organisation were amended through Amendment Rules 1989. This Court has observed that as per the observations of the learned Labour Court in the impugned Award, it is an admitted fact that a Diploma in Draftsmanship and a certificate in Draftsmanship is at par with each other.

37. This Court has also observed that for promotion to the post of Draftsmen Grade – I from Grade – II in National Sugar Institute, the



necessary qualification is that the concerned draftsman should have the experience of 8 years at the Grade – II level, whereas for the draftsmen working in CPWD, the concerned draftsman working at Grade – II level needs to have experience of 5 years. Moving further, it is also observed by this Court that in both, National Sugar Institute and CPWD, for elevation to the Grade – II from Grade – III, 100% promotion policy is followed. Furthermore, for appointment at Grade – II, the requisite at National Sugar Institute is that the concerned person must have done 2 years Course of Diploma and for appointment at Grade – II at CPWD, the concerned person must have Diploma Course of 2 years along with 6 months of practical training.

38. In light of the above observations, this Court is of the considered view that the qualifications as required for the applicability of the notification prescribing revised pay scale is found to be similar among the Draftsmen working at National Sugar Institute, i.e., the present petitioner and the Draftsmen working at CPWD. Furthermore, the rules were amended only at the repeated demands of the workmen to bring them at par w.r.t. to the pay scale of Draftsmen working at CPWD and hence, this Court is in conformity with the observations made by the learned Labour Court while holding the above said.

39. After being taken through the findings of the learned Labour Court, this Court is of the view that the learned Court had overwhelming material which constituted sufficient basis for recording its findings, as it did, and the findings recorded seem to be satisfactory.



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40. In view of the above discussions of facts and law, this Court is not inclined to pass any such directions in favour of the petitioner and against the respondent. This Court discerns no material to establish the propositions put forth by the petitioner. There is no material to characterize the Award of the learned Labour Court as perverse.

41. It is, therefore, held that the learned Labour Court is well justified in passing the impugned Award dated 5th May 2004, in I.D No. 74/2019, and the said Award is hereby upheld.

42. For all the aforesaid reasons, no merit is found in this writ petition and the same is held to be misconceived and unnecessary. Accordingly, the instant petition stands dismissed. Pending applications, if any, also stand dismissed.

43. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

OCTOBER 10, 2023

Dy/ryp/db