

(2013) 01 DEL CK 0419
In the Delhi High Court
Case No : Writ Petition (C) 4432 of 2001

UOI and Others

APPELLANT

Vs

Association of Junior Engineers, Central Water Commission
and Others

RESPONDENT

Date of Decision : 10-01-2013

Acts Referred:

Citation : (2013) 01 DEL CK 0419

Hon'ble Judges : Veena Birbal, J; Pradeep Nandrajog, J

Bench : Division Bench

Advocate : R.V. Sinha, Mr. A.S. Singh and Ms. Sangita Rai, for the Appellant;

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—Association of Junior Engineers, Central Water Commission and all its members working as Junior Engineers are the beneficiaries of a majority opinion pronounced by the Central Administrative Tribunal. There being a split verdict between two members of the Tribunal, the matter was referred to a Larger Bench which opined that the correct course should be to refer the matter to a third member and not a reference to a Larger Bench, and in this way the opinion dated January 10, 2001 pronounced by the third member became the majority opinion. Simply stated the majority opinion notes that under the Government of India the entire engineering organization was initially a part of the Central Public Works Department (CPWD). As the working of the Government grew, by and under a resolution, for purposes of administrative convenience, works were hived off into various subordinate offices such as Central Water Ways, Irrigation and Navigation Commission, Central Water Commission, Central Electricity Commission, Central Water and Power Commission, etc.

2. Uniform pay-scales were adopted in all these departments which were under the administrative control of one or the other nodal Ministry of the Union. By the year 1991 only housing remained with CPWD. Junior Engineers were facing

stagnation.

3. With effect from January 01, 1986, the recommendations of the 4th Pay Commission had placed all Junior Engineers in the Grade Rs. 1400-2300/- with a selection Grade of Rs. 1640-2900/-. The selection grade posts were limited and thus Junior Engineers were stagnated in the scale Rs. 1400-2300 and thus a settlement was arrived at as per which such Junior Engineers who could not earn a promotion were to be placed in the pay-scale Rs. 1640-2900 on completion of 5 years service and if they continued to stagnate for another 10 years were to be placed in the next above scale Rs. 2000-3500/-. But after screening.

4. The Tribunal has noted that this gave birth to similar demands by Junior Engineers in various other subordinate offices and that the Junior Engineers in the Post and Telegraph, Civil Wing, Department of Telecommunications, Junior Engineers in DDA and the Junior Engineers in Labour Welfare Department were accorded similar benefit. The Jodhpur Bench of Tribunal has granted similar benefit to the Junior Engineers working in the Central Ground Water Department and the Calcutta High Court granted similar benefit to Junior Engineers working in the Farakka Barrage Project.

5. Simply following the law declared in the two decisions of the Jodhpur Bench of the Tribunal and the Calcutta High Court and noting similar parity accorded to in a few other departments and referring to the fact that all subordinate offices were the offsprings of the Central Public Works Department, the Tribunal has issued the direction that Junior Engineers of the Central Water Commission should be accorded the similar benefit.

6. We note that the principal defence taken by the writ petitioners before the Tribunal was that it was not a case of equal pay for equal work; it was a case where there was stagnation of Junior Engineers in CPWD and to overcome the same a decision was taken that those Junior Engineers who do not earn a promotion in 5 years would be placed in the pay-scale Rs. 1640-2900/- and if stagnation continued for another 10 years i.e. even after 15 years the Junior Engineers would be placed in the scale above i.e. Rs. 2000-3500/-. As regards the Central Water Commission, it was pleaded that to overcome the problem of stagnation the Commission had surrendered 90 posts of Junior Engineers and had created 45 additional posts of Assistant Engineers.

7. In other words it was highlighted that the problem of stagnation was overcome in a different manner by the Department.

8. Regretfully we note that in spite of noting as aforesaid in paragraph 8 of the opinion dated January 10, 2001 we do not find that the same has been taken to its logical conclusion.

9. Now, it is simple law. An organization A is hived off from time to time resulting in organizations B, C, D & E being constituted. An issue of stagnation arises after a few years in organization A and a methodology is adopted to resolve the

stagnation issue. Similar problem is found in organizations B, C, D and E but a different methodology is adopted to overcome the problem. There can be no claim for parity.

10. Now, organization B and C may adopt the methodology adopted by organization A to overcome the stagnation problem and as regards organization B which has not taken any action there can be judicial verdict. But organization D may have taken some steps to mitigate the problem. The facts of each organization and policies adopted by each have to be considered.

11. There is yet another issue which the Tribunal overlooked and for which we do not blame the Tribunal. The blame lies on the shoulder of the writ petitioner. O.A. No. 538/2004 continued to languish beyond the year 1999. In the year 1999 momentous events took place. Based on the recommendations of the 5th Central Pay Commission to overcome stagnation, in the year 1999 the Assured Career Progression (ACP) Scheme was introduced as per which employees became entitled to the next above pay-scale if they did not earn promotion after 12 years and a second upgradation after 24 years and post acceptance of the 6th Central Pay Commission the modified ACP Scheme envisages in situ promotion if not earned after 10 and 20 years of service.

12. Noting as aforesaid, the writ petition is allowed. Impugned decision dated January 10, 2001 passed by the Tribunal is set aside. There shall be no order as to costs.