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UNION OF INDIA AND OTHERS.

v.

SHRI DEBASHIS KAR AND OTHERS ETC.

JULY 20, 1995

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[S.C. AGRAWAL AND S. SAGHIR AHMAD, JJ.]

Service Law :

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Revision pay scales—Whether draughtsmen employed in the ordinance factories and Army base workshops of E.M.E. in the defence ministry are entitled to a revision of pay scales, on the basis of O.M. dated 13.3.1984, in th light of the revised scales of pay of the draughtsmen in the CPWD.

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Recruitment qualifications—Whether similar—Draughtsmen not fulfilling the requirement relating to period of service prescribed in office memorandum dated 19.10.1994—Question whether the recruitment qualifications are similar to those prescribed for draughtsmen in CPWD must be considered, in order to extend benefit of revision of pay scales.

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Respondents are draughtsmen employed in various Ordinance Factories under the Ordinance Factory Board and Army Base Workshops under the EME.

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The Appellant, Union of India, on the basis of the IIIrd Pay Commission report, revised the pay scales of the draughtsmen employed in the CPWD. The said revision having been disputed by the employees of the CPWD, the dispute was referred to Arbitration and according to the award dated 20.6.1980, the pay scales of draughtsmen in CPWD were revised, vide order dated 10.11.1980.

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The pay scales of the draughtsmen employed in CPWD having been revised, the respondents claimed similar revisions of their pay scale. Accordingly the Government of India, Ministry of Finance, Vide O.M. No 13.3.1984 directed that the scales of pay of draughtsmen grade, I,II and III in all its offices and departments other than CPWD, may be revised as per the revised pay scales of CPWD with retrospective effect from 13.5.1982, provided their recruitment qualifications are similar to those prescribed for the draughtsmen in the CPWD.

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No action having been taken, to revise the pay scales in the Ordinance Factories, and the Army base workshops, applications were filed before the various Benches of the Central Administrative Tribunal in Calcutta Jabalpur and Hyderabad, by the respondents seeking the implementation of the O.M. dated 13.3.1984. A

By their judgments the various Benches of the Tribunal took the view that the qualifications required for the appointment of draughtsmen in the Ordinance Factories as well as in the Army base Workshop in EME were equivalent to the qualifications prescribed for the appointment for the post of draughtsmen Grade- II in CPWD and, therefore, the respondents were entitled to the revised pay scales. B
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Aggrieved, the Union of India, filed appeals before this Court, Assailing the said view of the Tribunals, and contending therein :

(a) The Channel of promotion in Ordinance Factories is different from the Channel of promotion in CPWD. (b) while there are no promotional chances for a draughtsmen in CPWD once he reaches the post of Grade-I draughtsmen, a draughtsmen in the Ordinance Factory is entitled to be promoted thereafter as Chargeman Grade-II, and then as Foreman, (c) Since the pay scale of Chargeman Grade-II in the Ordinance Factories is Rs. 425-700, to place a draughtsmen in that pay scale would result in placing him at the same level as the promotion post of Chargeman Grade-II. Hence, the benefit of the revised pay scales under O.M. dated 13.3.1984 cannot be extended to the draughtsmen in the Ordinance Factories. D
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The respondents contested the said appeals on several grounds disputing the contention that there are no promotional opportunities for draughtsmen Grade in CPWD. F

During the pendency of the appeals, the appellant vide O.M. dated 19.10.1994 directed that draughtsmen grade I, II and III in all its offices and departments other than CPWD may also be placed in the revised scales of pay on the basis of the Award dated 20.6.1984, subject to certain minimum period of service as mentioned in the said O.M. G

In respect of draughtsmen who did not fulfill the requirement relating to period of service prescribed in the O.M. dated 19.10.1994, the question, whether their recruitment qualifications were similar to those H

A prescribed for draughtsmen in CPWD was thus required to be considered.

Dismissing the appeals, this Court

B HELD : 1. The qualifications prescribed for draughtsman in ordinance factories are similar or equivalent to those prescribed for recruitment in C.P.W.D. and till revision of pay scales of draughtsmen in C.P.W.D. by order dated November 10, 1980 on the basis of this award of this Board of Arbitration, the pay scale of Draughtsmen Grade II (Assistant Draughtsmen) in C.P.W.D. [284-B]

C 2. Denial of similar revision of pay scales to Draughtsmen in Ordinance factories would result in their being down graded to the level of Tracer/Draughtsmen Grade III in C.P.W.D. Office memorandum dated March 13, 1984 cannot be construed as having such an effect. [285-B]

D 3. Merely because the post of Chargeman Grade-II, a promotional post of draughtsmen in Ordinance Factories was in the scale of Rs. 425-700 cannot be a justification for denying the revision of pay scale to draughtsmen and their being placed in that scale on basis of O.M. dated 13.3.1984, if such draughtsmen were otherwise entitled to the said revisions of pay scales. [285-G]

E 4. The provisions regarding promotion draughtsmen as Chargemen Grade-II in Ordinance Factories was introduced by the India Ordinance Factories Group-C supervisory and non-gazetted cadre (recruitment and conditions of service) Rules, 1989, issued vide Notification dated 4.5.1989 and the said rules are not retrospectively effective. [285-H]

F 5. The said rules were not in operation at the time when the draughtsmen in the Ordinance Factories became entitled to the revision of pay scales by O.M dated 13.3.1984. [286-B]

G 6. Keeping in view their recruitment qualifications there is no infirmity in the view of the Tribunal that draughtsmen in the Army Base Workshops in EME are entitled to the benefit of the said revision of pay scales. [286-F]

H CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1433 of 1995 Etc.

From the Judgment and Order dated 1.8.94 of the Central Administrative Tribunal, Calcutta in O.A. No. 333 of 1993. **A**

N.N. Goswami, Ms. K. Amreshwari, Dr. Shankar Ghosh, Tara Chand Sharma, Anil Katiyar, H.S. Parihar, A.T.M. Sampath (NP), K.B.S. Rajan, Ms. Pushpa Rajan, P. Narasimhan, Ms. Rani Chhabra, Irshad Ahmad, Aruna Benerji and G.S. Chatterjee for the appearing Parties. **B**

The Judgment of the Court was delivered by

S.C. AGRAWAL, J. The common question that arises for consideration in these cases is whether Draughtsmen employed in the Ordinance Factories and the Workshops of E.M.E. in the Ministry of Defence are entitled to have their pay scale revised on the basis of the Office Memorandum of the Government of India, Ministry of Finance, dated March 13, 1984. **C**

On the basis of the report of the Third Pay Commission, the pay scales of Draughtsmen employed in the Central Public Works Department (for short 'C.P.W.D.') of the Government of India were revised in the following manner : **D**

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| (i) Draughtsmen Grade - I | Rs. 425-700 |
| (ii) Draughtsmen Grade - II | Rs. 330-560 |
| (iii) Draughtsmen Grade - III | Rs. 260-430 |

The said employees in the C.P.W.D. were not satisfied with the said revision and were claiming that they should have been placed on higher pay scales. This dispute was referred to a Board of Arbitration. The Board of Arbitration gave the award on June 20, 1980 where by the pay scales of Draughtsmen were revised as under : **F**

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| (i) Draughtsmen Grade - I | Rs. 550-750 |
| (ii) Draughtsmen Grade - II | Rs. 425-700 |
| (iii) Draughtsmen Grade - III | Rs. 330-560 |

By the award it was directed that the above mentioned categories of draughtsmen shall be fixed notionally in their respective scales of pay of **H**

- A pay as aforesaid from January 1, 1973, but for computation of arrears, the date of reckoning shall be July 28/29, 1978. In accordance with the said award the pay scales of draughtsmen in C.P.W.D. were revised vide order dated November 10, 1980. The draughtsmen employed in departments other than C.P.W.D. claimed the revision of their pay scales in the light of the revision of pay scales in the C.P.W.D. and on March 13, 1984 the Government of India, Ministry of Finance (Department of Expenditure), issued an Office Memorandum whereby it was directed that the scale of pay of Draughtsmen Grade III, II, I in the office/Department of the Government of India, other than the C.P.W.D., may be revised as per revised scales for C.P.W.D. provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in C.P.W.D. and those who do not fulfil the said qualifications would continue in the pre-vised scales. Thereupon, the Ministry of Defence on July 3, 1984 issued an order whereby the user organisations were requested to take necessary action in terms of para 2 of the Officer Memorandum dated March 13, 1984. It appears that in the Ordinance factories under the control of the Director General of Ordinance Factories (DGOF) no action was taken to revise the pay scales of draughtsmen as per the Office Memorandum dated March 13, 1984. A writ Petition (Civil Order No. 5023(W) of 1985) was filed in the Calcutta High Court by some of the draughtsmen employed in the Ordinance Factories in the State of West Bengal. The said Writ Petition was disposed of by the High Court by dated October 8, 1985 whereby the respondents in the said writ petition were directed to forthwith implement the Office Memorandum dated March 13, 1984 as well as the order of Ministry of Defence dated July 3, 1984 to revise the pay scales in accordance therewith. The said order was clarified by order dated July 14, 1986 whereby it was indicated that the order passed on October 8, 1985 was restricted to the petitioners and the added respondents only. The Ordinance Factory Board appointed a Sub-Committee to go into the mater and on the basis of the report of the Sub-Committee, the Ordinance Factory Board in its meeting held on September 9, 1986 decided that the qualifications of draughtsmen employed in the Ordinance Factories are not similar to those of draughtsmen in the C.P.W.D. and therefore, they were not entitled to revision of their pay scales as per the Office Memorandum dated March 13, 1984. The petitioners in the said writ petition were informed about the said decision of the Ordinance Factories Board by letter dated October 9, 1986. While the matter was thus pending considera-

tion before the Ordinance Factory Board, a Writ Petition was filed in the Madhya Pradesh High Court by draughtsmen employed in the Ordinance Factories situated in that State and after the constitution of the Central Administrative Tribunal (for short 'the Tribunal'), the said writ petition was transferred to the Jabalpur Bench of the Tribunal and it was registered as TAA 111/86. Another application (OA-87/86) was also filed by some of the draughtsmen before the Jabalpur Bench of the Tribunal. Both these applications were disposed of by the Jabalpur Bench of the Tribunal by judgment dated April 21, 1987 whereby it was held that the applicants were entitled to be placed at par with Grade II Draughtsmen of the C.P.W.D., i.e., in revised scale Rs. 425-700 and that if there are any individual exceptions amongst the applicants to this general equation, they should be identified by a suitable departmental committee of three Assessors of whom one should be from Management, one a technical person of appropriate level from inside the Ordinance Factory and one technical outsider not connected with the Ordinance Factories of the rank of Professor or Addl. Professor from Engineering College, Jabalpur or Engineering Institute at Roorkee, IIT, Kanpur. The Tribunal rejected the contention urged on behalf of the respondents in the said applications that the applicants do not possess the recruitment qualifications and experience atleast equivalent to those of grade category II of draughtsman of C.P.W.D. The justifications and reasons for the decision of the Ordinance Factory Board at its meeting held on September 9, 1986 based on the report of the Sub-Committee dated January 24, 1986 and the findings of the Sub-Committee that the qualifications of draughtsmen in the Ordinance Factories have to be treated as corresponding to those of Draughtsmen Grade III in C.P.W.D. were not accepted by the Tribunal. Special Leave Petitions Nos. 8593-94 of 1987 filed by the Union of India and others against the said judgment of the Tribunal were dismissed by the order of this Court dated November 17, 1987 but the said order was subsequently recalled by another order dated 20th August, 1993 passed in Review Petitions (Civil) Nos. 847-48 of 1991. The respondents in the said Special Leave Petitions have, however, stated that the said decision of the Tribunal has already been implemented and the applicants in those applications have been allowed the revised pay scale of Rs. 425-700 with effect from May 30, 1982 as per Office Memorandum dated March 13, 1984 and that the Assessors Committee which was constituted in pursuance of the decision of the Tribunal have found that the applicants have the qualifications which are equivalent

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A to the technical qualifications of Draughtsmen Grade II in C.P.W.D.

Two applications (O.A. No. 569 of 1986 and 570 of 1986) were filed before the Calcutta Bench of the Tribunal by draughtsmen employed in the Ordinance Factories in the State of West Bengal where by a direction was sought for implementation of the Office Memorandum of Ministry of Finance dated March 13, 1984 and the direction contained in the order dated July 3, 1984 of the Ministry of Defence after setting aside the order dated October 9, 1986 passed by the Ordinance Factories Board. On the said applications the Tribunal, on September 10, 1987, passed an order for setting up of an expert committee to examine the recruitment qualifications of draughtsmen in the Ordinance Factories and to examine as to whether they can be treated as similar to or higher than the recruitment qualifications of Draughtsman Grade II in C.P.W.D. An Expert Committee was set up in pursuance of the said order of the Tribunal and it submitted its report dated December 4, 1987 where in the Expert Committee opined that the recruitment qualifications of draughtsmen in the Ordinance Factories is neither similar to nor higher than the recruitment qualifications for Draughtsmen Grade II in the C.P.W.D. The said report of the Expert Committee was assailed by the applicants before the Tribunal by filing miscellaneous Applications, being M.A. Nos. 94 and 94 A of 1988 in O.A. Nos. 569 of 1986 and 570 of 1986 pending before the Tribunal. The original applications as well as the miscellaneous applications were all disposed of by the Calcutta Bench of the Tribunal by judgment dated December 31, 1990. Relying upon the judgment dated April 21, 1987 of the Jabalpur Bench of the Tribunal in T.A.A. No. 111 of 1986 and O.A. No. 87 of 1986, the Calcutta Bench of the Tribunal quashed the order dated 9th October, 1986 as well as the report of the Expert Committee dated December 4, 1987 and directed that the applicants in the said applications be given the benefit as prayed for by them on the same lines as the direction given by the Jabalpur Bench in its judgment dated April 21, 1987. Special Leave Petitions Nos. 9840-40A of 1991 filed by the Union of India and others against the said judgment of the Tribunal were dismissed by order of this Court dated July 29, 1991. Review Petitions Nos. 857-58 of 1991 filed against the said order were dismissed by order dated October 25, 1991 but by a subsequent order dated November 28, 1994 the said order dated October 25, 1991 dismissing the Review Petitions was recalled and the Review Petitions have been directed to be tagged with the Special Leave Petition Nos. 8593-94 of 1987.

Another application (O.A. No. 333 of 1993) was filed before the Calcutta Bench of the Tribunal by the applicants who were working as draughtsmen under the control of the General Manager, Ordinance Factory, Ishapur wherein they sought a direction in terms of the judgment dated 31st December, 1990 delivered by the Calcutta Bench of the Tribunal in O.A. Nos. 569-570 of 1986 and for a direction to fix their pay in terms of the Office Memorandum of the Central Government dated March 13, 1984 and order dated July 3, 1984. The said petition was allowed by the Tribunal by the judgment dated August 1, 1984 and the respondent in the said application were directed to extend the benefit of the judgment dated December 31, 1990 delivered by the Tribunal the Tribunal in O.A. Nos. 569 and 570 of 1986 to the applicants and to fix their pay in terms of the orders of the Central Government dated March 13, 1984 and July 3, 1984. Civil Appeal No. 1443 of 1993 has been filed by the Union of India and Others against the said judgment of the Tribunal.

Special Leave Petition (Civil) No. 22016 of 1993 has been filed against the judgment and order dated June 23, 1993 of the Hyderabad Bench of the Tribunal in O.A. No. 140 of 1992 filed by applicants who were employed as draughtsman in the Ordinance factory at Edumelaram in Medak District of Andhra Pradesh. Following the decisions of he Jabalpur and Calcutta Benches aforementioned, the Hyderabad Bench of the has directed that the pay of the applicants, other than applicants Nos. 7, 11, and 17, be fixed in the revised pay scale of Draughtsman Grade II from the dates of their respective appointment promotion as draughtsman in the said Ordinance Factory in accordance with the office memorandum dated March 13, 1984.

In accordance with order of the Ministry of Defence dated July 3, 1984 orders were passed on August 14, 1984 and February 15, 1985 revising the pay scales in accordance with the Office Memorandum dated March 13, 1984 but by a subsequent order of E.M.E. Records dated October 30, 1986 on the basis of which other orders were passed by the respective Commandants of the Base Workshops the said orders were rescinded and the benefit of the revised pay scales which had been extended was withdrawn. A number of applications were filed before the Tribunal by the draughtsmen in Army Base Workshops, E.M.E. which were disposed of by the Principal bench of the Tribunal by Judgment dated May 15, 1992 where by the orders of E.M.E. Records dated 30th October, 1986 and sub-

- A sequent orders issued by the respective Commandants of the respective base Workshops in pursuance of the said order of the E.M.E. Records, Secunderabad have been quashed and it has directed that the applicants in the applications before the Tribunal be placed in their revised scale of pay as per Office Memorandum dated March 13, 1984 notionally with effect from May 13, 1982 and that the actual benefit be allowed with effect from November 1, 1983. C.A. Nos. 2125-33 of 1993 have been filed by the Union of India against the said judgment of the Tribunal.

- Though by order dated April 7, 1994 S.L.P. Nos. 8593-94 of 1987 were directed to be listed after the decision in C.A. Nos. 2125-33 of 1993 but since the said SLPs are directed against the judgment of the Jabalpur Bench of the Tribunal dated April 21, 1987 which forms the basis for the judgments of other Benches of the Tribunals in other connected matters, we have taken up SLPs Nos. 8593-94 of 1987 along with these matters and have heard the said SLPs also and the same are being disposed of by this judgment.

- The narration of the fact referred to above would show that all these matters relate to revision of pay of draughtsman employed in the Ministry of Defence of the Government of India and except the respondents in C.A. Nos. 2125-33 of 1993, the respondents in the other matters are all employed as draughtsmen in the various Ordinance Factories under the Ordinance Factories Board and the respondents in C.A. Nos. 2125-33 of 1993 are draughtsmen employed in the Army Base Workshops under the E.M.E. In the impugned judgments the various Benches of the Tribunal have taken the view that the qualifications which were required for appointment of draughtsman in the Ordinance Factories as well as in the Army Base Workshops in the E.M.E. were equivalent to the qualifications which were prescribed for appointment on the post of Draughtsman Grade II in the C.P.W.D. and therefore, the respondents who were placed in the pay scale of Rs. 335-560 on the basis of the report of the Third Pay Commission were entitled to be placed in the revised pay scale of Rs. 425-700 in accordance with the Office Memorandum of the Ministry of Finance dated March 13, 1984. On behalf of the Union of India and other appellants in the appeals and petitioners in the Special Leave Petitions and the Review Petitions, the said view of the Tribunal has been assailed and it has been urged that the qualifications for appointment on the post of draughtsman in the Ordinance Factories and the Army Base Workshops of the E.M.E. cannot be treated as equivalent to the qualifications for appointment on the post of

Draughtsman Grade II in C.P.W.D. and therefore, the said respondents are not entitled to the benefit of revision of pay on the basis of the Office Memorandum dated March 13, 1984. A

During the pendency of these cases in this Court the Government of India, Ministry of Finance has issued an Office Memorandum dated October 19, 1994 which is reproduced as under : B

"OFFICE MEMORANDUM

Subject : Revision of pay scales of Draughtsmen Grade I, II and III in all Government of India offices on the basis of the Award of the Board of Arbitration in the case of Central Public Works Department. C

The undersigned is directed to refer to this Department's O.M. No. F. 5(59)-E.III/82 dated 13.3.84 on the subject mentioned above and to say that a Committee of the National Council (JCM) was set up to consider the request of the staff side that the following scales of pay, allowed to the Draughtsman Grade I, II & III working in CPWD on the basis of the Award of Board of Arbitration, may be extended to Draughtsman Grade I, II & III irrespective of their recruitment qualification, in all Government of India Offices : D

	Original Scale (Rs.)	Revised Scale on the basis of the Award (Rs.)
Draughtsman Grade I	425 - 700	550 - 750
Draughtsman Grade II	330 - 560	425 - 700
Draughtsman Grade III	260 - 430	330 - 560

2. The President is now pleased to decide that the Draughtsman Grade, I II and III in offices/departments of the Government of India other than in CPWD may also be placed in the scale of pay mentioned above subject to the following : H

- A (a) Minimum period of service for placement from the post carrying scale of Rs. 975-1540 to Rs. 1200-2040 (pre-revised Rs. 260-430 to Rs.330-560) 7 years
- B (b) Minimum period of service for placement from the post carrying scale of Rs. 1200-2040 to Rs. 1400-2300 (pre- revised Rs. 330-560 to Rs. 425-700) 5 years
- (c) Minimum period of service for placement from the post carrying scale of Rs. 1400-2300 to Rs. 1600-2600 (pre- revised Rs. 425-700 to Rs. 550-750) 4 years

C 3. Once the Draughtsman are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down the recruitment rules.

D 4. The benefit of his revision of the scales of pay would be given with effect from 13.5.82 notionally and actually from 1.11.83.

Sd/

(Shyam Sunder)

Under Secretary to the Government of India"

E By the said office memorandum, the Government of India, after considering the request of the staff side that the scale of pay, allowed to the Draughtsmen Grade I, II, & III working in C.P.W.D. on the basis of the above Award of Board of Arbitration may be extended to Draughtsmen

F Grade I, II & III irrespective of their recruitment qualifications in the Government of India offices, has decided that Draughtsmen Grade I , II & III in offices/departments of the Government of India other than in C.P.W.D. 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 the clauses (a), (b) and (c) in para 2 of the Office Memorandum. The

G benefit of this revision of scales of pay under the office memorandum dated 19th October, 1994 has been given retrospectively with effect from the same dates as was given by the Office Memorandum dated March 13, 1984, i.e., from May 13, 1982 notionally and actually from 1st November, 1983. In respect of draughtsmen who fulfilled the requirement relating to the period

H of service mentioned in the said Office Memorandum dated 19th October,

1994 on the relevant date the question whether their recruitment qualifications were similar to those in the case of draughtsman in C.P.W.D. would not arise and they would be entitled to the revised pay scales as granted to the draughtsmen in C.P.W.D. 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 19th October, 1994 the question whether their recruitment qualifications are similar to those prescribed for draughtsmen in C.P.W.D. 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 March 13, 1984.

We will first take up the case of draughtsmen in the Ordinance Factories. In C.P.W.D. 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 April 21, 1987, has stated that it has been admitted by the Ordinance Factories Board that the relevant recruitment rules, namely SRO, 4 of 1956, is silent on the mode of filling posts of draughtsmen and that the practice followed by the Ordinance 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 Ambar-nath introduced vide M of D letter referred to above. Posts of D'men in O.F.'s are filled primarily by appointment of D'man Trainees. However, a few posts are also filled by promotion of tracers with minimum 3 years experience in that trade."

The Tribunal has observed that the scheme of training of draughtsmen at ATS Ambar-nath was laid down in the Ministry of Defence's letter of November 14, 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 1-1/2 years Draughtsmen's course of I.T.I. 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

- A draughtsman trainee will be graded either for the post of Senior draughtsman or Draughtsman and that the scheme nowhere lays down the those trainees can be posted as Tracers. According to the Tribunal, the qualifications prescribed for draughtsmen in Ordinance Factories are similar or equivalent to those prescribed for recruitment in C.P.W.D. The Tribunal has held that the decision of the Ordinance Factory Board based on the sub-Committee report that the applicants (respondents herein) should be equated with Tracers and Draughtsman Grade III of C.P.W.D. 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 Ordinance Factories and the pay scales of Draughtsmen and Tracers C.P.W.D. Senior Draughtsman in the Ordinance Factories and Draughtsman in the CPWD. were placed in the pay scale of Rs. 150-225, Draughtsman in the Ordinance Factories and Assistant Draughtsman in C.P.W.D. were placed in the scale of Rs. 100-185 and Tracers in Ordinance Factories as well as in C.P.W.D. 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 Draughtsman in Ordinance Factories. Tracers in the Ordinance Factories and C.P.W.D. were placed in the same pay scale of Rs. 110-200 and draughtsmen in Ordinance Factories and assistant Draughtsmen C.P.W.D. were placed in the same pay scale of Rs. 150-240. Senior Draughtsmen in Ordinance Factories were placed in the pay scale of Rs. 205-280 while Draughtsmen in C.P.W.D. were placed in the pay scale of Rs. 180-380. By Notification dated September 1, 1965, there was change in the designation of posts of drawing office staff in C.P.W.D. 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, Tracer in the Ordinance Factories and Draughtsmen Grade III in C.P.W.D. were placed in the same pay scale of Rs. 260-430, Draughtsmen in Ordinance Factories and Draughtsman Grade II in C.P.W.D. were placed in the same pay scale of Rs. 330-560 and Senior Draughtsmen in Ordinance Factories and the Draughtsmen Grade I in C.P.W.D. were placed in the same pay scale of Rs. 425-700. This would show that Tracer in Ordinance Factories has all along been treated as equivalent to Tracer/Draughtsmen Grade III in C.P.W.D. and Draughtsmen in Ordinance Factories has all along been treated as equivalent to Assistant Draughtsman/Draughtsman Grade II in C.P.W.D. As a result of the revision of pay scales in C.P.W.D. on the basis

of the Award of the Board of Arbitration, the 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 of Draughtsmen in Ordinance Factories would result in their being down-graded to the level of Tracer/Draughtsman Grade III in C.P.W.D. Officer Memorandum dated March 13, 1984 cannot, in our opinion, be construed as having such an effect.

Shri N.N. Goswami, the learned senior counsel appearing in support of the appeals as well as the Special Leave Petitions and the Review Petitions, has urged that the Channel of promotion in Ordinance Factories is different from the channel of promotion in C.P.W.D. inasmuch as in C.P.W.D. there is no further promotion after a person reaches the scale of Draughtsman Grade I while in Ordinance Factories a Draughtsman is entitled to be promoted as Chargeman Grade II and thereafter as Chargeman Grade I and as Foreman and that the post of Chargeman Grade II which is the promotional post for draughtsman was in the pay scale of Rs. 425- 700 and that placement of Draughtsman in the said pay scale of Rs. 425-700 would result in Draughtsman being placed at the same level as the promotional post of Chargeman Grade II and, therefore, the benefit of the revision of pay scales under Office Memorandum dated March 13, 1984 cannot be extended to the Draughtsmen in Ordinance Factories. On behalf of the respondents it is disputed that there are no promotional chances for Draughtsman Grade I in C.P.W.D. This question was not agitated in any of the matters before the Tribunal and we are, therefore, unable to entertain this plea urged by Shri Goswami on behalf of the appellants/petitioners. As regards the post of Chargeman Grade II being a promotional post for Draughtsman in Ordinance Factories and it being in the scale of Rs. 425-700 at the relevant time, we are of the view that merely because of promotional post for Draughtsmen in Ordinance Factories was in the scale of Rs. 425- 700 cannot be a justification for denying the revision of pay scales to Draughtsmen and their being placed in the scale of Rs. 425-700 on the basis of the Office Memorandum dated March 13, 1984 if such Draughtsmen are otherwise entitled to such revision in the pay scale on the basis of the said Memorandum. Moreover, the provision regarding promotion of Draughtsman as Chargeman Grade II in Ordinance Factories was introduced by the Indian Ordinance Factories Group C Supervisory and Non-Gazetted Cadre (Recruitment and Conditions of Service) Rules,

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- A** 1989 issued vide Notification dated May 4, 1989. The said Rules are not retrospective in operation. Here we are concerned with the revision of pay scales with effect from May 13, 1982 on the basis of the Office Memorandum dated March 13, 1984 and, at that time, the said Rules were not operative. Therefore, on the basis of the aforesaid Rules Draughtsmen in Ordinance Factories cannot be denied the benefit of revision of pay scales on the basis of the Office Memorandum dated March 13, 1984. The appeals and the SLPs as well as Review Petitions relating to draughtsmen in Ordinance Factories are, therefore, liable to be dismissed.

- C** Dealing with draughtsman in the Army Base Workshops in the E.M.E., the Principal Bench of the Tribunal has observed that in the E.M.E. 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 :

- D** "(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)."

- E** The Tribunal has observed that Tracer in the E.M.E. could not be treated in any other manner but at par with Grade III Draughtsman of C.P.W.D. keeping in view their recruitment qualifications. the Tribunal held that the benefit of Office Memorandum dated March 13, 1984 had been rightly extended to Draughtsmen in E.M.E. and that its withdrawal was illogical and irrational. The learned counsel for the appellants has been unable to show that is the said view of the Tribunal suffers from an infirmity which would justify interference by this Court.

- F** Civil Appeal Nos. 1433 of 1986, 2125-33 of 1993 as well as S.L.P.s (Civil) Nos. 8593-94 of 1987, 22016 of 1993 and Review Petitions (Civil) Nos. 875-58 of 1991 are accordingly dismissed but in the facts and circumstances of the case, the parties are left to bear their own costs.

G T.W.

Appeals dismissed.