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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.858/2019

Date of Decision: 05.02.2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

1. Raj Kumar Shyam Baran Singh, aged 46 years, S/o Shri ShyambaranHarishankar Singh, Technical Assistant (Construction) C. No. 94/Safety & Environment Division, Naval Dockyard, Mumbai 400023, residing at 61/15, Naval Civilian Housing Colony, Kanjurmarg, (West) Mumbai-400078.
2. Ram Briksha Ram, aged 53 years, S/o. Late. Shri. Pataru Ram Technical Assistant (Weapons) C. No. 85, MWEA Department, Naval Dockyard, Mumbai 400023 residing at 61/8, Naval Civilian Housing Colony Kanjurmarg (West) Mumbai-400078.
3. Satinder Pal Vashistha, aged 59 years, S/o. Late. Shri. Dinanath Vashistha, Technical Assistant (Electrical), C No. 48, EPS Department, Naval Dockyard, Mumbai-400023. Residing at 42/04, Naval Civilian Housing Colony Kanjurmarg (West), Mumbai-400078.
4. Eranazath Prakash Ramakrishnan, aged 55 years, S/o. Late. Shri. E VR Ramakrishnan Technical Assistant (Electrical) C. No. 48, EPS Department, Naval Dockyard Mumbai-400023, residing at F/06, Naval Civilian Housing Colony, Kanjurmarg (West), Mumbai-400078.
5. Rajnikant D Kantharia, aged 50 years, S/o. Late. Shri. Devchand H Kantharia. Technical Assistant (PP &C) C. No. 02, MPLS Department, Naval Dockyard, Mumbai-400023 residing at 6B/104, Vinay Unique Residency Gokul Township, Virar(West)- 401303.
6. Hemant Dattatraya Tare, aged 56 years, S/o. Late. Sri. Dattatraya Bhaskar Tare, Technical Assistant (Weapons) C. No. 55, MWEA Department, Naval Dockyard,

Mumbai-400023, residing at C/201,
 Sai Home, Chikhal Dongri Road, Dongarpada,
 Virar (West)-401303.

7. KC. Nayak, aged 53 years, S/o. Late. Shri. Aparti Charan Nayak, Technical Assistant (Weapons) C. No. 55, MWEA Department, Naval Dockyard, Mumbai-400023 residing at 200/08, Naval Civilian Housing Colony Kanjurmarg (West), Murmbai-400078
8. Suresh Kumar Awasthi, aged 58 year, S/o Shri Shita Prasad Awasthi Technical Assistant (Engineering) C. No. 49, BCF Sewree, Naval Store Depot. Reay Road, Naval Dockyard, Mumbai 400023
9. Munilidhar Narayan Karanwar, aged 58 years, S/o. Shri Narayan Ramachandra Karanwar Technical Assistant (Electrical) C. No. 49, BCF Sewree, Naval Store Depot Reay Road, Naval Dockyard, Mumbai400023.
10. Hriday Narayan Yadav, aged 58 years, S/o. Late. Sri. Gudar Ram Yadav, Technical Assistant (Construction) C. No. 92, MCM Department, Naval Dockyard, Mumbai-400023
11. Biju Jacob, aged 59 years, S/o. late. Shri Jacob Koshy Technical Assistant (Engineering) C. No. 27, GES Department, Naval Dockyard, Mumbai - 400023.
12. Omprakash Tiwari aged 56 years, S/o. Shri. Thakur Prasad Tiwari Technical Assistant(Construction) C. No. 06, RP Division, Naval Dockyard, Mumbai-400023.
13. Suhas. S. Kumamekar, aged 54 years, S/o. Shri. Sadanand B Kumamekar Technical Assistant (Electrical) C. No. 64, YAS Department, Naval Dockyard, Mumbai - 400023.
14. Prámod Rajaram Bhatkar aged 59 years, S/o. Shri. Rajaram Narayan Bhatkar Technical Assistant (Electrical) C. No. 62, MPM Department, Naval Dockyard, Mumbai - 400023.
15. Vitthal Bansi Chaudhari aged 47 years, S/o. Bansi Laxman Chaudhary, Technical Assistant (Electrical) C. No. 74, Quality Control Department, Naval Dockyard, Mumbai -400023.
16. Bakulchandra Kantilal Ondia,

aged 47 years, S/o. Kantilal Bhagwanbhai Ondia,
Technical Assistant (PP&C), C No. 02,
MYCR Department, Naval Dockyard,
Mumbai-400023.

17. Bhuwan Chandra Joshi, aged 59 years,
S/o. Late. Shri. Nardev Joshi, Technical
Assistant (Engineering) C. No. 74, Quality
Assurance Division, Naval Dockyard.
Mumbai -400023.

18. Ramdeo Gupta, aged 59 years,
S/o. Shri. Purushottam Gupta, Technical
Assistant (Engineering) C. No. 29, MAST
Department, Naval Dockyard, Mumbai400023.

19. Dattatray Raghunath Kamble, aged 49 years,
S/o. Late. Shri. Raghunath
Gujabakamble, Technical Assistant (Weapons)
C. No. 07, INCOD Department, Naval
Dockyard, Mumbai400023.

20. Mahadeo Pilaji Dudwadkar, aged 59 years, s/o
Shri. Pilaji Laxman Dudwadkar,
Technical Assistant (Electrical) C. No. 70,
MMER Department, Naval Dockyard,
Mumbai - 400023.

21. Om Prakash Pandey, aged 48 years,
S/o. Shri. Markanday Pandey, Technical
Assistant (Construction) Warship Overseeing
Team C/o FMO Mumbai-400001.

22. Manohar Shrihari Dadmal, aged 48 years,
S/o. Shri. Shrihari Domaji Dadmal,
Technical Assistant (Engineering)
Warship Overseeing Team, Noorby Building,
2nd Floor, Shahid Bhagat Singh Road, Mumbai-
400001.

23. Rabindra Kumar Sahoo,
aged 58 years,
S/o. Late. Shri. Purna Chandra Sahoo,
Technical Assistant (Electrical),
Warship Overseeing Team C/o FMO Mumbai-
400001.

24. Shri, Laxmikanth Y Gajakosh, aged 50 years,
S/o. Shri. Yallappa V Gajakosh
Technical Assistant (Engineering) RSOD,
CTS Material Organization Ghatkopar
Mumbai C-3 Balaji Aptt Satrabhatti Bihand
Bharath
Cycle Shop, Uran Dist-Raigad
New Mumbai-400702.

25. Kamal Kumar Guha , aged 60 years,

S/o. Late Shri. Ruhini Kumar Guha Technical Assistant (Electrical) Fleet Maintenance Unit, Naval Dockyard Mumbai.

26. Suresh Raghavan Nair aged 57 years, S/o. late. Shri. Raghavan Keshavan Nai Technical Assistant (Electrical) Submarine Overseeing Team C/o. FMO Mumbai - 400001.

27. Raju Baburao Dalvi aged 57 years, S/o Shri. Baburao Laxman Dalvi, Technical Assistant (Engineering) Submarine Overseeing Team C/o. FMO Mumbai 400001

28. Thulaseedharan Suresh aged 60 years, Technical Assistant (Electrical) Warship Overseeing Team C/o. FMO Mumbai 400001.

29. Ashok Kumar Pathak aged 61 years, S/o. Late, Shri, Yugantar Pathak, Technical Assistant (Engineering) (Retired) Warship Overseeing Team C/o. FMO Mumbai - 400001.

30. N. Sivaramakrishnan, aged 61 years, S/o. Shri. K. Natarajan, Technical Assistant (Electrical) (Retired) Submarine Overseeing Team D-2 Building, 3rd Floor Mazagon Dock, Dockyard Road, Mumbai 400010.

31. Vijaya Kumar Harishchandra Sawant, aged 63 years, S/o. Late. Shri. Harishchandran Babaji Sawant, Technical Assistant (Engineering) (Retired) C. No. 70/MMER Department, Naval Dockyard, Mumbai-400023.

32. Nandkumar Suryakant Wadke, aged 60 years, S/o. Late. Shri. Suryakant Harishchandra Wadke, Technical Assistant (Engineering) (Retired) C. No. 70 MMER Department, Naval Dockyard, Mumbai -400023.

33. Rohan Kamlakant Bhojne, aged 60 years, S/o. Shri. Kamlakant P. Bhojane Technical Assistant (Engineering) (Retired) C. No. 07/INCOD Department Naval Dockyard, Mumbai-400023.

34. Dattaram Atmaram Kadam, aged 62 years, S/o. Late. Shri. Atmaram Deoji Kadam Technical Assistant (Construction) (Retired) Indigenisation Unit, Mumbai HQWNC.

35. Nicholas Francis Fernandez,

aged 64 years, S/o. Shri. Francis Fernandez, Technical Assistant (Construction) (Retired) C. No.

21/DDHP Department, Naval Dockyard, Mumbai-400023.

36. Mario Joseph Rocha, aged 60 years, S/o. Sri. Augustine Rocha, Technical Assistant (Engineering) (Retired), PRP Dept, C. No. 89, Naval Dockyard, Mumbai-400023.

37. Hemantkumar.T. Nimje, aged 44 years, S/o. Shri. Tarachand Nimje, Technical Assistant (Engineering), Naval Ship Repair Yard (Port Blair), Andaman & Nicobar 744102.

38. Asit Kumar Bhakat, aged 49 years, S/o Sri. Dwarika Prosad Bhakat, Technical Assistant (Engineering) Warship Overseeing Team (Kolkata) Navy Office, Hastings Kolkatta-700022.

39. Zulfi Ram Thakur aged 58 years, S/o. Shri. Rangila Ram Technical Assistant (Engineering) MEWR Engineering Department Naval Ship Repair Yard (Karwar).

40. Stanislaus Julian Fernandez, aged 57 years, S/o. Shri. Julian Fernandez, Technical Assistant (Engineering) C. No. 09/Cock yard Apprentice School Naval Ship Repair Yard (Karwar).

41. Ankush P. Shinde, aged 55 years, S/o. Late. Shri. Parshuram R. Shinde, Technical Assistant (Electrical) C. No. 80/VR Department Naval Ship Repair Yard (Karwar).

...APPLICANTS

(By Advocate Shri V. K. Reddy)

VERSUS

1. Union of India represented by its Secretary to Government of India, Ministry of Defence, New Delhi-110001.
2. Secretary to Government of India, Ministry of Finance (Department of Expenditure), New Delhi-110001.
3. The Chief of Naval Staff, Naval Headquarters, Ministry of Defence, New Delhi- 110001.

4. The Principal Director of Civilian Personnel, Integrated Headquarters, Ministry of Defence (Navy), Directorate of Civilian Personnel, Talkatora Stadium Annex Building, Room No. 100, New Delhi-110001.
5. The Flag Officer in Commanding in Chief, Head Quarters, Western Naval Command, Near Tiger Gate, Ballard Pier, Mumbai 400 023.
6. The Flag Officer in Commanding in Chief, Head Quarters, Eastern Naval Command, Naval Base, Visakhapatnam- 530 014.
7. The Commander-In-Chief, Headquarters, A&N Command, Port Blair - 744 102.

Reserved On: 29.01.2020
 Pronounced On: 05.02.2020

ORDER

PER: RAVINDER KAUR, MEMBER (J)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“i) To declare that the applicants 'are similarly situated to the applicants in Annexure A5 common order of Hon'ble High Court of Kerala dated 20th July, 2017 in O.P. (CAT) No. 271 of 2016 and O.P. (CAT) No. 213 of 2017 and the beneficiaries of Annexure A8 order issued by the first respondent and the applicants are eligible to be extended the benefits and accordingly the anomaly in the pay scales of the applicants that occurred following the implementation of the 5th Pay commission report, with effect from 01.01.1996 be removed with consequential beliefs.

ii) To direct the respondents extent the benefits of Annexure A5, common order of Hon'ble High Court of Kerala dated 20th July, 2017 in O.P. (CAT) No. 271 of 2016 and O.P.(CAT) No. 213 of 2017 to the applicants also, and to remove the anomaly in the pay scales of the applicants that occurred following the implementation of the 5th Pay commission report, with effect from 01.01.1996.

iii) To direct the fourth respondent to consider Annexure A1 and A9 to A48 representations submitted by the applicants in accordance with law and to pass appropriate orders thereon within a time frame that this Hon'ble Court may consider appropriate.

iv) To pass such other orders or directions as may be found just and proper by this Hon'ble Tribunal.”

2. Heard on the point of admission. The applicants are erstwhile Sr. Chargeman of Naval Ship Repair Yard(NSRY), (Karwar) and Port Blair/Naval Dockyard, Mumbai, /WOT(Mumbai) and Calcutta/Sub Marine Overseeing Team, Mumbai under the Indian Navy. They seek upgradation of their pay scales from 5000-8000 to 5500-9000 on the lines of Sr. Chargeman of Ammunition Workshop of Naval Armaments Supply Organization(NASO) in the Indian Navy on the basis of recommendations of 5th CPC along with consequential reliefs.

3. It is submitted by learned counsel for the applicants that few of the employees in NSRY who are similarly situated as the present applicants had approached Ernakulam Bench of this Tribunal vide OA No. 516/2006 seeking the same relief as claimed by the present applicants. The OA was dismissed by the Ernakulam Bench vide order dated 26.06.2008. Thereafter, the applicants therein approached the Hon'ble HC of Kerala vide WP(C) No. 1206/2009. The Hon'ble High Court granted relief to the applicants therein and passed the following order:

"In the result, the impugned order of the Tribunal is vacated and the petitioners are left with liberty to move the competent authority in Government for appropriate relief as may be available to them in accordance with law, in respect of their claim for parity. If any such representation is made, the competent authority in Government will consider the matter expeditiously."

4. Thereafter those employees approached the competent authority in the Government seeking rectification of anomalies but their request was again rejected, which was challenged in the Ernakulam Bench of this Tribunal vide OA No. 180/01149/2014 but the same was dismissed vide order dated 16.09.2015. The aggrieved employees again approached the Hon'ble High Court of Kerala vide O.P.(CAT) No. 271/2016 and O.P.(CAT) No. 213/2017. Both these petitions were disposed off by the Hon'ble High Court vide its order dated 20.07.2017(Annex A-5) with the following directions:

"...We find that Exhibit P3 order passed by the tribunal declining interference with Annexure A10 is not correct or sustainable and they are liable to be intercepted. We do so. We find it appropriate to direct the Directorate to reconsider the matter in the light of their own findings as given in Annexure A11 and to pass appropriate orders with reference to the financial implications forwarded by the Flag Officer Commanding In Chief; Kochi as per Annexure A-12 and to pass appropriate orders for rectification of the anomaly at the earliest, at any rate within 3 months from the date of receipt of the copy of this judgment. Both the original petitions are allowed to the said extent. No costs."

5. It is submitted by learned counsel that the vide letter dated 16.10.2018, the Respondent

no. 1 restricted the benefit of the judgment of Hon'ble Kerala High Court only to the applicants therein. It is also brought to our notice that prior to the judgment given by the Hon'ble High Court, the M/o Defence had taken up a proposal for upgradation of pay scales of NAIO and Naval Dockyards on the line of NASO w.e.f. 01.01.1996. Later on, the Hon'ble High Court of Kerala vide it's judgment (Annex A-5) directed the respondents to remove the anomaly in accordance with Annex A-6 issued by Respondent no. 4. Annex A-6 speaks of the financial implications of grant of higher pay scale of Rs. 5500-9000 to Chargeman of NAIO and Naval Dockyards in Navy. In para 5 thereof, it finds mention that the M/o Defence had taken up the proposal of upgradation of the pay scales of these employees on the lines of NASO w.e.f. 01.01.1996 on the following grounds:

- "(a) Chargeman of NAIO and Naval Dockyards are similarly situated employees and they are continuing doing the same job as of Chargeman of NASO
- (b) The party in their pay scales which was in force for several decades has been disturbed without any rationale. As such Chargeman of NAIO and Naval Dockyards may also be granted upgraded pay scales at par with Chargeman of NASO wef 01 Jan 1996 "

6. Vide the aforesaid document, the directions were given for calculating the

financial implications on grant of pay scale of 5500-9000 to the Chargeman of NAIO and Naval Dockyards w.e.f. 01.01.1996 and to be forwarded to the Headquarters by Respondent No. 4 by 29.01.2014 for necessary action. Learned counsel for the applicants has drawn our attention to the various representations made to the Respondent no. 4 which are placed on record as Annex A-1 and A-9 to A-48 seeking implementation of common order of Hon'ble High Court of Kerala dated 20.07.2017 as referred in para 4 of this order. It is contended that Respondent no. 4 has not taken any decision on any of these representations and thus, they seek directions to the Respondent no. 4 to consider the same in accordance with law and to disburse the benefits flowing out of Annex A-5, the judgment of Kerala HC to the present applicants.

7. In the facts and circumstances of the case, we are of the considered opinion that at this stage, without discussing the merits of the case, it would be appropriate to issue necessary directions to the respondents to consider on merits and dispose of the representations of the applicants by taking into consideration the

judgment of Hon'ble Kerala HC in O.P. (CAT) No. 271/2016 and O.P.(CAT) No. 213/2017 as well as relevant rules and regulations, within a period of 12 weeks from the date of receipt of certified copy of this order. Ordered accordingly. With these directions, the OA stands disposed of at the admission stage itself, no order as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

gm

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16/02

