



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

O.A. 351/115/AN/2015

Date of order: 01-01-2020

**Present: HON'BLE MS. MANJULA DAS, MEMBEER (J)
HON'BLE N. NEIHSIAL, MEMBER (A)**



1. D. Chandra Bhanu
Son of Late P. Divakaran, aged about 57 years, residing at Sadipur, Port Blair, South Andaman – 744106 working as Chargeman under Directorate of industries, Andaman and Nicobar Administration, SSM&E Centre, Port Blair – 744101.
2. G. Prasannan
Son of Late V. Gopalan aged about 50 years, residing at C/o Design Centre, Industries Department, Middle Point, Port Blair, Working as Superintendent-Cum-Foreman (Design), Directorate of Industries, under Andaman & Nicobar Administration, Middle Point, Port Blair – 744101.
3. M. Jagannath
Son of Shri M. Beragi aged about 48 years residing at Hut Bay, Little Andaman- 744207, working as Superintendent-cum-Foreman, Industries Training Centre, Industries Department, Hut Bay, Little Bay, Andaman & Nicobar Islands.
4. Shib Shankar Biswas
Son of Late S.P. Biswas aged about 43 years residing at New Pahar Goan, Ward No. 18, Port Blair, South Andaman, working as Superintendent-cum-Foreman (SS) SSM&E Centre, Directorate of Industries, Middle Point, Port Blair – 744101, Andaman and Nicobar Islands.

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5. Mohammed Ali

Son of Sri Kunju Pokar aged about 62 years, residing at M.G. Road, 3rd Cross, 6/1, Junglighat, Port Blair, worked as Superintendent-cum-Foreman in Wood Working Unit, Industries Department under Andaman and Nicobar Administration, Port Blair, 744101.

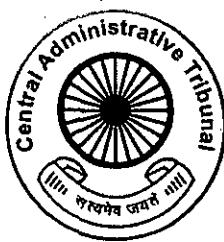
...Applicants

-Versus-

1. Union of India service through the Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi – 110001.
2. The Secretary, Government of India, Ministry of Micro, Small and Medium Enterprises, Udyog Bhawan, Department of Industries, Government of India, New Delhi – 110011.
3. The Chief Secretary, Andaman and Nicobar Administration, Secretariat, Port Blair – 744101.
4. The Joint Secretary-cum-Director of Industries, Andaman & Nicobar Administration, Directorate of Industries, Port Blair – 744101.
5. The Deputy Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi – 110001.
6. The Secretary, Ministry of Finance, Department of Expenditure, Government of India. E-III. B. Branch, North Block, New Delhi – 110001.

... Respondents

Advocates for Applicant : Sri P.C. Das & Ms. T. Maity
Applicant for Respondents : Sri S.K. Ghosh



Wm. Wm. Wm.

ORDER

N. NEIHSIAL, MEMBER (A):

This is second round of litigation. In the previous O.A. No. 75/AN/2010, the Tribunal vide its order dated 11.01.2012 had directed as under:-

"5. In the circumstances stated above, we dispose of this application with a direction to the applicants to make a comprehensive representation within a period of two weeks from the date of receipt of a copy of this order to the 1st Respondent through proper channel and on receipt of the same the 1st Respondent shall consider the said representation and dispose of the same within a period of four months thereafter."

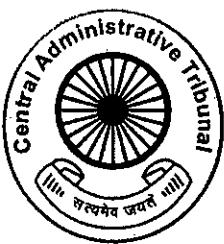


The respondent authorities disposed of the representation of the applicants vide their speaking order under No. U-14040/28/2012-ANL dated 20.05.2013 rejecting the prayer of the applicants.

2. In this O.A., the applicants are seeking relief as under:-

- "8.a) Leave be granted to move one single application jointly under Rule 4(5)(a) of the Central Administrative Tribunal procedure Rules, 1987 as all the applicants has got a common grievances and all of them are similar circumstances persons.
- b) To quash and/or set aside the impugned order dated 20th May, 2013 passed by the Deputy Secretary to the Government of India, Ministry of Home Affairs, New Delhi whereby and where under the claim of the applicants has been rejected on the basis of the

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impugned order of the Ministry of Finance, Department of Expenditure U.O. No. 19(19)/E.III.B/2012 dated 09.05.2013 being Annexure A- 7 of this original application by not considering the Recruitment Rules Framed by the Andaman & Nicobar Administration in respect of Department of Industries and other departments like Transport and Shipping Service being Annexure A-8 and A-9 of this original application and further directed the respondents to remove the anomaly of the applicants' pay of scale vis-à-vis to the employees in the other departments of the same administration those who are enjoying better pay scale than the present applicants and to give benefit of pay in respect of discharging duties and function to the Superintendent -cum-Foreman and Chargeman in the pay scale of Rs. 6500-10500 under the 5th Central Pay Commission and the upgraded pay scale of Rs. 9300-34800 as per the 6th Central Pay Commission and to give all consequent benefit after removing such anomaly.

- c) To pass an appropriate order directing upon the respondents authority to give appropriate pay scale in favour of the applicants to the post of Chargeman in the pay scale of Rs. 6500-10500 with Grade Pay of Rs. 4,200/- and to the post of Superintendent-cum-Foreman in the pay scale of Rs. 7500-11500 in terms of the recommendation accepted by the 5th Central Pay Commission vide Annexure A-2 of this original application be granted with all consequential arrears benefits and on the basis of that the revised fixation order also to be made in terms of the 6th Central Pay Commission on the basis of appropriate pay scale attached to the post Chargeman and Superintendent-cum-Foreman and to give all the consequential arrear benefits to the present applicants accordingly.
- d) To maintain parity of pay scale vis-à-vis to the post of Chargeman and Superintendent-cum-Foreman under the Directorate of industries, Andaman and Nicobar Administration as well as Chargeman and Superintendent-cum-Foreman of the Transport Department under the Andaman and Nicobar Administration and to give equal benefits in favour of the present applicants in an equal manner.
- e) To pass any other appropriate relief or reliefs."

3. The ground for relief with legal provisions are as follows:-

- (i) That their grievances of pay scale attached to the Chargeman as well as Superintendent-cum-Foreman have been denied to them inspite of clear cut recommendation of 5th Central Pay Commission;
- (ii) That the same post of Chargeman and Superintendent-cum-Foreman in the Directorate of Industries are getting less pay scale than the same post of Chargeman/equivalent Superintendent-cum-Foreman in the Directorate of Transport and Shipping Services.
- (iii) That their application for parity in pay scale has been rejected by an impugned order dated 29.04.2009 on frivolous ground that they do not possess the required education qualification in Mechanical Engineering which is not acceptable in the eye of law as they were promoted to this post of Chargeman and Superintendent-cum-Foreman through promotion quota.
- (iv) That the speaking order issued vide order No. U-14040/28/2012-ANL dated 20.05.2013 in compliance with the direction of this Tribunal dated 11.01.2012 in O.A. No. 75/AN/2010 is absolutely wrong and rejected on frivolous ground.
- (v) That one incumbent namely Md. Ishaque who have been given higher pay only because he was holding higher qualification is not acceptable as he was holding the post of Superintendent-cum-Foreman and this matter should have been decided by this Tribunal.
- (vi) That in compliance with the order of this Tribunal dated 11.01.2012 in O.A. No. 75/AN/2010, the applicants made their representations and the respondent authorities sitting tight over the mater and when the C.P.C. No. 19/AN/2012 was filed and contempt notice was issued, the issue was referred to the Ministry of Finance, Department of Expenditure and got rejected.
- (vii) That being highly aggrieved with the rejection, the applicants have prepared a comprehensive chart vis-a-vis to the department of Directorate of Transport, Directorate of Shipping Services and Directorate of Industries to indicate how they have been deprived all the same pay scale while discharging the same duties and responsibilities.
- (viii) That the principle of 'Equal Pay for Equal Work' has to be maintained as guaranteed under Article 14 and 16 of the Constitution of India'.



Noman Hyder

(ix). That the applicants are approaching this Tribunal afresh by challenging the impugned order dated 20.05.2013 passed by the Deputy Secretary to the Government of India, Ministry of Home Affairs, New Delhi whereby and whereunder the claim of the applicants has been rejected on the basis of the impugned order of the Ministry of Finance, Department of Expenditure U.O. No. 19(19)/E.III.B/2012 dated 09.05.2013.

4. Since all the applicants are seeking similar relief under the same respondents, hence prayer to move the instant petition jointly under rule 4(5)(a) of the Central Administrative Tribunal procedure Rules, 1987, is allowed.



5. The applicants were initially appointed as Sheet Metal Assistant under the Andaman and Nicobar Administration, Directorate of Industries. Subsequently they were promoted to the post of Chargeman and Superintendent-cum-Foreman. They are asking same scale of pay and Grade Pay as available to Chargeman under Directorate of Transport and Foreman (Machine Shop), Foreman (Fitting Shop), Foreman (Planet Shop) etc under the Directorate of Shipping Services. The functionaries in these two other departments namely: Directorate of Transport and Directorate of Shipping Services are given Pay Band and Grade Pay/Pay Scale – PB-2(9300-34800) + GP Rs. 4200/- whereas the applicants

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are given Pay Band and Grade Pay/Pay Scale of PB-1 (Rs. 5200-20200) + GP Rs. 2800/-.

6. The Respondent authorities have filed their reply/written statement on 24.09.2015. In the written statement, they have brought the entire background of the applicants as well as those of other departments including their Pay Scales and Grade Pay w.e.f. 3rd Pay Commission. They have also highlighted the education qualifications and experience of work for promotion to these posts bringing out the distinctive differences between the posts of the applicants and the posts in other two Departments/Directorates.

7. The basic plea of the applicants is that as per the job description duties and responsibilities of the posts held by them and those in other two Directorates, they are of the same nature and scope. Since they are in the same level of responsibilities and duties, they should get the same pay scale and Grade Pay.

8. We have carefully considered this aspect. It is not possible to legally assess, determine and arrive at a definite conclusion regarding the relative position of posts in different departments on the basis of job description of



Munirul Haq

the duties and responsibilities of posts. This job can be best assessed through scientific works study by an expert Committee. As such, we have compared the required educational qualification and experience for recruitment to these designated posts in the 3 departments as under:-



Directorate of Transport	Directorate of Shipping Services	Directorate of Industries
Recruitment Rules Notification dated 30.09.2005	Recruitment Rules Notification dated 18.03.2011	Recruitment Rules Notification dated 31.12.2010
Name of Post: <u>Chargeman</u>	Name of Post: <u>Foreman (Machine shop)</u> , <u>Foreman (Fitting Shop)</u> , <u>Foreman (Plater Shop)</u> etc.	Name of Post: <u>Superintendent-cum-Foreman (BS)</u> , <u>Superintendent-cum-Foreman (SSM)</u> , <u>Superintendent-cum-Foreman (Carpentry)</u> , <u>Superintendent-cum-Forman (Handicraft)</u> and <u>Superintendent-cum-Foreman (Design)</u> .
Pay Band and Grade Pay/Pay Scale - PB-2(Rs. 9300-34800) + GP Rs. 4200/-.	Pay Band and Grade Pay/Pay Scale - PB-2 (Rs. 9300-34800) + GP 4200/-.	Pay Band and Grade Pay/Pay Scale = PB-1 (Rs. 5200-20200) + GP Rs. 2800/- for Superintendent-cum-Foreman's and Chargeman (B/S) are same and equal.
Direct: E.Q. - (a) Degree in Automobile/Mechanical Engineering, (b) Diploma in Automobile/Mechanical Engineering + 2 years experience in Automobile Workshop.	Direct: E.Q. - (a) Degree in Mechanical Engineering from a recognized University or (b) Diploma in Mechanical Engineering from a recognized Institution with 03 years experience.	Direct: E.Q. - (i) Secondary School Examination (10 th Standard) passed; (ii) Trade Certificate in Carpentry/Wood Working from recognized ITI/Govt. Training Centre with 05 years of experience in the relevant field.
Promotion:- From amongst the Assistant Chargeman of Motor Transport in pay scale of Rs. 4000-6000 with 8	Promotion:- From among the Chargeman (Machine Shop) in the PB-1 of Rs. 5200-	Promotion:- Promotion Craft Instructor (BS), Instructor (BS), Instructor-cum-

Mr. *[Signature]*

years regular service with possessing Diploma in Automobile/ Mechanical Engineering Or Persons holding the posts of Assistant Chargeman/ Head Mechanic/ Mechanist in the Department Transport in pay scale of Rs. 4000-6000 with 10 years regular service	20200 with Grade Pay of Rs. 2800 with 06 years regular service.	Blacksmith, Skilled Mechanist (SSM), Sheet Metal Assistant, Electroplater in the Pay Band-1 Rs. 5200-20200 with GP Rs. 2400/- with 03/05 years of regular service.
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9. It would be seen from the above that the required educational qualifications for promotion to the posts in respect of Directorate of Transport and Directorate of Shipping are definitely higher than that of Directorate of Industries to which the applicants belong to. One of the criteria for determining the pay scale in a post is the required 'Educational Qualification' and 'Experience' to which the post is attached. These Educational Qualifications and Experiences are as per the respective recruitment rules. The recruitment rules are statutory in nature. Since recruitment rules are statutory in nature and scales of pay and grade pay, qualifications and experiences are prescribed for the designated posts by the respective recruitment rules, the Tribunal is not in a position to direct the respondent authorities to modify and change the recruitment rules.

Manu Singh

10. Keeping in view of the above, we are of the considered view that the claim and demand of the applicants are devoid of merit and liable to be dismissed.

11. Accordingly, the O.A. is hereby dismissed. There shall be no order as to costs.



(N. Neihsial) 
Member (A)

(Manjula Das)
Member (J)

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