

Central Administrative Tribunal
Principal Bench

O.A. No. 71 of 2001

New Delhi, dated this the 12th February, 2002

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Shri Ganga Raj Narasaiah,
25 Wg AF,
C/o 56 APO.

.. Applicant

(By Shri A.K. Bhardwaj, Advocate)

Versus

1. Union of India through,
the Secretary,
Ministry of Defence,
New Delhi.
 2. The Air Marshal,
Headquarters Western Air Command,
IAF, Subroto Park,
New Delhi-110015.
 3. The Commanding Officer,
No.25 Wing, AF,
C/o 56 APO
New Delhi
- .. Respondents

(Shri R.N. Singh, Advocate)

ORDER (Oral)

S.R. ADIGE, VC (A)

Applicant who is Leading Rigger in Indian Air Force impugns Respondents' order dated 5.10.2000 (Annexure I) and seeks a direction to Respondents to grant him the pay scale of Rd.330-480 or Rs.425-700 w.e.f. 16.10.1981 notionally and arrears of pay in the said scale from a date to be decided by the Tribunal.

2. Applicant's case is that he was employed as Mast Rigger in All India Radio on daily wage basis @ Rs.10/- per day from 1964. In 1967 he received information through employment exchange that a vacancy

of Mast Rigger existed in the Indian Air Force and after interview he was offered the job of Mast Rigger in the pay scale of Rs.110/- with allowances, which he refused to accept. Later, in 1968 he was informed by the Employment Exchange to report to the IAF authorities for appointment as Mast Rigger on the assurance that the question of enhancement of pay scale would be reconsidered. Applicant states that on such assurance he reported for duty and was told that if he accepted the pay of Rs.110/- for the present as an ad hoc measure, proper pay scale would be considered and implemented within a short time. He states that he was made quasi-permanent in IAF w.e.f. 4.12.1968 and thereafter was representing to respondents to give him the pay of Rs.250/- at par with Mast Rigger in AIR. but the same did not receive any satisfactory response from Respondents.

3. Meanwhile he states that in 1968 itself when joined the services of Respondents the pay of Leading Rigger was Rs.110-180 while the pay scale of Rigger Grade I was Rs.100-142 and the pay scale of Rigger Grade II was Rs.85-110. It is contended that pursuant to the 3rd Pay Commissions' recommendations, Rigger Grade I in Indian Navy was given the pay scale of Rs.260-400 while Rigger I was allowed the pay scale of Rs.330-480 and the Leading Rigger was allowed the same pay scale of Rs.260-400. Against the aforesaid anomaly, the leading Riggers of Indian Navy approached the C.A.T., Bombay Bench who allowed the claim and directed Respondents to grant them the scale of Rs.330-480 fixed for Rigger Grade I. Applicant states that he brought the aforesaid order

of the CAT, Bombay Bench to the attention of Respondents but his claim for revision of pay scale at par with the pay scale of leading Rigger in Indian Navy has been turned down.

4. Respondents in their reply challenge the O.A. They contend that IAF is an independent service with its own need based trade and hierarchy structures for different grades and trades. It is asserted that applicant cannot compare his pay structure with that existing in Indian Navy, and applicant's grievance that Rigger Grade II has been given the same pay scale is not tenable. It is contended that applicant can claim to be aggrieved only if any junior is given higher pay or higher pay scale, and not otherwise. It is contended that applicant's contentions that his duties are more onerous than that of leading Rigger in the Indian Navy is not based upon supporting evidence. It is, therefore, argued that the O.A. is fit to be dismissed.

5. We have heard applicant's counsel Shri A.K. Bhardwaj and Respondents' counsel Shri R.N. Singh.

6. A perusal of Page 2 of the Respondents' reply filed on 4.7.2001 indicates that in IAF prior to 1.1.86 the pay scale of Leading Rigger was higher than that of Rigger Grade II but from 1.1.86 onwards the pay scale of Leading Rigger has been the same as that of Rigger Grade II. Consequent to the recommendations of the 4th Pay Commission the pay

scale of Leading Rigger was fixed at Rs.950-1500 w.e.f. 1.1.86, which is identical with the pay scale granted to Rigger Grade II. Similarly as a result of the 5th Pay Commission's recommendations the pay scale of Leading Rigger which was fixed at Rs.3050-4590 w.e.f. 1.1.96 is identical with the pay scale granted to Rigger Grade II. There is no denial by respondents in their reply to the O.A., to the specific averment made by applicant in para 1(a) of the O.A. that the post of Rigger Gr. II in IAF is two rungs below that of Leading Rigger That being the position, clearly the post of Leading Rigger ~~Grade~~ cannot be treated as equal to that of Rigger Grade II. Yet by placing the two in the same pay scales from 1.1.86 onwards, we find that unequals have been treated as equals, which is violative of Articles 14 and 16 of the Constitution.

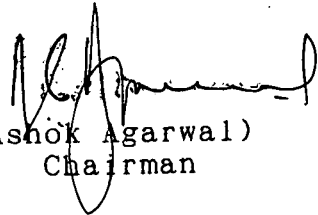
7. Under the circumstances, as is apparent from Respondents' own reply to the O.A. when the post of Rigger Grade II has been granted ^{the} same pay scale as that granted to leading Rigger, ^{that is} ~~Rs.~~ Rs.3050-4590 w.e.f. 1.1.96, there is clearly a strong case for upgrading the pay scale of the post of leading Rigger w.e.f. that date.

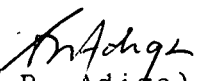
8. Applicant has claimed his relief from 1981 onwards but we notice that the O.A. itself was filed only on 30.11.2000. However, as the matter has been under correspondence since well before that date we are of the considered opinion that, the revision of pay scales of the post of Leading Rigger should be

13

granted with effect from the date of implementation of the 5th Pay Commission's recommendations that is w.e.f. 1.1.1996.

9. In the result the O.A. succeeds and is allowed to the extent that Respondents are directed to consider revising the pay scale of the post of Leading Rigger in IAF w.e.f. 1.1.1996, such that the anomalous situation whereby the post of Rigger Grade II and that of Leading Rigger are in the same pay scale i.e.d Rs.3050-4590, is removed. What the appropriate pay scale of the post of Leading Rigger in the IAF should be, is a matter to be determined by Respondents, taking into account all the surrounding facts and circumstances. These directions should be implemented within four months from the date of receipt of a copy of this order. Upon the revision of the pay scale of the post of Leading Rigger in IAF pursuant to these directions, applicant shall be entitled to such consequential benefits as are admissible in accordance with rules and instructions and judicial pronouncements. No costs.


(Ashok Agarwal)
Chairman


(S.R. Adige)
Vice Chairman (A)

karthik