

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00914/2020

HYDERABAD, this the 31st day of December, 2020

Hon'ble Mr. B.V. Sudhakar, Admn. Member



1. R.Raja Rao, S/o Late Chinnavadu, Age 65 years
Occ: Retired CTO (A&E), ID Card No: ENC B001474
PPO No: C/NAVY / 16493/2014
D.No: 37-10-20/2, Balajinagar, P.R.Gardens
Visakhapatnam- 530007.
2. T.Mallikarujan Rao, S/o Late Appa Rao, Age 62 years
Occ: Retired CTO (A &E), ID Card No: ENC A000630
PPO No: C/NAVY/10186 /2017
D.No 21-118, Kakaninagar, NAD(PO),
Visakhapatnam – 530009
3. C.J.Vincent, S/o Late Colonel Joseph, Age 70 years,
Occ: Retired CTO (A&E), ID Card No: ENC B000310,
PPO No: C/NAVY / 16818 /2009,
D.No: 58-21-4/1, Seetha Rama Raju Nagar,
Butchirajupalem, Visakhapatnam – 530027
4. K.Krishnamurthy, S/o Late K.Reddi, age 71 years
Occ: Retired Chargeman (Ammn),
ID Card No: ENC C000993,
PPO No: C/NAVY / 25644 /2007
D.No 15-27, Lakshminagar, Gopalapatnam
Visakhapatnam – 530027
5. K.Appala Raju, S/o Late Basavamurthy, Aged 76 years
Occ: Retired Senior Chargeman (Ammn)
ID Card No: ENC C000641,
PPO No: C/NAVY/16750/02, Plot NO:54,
Ajantha Park, R.R.Venkatapuram (PO),
Visakhapatnam – 530029
6. E.Prabhakara Rao, S/o Late Ramamurthy, Age 79 years,
Occ: Retired Seniro Chargeman (Ammn),
ID Card No: ENC C000648,
PPO No:C/NAVY /10546 /97,
D.No: 13-53, NAD Layout, Sujathanagar (PO),
Visakhapatnam – 530051



7. S.K.Singh, S/o Late Saraju Singh, Age 73 years,
Occ: Retired Chargeman (Ammn),
ID Card No: ENC C000991,
PPO No: C/NAVY / 16215/06(2),
D.No: 14-11-38, Bhanoji Thota, B.C.Road,
Gajuwaka, Visakhapatnam -530026.
8. K.V.A.Narsimha Rao, S/o Late Atchutha Ramaiah, Age 66 years,
Occ: Retired Foreman (Ammn),
ID Card No: ENC B001017,
PPO No: C/NAVY/ 16430/2013, Flat No: 103,
First Floor, Veenus Blooming Dal Apartment,
Nijampet (Village, Hyderabad – 500090
DOB:02-05-1953
DO Appt:01-07-1988
DOR:31-05-2013
9. A.Naga Bhushana Rao, S/o Late Ranga Nayakulu, Age 67 Years
Occ: Retired Chargeman (Ammn),
ID Card No: ENC B000912,
PPO No: C/ NAVY/16430/2013,
D.No : 8-59/1, Yellapuvanipalem,
Visakhapatnam -530027.
10. V.Naidu, S/o Late Pedachinnayya, Age 66 years,
Occ: Retired Chargeman(Ammn),
ID Card No: ENC C001016
PPO No: C/NAVY / 16268/2013,
D.No : 14-28/c, Indiranagar, Gopalapatnam,
Visakhapatnam – 530027.
11. G.Ramachandra Rao, S/o Late Venkata Rao, Age 69 years,
Occ: Retired Foreman (Ammn),
ID Card No: ENC B000902,
PPO No: C/NAVY /16660/2010,
D.No 36-93-267/B, Indiranagar -5, Kancharapalem
Visakhapatnam – 530008.
12. A.Nanda Gopal, S/o Late Ramulu Naidu, Age 69 Years,
Occ: Retired Foreman (Ammn),
ID Card No: ENC B000903,
PPO No: C/NAVY/17323/2010,
D.No :6-51, NAD Layout,
Krishna Rayapuram, Sujathanagar (PO),
Visakhapatnam – 530051.
13. M.A.Rahaman, S/o Late Shaik Abdul Azeez, Age 68 years,
Occ: Retired CTO (A&E),
ID Card No: ENC B000904,

PPO No: C/NAVY/17540/2011,
D.No: 43-12-11, Subbalakshminagar,
Ahad Tower Off, Viskahapatnam – 530016.



14. B.Tulasi Das, S/o Late Sanyasi ,Age 72 years,
Occ: Retired Chargeman (Ammn),
ID Card No: C661162
PPO No: C/NAVY/10345/2008,
D.No: 40-10-22/2, Tikkavanipalem,
Kancharapalem (PO), Visakhapatnam – 530008
15. T.Narasinga Rao, S/o Late Ramamurthy, Age 73 years,
Occ: Retired Foreman(Ammn),
ID Card No: ENC B000204,
PPO No: C/NAVY/16460/2006,
Qtr No:S, B114, Sachivalayanagar, Vanasthalipuram
Hyderabad – 500070.
16. G.Sequeira, S/o Late Paschal Sequeira, Age 74 years,
Occ : Retired Asst Foreman (Mech),
ID Card No: ENC C000650,
PPO No: C/NAVY/ 16037/2005,
Flat No: 301, Chalet No: 16, Ramakrishnappa Road,
Cox Town, Bangalore, Karnataka – 560005.
17. K.Nooka Raju, S/o.Late K.G.Raju, Age63 years
Occ: Retired CTO(Mech)
ID Card No: ENC A000433
PPO No:C/NAVY/10579/2016
House No.18-115/5-1, Manjumanasa Apartments,
Chaitanyapuri, Kamala Nagar
Dilkushnagar PO, Hyderabad-500060
18. B.Subrahmanyam S/O. Late B.N.Murthy, Age:71 years
Occ: Retired Senior Chargemen (Mech)
ID Card No: ENC B00067
PPO No: C/NAVY/10624/2008
Flat No.504, Narmada Rajyalakshmi Residency,
Yadammanagar, Tirumalagiri(PO)
Secundrabad-500015.
19. V.Lakshmi Narayana S/o.Late Rama Rao, Age71 years
Occ: Retired Foremen (Ammn)
ID Card No: ENC B000208
PPO No.C/NAVY/10334/2008
Flat No:GF-103, Vinayaka Vassal,
Durga Nagar, Mithilapuri VUDA Colony,
P.M.palem, Visakhapatnam-530041.

...Applicants

(By Advocate : Mr. G. Satyanarayana)

Vs.

1. The Union of India, rep. by its Secretary,
Ministry of Defence, South Block,
New Delhi-110011.



2. The Director of Civilian Personnel,
Integrated Headquarters, Ministry of Defence (Navy)
Talkatora Stadium Annex Building,
New Delhi.

3. The Director General of Naval Armament Inspection,
Integrated Headquarters, Ministry of Defence (Navy)
West Block-V, Wing 1 FF, R.K. Puram,
New Delhi-110066.

4. The Flag Officer, Commanding in Chief for CCPO,
Headquarter, Eastern Naval Command,
Visakhapatnam-530014.

....Respondents

(By Advocate : Mrs.K.Rajitha,Sr.CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed for grant of Pay scale of Rs.5500-9000 on par with the employees of NSRY (Kochi).

3. Brief facts of the case are that the applicants were working as Chargemen /Sr. Chargemen in NAIO (AWS) (Naval Armament Inspection Organization) as on 1.1.1996 and they were drawing the same pay scale as was drawn by the Chargemen of NASO (AWS) (Naval Armament Supply Organization) till the IV CPC. After 1.1.1996, the pay scale of Chargemen/Sr. Chargemen of NASO was enhanced to Rs.5500-9000, though both the category of employees were similarly situated. Aggrieved over the disparity, similarly situated employees from NSRY Kochi, moved the Hon'ble High Court of Kerala seeking the pay scale of Rs.5500-9000 and the petition was allowed on 20.7.2017. Based on the order cited, this Bench granted similar relief sought in OA 9/2019. Representation was submitted by the 1st applicant on 13.12.2019 and since there was no response, the OA is filed.

4. The contentions of the applicants are that they have been discriminated by not granting the relief sought. Articles 14, 16 & 21 of the Constitution of India have been violated. Similarly placed employees have been granted the relief. There was parity between the two cadres over the

decades, which was unnecessarily disturbed. Court orders are in their favour.

5. Heard both the counsel and perused the pleadings on record.



6. I. The dispute in brief is that the Chargemen/ Senior Chargemen working for Indian Navy in NAIO and NASO have been placed in the same pay scale for several decades. However, after 1.1.1996 with the implementation of the 5th CPC, a disparity was ushered in by granting a higher pay scale of Rs.5500- 9000 to the Chargemen/Sr. Chargemen of NASO. Even the JDCP (Pay) of the Directorate of Civilian Personnel accepted the disparity and to eliminate the same, details relating to the financial implications were called for by R-1 and later turned down by R-2 on 15.10.2014. Rejection was challenged before the Hon'ble High Court in OP (CAT) Nos. 213/2017 & 271/2016 and the relief was granted on 20.7.2017. The relevant portion of the judgment is extracted here under:

“7. From the above, it is clear that the issue was correctly dealt with by the Directorate then, with proper application of mind and they arrived at a finding that there was an anomaly which required to be rectified. There is also a finding to the effect that the Charge men in the other organizations NAIO and the NSRY were similarly situated like their counterparts in NASO and that the parity in the scale of pay was in force for several decades, which came to be disturbed without any rationale. This made the Directorate to arrive at a finding that the Charge men of the NAIO and the Naval Dock Yard might also be granted the upgraded scale of pay, on par with the Charge man of NASO with effect from 01.01.1996. The Ministry examined the said proposal and it was accordingly, that the IHQ-MoD (Navy) was requested by a communication dated 16.01.2014 to intimate the ‘financial implication’ involved, as specifically stated in Ext. P6. The particulars in this regard were required by all the four different addressees shown in Annexure A11 (Heads of the Western Naval Command, Eastern Naval Command, Southern Naval Command and also the Commandant in Chief of the Andaman Nicobar Island, Port Blair), to forward the relevant particulars and also the financial implications along with the calculation sheet, to reach the destination by 29.01.2014 for necessary action. The question is whether this direction was given effect to, in the further course and proceedings.



8. On going through the contents of Annexure A-10 declining the relief sought for, it is seen that there is absolutely no mention by the Directorate, to their own findings and proceedings as covered by Annexure A-11. The fact remains that there was no doubt in the mind of the Directorate as to the similarity of the posts, the pay parity which was being enjoyed by the persons in the different organizations, existence of anomaly and the necessity to have it rectified at the earliest opportunity. The only point remained was with regard to the 'financial implication' and it was for moulding the relief, that the particulars in this regard were called for. As such, the only exercise which remained to be completed was to have the matter finalized with reference to the 'finding' already arrived at in Annexure A11 and based on the 'financial implications' to be furnished by the authorities concerned. [It is seen that such particulars were furnished by the Flag Officer, Commanding in Chief, Kochi; as per Annexure A12]. This Exercise obviously has not been done by the Directorate. The net result is that, the finding in Annexure A11 arrived by the Directorate has been simply given a 'go-bye' and a fresh order has been passed in the form of Annexure A10, totally declining the relief sought for.

9. The stand now taken before this Court from the part of the respondents is that, a different 'work study' was conducted and it was accordingly, that different pay scales were provided. We find it difficult to accept the said proposition in view of the finding on fact arrived at by the Directorate as disclosed from Annexure A11. This being the position, it is not open for the respondents to take a 'U-turn' to say something else now, contrary to the contents of Annexure A-11.

10. It is also brought to the notice of this Court by the learned counsel for the petitioners that, though the matter was caused to be examined by the 6th CPC and also the 7th CPC, they did not go into these aspects, particularly with reference to the contents of Annexure A11 and hence the disparity continues. It is also stated that, pursuant to the implementation of the recommendations of the 6th CPC, persons who belong to different classes/categories have been brought to a common pool, with a common pay scale; but by virtue of the disparity already resulted, because of the wrong exercise done by the respondents, the gap between the petitioners (in NSRY) and their counterparts (in NASO) has been widened like anything, which requires immediate rectification at the hands of this Court.

11. After hearing both sides, we find that Ext.P3 order passed by the Tribunal declining interference with Annexure A-10 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 to them by the Flag Officer Commanding-in-Chief, Kochi, as per Annexure A12 and to pass appropriate orders for rectification of the anomaly at the earliest, at any rate within three months from the date of receipt of a copy of this judgment. Both the Original Petitions are allowed to the said extent. No costs."

II. Following the dictum of the Hon'ble High Court, this Tribunal directed similar relief in OAs 478/2015 & OA 9/2019 on 30.10.2019 &

7.11.2019 respectively. The operative part of the judgment in OA 9/2019, is extracted here under:



“6. I) As seen from the details of the case, the applicants working in NAIIO as Senior Chargeman have been granted lower pay scale of Rs.5000- 8000 instead of Rs.5500-9000 as was granted to similarly placed employees in NASO. The matter when taken up with the anomaly committee, it was decided to reduce the pay scale of Senior Chargeman to Rs.5000-8000 which, when challenged in the Hon’ble High Court of Kerala in OP (CAT) 213/2017 and OP (CAT) 271/2016, favourable orders were issued in respect of the petitioners to enhance the pay scale to Rs.5500-8000. When the financial implication was let known to implement the decision, the proposal to upgrade the scale for all those eligible was rejected but confined it to those who approached the Court, as per Govt. of India Orders. This forced 15 other retired/ serving employees to approach the Hon’ble Ernakulam Bench in OA 255/2015 seeking similar relief which was allowed, even as per the respondents. Consequently, a fresh proposal is being submitted to Min. of Defence for reconsideration of upgradation of the scale to Rs.5500-9000 in respect of the applicants and also in regard to the others who are eligible but did not approach the courts.

II) From the material papers filed by the applicants, it is seen that Hon’ble Ernakulam Bench of this Tribunal was moved in OA/180/00328/2018 by a similar person, which was disposed vide order dt. 28.11.2018 directing the respondents therein to grant the pay scale of Rs.5500-9000 to the applicant therein w.e.f. 1.1.1996 with consequential benefits. It is well settled law that similarly situated employees have to be granted the relief as was granted to those similarly placed. If the administrative authorities discriminate amongst persons similarly situated, in matters of concessions and benefits the same directly infringes the constitutional provisions enshrined in Articles 14 and 16 of the Constitution. Tribunal relies on the observations of the Hon’ble Supreme Court made in a cornucopia of judgments given hereunder, while asserting as stated.

Amrit Lal Berry vs Collector Of Central Excise, (1975) 4 SCC 714:

“We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.”

Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648:

“...those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”

V CPC report, para 126.5 – Extending judicial decision in matters of a general nature to all similarly placed employees:

We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended



to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed & Ors Vs. UOI & Ors, (OA 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh V. UOI [(1992) 19 ATC 94 (SC)], dt. 20.07.1998; K.I. Shepherd V. UOI [(JT 1987 (3) SC 600)]; Abid Hussain V. UOI [(JT 1987 (1) SC 147)], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”

In a latter case of **Uttaranchal Forest Rangers’ Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346**, the Apex Court has referred to the decision in the case of **State of Karnataka Vs. C. Lalitha, 2006 (2) SCC 747**, as under:

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.”

All the applicants are retired employees and they seek the benefit of pay scale w.e.f. 01.01.1996 as was granted to other similar employees with consequential benefits.

III. Therefore, keeping the aforementioned circumstances in view and the law on the subject, respondents are directed to examine and consider granting relief to the applicants as sought for, with consequential benefits, in a period of 6 months from the date of receipt of this order, by issuing a speaking and well reasoned order.

Hon’ble Ernakulam Bench has also granted similar relief in OA 255/2015 on 17.1.2019 in pursuance of the Hon’ble Kerala High Court order.

III. Hence, the case on hand is fully covered by the judgments cited. Therefore, respondents are directed to consider granting the relief sought, to the applicants herein, in the light of the judgments of the Hon’ble High Court of Kerala and that of Coordinate Benches of the

Tribunal cited supra on the issue, within a period of 3 months from the date of receipt of this order.

IV. With the above direction, the OA is disposed of, at the admission stage, with no order as to costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

evr