

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00735/2015

HYDERABAD, this the 30th day of March, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



S.M.Moulali S/o Late Sri Khadar Basha,
Aged 62 years, Chargeman (Retd) Dr.No.
38-39-86-3/7, Bapujinagar, Visakhapatnam.

...Applicant

(By Advocate : Dr. P. B. Vijay Kumar)

Vs.

- 1.The Union of India, Rep by it's Secretary,
Ministry of Defence, South Block,
New Delhi 110 011.
- 2.The Chief of Naval Staff, Ministry of Defence
Head Quarters, South Block,
New Delhi 110 011.
- 3.The Flag Officer Commanding in Chief,
HQ, Eastern Naval Command, Naval Base,
Visakhapatnam-530 014.
- 4.The Admiral Superintendent, Naval Dock Yard,
Visakhapatnam-530 014.

....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 w.e.f. 01.01.1996 on par with similar employees of other Naval establishments.



3. Brief facts of the case are that the applicant was recruited as Sr. Chargemen in Naval Dockyard, Visakhapatnam in the year 1991 and he was drawing the same pay scale as was drawn by the Senior Chargemen of NASO (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 in OP (CAT) No. 213/2017 & 271 of 2016, seeking the pay scale of Rs.5500-9000 and the said petitions were allowed on 20.7.2017. Based on the order cited, this Bench granted similar relief sought in OA 9 of 2019. Further, the applicant also cited the order of this Tribunal in OA 1067/2004 dt. 22.01.2009, which was implemented by the respondents vide order dt. 21.02.2014 (Annexure A-X). However, he has not been granted the said benefit despite representation made by him on 17.06.2014 after his retirement on 30.09.2012. Hence the OA is filed.

4. The contentions of the applicant are that he 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 his favour.

5. The respondents filed reply statement. They submit that the pay parity has been maintained w.e.f. 01.01.2006. The respondents did not comment anything in regard to the order of the Tribunal in OA No.1067/2004 dt. 22.01.2009 and the implementation of the said order vide proceedings of the respondents dt. 21.02.2014.



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

7. I. The dispute in brief is that the Chargemen/ Senior Chargemen working for Indian Navy in Naval Dockyard 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 and later turned down by the concerned authority on 15.10.2014. Rejection was challenged before the Hon'ble High Court of Kerala 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 NAO 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 of 2015 on 17.1.2019 in pursuance of the Hon’ble Kerala High Court order. Further, admittedly, the respondents granted benefit to similarly placed

persons as mentioned above pursuant to the order of this Tribunal in OA 1067/2004.

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 applicant 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

(ASHISH KALIA)
JUDICIAL MEMBER

evr