

21-4-18

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, KOLKATA**

**LIBRARY**

O.A./351/1907/ 2018



**Coram :** Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. Tarun Shridhar, Administrative Member

Shri Manik Das,  
Aged about 60 years,  
S/o Shri A.K. Das,  
Residing of Tusnabad,  
South Andaman,  
Presently working as Heavy Vehicle Driver,  
Under Superintendent,  
District Jail, Prothrapur, Port Blair.

..... Applicant.

Versus

1. The Union of India,  
Service through the Secretary,  
Ministry of Home Affairs,  
Government of India,  
Sastri Bhavan,  
New Delhi – 110 001.
2. The Lieutenant Governor (Administrator),  
Andaman & Nicobar Islands,  
Raj Niwas, Port Blair.
3. The Chief Secretary,  
Andaman & Nicobar Administration,  
Secretariat Building,  
Port Blair.
4. The Inspector General Prison (Law)  
Andaman & Nicobar Administration,  
Port Blair.
5. The Superintendent,  
District Jail, Prothrapur,  
Port Blair.

..... Respondents.

For the applicant : Ms. A. Nag, Counsel

For the respondents : Mr. M.P. Kamraj, Counsel

Date of Order : 21. 4. 2018



**ORDER**

**Per : Bidisha Banerjee, Judicial Member**

This O.A. has been preferred to seek the following reliefs:

*"8.a. An order / orders directing the respondent authorities to extend the benefit of promotion scheme enjoyed by the staff car drivers to the applicant herein as it has been done in the case of the Shri S. Kuppuswamy, Shri V. Subbaiah, Shri R. Nagarajan, Shri P. Lokanathan, Shri C. Durai Raj and Shri Sailendra Nath Saojal reflecting in the orders dated 14.07.2015 and 07.12.2017.*

*b. An order / orders directing the respondent authorities to grant interest for not giving the benefit to the applicant from the date it has been given to the other incumbents i.e. Shri S. Kuppuswamy, Shri V. Subbaiah, Shri R. Nagarajan, Shri P. Lokanathan, Shri C. Durai Raj and Shri Sailendra Nath Saojal.*

*c. An order / orders directing the respondent authorities grant all monetary and consequential benefits to the applicant.*

*d. An order directing the respondent authorities to act in accordance with law.*

*e. An order to issue, directing the respondents to produce the records of the case before this Hon'ble Tribunal so that conscious able justice may be done.*

*f. Such other or further order direction or directions, as your LORDSHIPS deem fit and proper in the interest of justice."*

2. The brief facts leading to the application:

The applicant was appointed as a Heavy Vehicle Driver (HVD in short) in Jail Department, on 18.04.1984. His pay was revised in terms of 5<sup>th</sup> Pay Central Pay Commission on 20.10.1997. On 21.07.2000, he was granted ACP. By virtue of the order dated 20.02.2000 passed by this Tribunal in OA. No. 48/AN/1997, promotional avenue was created for Heavy Vehicle Drivers of Motor Transport Department. Aggrieved, as the applicant did not get appropriate up-gradation, pay scale and promotion, the applicant preferred a representation on 06.08.2009 before the authorities. Such representation of the applicant was rejected.

Challenging the said rejection, the applicant preferred an original application before this Tribunal bearing OA. No. 127/AN/2010. On 20.01.2012, this Tribunal disposed of the original application by directing the Andaman & Nicobar Administration to send a comprehensive proposal to the Union of India and the Union of India was directed to take a decision. As no step was taken by the authorities a Contempt Application was taken out. On 29.10.2014, the applicant came to know that Government of India has approved the extension of promotion scheme to the Heavy Vehicle Drivers. Contempt Application was accordingly dropped. Four applicants of the original application was granted relief by the authorities on 16.07.2015. The applicant accordingly submitted his representation on 29.10.2015. On 07.12.2017, three more applicants of the Original Application i.e. P. Loknathan, C. Durai Raj and Sailendra Nath Saojal were granted relief. As of now the applicant is the only person, who is left out. Aggrieved he has preferred this O.A.

3. The respondents would emphatically admit the facts of the case but express their inability to extend the benefits to the applicant herein, for they did not receive any approval from the Union of India.

4. Applicant has argued that the issue relating to grant of benefit of grade pay as granted to the employees of the Transport Department being settled, as decided by in OA. No. 127/AN/2010 along with other OAs i.e. OA. 148/2010, OA. No. 144/AN/2010 & OA. No. 125/AN/2010 and the benefit of grade pay being already bestowed upon the applicants of OA. No. 148/AN/2010, OA. No. 144/AN/2010 & OA. No. 125/AN/2010, there is absolutely no dispute about admissibility of the grade pay to the present applicant.

5. We have considered the rival contention and perused the records.

6. We infer from records and arguments that there is no good reason to deprive the applicant of the financial benefits which have been accorded to the applicants in OAs 148, 144 & 125. The applicant deserves equal treatment, alike other applicants if not at the hands of administration, at least from a Judicial forum. The only issue that has to be looked into the approval of the Ministry / Union of India for grant of such graded pay to the applicant. The dispute adequately gets resolved by the letter of the MHA dated 14.10.2014 which governs all the OAs including OA. 127 of 2012. The order is extracted verbatim hereunder for clarity:

" No. U-14040/57/2012-ANL  
 Government of India/Bharat Sarkar  
 Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi  
 Dated: 14 October, 2014

To

*The Assistant Secretary (Pers),  
 U.T. of Andaman and Nicobar Administration,  
 Secretariat,  
 Port Blair.*

**Subject: Common order dated 20/1/2012 passed by the Hon'ble CAT in  
 OA Nos. 148/AN/2012, 127/AN/2012, 144/AN/2012 and  
 125/AN/2012 – regarding.**

Sir,

*I am directed to refer to your letter No.70-73/2014-PW(PF) dated 02.07.2014 on the subject mentioned above and to convey the approval of the competent authority for extension of the promotion scheme being enjoyed by Staff Car Drivers as per Department of Personnel and Training's O.M. No. 22036/01/92-Estt.(D) dated 30.11.1993 and O.M. No. 43019/54/96-Estt.(D) dated 15.02.2001 to the Heavy Vehicle Drivers (HVDs) working in the Administration of Andaman & Nicobar Islands w.e.f. 24.08.2010.*

2. This issues with the approval of Ministry of Finance, Department of Expenditure vide their I.D. No. 158307/SO(E:III-A)/2014 dated 7.10.2014.

*Yours faithfully,*

*Sd/-*

*(Neeta Gupta)*

*Deputy Secretary to the Govt. of India*

*Tele/Fax: 23092956"*

The order includes O.A. 127/12 that was preferred by the applicant. The said letter unambiguously demonstrates and explicitly spells out that the Ministry of Finance has granted approval for extension of the promotional scheme to the applicant as well. Relying upon the said order the Andaman & Nicobar Administration has already extended the benefits to the applicants of OA. No. 148/2010, OA. No. 144/AN/2010 & OA. No. 125/AN/2010. Therefore, the contention of the authorities that they have not received the approval of the Ministry is unfounded, fallacious, baseless. Their argument is incomprehensible as the order dated 14.10.2014 make it amply clear that approval was granted for the applicants of all the OAs including the OA of the applicant herein. The respondents cannot be permitted to create a class within a class without basis.

7. Having observed as above, we direct the authorities to extend to the applicant benefits, on par with the applicants in OA's cited supra, by issuing necessary orders within 3 months from the date of receipt of a copy of this order.

8. O.A. is accordingly disposed of. No costs.

  
(Tarun Shridhar)

Administrative Member

  
(Bidisha Banerjee)  
Judicial Member

drh