

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A.No.47/2002

Friday this the 1st day of February, 2002.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. C.K. Azeez, S/o. K.I. Koya, aged 31 years, Cheriyakunnamkulam House, Kalpeni, Fireman, Lakshadweep Fire Services, Police Station, Kavaratti.
2. Aboobacker K., S/o. M.K. Pookoya, aged 35, Kuli House, Agatti Island, Leading Fireman, LFS, Police Station Agatti.
3. Mohammed Khaleel M.K., S/o. Late A.R. Hamza Hajji, aged 38, Moosokakkada house, Kalpeni Island, Leading Fireman, LFS, Police Station Agatti.
4. Abdul Rahman T.K., S/o. Mohammed P.V. (Late) aged 37, Thekkukunnamamel House, Agatti Island, Driver Operator, LFS, Police Station Agatti.
5. Busher Jamhar M.K., S/o. Abdul Rahman, aged 33, Mukrikakkada House, Kalpeni Island, Driver Operator, LFS, Police Station Agatti.
6. Hamzakoya C.G., S/o. Koya K.K., aged 34, Chemmangath House, Kalpeni Island, Fireman, LFS, Police Station Agatti.
7. Abdul Khader K., S/o. Shaik B.P., aged 35, Kulappu House, Chetlat Island, Fireman, LFS, Police Station Agatti.
8. Siraj A.K., S/o. Abbas Ali K., aged 37, Azhikkom House, Amini Island, Fireman, LFS, Police Station Agatti.
9. Sayed Shaikoya P.P., S/o. P. Sayed Koya, aged 35, Padippura House, Amini Island, Fireman, LFS, Police Station Agatti.
10. Basheer P., S/o. C.N. Mohammed Koya, aged 35, Pokkayoda house, Kalpeni Island, Fireman, LFS, Police Station Agatti.
11. Abdulla C.B., S/o. K.C. Hamza Koya Hajji, aged 39, Chanatha Beli House, Amini Island, Fireman, LFS, Police Station Agatti.
12. Cheriyakoya A., S/o. Late S. Mohammed, aged 32, Attaloda house, Kadmat Island, Leading fireman, LFS, Police Station Kavaratti.
13. Yousef Zakariah T., S/o. Late P. Mohammed, aged 36, Thooshiyoda House, Kalpeni Island, Leading fireman, LFS, Police Station Kavaratti.

14. Muthukoya A., S/o. P.P. Mohammed, aged 33, Ashammakkada House, Amini Island, Driver Operator, LFS, Police Station Kavaratti.
15. Abdul Rahman S.B., S/o. Attakoya M., aged 32, Sarommabiyoda House, Kadmat Island, Fireman, LFS, Police Station Kavaratti.
16. Hyder ali K.I., S/o. P. Cheriyakoya, aged 35, Kakka Illam house, Kalpeni Island, Fireman, LFS, Police Station Kavaratti.
17. Imadudheen K.K., S/o. K.C. Nallakoya, aged 33, Kanjarakakkada House, Andrott Island, Fireman, LFS, Police Station Kavaratti.
18. Muthukoya M.P., S/o. P.P. Hassainar (Late), aged 33, Mullappura House, Kadmat Island, Fireman, LFS, Police Station Kavaratti.
19. Muneer B.C., S/o. P.C. Abdul Khader, aged 32, Beeyachetta house, Amini Island, Fireman, LFS, Police Station Kavaratti.
20. Jaleel M., S/o. Hamza N., aged 33, Maral House, Kalpeni Island, Fireman, LFS, Police Station Kavaratti.
21. Zakeer Hussain M.K., S/o. Attakoya P. aged 32, Mathilakadannhallal House, Kalpeni Island, Fire Driver Operator, LFS, Police Station Minicoy.
22. Mohammed Kasim A.P., S/o. U.P. Badarudheenkoya aged 31, Arathapura house, Andrott Island, Fire Driver Operator, LFS, Police Station Minicoy.
23. Mohammed Abdul Jabbar P., S/o. M.Nallakoya, aged 35, Palliyoda House, Andrott Island, Leading Fireman, LFS, Police Station Minicoy.
24. Shafi P., S/o. M.P. Bichukoya, aged 33, Ponnikkam House, Kiltah Island, Leading Fireman, LFS, Police Station Minicoy.
25. Hassan T., S/o. Siddeeque T.R. (Late) aged 35, Thailath House, Andrott Island, Fireman, LFS, Police Station Minicoy.
26. Ibrahim P.C., S/o. Kidave T.K., aged 35, Puthiyachetta House, Agatti Island, Fireman, LFS, Police Station Minicoy.
27. Hyderali A.K., S/o. K.K. Sayedmohammedkoya, aged 33, Alikakkada House, Kalpeni Island, Fireman, LFS, Police Station Minicoy.
28. Aliyyul Akber M.V., S/o. P.P.T. Koyamakkoya, aged 33, Moulana Veedu, Andrott Island, Fireman, LFS, Police Station Minicoy.

29. Jaffer H., S/o. Abdullakoya, aged 34, Hajaronnabiyoda House, Kultan Island, Fireman, LFS, Police Station, Minicoy.

30. Koya N., S/o A.T.Fathahullakoya , aged 36,Nadiyath House,Kalpani Island, Fireman, IFS, Police Station, Minicoy.

31. Mohammed Rafeeqe N.P.,S/o P.V.Cheriyakoya, aged 30,Nenampappada House, Kalpeni Island, Fireman, L.F.S., Police Station, Minicoy.

.. Applicants

(By Advocate Sri E.S.M.Kabeer)

vs.

1. The Union of India,
represented by Secretary to Government,
Ministry of Home Affairs,
New Delhi.

2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

3. The Superintendent of Police,
Union Territory of Lakshadweep,
Kavaratti. .. Respondents

(By Advocate Sri C.Rajendran,SCGSC)
(Mr.P.R.Ramachandra Menon(R2&3)

The Application having been heard on 1.2.2002, the Tribunal on the same day delivered the following:-

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicants who are members of the Fire Fighting Department under the Union Territory of Lakshadweep have filed this application jointly impugning the order dated 2.7.2001 by which their claim made in the representation for parity in pay scale with the Fire Fighting Staff in the National Capital Territory of Delhi and Union Territory of Andaman, Nicobar Islands has been turned down after considering the same in terms of the directions contained in the orders of the Tribunal in OA 121/98. It is alleged in the application that the duties and responsibilities of the

Fire Fighting staff in all the Union Territories being identical in nature not extending the same pay scale as are given to the Fire Fighting Staff under the National Capital Territory of Delhi and Union Territory of Andaman and Nicobar Islands is violative of Articles 14 and 16 of the Constitution of India. It has also been alleged that parity in the pay scale of the police constable of the Lakshadweep vis-a-vis police constables of other Union Territories was the subject matter of OA 1469/95, that the Tribunal has directed the respondents to grant to the police constables under the Lakshadweep Administration the same scale of pay as is enjoyed by their counter-parts in other union territories and the issue in this case being similar, there is no reason why the applicants should not be given the same pay scale as is given to the Fire Fighting Staff of NCT Delhi and UT of Andaman and Nicobar Islands. It has further been alleged that the applicants suffered from non-payment of OT Allowance, Risk Allowance, Remote Area Allowance and accommodation and that they have a grievance that the period of training undergone by them not being reckoned for increment. The applicants have therefore, filed this application for the following reliefs:

- (a) To set aside Annexure.A9.
- (b) to declare that the applicants in the category of Firemen in the Union Territory of Lakshadweep are entitled for a pay scale of Rs.975-25-1150-EB-30-1660 and the category of Driver Operator the pay scale of Rs.1320-2040 as that of the Firemen and Drivers and Firemen Operators Drivers in Delhi, Andaman and Nicobar and other Union Territories.
- (c) to direct the respondents to consider the training period of the applicants as active service and extend the benefit of Annexure.A2 to the applicants.

- (d) to direct the respondents to give compensatory off, overtime allowance, risk allowance, remote area allowance and accommodation to the applicants as given to other fire service personnel.
- (e) to issue such other reliefs which this Hon'ble Tribunal may deem fit and necessary in this case and;
- (f) to award the costs of the applicants.

2. We have gone through the application, the impugned order and the materials brought on record and have heard Shri ESM Kabeer, learned counsel of the applicant and Shri PRR Menon, learned counsel for the respondents 2&3 and Shri C.Rajendran for Respondent No.1. Parity in pay scales, non-reckoning of period of training for increments, non-payment of overtime allowance and risk allowances are difference causes of action for which a single application cannot be entertained. The counsel elects this application for challenging the impugned order by which the claim for parity in pay scale with Fire Fighting Staff of NCT Delhi and UT of Andaman and Nicobar Islands was rejected. Therefore, the other reliefs claimed in the application like claim of OT Allowances and other allowances and reckoning of training period of increment are matters which could be taken up by the applicants separately and applicants are left to seek appropriate remedy in that regard either by taking up the matter with the Administration or otherwise.

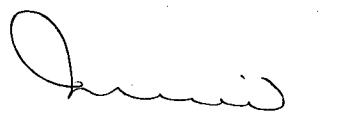
3. Regarding the question of parity in pay scale we have very carefully gone through the order impugned. The rejection of the claim of the applicants is based on the justification for higher pay scales for the Fire Fighting Staff of NCT Delhi and UT of Andaman and Nicobar Islands given by the Vth Central Pay Commission in its report. In

paragraph 104.11 of the Report of the Vth Central Pay Commission, the difference in pay scale of Fire Fighting Staff of NCT Delhi and UT of Andaman & Nicobar Islands vis-a-vis the Fire Fighting Staff of other Union Territories had been specifically considered. This has been justified on the ground that the work of Fire Fighting Staff in the NCT Delhi are more of strenuous nature and in regard to UT of Andaman and Nicobar Islands because the Fire Fighting Staff forms part of the police force of the Union Territory. As far as Fire Fighting Staff of other Union Territories including the Union Territory of Lakshadweep restructuring and separate pay scales have been suggested which the Government has accepted and acted upon. Under these circumstances, we are of the considered view that we have no reason to interfere with the decision of the Government in regard to pay scales to the Fire Fighting Staff of the Lakshadweep Administration which is in tune with the recommendations of the Vth Central Pay Commission, which is an expert body. The Apex court has warned the Courts and Tribunals to be slow in interfering in matter of pay scales where specific recommendations in that regard have already been made by the expert bodies like Pay Commissions.

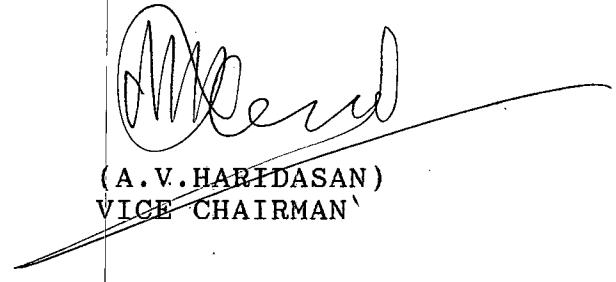
4. Under these circumstances, we do not find any justification to entertain this application against the impugned order which gives very cogent reason for its decision. While rejecting this application to the extend it relates to the impugned order under Section 19(3) of the

Administrative Tribunals Act, 1985, we leave to the applicants to take up their claim for OT Allowances, counting of period of training for increments etc. separately, if so advised. No costs.

Dated the 1st day of February, 2002.



(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER



(A.V. HARIDASAN)
VICE CHAIRMAN

/s/

APPENDIX

Applicants' Annexures:

1. A-1 : True copy of the order F.No.6/68/90-POL (Vol.II) dated 11.11.91 issued by the office of the Superintendent of Police U.T of Lakshadweep, Kavaratti to the Superintendent of Police, Kavaratti & Others.
2. A-2 : True copy of the extract of the notification published in Delhi with regard to pay scale of Firemen in U.T. of Delhi Administration, Andaman & Nicobar.
3. A-3 : True copy of the order F.No.1/13/91-Estt (Fire) dt. 24.8.93 issued by the 3rd respondent to the individuals.
4. A-4 : True copy of the office memorandum No.16/16/92-Estt (Pay-I) of the department of personnel & training, Government of India dated 31.3.92.
5. A-5 : True copy of the representation dated 2.12.1995 submitted before the 3rd respondent by the 1st applicant.
6. A-6 : True copy of the representation dated 29.11.95 submitted by the Firemen, Lakshadweep Fire Service, Minicoy before the 3rd respondent.
7. A-7 : True copy of the representation dated 7-9-96 submitted by the applicant No.22 before the 3rd respondent.
8. A-8 : True copy of the order dated 10.9.97 passed by the Hon'ble Central Administrative Tribunal, Ernakulam Bench in OA No.1489/95.
9. A-9 : True copy of the order No.U-14040/22/2001-ANL issued by the Director, ANL, Government of India, Ministry of Home Affairs, New Delhi dated 2.7.2001 to Shri KD Mehra, Administrator, U.T of Lakshadweep, Kavaratti.