

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 533 of 2011

MONDAY....., this the 04th day of June, 2012

C O R A M :

**HON'BLE MR. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. C.N. Abdul Raheem,
S/o. Abdul Azeez,
Environment Warden,
Department of Environment and Forests,
Union Territory of Lakshadweep, Agatti.
2. A.C. Abdul Jabbar, S/o. Essa,
Environment Warden,
Department of Environment and Forests,
Union Territory of Lakshadweep,
Kavaratti.
3. K.P. Mohammed, S/o. Kader,
Environment Warden,
Department of Environment and Forests,
Union Territory of Lakshadweep, Androth.
4. Dr. K. Sayed Ali,
S/o. Late Shaban,
Technical Assistant.
Department of Environment and Forests,
Union Territory of Lakshadweep, Kavaratti,
5. K.P. Cheriya Koya,
S/o. Yakoob,
Environment Warden,
Department of Environment and Forests,
Union Territory of Lakshadweep, Kadamath

... Applicants.

(By Advocate Mr. M.P. Krishnan Nair)

v e r s u s

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti : 682 555
2. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi : 110 001
3. The Secretary,
Ministry of Environment and Forest,
C.G.O. Complex, New Delhi : 110 003

4. The Secretary,
 Ministry of Home Affairs,
 North Block,, New Delhi: 110 001 ... Respondents.

(By Advocate Mr. S. Radhakrishnan (R1) and
 Mr. Thomas Mathew Nellimoottil (R2-4)

This application having been heard on 15.05.2012, the Tribunal on
04-06-12 delivered the following :

ORDER

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A. has been filed by the applicants for a direction to the respondents to grant parity of pay scale to the applicants who are Environment Wardens in the Union Territory of Lakshadweep with that of Range Officers in other Union Territories in the scale of pay of Rs. 5500-9000 (pre-revised) with effect from 01.01.1996 and to give them pay and arrears.

2. O.A. No. 260/2006 for the same relief was disposed of by this Tribunal on 19.07.2007 with a direction to the applicants to approach the VI Central Pay Commission. Writ Petition (C) No. 27540/2007 against this order filed before the Hon'ble High Court of Kerala was disposed of on 13.02.2009 with a direction to the applicants herein to approach the Ministry of Finance. Annexure A-8 order is in compliance of the order of the High Court, which is challenged by the applicants in this O.A.

3. M.A. No. 464/2011 filed by the applicants for condonation of delay of 74 days in filing this O.A. was allowed.

4. Vide Annexure A-8 order dated 18.09.2009, the representations of the applicants have been rejected as under:



"xxxxxx xxxx

- i) The pre-revised pay scale for the post of Environment Warden in UT of Lakshadweep was Rs. 1200-2040 and the pre-revised pay scale of Forest Ranger of UT of A&N Islands and other UTs was Rs. 1400-2300. Therefore, even prior to the Vth Central Pay Commission there was no parity in the pay scales of Environmental Wardens in Lakshadweep and Range Officers in other UT's.
- ii) The method of recruitment of Environment Warden is DR failing which by deputation. Whereas in case of Forest Ranger, it is 33-1/3% by promotion failing which by DR and 66-2/3% by Direct Recruitment.
- iii) Environment Warden in UT of Lakshadweep is an isolated post. However, the post of Forest Ranger in other UT's have a proper hierarchy with the feeder post as Deputy Ranger and promotional post as Assistant Conservator of Forest.
- iv) As regards the contention that the duties and responsibilities of the two posts are more or less similar, it is seen that Sr. Forest Rangers in Delhi and Range Officers in other UTs also exercise supervisory control over subordinates which is not the case with the Environment Wardens.
- v) In terms of recommendations of 5th CPC contained in para 43.15 of their report, entrants to posts requiring graduation as minimum qualification are to be inducted in one of the pre-revised pay scales of Rs. 1400-2300, Rs. 1600-2660 or Rs. 1640-2900. Therefore, it was considered appropriate to place the post of Environment Warden in the revised pay scale of Rs. 4500-7000 corresponding to the pre-revised pay scale of Rs. 1400-2300. this was also in view of the fact that certain other posts also requiring a bachelors degree have also been placed only in the pay scale of Rs. 1400-2300 by 5th CPC on this consideration.
- vi) Vide their para 104.10 of their report 5th CPC have inter-alia included, "the Administrative Ministry has recommended parity and revenue departments pay scales of comparable posts in the Forest Departments of many State Governments like Assam, Haryana, Himachal Pradesh and Punjab are in higher scale of pay. Himachal Pradesh, Nagaland, Maharashtra and Orissa. We also notice that the duties and responsibilities of forest staff are broadly comparable with those of police personnel. Apart from the functions of protecting and conserving the environment, forest personnel also have powers of apprehension and arrest of poachers and trespassers, service of summons, executions of warrants, etc. In our view, parity with police personnel is, therefore, not unjustified.three posts of Sr. Forest Ranger (Rs. 1640-2900) above that of the Deputy Ranger exist only in Delhi, in addition to the posts of Range Officer (Forest Ranger), whereas all other Union Territories have only posts of Range Officers in a lower pay scale of (Rs. 1400-2300). The duties & responsibilities of these two posts are identical. Besides, given the fact that forest resources are not in abundance in the National Capital Territory, there is, prima facie, no justification for having posts in a higher scale in Delhi alone. The educational qualification (graduation) prescribed for the post is identical to that of a Sub Inspector of Police. The posts of Range Officer (Forest Ranger) and Sr. Sorest Ranger may, therefore, be merged and placed in the scale of pay of Rs. 1640-2900 on par with the post of Sub Inspector of Police."

Though the posts of Range Officer (Forest Ranger) has been placed at par with SI of Police in the pay scale of Rs. 1640-2900, the post of environment Wardens in UT of Lakshadweep cannot be placed in the

✓

same pay scale as their recruitment qualification are not comparable with that of Forest Ranger in other UT's in which case they are far more extensive, as can be seen from the table below:-

<i>Environment Warden in UT of Lakshadweep</i>	<i>Forest Ranger in UT of A&N Admn.</i>																														
Graduation in Fisheries or Graduate in Science	<p>1) Graduation in Science from any recognized university in at least one of the following subjects: Agriculture, Botany, Chemistry, Engineering, Environment, Fisheries, Forestry, Geology, Horticulture, mathematics, Physics, Statistics, Veterinary, Science, Zoology.</p> <p>2) Physical Standard (minimum)</p> <table> <thead> <tr> <th></th> <th>Height</th> <th>Chest Normal</th> <th>Chest Expanded</th> </tr> </thead> <tbody> <tr> <td>a) General Candidates</td> <td></td> <td></td> <td></td> </tr> <tr> <td>For male</td> <td>163 cm</td> <td>84 cm</td> <td>89 cm</td> </tr> <tr> <td>For female</td> <td>150 cm</td> <td>79 cm</td> <td>84 cm</td> </tr> <tr> <td>b) ST candidates</td> <td></td> <td></td> <td></td> </tr> <tr> <td>For male</td> <td>152 cm</td> <td>84 cm</td> <td>89 cm</td> </tr> <tr> <td>For female</td> <td>145 cm</td> <td>79 cm</td> <td>84 cm</td> </tr> </tbody> </table> <p>3) Candidate must pass written recruitment test consisting the subjects (a) English; (b) General Knowledge; (c) two optional from above subjects.</p> <p>4) Candidates must pass physical endurance test of 25 Km. walk for males and 14 Km. for females to be completed in 4 hours.</p> <p>5) Selected candidates on appointment will have to successfully complete two years in service forestry training in one of the Forest Rangers colleges sponsored by GOI.</p>				Height	Chest Normal	Chest Expanded	a) General Candidates				For male	163 cm	84 cm	89 cm	For female	150 cm	79 cm	84 cm	b) ST candidates				For male	152 cm	84 cm	89 cm	For female	145 cm	79 cm	84 cm
	Height	Chest Normal	Chest Expanded																												
a) General Candidates																															
For male	163 cm	84 cm	89 cm																												
For female	150 cm	79 cm	84 cm																												
b) ST candidates																															
For male	152 cm	84 cm	89 cm																												
For female	145 cm	79 cm	84 cm																												

5. NOW, THEREFORE, in view of the position explained in para 4 above, there being no wholesale parity between the post of Environment Warden in UT of Lakshadweep and Forest Ranger in other UTs, the request of the petitioners in WP No. 27540/2007 (S) for upgradation of pay scales of Environment Wardens in UT of Lakshadweep to Rs. 5500-9000 cannot be acceded to.

6. This issues with the approval of Secretary (Expenditure), Ministry of Finance.

Sd/-

(Madhulika P. Sukul)
Joint Secretary to the Government of India"

5. The applicants contended that though there was no parity in the pay scale with Forest Range Officers even before the V Central Pay Commission,



it does not mean that if there is any disparity in pay scale before the V Central Pay Commission, it should not be attended to if the posts are comparable. The nature of duties and responsibilities of the Environment Warden, method of recruitment and the basic educational qualifications are comparable with the post of Forest Range Officer. The method of recruitment of Environment Warden in the Lakshadweep Forest Department is 100% direct recruitment whereas in the case of Range Officer, it is 33-1/3 % by promotion failing which by direct recruitment and 66-2/3 % by direct recruitment. It is not relevant in fixing the pay of the post of Environment Warden. The posts of Environment Warden in the Lakshadweep Administration and the Range Officer in the other Union Territories are one and the same. It is not the fault of an incumbent that the post does not have a proper hierarchy. The proposal for creation of new posts in different categories is already in pipeline. If the Environment Wardens do not have any subordinate staff to supervise, it is not their fault. But actually the Environment Wardens in the Lakshadweep Administration have the control over the boat staff and the casual labourers attached with them. Since they have to oversee all the duties and responsibilities over the lower posts too, their burden of responsibility is higher. There is no justification placing the Environment Warden in the pay scale of Rs. 4500-7000 stating that certain other posts requiring bachelor's degree have also been placed only in the same pay scale. The Environment Wardens and the Range Officers are posted in the Department of Environment & Forests, working under the Deputy Conservator of Forests and discharging the same duties, for which the minimum educational qualification is bachelor degree. Therefore, it is improper to treat the post of Environment Warden at par with certain other posts. There is no difference in the recruitment qualifications between the Environment Warden in the Lakshadweep Administration and the Range Officer in Delhi. New

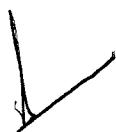


Recruitment Rules have already been framed incorporating necessary aspects as in the RRs of Andaman & Nicobar, for the proposed new posts. There is, *prima facie*, no justification in having posts in the higher scale in Delhi alone. The Finance Ministry has granted higher pay to the Wildlife Inspectors while rejecting the case of the Environment Wardens, who are similarly placed as them.

6. The respondents in their reply statement submitted that the competent authority had in detail considered the demand of the applicants and after citing 6 specific points in Annexure A-8 came to the conclusion that there is no wholesale parity between the posts of Environment Wardens of Union Territory of Lakshadweep and Forest Rangers of other Union Territories. It was also admitted that the respondents, on the basis of the representations submitted by the Environment Wardens, had recommended revision of scale of pay for them.

7. We have heard Mr. Mr. M.P. Krishnan Nair, learned counsel for the applicants and Mr. S. Radhakrishnan, learned counsel for the respondent No.1 and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents No. 2 to 4 and perused the records.

8. If there was no parity in the pay scale of Environment Warden in the Lakshadweep Administration with the pay scale of Forest Range Officer in other Union Territories even prior to the V Central Pay Commission, that cannot be a bar to consider the case of the applicants if warranted by facts and circumstances. The Central Government has inherent power to decide on a matter even if there is no specific recommendation of the Pay Commission. The method of recruitment as stated in Annexure A-8 order

A handwritten mark or signature, appearing to be a stylized 'V' or a checkmark, located at the bottom right of the page.

cannot be a good reason for not considering the case of the applicants. There is no dispute on the fact that the duties and responsibilities of the Environment Warden and the Forest Range Officer are the same. The lack of proper hierarchy or supervisory control over subordinates are beside the point in determining the pay scale of the applicants. In the absence of subordinates, the Environment Wardens carry out the duties and responsibilities of the subordinates also. That could be an argument for granting them more pay than the Forest Range Officers, on the ground of doing more work. Certain posts requiring bachelor degree are placed in a particular scale. Certain other posts requiring bachelor's degree are placed in a higher pay scale. The fact that certain posts having the same requirement of educational qualifications are placed in a higher pay scale cannot be simply glossed over as is done in Annexure A-8. A close look at the requirement of the educational qualifications of Environment Warden in the Union Territory of Lakshadweep and Forest Range Officer in the Union Territory of Delhi would show that the physical standard is not mentioned in the Recruitment Rules of Environment Warden which was framed during 1980s, otherwise graduation in science is there in both the recruitment rules. In fact, in the case of Delhi Administration, the Recruitment Rules 1965 of the Range Officer stipulates only degree in Agriculture from a recognised University. OR (1) Intermediate, (2) Diploma of Forest Ranger from a recognised Forest Training College OR 5 years experience as Deputy Ranger. The same had been amended on 08.12.1993 as Graduate from Forestry with experience in Forestry work in any State / U. T. OR (1) 12th passed in Science stream, (2) Diploma of Forest Ranger or successful training in Forest from any recognised Forestry Training Institute. Still, the same has not been revised. Here also physical standards are not mentioned. So in this case instead of comparing with the Recruitment Rules in the Andaman Nicobar Administration, qualifications can be

A handwritten signature in black ink, appearing to be a stylized 'Y' or a similar mark, is located at the bottom right of the page.

compared with the Recruitment Rules in the Delhi Administration. Thus, the conclusion that there is no wholesale parity between posts of Environment Wardens in the Lakshadweep Administration and Forest Range Officers in the other Union Territories is arrived at without adequate consideration of relevant facts. Therefore, the impugned Annexure A-8 is liable to be set aside. It is the responsibility of the Union Government to ensure that there are uniform Recruitment Rules for same/similar posts in the Union Territories.

9. Those who take decisions in matters pertaining to distant and far away places like Siachin and Lakshadweep without direct exposure to the ground reality there are liable to make gross mistakes. It is advisable that a Committee consisting of Director/Joint Secretary from the Ministry of Finance, Ministry of Home and the Ministry of Environment & Forests, should first make spot visits in the Lakshadweep Islands and after becoming well aware of the biological diversity and ecological balance in the Islands, should get a detailed presentation by the Lakshadweep Administration on the matter of fixing the pay scale of the applicants and then take a proper decision after considering all relevant aspects. Ordered accordingly. A time frame of 6 months is fixed for carrying out the above direction. Annexure A-8 order is quashed.

10. The O.A. is disposed of as above with no order as to costs.

(Dated, the 04th June, 2012)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER