

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 551/2002

Wednesday, this the 7th day of August, 2002.

CORAM :

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

1. N.G. Sabu,
Radio Mechanic(Skilled),
Naval Ship Repair Yard,
Naval Base, Kochi-682004.
2. K.X. Maria,
Radio Mechanic(Skilled),
Naval Ship Repair Yard,
Naval Base,
Kochi-682004.

... Applicants

(By Advocate Mr. P.K. Madhusoodhanan)

Vs

1. Flag Officer Commanding-in-Chief,
HQSNC, Naval Base,
Kochi-682004.
2. The Chief Staff Officer(P&A),
HQSNC, Naval Base,
Kochi-682004.
3. Union of India,
rep. by its Secretary,
Ministry of Defence,
New Delhi.

... Respondents

(By Mr. C. Rajendran, SCGSC)

The application having been heard on 7.8.2002, the Tribunal on the same day delivered the following :

ORDER

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

The applicants, who are working as Radio Mechanic(SK) in the Naval Ship Repair Yard, Kochi were after prolonged legal battle given appointment as Radio Mechanics w.e.f 31.3.1989 although they were appointed as a matter of fact in the year 1995. The ante-dating of their appointment was on the basis of

the direction given by the Tribunal in OA 176/96 and OA 1456/96 dated 24.11.97. The applicants made representations claiming monetary benefits of pay and allowances from 1989 to 1995 which was turned down by order dated 31.12.1998(A10). To the applicants' claim for financial upgradation reckoning their date of commencement of their service as 31.3.1989, by Annexure A11 order they were told that JCDA(N), Kochi had rejected the claim for ACP Scheme taking a stand that applicants having been regularly appointed w.e.f. 23.1.1995, have not become eligible for financial upgradation under the ACP Scheme. However, in the letter A11 dated 7.5.2002, it has been indicated that the matter was being taken up further with Headquarters, Southern Naval Command for favourable consideration in the light of 1st ACP granted to them vide NSRY CE List No.10/01 dated 2.3.2001. Not satisfied with this letter, the applicants have filed this application for a declaration that the applicants are eligible and entitled to be paid monetary benefits in the post of Radio Mechanic(SK) w.e.f. 31.3.1989 and for a direction to the respondents to grant salary and allowances to the applicants in the cadre of Radio Mechanic(SK) from 31.3.89 to 22.1.95 and all other monetary benefits including ACP.

2. When the application came up for hearing today, Shri C. Rajendran, SCGSC appeared for the respondents and argued that the claim for pay and allowances for the period from 31.3.1989 to 22.1.1995 is barred by Limitation. In view of A10 order dated 31.12.1998 turning down their claim for monetary benefits and the fact that this order of 1998 has not been challenged in time, the claim for arrears of pay and allowances become barred by



limitation under Section 21 of the AT Act, 1985. Regarding claim for grant of 1st ACP reckoning their service from 31.3.1989, in A11 letter it has been indicated that this matter has been taken up with the Headquarters for favourable consideration and order was awaited. The learned counsel on either side agreed that the application can now be disposed of directing the 1st respondent to take a decision in the matter of claim of the applicants for 1st financial upgradation under the ACP Scheme taking into account their initial appointment as 31.3.1989 and to issue appropriate orders within a reasonable time.

3. In the light of what is stated above and in the light of the submission made by the counsel on either side, the claim of the applicants for arrears of pay and allowances is rejected as time barred and the application is disposed of directing the 1st respondent to take a decision regarding grant of 1st financial upgradation under the ACP Scheme to the applicants by reckoning their appointment as Radio Mechanic w.e.f. 31.3.1989 and to pass orders in that regard within a period of two months from the date of receipt of the copy of this order. No costs.

Dated the 7th August, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

oph

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of judgment dated 31.1.91 in O.A 436/90 of this Hon'ble Court.
2. A-2: True copy of Order dated 22.4.91 in SLP(Civil) 5619/91 of the Hon'ble Supreme Court of India.
3. A-3: True copy of Order dated 31.3.95 in O.As No.1728/94 and O.A 1743/94 of this Hon'ble Tribunal.
4. A-4: True copy of Order dated 23.1.95 issued by the 2nd respondent.
5. A-5: True copy of Letter dated 24.1.96 of the 2nd respondent served on the applicants.
6. A-6: True copy of Order dated 24.11.97 in O.A 176/96 and O.A 1456/96 of this Hon'ble Tribunal.
7. A-7: True copy of Civilian Establishment List NSRY (K) No.22/98 dated 25.4.98 issued by Lieutenant, Manager (P&A) for Commodore Superintendent.
8. A-8: True copy of Civilian Establishment List No.41/98 issued by JDO Manager (P&A) for Commodore Superintendent.
9. A-9: True copy of representation dated 6.8.98 submitted by 1st applicant before the 1st respondent.
10. A-10: True copy of reply dated 31.12.98 issued to the applicants on behalf of the 1st respondent.
11. A-11: True copy of Letter No.PA/05/5030/1 dated 9.5.2002 issued to the applicants by Admin Officer-II, Civilian Admin Officer, for commodore Superintendent.

npp
29.8.02