

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 562/91
TXXXXX

199

DATE OF DECISION 21.2.1992

KP Ahamed and others

Applicant (s)

Mr PS Biju

Advocate for the Applicant (s)

The Administrator Versus,
Union Territory of Lakshadweep
Kavaratti and others. Respondent (s)

Mr NN Sugunapalan, SCGSC

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member
and

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Sh NV Krishnan, A.M

The four applicants before us are Draughtsmen Gr.III in the Public Works Department of the Union Territory of Lakshadweep. They state that the appropriate scale of pay for the posts of Draughtsman Gr.III held by them is Rs 1200 - 2040, because this scale of pay has been made applicable to KB Nallakoya who is working as a Draughtsman Gr.III. Therefore, the pay scale of Rs 975 to 1540 made applicable to them should be revised to Rs 1200 - 2040. It is in this circumstance that the applicants have prayed for the following reliefs.

"(i) Call for the records in relation to the recruitment of Draughtsmen Gr.III and direct the respondents to pay the applicants salary on the scale of pay of Rs 1200 - 2040 or revise the scale of pay that may be applicable to the Draughtsmen Gr.III in accordance with law.

"(ii) to direct the respondents to give all arrears of salary to the applicants which occurred due to the discrimination shown to the applicants by paying a lower scale of pay than what is applicable to Draughtsmen Gr.III under the respondents."

2 The applicants 1 & 2 entered service in 1983 as Draughtsmen Gr.III, when admittedly, the pay scale applicable was Rs 260- 430, as per Annexure A1 order dated 28.3.83. The 3rd applicant was promoted in 1988 as Draughtsman Gr.III in 1990 on the scale of Rs 975 to 1540.

3 The applicants contend that Shri KB Nallakoya appointed as Draughtsman Gr.III in 1983 was given the scale of pay of Rs 1200-2040. Thus, there is discrimination in the pay scales applicable to the same posts and hence, the applicants have sought the aforesaid reliefs.

4 The respondents have filed a reply, practically admitting all the facts. The pay scale applicable to Draughtsmen Gr.III was revised to Rs 260-430 and it was further revised to Rs 975-1540 from 1.1.86. According to them, this is the correct pay scale applicable to the Draughtsmen Gr.III.

5 The case of KB Nallakoya is explained as follows:

5.1 In the Ministry of Finance O.M. dated 13.4.84 (Exhibit R-1), a decision of the Govt. of India was communicated that the scale of pay of Draughtsman Gr.I, II and III in the other Offices/ Departments of Govt. of India may be revised to that of the scales of pay in the CPWD as follows:

	<u>Original scale</u>	<u>Revised scale</u>
(i) Draughtsmen Gr.I	Rs 425-700	Rs 550-750
(ii) Draughtsmen Gr.II	Rs 330-560	Rs 425-700
(iii) Draughtsmen Gr.III	Rs 260-430	Rs 330-560

This was subject to satisfying the specific condition laid down in the proviso in Annexure R1 which reads as follows:

" Provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in the Central Public Works Department. Those who do not fulfil the above recruitment qualification will continue in the pre-revised scales".

5.2 Probably KB Nallakoya and 2 others represented for giving the benefit of this OM and the higher pay scale. They also filed OP 8219/83 in the Kerala High Court.

5.3 Despite the differences in the recruitment rules, and during the pendency of the OP, Annexure R1 OM was made applicable after requiring KB Nallakoya to pass a departmental examination. Accordingly, his pay scale was revised from Rs 260- 430 to Rs 330-560, the corresponding pay scale of which is Rs 1200-2040 (Annexure R4). Thereupon OP 8219/83, since transferred to the Madras Bench of the Tribunal and renumbered as TA 222/86, was disposed of as follows in respect of KB Nallakoya:

"2. At the time of hearing, counsel of the applicants has placed before me the orders dated 2.5.1984 and 27.7.1984 issued by the Executive Engineer, PWD, Union Territory of Lakshadweep revising the scale of pay of the applicants 1 & 2 respectively with effect from 1.5.1983 and 1.7.1983. These orders are seen to have been passed on the basis of the OM dated 13.3.1984 issued by the Ministry of Finance under which sanction for the revision of pay scale of Draughtsman of the various grades other than in the CPWD was allowed. In view of these orders nothing further remains to be pursued as regards the applicants 1 & 2".

4 Applicant-2 was KB Nallakoya in the above case.

5.4 Adverting to this judgment and the mention therein about the grant of higher pay scale to two of the petitioners, the Govt. of India sought an early explanation from the Union Territory Administration on 10.8.88 (Annexure R5 (b)) as to how the same scales as for the D¹ man in the CPWD have been given to the D¹ man in the Lakshadweep PWD. It was pointed out therein that for recruitment as Draughtsmen III in the CPWD, the main qualification needed was a Certificate of Diploma in Draughtsmanship (Civil) of not less than 2 years' duration while in the Union Territory, it was only matriculation or equivalent with 2 years' experience.

It was also pointed out that for other grades also the requirement of service materially differed. Hence, an explanation was sought as to how the Draughtsmen were given the CPWD section. On receipt of this memo it was decided not to extend the benefit of Annexure R1 thereafter to other Draughtsmen.

6 Respondents have produced the qualifications required for Draughtsmen for (direct recruits and promotions) in the CPWD (Annexure RII and RIII-a) and under the Union Territory Administration (Annexure R III-b). They make it clear that the requirements for recruitment in the Union Territory Administration is much less stringent than in the CPWD. It cannot be disputed that the qualifications are not the same and therefore, in terms of Annexure R1, the Draughtsmen of the Union Territory are not entitled to the benefit of that memorandum. It is for these reasons that the applicants have not been given the benefit of higher pay scale.

7 In the circumstance, it is contended that even KB Nallakoya is not entitled to the pre-revised higher pay scale of Rs 330-560 or its corresponding revised pay scale of Rs 1200-2040 as admitted in para 19 of the reply. It is contended that he is continuing to draw the revised scale in pursuance of the order of this Tribunal. The respondents, therefore, contend that the application deserves to be rejected.

8 We have perused the records of the case and heard the arguments of the parties. The only ground urged in the application is that as KB Nallakoya has been given the pay scale of Rs 1200-2040 as Draughtsman Gr.III, the applicant should also be given the same pay scale. As all are working as Draughtsmen Gr.III, this is a reasonable demand provided there was no other circumstance. In the present case, the respondents have correctly admitted that due to a mis-interpretation of the Finance Ministry's Memorandum (Annexure R1), KB Nallakoya was given the pay scale to which the Govt. of India objected to. We find that this plea has been fully substantiated by the respondents because the conditions precedent to the application of the Govt. of India Memorandum (Annexure R1) to Draughtsmen in other Departments of the Govt. of India do not obtain in the case of the PWD of the Union Territory of Lakshadweep because the conditions of recruitment of Draughtsmen in this Union Territory (R3-b) is substantially different from the conditions for recruitment to the conditions for recruitment to the CPWD as per Annexure R2 and R3-a.

This has not been disputed. Therefore, granting higher pay scale to KB Nallakoya was a mistake. The applicants cannot claim advantage of this mistake and seek a direction that this higher pay scale be given to them merely it was given to Nallakoya by mistake. Such a prayer can not lie. They should have prayed for bringing down the pay scale of KB Nallakoya to their own pay scale on the ground of discrimination. They have not now done so.

9 In the circumstance, this application has no force.

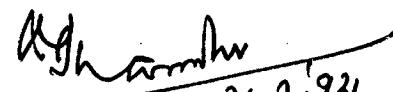
10 We are, however, unable to accept the plea of the respondents that the pay scale of Rs 1200- 2040 was given to KB Nallakoya in pursuance of the order of the Tribunal at Annexure R8 in TA 222/86. The respondents have themselves admitted that the higher pay scale was given to Nallakoya as early as on 9.7.84 by the Annexure A4 Memorandum.

This was done after the Writ Petition was filed, but before its disposal. The Annexure R8 judgment also makes it clear that in respect of the Petitioners 1 & 2, orders have already been issued in their favour. Hence, the application of applicant 1 & 2 in that petition, including Nallakoya,

itself on its own and not due to any direction by Tribunal

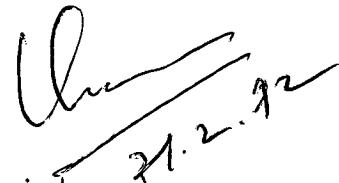
11 For the foregoing reasons, we find that this application has no merit and deserves to be dismissed. We do so. We make it clear that neither this judgment nor the judgment in Annexure R8 in TA 222/86 will stand in the way of the respondents from rectifying the mistake which they

have committed in granting benefit of Annexure R1
Memorandum of the Ministry of Finance to Draughtsmen
in the PWD of the Union Territory of Lakshadweep
Administration.



(N.Dharmadan)
Member (Judicial)

21.2.92



(N.V.Krishnan)
Member (Administrative)

21.2.92