

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 595/91  
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DATE OF DECISION 28.5.92

P Radhakrishnan Nair Applicant (s)

Mr RV Nair Advocate for the Applicant (s)

The General Manager,  
N.A.D. Aluva & others Respondent (s)

Mr KA Cherian, AGSAC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member

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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

The applicant is now employed as a labourer in the Naval Armament Depot, Aluva under R-1. He was first appointed to the post of Bhandari in the Cochin Naval Base in the scale of Rs 200-250 from 21.1.74. Thereafter, according to him, he was transferred to NAD Aluva as a labourer. At the time of such transfer, he was drawing pay at Rs.206/-p.m. as Bhandari, while his pay in NAD Aluva after transfer was fixed at Rs 202/-p.m.

2. The applicant is aggrieved by this reduction in his pay on his appointment as Labourer in NAD Aluva. He has also stated that 11 other workers in the Cochin Naval Base who were on the lower pay scale of Rs 196-230 were also rendered surplus and the pay of those persons were also fixed at Rs 202/- despite the fact that they were on a lower pay scale. Subsequently, all the other 11 persons were transferred back to the original post in the Naval Base. On the contrary, the applicant continued to work in the NAD, Aluva.

3. On the revision of pay scales on the basis of the 4th Pay Commission Report, the pay of the applicant was fixed at Rs 905/-, while the pay of the juniors referred to above have been fixed at Rs 935/- p.m.

4. The applicant contends that his transfer from the Naval Base to NAD Aluva should not have resulted in any reduction of his pay and, in any case, his pay should not have been fixed less as compared to that of his juniors.

5. Therefore, the applicant has filed this application seeking the following reliefs :

- " 1. The respondents may be directed to re-fix the basic pay of other petition was with transferred from the parent establishment to the present one; (sic)
- 2. The respondents may be directed to pay all the arrears of pay consequent on the re-fixation of basic pay."

6. The respondents have stated that the applicant has not presented the full facts of the case. Admittedly the applicant was rendered surplus in the Naval Base on 17.4.76. Therefore, he was appointed as unskilled labourer in the NAD Aluva in a lower pay scale Rs196-232. The fixation of his pay in such circumstances is to be regulated under the provisions of the Ministry of Defence letter dated 17.7.57 exhibited at Annexure R1(A).

Para 1 (iii) thereof reads as follows :

- " When a Government servant is transferred, on reversion from a higher industrial/non-industrial post to a lower non-industrial/industrial post not held previously the pay in the lower post will be fixed after allowing the benefit of increments for the completed years of continuous service rendered in the higher post or posts as the case may be subject to the pay so fixed not exceeding the pay drawn immediately before reversion."

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As the applicant had rendered only 2 years service as Bhandari, his pay in the post of unskilled labourer on the lower pay scale was fixed at Rs 202/- giving him two increments. A copy of the pay fixation done is exhibited at Annexure R1(B).

7. In regard to the other 11 persons, it is stated in the reply that their pay was not fixed at Rs 202/- as alleged by the applicant, but it was fixed at different stages as shown in Annexure R1(C) depending on the length of service put in by them. Thus, the pay of some of them has been fixed at Rs 196/- only i.e. at the minimum of the pay scale, while in another case it fixed at Rs 208/- which was due to the longer service in the Cochin Naval Base.

8. Hence ultimate pay fixation in the revised scale is bound to be different. The applicant was also given a notice of termination under the Central Civil Services (Temporary Service) 1965 Rules when he was rendered surplus from the Naval Base vide Annexure R1(I) dated 27.2.76. At that time, the applicant gave a certificate dated 8.3.76 at Annexure R1(J) stating that on becoming surplus, he would be willing to move out of Station and accept equivalent or lower post and be ready to move within 7 days on receipt of the posting order. It is on that basis, the surplus persons were absorbed in the NAD Aluva as unskilled labourers.

9. In the circumstance, it is contended that the applicant can neither have any grievance against the original fixation of his pay nor can he have any grievance against the fixation of pay of the other 11 surplus personnel.

10. I have carefully considered the pleadings and perused the records, The application itself is belated in as much as it relates to the fixation of pay from 1976. However, as it was found to be a continuing claim, the application was admitted on the stipulation that the payment of arrears, if due, will be restricted on consideration of limitation.

11. The basic defence of the respondents is that the services of surplus personnel were terminated, as has been done in the case of the applicant by the Annexure R1(I) order dated 27.2.76. However, the Government's policy being to minimise the hardship of such surplus personnel, it was decided that they be absorbed in equivalent posts or in the posts carrying lesser pay scales. The applicant was absorbed in a post carrying a lesser pay scale i.e., Rs 196-232 as against the post in the pay scale of Rs 200-250 from which he was declared surplus. The fixation of pay in such circumstances is determined by the instructions contained in the Govt. of India, Ministry of Defence letter dated 17.7.57 (Exbt.R1(A) extracted in para 6. I am satisfied that the applicant's pay on his transfer to the NAD Aluva after having been declared surplus has been fixed strictly in accordance with the instructions contained in the Annexure R1(A). Therefore, the applicant can have no grouse against the fixation of his pay in this manner. The respondent have also explained why some other persons who were working in the Cochin Naval Base on a lower pay scale than the applicant were ~~xxxxx~~ given higher fixation of pay in the NAD, Aluva on their becoming surplus and being absorbed by reversion.

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The main reason is that as compared to the applicant, they had rendered longer years service in the Cochin Naval Base.

12. I thus find that this application has no merit. Hence it is dismissed. There will be no order as to costs.

*NV Krishnan*  
28/3/92  
(NV Krishnan)  
Administrative Member