

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. NO. 71 OF 2013

Wednesday this the 12<sup>th</sup> day of June, 2013

**CORAM:**

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

K.Gopi  
(Ex-Refrigeration Engineer  
National Institute of Fisheries Post Harvest  
Technology and Training, Kochi – 682 016)  
Residing at Quarters No.6  
NIFPHATT Quarters, Kochi – 682 016

... Applicant

(By Advocate Mr.M.R.Gopalakrishnan Nair)

versus

1. Union of India represented by the  
Secretary to Government of India  
Ministry of Agriculture  
Department of Animal Husbandry and Dairying  
Krishi Bhavan, New Delhi – 1

2. The Secretary  
Ministry of Personnel Public Grievances & Pension  
Department of Personnel and Training  
New Delhi – 1

3. The Director  
National Institute of Fisheries Post Harvest  
Technology and Training  
Kochi – 682 016

... Respondents

(By Advocate Mr. George Joseph – Not present)

The application having been heard on 03.06.2013, the Tribunal  
on 12.06.2013 delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The case of the applicant is that he was appointed as Refrigeration  
Engineer in the pay scale of ₹ 6500-10500 in the erstwhile Integrated  
Fisheries Project, Kochi in January, 1986. Compared to the initial work

load, gradually the work load and responsibility increased manifold during 1987 and 1993 with the addition of cold storage, plate freezers, freezer containers, commissioning a Unit at Vizag. Appreciating the increase in the work load, according to the applicant, the Government constituted two Committees of which one was Cadre Review Committee. The Cadre Review Committee recommended for the upgradation of the post to meet the additional work load and also recommended higher pay scale of ₹ 8000-13500 which is equivalent to the pay scale of Group 'B' officers at the relevant point of time. In 2005 re-organization of Integrated Fisheries Project was carried out whereby the Electrical Section headed by an Assistant Engineer was brought under the control of Refrigeration Engineer. Thereafter the Mechanical Section was also brought under the control of Refrigeration Engineer. The applicant had made a representation dated 10.08.2009 which not having been responded, forced him to move the Tribunal in OA 1019/10. This was disposed of by the Tribunal by order dated 03.03.2011 directing the respondents to consider the pending representation with a time schedule. In pursuance of the same, the 1<sup>st</sup> respondent passed order dated 14.06.2011 rejecting the claim of the applicant.

2. Meanwhile the respondents upgraded the post of Operators (Ice Plant) and Freezing Plant Operators with Grade Pay of ₹ 4200/- The grade pay of the feeder grade to the post of Refrigeration Engineer was revised to ₹ 4200/- (Grade pay of Refrigeration Engineer is ₹ 4600/-). According to the applicant, revision of Grade pay from ₹ 2800 to ₹ 4600/- in respect of the post of Operators was more by evaluating the work load than by the replacement scale and further more on the recommendation of the pay

Commission. The grade pay of the post of Refrigeration Engineer was revised on the basis of general clause available in the Pay Rules. Since no effort was taken to get the pay scale commensurate with the work load, the applicant filed OA 101/2012 which however was dismissed in February, 2012. O.P(CAT) 1275/2012 was also dismissed but with an observation that the applicant is at liberty to move the appropriate forum under FR 9 (25) to establish his legal right to claim any special pay admissible as per rules. The applicant, therefore, filed a representation dated 07.05.2012.

3. As there is no response, this OA is filed seeking the following reliefs:-

- " i) To direct the 1<sup>st</sup> respondent to consider and pass orders on Annexure A-11 representation within a time frame to be fixed by this Hon'ble Tribunal.
- ii) To direct the respondents to grant the scale of pay of ₹ 8000-13500 with effect from 25.05.2005 to the petitioner without upgrading the post of Refrigeration Engineer.
- iii) To direct the respondents to grant the additional two increments by way of special pay reckoning additional work load and responsibilities entrusted on the applicant with effect from 25.05.2005."

4. The respondents have contested the OA. The facts are not denied. Their contentions is that the recommendation of the Cadre Review Committee is not binding on the Government. The revision of pay scale / grade pay of feeder grades (Operators (Ice Plant) / Freezing Plant Operators) which are feeder grade to Refrigeration Engineer, was on account of amendment of CCS(RP) Rules, 2008 whereby 50% of the highly skilled workers have to be upgraded to the pre revised pay scale of ₹ 4000-6000 to ₹ 4500-7000 and replaced in the revised corresponding Pay Band in

PB I with Grade Pay of ₹ 2800/- The remaining 50% were kept as it is. Similarly, the revision of pay scale took place in respect of Master Craftsman. The respondents have also contended that the post of ₹ 4000-6000 warrants Diploma in Engineering as the minimum qualification. Their Grade Pay was ₹ 4600/- which was in fact the pay scale for degree holders. Thus there was no justification for upgrading the pay of the applicant over and above what the post of already carrying.

5. Counsel for applicant submitted that the lone legal issue in this case is whether the post of Refrigeration Engineer deserves a higher pay scale or warrants evoking the provisions of Rule 9 (25) of the FR. This aspect, according to the counsel, has not been examined in proper perspective. According to the Counsel, despite due recommendation by the Cadre Review Committee which gave further justification to upgrade the post of Refrigeration Engineer, the respondents have not considered the same. If there be no justification for upgrading the pay scale, or the Grade Pay, by virtue of such recommendation by the Cadre Review Committee, at least additional benefit as per FR 9 (25) should have been granted to the applicant and similarly situated others.

6. Counsel for respondents was not available at the time of hearing and as such, evoking the provisions of Rule 16 of CAT (Procedure) Rules, 1987, the case has been considered and the reply filed by the respondents has been taken into consideration.

7. The Hon'ble High Court has dismissed the Writ Petition which means that the applicant is not entitled to any higher Grade Pay etc. For enjoying the benefit of Rule 9 (25) sufficient justification is to be given. Rule

(25) reads as under:

*"F.R 9 (25) Special Pay means an addition, of the nature of the pay, to the emoluments of a post or of a Government servant granted in consideration of*

*a, the specially arduous nature of the duties  
or  
b, a specific addition to the work or responsibility."*

8. If the cadre Review Committee has given sufficient justification for revision of pay scale, the same justification will hold good for consideration of grant of special pay. If the statement of the applicant in the OA is given its face value that there has been additional work load in 1987 and 1992 and certain other sections such as Mechanical Section and Electrical Section have been brought under the control of Refrigeration Engineer. They may constitute additional work load but what is to be seen is whether they satisfy the conditions of Rule 9 (25) which relates to special duties of work and specific addition of duties or responsibilities. It appears that the respondents have not considered the case of the applicant from this point of view. As such, it is necessary that the respondents get a real picture of the entire case keeping in view the latitude given by the Hon'ble High Court to the petitioner and in case justification exists for grant of additional grant of benefits under Rule 9 (25), the applicant may be considered for such grant. The Tribunal is incapacitated to certify whether the work load attached to the post of Refrigeration Engineer satisfies the conditions under Rule 25 or not.

9. In view of the above, OA is disposed of with a direction to the 3<sup>rd</sup> respondent to constitute a Committee in which the applicant or his representative may be given audience to furnish his case. The Committee so constituted may trace out the background such as addition of Electrical

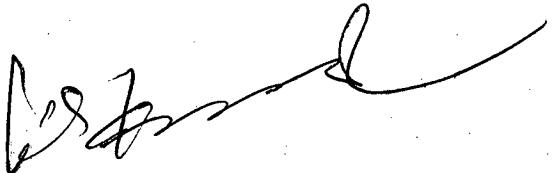
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Section and thereafter Mechanical Section under the control of Refrigeration Engineer and ascertain whether there is justification in extending the benefit under FR 9 (25) to the applicant. If so, the report of the Committee be sent to the 1<sup>st</sup> and 2<sup>nd</sup> respondent for further action.

10. Time calendered for the report to be furnished by the 3<sup>rd</sup> respondent is three months and for consideration by other respondents of the recommendations of the Committee so made is three months thereafter. No costs.

Dated, the ---12<sup>th</sup> June, 2013.

  
K GEORGE JOSEPH  
ADMINISTRATIVE MEMBER

  
Dr. K.B.S. RAJAN  
JUDICIAL MEMBER

VS