

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

Date of Decision : 5th day of March, 1990

PRESENT

HON'BLE SHRI N.V. KRISHNAN, ADMINISTRATIVE MEMBER
AND

HON'BLE SHRI A.V. HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 90/1989

Applicants

1. Sasidharan Pillai C.
2. Sudheer K.K.
3. P.L.Clarance
4. G.S Sreekumar
5. P.Balasubramanyan
6. K.G.Saju
7. M.K.Unnikrishnan
8. V.K.Chandran
9. K.Aravindakshan
10. R.K.Kurup
11. P.N.K.Krishnan Nair
12. K.K.Pushpangathan
13. K.P.Chandran Pillai
14. E.I.Peter
15. K.Bhaskaran
16. N.Appukuttan Nair.

Versus

Respondents

1. Union of India, rep. by
Secretary, Ministry of Defence,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters, New Delhi.
3. Chief Engineer,
Military Engineering Service,
Cochin Zone, Naval Base, Cochin.
4. Commander Works Engineers,
Kataribagh,
Naval Base, Cochin.

Shri Abdul Razak Counsel for the Applicants
Mr. P.S.Biju, ACGSC Counsel for the Respondents.

ORDER

(Shri N.V.Krishnan, Administrative Member)

The 16 applicants in this case are Refrigeration

Mechanics employed under the Chief Engineer, MES,

Cochin Zone, Naval Base (R-3). Their grievance is that they have not been given the Highly Skilled Pay scale of Rs 330-480 applicable to Refrigeration Mechanics from 16.10.81 and they seek to quash the letter dated 9.4.88 from the 4th Respondent (Commander, Works Engineers, Cochin) to the 16th applicant informing him of the reasons why he cannot be granted the pay scale of Rs 330-480 with effect from 16th October, 1981. They also seek consequential relief in the shape of the revised pay scale applicable to them w.e.f. 1.1.86 on the basis of the decision taken on the 4th Pay Commission's Recommendations.

2. The grievance of the applicants arise in the following manner.

2.1 The Third Pay Commission did not make any final recommendation about the pay scales applicable to Refrigeration Mechanics and certain other classes of workmen. It would appear from the letter dated 11.5.83 of the first Respondent (Annexure- A1) that the Third Pay Commission recommended the setting up of an Expert Classification Committee to make recommendations about the classification of Industrial workers in the MES and their fitment in appropriate scales of pay. In the meanwhile, according to the Third Pay Commission recommendation, accepted by the Government of India, Refrigeration Mechanics were to continue to receive the

pre-revised pay scale of Rs 260-400.

2.2 By the letter dated 11.5.83 (Annexure-A1), the Government of India communicated their sanction, based on the decisions taken by them on the recommendations of the Expert Classification Committee appointed in terms of para 19 of Chapter 19 of the Report of the Third Pay Commission and of the Committee on a Common Category Jobs. One of the sanctions related to the introduction of higher grades in jobs mentioned in Annexure-III to that letter. One of the jobs mentioned is Refrigeration Mechanic and the higher scale to be introduced was shown as Rs330-480. This is one of the five scales of pay sanctioned by this letter for industrial workers in the MES and is described as Highly Skilled Grade II.

2.3 When the benefit of this sanction was not given to the 16th applicant, he filed an original petition No. 5308/85 in the High Court of Kerala which was transferred to this Tribunal and registered as TA 158/87. His grievance was that though the government accepted the recommendation of the Expert Classification Committee, as stated in the Annexure-A1 letter, he was not given the higher pay scale of Rs 330-480, though Refrigeration Mechanics working in Eastern Command have been allowed such higher scale. That application was disposed of by an order dated 8.2.88 (Annexure A-3). The Respondents

were directed to finalise, without delay, the recommendations of the Expert Classification Committee for fitment of the Refrigeration Mechanics in the scale of Rs 330-480 and grant consequential benefits to the applicant.

2.4 In implementing this direction, Respondent-4 sent a detailed letter dated 9.4.88 (Annexure A-4) to the 16th applicant. It is stated therein that as a result of the Annexure A1 letter, 3 pay scales have been made applicable to the cadre of Refrigeration Mechanics. The Highly Skilled Grade I of Rs 380-560 has been made applicable to 15% of the posts, Highly Skilled Grade II of Rs 330-480 has been made applicable to 20% of the posts and the Skilled Grade of Rs 260-400 has been made applicable to the remaining 65% of the posts. The promotion to Highly Skilled Grade I and Highly Skilled Grade II posts is subject to passing the departmental trade tests and seniority. The 16th applicant was informed that there were only 7 unreserved vacancies in the Highly Skilled Grade II and that as his place in the seniority list of Skilled Grade Refrigeration Mechanic was 23rd, his turn for promotion had not yet arisen and therefore the question of granting him the pay scale of Rs 330-480 does not arise.

2.5 The applicants have contended that this interpretation of the Annexure A1 letter is totally

baseless. They assert that, according to the Annexure A1 letter, the pay scale of all posts of Refrigeration Mechanics have been revised to Rs 330-480. Therefore, the applicants are entitled to the fixation of pay scales from 16.10.81 from which date the revised pay scales were implemented.

3. The Respondents have filed a reply affidavit denying these allegations. In substance, it is contended that the pay scale of Rs 330-480 is an additional pay scale to be introduced for Refrigeration Mechanics and not a pay scale to substitute the pre-revised pay scale of Rs 260-400. Their other submissions are as mentioned in the reply given to the 16th applicant by Respondent-4 in his letter dated 9.4.88 (Annexure A-4).

4. We have perused the records of the case carefully and heard the arguments of the counsel on either side.

5. The learned counsel for the applicant submitted as follows :-

Prior to the revision of pay scales on the basis of the Annexure A1 order, under the Recruitment Rules (Annexure-A6), the post of Refrigeration Mechanic carried the pay scale of Rs 260-400. It could be filled

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by direct recruitment or by promotion from the Feeder category post of Motor Pump Attendant which was on the pay scale of Rs210-290. The Refrigeration Mechanics then got promoted as Charge Mechanic (Refrigerator) on the scale of Rs 380-560.

As a result of the recommendation of the Expert Classification Committee and the sanction in the Annexure-A1 letter, the Industrial workers in the MES will be fitted in 5 scales of pay referred to therein.

These are the unskilled, semi-skilled, ^{skilled}, highly skilled Gr. II and highly skilled grade I pay scales. These apply to the posts so classified by the Committee and accepted by the Government. The details are set forth in Annexure-I to that letter.

The Feeder post of Motor Pump Attendant to the promotional post of Refrigeration Mechanic was fitted in the skilled grade of Rs 260-400. That being the case, it cannot be that the post of Refrigeration Mechanic which is the promotional post for the Motor Pump Attendant should also carry the same pay scale of Rs 260-400 for 65% of posts in the cadre, as stated in the counter affidavit. It is for this reason that the Annexure-III to the aforesaid letter directs that the pay scale of Rs 330-480 should be applicable to all the posts of Refrigeration Mechanics.

6. The basic thrust of the argument of the learned counsel of the applicants is that, the pay scale of the Refrigeration Mechanic cannot be the same as the pay scale of the feeder post of Motor Pump Attendant, which carried a lesser pay scale earlier. There are only two categories of Refrigeration Mechanics, namely, Higher Skilled Grade II on a pay scale of Rs 330-480 and Highly Skilled Grade I on a pay scale of Rs 380-560 and not three as contended by the respondents, their third being the Skilled Grade of Rs 260-400.

7. Though the matter has not been specifically raised in the pleadings of the applicants it is contended that by equating the promotional post of Refrigeration Mechanic with the feeder post of Motor Pump Attendant in the matter of fixation of revised pay scale, unequals have been treated as equals resulting in a serious discrimination and a denial of legitimate benefits to the applicants.

8. We have carefully considered the arguments advanced by the learned counsel of the applicant. It may be seen from the Annexure-A1 letter dated 11th May, 1983 that the entire classification structure of the posts of industrial workers in the MES was changed, based on the recommendations of the Expert

Classification Committee. That Committee recognised the need for 5 grades of pay, namely, Unskilled, Semi-skilled, Skilled, Highly Skilled Gr.II and Highly Skilled Gr.I. All the existing posts were appraised and evaluated and were classified into one of the five categories mentioned above. In certain cases, the new classification even resulted in the down-gradation of the job, as compared to the earlier position, the revised pay scale was less than the ~~prescribed~~ ^{rev/s} prescribed pay scales. Basically, the Expert Classification Committee recognised the 5 categories of posts mentioned above. This recommendation was accepted and implemented. In addition, two other decisions were taken. Firstly, in respect of the jobs mentioned in Annexure II to the letter, it was decided that certain operational posts would be upgraded from Skilled Grade to the Highly Skilled Grade-II and from the highly skilled Grade II to Highly Skilled Grade I. Secondly a decision was taken that in respect of certain jobs mentioned in Annexure III to that letter, higher grades may be introduced. These jobs include the job of Refrigeration Mechanics. The pay scale of Rs 330-480 applicable to Highly Skilled Grade II was introduced so that the Refrigeration Mechanics got two tier promotions as against one level of promotion earlier.

Before the revision of the pay scales, the Refrigeration Mechanics in the pay scale of Rs 260-400 could become a Charge Mechanic in the pay scale of Rs 380-560.

As a result of the decision taken by the letter at Annexure-I, a two tier promotion became applicable.

The Refrigeration Mechanic is classified as skilled grade on the pay scale of Rs 260-400. On the passing of certain trade test, he can first get promoted to the Highly Skilled Gr. II in the pay scale of Rs 330-480. 20% of the posts have been kept on this grade. He can thereafter get a second promotion to the Highly Skilled Grade I on Rs 380-560 applicable to 15% of the cadre.

9. The learned counsel has obviously misinterpreted the Annexure A1 order. It is incorrect to state that the pay scale of Rs 330-480 has been made applicable to all the posts of Refrigeration Mechanics. If that was the intention it was not at all necessary to specify the posts of Refrigeration Mechanics in Annexure III to the aforesaid letter. It would have been sufficient to state that the post of Refrigeration Mechanics had been declared as Highly Skilled Grade II posts, in which case on the basis of the directions relating to Annexure I to that letter, the Refrigeration Mechanics would have automatically got the pay scale of Rs 330-480.

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10. The learned counsel for the applicant cited several rulings to support his contention and we may now consider them.

10.1 Bhagwan Das Vs. State of Haryana [1987 (4) SCC 6347 cited by him does not lend any support to his contentions. That was a case where the Supreme Court found that the petitioners were doing the same work as the 2nd to 6th Respondent in that case and therefore, there was a direction that they should be paid the same wages as those Respondents. That decision does not help the applicant in the present case because here, the classification of the posts with different pay scales has been made on the basis of the recommendations of an Expert Classification Committee, as suggested by the Third Pay Commission. That Committee recommended the introduction of a higher scale for the Refrigeration Mechanics in addition to the existing scale and not in substitution thereof. This was done both after considering the duties and also to provide better opportunities of promotion. Further, the promotion can be given only after passing the trade tests. Therefore, the applicants cannot claim the *same pay as the pay given to those* *while working* *as the pay given to those* classified as Highly Skilled Grade II workers.

10.2 Similarly, reliance on Jagdish Prasad Singh Vs. Bhagwat Prasad [1981 (3) SCC 610] is also not helpful to the applicant. That was a case where a joint cadre of teachers of the Subordinate Education Service belonging to the Boys' School and the Higher Secondary Teachers of the same service were bifurcated for totally unreasonable grounds. The Supreme Court observed that it was not possible for the Respondent State Government to dislodge the conclusion that the bifurcation was the outcome of an attempt to provide quick promotional avenues to those who were lower down in the joint cadre and would not have come within the range of considerations otherwise.

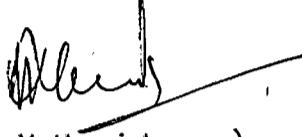
10.3 The other two decisions, namely, PS Shwaney & RK Aggarwal [1988 (1) SCC 353] and [1988(2) SCC 386] Government of Andhra Pradesh Vs. R.Murali Bhanu Rao do not appear to be relevant for the disposal of this application.

10.4 After the case was closed for orders, the applicant's counsel produced a copy of an unreported decision of the High Court of Andhra Pradesh in W.P. 6608 of 1988. That judgement too is distinguishable because the relief given to the petitioner therein is on the footing that they were "deputed for the post designated as Skilled Refrigeration Mechanic Gr.II (sic)

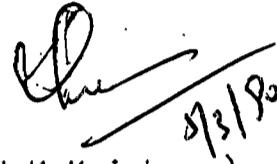
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which carried the pay scale Rs 330-480". This does not mean that there is no post of Refrigeration Mechanic carrying the scale Rs 260-400.

11. In the circumstances we are of the view that the applicant has not made out any case and hence the application is rejected.


(A.V. Haridasan)

Judicial Member


(N.V. Krishnan)
Administrative Member

5th day of March, 1990.