

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 97
K. A. No.

1991

DATE OF DECISION 7.2.1992

P.K. Ramanan and K.K. Ramanan Applicant (s)

Mr. C. P. Ravindranath Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary, Ministry of Defence
Govt. of India, New Delhi and others

Mr. N. N. Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Ye
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicants are aggrieved by refusal of the respondents to grant pay scale of Rs. 260-400 from the date of their appointment as carpenter based on Annexure-A and Annexure-B judgments of this Tribunal.

2. The applicants were appointed as temporary carpenters in 1984 in the pay scale of Rs. 260-400 but they were granted only a pay scale of Rs. 210-290 which according to them is contrary to the recommendation of the Third Pay Commission for the aforesaid post. The applicants along with similarly situated persons agitated the matter.. Accordingly, the

the first applicant was granted the scale of Rs. 260-400 from 2.1.85 to 28.6.85. Similarly, the second applicant was also granted the same scale from 15.1.85 to 30.3.85. Their claim for giving retrospective benefit of higher scale of pay from the date of original appointment was not considered. The respondents have effected a reduction in the the scale of their pay and brought back to the scale of pay of Rs. 210-290 in 1985. This was effected without giving any notice. The applicants did not challenge the same because of the pendency of O.P. 10320/83 which was filed by similarly situated persons for getting higher pay scale with retrospective effect. That case was disposed of with the direction for consideration of the representation by the respondents. When the respondents rejected the representations, O.P. 871/86 was filed before the High Court and later it was transferred to this Tribunal and re-numbered as T.A. 829/86. This application was heard and allowed by the Tribunal as per Annexure-A judgment dated 8.9.86 with the following observations:

"In the light of the foregoing, the applicants are entitled to the pay scale Rs. 260-400 at par with the pay scale of shipwright grade-II with effect from 16th October, 1981 and any consequent benefit arising therefrom in the matter of promotion to the next higher grade. The application is ordered accordingly."

3. In another ~~xxx~~ Original Application O.A. 417/88 raising similar issues, this Tribunal passed Annexure-B judgment dated 31.1.90 holding that there is no distinction between pre-1981 and post 1981 appointment in the post of Carpenter regarding eligibility to the higher pay scale. The operative

portion of the judgment is extracted below:

" We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned counsel for the respondents indicated that the aforesaid judgment of the Tribunal at Ann.-Bis applicable only to those Carpenters who were appointed before 10th October, 1981. A perusal of the judgment however indicates that the applicants in that case were appointed as Carpenters between 1958 and 1983. As such, the judgment makes no distinction between pre-1981 and post 81 appointees. Since the applicants before us are identically circumstanced as the petitioners in TAK 829 of 1986 we allow this application with the direction that the applicants should be remunerated in the pay scale of Rs. 260-400 with effect from 16th October, 1981 or the dates of their original appointment, whichever is later. All consequential benefits also should be made available to them in accordance with law."

4. Based on the decision of the Tribunal in Annexure-A and Annexure-B, the applicants claimed for getting the scale of pay of Rs. 260-400 from the date of their appointment by filing Annexure-C representation (this was filed by the second applicant). Both the applicants received orders rejecting the request for fixation of the pay on the basis of the judgment. They are Annexures 'D' and 'E'. The applicants are challenging these orders and also seek for a declaration that they are entitled to higher scale of pay of Rs. 260-400 from their initial appointment.

5. The respondents in the reply affidavit submitted that ^{by 2} Annexure R-1 proceedings of the Govt. dated 15.10.84 ⁴ ~~apart from~~ the post of Carpenter (SK) to be made from some semi skilled grade who had rendered two years' service in the pay scale of 210-290 and on completion of the prescribed period of service, they are to be brought over to the skilled cadre in the pay scale of Rs. 260-400. The first applicant was appointed as Carpenter (SS) on casual basis for the period from 24.9.84 to 21.12.84 in the pay scale of Rs. 210-290. He was absorbed

52

against regular post of Carpenter on 30.3.88. Similarly, the second applicant was appointed as Carpenter (SS) on casual basis for a specific period from 24.9.84 to 24.12.84 in the pay scale of Rs. 210-290. He was absorbed against regular post of Carpenter (SS) on 26.1.87. They are eligible to come over to the scale of Rs. 260-400 after completion of two years from the date of their absorption in the semi skilled grade. Accordingly, the first applicant was granted higher pay scale from 30.3.90 and the second applicant from 26.1.89. But the respondents are not able to distinguish the facts in O.A. 417/88 (Annexure-B judgment) and explain how the benefit of that judgment is not applicable to the applicants herein. However, regarding the Transferred Application No. 829/86 (Annexure-A judgment) the respondents have submitted that they were drawing the pay scale of 225-308 prior to 16.10.81. Based on Expert Classification Committee Report, the post of Carpenter Gr.III were down graded to Rs. 210-290. This pay scale was subsequently upgraded to Rs. 260-400 w.e.f. 15.10.84 as per the recommendation of the Anomaly Committee. This Tribunal held that the decision to down grade the post of Carpenter is illegal, and directed the respondents to restore status of Carpenters to that of skilled grade and allowed the application.

6. The learned counsel for the applicants, Mr. C. P. Ravindranath, submitted that the applicants were given higher pay scale of 260-400 from 2.1.85 and 15.1.85 respectively.

But, this was stopped w.e.f. 28.6.85 and 30.6.85 without assigning any reason or notice. This is illegal. He further submitted that the decision of this Tribunal in Annexure-A squarely applies to the facts of this case and the applicants are entitled to the benefit of the declaration of law therein. Both these arguments are sound and can be accepted on the facts and circumstances of the case. The respondents have given some reason for the revision of the pay scale of the applicants from Rs. 260-400 to 210-290. But they failed to establish that the reduction has been effected after due notice to the applicants and hearing their objections. So long as such notice was not given to the applicants, the action of the respondents cannot be supported. It is true that the claim of the applicants based on this ground is belated. But, having regard to the facts that the original ⁴upholding the same issue was pending and the applicants based reliance on the outcome of the application, they are well within their right to place reliance on Annexure-A and Annexure-B judgments.

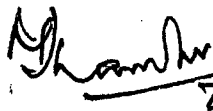
7. The respondents were not able to distinguish the facts of Annexure-A case and establish that the applicants cannot be granted the benefit of declaration of law made by this Tribunal. In fact, this Tribunal followed the Annexure-A judgment in Annexure-B and held in categorical terms that the applicants in TA 829/86 are Carpenters appointed between the period 1978-83 and they were declared

4

as persons entitled to the pay scale of Rs. 260-400 at par with the pay scale of Shipwright Grade-II w.e.f. 16th October, 1981. It was further held in that case that the applicants in the Transferred case should be given same scale of pay i.e. Rs. 260-400 and held that there is no distinction between pre-1981 and post-1981 appointments to the post of Carpenter.

8. On a perusal of these judgments and consideration of the claim of the applicants, we are of the view that the ~~a-p~~ applicants are identically circumstanced as in the case of the petitioners in TAK 829/86 and O.A. 417/88 (Annexure-A and B judgments). The benefit were originally granted and they were given high pay scale of Rs. 260-400 but they were denied the same without assigning any reason or notice. Hence, having regard to the facts and circumstances of the case, we are of the view that the applicants are entitled to reliefs. Accordingly, we set aside Annexure-D and E and allow the application with a declaration ~~xxxxxxx~~ that the applicants are eligible for the higher pay scale of Rs. 260-400 in the grade of Carpenter from their respective date of appointment with all consequential benefits. We also direct the respondents to disburse the arrears to the applicants in respect of the period for which they were not given the benefit of the pay scale of Rs. 260-400.

9. The application is accordingly allowed. There will be no order as to costs.


7.2.92

(N. DHARMADAN)
JUDICIAL MEMBER


7/2/92

(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER