

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 128/09

Dated this the 5th day of April, 2010

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

A Vijayakumar
MES No. 372338, Meter Reader
O/o the Assistant Garrison Engineer (B/R)
District Headquarters Hospital PO
Kannur-670 017

Applicant

By Advocate Mr. CSG Nair

Vs.

- 1 Union of India
represented by its Secretary
Ministry of Defence, South Block
New Delhi-110 001
- 2 The Engineer -in-Chief
Army Headquarters
Kashmir House, DHQ PO
New Delhi
- 3 The Chief Engineer
Southern Command
Pune-12
- 4 The Chief Engineer
Cennai Zone, Island Ground
Chennai-600 009

5 The Commander Works Engineer
YMCA Buildings
Willington Nilgiris

6 The Garrison Engineer
Red Fields
Coimbatore-18

7 The Assistant Garrison Engineer (B/R)
District Headquarters Hospital PO
Kannur-17

Respondents

By Advocate Mr. Sunil Jacob Jose SCGSC.

The Application having been heard on 15.3.2010 the Tribunal delivered the following:

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is at present working as Meter Reader under the 7th respondent. He joined service in the MES at Amritsar Cant initially as a Motor Pump Operator on casual basis on 16.12.1986, which was terminated on 31.1.1987. However, he was re-appointed as Mate by order dated 3.9.1987 along with 44 others (A2). Those who were having ITI qualification were given pay scale of Rs. 900-1400 and others were granted the lower scale of Rs. 800-1150. Aggrieved by the denial of higher pay scale, Sri Rajiv Kumar and 10 others filed O.A. 918/PB/92 before the Chandigarh Bench of the Tribunal which was allowed and implemented (Annexure A-3) On hearing about the same, the applicant submitted represented for higher pay scale (A-4). While so he appeared for trade test of Meter Reader and passed it on 22.4.1998 and appointed by order dated 15.7.1998 (A-5). He got transferred to the present place on compassionate ground on 7.4.2000. Aggrieved by the non-implementation of orders in O.A. 918/92 before the Chandigarh

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Bench Sri Kashmir Singh and others filed O.A. 189/PB/2002(A-6) which was also implemented. The applicant having been transferred to Kerala he was not aware of the development. Except applicant, all others were granted the higher pay scale. On knowing about the same, he submitted a representation on 12.1.2006 (A-7) and a consolidated representation through proper channel. As there was no response, he filed this Application for a direction to the respondents to grant him the higher scale of Rs. 900-1400 from the date of initial appointment with all consequential benefits. Except the applicant all others who were recruited along with him were granted the higher pay scale, the order in O.A. 918/92 was a judgment in rem and as such it should be made applicable to all those similarly situated.

2 The respondents opposed the O.A by filing reply statement. They submitted that the applicant who was not possessing the minimum qualification of ITI prescribed in the Recruitment Rules for the post of Mate was appointed to the post in the lower scale of pay of Rs. 800-1150. He appeared for the trade test of Meter Reader and he was further promoted as Meter Reader (SK) vide Order No. 83 dated 17.7.1998 and posted to AGE B/R Cannanore on his own request on compassionate grounds. Moreover, he had not physically worked as tradesman from his initial appointment till the date of promotion as Meter Reader hence he is not entitled to get arrears of wages as tradesman in the scale of Rs. 950-1500.

3 The applicant filed rejoinder stating that he was not aware of the cases and as such he could not approach the Tribunal earlier. All those who were recruited along with him and not having ITI certificate were working as Mates and they were granted higher pay scale. The applicant is similarly placed as that of the applicants in O.A.

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918/PB/92 and 189/PB/2002. He also relied on the judgments of the Apex Court in Inder Pal Yadav Vs. Union of India (1985) 2 SCC 648 and Amrit Lal Berry Vs. CCE(1975) 4 SCC 714 in support of his grounds and submitted that the benefit of court judgments should be extended to similarly situated employees.

4 We have heard learned counsel for the parties and perused the records produced before us.

5 Admittedly, the applicant and several others were appointed to the post of Mate for which ITI was an essential qualification. However, the respondents granted lower scale to the persons not having the minimum qualification. A few of them who were appointed along with the applicant, challenged the grant of lower scale before the Chandigarh bench of the Tribunal through O.A 918/PB/92 and obtained a favourable judgment by which they were granted the higher scale with consequential benefits. However, in view of the fact that he sought transfer on compassionate grounds to Kerala he was not aware of the judgment of the Chandigarh Bench of the Tribunal. When he came to know about the same, he represented but there was no response. The case of the applicant is that the respondents should have granted the benefit of the judgment to him also without waiting for him to represent or move the Tribunal. The applicant has relied on the judgment of the Apex Court in Inder Pal Yadav V. Union of India (1985)2 SCC 648 and Amrit Lal Berry V. CCE (1975) 4 SCC 714. In Inder Pal Yadav's case the Apex Court held that:

"Those who could not come to the court need not be at comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by any one else of the hands of this Court."

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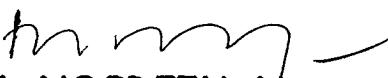
In Amrit Lal Berry's case the Apex Court held that:

"We may however, observe that when a citizen is aggrieved by the action of a Government Department has approached, the court and obtained a declaration of law in his favour, others in like circumstances would be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court."

In short, the dictum laid down by the Apex Court is that the Department should grant the benefit of a judgment to similarly situated persons and that they need not approach the Court for identical orders.

6 We follow the dictum laid down by the Apex Court in the cases above and allow the O.A. We direct the respondents to grant the scale of pay of Rs. 900-1400 to the applicant from the date of his initial appointment as Mate and grant consequential benefits of pay fixation, etc. arising therefrom. However, the actual payment of arrears shall be limited to three years prior to the date of filing of this O.A.

Dated 5th April, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

kmn


GEORGE PARACKEN
JUDICIAL MEMBER