

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 149 of 2010

Monday....., this the 12th day of December, 2011

CORAM:

**Hon'ble Justice Mr. P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member**

P.V. Mathew,
Assistant Passport Officer,
Passport Office,
Thiruvananthapuram

... Applicant.

(By Advocate Mr. P. Ramakrishnan)

v e r s u s

1. Union of India represented by
The Secretary,
Ministry of External Affairs,
New Delhi : 110 001

2. The Joint Secretary (CPV) and
Chief Passport Officer,
Ministry of External Affairs,
New Delhi : 110 001

3. The Regional Passport Officer,
Passport Office,
Thiruvananthapuram.

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 29.11.2011, the Tribunal
on 12-12-11..... delivered the following:

ORDER

Hon'ble Mr. K. George Joseph, Administrative Member -

The applicant in this O.A is presently working as Assistant Passport Officer in the Regional Passport Office, Thiruvananthapuram. While working as Grade-V (Assistant) he was promoted to the post of Superintendent with

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effect from 01.11.1999 in the pay scale of Rs. 5500-9000. He had highlighted before the respondents the glaring disparity in the pay scale of Superintendents in the Passport Organisation in comparison with higher pay scale of comparable cadres in the Central Secretariat and other departments of the Government in implementation of the Vth Central Pay Commission (CPC) report. The Vth CPC had recommended upgradation of 50 posts of Superintendents, out of which 50% were to be for direct recruits and 50% were to be upgraded in the feeder cadre. It could not be implemented by the Ministry due to protracted correspondence with the AIPEA which demanded upgradation for the entire cadre of Superintendents. The proposal to upgrade the pay scale of all Superintendents to the scale of Rs. 6500-10500 was sent to VI CPC for decision. However, the VI CPC upgraded the pay scale of the Superintendents to Rs. 7450-11500 (pre-revised). The Passport Officer, Thiruvananthapuram, had notionally fixed the pay of the applicant in the Pay Band of Rs. 9300-34800 plus Grade Pay of Rs. 4600/- which corresponds to the pre-revised scale of Rs. 7450-11500. His pay was fixed without first upgrading to the scale of Rs. 6500-10500 with effect from an appropriate date prior to 01.01.2006 for accruing the benefit of incremental weightage in the revised pay structure at par with other Group-B officers. As directed in the order disposing of the O.A. No. 745/2009, the respondents considered his representation, but it was rejected vide Annexure A-9 order dated 13.01.2010. Aggrieved, he has filed this O.A, praying for the following reliefs:

- (i) Issue an order quashing/setting aside Annexure A-9 order dated 13.01.2010;
- (ii) To declare that the applicant is entitled to get his pay fixed in the scale of Rs. 6500-10500 from the date of his promotion as Superintendent and consequential refixation benefit under FR 22(a);
- (iii) To declare that the applicant is entitled to the revised pay



corresponding to the upgraded pre-revised scale of Rs. 7450-11500 with incremental weightage on par with other similarly Group-B officials in subordinate offices; and

(iv) Such other orders and directions as are deemed fit in the facts and circumstances of the case.

2. The applicant submitted that the 2nd respondent should have upgraded his pay from the lower pay scale of Rs. 5500-9000 to Rs. 6500-10500 before fixing his pay in the scale of Rs. 7450-11500. By not fixing the applicant's pay correctly, he has been subjected to a recurring loss in his pay and emoluments. The applicants now faces the threat of deduction of his basic pay from Rs. 18460/- to Rs. 18090/- with effect from 01.01.2006 and consequent recovery on the basis of the wrong calculation as arrived at in the impugned order at Annexure A-9.

3. The respondents in their reply statement submitted that the VI CPC had upgraded the pay scale of the Superintendents from Rs. 6500-10500 to Rs. 7450-11500. They have fixed his pay as per CCS (Revised Pay) Rules, 2008. The applicant's case was properly examined and his pay was fixed correctly. The VI CPC was requested to upgrade the pay scale of all the Superintendents in the pre-revised scale of Rs. 6500-10500. However, it was upgraded the pay scale of Superintendents to Rs. 7450-11500 corresponding to the revised Pay Band of RS. 9300-34800 with Grade Pay of Rs. 4600/-.

4. We have heard Mr. P. Ramakrishnan, learned counsel for the applicant and Mr. Sunil Jacob Jose, learned SCGSC appearing for the respondents and perused the records.

5. The undisputed fact is that the Superintendents in the Passport



Organisation were getting less pay than the Officers in comparable cadres in the Secretariat and other departments of the Central Government. The recommendation of V CPC to upgrade 50 posts of Superintendents from the pay scale of Rs. 5500-9000 to Rs. 6500-10500 could not be implemented due to protracted correspondence with the AIPEA which demanded that the entire cadre of Superintendents should be upgraded. Meanwhile, the VI CPC upgraded the scale of the Superintendents to the Pay Band of Rs. 9300-34800 plus Grade Pay of Rs. 4600/- which corresponded to the pre-revised scale of Rs. 7450-11500, higher than the pay scale of Rs. 6500-10500. The Government of India had not rejected the recommendation of the V CPC to upgrade 50 posts of Superintendents. Protracted correspondence made by AIPEA for upgradation of the entire cadre of Superintendents was the only cause of delay in implementing it. The VI CPC had upgraded the entire cadre of Superintendents to the higher grade of Rs. 7450-11500 (corresponding Pay Band Rs. 9300-34800 with Grade Pay of Rs. 4600/-) instead of Rs. 6500-10500 as proposed by the Department. The Government had accepted and implemented the upgradation by fixing the pay of the Superintendents in the Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4600/-. The upgradation of the pay scale of Rs. 6500-10500 to the scale of Rs. 7450-11500, implies in the facts and circumstances of the instant case, prior upgradation of the scale of Rs. 5500-9000 to the scale of Rs. 6500-10500.

6. The Grade Pay for the pre-revised merged scale of Rs. 5500-9000 and Rs. 6500-10500 is notified as Rs. 4200/-. The Grade Pay of Rs. 4600/- is made applicable only to the pre-revised scale of Rs. 6500-10500 after upgrading the scale to Rs. 7450-11500. The applicant falls in this category as he is granted the Grade Pay of Rs. 4600/-. If that is so, the respondents



cannot turn around and say that the applicant is granted the Grade Pay of Rs. 4600/- against his pre-revised scale of Rs. 6500-10500. Unless the applicant's pay is refixed from Rs. 5500-9000 to Rs. 6500-10500 for upgradation to the scale of Rs. 7450-11500, he cannot draw the Grade Pay of Rs. 4600/- in the Pay Band of Rs. 9300-34800 in the revised pay structure with effect from 01.01.2006. Therefore, it is evident that the applicant is eligible for upgradation in the pre-revised scale from Rs. 5500-9000 to Rs. 6500-10500 from the date of promotion as Superintendent from 01.01.1999 before fixing his pay in the new pay structure. The stand of the respondents that they have followed the CCS (Revised Pay) Rules, 2008 in fixing the pay of the applicant is not to the point. The issue raised by the applicant in his representation dated 24.11.2008 that the double scale jump fixation from Rs. 5500-9000 to Rs. 7450-11500 without the initial upgradation to the scale of Rs. 6500-10500 with effect from a date prior to 01.01.2006 is against the Pay Rules resulting in a disadvantage to him has not been considered at all in the impugned order dated 13.01.2010. The impugned order is vitiated for not having considered the relevant fact in arriving at a decision to reject the representation of the applicant and is, therefore, liable to be set aside. Accordingly, it is ordered as under.

7. Annexure A-9 order dated 13.01.2010 is set aside. The respondent No.2 is directed to consider the representation of the applicant dated 24.11.2008 afresh in the light of the above observation and dispose of the same by a reasoned order within a period of three months from the date of receipt of a copy of this order.



8. The O.A. is allowed to the extent indicated above. No order as to costs.

(Dated, the 12th December, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

cvr.