

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 180 of 2012

Tuesday, this the 11th day of September, 2012

CORAM:

**HON'BLE MR. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. T.T. Kasmi Koya, aged 55 years,
S/o. P. Koya (late),
Head Constable, Lakshadweep Police Organisation,
Kavaratti PO., UTL,
Residing at : Kavaratti.
2. P. Sayed Mohamed Koya, aged 56 years,
S/o. M.K. Mohammed Koya (late),
Head Constable, Lakshadweep Police Organisation,
Kavaratti PO, UTL, Residing at : Kavaratti.
3. T.P. Ahmed, aged 61 years,
S/o. Kunhi Kunhi A.P. (late),
(Retd. Head Constable, Lakshadweep Police
Organisation, Kavaratti PO., UTL),
Residing at : Thottathupura House, Kavaratti. Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Home Affairs, New Delhi-110 001.
2. The Administrator, Lakshadweep Administration,
Union Territory of Lakshadweep, Kavaratti-682 555.
3. The Superintendent of Police, Union Territory of
Lakshadweep, Kavaratti-682 555. Respondents

[By Advocates : Mr. A.D. Raveendra Prasad, ACGSC (R1)
Mr. S. Radhakrishnan (R2&3)]

This application having been heard on 03.09.2012, the Tribunal on
11-09-12 delivered the following:



ORDER

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

The applicants are non-matriculate police constables in the Union Territory of Lakshadweep. As per the recommendations of the IV Central Pay Commission (CPC), the constables with SSLC qualification were given the pay scale of Rs. 950-1400 and those with lower qualification were given the pay scale of Rs. 825-1200. The Lakshadweep Administration fixed the pay scale of the constables in the lower pay scale as the qualification prescribed for the police constable in the Recruitment Rules was 8th standard pass. In the light of the directions given by this Tribunal in the order in O.A. No. 1489/1995 and the judgement of Hon'ble High Court of Kerala in O.P.No. 9838/1998 and the recommendations of the V CPC, the Ministry of Home Affairs extended the pay scale of Rs. 3050-4590 (Rs. 950-1400 in the IV CPC) to the constables of Union Territory of Lakshadweep with effect from 26.02.2004. In the order in O.A. No. 751/2007, it was declared that the applicants therein and similarly situated constables whose qualification is matirculation and above are entitled to the pay scale of Rs. 3050- 4590 with effect from 01.01.1996. The representations of the applicants who are non-matriculates for the benefit of the aforesaid order giving upgraded scale of pay were rejected vide impugned order dated 19.03.2010 at Annexure A-20. Aggrieved, the applicants have filed this O.A. for the following reliefs:

- (i) Call for the records leading to the issue of Annexure A-20 and quash the same;
- (ii) Declare that the applicants are entitled to be granted the scale of pay of Rs. 950-1400 with effect from 01.01.1986 at par with the other Central Government Police Organisations, including the Delhi Police Force and direct the respondents to



grant all consequential benefits arising therefrom, or alternatively;

(iii) Declare that the applicants are entitled to be granted the benefit of the scale of pay of Rs. 3050-4590 with effect from 01.01.1996 at par with the other Police Constables of Lakshadweep Police Organisation included in A-17, with all consequential arrears of pay and allowances and other terminal benefits arising therefrom;

(iv) Award costs of and incidental to this application;

(v) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

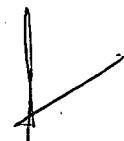
2. The applicants contended that they are identically situated like the police constables of other Central Government Police Organisations including the Delhi Police Force and, therefore, are entitled to the scale of pay of Rs. 950-1400 (3050-4590) with effect from 01.01.1986. At no point of time, a classification was ever made by the Lakshadweep Police Organisation like matriculate police constables and non-matriculate police constables. Annexure A-13 dated 26.02.2004 by which upgradation of the pay scale of the post of police constable under the UT Administrations of Lakshadweep was made, does not distinguish matriculate police constable from the non-matriculate police constable. Automatically, as per the directions of this Tribunal in O.A. No. 751/2007 the benefit of the upgraded pay scale should be extended to all similarly placed constables with effect from 01.01.1996 with all consequential benefits. The order of this Tribunal in the aforesaid O.A has no ground to say that the non-matriculate police constables are not entitled to the pay scale of Rs. 3050-4590 with effect from 01.01.1996.

3. In their reply statement, the respondents submitted that the applicants are approaching this Tribunal nearly 2 years after the date of issuing the O.M.

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dated 19.03.2010 implementing the directions of this Tribunal in O.A.No. 751/2007. Therefore, this O.A. is barred by limitation. By order dated 26.02.2004, the Ministry of Home Affairs had extended the pay scale of Rs.3050-4590 to the constables of Lakshadweep with effect from the date of the order. In O.A. No. 751/2007, this Tribunal after considering the recommendations of the Pay Commission in meticulous details declared the applicants and similarly situated constables whose qualification is matriculation and above are entitled to the pay scale of Rs. 3050-4590 with effect from 01.01.1996. The 4th applicant therein was a non-matriculate and the said order became final. As the matter was decided after hearing a non-matriculate also, the present O.A is not maintainable. The applicants are not qualified for the higher pay scale at par with their counter parts in the department on the ground that they have not passed matriculation or equivalent. In view of the orders of this Tribunal, no further action has been called for on the part of the respondents.

4. In the rejoinder statement, it was submitted by the applicants that higher scale of pay to the matriculate constables as also to the non-matriculate constables was uniformly extended by Annexure A-13 order dated 26.02.2004. In O.A. No. 751/2007, the applicants therein had contended that all of them are SSLC passed. Therefore, the contention of the respondents based on non-matriculate police constable therein is devoid of merit and substance. The applicants have filed M.A. No. 270/2012 in this O.A for condonation of delay indicating cogent reasons for the same. There is recurring cause of action also, the issue being one relating to fixation of pay. The order of this Tribunal in O.A.No. 751/2007 does not indicate that the non-

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matriculate police constables are not entitled to the revised scale of pay with effect from 01.01.1996. The Tribunal proceeded on basis that all the applicants in the said O.A are matriculates. The educational qualification of the applicants has no nexus to the issue involved.

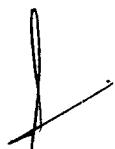
5. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicants and Mr. A.D. Ravindra Prasad, learned ACGSC for respondent No.1 and Mr. S. Radhakrishnan, learned counsel appearing for the respondents No. 2 and 3 and perused the records.

6. The M.A. No. 270/2012 in the present O.A is allowed condoning the delay of 341 days in filing the same as the applicants have a recurring cause of action and no negligence or laches on their part.

7. In the order in O.A. No. 751/2007, this Tribunal held as under:

“19. Keeping in view the aforesaid decisions, it can be easily and safely stated that the applicants and other similarly situated Constables of the Union Territory of Lakshadweep, are undoubtedly entitled to the revised pay scale of Rs 3050-4590 w.e.f. 01-01-1996. In fact the Islands Administration has been fully supporting the case of the applicants. It is only the first respondent, the Union of India that has been a stumbling block in this regard. Of course, had the above decisions of the Apex Court and the recommendations of the successive Pay Commissions been specifically brought to their notice, in all probability, the Union of India which had granted uniform pay scale of Rs 3050 – 4590 would have equally considered and granted the same from 01-01-1996 uniformly to all the constables of the Union Territories subject only to fulfillment of their qualifications.

20. In view of the above, it is declared that the applicants and similarly situated constables whose qualification is

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matriculation and above are entitled to the pay scale of Rs 3050-4590 w.e.f. 01-01-1996. They are also entitled to consequential benefits flowing therefrom, including monetary benefits. Their entitlement for ACP is unaffected by the revision of pay scale from 01-01-1996. Their ACP benefits shall be as per the provisions of order dated 9th August, 1999 issued by the Union of India for all the Central Government employees.

21. Respondents are directed to pass suitable orders in this regard and make the payment of pay and allowance arising out of implementation of this order. The entire drill shall be completed within a period of six months from the date of communication of this order."

8. This Tribunal had declared that the applicants in the aforesaid O.A and similarly situated constables whose qualification is matriculation and above are entitled to the pay scale of Rs. 3050-4590 with effect from 01.01.1996. This Tribunal had proceeded on the presumption that all the applicants therein are matriculates. The issue before this Tribunal in the aforesaid O.A was the retrospective implementation of the upgraded scale of pay with effect from 01.01.1996. The question of distinction between matriculates and non-matriculates was not raised before this Tribunal in the said O.A. Therefore, the respondents are not justified in relying on the direction given by this Tribunal in O.A.No. 751/2007 to deny upgraded pay scale to non-matriculate police constables with effect from 01.01.1996. Now, coming to the merits of the case, it is seen that the police constables of Union Territory of Lakshadweep were granted upgraded pay scale of Rs. 3050-4590 with effect from 26.02.2004 vide order at Annexure A-13. The said order is reproduced as under :

"No. U-14015/1/2003-ANL
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS



New Delhi, the 26th February, 2004

To:

Shri K.S. Mehra,
Administrator,
UT of Lakshadweep,
Kavaratti

Shri Arun Mathur,
Administrator,
UTs of Daman & Diu and Dadra & Nagar Haveli,
Secretariat
Moti Daman

Sub: Upgradation of the pay scale of the post of Police Constable under the UT Administrations of Lakshadweep, Daman & Diu and Dadra & Nagar Haveli from Rs. 2750-4400 to Rs. 3050-4590 - Regarding.

Sir,

I am directed to convey the approval of the Government to the revision of the scale of pay of the post of Police Constable under the UT Administrations of Lakshadweep, Daman & Diu and Dadra & Nagar Haveli from Rs. 2750-4400 to Rs. 3050-4590 with immediate effect.

2. This issues with the concurrence of the Ministry of Finance (Department of Expenditure) vide their U.O. Note No. 5 (16)E-III/2003 dated 11th February, 2004 and the Integrated Finance Division of the Ministry of Home Affairs vide their Dy. No.312/AFA(P)/04 dated 19th February, 2004.

Yours faithfully,
Sd/
(AINDRi ANURAG)
Director (ANL) "

9. There is nothing in the above order to differentiate non-matriculate police constables from matriculate police constables. Irrespective of the educational qualification, all police constables have been given upgradation of pay scale. The respondents have implemented the said order with effect from 26.02.2004. The direction given by this Tribunal in O.A. No. 751/2007 to



grant the upgraded pay scale to the matriculate police constables have been implemented by the respondents vide Annexure A-17 order dated 04/11/05.2010. If the upgraded pay scale can be given to all police constables irrespective of educational qualification from 26.02.2004, there is no reason why it should not be given uniformly to all police constables with effect from 01.01.1996, though the matriculate police constables have been given upgradation of the pay scale with effect from 01.01.1996 on the strength of the order of this Tribunal in O.A. No. 751/2007. As stated earlier, this order cannot be relied upon by the respondents to deny the same benefit to non-matriculate police constables, if they are inclined to do so. The educational qualification of the applicants has no nexus to the issue of upgradation of pay scale with retrospective effect from 01.01.1996. The respondents have not given any intelligent differentiation or nexus with educational qualification for denying the same to the applicants. The Recruitment Rules for police constable were amended on 21.11.1986 making SSLC pass as minimum educational qualification. Those police constables who were recruited as per the Recruitment Rules in force before 1986 are doing the same duty as who were recruited on the basis of the new Recruitment Rules. They have longer years of service. The Lakshadweep Administration did not differentiate between matriculates and non-matriculates in the matter of pay scale till implementation of the direction of this Tribunal in O.A.No. 751/2007. The respondents are within their rights to fix higher pay scale for higher qualification. They are also within their rights to fix different dates for implementation of higher pay scale. But in the facts and circumstances of the instant case, they have no ground to deny upgraded pay scale to the non-matriculate police constables other than the direction in

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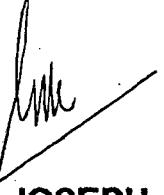
O.A.No. 751/2007 to grant upgraded pay scale to the police constables who had qualification of matriculation and above. But the said order does not prevent the respondents to discriminate from granting upgraded pay scale to the non-matriculate police constables, for having no cogent reason to discriminate non-matriculate police constables from matriculate police constables in the matter of granting upgraded pay scale with effect from 01.01.1996.

10. In the light of the above discussion, we hold that the applicants are entitled to be granted the benefit of the scale of pay of Rs. 3050-4590 with effect from 01.01.1996 at par with other police constables of Lakshadweep Police Organisation included in Annexure A-17. The O.A. is allowed as under.

11. Annexure A-20 dated 19.03.2010 is set aside. The respondents are directed to grant the scale of pay of Rs. 3050-4590 with effect from 01.01.1996 with all consequential arrears of pay and allowances and other terminal benefits arising therefrom limited to 3 years prior to filing this O.A. within 3months from the date of receipt of a copy of this order.

12. No order as to costs.

(Dated, the 11th September, 2012)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Contempt Petition No. 13 of 2013 in
Original Application No. 180 of 2012

Tuesday, this the 23rd day of July, 2013

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

T.T. Kasmi Koya, aged 60 years,
 S/o. P. Koya (late), (Retired Head Constable,
 Lakshadweep Police Organization,
 Kavaratti PO., UTL), Residing at : Kavaratti.

Petitioner

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. Shri Rajesh Prasad, IAS, Administrator, Lakshadweep Administration,
 Union Territory of Lakshadweep, Kavaratti-682 555.
2. Shri Paramaditya, IPS, Superintendent of Police, Union Territory of
 Lakshadweep, Kavaratti-682 555. **Respondents**

**[By Advocates – Mr. S. Radhakrishnan (R2&3) &
 Mr. A.D. Raveendra Prasad (R1)]**

This Contempt Petition having been heard on 23.07.2013, the Tribunal
 on the same day delivered the following:

O R D E R

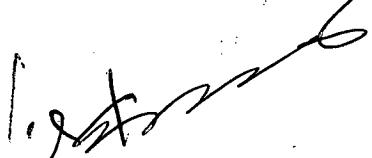
By Hon'ble Dr. K.B.S. Rajan, Judicial Member-

The counsel for the parties have stated that the order of this Tribunal
 dated 11th September, 2012 in OA No. 180 of 2012 has been complied with.

Accordingly, the Contempt Petition is closed.

(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

“SA”


(DR. K.B.S. RAJAN)
JUDICIAL MEMBER