

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE: 21.7.93

O.A. 180/92

1. M. George, s/o I. Mathai  
Vakuvilla House, Perumpuzha P.O.  
Quilon
2. P.J. Xavier
3. B. Rajendran
4. M.V. Vidhayadharan
5. P.G. Chandramohan Nair
6. M. Raveendra Panicker
7. P. Ramachandran Nair
8. K. Purushothaman
9. P.K. Krishna Panicker
10. N. Parameswaran Pillai
11. P.N. Divakaran Pillai
12. O. John
13. P.K. Ashokan
14. M.V. Eapen
15. K.S. Valsan
16. G. Ravendran Nair
17. K.X. Joseph
18. Kuriakose Jacob
19. K.L. Nandakumaran Nair
20. R. Sadasivan Nair
21. K.T. Mohanan
22. T.N. Narayanan Nair
23. C.I. Lena
24. V. Sajeev
25. P.K. Thomas
26. K.G. Ramachandran Nair
27. G. Vijayakumara Kurup

Applicants

vs.

1. Union of India represented by the  
Secretary, Ministry of Defence,  
New Delhi
2. Engineer in Chief, Army HQrs  
New Delhi-11
3. Commander Works Engineer,  
M.E.S. Naval Base, Cochin-4

Respondents

Mr. M. Rajagopalan

Advocate for  
applicants

Mr. Joy George, ACGSC

Advocate for  
respondents

CORAM

THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Applicants are working under the third respondent in various posts in the pay scale of Rs. 950-1500. They are aggrieved by Annexure A-4 order by which their request for ante-dating the date of increment taking into consideration

the increment given to Mr. K.I. Thomas who was appointed as Driver Engine Static, DES for short<sup>ly</sup> on 12.3.82 long after applicants were appointed and drawing the pay of Rs. 260-400 (pre-revised) since October, 1981.

2. Applicants submitted that they were appointed in MES service in different categories from 1964 to 81. But all of them were getting the pay scale of Rs. 260-400 ever since October, 1981 pursuant to codification of pay scale of different grades and bringing them under the same cadre. In October, 1985 after getting four increments the pay of the applicants was revised to 284/- and this can be seen from Annexure A-1, a consolidated list of applicants and Shri K.I. Thomas prepared by the applicants giving details of date of appointment, date of revised pay scale, date of commencement of service, date of increment etc. Annexure A-2 is the Recruitment Rule. Relevant portion of the Recruitment Rule giving the channel of promotion from the post of Driver Engine Static is given below:

" Driver Engine Static - Driver Fitter  
Turner  
Vehicle Mechanic "

The first and the second applicants as per Annexure A-1 have been given promotion from DES to Fitter. Their next date of increment has been fixed as October, 1986. But from the same list it <sup>can be</sup> may be seen that Shri K.I. Thomas who joined MES on 12.3.82 gets a salary of Rs. 278 as on date having next date of increment on March, 1986. According to applicants, if Thomas who joined MES as DES much later than the joining of applicants, <sup>they</sup> can be given a higher pay and date of increment earlier to the date of increment of the applicants; there is anomaly on account of codification of pay of various posts into a single scale. Persons working in the same scale having same cadre should be treated equally. <sup>if</sup> if a junior gets a higher pay having <sup>an</sup> earlier date of increment with reference to date of joining, there is nothing wrong in giving parity of pay and fixation of date of

increment *uniformly. 6*

3. The impugned order Annexure A-4, ~~XXXX~~<sup>6</sup> was passed after disposing of the representations filed by applicants jointly for ante-dating their date of increment having regard to the pay and date of increment of Shri K.I. Thomas. The order reads as follows:

"..... Proposals for antedating of date of increment in respect of the undermentioned individuals received vide your above quoted letter are returned herewith, as the same cannot be processed due to the reason that the comparison made there in is with that of different category..."

The only reason mentioned in the said order is that the comparison made in the representation is with reference to different categories and that cannot be allowed.

4. Learned counsel for applicant submitted that there is no application of mind. Shri K.I. Thomas joined the MES as DES on 12.3.82. Hence, the reason stated in the impugned order cannot be supported.

5. He further submitted that applicants are entitled to get benefit ~~stated~~ in the memorandum in the light of Rule 8 of Central Civil Service Revised Pay Rules, 1986. It reads as follows:

"8. Date of next increment in the revised scale:

The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub rule (1) of rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale..

X X X  
provided further that in case other than those covered by the preceding proviso, the next increment of a Govt. servant, whose pay is fixed on the 1st day of January, 1986 at the same stage as the one fixed for another Government servant junior to him in the same cadre and drawing pay at a lower stage than his in the existing scale; shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier.

X X X X


6. According to applicant the case of the applicants squarely comes within the second proviso of Rule 8 as extracted above because they claim parity with the case of K.I. Thomas who joined as DES in the MES. Applicants were also getting pay of DES. So they submitted that by application of the aforesaid rule they can be granted reliefs. Hence, they submitted that the impugned order is unsustainable.

7. On a perusal of the impugned Annexure A-4 I am satisfied that it has been passed without any application of mind, <sup>or</sup> after careful consideration of the claim of the applicants that they are entitled to ante-date their increments considering the pay and date of increment in the case of their junior Mr. K.I. Thomas working in the cadre of DES.

8. Having regard to the facts and circumstances of the case I accept the contention of the applicants and after careful verification of the documents produced in this case I am also satisfied that Annexure A-4 cannot be sustained. Accordingly, I quash the same and direct the third respondent to reconsider the claim of the applicants in the light of the statements in Annexure A-1 and the case cited by them referred to above. They shall also examine whether the applicants are entitled to get ante-dating of their increment as claimed in the original application in the light of Rule 8 of Central Civil Service Revised Pay Rules, 1986. This shall be done within a period of six months from the date of receipt of a copy of this judgment.

9. The application is disposed of as above.

10. There shall be no order as to costs.

  
(N. DHARMADAN) 21.7.93  
JUDICIAL MEMBER  
21.7.93

List of Annexures

1. Annexure A-4: Impugned order dated 25.7.91
2. Annexure A-1 : Comparative statement prepared by applicants