

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 182
~~XXXXXX~~

400 1989

DATE OF DECISION : 31.8.1990.

V.V. Sudhakaran & 24 others Applicant (s)

G. Sasidharan Chempazhathiyil Advocate for the Applicant (s)

Versus

Director, Vikram Sarabhai Respondent (s)
Space Centre, Trivandrum & 3 others

A.A. Abul Hassan, ACGSC Advocate for the Respondent (s)

CORAM:

Hon. Shri N.V. Krishnan, Member (Administrative) &
Hon. Shri N. Dharmadan, Member (Judicial)

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1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement? ✗
4. To be circulated to all Benches of the Tribunal? ✗

JUDGEMENT.

Shri N.V. Krishnan, AM

The applicants are appointed in various capacities (eg. sub Officers (fireman), Driver-cum-Operator and fireman) in the Fire Service of Vikram Sarabhai Space Centre, (VSSC for short) Trivandrum. Their main grievance is that they are treated as members of the administrative cadre, whereas, according to them, their duties are highly technical and hence they should be classified as members of the technical service as has been done in the case of their counter-parts in the Bhabha Atomic Research Centre, (BARC for short). In this connection the learned counsel for the applicant explained that the advantage in being classified as a technical cadre is that the members of the cadre, ^{are} entitled to time-bound promotions on the

basis of periodical assessment, even though the posts in the higher grade may not be available. The situation on the administrative side is different because promotion is given only if a promotion post is vacant. They have a further grievance that their pay scales have not been properly revised. Hence, they have filed this application seeking the following reliefs:-

- a. to direct the respondents to declare the Fire Service in VSSC/ISRO as technical and allow the applicants the benefits admissible to the technical staff
- b. to direct the respondent to treat the applicants on par with the fire service personnel in BARC in the matter of service conditions since both are under the same Ministry, the functions of both the services are the same, the conditions under which the personnel of both the services are working are the same and both the organizations, ISRO and BARC are research organizations.
- c. to declare that the classification of the applicants as administrative is unreasonable in view of the facts that their counterparts in the BARC similarly situated are classified as technical.
- d. to give the applicants the same grades and pay scales as was granted to the fire service personnel in BARC on 1-5-1983 vide Annexure-I as revised by the 4th Pay Commission
- e. to give the applicants the benefits of revised grades and resultant pay scales with retrospective effect at any rate with effect from 1-1-1987.

2. The respondents have contended that the applicants are not entitled to any relief. They aver that the applicants are rightly and correctly treated as administrative staff. It is also submitted that they cannot compare

themselves with that of the staff in Fire Service establishment ^{in BARC.} /

They also state that, as in the case of other departments, their pay scales of the applicants were also revised on the recommendations of the 4th Pay Commission with effect from 1.1.1986. However, to improve the career opportunities of the fire service personnel, the order dated 20.7.1988 (Annexure VI) was passed which came into effect ^{from} the date of issue of that order. That being the case, the applicants cannot claim that the benefit of this order should be given, to them, retrospectively at least from 1.1.87.

3. We have perused the records of the case and heard the learned counsel of both parties.

4. In so far as the claim to treat their service ^{as a technical service} /is concerned, the applicants have mainly relied on two important grounds:

The first ground is that their service is comparable to the similar service in BARC, where it has been classified as a technical service. They have stated as follows in this regard: in para 2,4,5 and 6 of the application:-

"2. Fire Service in VSSC, ISRO was organized in 1971 on the same pattern as the fire service in the Bhabha Atomic Research Centre, which comes under the Department of Atomic Energy, in the Ministry of Science & Technology. ISRO comes under the Department of Space also in the Ministry of Science and Technology. In fact the Department of Space and the Department of Atomic Energy were one and the same initially, but only later Department of Space has spun off from the Department of Atomic Energy. So when the Fire Service in VSSC, ISRO was constituted in the year 1971, the rules procedures Staff pattern Recruitment, Promotion working hours pay scales etc. as applicable to the Fire Service per-

that position has changed since (i.e., as the Fire Service has now been treated as a technical service) their demand should be accepted by the respondents.

The second ground is that their duties are highly technical. The applicants also contend that the Kurup Committee which was appointed by the ^{1st} respondent ~~the~~ has considered this question and they reliably understand that the Committee has recommended that the Fire Services should be treated as a technical service in view of the nature of their job.

5. As regards their demand seeking retrospective effect to the Annexure VI order, applicants have stated that the IV Pay Commission Report did not contain any recommendation for the fire service personnel. Hence, the only benefits given by the government as per the Annexure-VI order should be given retrospective effect, at least from 1.1.1987.

6. The respondents mainly contend that the Fire Service in which the applicants are employed cannot be compared with the fire services in BARC. Hence, the claim for being treated as technical service cannot be accepted on the ground that by the Annexure VI order this classification has been given to the Fire Service in BARC. It is also denied by them ^{that} the fire service in VSSC is highly technical.

7. The respondents admit that a committee under the Chairmanship of Shri MR. Kurup was appointed. Its recommendations were, however, not accepted by the 1st respondent. The learned counsel for the respondents could not indicate the reasons why the recommendations were not accepted. He, however, contended that the

career advancement

respondents are neither bound to accept the recommendations nor required to state the reasons why the recommendations have not been accepted.

8. It was also submitted that the 1st respondent had subsequently appointed two committees to go into certain general questions.

The first committee was appointed on 13.4.85 and with Dr. S. Ramanath as the Convenor and it submitted the report on 27.8.85. This was to look into the various aspects emanating from the plea to consider certain categories like Fork Lift Operators, Drivers, Gestetner Operators, Telex Operators, etc. to be treated as technical. The Committee gave ^{its} recommendations as to the criteria which should be satisfied to treat any category/trade as technical.

The second Committee was appointed on 4.11.85 to review the ISRO norms and career opportunities for scientific and technical staff. It considered, among other things, the existing categories of Scientific and Technical staff and whether any category now treated as administrative could be considered for inclusion in the technical category.

The respondents have made available all these 3 reports. We are not going into the details of the recommendations made by these Committees except to note that these two Committees were neither directed to consider the report of the Kurup Committee, which was appointed to look into the ISRO Fire Service only nor did they do so suo motu.

9. We have perused carefully the records of the case as

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well as the reports of the three committees and also considered the arguments advanced by the parties.

10 No reason has been stated by the respondents as to why the detailed Report of the Kurup Committee was not accepted. That Committee had made certain recommendations on the subject. It appears to us that this Report was not accepted merely because that Committee had made certain recommendations which, if accepted and implemented might result in additional expenditure to the government. The recommendations are beneficial to the applicants and would meet their demands.

11 The Kurup Committee was specifically set up to consider all matters relating to the Fire Service and it had submitted a detailed report. The Respondents have given conflicting statements as to what was done to this Report. In para 10 of the reply it is stated that though this committee recommended treating the Fire Service personnel in ISRO as technical, but after examining the issues in great detail, this was not accepted by the competent authority." On the other hand, in para 14 of the same reply it is stated that the committee's report was not published as it had to be examined by the Department for acceptance or otherwise. It is no doubt, open to the respondents to reject the report of any Committee or to refuse to implement the recommendations made in any Report. However, when they decide to set up a fresh committee to study, among other things, the issues ^{already} considered by an earlier

committee without, however, taking any final decision on the report of the earlier committee, the Respondents are at least bound to state some reasons why the appointment of the new committee is necessitated. In any case, they are bound to direct the new committee to examine the issue and make recommendations after considering the earlier report. This has admittedly not been done in the present case which leaves scope for drawing adverse conclusions against the respondents.

12. There is, however, one point which is note-worthy. The second Committee appointed on 4.11.85, has by its Report confirmed indirectly a point made by the applicants viz. that they can compare themselves with the BARC. For, one of the institutions from which this Committee collected data for its work is the BARC. Though data has been collected from others also, most of the comparison is made with BARC. Therefore, prima facie, the two establishments viz., VSSC and BARC are comparable.

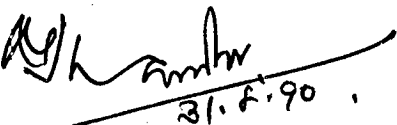
13. In so far as the claim of the applicants to treat the Fire Service in VSSC as a technical service is concerned we are, therefore, of the view that this matter should now be properly considered by the Department of Space, i.e., Respondent-3. There has been atleast two new developments since this issue was ~~xxxx~~ earlier considered by the Joint Consultative Machinery of the Department in 1982. The first is that in the BARC, the Fire Service has since been given the status of a technical service. The other is the setting up of the

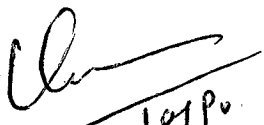
three expert committees whose Reports have become available. We are, therefore, of the view that the claim made by the applicants should be considered afresh. Accordingly, we direct ^u ~~that~~ the Secretary to the Government of India, Department of Space (Respondent-3) to take an appropriate decision after ~~getting this issue~~ **issue examined** by a Committee of which he or his nominee, not below the rank of a Joint Secretary, should be the Chairman. The other Members of the Committee should consist of a representative each from the Ministry of Science & Technology and the Ministry of Finance (Department of Expenditure) not below the rank of a Joint Secretary, the 1st Respondent, a representative of the BARC and the Fire Adviser, Ministry of Home Affairs and such other officials as the Third Respondent may like to co-opt. ^{We make it clear that} ~~after~~ considering the Report of this Committee, the third Respondent ~~xx should~~ take a suitable decision and communicate the same to the applicants. This shall be done within a period of 4 months from the date of receipt of a copy of this order.

14 As far as the demand that Annexure-VI circular should be given restrospective effect is concerned, we are of the view that the stand taken by the Respondents is reasonable. Like all other Government employees, the applicants have been given the benefit of revised pay scale on the recommendation of the 4th Pay Commission from 1.1.1986. This is clear from Annexure-VI itself.

The pay scale shown as existing as on 20.7.88 is the revised scale of pay. Annexure-VI gives further concessions and in this regard, there is no obligation on the part of Respondents to give retrospective effect to these additional concessions. The applicants are not entitled to any relief in this regard.

15 The application is disposed of with the orders/directions as in para 13 and 14. There will be no order as to costs.


31.8.90
(N Dharmadan)
Judicial Member


31/8/90
(NV Krishnan)
Administrative Member

31.8.1990.