

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 20/2000

Wednesday, this the 24th day of April, 2002.

CORAM :

HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.K. Vijayan Pillai,
Fireman Grade I,
INS venduruthy,
Naval Base,
Kochi-4.
2. C.P.Sasi,
Fireman Grade I,
-do-
3. T.P.Sajeevan,
Fireman Grade I,
-do-
4. S.H.Shamsheerkhan,
-do-
5. M.M. Philip,
-do-
6. A.A. Ibrahim,
-do-
7. M.S.Abdul Rahiman,
-do-
8. T.A. Haridas,
-do-
9. K.Sambasivan,
-do-
10. K.C. Skariah,
-do-
11. N.P.Karthikeyan,
-do-
12. E.A.Vijayan,
-do-
13. T.R.Ramachandran,
-do-
14. P.G. Induchoodan,
-do-

15. P.P. James,
-do-
16. K.G. Vijayan,
-do-
17. K.N. Ramesan,
-do-
18. P.B. Surendran,
-do-
19. K. Gopakumar,
-do-
20. P. Divakaran,
-do-
21. P.P. Suresan,
-do-
22. P.J. Unnikrishnan,
-do-
23. M.J. Sabu,
Fireman Grade II,
-do-
24. P.A. Prabhakaran,
-do-
25. V.P. Ravindran,
-do-
26. M.M. Suresh,
-do-
27. K.K. Jayashankar,
-do-
28. A. Bhaskaran,
-do-
29. M.E. Elias,
-do-
30. N. Rajendra Prasad,
-do-
31. G. Subhash,
-do-
32. T.S. Reghunatha Pillai,
-do-

33. N. Babu,
-do-

34. A. Nazeer,
-do-

35. K.C. Rejim,
-do-

36. K.S. Velayudhan,
-do-

37. P.A. Sadanandan,
-do-

38. V.G. Sabu,
-do-

39. K. Ani,
-do-

40. K. Mohanan,
-do-

... Applicants

(By Advocate Mrs. N. Shobha)

Vs

1. Union of India rep. by its
Secretary,
Ministry of Defence,
Sena Bhavan,
New Delhi.

2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.

3. Flag-Officer Commanding-in-Chief,
Southern Naval Command,
Naval Base, Kochi-4.

4. The Commanding Officer,
INS Venduruthy, Naval Base,
Kochi-4.

... Respondents

(By Mr. C. Rajendran, SCGSC)

The application having been heard on 24.4.2002, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicants 1 to 22 are working under the respondents as Fireman Grade I and applicants 23 to 40 are working as Fireman Grade II. Aggrieved by Annexure A1 memorandum dated 15.3.99, A2 order dated 1.6.99, A3 order dated 12.7.99, A4 order dated 14.7.99 and A5 order dated 3.8.99, they filed this application. According to the averments of the applicants in the OA, as per A1 the 3rd respondent reclassified the applicants from Group D to Group C without any change in their basic pay under Sl. No.15 in A1. Immediately thereafter, the applicants made representations praying to refix the scale of pay from Rs.2750-70-3800-75-4400 and Rs.2650-65-3300-70-4000 to Rs.3050-75-3950-80-4590 w.e.f. 1.1.98. They also wanted to know what benefits they would get after the change of classification from Group D to Group C by A6 and A7 representations made by the 1st applicant and similar and identical representations by other applicants. Applicants scale of pay as per the Fourth Pay Commission was Rs.800-25-1050 and after implementation of Fifth Pay Commission the revised pay scale of Fireman in the Indian Navy was Rs.2650-65-3300-70-4000. The basic pay of Lascar in the Indian Navy was same as that of Fireman. In the case of Greasor/Winchman their basic pay in the IVth Pay Commission was Rs.775-12-871-14-1025 and the new basic pay scale was Rs.3050-75-3950-80-4590. In the case of Cook in the IVth Pay Commission the pay scale was Rs.750-12-870-14-940 and the new pay scale was Rs.3050-75-3950-80-4590. It was also submitted that till 1.9.1997, the scale of pay of the Cook was Rs.2610-3150. By letter dated 20.3.98 the basic pay of the Cook was revised with effect from 1.10.97 as Rs.3050-4590. Further it was submitted that the pay of the Greasor was also revised w.e.f. 2.12.97. It was submitted that the applicants' pay was not



revised. At the same time Firemen who were performing the duties similar and identical as those of the applicants and working in the Indian Space Research Organisation(I.S.R.O.), their basic pay scale with regard to Fire Assistant Grade 'A' equivalent to Fireman Grade II in the Indian Navy was Rs.3050-4500 and the case of Fireman Grade 'B' equivalent to Fireman Grade I it was Rs.3200-4900. But in the case of the applicants, their basic pay scale was only Rs.2650-65-3300-70-4000 and Rs.2750-70-3800-75-4400 respectively. By A1 the applicants posts was reclassified from Group D to Group C without any change in the basic pay scale. The Fireman in the Indian Space Research Organisation is classified as Group C post and the Fireman in the Kerala Fire Force after the implementation of the pay parity with with regard to Vth Pay Commission, the basic pay of Rs. 3050-4590 for Fireman Grade II. On the basis Government of India , Department of Personnel and Training Notification No.13012/1/98-Estt.(D) dated 20.4.98 published as SO 332(E) in Gazette of India extra ordinary Part II Section 3(ii) dated 20.4.98, applicants were reclassified from Group D to Group C. Citing the Department of Personnel and Training O.M. No.13012/98-Estt.(D) dated 12.6.98, it was submitted that if for any specific reason the concerned Ministry/Department proposed to classify the posts differently it would be necessary for that Department to send a specific proposal to the Department of Personnel and Training giving full justification in support of the proposal within three months from the date 12.6.98. According to the applicants, there was no specific reason for reclassification of the post held by the applicants and their classification was without any change in their basic pay scale. The reclassification of the posts was done to regulate the appointing, reviewing and appellate authority and it was precisely for this reason that the same was incorporated under the relevant rules. It was submitted that A3 showed that in the



4th respondents's office there were three categories of Fireman. Fireman Grade I in the pay scale of Rs.2750-70-3800-75-4400 and Fireman Grade II in the pay scale of Rs.2650-65-3300-70-4000 as well as Rs.2610-60-3150-65-3540. In A3 it was further stated that on the basis of Annexure A1 memorandum the Fireman having the pay scale of Rs.2650-65-3300-70-4000 was reclassified as Group C leaving the Fireman Grade I having the pay scale of Rs.2750-4400 in Group D itself. A1 and A3 were issued without any basis. As a matter of fact the Fireman Grade I are also classified from Group D to Group C. Another grievance of the applicants was that because of the reclassification the applicants were loosing the benefit of the Fan Advance and also the Group Insurance Premium was increased from Rs.15 to Rs.30 per month without any change in the basic pay scale. A1 to A5 were assailed on the ground that the same were issued without any rational basis and violative of Article 14 of the Constitution of India. For the above reasons, the applicants sought the following reliefs through this OA :-

(i) Call for the entire records leading to Annexure A1 to A5 and set aside the same to the extent to which effect the applicants.

(ii) Declare that the applicants are entitled to get the basic pay in the scale of Rs.3200-4900 with regard to applicants 1 to 22 and Rs.3050-4590 with regard to applicants 23 to 40 with effect from 1.1.98.

(iii) Pass such other orders deemed fit in the facts and circumstances of the case.

(iv) Grant the applicants the costs of the original application.

2. Respondents filed reply statement. They admitted that reclassification was done on the basis of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) R3(A) order dated 20.4.98. It was submitted that A1 was published by the respondents in consultation with staff side members of Joint Consultative Machineries (for short JCM)

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III/IV level and Naval Technical Supervisory Staff Association(for short NTSSA) and duly approved by higher authorities. Accordingly the applicants' posts were reclassified from Group D to Group C with revised pay scale of Rs.2650-4000. A1 was revised on 13.4.99 and 6.7.99 as per R3(B) and R3(C) respectively. The Vth Pay Commission had recommended higher pay scale for Greasor/Winchman and Cook respectively after considering various issues but did not recommend higher pay scale to Fireman. Hence, the applicants could not claim the pay scale of other categories, where the 5th Central Pay Commission recommended for higher pay scales. The recommendation of higher pay scales to certain categories of posts was made by the 5th Central Pay Commission after careful consideration of the proposals made by each Ministry. The difference of pay scales of Fireman, Greasor/Winchman and Cook had occurred as a result of rationalisation of pay scales not only in applicants case but also in many other trades. The averments of the applicants that the Fireman performing similar and identical work in the I.S.R.O. were getting more pay could not be accepted. The 5th Central Pay Commission recommended for higher pay scales for each category under different Ministry. In the case of the applicants, there was no recommendation for increase in the pay scales and the Government also did not increase pay separately. Government notified the revised classification of posts based on the recommendation of 5th Central Pay Commission. By R3(D) letter, Naval Headquarters confirmed the revised norms notified by the Department of Personnel and Training, and the posts mentioned in Annexure A1 automatically stood reclassified from Group C to Group B and from Group D to Group C respectively. It was admitted that the applicants would lose Rs.1000/- Fan Advance granted to Group D employees once in 10 years as the status of the applicants was raised from Group D to Group C. As regards Group Insurance Scheme, in the event of death of the Group C

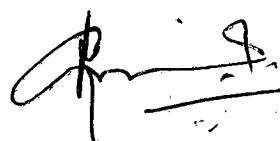


employee, next of kin was entitled to receive Rs.30,000/- instead of Rs.15,000/- in case of Group D employees. Hence the claim of the applicants would stand more benefitted due to increased insurance subscription. It was submitted as the reclassification was done on the basis of Government Notification issued based on the recommendation of 5th Central Pay Commission, and hence violation of Article 14 of the Constitution of India was not done by the respondents. They denied all the grounds raised by the respondents.

3. Rejoinder was filed by the applicants and additional reply statement was filed by the respondents.

4. We have heard Smt. N. Shobha, the learned counsel for the applicants and Shri C. Rajendran, the learned counsel for the respondents. Smt. Shobha took us through the pleadings in the OA and to the rejoinder and drew our attention to the fact that the Fire Assistant in the I.S.R.O. equivalent to Fireman Grade II in the Indian Navy and Fireman Grade B in the I.S.R.O. equivalent to Fireman Grade I in the Indian Navy were in receipt of pay scale of Rs.3050-4500 and Rs.3200-4900 respectively. It was submitted that by the reclassification of the posts was made to Group 'C' but the corresponding pay scale was not given. The learned counsel for the respondents took us through the reply statement and resisted the claim.

5. We carefully considered the submissions made by the learned counsel for the parties and rival pleadings and perused the documents placed on record. What we find is that though the applicants are seeking the reliefs on the basis of reclassification of the post of Fireman in the pay scale of Rs.2650-65-3300-70-4000 from Group D to Group C by Annexure A1, they are also seeking for the setting aside of Annexure A1 to A5

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and at the same time they claim for the higher pay scale on the basis of the said A1 notification. Thus, we find there is a basic contradiction in the pleadings of the applicants. From the reply statement we find that respondents cancelled A1 notification and issued R3(B) notification dated 13.4.99. On perusal of A1 and R3(B), we find that as far as the posts reclassified from Group D to Group C, except the change in the Sl. Nos. of the posts, there were no other changes. In view of this, even though R3(B) is not under challenge as A1 no longer existed, we considered the validity of the action taken by the respondents in reclassification of the post of Fireman Grade I in the pay scale of Rs.2650-65-3300-70-4000 from Group D to Group C. Respondents basically justify their action on R3(B) notification published in Part II, Section 3, Sub-Section (ii) of the Gazette of India by the Ministry of Personnel, Public Grievances and Pensions(Department of Personnel and Training) dated 20.4.98. The said notification is reproduced as under :-

(Copy of the Notification published in Part II, Section 3

Sub-Section (ii) of the Gazette of India)

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

ORDER

New Delhi, the 20th April, 1998

S.O. 332(E) - In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution read with rule 6 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965 and in supersession of paragraph 2 of the notification of Government of India in the Department of Personnel and Administrative Reforms number S.O. 5041 dated the 11th November, 1975, as amended by the notification of Ministry of Personnel, Public Grievances and Pensions(Department of Personnel and Training) number S.O. 1752 dated the 30th June, 1987 and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby directs that with effect from the date of publication of this order in the Official Gazette all civil posts under the Union shall be classified as follows :-



S.No.	Description of posts	Classification of posts
1.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs.13,500	Group A
2.	A Central Civil Post carrying a pay or a scale of pay with a maximum of not less than Rs.9000 but less than Rs.13,500	Group B
3.	A Central Civil Post carrying a pay or a scale of pay with a maximum of over Rs.4000 but less than Rs.9000	Group C
4.	A Central Civil Post carrying a pay or a scale of pay the maximum of which is Rs.4000 or less	Group D

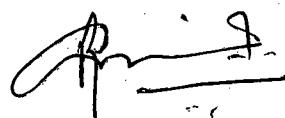
Explanation :- For the purpose of this order :-

- (i) 'Pay' has the same meaning as assigned to it in F.R. 9(21)(a)(I);
- (ii) 'Pay or scale of pay' in relation to a post, means the pay or the scale of pay of the post prescribed under the Central Civil Services(Revised Pay) Rules, 1997.

(F.NO.13012/1/98-Estt(D)

HARINDER SINGH, Jt. Secy.

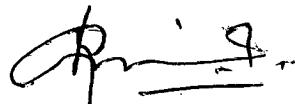
6. They also justified their action on the ground that an agreement was reached with the staff side and had the approval of higher authorities. We find from R3(A) reproduced above that for a post to be classified as Group C, the scale of pay should be with a maximum of over Rs.4000 but less than Rs.9000. Admittedly, the post of Fireman in the pay scale of Rs.2650-65-3300-70-4000, the maximum of the pay scale is not in excess of Rs.4000. Therefore, on the basis of the notification, the post could not be reclassified as Group C. The action of the respondents in further justifying their action for reclassifying the post as Group C as consultation with the staff side members of JCM and approval by the higher authorities cannot also be accepted because from the notification reproduced above, it is very clear that the order dated 20.4.98 had been issued in



exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution read with rule 6 of the Central Civil Services(Classification, Control and Appeal) Rules, 1965. Thus, the order dated 20.4.98 has statutory force. With an order having statutory force, no official howsoever high or union can act in contradiction to the said statutory rules. In this view, we are unable to sustain the inclusion of Fireman in the pay scale of Rs.2650-65-3300-70-4000 in Annexure A1 reclassification order reclassifying the said ~~part~~ ^{order} from Group D to Group C and further reissued by the respondents by Annexure R3(B) dated 13.4.99. We hold that this inclusion is contrary to the statutory rules and is liable to be set aside. We do so.

7. Another ground raised by the applicants was that among the Fireman, there are three categories, Fireman Grade I in the pay scale of Rs.2750-70-3800-75-4400 and Fireman Grade II in the scale of Rs.2650-65-3300-70-4000 and Fireman in the scale of Rs.2610-60-3150-65-3540 and Fireman Grade I having the pay scale of Rs.2750-4400 is left in Group D itself. This has no force as in this particular case the maximum of pay scale is Rs.4400 above Rs.4000, so the post automatically is in Group 'C'. The action of the respondents in not including in Annexure A1 and R3(B) cannot be faulted.

8. The next issue is whether the Fireman are eligible for the revised pay scale allowed to Fireman of I.S.R.O. To our specific query to the learned counsel for the applicants, as to what are the qualifications of Fireman in I.S.R.O. she was not able to elucidate. It was only submitted that Fireman of I.S.R.O. and Fireman of Indian Navy do the same work, hence the Fireman of the Indian Navy are entitled to the pay scale similar to the one given in I.S.R.O. We are unable to accept this contention. It



is well laid down that the pay scales of Government employees are decided by the Government based on the recommendations made by expert bodies who take into account all factors such as entry qualifications, duties etc. and it is not for Courts/Tribunal to prescribe pay scales. Even for considering the question of equal pay for equal work no material are placed before us. On the basis of the material placed before us we are unable to declare that the applicants are entitled to get the pay scale of Rs.3200-4900 with regard to applicants 1 to 22 and Rs.3050-40590 with regard to applicants 23 to 40 w.e.f. 1.1.98 at par with the employees of I.S.R.O.

9. The other ground raised by the applicants is that pay scales of Greasor/Winchman, Cook have been revised and hence the pay scale of Fireman should also be changed, we find that in those categories. In any case the respondents plea that the same were done in accordance with the recommendations of 5th Central Pay Commission accepted by the Government have not been denied. Hence we reject this ground.

10. In the above facts and circumstances, we dismiss this Original Application leaving the parties to bear their respective costs.

Dated the 24th April, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Memorandum No.CS 2755/12 dated 15.3.99 issued by the 3rd respondent.
2. A-2: True copy of the order No.275/10/2(Vth PC) dated 1.6.99 issued by the 4th respondent.
3. A-3: True copy of the order No.275/10/2(Vth PC) 12.7.99 of the 4th respondent.
4. A-4: True copy of the order No.24/99 dated 14.7.99 of the 4th respondent.
5. A-5: True copy of the order No.24/99 dated 3.8.99 issued by the 4th respondent.
6. A-6: True copy of the representation dated 26.5.99 made by the 1st applicant before the 3rd respondent.
7. A-7: True copy of the representation dated 30.6.99 made by the 1st applicant before the 3rd respondent.
8. A-8: True copy of the relevant portion of the letter No.17 (1)/98/D (Civ.I) dated 10.5.99 with regard to the progress report of the Departmental Anomalies Committee meeting held on 4.8.98 and 1.1.99.
9. A-9: True copy of the letter No.CP(P) 7837 VCPC/Anomalies dated 3.4.2000 of the 2nd respondent.
10. A-10: True copy of the proposal dated May 2000 sent by the 4th respondent as a response to Annexure A-9.

Respondents' Annexures:

1. R-3A: Photo copy of the Notification published in Part-II, Section 3 Sub Section (ii) of the Gazette of India dated 20.4.98.
2. R-3B: Photo copy of the order No.CS 2755/12 dated 13.4.99.
3. R-3C: Photo copy of the order No.CS 2755/12 dated 6.7.99.
4. R-3D: Photo copy of the letter CP(NG)/2802/SFM dated 21.6.99 issued by Asst. Director of Civilian Personnel
5. R-3E: Photo copy of the Note of the Ministry of Defence received through Naval Head Quarters.
6. R-3F: A true photostat copy of Communication dated 15.4.2002 issued by Naval Headquarters to the Flag Officer, Commanding-in-Chief, Kochi.

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