

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 214/98

Thursday, this the 22nd day of February, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. Thomas Joseph,  
Foreman(Mechanical),  
Naval Armament Inspectorate,  
Aluva - 683 563.
2. K.Sasi,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Aluva - 683 563.
3. P.P.Sebastian,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Aluva - 683 563.
4. M.Rameshan,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Aluva - 683 563.
5. M.J.Jacob,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Kochi-682 004.
6. M.P.Antony,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Kochi-682 004.
7. P.Valsan John,  
Senior Chargeman(Mechanical),  
Naval Armament Inspectorate,  
Kochi-682 004.

- Applicants

By Advocate Mrs Sumathi Dandapani

vs

1. The Secretary,  
Ministry of Defence,  
New Delhi.

2. The Chief of Naval Staff,  
Director of Naval Armament Inspection,  
Naval Headquarters,  
New Delhi.

3. The Flag Officer Commanding-in-Chief,  
Southern Naval Command,  
Kochi-682 004.

4. The Senior Inspector,  
Naval Armament Inspectorate,  
Aluva - 682 004.

- Respondents

By Advocate Mr Govindh K Bharathan, SCGSC

The application having been heard on 22.1.2001, the Tribunal on  
22.2.2001 delivered the following:

O R D E R

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

This Original Application has been filed jointly, by six applicants. They are aggrieved against A-9 communication dated 18.9.97 by which the applicants were informed that their claim for time bound promotion or grant of time bound higher grade on a par with Junior Engineers/Section Officers in Central Public Works Department(CPWD for short) or Superintendents Grade-I & II in Military Engineering Service(MES for short) could not be acceded to since, their case was not comparable to that of the employees in CPWD and MES. As per the said communication, the applicants were also told that the working and activities in the Naval Armament Inspectorate under which the applicants worked conformed to the working of an Industrial organisation where a structure and chain of commands were essential, whereas in the case of CPWD and MES, the Assistant Engineers/Junior Engineers or Superintendents Grade-I & II, as the case may be, were performing the same functions.

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2. The relevant facts are stated below:

The first applicant in this case is a Foreman who started his career as a Senior Chargeman in the Naval Armament Inspectorate (NAI for short) in 1972. He became Foreman after 12 years of service i.e. in 1984. The remaining 5 applicants entered service as Senior Chargeman at different points of time between 1982 and 1985 and they all continue to be in the same post. The thrust of their claim and the gist of their grievance in this application is that, in view of similar qualification and substantially similar nature of work, they ought not to have been denied the benefit of time bound promotion or at least time bound higher scale which was allowed to Junior Engineers/Section Officers of the CPWD and granted, on the same pattern to the Superintendents in MES and the Draughtsmen in Ordnance Factories.

3. Explaining the pleadings in the application, the learned counsel for the applicants contends that the denial of the benefit of time bound promotion/time bound higher scale to the applicants on the alleged ground that the NAI was not an organisation comparable to the CPWD or MES was incorrect. It is pointed out by counsel for the applicant that the theory of structure and chain of command essential in an industrial organisation is not, as a matter of fact, applicable to the NAI. When Draughtsmen in CPWD were given higher scale of pay, Draughtsman in Navy were also given the same benefit; and in this connection, learned counsel invites our attention to A-11

order whereby such benefits have been extended to the Draughtsman in the Naval Armament Depot at Alwaye. Relying on the decision of the Supreme Court in Union of India Vs Debasish Kar and others, 1995(4) SLR, 588, counsel for the applicants states that Draughtsmen in Ordnance Factories were held to be entitled to the same scale of pay as Draughtsmen in CPWD were getting. She would, therefore, urge that the applicants, being similarly placed, should also get similar benefit. It is further pleaded that, as per the order of the Bangalore Bench of this Tribunal, Superintendents Grade-I and Grade-II in MES as also similar persons in CPWD were granted the same benefit and that in the light of that order also, the applicants' claim is admissible.

4. The learned counsel for the respondents have resisted the application and defended the impugned order mainly on the ground that the Junior Engineers and Section Officers of CPWD and the Superintendents Grade-I and Grade-II in the MES were not similarly situated as the applicants and that in fact they stand on entirely different footing. Although Senior Chargeman (Mechanical), Foreman(Mechanical) and Senior Foreman(Mechanical) of NAI organisation appeared to be similarly placed in relation to the Junior Engineers/Section Officers in CPWD and the Superintendent Grade-I and Grade-II in the MES with respect to pay scale and recruitment qualifications, they are not similarly placed with regard to the functional aspects, urges the counsel for the respondents. It is, however, pointed out by the counsel for respondents that

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the Vth Central Pay Commission has recommended next functional promotion upto two levels in the form of Assured Career Progression Scheme to employees of the applicants' category, and that in case the same is accepted, the benefit flowing therefrom would be extended to the applicants also.

5. We have considered the pleadings and the contentions put forward by either side. We have devoted our anxious consideration to the question whether the claim of the applicants is well-founded. Going through the material relevant to the issue, we have come to the finding that the applicants have a case. While dealing with a similar question, the Bangalore Bench of this Tribunal ordered extension to the Superintendent Grade-I and Grade-II of the MES, the same time bound promotions and time bound higher scales of pay on the same lines as contained in the communication of Ministry of Urban Development dated 21.3.91 addressed to the Director General (Works) concerning the Junior Engineers/Section Officers of the CPWD. The details of the time bound promotions and higher scales allowed to the CPWD engineering personnel are available in Annexure-A1 communication and the manner in which the directions of the C.A.T., Bangalore Bench to grant similar benefits to the similar persons in MES is implemented can be seen in A-2. In our considered view, in terms of qualification, placement and even the nature and content of work, the applicants' position is not substantially different from that of their CPWD or MES counterparts. It is nobody's

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case that there is no stagnation in the NAI organisation particularly with reference to the category of employees like the applicants. According to us, the theory of industrial establishment and supervision and chain of command is not relevant as far as the NAI is concerned. It is pertinent to note that the Supreme Court has upheld the claim of Draughtsmen in Ordnance Factories for the benefits on par with the Draughtsmen in CPWD(Union of India Vs Debashis Kar and others, 1995(4) SLR, 588).

6. On the facts of the case and in the circumstances under which similar claims have been considered and allowed, it is quite clear that the organisation to which the applicants belong, viz, NAI, is not an industrial establishment any more than an ordnance factory itself. Thus, functionally viewed, the case of the applicants is pari-materia with that of the Draughtsmen in Ordnance Factories or the Superintendent Grade-I and Grade-II in MES or the Junior Engineers/Section Officers in CPWD. It is, therefore, idle to contend that in view of the structure and chain of command allegedly in force in NAI, the benefits extended to the CPWD and MES cannot be allowed to the category of employees to which the applicants belong. The Apex Court has, on more than one occasion, pointed out that for efficient and productive public service, provision for promotional avenues must be a tangible reality - vide Dr.Ms.O.Z.Hussain Vs Union of India and others, AIR 1990 SC, 311. In our view, the applicants' claim for relief by way of time-bound promotion or at least time-bound higher grade is well-merited. We, accordingly, proceed to order as under:

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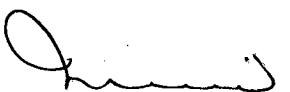
i) The circular A-9 in so far as it denies the benefit of time bound promotion or at least time bound higher scale of pay to the applicants is untenable. Hence A-9 to that extent is set aside. Respondents 1 & 2 are directed to rescind the said circular to that extent.

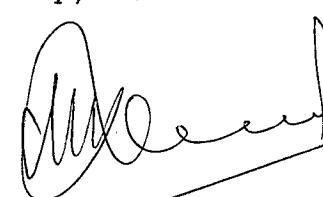
ii) Respondents 1&2 are further directed to allow the applicants the benefit of time bound promotions in consonance with A-1 and A-2 or in the alternative, to allow them the benefit of higher grades of pay on a time bound basis. We further direct the respondents 1&2 to disburse to applicants the monetary benefits flowing from the relief ordered above in full measure.

7. The exercise of implementation of the above directions shall be completed before the expiry of four months from the receipt of copy of this order.

8. The O.A. is disposed of as above. There will be no order as to costs.

Dated, the 22nd of February, 2001.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-2: True copy of the Implementation of CAT Bangalore judgement Supdt. Grade I & II B&R/ECM/5A dated 24.4.96 issued by the Army Headquarters to the Chief Engineer.
2. A-9: True copy of the letter No.A1/1358 dated 18.9.97 issued by the 2nd respondent to the 3rd respondent.
3. A-1: True copy of the communication dated 22.3.91 issued by the Govt. of India, Ministry of Urban Development, New Delhi addressed to the Director Ge.(Works) (CPWD), Nirman Bhavan, New Delhi Vide No.1204/2/87.FN2.
4. A-11: True copy of Temporary Depot Order No.133/95, dated 13.12.95 issued by the Offg. General Manager, Naval Armament Depot, Alwaye.

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