

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 252 of 2012**

**Tuesday, , this the 25<sup>th</sup> day of June, 2013**

**CORAM:**

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

1. V.P. Mohammed Mustafa,  
Instructor (Mechanic Diesel),  
Dr. B.R. Ambedkar I.T.I., Kavaratti.
2. K.P. Kunhikoya,  
Instructor (Carpenter),  
Dr. B.R. Ambedkar I.T.I., Kavaratti.
3. D.A. Sadiqu Ali,  
Instructor (Workshop Cal. & Sc. (Engg. Drg.),  
Dr. B.R. Ambedkar I.T.I., Kavaratti.
4. C.M. Pookunhikoya,  
Instructor (Stenography),  
Dr. B.R. Ambedkar I.T.I., Kavaratti. .... **Applicants**

**(By Advocate – M/s. Youseff & Aysha)**

**V e r s u s**

1. Union Territory of Lakshadweep,  
Represented by its Administrator, Kavaratti.
2. Commissioner & Secretary, Department of  
Labour & Employment, Union Territory of Lakshadweep,  
Kavaratti – 682 555.
3. The Director General of Employment & Training,  
Government of India, Ministry of Labour, Shram  
Shakti Bhavan, New Delhi-1.
4. Union of India, represented by the Secretary,  
Ministry of Labour, New Delhi – 110 001.
5. The Principal, ITI, Dr. B.R. Ambedkar Industrial  
Training Institute, Union Territory of Lakshadweep,  
Kavaratti – 682 555. .... **Respondents**



[By Advocates – Mr. S. Radhakrishnan (R1, 2 & 5) &  
Mr. Thomas Mathew Nellimoottil (R3-4)]

This application having been heard on 19.06.2013, the Tribunal on 25.06.13 delivered the following:

### ORDER

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

This is the second round of litigation by the same applicants. In the earlier OA No. 425 of 2010, the following order was passed, vide order dated 4<sup>th</sup> May 2011:-

“The applicants have filed this Original Application seeking the following main reliefs:-

“(i) To declare that the applicants are entitled to have their pay fixed in the scale of Rs. 5500-9000 in the light of Annexure A-7, with arrears and interest.

(ii) To direct the 1<sup>st</sup> respondent to grant the applicants the scale of pay of Rs. 5500-9000 as directed in Annexure A-7 with arrears and interest @ 18% per annum within a time stipulated by this Hon'ble Tribunal.

(iii) To grant such other reliefs as may be prayed for and this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> applicants are employed as Instructors (Mechanic Diesel-Engineering, Carpentry-Engineering, Workshop Calculation & Science /Engineering Drawing and Stenography) respectively at Dr. B.R. Ambedkar Industrial Training Institute, Kavaratti and have entered their service on 29.03.1994, 08.01.1990, 20.01.2007 and 08.11.2000 respectively. The applicants averred that the National Council for Vocational Training (NCVT) is an advisory body set up by Government of India with a view to evolve and maintain uniformity in the standards of training all over the country. The NCVT, by virtue of the powers vested on it, proposed to enhance the recruitment qualification for the post of Vocational Instructors as Item No. 14 of Agenda in its 31<sup>st</sup> meeting held on 30.11.1995.

3. The recommendation of NCVT was to have two separate streams of Vocational Instructors, one for teaching theory subject and

another for conducting practicals having separate recruitment qualification norms. Government of India accepted the above recommendation and accordingly addressed all State Governments/Union Territory Administration requesting to amend the Recruitment Rules in respect of Vocational Instructors (A-1). In the 33<sup>rd</sup> meeting of NCVT dated 03.07.1999, it was proposed to enhance the pay scale of Vocational Instructors for non-engineering trades to have parity with Vocational Instructors of Engineering Trade. This also was circulated to the Secretaries of States/Union Territories requesting them to implement the decision of giving enhanced pay scale of Rs. 5500-9000 to Vocational Instructors of Non-Engineering Trades. Since the I.T.I Lakshadweep is coming under the 3<sup>rd</sup> respondent, viz., the Director General of Employment and Training, Ministry of Labour, the 2<sup>nd</sup> respondent sought clarification from the 3<sup>rd</sup> respondent (A-2). Meanwhile, those working in Vocational Training Institute, Chennai approached the Central Administrative Tribunal, Madras Bench seeking for enhancement of pay scale. The applicants stated that the High Court of Madras in W.P (C) 7068/98 delivered an interim order dated 14.10.1998 directing implementation of the revised pay scales with effect from 01.01.1986 without payment of arrears subject to the final judgment to be delivered by the Hon'ble Supreme Court in S.L.P 10677/97 (A-3).

4. In view of the interim orders of the High Court of Madras, the 2<sup>nd</sup> respondent instructed the Pay and Accounts Officer, D.G.E.T-II, Chennai to implement the order of the Hon'ble High Court of Madras (A-3). The 2<sup>nd</sup> respondent, therefore, took up the matter with the 3<sup>rd</sup> respondent regarding revision of pay scales for the Instructors for Non-Engineering Trades in I.T.I Lakshadweep (A-4 & A-5). The 3<sup>rd</sup> respondent, however, did not concede the demand of the 2<sup>nd</sup> respondent as the recommendation of NCVT to have two separate schemes of Vocational Instructors for teaching the theory subject and taking the practical classes was not implemented by the 2<sup>nd</sup> respondent by framing Recruitment Rules, etc. While so, the Hon'ble Supreme Court dismissed the Civil Appeal No. 2357/2000 and 2261/2005 arising out of the order passed by the Central Administrative Tribunal, Madras and Kolkatta Benches. In the light of the judgement of the Hon'ble Supreme Court, the 3<sup>rd</sup> respondent conveyed its approval on 29.01.2007 for grant of the revised enhanced pay scales for Vocational Instructors (A-7) with effect from 01.01.1986 without payment of arrears. The applicants submitted their representations to 1<sup>st</sup> respondent seeking revision of their pay scale to Rs. 5500-9000 from Rs. 5000-8000 (A-8 to A-12). As their representation did not elicit any response, they filed this Original Application.

5. The respondents filed the reply statement stating that A-7, a copy of the letter from the 3<sup>rd</sup> respondent has not been endorsed to the 2<sup>nd</sup> respondent to enable them to take action in the matter. In view

of the Annexure A-6 letter from the 3<sup>rd</sup> respondent, denying benefits to the instructors in Dr. B.R. Ambedkar Industrial Training Institute, Kavaratti on account of the non-implementation of the recommendation of the NCVT in 2003, they have not pursued the matter any further. They added that Annexure A-4 clarificatory order from the 3<sup>rd</sup> respondent clearly stated that the revised scale was given as enhanced qualifications were prescribed and therefore, the recommendation has to be implemented in toto. The letter concluded with Para 'E' stating the necessity to enable action to have separate recruitment and qualifications as per the 3<sup>rd</sup> respondent's letter dated 24.09.1996.

6. Heard the counsel on both sides and perused the documents. The applicants have referred to the order of the Tribunal, Madras Bench, the Madras High Court and the Supreme Court but they have not produced any of the judgements to enable this Tribunal to go through them and give the necessary directions to the respondents. The respondents have evaded the issue stating that the A-7 letter from the 3<sup>rd</sup> respondent was not received by them. The perusal of the A-7 letter regarding implementation of the judgement dated 19.04.2006 of the Hon'ble Supreme Court of India in C.A No. 2261/2005 and 2357/2000 shows that a copy of the A-7 letter was sent for information and necessary action to all the Field Institutes under the Training Directorate of (DGE&I) except NVT & RVTL. According to the respondents, Dr. B.R. Ambedkar, I.T.I, Kavaratti, comes under the 3<sup>rd</sup> respondent. Therefore, the respondents are directed to take up the matter with a copy of Annexure A-7 letter with the 3<sup>rd</sup> respondent to seek further clarification, and effect pay revision to applicants, if they are similarly placed like the applicants in the O.As filed before Madras and Kolkatta Benches. The respondents, who have better access to the judgements pronounced by the Hon'ble Supreme Court and Hon'ble High Court of Madras are directed to procure them for perusal and necessary action. However, the applicants are also directed to produce the judgements for the information of the 2<sup>nd</sup> respondent, since, it was their duty to do so.

7. The O.A is disposed off with a direction to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to get the clarification from the 3<sup>rd</sup> respondent within a time line of four months and pass a speaking order on the representations of the applicants within five months from the date of receipt of this order."

2. In the wake of the above order, the applicants caused legal notice issued vide Annexure A-15 and it appears that the Principal, I.T.I, Dr. B.R. Ambedkar Industrial Training Institute, Kavaratti, U.T.L. had addressed a



communication to the Ministry of Labour and employment on 29-06-2011.

The latter, vide Annexure A-16 communication dated 07/08-09-2011 has informed the Institute as under:-

“No. DGET-C-18013/3/2011-TA-I  
Government of India  
Ministry of Labour & Employment  
Directorate General of Employment & Training

New Delhi, dated the 8/7-09-2011

To ~~The Principal~~  
ITI, Dr. B.R. Ambedkar Industrial Training Institute  
Union Territory of Lakshadweep,  
Kavaratti-682 555

Sub: OA No. 425 / 2010 filed by Sh. V.P. Mohammed Mustafa,  
Instructor before Hon'ble CAT Ernakulam.

Sir,

Please refer to your letter dated 29.06.2011 on the subject mentioned above. In this context it is intimated that the scale of Rs. 5500-9000/- granted to Vocational Instructor /Jr. Technical Assistant and others vide DGE&T letter No.-DGE&T C-18012/10/2003-TA-I dated 29.01.2007 is applicable, as per V Central Pay Commission, only to Central Govt. Employees working in DGE&T Head Quarter and its 24 Institute all over India. It is not relevant to ITI of state Govt. which are governed by the rules of each state Government. This is for your kind information.

Yours faithfully  
Sd/-

(N. Sreekumar)  
Under Secy. to the Govt. of India  
Tel. No. 011-23718903”

3. The applicants have filed this OA seeking the same relief as they have sought in the aforesaid OA No. 425 of 2010 (which was not decided on merits). They have annexed communication dated 24<sup>th</sup> July, 2006 issued by the Ministry of Finance, Deptt. of Expenditure (obtained through RTI) which reads as under:-



"No. 8(61)/06/RTI  
Government of India  
Ministry of Finance  
Deptt. of Expenditure

.....

North Block, New Delhi,  
Dated the 24<sup>th</sup> July, 2006

To

Shri K.P. Thangakoya,  
Kakkinipura House, Kavaratti Island,  
UT of Lakshadweep 682 555

Subject:- Application seeking information under the RTI Act, 2005.

I am directed to refer to your three identical applications on the same subject dated 25.4.2006 and to state that the specific information sought by you is whether Central Pay Commission and its sub-committee recommendations and orders on it, is applicable to the employees working in the UT administration. In so far as this aspect is concerned UTs were covered under Terms of Reference of the Fifth Pay Commission. Accordingly, the Pay Commission recommendations on UTs and order on it are necessarily applicable to UT employees.

Yours faithfully

Sd/-

(Karan Singh)

Under Secretary to the Govt. of India & APIO"

4. Reply on behalf of Respondents Nos. 1,2 and 5 has been filed wherein it has inter alia been stated as under:-

"11. The Administration being a UT without legislature, the matters such as creation of posts, providing of pay scale etc., in respect of the employees of UT of Lakshadweep are dealt with only after obtaining approval of the Administrative Ministry concerned under the Government of India. The applicant will be provided with the scale of pay as per Annexure A7 on getting approval from the Government of India.

12. In this connection, it is also submitted that the prayer of the applicants is to grant the enhanced financial benefits w.e.f. 01.01.1986 as per the ratio laid down by the Hon'ble Supreme Court in Tarsem Singhs case, the benefit even if entitled will have to be restricted for a period of 3 years from the date of filing of the application. Therefore, the applicants are not entitled to get the benefit w.e.f. 01.01.2006."

5. On behalf of respondents Nos. 3 and 4, the reply is the same as given in the letter dated 7/8-09-2011 vide Annexure A-16, extracted above.

6. Counsel for the applicants submitted that there appears to be no application of mind by the office of the third and fourth respondents which is evident from the fact that when administration of Respondent No. 5 is under the control of UTL, which in turn comes directly under the Central Government, the fourth respondent makes reference to State Government, as if the UTL comes under State Government. That the scale of pay of Rs 5,500-9000/- to Vocational Instructors are not applicable to UTL of State Government is of no relevance in the context of the applicant since the institute where the applicants serve falls under the Central Government. The counsel has stated that the UTL has promptly taken action, but the some one in the Ministry of Labour and Employment is sitting over the same, as could be seen from the reply filed on behalf of the UTL. As such, a time frame may be scheduled for Respondent No. 4 to consider the case of the applicants in consultation with the Ministry of Finance, Department of Expenditure and act accordingly.

7. There has been no resistance from the side of the respondents in this regard.

8. Arguments were heard and documents perused. The applicants have filed a copy of the letter dated 24-07-2006 from the Ministry of Finance

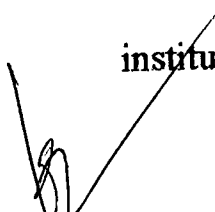


vide Annexure A-17, which clinches the issue. In all expectations, there cannot be any negative answer from the Ministry of Finance, which have in unequivocal terms stated that the Pay Commission Recommendations on UTS and order on it **are necessarily applicable to UT employees.**

9. The slow action on the part of the office of respondent No. 4 is evident from the records. Again, it is surprising that the officer in the office of Respondent No. 4 vide Annexure A-16 chooses to state that the higher pay scale is not relevant to I'll of State Government, when he is considering the case of an Union Territory, which essentially comes under the Central Government. The respondent No. 4 shall have to act fast and correctly. In all probability, the matter would have been decided at a comparatively lower level. Had the matter been put up to the Secretary initially itself, we are sure that the result would have been entirely different.

10. In view of the above, Respondent No. 4, the Secretary, Ministry of Labour, New Delhi-11, shall call for the relevant records and bestow his personal attention to the issue and liaise with Ministry of Finance, Department of Expenditure and inform the first respondent of the final decision.

11. Though the respondents Nos. 1, 2 and 5, in their reply referred to the decision of the Apex Court in the case of Tarsem Singh and stated that the claim of the applicants would be limited to three years from the date of institution of the OA, as this is the second round of litigation and the earlier



OA was filed as early as 2006 and as the legal issue had been dealt with the Madras Bench of the Tribunal, followed by the High Court of Madras and ultimately even by the Apex Court, and benefit of higher pay to vocational instructors would in all expectation be available all through, in the event of higher pay scale being made available to the applicants the same shall be w.e.f. 01-01-1996 notionally and actually from 01-01-2006 on the basis of the Revised Pay Rules, 2008.

12. Time limit calendared for compliance of this order is four months. A copy of the order shall be sent by the Registry to the Secretary, Ministry of Labour, New Delhi 11, through speed post, acknowledgment due. No costs.



**(K. GEORGE JOSEPH)**  
**ADMINISTRATIVE MEMBER**



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

**"SA"**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

C.P(C) No.181/7/14 in O.A.No.252/2012  
THURSDAY, this the 09<sup>th</sup> of October, 2014

**C O R A M :**

**HON'BLE MR.U SARATHCHANDRAN, JUDICIAL MEMBER**  
**HON'BLE MR.P.K.PRADHAN, ADMINISTRATIVE MEMBER**

- |   |   |             |
|---|---|-------------|
| <ol style="list-style-type: none"> <li>1. V.P.Mohammed Mustafa<br/>Instructor (Mechanic Diesel)<br/>Dr.B.R.Ambedkar I.T.I Kavaratti</li> <li>2. K.P.Kunhikoya<br/>Instructor (Carpenter)<br/>Dr.B.R Ambedkar I.T.I Kavaratti</li> <li>3. C.M.Pookunhikoya<br/>Instructor (Stenography)<br/>Dr.B.R.Ambedkar I.T.I Kavaratti</li> </ol> | - | Petitioners |
|---|---|-------------|

(By Advocate M/s.Yousef & Aysha)

Versus

- |   |   |             |
|---|---|-------------|
| <ol style="list-style-type: none"> <li>1. Shri H.Rajesh Prasad I.A.S<br/>Administrator, Union Territory of Lakshadweep<br/>Kavaratti – 682 555</li> <li>2. Shri Ashok Kumar I.A.S<br/>Commissioner &amp; Secretary,<br/>Department of Labour &amp; Employment,<br/>Union Territory of Lakshadweep<br/>Kavaratti – 682 555</li> <li>3. Shri D.A.Sidiqu Ali<br/>Principal, Dr.B.R.Ambedkar<br/>I.T.I Kavaratti – 682 555</li> </ol> | - | Respondents |
|---|---|-------------|

(By Advocate Mr.S.Radhakrishnan R 1 & 2)

This Contempt Petition having been heard on 29<sup>th</sup> September, 2014 this  
Tribunal on 09-10-2014 day delivered the following :-



**ORDER****BY HON'BLE MR.P.K.PRADHAN, ADMINISTRATIVE MEMBER**

This Contempt Petition has been filed by the petitioners alleging non implementation of the order dated 25.06.2013 passed by this Tribunal in O.A No.252/2012. It is submitted that pursuant to the above said order the Secretary Ministry of Labour, Employment and Training, vide letter No.DGET-C-18013/3/2011-TA-1 dated 24.07.2013 informed the 1<sup>st</sup> respondent that the enhanced pay as per 5<sup>th</sup> Central Pay Commission recommendations is applicable to Vocational Instructors in Central Government I.T.I at Kavaratty. Even though the above order was issued long back in July 2013, the respondents herein did not take any action to comply with the above order passed by this Hon'ble Tribunal so far. Further, in spite of several Legal Notices the respondents have not take any action to comply with the aforesaid order. This fact was also reiterated by the learned counsel for the petitioners when the matter came up for hearing.

2. The learned counsel for the respondents submitted that the Hon'ble Order of this Tribunal was very specific and gave direction to respondent no.4 i.e; the Secretary, Ministry of Labour stipulating that he shall call for the relevant records and bestow his personal attention to the issue and liaise with Ministry of Finance, Department of Expenditure and informed the first respondent about the final decision. Following that the Ministry of Labour and Employment, Government of India have been informed Secretary Department of Labour and Employment (Training) i.e; respondent no.2 in the original Application stating that as the Union Territories including Lakshadweep Administrations are covered under terms of reference of the 5<sup>th</sup> Pay Commission, the Pay Commission



recommendations on Union Territories and order on it are necessarily applicable to Union Territory employees. Accordingly, the enhanced pay as per 5<sup>th</sup> Central Pay Commission recommendations is applicable to them. This was reiterated by a further communication dated 23.5.2014.

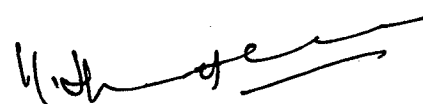
3. During the course of argument the learned counsel for the respondents produced a further communication dated 03.09.2014 from the Ministry of labour and Employment , Government of India to Lakshadweep Administration which stated that Order No.DGET-C-18013/3/2011-TA-1 dated 07.09.2011 pertains to the institutes under DGET. Since B.R.Ambedkar ITI is not one of the institutes of DGET, therefore the ITI was not included in the said letter dated 07.09.2011.

4. Learned counsel for respondents submitted that the order of the Tribunal has already been complied with and necessary instructions passed on to the Lakshadweep Administration by Government of India. It has also been stipulated that B.R.Ambedkar I.T.I is not one of the Institutes of DGET and hence ITI was not included for the aforesaid benefits of enhanced pay. Therefore there is no disobedience of the order of this Tribunal and hence this Contempt Petition may be closed.

5. We carefully considered the matter and are of the view that the order passed by this Tribunal in O.A 252/12 has been complied by the respondents. Hence this Contempt Petition stands closed and notices discharged.



(P.K.PRADHAN)  
ADMINISTRATIVE MEMBER



(U SARATHCHANDRAN)  
JUDICIAL MEMBER