

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 257 of 2000

Friday, this the 15th day of February, 2002

CORAM

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

1. T.R. Babuleyan,
Laboratory Technician,
MI Room, Naval Armament Depot,
Alwaye, Ernakulam.
2. P.V. George,
Laboratory Technician,
Civilian MI Room, Cochin Naval Base,
Cochin-4

....Applicants

[By Advocate Mr. M. Rajagopalan]

Versus

1. Flag Officer Commanding in Chief,
Head Quarters, Southern Naval Command,
Cochin-4
2. Union of India, represented by the
Secretary, Ministry of Defence,
New Delhi.

....Respondents

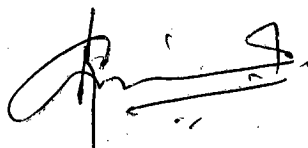
[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 15-2-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicants, two in number, who are working as Laboratory Technicians under the respondents have filed this Original Application aggrieved by A9 order dated 30-9-1999 and A-10 order dated 8-9-1999 by which the 1st respondent has rejected their claim for grant of the pay scale of Rs.1350-2200 from 1st of January, 1986. They sought the following reliefs through this Original Application:-



- "(a) Call for the records leading upto Annexure A10 and quash Annexure A9 and A10 orders issued by the 1st respondent.
- (b) Direct the respondents to fix pay of the applicants in the revised pay scale 1320-2040 with effect from 1-1-1986 and the next revised scale 4500-7000 from 1-1-1996 and to pay all consequential benefits including arrears.
- (c) Declare that the applicants are entitled to get the revised pay scales 1320-2040 with effect from 1-1-86 and Rs.4500-7000 with effect from 1-1-96 given to the Laboratory Technicians, with all consequential benefits.
- (d) To grant such other relief deem fit to this Honourable Tribunal."

2. The 1st applicant was appointed as Laboratory Technician initially on casual basis on 14-6-1982 in the pay scale of Rs.330-560. He was regularised with effect from 1-4-1985 on the basis of the direction of this Tribunal in OA No.1054/92. His pay scale was revised from Rs.330-560 to Rs.1200-2040 with effect from 1-1-1986. The 2nd applicant was appointed as Laboratory Technician on casual basis with effect from 6-8-1986 in the pay scale of Rs.330-560, which was revised to Rs.1200-2040 with effect from the date of his appointment. Applicants claimed in the Original Application that the pay scale of Laboratory Technicians was revised by the IVth Central Pay Commission as Rs.1320-2040. According to the applicants, the Government of India issued order F.No.11(16/97/D CIV.I) dated 9-10-1997 with respect to the revised pay rule 1997 showing the revised pay scale of different categories of Government employees under the Central Government. Accepting the recommendations of the Vth Central Pay Commission, the 2nd respondent issued revised pay scale for posts in Group A, B, C and D and the pay scale of Rs.1320-2040 was revised to Rs.4000-6000 and the scale of Rs.1350-2200 was revised to

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Rs.4500-7000. In modification to the earlier order of pay revision, revised pay scale for certain common categories of staff including Laboratory Technicians was made as Rs.4500-7000. Applicants claimed that this was done as per the recommendations of the Vth Central Pay Commission (Para No. 55.149 of the Report) and that the pay scale of Laboratory Technician stood revised as Rs.4500-7000 with effect from 1-1-1996 and there was no other pay scale for this category. They also drew support for this contention on the plea that all further appointments as Laboratory Technicians were made in the pay scale of Rs.4500-7000 from 1-1-1996 onwards. They relied on Annexure A4 advertisement, which appeared in the Mathrubhumi Daily dated 27-12-1999 for the same. As they had been working for more than a decade, 1st applicant submitted Annexure A5 representation dated 6-5-1999, for which he received Annexure A6 reply dated 9-6-1999, wherein he was informed about the rejection of the claim by the 1st respondent. Applicants submitted further representations to the 1st respondent pointing out that they were entitled to get the pay scale of Rs.1350-2400 from 1-1-1986 onwards and also the consequential arrears arising from that by their representations dated 17-7-1999 (Annexure A7) and 13-7-1999 (Annexure A8) respectively. They received Annexure A9 and A-10 replies dated 30-9-1999 and 8-9-1999 respectively, which are impugned in this Original Application. According to them, there was no separate pay scale for Laboratory Technicians in the Navy and having admitted that the applicants were para medical staff, they were entitled to get the pay scale given to Laboratory Technicians under the para medical section. They also relied on Para 52.78 and Para 52.35 of the Vth Central Pay Commission Report in support of their claim. According to them, as they were



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regularised only in 1998, they could not agitate the matter earlier, even though they were entitled for getting the revised pay scale with effect from 1-1-1986 and further revision with effect from 1-1-1996 with all consequential benefits from 1986 onwards.

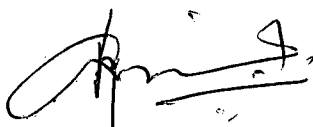
3. Respondents filed reply statement resisting the claim of the applicants. According to them, the claim of the applicants was highly belated and barred by limitation under Section 21 of the Central Administrative Tribunals Act, 1985, as they are claiming higher pay scale from 1st of January, 1986 after a period of 14 years. Relying on Annexure R1(C) schedule, Sl.No.11 (Revised scales of pay as per the IVth Central Pay Commission recommendations), it was submitted that the pay scale of Rs.330-560 was revised to Rs.1200-2040. They also relied on Sl.No.IX below Part-B of the same schedule and submitted that the revision of pay scale in respect of Laboratory Technicians holding the pre-revised scale of Rs.330-560 had been shown as Rs.1350-2200. It was also averred that the pay scale of Laboratory Technician had not been revised to Rs.1320-2040 either by the IVth Pay Commission or by the Vth Pay Commission. According to them, the pay scale of Laboratory Technician had been recommended by the Vth Central Pay Commission vide Para 55.149 and as per the note thereon, those Laboratory Technicians presently in the grade of Rs.1320-2040 would be placed in the pay scale of Rs.1400-2300. They claim that the same was not applicable to the Laboratory Technicians working under the para medical staff in the Navy. According to them, Annexure A4 advertisement produced by the applicants was not relevant to the case of the applicants as the Ordnance Factory was functioning separately.

4. Heard the learned counsel for the parties.

5. We have given careful consideration to the submissions made by the learned counsel for the parties, the rival pleadings and the documents brought on record.

6. The first objection raised by the respondents is that the claim is barred by limitation as the applicants are claiming revision of pay scales from 1-1-1986 after a period of 14 years. We find from Annexure R-1(A) that the regularisation order of the applicants was issued only on 27th October, 1998. In this background, we accept the contention of the applicants that because they were pursuing the matter of their regularisation they could take up the question of revision of pay scales only after their regularisation. Accordingly, we reject the plea of limitation raised by the respondents.

7. Applicants mainly base their claim on the ground that the pay scale of Laboratory Technician was revised by the IVth Central Pay Commission as Rs.1320-2040. They also rely on Annexure A3, the Vth Central Pay Commission Report, Para 52.78, wherein Laboratory Technicians pay scale had been shown as Rs.1320-2040. It is true that the normal replacement scale for the pre-IVth Pay Commission scale of Rs.330-560 is Rs.1200-2040 as seen from Annexure R-1(C). But, the specific averment of the applicants to the effect that "the pay scale of Laboratory Technician was revised by the IVth Central Pay Commission which may be referred as C.P.C. here under as Rs.1320-2040" even though has been denied, they have not commented anything regarding Annexure A3, wherein the IVth Central Pay Commission



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has shown the scale of pay of Laboratory Technician as Rs.1320-2040. A perusal of Para 52.37 of the Vth Pay Commission Report under Annexure A3 also indicates that Laboratory Technicians were covered by the IIIrd Pay Commission in the category of scientific assistants. This gives a doubt as to whether the category of Laboratory Technicians covered under the scientific assistants pay scale was revised to Rs.1320-2040 as claimed by the applicants or not. This is a factual aspect which has to be verified by the 2nd respondent as the 1st respondent a subordinate office may be not posted with full information. We take this view because even though it is stated in the reply statement that the said reply statement had been filed on behalf of the 1st and 2nd respondents, it is stated that the Naval Headquarters had not issued any order, in para-11. We also find from Annexure A4, which is an advertisement published in Mathrubhumi Daily dated 27-12-1999, that for filling up the post of Laboratory Technician vacant in the Ordnance Factory under the Ministry of Defence, the 2nd respondent herein, the pay scale of the post had been shown as Rs.4500-7000. Respondents in the reply statement have averred that the said advertisement is not applicable to the applicants on the ground that the Ordnance Factory is a different establishment. As it has not been denied that the Ordnance Factory is under the Ministry of Defence and the applicants are also under the Navy which is also under the Ministry of Defence, we are not impressed by this plea of the respondents.

8. All the above lead us to the conclusion that the applicants have a cause for grievance which needs to be redressed on the basis of the factual position. Under these



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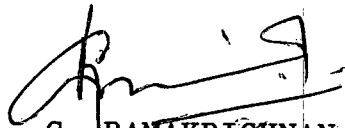
circumstances, we are of the view that the matter should be considered by the 2nd respondent first. The 2nd respondent is, therefore, directed to treat the Original Application filed by the applicants as a representation and pass a detailed order within a period of three months from the date of receipt of a copy of this order.

9. The Original Application is disposed of as above with no order as to costs.

Friday, this the 15th day of February, 2002



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

ak.

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A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of the representation dated 17-7-92 submitted by the 2nd applicant to the 1st respondent.
2. A-2: True copy of the forwarding letter CIV/MIR/10 dated 29-8-92 of the Medical Officer in charge, Civilian MI Room.
3. A-3: True copy of pages 650, 662 and 676 (Annexe-52-2) of the VCPC report.
4. A-4: True copy of the Advertisements appeared in the Mathrubhumi daily dated 27-12-99.
5. A-4(a): True copy of the English Translation of the above Advertisement.
6. A-5: True copy of the representation submitted by the 1st applicant dated 6-5-99 of the General Manager, NAD.
7. A-6: True copy of this letter AAE 1045, dated 9-6-99 of the General Manager, NAD.
8. A-7: True copy of the representation submitted by 1st applicant dated 17-7-99.
9. A-8: True copy of the representation submitted by 2nd applicant, dated 13-7-99.
10. A-9: True copy of the order No.AAE 1011/TRB dated 30-9-99, 1st applicant.
11. A-10: True copy of the order No.CS 2755/1 dated 8-9-99, 2nd applicant.

Respondents' Annexures:

1. R-1A: Photo copy of the letter No.CP(SC)/4864/TR/CC/NHQ/2195/D(N-II) dated 27th October, 1998 issued by the Under Secretary to the Government.
2. R-1B: Photo copy of the 5th Central Pay Commission recommendation page 651.
3. R-1C: Photo copy of the schedule.
4. R-1D: Photo copy of the order in O.A 1678/97 and O.A 27/98 dated 13-1-1998.
5. R-1E: Photo copy of the recommendation of 5th Central Pay Commission in Paragraph 55.149 page No.761 & 762.

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