

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 260 of 2006

Thursday, this the 19th day of July, 2007


C O R A M :

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

1. C.N. Abdul Raheem,
S/o P. Abdul Zees, Environment Warden,
(Technical Assistant), Kavaratti,
Department of Environment and Forest,
U.T. of Lakshadweep, Kavaratti,
Residing at Kavaratti.
2. A.C. Abdul Jabbar, S/o. P.C. Essa,
Environment Warden,
Department of Environment and Forest,
Kithan Island, U.T. of Lakshadweep,
Residing at Kilthan.
3. K.P. Mohammed, S/o. B. Kadher,
Environment Warden,
Department of Environment and Forest,
U.T. of Lakshadweep, Kadamath,
Residing at Kadamath.
4. Dr. K. Sayed Ali, S/o. Koya,
Environment Warden,
Department of Environment and Forest,
U.T. of Lakshadweep, Kavaratti,
Residing at Kavaratti.
5. P. Sayed Shake Koya,
S/o. K. Sayed Muhammed,
Environment Warden,
Department of Environment and Forest,
U.T. of Lakshadweep, Kavaratti,
Residing at Kavaratti.
6. K.P. Cheriya Koya, S/o. Yakub,
Environment Warden,
Department of Environment and Forest,
U.T. Of Lakshadweep, Androth,
Residing at Androth. ... Applicants.

(By Advocate Mr. P.V. Mohanan)

v e r s u s



1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
2. Union of India,
Represented by Secretary,
Ministry of Environment and Forest, New Delhi.
3. The Secretary,
Ministry of Finance, New Delhi. ... Respondents.

(By Advocate Mr. S. Radhakrishnan (R1) and Mr. TPM Ibrahim Khan, SCGSC (R2))

ORDER
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

Pay parity is sought by the applicants who are working as Environment Warden in the Lakshadweep Administration. The basic qualification is Graduation. The pay scale attached to the said post in the pre-revised pay scale was Rs 1,200 – 2040/- while the pay scale of posts of Forest Ranger, Range Officers and Sub Inspector of Police, for which the educational qualifications are, as that of the post of Environment Warden, i.e. Graduation is much higher than that of the post of Environment Warden. The V Central Pay Commission which consciously considered the pay scales of Forest Rangers, etc., had, on account of the non submission of details by the respondents, been silent about the pay scale of Environment Forest Ranger. Result, instead of equating the pay scale of Environment Warden with those of other posts such as Forest Ranger, only replacement scale was afforded and the same has now widened the difference in pay scale of Environment Warden and others. Representation in regard to revision of pay scale was made by the applicants which was favourably recommended by the Administration but the deciding authority i.e. the Central Government has been reluctant to consider the case of the applicants. The pay scale of the applicants which was only Rs 4,000- 6,000 initially was by order



dated 18-09-1999 (Annexure A-14) revised to Rs 4,500 – 7,000/- w.e.f. 8-7-99, while that of Forest Ranger, it is, w.e.f. 01-01-1996, Rs 5,500 – 9,000 (i.e. two scales above that of the applicants). Applicants have, therefore, prayed for pay parity of Rs 5,500 – 9,000 w.e.f. 01-01-1996 and in any event afford the pay scale of Rs 4,500 – 7,000 w.e.f. 01-01-1996 instead of from 08-07-1999.

2. Respondent No. 1 filed the reply stating that the above pay revision from 4,000 – 6,000 to Rs 4,500 – 7,000 itself was on the basis of recommendation by the Lakshadweep Administration and for further revision, though the administration recommends, the deciding authority i.e. Ministry of Finance have not approved the same.

3. Counsel for the applicant submitted that when the Pay Commission does not discuss and consider a particular category, it is for the Courts to consider the same. He has relied upon the decision by a Constitution Bench in the case of **Purshottam Lal v. Union of India, (1973) 1 SCC 651**, wherein it has been held as under:-

".... if any category of government servants was excluded material should have been placed before this Court. The Pay Commission has clearly stated that for the purposes of their enquiry they had taken all persons in the Civil Services of the Central Government or holding civil posts under that Government and paid out of the Consolidated Fund of India, to be Central Government employees. It is not denied by Mr Dhebar that the petitioners are paid out of the Consolidated Fund of India.

15. Mr Dhebar contends that it was for the Government to accept the recommendations of the Pay Commission and while doing so to determine which categories of employees should be taken to have been included in the terms of reference. We are unable to appreciate this point. Either the Government has made reference in respect of all government employees or it has not. But if it has made a reference in

respect of all government employees and it accepts the recommendations it is bound to implement the recommendations in respect of all government employees. If it does not implement the report regarding some employees only it commits a breach of Articles 14 and 16 of the Constitution. This is what the Government has done as far as these petitioners are concerned. "

4. Counsel for the first respondent submitted that all that the first respondent could do had been done and it is for the Ministry of Finance to consider the request.

5. Arguments were heard and documents perused. It has been held by the Apex Court in the case of *State of M.P. v. Pramod Bhartiya, (1993) 1 SCC 539*, that *"It must be remembered that since the plea of equal pay for equal work has to be examined with reference to Article 14, the burden is upon the petitioners to establish their right to equal pay, or the plea of discrimination, as the case may be. This burden the original petitioners (respondents herein) have failed to discharge."*

6. In the instant case, no such material has been provided to contrast the functional responsibilities of Environment Warden and Forest Rangers or for that matter Technical Assistant etc., Unless such information is furnished either to the Government or to the Pay Commission or even to the Court, it is impossible for any of the authority to come to a firm decision as to whether a case has been duly made out or not. Minimum requirement in this regard could be as under:-

- (a) Qualification requirement including experience, if any:
- (b) Mode of appointment
- (c) Scale of pay as per the I, II, III, IV Pay Commission Recommendations.
- (d) Functional Responsibilities.



(e) Other relevant items.

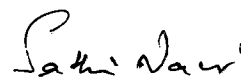
7. It is, therefore, for the applicants to make out a proper case which can be submitted to the VI Pay Commission with the due recommendation of the Respondents, especially Ministry of Finance, so that the VI Pay Commission would be in a position to consider whether the pay scales right from 01-01-1996 of the applicants (i.e. Environment Wardens) should be made at par with the Forest Rangers or Sub Inspector of Police of Technical Assistant and accordingly the Pay Commission may be in a position to analyze and make proper recommendation. For this purpose, necessary data and information should be provided by the applicants. The Tribunal as it is would not be in a position to issue any direction save that the applicants may make out a proper case within a period of two months and if the same is received, Respondent No. 1 could well consider the same and duly forward the same along with its own recommendation to the Ministry of Finance, which, in turn shall duly apply their mind and make suitable recommendations to the VI Pay Commission. It is sanguinely hoped that the VI Pay Commission would be considering the same with an opportunity of being heard to the applicant or any of their representative.

8. With the above directions the OA is disposed of. No costs.

(Dated, the 19th July, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

cvr.