

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.29 of 1998.

Friday, this the 12th day of January, 2001.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. G.S. Sreekumar, Refrigeration Mechanic (sk),
(C/o) Assistant Garrison Engineer,
Electrical and Mechanical No-III,
Garrison Engineer,
Electrical and Mechanical,
Naval Base Post, Kochi-682 004.
2. C.Sasidharan Pillai, -do-
3. C.P.Jogi -do-
4. P.L.Clarance, -do-
... Applicants

(By Advocate Shri K. Anand)

Vs.

1. Union of India represented by
the Secretary, Ministry of Defence,
New Delhi.
2. The Engineer - in - Chief,
Army Headquarters, New Delhi.
3. The Commander Works Engineer,
Military Engineering Service (MES),
Naval Base (P.O.) ... Respondents

(By Advocate Shri P.M.M.Najeeb Khan, ACGSC)

The application having been heard on 12.1.2001, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicants four in number, Refrigeration
Mechanics in the Military Engineering Service, are aggrieved

that they were not given higher pay scale of Rs.330-480 recommended by the Expert Classification Committee and according to them, accepted by the Government as is seen from the Government order dated 11.5.83 (A-1). Finding that the recommendations as accepted by the Government were introduced and implemented only in Eastern Command Naval Command that one Shri Madhavan, who, though junior in service in comparison to the applicants and transferred from Eastern Naval Command to Southern Naval Command, was getting the higher pay scale and higher pay than the applicant, the applicants submitted representations which were disposed of negativing their claims by the impugned order (A-8) on the ground that Madhavan got higher pay while in Eastern Command and as his reversion when challenged was set aside by the Tribunal and that the applicants though are seniors cannot seek parity in pay with Madhavan.

2. It is also alleged in the application that one Shri Appukuttan Nair similarly situated like the applicant had filed a Writ Petition No.6308/1985 before the Hon'ble High Court of Kerala which was transferred to this Tribunal and disposed of by T.A. No. 158/87, in which the Tribunal had given a direction to the respondents to implement the report of the recommendation of the Expert Classification Committee and to take a decision and that, on the basis of the above judgement, the applicants claim that they are entitled to get higher pay scale and that non-granting of the higher pay scale of Rs. 330-480 to the applicants is violation of

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Fundamental Rights of equal pay for equal work. With the above allegations the applicants have filed this application for the following reliefs:

- "1) Declare that the applicants are entitled to the benefits of Annexure A1 order and the consequent benefits available to them by the recommendation of the 4th and 5th pay commissions based on the pay scale fixed as per Annexure A1 order.
- 2) To declare that the denial of the respondents to grant the same scale of pay as is drawn by their junior holding the same post of the applicants is violation of Articles 14, 16 and 21 of the Constitution of India.
- 3) To call the records leading up to Annexure A8 and quash the same.
- 4) To direct the respondents to grant the applicants pay in the scale of Rs.4000-6000 as is drawn by their junior pursuant to the recommendation of the 5th Pay Commission which in turn has been fixed based on the scale granted by Annexure A1 order.
- 5) To issue such other orders as this Hon'ble Tribunal may be pleased to deem fit and proper in the circumstances of the case."

3. The respondents resist the claim of the applicants. They contend that, though there was a recommendation by the Expert Classification Committee and a tentative decision was taken for its implementation, the Government order implementing the recommendation has not been issued, that the Eastern Naval Command without getting specific orders implemented the recommendation and granted higher pay scale to the Refrigeration Mechanics, that while the impropriety was brought to the notice by the Audit Party, action was taken to revert the officials, that Shri Madhavan who was getting higher pay scale and pay challenged the order of his reversion before this Tribunal, that the said O.A. was

allowed, though a Special Leave Petition was filed against the decision of the Tribunal, it was dismissed leaving open the question of law without interfering with the order as the matter concerned only a single individual and that the applicants though seniors to Mr. Madhavan, are not entitled to claim parity in pay with Madhavan. The respondents thus contend that the application is devoid of merit.

4. Learned counsel of the applicants at the outset submitted that the applicants are basing their claim only on the ground that Shri Madhavan, their admitted junior is getting higher pay scale and therefore, the other issues need not be considered. Even otherwise, the Calcutta Bench of the Tribunal in T.A. 516/87 has dismissed the application filed by some of the Refrigeration Mechanics, challenging the action of the respondents in rectifying the mistake of granting them higher pay scale, though the Tribunal directed that no recovery should be made for overpayment made to them.

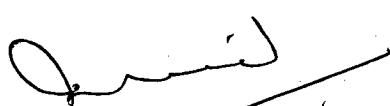
5. Now, as the applicants have basing their claim only on the fact that Shri Madhavan is still getting higher pay scale and higher pay, we shall confine our decision to that question. Learned counsel of the applicants referred to us three decisions of the Apex Court in 1982 (1) SCC 618, AIR 1990 (SC) 495 and AIR 1993 (SC) 384, on the question of equal pay for equal work. The facts and circumstances of the cases under citation do not bear any comparison at all to the facts of this case. Mr. Madhavan happened to get higher pay scale and higher pay, while he was working in Eastern Naval Command

and the order reverting him to lower scale of Rs. 260-400 was set aside on the ground that the said order was issued without issuing a show-cause notice and was, therefore bad for violation of principles of natural justice as also against the principles of promissory estoppel. The Apex Court did not interfere because the decision in favour of Shri Madhavan related to a single individual.

6. The mere fact that the junior is getting a higher pay scale and higher pay is no reason why all the seniors should get the same pay and the same scale. Shri Madhavan was even before his transfer to Southern Naval Command was enjoying a higher pay scale. Therefore, the applicants' claim for parity in pay with him has no legal basis.

7. In the light of what is stated above, we do not find any merit in this case and the same is dismissed leaving the parties to bear their own costs.

Dated the 12th January 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the order:

Annexure A1: True copy of the Government of India, Ministry of Defence letter No. 1(2)/80/D(ECC/TC) dated 11.5.83.

Annexure A8: True copy of the order dated 1.12.1997, issued by the 3rd respondent.