

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 349 of 2001

Monday, this the 27th day of January, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. K.R.C. Kartha,
S/o late Krishnan Kartha,
(Retd. Assistant Naval Store Officer,
Naval Store Depot, Naval Base, Kochi4)
Residing at Sowparnika, Paduvapuram PO,
Ernakulam District - 683 582 Applicant

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
Secretary to Government,
Ministry of Defence, New Delhi.
2. The Chief of the Naval Staff,
Naval Headquarters, Ministry of Defence,
Defence Headquarters PO, New Delhi.
3. The Flag Officer Commanding in Chief,
Southern Naval Command,
Naval Base, Kochi-4 Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 27-1-2003, the
Tribunal on the same day delivered the following:

ORDER

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

The applicant, who retired from the office of the 3rd
respondent as Assistant Naval Store Officer (ANSO for short),
is aggrieved by Annexure A3 order dated 11-9-2000 promoting and
posting 27 officers from amongst the existing 94 ANSOs as
ANSO-I in pursuance of Annexure A1, whereby, on implementation
of the Vth Central Pay Commission's recommendations, the
existing ANSO posts in the pre-revised scale of pay of
Rs.2000-3500 were to be redistributed in two revised grades of
Rs.8000-13500 and Rs.6500-10500 in the ratio of 2:1 with the

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designations of ANSO-I and ANSO-II respectively. The applicant being at Sl.No.37 in Annexure A2 seniority roll as on 1-3-1999, expected to be in the redesignated post of ANSO-I, since 63 posts out of the existing 94 posts of ANSO had been placed in the higher pay scale of Rs.8000-13500 for the redesignated ANSO-I posts. The applicant is also challenging Annexure A5 order dated 7-11-2000, whereby his representation for the benefit of the scale of pay of the redesignated post of ANSO-I and the matching placement was turned down. The applicant relies on paragraph 2 of Annexure A1, which lays down the parameters regarding distribution of all the existing ANSOs in the two posts of ANSO-I and ANSO-II in the revised higher scales. He would also consider his claim to be well founded for the reason that he had completed the prescribed 5 years of service as ANSO as on the date of publication of Annexure A1 even for promotion purposes. The following main reliefs are sought for:-

- "(a) Call for the records leading to the issue of Annexure A-5 and quash the same;
- (b) Declare that the applicant is entitled to be re-designated as ANSO Grade-I and to be fitted in the scale of pay of Rs.8000-13,500/- with effect from 1.1.96, in the light of Annexure A-1, and direct the respondents to grant the consequential benefits thereof; or in the alternative;
- (c) Declare that the applicant is entitled to be included in Annexure A-3, if necessary by conducting a Review DPC, and to be granted the consequential benefit of being treated as ANSO-I in scale of Rs.8000-13,500/- on par with all the other included in the same and direct the respondents accordingly;
- (d) Direct the respondents to refix the applicant's pay and pensionary benefits in the light of the declaration in para 8(b) or (c), as the case may be, and to grant the consequential arrears of pay and pensionary benefits, with 18% interest and to pay the same within a time limit as may be found, just and proper by this Hon'ble Tribunal; ..."

2. Respondents have filed reply statement and later two additional reply statements in the light of the rejoinder filed by the applicant. The main contention of the respondents seems to be that to be eligible for promotion as ANSO-I the applicant ought to have completed 5 years of service in the grade of ANSO as on 1-1-1999.

3. The applicant has filed an additional rejoinder also.

4. We have heard Shri Martin G Thottan, learned counsel for the applicant and Shri C.Rajendran, SCGSC appearing for the respondents.

5. It is pointed out by the learned counsel for the applicant that the applicant became ANSO with effect from 27-9-1994, that as such, he had 5 years of qualifying service to his credit and that the applicant was to get the benefit of promotion as ANSO-I. However, the case of the applicant was, according to the learned counsel, not one for promotion, but for placement which is the direct outcome of paragraph 2 of Annexure A1 order which would make it clear that 63 out of 94 existing posts of ANSO were to be placed in the grade of ANSO-I with the pay scale of Rs.8000-13500 and the remaining 31 ANSOs would be redesignated as ANSO-II in the pay scale of Rs.6500-10500. The applicant's position as reflected in the seniority roll (Annexure A2) was 37 and, therefore, he was preeminently entitled to be placed in the ANSO-I post and the relevant revised scale in the light of Annexure A1 order, learned counsel would urge.

6. Shri C.Rajendran, SCGSC, on the other hand, would rely on the statements made in the reply statements and the subsequent additional reply statements and would maintain that

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only 27 persons were found eligible for placement as ANSO-I and the remaining persons presumably were placed in the redesignated cadre of ANSO-II and they had to wait for their future promotion as ANSO-I subject to their fulfilling the conditions prescribed in paragraph 3 of Annexure A1. It was pointed out that as on 1-1-1999, which was taken to be the crucial date for this purpose, the applicant had not completed 5 years in the grade of ANSO and hence he could not be included in the higher post.

7. We have considered the pleadings and other materials on record and have also given careful consideration to the submissions made by the rival counsel. We notice that as per Annexure A1 order dated 5th August, 1999, the cadre of Naval Store Officers was restructured with the grant of higher pay scales as a result of which all the existing 94 Assistant Naval Store Officers (ANSOs for short) in the scale of Rs.2000-3500 were redistributed as ANSO-I in the scale of Rs.8000-13500 and ANSO-II in the scale of Rs.6500-10500 in 2:1 ratio. Thus, 63 posts of ANSO were placed as ANSO-I and remaining 31 were placed as ANSO-II. Paragraph 2 of Annexure A1 order is extracted hereunder in order to examine the applicant's claim:-

"... The 94 existing posts of ANSO (Rs.2000-3500, pre-revised) are redistributed in two revised grades of Rs.8000-13500 and Rs.6500-10500 in the ratio of 2:1 with the designations of ANSO-I and ANSO-II respectively. Accordingly, 63 posts have been placed in the higher pay scale of Rs.8000-13500 and re-designated as ANSO-I and the remaining 31 posts will be re-designated as ANSO-II in the scale of Rs.6500-10500/-. ANSO-II will be eligible for promotion to the available posts of ANSO-I subject to fulfillment of the required conditions. ..."

8. From the above it would be clear that on the basis of the seniority, 63 of the 94 existing ANSOs were to be given the grade of ANSO-I in the scale of Rs.8000-13500. The applicant, being at Sl.No.37 as per Annexure A2 seniority roll, had

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therefore a legitimate claim to be placed among those 63 posts. It is also clear from paragraph 2 cited above that the remaining 31 posts of redesignated ANSO-II will be eligible for promotion to the available posts of ANSO-I subject to the fulfilment of the required conditions. Thus, the other eligibility conditions are applicable only to the remaining ANSO-II after the absorption of all the 63 posts of ANSO as ANSO-I. In view of the above, the stipulation regarding 5 years of qualifying service cannot be made applicable to a person of the applicant's seniority. Even otherwise, it is undeniable that when Annexure A1 order was issued the applicant had put in 5 years qualifying service. Therefore, there is no sanctity for 1-1-1999, being taken as cut off date. But, that is beside the point. We are satisfied that the applicant's case is squarely covered by paragraph 2 of Annexure A1. The applicant should be amongst the 63 persons to be absorbed as ANSO-I in the first instance without attaching any further condition whatsoever and strictly in adherence to what is laid down in paragraph 2 of Annexure A1. The stipulation regarding 5 years' service is for prospective promotions which is visualized under paragraph 3 of Annexure A1.

9. In the light of the facts and circumstances discussed above, we hold that the applicant is entitled to be placed in ANSO-I grade with all the benefits including monetary benefits from the date of Annexure A3, viz. 11-9-2000, which is the first placement/promotion and posting order issued in pursuance of Annexure A1. Since the applicant has retired, his pay has to be refixed at the point of retirement also in order to determine his pension and other retiral benefits. A consequential order granting the benefits including monetary

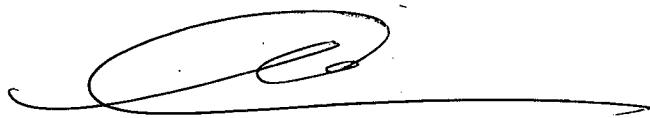
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benefits as directed above should be made available to the applicant within a period of three months from the date of receipt of a copy of this order.

10. The Original Application is allowed as above. Having regard to the facts of the case, we do not consider that there is any justification for granting any interest in this case. No order as to costs.

Monday, this the 27th day of January, 2003



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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