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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
CAMP AT PANAJI

O.A. No. 639/88 198
~~xxxxxx~~

DATE OF DECISION 12.9.1990

Shri Joao Santana Figueiredo Petitioner

Shri E.A.D'Souza Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri G.U.Bhobe Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER(A),

The Hon'ble Mr. N.DHARMADAN, MEMBER(J).

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

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(N.DHARMADAN)
MEMBER(J)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
CAMP AT PANAJI.

Original Application No.639/88.

Shri Joao Santana Figueiredo.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Member(A), Shri M.Y.Priolkar,
Hon'ble Member(J), Shri N.Dharmadan.

Appearances:-

Applicant by Shri E.A.D'Souza.
Respondents by Shri G.U.Bhobe.

Oral Judgment:-

¶ Per Shri N.Dharmadan, Member(J)¶

Dated: 12.9.1990

The applicant before us is presently working as 'Leading Rigger' in the Indian Naval Service under the first respondent. He joined the Naval service on 15.5.1955 as 'Servente'. He was promoted as Rigger Gr.I in 1965. A subsequent promotion as Leading Rigger was given to the applicant w.e.f. 10.3.1971 as per "Annexure 'A'". The scale of pay of Leading Rigger was of Rs.110-3-131-4-143-EB-4-171-EB-4-175-5-180(pre-revised scale). There were revision of pay scale as also restructure of posts in this category.

2. According to the applicant consequent on the recommendation of the IIIrd Pay Commission the scale of pay in the various posts in the category of Rigger is as follows:

Sl. No.	Job Gp. Job Title	Pay Scale		Remarks
		Existing Rs.	Revised Rs.	
<hr/>				
	<u>RIGGER</u>			
165.	Rigger 'A'	380-560	380-560	
166.	Rigger Gde I(B)	225-308	330-480	
167.	Leading Rigger 'B'	260-400	260-400	
168.	Rigger Gde II 'C'	210-290	260-400	
169.	Scaffolder SKL	210-290	210-290	

3. There was also a further pay revision after

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the IVth Pay Commission report. The scale of pay of various Riggers are as follows:

- "i. Rigger Grade 'A' in the pay scale of Rs.1320-30-1560-EB-40-2040 (Rs.1320-2040)
- ii. Rigger Grade I in the pay scale of Rs.1200-30-1440-EB-30-1800 (Rs.1200-1800)
- iii. Leading Rigger in the pay scale of Rs.950-20-1150-EB-25-1500 (Rs.950-1500)
- iv. Rigger Grade II in the pay scale of Rs.950-20-1150-EB-25-1500 (Rs.950-1500)."

4. The applicant submitted that though among the hierarchy of posts of Riggers as evidenced from Ex.'C' the applicant's post is a Senior post he is getting a lesser salary than that of the post of Rigger Gr.I, which itself is a lower post. This is an anomaly ^{arising} ~~created~~ on account of the creation of posts consequent upon the recommendation of the IIIrd Pay Commission. Though the IVth Pay Commission also recommended the revision of pay of the categories of Riggers as stated above the anomalous position had not been rectified by the respondents. Even after the recommendation of the IVth Pay Commission and the revision of pay the applicant's salary is lesser than that of the salary of Rigger Gr.I even though he is holding admittedly a senior post. In order to rectify this anomaly so as to enable him to get the higher salary and also to apply for the promotional post of Chargeman he made all efforts and submitted representations, but the same did not give him any relief. Accordingly, the applicant filed this application with a prayer that he may be given the pay and scale of the Rigger Gr.I maintaining the seniority.

5. Though notice was served on all the respondents, only the second respondent alone has filed a counter affidavit in this case. In that counter affidavit the anomalous position of the applicant viz. while holding a higher post he is getting

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only a pay lesser than that of Rigger Gr.I is admitted. But it has been stated that the question of upgradation of Leading Rigger was taken up with the Ministry of Defence through the Naval Headquarters, but the Ministry of Defence had not agreed to the upgradation of the pay scale of Leading Riggers on the ground that the applicant's post is maintaining only low points in the category of Riggers.

6. The representative who appeared on behalf of the respondents wanted to produce records relating to the recommendations of the Expert Committee dealing with the matter to explain the implications of the low points referred to in the Counter Affidavit. He requested two months time to produce the same. This Tribunal ^{already} passed orders granting sufficient time to the respondents, on 7.3.1990 and 10.7.1990. Even today no records are produced. However, in the view that we are taking in this case it is unnecessary to go into the question about the low points maintained by the applicant.

7. The case can be decided in the light of the two documents produced by the 2nd respondent along with the counter affidavit. The first document produced along with the counter affidavit is a letter dt. 21st January, 1985 written to the Chief Naval Staff pointing out the anomaly and requesting to take appropriate steps for rectifying the same. Subsequent reminders were also sent in this behalf. The second document is Naval Headquarter's order dt. 10th ~~January~~ ^{June,} 1986 which is produced as Annexure R-I along with the counter affidavit. Paragraph 2 of the same reads as follows :

"2. I am to add that Ministry of Defence have not agreed to the upgradation of the pay scale of

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Leading Riggers. However, to protect the interest of these Leading Riggers, who were in this grade as on 16th October, 1981, it has been decided to allow them promotion to Rigger Gde 'A' on the basis of their combined service in ~~xxx~~ Rigger Gde I and Leading Rigger, even though they may continue to have the pay scale of Rs.260-400."

It is admitted by the 2nd respondent that the anomaly exists in the case of the applicant who is stated to be ^{the} only person holding the post of Leading Rigger. His case requires immediate attention by the concerned authority for rectification. The applicant as well as the 2nd respondent had taken steps for rectification. The other respondents have not filed any reply indicating their stand.


8. Having heard the matter we are of the view that the position in which the applicant is placed is anomalous in the sense that the post of Leading Rigger is admittedly a senior post above the post of Rigger Gr.I. But at the same time Rigger Gr.I carries a higher scale of pay than the scale of pay drawn by the applicant, who is also senior officer eligible for next higher post. But he is handicapped because he is not given option to ~~opt to~~ ⁴ become Rigger Gr.I. In the course of the argument we have asked the representative who appeared on behalf of the second respondent whether any files are available to satisfy ^{as to whether} us ~~whether~~ the applicant is continuing as Leading Rigger with lesser pay in spite of there is facility for opting to the post of Rigger Gr.I. The answer of the representative is in the negative. He did not produce any file. So we presume that the applicant even if willing to go as Rigger Gde.I he cannot get that post.

9. The averments in the application are to the effect that the petitioner was continuing in the post of Leading Rigger from 1971 onwards. Even though there was

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restructuring of the posts and revision of pay scale, no benefit was given to the applicant. But in every respect the applicant is eligible for the salary of Rigger Gr.I and ^{also} he is also eligible for promotion to the post of Rigger Gr.'A' if vacancies are available. Since the Government is not rectifying the anomalous position as indicated above justice demands interference by this Tribunal in this case in the light of the order of the Chief of the Naval Staff at Annexure R-1 dated 10.6.1986.

10. Under these circumstances we are of the view that the anomaly can be rectified if the applicant is allowed to get the salary of Rigger Gr.I w.e.f. 16th October, 1981 as indicated in (Annexure R-1) order produced along with the counter affidavit of the second respondent. Accordingly it would be just and proper to issue a direction to the respondents to consider the case of the applicant for granting the scale of pay of Rigger Gr.I with effect from 16th October, 1981, ^{we direct the respondents to consider and} and grant the same with the arrears of difference in the scale of pay. This shall be done within a period of three months from the date of receipt of the copy of this judgment. With these observations we close this application. No order as to costs.


(N.DHARMADAN)
MEMBER(J)

12.9.90


(M.Y.PRIOLKAR)
MEMBER(A).