

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, MUMBAI.

1) ORIGINAL APPLICATION NO.587/2000.
2) ORIGINAL APPLICATION NO.667/2000.

Dated: 6 Sept 2004

Hon'ble Shri Anand Kumar Bhatt, Member (A),
Hon'ble Shri S.G.Deshmukh, Member (J).

1) ORIGINAL APPLICATION NO.587/2000.

1. All India Naval Armament Inspectorate Engineering Supervisor's Association having its office at NAI, Karanja, Naval Station Karanja, Uran, Dist. Raigad - 400 704.
2. M.Natarajan,
Chargeman-I (Mech.),
3. V.Vikraman,
Chargeman-II (Mech.),
(Both working in Naval Armament Inspectorate, Karanja, Naval Station, Karanja, Uran, Raigad - 400 704.)

(By Advocate Shri R.Ramesh)

...Applicants.

Vs.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.
2. The Chief of Naval Staff
Naval Head Quarters,
West Block 5,
R.K.Puram,
New Delhi - 110 066.
3. The Director General of
Naval Armament Inspection
Inspectorate of Naval Armament
Inspection,
Naval Head Quarters,
West Block 5, Wing No.1,
First Floor,
R.K.Puram,
New Delhi 110 066.
4. The Flag Officer Commanding in
Chief Headquarters, Western Naval
Command,
INS Angre, S.B.S.Marg,
Mumbai - 400 023.

...2.

sk

5. Controller of Naval Armament Inspection
Controlllerate of Naval Armament Inspectorate,
Mumbai Naval Dockyard,
Near Gungate,
Mumbai - 400 023. . . . Respondents.
(By Advocate Shri V.S.Masurkar)

2) ORIGINAL APPLICATION NO.667/2000.

1. K.S.Padmakumar,
2. M.Afroz,
3. K.Varadaraj,
4. Ravindrakumar K.,
5. S.S.Bhatkar,
6. A.R.More,
7. V.Valsarajan,
8. S.H.Dave,
9. M.P.Cherian,
10. R.S.Yadav,
11. G.M.Lad,
12. G.N.Kadam
13. P.Ganeri,
14. B.P.Gupta,
15. R.D.P.Mishra,
16. J.S.Verma,
17. A.J.Patil,
(Applicants from S1.Nos.1 to 17
are working as Foreman in the
NAD, Mumbai).
18. M.U.Bagdadi,
19. P.A.Sakhare,
20. J.V.Pinto,
21. Rakesh Gupta,
22. R.L.Soni,
23. P.S.Dao,
24. R.A.Urankar,
25. A.S.Kesarkar,
26. Teddy John,
27. Babu Jacob,
28. Pradeep Kumar N.C.,
29. A.S.Bhoite,
30. R.K.Ghosh,
31. S.R.Misra,
32. B.Y.Sanas,
33. Devadas,
34. C.M.Raut,
35. A.G.Darne,
36. H.G.Shridhankar,
37. C.Paramanandam,
38. J.N.Dhote,
39. H.R.Vidhani,
40. A.K.Singh,
41. M.H.Lokesh,
42. C.S.V.R.Rao,
43. K.K.Jeya Krishnan,
44. M.Bhagirathi,
45. Ramesh Basu K.G.,
46. K.D.Marathe,

47. N.Murugesan,
48. D.S.Timothy,
49. A.Ellappan,
50. M.S.Patil,
51. H.S.Sharma,
52. I.R.Gharat,
53. C.Ravindrakumar,
54. B.C.Ganji,
55. N.B.Padte,
56. A.U.Shaik,
57. Ramesh Babu,
58. S.A.Mir,

(Applicants from Sl.Nos.18 to
58 are working as Senior Chargeman
in NAD Mumbai).

... Respondents.

(By Advocate Shri R.Ramesh)

Vs.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.
2. The Chief of Naval Staff
Naval Head Quarters,
West Block 5,
R.K.Puram,
New Delhi - 110 066.
3. The Director General of
Naval Armament Inspection
Inspectorate of Naval Armament
Inspection,
Naval Head Quarters,
West Block 5, Wing No.1,
First Floor,
R.K.Puram,
New Delhi 110 066.
4. The Flag Officer Commanding in
Chief Headquarters, Western Naval
Command,
INS Angre, S.B.S.Marg,
Mumbai - 400 023.

(By Advocate Shri V.S.Masurkar)

: O R D E R :

{Anand Kumar Bhatt, Member (A)}

In O.A. No.587/2000 and O.A. No.667/2000, the issue is
similar and they are taken up together for order.

...4.

2. O.A. No.587/2000 has been filed by All India Naval Armament Inspectorate Engineering Supervisor's Association and two officials working as Chargeman Gr.I and Chargeman Gr. II respectively of the same organisation i.e. Naval Armament Inspectorate Organisation (for short, NAIO). The respondents implemented the recommendations of the 5th Central Pay Commission (for short, 5 CPC) in regard to the NAIO, as well as, Ammunition Division of Naval Armament Supply Organisation (for short, NASO). The 5 CPC recommended that the technical cadre in the Ministry of Defence should be re-structured and made a four tier structure consisting of Chargeman Gr.II (Rs.5000-8000), Chargeman Gr.I (Rs.5500-9000), Assistant Foreman (Rs.6500-10500) and Foreman (Rs.7450-11500). NAIO had 4 grade structure, and NASO (Amm) 3 grade structure. In implementation, Sr. Chargeman in NAIO were given the scale of Rs.5000-8000, whereas in NASO (Amm) Sr. Chargemen were given the scale of Rs.5500-9000 because of absence of one cadre. The result is that the parity in the pay scales of similarly designated posts in NAIO Mechanical Wing and NASO Ammunition Division was disturbed. The present O.A. is concerned with ^{mis} grievance. The applicants have stated that the matter was taken up by the applicants with the Anomalies Committee and it was discussed in the Departmental Anomalies Committee meeting held on 7.1.1999, where the existence of this anomaly was accepted. However, the applicants have stated in the application that no action had been taken by the respondents till the time of filing the O.A. The applicants have also stated that proposals have been sent by the various commands for

re-structuring of the Technical Supervisory cadre as per the recommendation of 5 CPC. However, no action has been taken by the Ministry to bring into effect the said four tier structure. The applicants have stated that NASO is incharge of storage and supply of Armaments to the Indian Navy and the Ammunition Wing of the said NASO is primarily involved in the storage of Ammunition for the Indian Navy. The staff employed in the said division is mostly Class - IV employees promoted to Group 'C' in the said division. The work in the said Division does not require any special technical or engineering skill. On the other hand, the employees in the NAIO represented by the applicants have more onerous duties which require specialised technical and engineering skills for inspection of Naval Armaments. The employees in NAIO have either diploma or degree in Engineering. NASO is a more specialised unit and therefore the applicants should get parity in pay scale to that of the Ammunition Division NASO staff, if not more.

3. In the other OA i.e. 667/2000, the applicants are working in the Factory Wing of the NASO who are aggrieved by the disturbance of parity between the Factory Wing and Ammunition Wing of the NASO in the Ministry of Defence. The applicants in this OA have claimed that the Factory Wing of NASO have greater responsibility than the other wings in NASO i.e. Ammunition Wing, Stores Wing and Ministerial Wing.

4. In the oral submissions, in OA No.587/2000 Shri R.Ramesh Counsel for the applicants stated that vide order dt. 11.2.2004,

...6.

to remove the anomaly the Ministry of Defence have reduced the pay scale earlier given to Senior Chargeman in Naval Ammunition Workshop under NASO from Rs.5500-9000 to Rs.5000-8000. However, he stated that this kind of removal of anomaly in a negative manner has been set aside by the Ernakulam Bench of the CAT in O.A. No.80/2001 whereby the orders dt. 30.10.2000 and 11.1.2001 reducing the pay scale granted earlier and effecting recovery was set aside. Similarly the orders now issued (on 11.2.2004) reducing the pay scale of Senior Chargeman in NASO (Amm) from Rs.5500-9000 to Rs.5000-8000 cannot be reduced, and the anomaly has to be removed in a positive manner. As the pay scale has been reduced for all Senior Chargemen in Naval Ammunition Workshop in NASO, the same argument applies in the other O.A. i.e. OA No.67/2000 as well.

5. In the reply filed by the Respondents in O.A. No.587/2000 it has been stated that NAIO and NASO are complementary organisations of the Navy. Whereas, NASO is responsible for storage, maintenance and repair of Armament Stores, NAIO undertakes the Inspection of the same. Both the organisations have Civilian Work-force which has similar structure, designation, pay scales, entry qualification, promotion criteria etc. The posts of Senior Chargeman and Chargeman were given the same pay scale and all the Chargemen were re-designated as Senior Chargeman. 5 CPC while recommending the 4 grade structure for technical supervisors in the Defence Ministry vide para 60.302 re-introduced the designation of

Chargeman in Naval Ammunition Workshop under NASO for which no incumbent exists. This has resulted in an apparent anomaly in the designation and pay scale of the staff of NASO and NAIO. The Respondents have admitted that while implementing the recommendation of 5 CPC a situation of disparity has cropped up as below :

" Senior Foreman in NAIO and all other organisation are still continuing Senior Foreman, whereas Senior Foreman (Ammn) under NASO have become Foreman."

"Foreman (Ammn) of NASO have become Assistant Foreman in the pay scale of Rs.6500-10500, whereas Foreman under NAIO have become Chargeman - I in the pay scale of Rs.5500-9000. Similarly, Senior Chargeman (Ammn) under NASO have become Chargeman-I in the pay scale of Rs.5500-9000, whereas Senior Chargeman under NAIO have become Chargeman - II in the pay scale of Rs.5000-8000."

The anomaly committee was constituted and the matter was referred to the Ministry of Defence. The respondents have stated that fixation of scale of pay and related matters are to be decided by an expert committee and the Tribunal should not pass the judgment in this connection. They have relied on the judgment of Supreme Court in the case of Union of India Vs. Pramod Bhartiya {1993 (1) SCC - 539}. The Respondents are also relying upon the Civil Appeal No.11486 and 114 of 1996 in the case of Union of India Vs. S.Yoganand and Ors.

6. In their reply in OA No.667/2000, the respondents have stated that there is no parity between Factory Wing and Ammunition Wing of NASO, as both have separate entity and their nature of work differs from each other except that both are workshops and staff are technical supervisors. They have explained that they have four different wings in NASO viz. Factory, Ammunition Workshop, Stores and Ministerial. The functions, nature of duties etc. are quite different and varying in nature. They have stated that there were only 3 grades in

JK

NASO (Amm) at the time of implementation of the recommendations of the 5 CPC. They have reiterated that there is no equality among the grades of the Ammunition and Factory Wings. The Anomalies Committee considered the disparities in the pay scales of Technical Supervisors in Ammunition Workshop in NASO and NAIO. Such a disparity occurred in the case of Senior Chargeman under NASO (Amm) who were granted the pay scale of Rs.5500-9000, whereas their counter parts in NAIO were in the pay scale of Rs.5000-8000. The Committee decided that the former should be examined for reduction.

7. Shri V.S.Masurkar in his oral submissions stated that looking into pay scales attached to different posts is not a judicial function and it is in the domain of the executive. He especially relied on the Judgment of the Bombay Bench of the Tribunal in M.K.Francis & Ors. Vs. The Chairman, Atomic Energy Commission & Ors. {1999 (3) CAT 347}. In the said OA Stenographers in Bhabha Atomic Research Centre (for short, BARC) claimed same pay as those in the Department of Atomic Energy on the plea that their mode of recruitment is same, qualifications are same, duties & responsibilities are even more onerous. Relying on the Supreme Court Judgment in Federation of All India Customs and Central Excise Stenographer (Recognized) and Ors. Vs. Union of India & Ors. {1988 SCC (L&S) 673, it was held by the Tribunal that equal pay for equal work does not depend on arithmetic equality, the Court should not interfere in it and leave it to executive/ expert bodies.

8. We have considered the case. The latest position is that vide order dt. 11.2.2004, the scale of Rs.5500-9000 which was given to Senior Chargeman in Naval Ammunition Workshop under NASO was reduced to Rs.5000-8000. This has apparently removed the

anomaly which was created earlier in the absence of one grade in the Ammunition Wing of NASO. The counsel for the applicant is relying heavily on the decision of CAT Ernakulam Bench in OA No.80/2001 M.K.S.Pillai and Ors. Vs. Union of India. There was another OA (OA No.812/1998) in which the Chargemen working in NAIQ urged that they were also entitled to get higher scale of Rs.5500-9000. As a result, the Government tried to remove the anomaly by reducing the pay scale given to Senior Chargeman in the Naval Armament Depot in NASO to Rs.5000-8000. The Tribunal observed that as vide impugned orders, in the light of Anomalies Committee's findings pay scale allowed to Senior Chargeman in AWS under NASO has been levelled down on the ground that such higher pay scale was given on a mistake in identity and that as such, the same was incorrect and therefore, the Tribunal opined that in effect the anomaly has been removed in a negative manner i.e. by not deciding the matter in favour of the applicants in OA No.812/1998 who raised the question of anomaly, but by bringing down the scale of their counterparts in NASO (Amm) on par with theirs. The Tribunal held that in their considered view, this decision on the part of the Respondents was unjustified and unsustainable. On the basis of the Naval Headquarters letter dt. 2.6.1998, which was circulated as per Establishment Memo No.45/98 dated 23.6.1998 of NAD, Alwaye, the Tribunal in OA No.80/2001 came to the conclusion that the theory of mistake in identity allegedly committed by the 5 CPC had no basis and that 5 CPC considered the factual position particularly with reference to nature of work, duties and responsibilities of Technical Supervisory staff in AWS.

under NASO and those in the Inspection Organisation under NAIO. The Tribunal (in OA 80/2001) set aside the order of reduction of the pay scale and consequent recovery. However, Shri Masurkar, counsel for the respondents submitted that by 11.2.2004, SRO 18(E) dt. 9.10.1997 has been amended. He has also shown to us that so far as the matter in OA No.80/2001 - M.K.S.Pillai & Ors. is concerned in which orders were passed by the Ernakulam Bench of the Tribunal on 19.3.2003, a Writ Petition has been filed by the Respondents viz. WP (C) 3087/2003 and so the matter is under consideration by the Hon'ble High Court.

9. To sum up, this matter has been dealt with at length in OA No.80/2001 by the Ernakulam Bench in which decision was given on 19.3.2003. However, it appears that the respondents (GOI) have approached the Hon'ble High Court by way of writ petition apparently against the said order of the Tribunal. According to information available with both the counsel, the case has not been decided by the Hon'ble High Court of Kerala as yet. Under the circumstances, any decision in the present case by us will be premature and it would be appropriate that the parties await the decision of the Hon'ble High Court of Kerala, where the matter is pending. Once the matter is under active consideration of the Kerala High Court, applying our mind to the matter would be a futile exercise. The Apex Court in State of Orissa and Ors. Vs. Bhagban Sarangi and Anr. {1995 (1) SCC 399}, held that administrative tribunals will be bound by the decisions of the High Courts. In case, the Hon'ble High Court of Kerala gives a decision in favour of similarly placed employees in the said writ

...11.

JK

petition filed by the UOI, the applicants in both present OAs can move the respondents to give benefit to the applicants on similar lines. Both the OAs are disposed of as above. No costs.

S.G.Deshmukh

(S.G.DESHMUKH)

MEMBER (J)

Anand Bhatt

(ANAND KUMAR BHATT)

MEMBER (A).

B.