

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 326/98

Date of Decision : 23.7.2002

Naval Stores Staff Asso.

Applicant

Shri Ramesh Ramamurthy

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.S. Masurkar

Advocate for the
Respondents

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

The Hon'ble Shri S.L.Jain, Member (J)

(i) To be referred to the reporter or not ?

Yes

(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?

No

(iii) Library

No


(B.N. BAHADUR)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.326/98

Tuesday this the 23rd day of July,2002.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

1. Naval Stores,
Storehouse Staff Association
through its President S.Y.Sawant,
2. S.S.Hindlekar
3. A.D.Vichare
4. A.V.Sawant
5. P.A.Sawant
6. A.S.Panchal
Working as Sr.Storekeeper,
Sr.Foreman, Foreman, Asstt.
Storekeeper at Naval Dockyard,
Mumbai.

...Applicants

By Advocate Shri Ramesh Ramamurthy

V/S.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Chief of Naval Staff,
Naval HQrs. West Block,
4, R.K.Puram, New Delhi.
3. Flag Officer Commanding-in-Chief,
HQrs. Western Naval Command,
Shahid Bhagatsingh Marg, Mumbai.
4. Material Superintendent,
Material Organisation,
Naval Stores Depot,
Ghatkopar (W), Mumbai.
5. Chief of Personnel,
Naval HQrs. West Block,
R.K.Puram, New Delhi.
6. Director of Civilian Personnel,
Naval HQrs.'D' Wing, New Delhi.
7. Director of Logistics Support,
Naval HQrs.'C' Wing, New Delhi.
8. Admiral Superintendent,
Naval Dockyard, Shahid Bhagat
Singh Marg, Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar



O R D E R (ORAL)

{Per : Shri B.N.Bahadur, Member (A)}

The Applicants in this case, (Applicant No.1 being an Association and Applicant No.2, Senior Foreman of Stores in Respondents' Organisation) come up to the Tribunal seeking the reliefs as follows :-

"8.(a) that it be declared that the categories of staff represented by Applicants 2 to 6 are entitled to higher pay scales than those given by the Respondents on the basis of the recommendations by the Fifth Pay Commission in view of the complex and onerous nature of duties performed by the staff in the Naval Store Storehouse.

(b) that this Hon'ble Tribunal be pleased to direct the Respondents to allot to the various categories of staff, working in the Naval Stores Storehouse, the following scales of pay :

- | | |
|---------------------------------|-----------------|
| i) Assistant Storekeeper | : Rs.4000-6000 |
| ii) Storekeeper | : Rs.5000-8000 |
| iii) Sr.Storekeeper | : Rs.5500-9000 |
| iv) Foreman Stores | : Rs.6500-10500 |
| v) Sr.Foreman Stores | : Rs.7450-11500 |
| (Asstt.Naval Stores Officer-II) | |

from the due date i.e. 1.1.1996 with consequent fixation, arrears, etc.

(c) that the Respondents be directed to pay to the categories of staff represented by Applicants 2 to 6 over-time allowance in the event of their being made to work in excess of the prescribed period of 40 hours a week.

(d) that the Applicants be permitted to file this application jointly under Rule 4(5)(b) of the C.A.T. Procedure Rules, 1987 in view of the cause of action and the nature of relief prayed for, the Applicants have common interest in the subject matter of this application.

(e) that such other and further order or orders be passed as the facts and circumstances of the case may require.

(f) that costs of this Application be provided for."

..3/-

Bns

2. The Applicants are aggrieved in that was they perceive an anomaly arising out of the Fifth Central Pay Commission (V CPC) recommendations in as much as proper scales of pay has not been given to them, i.e. for different categories of staff working in Naval Stores House. A grievance is also raised to the effect that demand of the staff for payment of Over-time in view of their working 45 hours a week, against 40 hours prescribed, has not been met.

3. Elucidating the facts in OA., the Applicants state that the categories of staff which they referred to are as listed at para 4 (b) (Page 7), which are various categories of staff in the Store House including Foreman. These categories in brief are ASK, SK, ESK, FS, SFS.

4. We have considered the papers in the case including the rejoinder and sur-rejoinder carefully and have heard Learned Counsel, namely, Shri Ramesh Ramamurthy for the Applicants and Shri V.S.Masurkar for the Respondents. We will take up the points made in oral arguments, and in pleadings, and deal with them one by one. At the outset, it must be stated that one of the reliefs sought is by way of direction to Respondents to pay the category of staff represented by Applicants No.2 to 6, over-time allowance in case they are made to work more than 40 hours in a week. We have heard the learned counsel on this point and in the first step are impressed by the arguments taken by the respondents in their written statement and by Learned Counsel

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Shri Masurkar that this Tribunal lacks jurisdiction in this regard. This argument is taken at internal page 7 of the Written Statement (Para 13). The statements are clear. We, therefore, do not take up this matter in consideration for want of jurisdiction and proceed to examine the merits regarding the other prayers made in the OA.

5. The main argument taken by Learned Counsel, Shri Ramesh Ramamurthy, and indeed pleaded is that the Fifth Central Pay Commission (V CPC) has not made a proper assessment of the pattern and workload of the Applicants. It is contended that they had merely depended on the view taken by Third Central Pay Commission. Learned Counsel argued that things have changed considerably after Third Central Pay Commission's Report and the nature and duties had under-gone very significant changes. It is alleged that a proper assessment has not been made by the Pay Commission of the intricacies and nature of work as highlighted at page 52 of the paper-book. The point is taken that comparison with Ministerial Staff is not correct and assistance of the above Table (page 52) was taken to indicate how this is so.

6. On this point, Learned Counsel for Respondents took us to various Paras of the Written Statement to make the point firstly that V CPC had indeed gone into relevant aspects and the Applicants cannot find fault with an Expert Body's assessments. The Case-Law in this regard was such, where it has been settled that Tribunal, such as ours, will make independent assessment of Expert Body recommendations like those of Pay Commissions etc. and where Government had taken decision based on such recommendations. The case of Hariharan reported at 1997 SCC (L&S) 838 was referred to in support.

B.S.

7. We have considered the arguments made by both sides and find that there is no glaring injustice apparent in the recommendations of V CPC. We indeed have to follow the law settled by the Supreme Court. Nevertheless, we have examined the arguments and find that the Pay Commission has gone into the matter and Government has taken a decision thereon. Merely because V CPC also relies on recommendations of the Third Pay Commission cannot enable us to draw a conclusion that they have done so without application of mind. Hence, there is no clear reason to doubt the Pay Commission's findings/assessments. Once this is so, our examination of the grievances of the Applicants are in indeed limited within the law settled by the Hon'ble Apex Court. In fact, Respondents have taken the stand that in regard to handling and testing of dangerous items, they have a different Expert Organisation within the Respondents' Organisation.

8. Learned Counsel for the Applicant drew our attention to the report a "Anomaly Committee" as he called. He specifically referred to the documents at pages 28 onwards right upto page 40. More specifically took us to the documents at page 36 onwards where a Board of Officers has been constituted. Learned Counsel stated that when this positive recommendation was made, it had to be honoured. Well as the recommendation has been made by a Committee, it cannot be the argument that this will be binding on Govt. or that relief can be provided on its basis by us. This was the recommendation which could be considered by the Government and when Government has not considered it favourably, we will not independently go by a reliance on this Committee. The point was argued by Mr. Masurkar that this is not a Anomaly Committee of Government and this argument holds some water.

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9. In view of the above position, specially the law settled by Hon'ble Supreme Court, we are not convinced that case is made out for our interference. The OA. is therefore dismissed with no order as to costs.

S.L. Jain

(S.L.JAIN)

MEMBER (J)

B.N. Bahadur

(B.N. BAHADUR)

MEMBER (A)

mrj.