

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/01083/2014

Tuesday, this the 28th day of August, 2018.

CORAM:

**HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER**

K. Shine Peter, aged 39 years,
S/o K. Peter, Engine Driver Class I
Central Institute of Fisheries Nautical and Engineering Training,
Fine Arts Avenue, Kochi 16,
Residing at House No. 35/88, EPRA 59,
Perandoor Road
Elamakkara, Kochi-26. - Applicant

[By Advocate Mr.T.A.Rajan]

Versus

1. Union of India represented by the Secretary,
Government of India, Ministry of Agriculture,
Department of Animal Husbandry, Dairying and Fisheries,
New Delhi – 110 001.
2. Union of India Represented by the Secretary,
Ministry of Finance, New Delhi 110 001.
3. The Director,
Central Institute of Fisheries Nautical and Engineering
Training,
Fine Arts Avenue, Kochi- 16.
4. The Assistant Director (OL)/Senior Administrative Officer I/c
Central Institute of Fisheries Nautical and Engineering
Training,
Fine Arts Avenue, Kochi- 16. - Respondents

[By Advocate : Mr.K. Kesavankutty, ACGSC]

The application having been heard on 14.08.2018, the Tribunal
on 28.08.2018 delivered the following:

O R D E R

Per: Ashish Kalia, Judicial Member:

Applicants are seeking the following reliefs in this O.A.

- “i) Call for the records leading to Annexure A4 and set aside the same.
- ii) Declare that the applicant is entitled to get the grade pay of Rs. 4200/ from 1.1.2006 to 23.06.2010.
- iii) Direct the respondents to grant the grade pay of rs. 4200/- to the applicant from 1.1.2006 to 23.6.2010 with interest at the rate of 12% per annum.
- iv) Award costs of and incidental to this application.
- v) Grant such other relief, which this Tribunal may deem fit and proper in the circumstances of the case. “

2. The applicant is now working as Engine Drive Class I under the third respondent. He is aggrieved by the non granting of grade pay of rs. 4200/- from 1.1.2006 to 23.6.2010 with consequential arrears. As per the Annexure A1 notification 50% of the Highly Skilled workers are upgraded from Rs. 4000-6000 to 4500-7000 with effect from 1.1.2006. The said scale of pay was further revised to Rs. 9300-34800 + Grade Pay of rs. 4200/-. The above revised pay has been given to Freezing plant operators as could be clear from Annexure A2. The applicant is also discharging the duties of Freezing plant operator and as such he is entitled to the grade pay of rs. 4200/- with effect from 1.1.2006. Hence, Annexure A3 representation was submitted. However, by Annexure A4 order the representation was rejected. Feeling aggrieved the applicant approached this Tribunal seeking the above reliefs.

3. We have heard the learned counsel for the parties at length, perused the pleadings and have carefully considered the rival submissions.

4. The issue raised for consideration before this Tribunal by the Applicant is that whether his pay should be fixed at par with the Engine Driver Class II . His representation was rejected by the Department stating that applicant is

not entitled to get the Grade Pay of rs. 4200/- from 1.1.2006 to 23.6.2010. Applicant has been granted the grade pay of Rs. 4200 with effect from 24.06.2010 on his promotion to the post of Engine Driver C. I. The pre-poning the same with effect from 1.1.2006 is not permissible as the applicant does not fall in the Work Shop Staff category. According to the respondents 50000 Highly Skilled Workers are to be upgraded from the scale of Rs.4000 – 6000 to 4500-7000 and in the revised corresponding pay band of PB.1 Rs. 5200-20200 with grade pay of Rs.2800/- and 50% remaining in the normal replacement pay band of Pay Band of Rs. 5200-20200 with GP of Rs. 2400/-. Annexure A.1 submitted by the applicant pertains to various categories of Workshop staff and is not in respect of the post of Engine Driver Cl.II or Cl. I held by the applicant and as such the same are not applicable to the applicant.

5. Learned Counsel for the applicant has tried to demonstrate before us that the applicant is performing almost similar duties as of Workshop Staff of the same grade those who have been given the Grade Pay of R.4200/- P.B. 2 with effect from 1.1.2006.

6. We are of the considered view that the present controversy cannot be dealt with by this Tribunal and it needs to be referred to an expert body like the Pay Commission Anomaly Committee for taking appropriate decision after careful examination of aspects in this regard. We are guided by the decision of the Hon'ble Supreme Court in *State of West Bengal v. Subhas Kumar Chatterjee*, (2010) 11 SCC 694 once again reaffirmed its earlier decisions and also condemned the Tribunal's action in interfering with the administrative authorities' power. In paragraph Nos.14 and 21, it was observed as follows:

"14. This Court time and again cautioned that the court should avoid giving a declaration granting a particular scale of pay and compel the Government to implement the same. Equation of posts and equation of salaries is a matter which is best left to an expert body. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. Even the recommendations of the Pay Commissions are subject to acceptance or rejection, the courts cannot compel the State to accept the recommendations of the Pay Commissions though it is an expert body. The State in its wisdom and in furtherance of its valid policy may or may not accept the recommendations of the Pay Commission.'

Accordingly, we hereby direct the respondents to refer the case of the applicant with regard to his grievance to the Anomaly Committee on Pay Scales.

7. With the above observation and direction, the O.A. is disposed of. Parties are directed to bear their own costs.

(Ashish Kalia)
Judicial Member

(E.K. Bharat Bhushan)
Administrative Member

sj*

Annexures of the Applicant.

- Annexure A.1: True copy of the notification bearing No. F. No.1/1/2008-IC dated 28.7.2009.
- Annexure A.2: True copy of the office order No. 60/2010 dated 22.11.2010.
- Annexure A.3: True copy of the representation dated 28.8.2014 submitted by the applicant.
- Annexure A.4: True copy of the Order No. PF/692/Adm dated 30-9.2014 of the fourth Respondent.
- Annexure A.5: True copies of the said testimonials (3 in number)
- Annexure A.6: True copy of the General particular of MFV Prashikshani in the Trim and Stability Booklet.

Annexures of Respondents.

“ Nil. “
