

CENTRAL ADMINISTRATIVE TRIBUNAL**ERNAKULAM BENCH****Original Application No.180/00255/2015**

Monday, this the 17th day of January, 2019

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

1. E.S.K.Das, aged 58 years
S/o.E.Bharathan
Civilian Technical Officer (A&E)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Shobha Bhavan
Thevakkal, V.K.Colony Post Cochin – 21
2. M.S.Unnithan, Aged 56 years
S/o. Late Gopalan Unnithan
Civilian Technical Officer (A&E)
Controllerate of Naval Armament Inspection
Alwaye, Residing at Kottarathil House
Thamarachal, Kizhakkambalam (P.O)
Ernakulam
3. A.T.Sivasankaran, Aged 55 years
S/o.Late Ayyappan
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Ayyappalathara, Thavanoor P.O
Malappuram District 679 573
4. N.Suresh, 49 years
S/o.T.Rajan Menon
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Nharakkatt House
Palat Road, Ottapalam (P.O),
Palakkad District 679 101
5. K.C.Paul, aged 59 years
S/o.Late K.E.Chacko
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Kozhikunnel House

Muttom P.O, Thodupuzha, Idukki District

6. K.P.Biju, Aged 43
S/o.Late K.Parameswaran
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Bindu Nivas
Vylattupadathu, nanthiyattukunnam
North Paravoor P.O
7. K.R Balasubramanian, Aged 60 years
S/O Late K.A Raman
Civilian Technical Officer (A&E) (Retired)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Kallettumthara House
Peeliyad Road, Ponekkara, AIMS P.O. 682041
8. M.M. Sukumaran, Aged 56 years
S/o Late P.K. Madhavan,
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Mammutil House
Kedamangalam, North Paravoor P.O,
Ernakulam District 683 513
9. P.N. Gopi, Aged 59 years
S/o Late P.R. Narayanan
Foreman (Ammunition),
Controllerate of Naval Armament Inspection, Alwaye
Residing at Panachikkathottiyil House,
Vannappuram P.O
Thodupuzha (via)
Idukki District 685 607
10. V.K. Padmakumar, Aged 51 years
S/o Kuttappan nair
Foreman (Ammunition)
Controllerate of Naval Armament Inspection, Alwaye
Residing at No.IX/35, Padmasree,
Vidakuzha, Thayikkattukara P.O
Aluva, Ernakulam 683 106
11. K. Krishnan, Aged 69 years
S/o Late S. kunju Kunju
Charge Man II, (Retired)
Controllerate of Naval Armament Inspection, Alwaye

Residing at Deepa Nivas, muthukulam North,
Cheppad P.O, Alappuzha District 690 507.

12. Balakrishnan R, Aged 63 years
S/o Raman
Charge Man I, (Retired)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Thazhate Tharayil
Cheriyappilly, Kaitharam P.O
North Paravoor, Ernakulam 683 519.
13. C.N. Chandra Boase, Aged 65 years
S/o C.P. Narayana,
Foreman (Ammunition), (Retired)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Home No. 35/926, Power House Road
Palarivattom 682025.
14. N.P. Sudheendran, Aged 64 years,
S/o (Late) N.K. Padmanabhan
Foreman (Ammunition) (Retired)
Controllerate of Naval Armament Inspection, Alwaye
Residing at Kizhakke Nerimbodath, House No.1/118,
Elayiodath Parambu, Vylloppilly Road,
Edappally Toll, Kochi 682 024
15. K. Vijayan, Aged 60 years,
S/o (Late) C.K. Kochukunju
Civilian Technical Officer (A&E) (Retired)
Controllerate of Naval Armament Inspection, Alwaye
Sooryamangalam,
Adivaram, Compara,
NAD P.O, Alwaye 683 563. Applicants

(By Advocate: **Mr.P.V.Mohanan**)

Versus

1. Union of India
Represented by the Secretary to Government of India
Ministry of Defence, New Delhi 110 001
2. The Principal Director of Civilian Personnel,
Directorate of Civil personnel
Integrated Head Quarteres,
Ministry of Defence (Navy), New Delhi 110 001

3. Director General of Naval Armament Inspection,
Directorate of Naval Armament Inspection
Integrated Head Quarteres,
Ministry of Defence (Navy),
West Block V, Wing No.1 (FF), R.K Puram
New Delhi 110 066
4. The Controller of Naval Armament Inspection (South)
Controllerate of Naval Armament Inspection
NAD (Post), Alwaye 683 563. Respondents

(By Advocate: **Mr.Thomas Mathew Nellimoottil,Sr.Panel Counsel**)

This Original Application having been taken up on 14th January, 2019, this Tribunal delivered the following order on 17.1.2019.

ORDER

Per: **Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

The applicants were working as Senior Chargeman in Naval Armament Inspectorate Organisation (NAIO for short) in the pre-revised scale of pay of Rs.1400-2300. The reliefs sought for in the Original Application are as follows:

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- i. To call for the records leading to Annexure A11, Annexure A-12 and Annexure A13 and set aside the same.
 - ii. To declare that the grant of reduced scale of pay of Rs.5000-8000 to the applicants as against the higher scale of pay of Rs.5500-9000/- granted to their counterpart Senior Chargeman (AWS) working under NASO is arbitrary, discriminatory and violative Article 14 of the Constitution of India.
 - iii. To direct the respondents to grant the applicants the scale of pay of Rs.5500-9000/- with effect from 1.1.1996 or with effect from the date on which they assumed charge in

the post of Senior Chargeman and to direct the respondents to grant all consequential arrears of pay and allowances emanating therefrom with regard to Central Financial Rules for all purposes including re-fixation of pay at higher stages based on the Sixth Central Pay Commission. ”

2. In Navy there are three Organisations, namely, Naval Armament Supply Organisation (NASO for short), Naval Armament Inspection Organisation (NAIO for short) and Naval Dockyard, in which Technical Supervisory Staff are recruited on identical terms and conditions of service. The Recruitment Rules namely, 'Navy Group C (Technical Supervisory Staff) Recruitment Rules, 1983' (Annexure A-1) of such staff is common irrespective of the Organisation to which one is recruited. The duties and responsibilities of Senior Chargemen in these three Organisations are similar in nature.

3. As per recommendations of Sixth Central Pay Commission the Government, Ministry of Defence by notification dated 9.10.1997 issued The Civilians in Defence Services (Revised Pay) Rules, 1997 with effect from 1.1.1996 (Annexure A-2). Accordingly the pay of Senior Chargeman in NAIO and Naval Dockyard were revised to Rs.5000-8000, whereas, the scale of pay of Senior Chargeman in NASO was revised from Rs.1400-2300/- to Rs.5500-9000/- w.e.f 1.1.1996.

4. The Senior Chargeman in NAIO filed O.A No.812/98 claiming parity in the scale of pay of Rs.5500-9000/- which was disposed of by order dated

17.6.1998 directing the Anomalies Committee to consider the claim. The Anomaly Committee considered the claim and decided by order dated 30.10.2000 that the Senior Chargeman in NASO will also be given the scale of pay of Rs.5000-8000/- only vide proceeding dated 30.10.2000 (Annexure A-4). The Senior Chargeman in NASO, aggrieved by Annexure A-4 order, filed O.A No.180/2001, which was allowed by order dated 19.3.2003 setting aside the Annexure A-4 order and directing to grant the scale of pay of Rs.5500-9000. The Writ Petition filed by the respondents was dismissed. Thereupon, twenty three Senior Chargeman working in Naval Dockyard filed O.A No.516/2006 claiming parity of pay scale w.e.f 1.1.1996 which was dismissed by this Tribunal. WP(C) No.1206/2009 filed by the applicants in O.A 516/2006 was disposed of by judgment dated 18.7.2013 setting aside the order of this Tribunal in O.A 516/2006 with liberty to move the competent authority for appropriate relief.

5. Directorate of Civilian Personnel had examined the issue and sent a favourable proposal to the Ministry to intimate the financial implications involved in the proposal. But the Ministry of Defence rejected the claim of parity of pay scale vide Annexures A11 stating that it is not feasible for the Navy to revise the pay scales of applicants therein on the lines of Sr. Chargeman of NASO with effect from 1.1.1996. Consequent on Annexure A-11, the Ministry of Defence rejected the claim for parity stating that it will have wider financial implications. True copies of the proceedings dated

15.10.2014 and 17.11.2014 are produced and marked as Annexure A-12 and A-13 respectively. Aggrieved by these Annexures A-11, A-12 and A-13 orders herein, applicants in O.A 516/2006 filed O.A No.1149/2014, which was dismissed by this Tribunal. The Hon'ble High Court set aside the order in O.A 1149/2014 (Annexure A16). Government implemented the Hon'ble High Court's judgment and ordered to revise the pay scales of Senior Chargeman of Naval Dockyard from Rs.5000-8000 to Rs.5500-9000 w.e.f 1.1.1996 (Annexure A17). The grievance of the applicants is that they were denied the scale of pay of Rs.5500-9000/- w.e.f 1.1.1996 and arrears emanate thereon as envisaged in the Vth Central Pay Commission which they were legitimately entitled to get as had been granted to Chargeman of Naval Dockyard from Rs.5000-8000 to Rs.5500-9000/- w.e.f 1.1.1996 vide Annexure A-17 order. Applicants pray for identical relief as that of Annexure A-16 and Annexure A-17 orders.

6. Respondents have filed their reply statement wherein it is stated that the O.A is not maintainable as the claim made by the applicants pertains to 5th CPC regime and now it has been 20 years since the implementation of 5th CPC. It is submitted that the Senior Chargeman in NASO were placed in the payscale of Rs.5500-9000 and re-designated as Chargeman Grade-I on implementation of 5th CPC, whereas the applicants who were working as Senior Chargeman in NAIO were granted the pay scale of Rs.5000-8000 and re-designated as Chargeman Grade-II. When the issue was brought before the Departmental Anomaly Committee which after consideration of the

matter in detail, have recommended downgrading of pay scales from Rs.5500-9000 to Rs.5000-8000 in respect of Senior Chargeman of NASO. This Tribunal in O.A 180/2001 ordered that reduction by way of executive orders is wholly unjustifiable and so had directed that the Senior Chargeman in the NASO at the relevant point of time drawing the pay scale of Rs.1400-2300 would be eligible for Rs.5500-9000 and the Chargeman in the same organisation i.e, NASO placed in the same scale of Rs.1400-2300 would get the revised scale of Rs.5000-8000 (Annexure R-2). Respondents contested that Annexure A-13 is a communication from Headquarters Eastern Naval Command, Visakhapatnam to Principal Inspector of Naval Armament, Hyderabad intimating the contents of Annexure A-12 letter and states that propriety of challenging Annexure A-13 in the O.A is not understood. Respondents cited the decision in *State of Haryana & Another v. Haryana Civil Secretariat Personal Staff Association* reported in (2002)6SCC 72 to argue that fixation of pay scales, cadres, restructuring of cadres etc are purely the domain of the executive and the Courts and Tribunals would not normally interfere in such matters. It is submitted that the structure of Technical Supervisory Staff in Dockyard/Factory/NAIO and AWS is different with independent identity, recruitment rules, method of appointment, promotional avenues etc and has no similarity in any manner. Hence Senior Chargeman in NASO (AWS) was redesignated as Chargeman Grade-I and placed in the pay scale of Rs.5500-9000 and Senior chargeman and Chargeman in NAIO in the scale pay of Rs.5000-8000 as per the

decision based on proper deliberations. Respondents prayed that the applicants are not entitled to get any of the reliefs prayed for the in Original Application as upheld by this Hon'ble Tribunal in O.A No.516 of 2006.

7. Heard Mr.P.V.Mohanan, learned counsel for the applicants and Mr.Thomas Mathew Nellimoottil, learned counsel for the respondents and perused the records.

8. Respondents' first contention regarding the maintainability will not stand as the cause of action still continues the claim being for pay parity. It is seen that impugned orders at Annexures A-11,-12 and A-13 had been impugned in O.A No.1149/2014 by the applicants in O.A 516/2006 and the same was dismissed by this Tribunal by order dated 16.9.2015. But the Hon'ble High Court by judgment in O.P (CAT) Nos. 213/2017 and 271 of 2016 set aside the order in O.A 1149/2014 vide Annexure A-16 order. It is seen that Annexure A-16 judgment governs the field and it is a material document in this case. It reads:

“8. On going through the contents of Annexure A-10 declining the reliefsought for, it is seen that there is absolutely no mentioned by the Directorate, to their own findings and proceedings as covered by Annexure A-11. The fact remains thatthere was no doubt in the mind of the Directorate as to the similarity of the posts, the pay parity which was being enjoyed by the persons in the different organisations, existence of anomaly and the necessity to have it rectified at the earliest opportunity. The only point remained was with regard to the 'financial implication' and it wasfor moulding the relief, that the particulars in this regard were called for. As such, the only exercisewhich remained to be completed was to have the matter finalized

with reference to the 'finding' already arrived at in Annexure A11 and based on the 'financial implications' to be furnished by the authorities concerned. {It is seen that such particulars were furnished by the Flag Officer, Commanding in Chief, Kochi; as per Annexure A12). This Exercise obviously has not been done by the Directorate. The net result is that, the finding in Annexure A11 arrived by the Directorate has been simply given a 'go-bye' and a fresh order has been passed in the form of Annexure A10, totally declining the relief sought for.

9. The stand now taken before this Court from the part of the respondents is that, a different 'work study' was conducted and it was accordingly, that different pay scales were provided. We find it difficult to accept the said proposition in view of the finding on fact arrived at by the Directorate as disclosed from Annexure A11. This being the position, it is not open for the respondents to take a 'U-turn' to say something else now, contrary to the contents of Annexure A-11.

10. It is also brought to the notice of this Court by the learned counsel for the petitioners that, though the matter was caused to be examined by the 6th CPC and also the 7th CPC, they did not go into these aspects, particularly with reference to the contents of Annexure A11 and hence the disparity continues. It is also stated that, pursuant to the implementation of the recommendations of the 6th CPC, persons who belong to different classes/categories have been brought to a common pool, with a common pay scale; but by virtue of the disparity already resulted, because of the wrong exercise done by the respondents, the gap between the petitioners (in NSRY) and their counterparts (in NASO) has been widened like anything, which requires immediate rectification at the hands of this Court.

11. After hearing both sides, we find that Ext.P3 order passed by the Tribunal declining interference with Annexure A-10 is not correct or sustainable and they are liable to be intercepted. We do so. We find it appropriate to direct the Directorate to reconsider the matter in the light of their own findings as given in Annexure A11 and to pass appropriate orders with reference to the financial implications forwarded to them by the Flag Officer Commanding-in-Chief, Kochi, as per Annexure A12 and to pass appropriate orders for rectification of the anomaly at the earliest, at any rate within three months from the date of

receipt of a copy of this judgment.Both the Original Petitions are allowedto the said extent. No costs.

9. As the issue involved is identical to that which has been adjudicated already by the Hon'ble High Court of Kerala in the above quoted decision (Annexure A-16), the prayer contained in the Original Application is allowed. Respondents are directed to reconsider the matter in the light of Annexure A-16 judgment within two months from the date of receipt of a copy of this order.

10. The Original Application is allowed as above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

- Annexure A11 - True copy of the decision taken by the Ministry of Defence CP(P/WP 1206/2009 dated 16.9.2014.
- Annexure A12 - True copy of the proceeding CP(P)/8416/VI CPC/TSS dated 15.10.2014.
- Annexure A13 - True copy of the proceeding CE/4502/VI CPC/TSS(i) dated 17.11.2014.
- Annexure A1 - True copy of the Navy Group 'C' (Technical Supervisory Staff) Recruitment Rules, 1983.
- Annexure A2 - True Extract of the Notification dated 9.10.1997, namely, the Civilian in Defence Services (Revised Pay) Rules 1997.
- Annexure A3 - True copy of the Order No.II(13)/97/D(CIVI) dated 26.12.2001.
- Annexure A4 - True copy of the proceeding No.438/99/D(Civil) dated 30.10.2000.
- Annexure A5 - True copy of the order in OA No.180/2001 dated 19.3.2003.
- Annexure A6 - True copy of the judgement in OA No.516/2006 dated 26.6.2008.
- Annexure A7 - True copy of the judgement in WPC No.1206/2009 dated 18.7.2013.
- Annexure A8 - True copy of the letter CP()/8416/VI CPC/Policy dated 21.1.2014.
- Annexure A9 - True copy of the letter CP(P)/WP 1206/2009 dated 6.2.2014.
- Annexure A10 - True copy of the letter CS 2758 dated 14.2.2014.
- Annexure R1 - True copy of Extra Ordinary Gazette Notification dated 11 Feb 2004.
- Annexure R2 - True copy of order dated 19 Mar 2003 of this Hon'ble Tribunal in OA 180/2001.
- Annexure R3 - True copy of judgement dated 01 Jun 2011 of Hon'ble High Court of Kerala in WP30853/2003.

- Annexure A14 - True copy of the recruitment rule 2008.
- Annexure A15 - True copy of the recruitment rule 2008.
- Annexure A16 - True copy of the judgement in O.P.(CAT) No. 271
of 2016 dated 20.7.2017.
- Annexure A17 - True copy of the proceeding dated 16.10.2018.

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