

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.514/2015

Date of Decision: 28.03.2019.

CORAM: R. VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

1. Babu Jacob, aged 57 years, presently working as Foreman, (Factory) in the Naval Armament Depot, and residing at
2. J. N. Dhote, aged 56 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran), Dist. Raigad, and residing at: 102/02, NAD Colony, Naval Station Karanja, Maharashtra State.
3. S. A. Mir, aged 49 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal.Uran, Dist.Raigad, and Residing at: A/19, 102, Alnamera CHS, Millat Nagar, Andheri (W), Mumbai-400 058.
4. C. Ravindrakumar, aged 55 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Ral. Uran, Dist.Raigad, and presently working as presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Ral. Uran, Dist. Raigad, and residing at B/18, Maitreyee CHS, Sector-16, New Panvel, Maharashtra State.
5. C.H.Maheswara Rao aged 56 years, presently working as Foreman, (Factory) in the Guided Weapon

Workshop Naval Armament Depot,
Karanja, Tal.Uran, Dist.Raigad,
and residing at NAD Colony, Karanja
Uran, Maharashtra State.

6. K. Papa Rao,
aged 55 years,
presently working as Foreman,
(Factory) in the Naval Armament
Depot, Karanja, Tal. Uran,
Dist.Raigad, and residing at 153/02.
NAD Colony, Naval Station Karanja,
Raigad Dist. Maharashtra State 400 702.
7. A. U. Sheikh, age 49 years,
presently working as Foreman,
(Factory) in the Naval Armament
Depot, Karanja, Tal. Uran,
Dist.Raigad, and residing at C/103,
Mukri Apartment, Masjid Mohalla,
Uran, Maharashtra State-400 702.
8. Lokesh M. H. aged 50 years,
presently working as Foreman,
(Factory) in the Naval Armament
Depot, Karanja, Tal. Uran,
Dist.Raigad, and residing at 553/03,
NAD Colony, Naval Station, Karanja,
Maharashtra State-400 704.
9. C. Devadas, aged 45 years,
presently working as Foreman,
(Factory) in the Naval Armament
Depot, Karanja, Tal. Uran,
Dist.Raigad, and residing at:102/03,
NAD Colony, Naval Station Karanja,
P.O.Raigad Dist, Maharashtra State-400 704.
10. N. Murugesan, aged 43 years,
presently working as Foreman,
(Factory) in the Naval Armament
Depot, Karanja, Tal. Uran,
Dist.Raigad, and residing at 103/02,
NAD Colony, Naval Station, Karanja,
Maharashtra State-400 74.
11. Mrs. I.R.Gharat, aged 57 years,

presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Flat No.07, A-Wing, Tandel Park CHS, Satrahati, Uran, Maharashtra State-400 702.

12. H.S.Sharma, aged about 50 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 535/01, NAD Colony, Naval Station, Karanja, Maharashtra State-400 704.

13. A.B.Dhakite, aged about 48 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at flat no.B/301, Shri Ambika Apartment, Sector 42A, Seawood (W) Nerul, Navi Mumbai.

14. M.R.Parameswaran, aged 50 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at House No.617, Kharkhand, Kegaon, Uran P.O.Maharashtra State-400 702.

15. S. K. Bhosale, aged 50 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Ashtavinayak Grah Kankul, 304, Vijaygad, Adai Village Panvel, MS-410 206.

16. K.G.Ramesh Babu, aged 55 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at: A/201, Guruvilla Complex Sector 4, Kalamboli, Navi Mumbai.

17. N. Janardhan Babu, aged 40 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at:House No.617, Kharkhand, Kegaon, Uran P.O. Maharashtra State-400 702.
18. Mrs. Vaishali M. Shedge, aged 47 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Flat No. 201, Srushti Complex No.01, Bori Pakhadi, Kegaon Road, Uran, Maharashtra State-400 702.
19. Ashish S. Bhoite, aged 43 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 18A/301, Dattakrupa CHS, Shailendra Nagar, Dahisar (E), Mumbai-400 068.
20. Bhalchandra Working as Chargeman (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 206/A, 2nd Floor, Bldg.No.98, Tilak Sharma, Safalya CHS Tilak Nagar, Chembur, Mumbai-400 089.
21. Rupak Kumar Ghosh, aged 46 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at:P-6/3, NAD Ayudhvihar Colony, Sion Trombay Road, Mankhurd, Mumbai-400 088.
22. M. Bhagirathi, aged 51 years, presently working as Chargeman,

(Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 103/A, Amrut CHS Ltd., Ganesh Nagar, Tisgaon Road, Kalyan (E).

23. Teddy John, Aged 49 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Flat No.171, O Block CGS Colony, Wadala (W), Jain Deraser Lane, Mumbai-400 301.

24. Smt. Hemlata A. Tigdi, aged 51 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at: Room No.10, 2nd Floor, Daya Mansion, Ranade Cross Road, Dadar, Mumbai-400 028.

25. K. D. Marathe, aged 59 years, presently working as Foreman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Dharti Dhara CHS Ltd., Plot No.117, Flat No.101, Nawale, Panvel Dist. Raigad, Maharashtra State.

26. J.V.Pinto, aged 59 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at F-201, Premier Residency, 2nd Floor, Near Hotel Kohinoor Elite, Kurla West, Mumbai-400 070.

27. Pradeepkumar N.C.aged 58 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 59/04,

NCH Colony Powai, Mumbai-400 078.

28. R.L.Soni, aged 47 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 203 Shri Ganesh Kripa CHS Ltd., S.V.Nagar, B/H, Lokpura Thane (W).
29. H.R.Vidhani, aged 49 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 202, Ambika Tower Goal Maidan Ulhasnagar.
30. S.D.Jadhav, aged 51 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 504 Aqvasen Tower, Khopat Kolbad Road, Thane (West) Pin 400601.
31. P.A.Sakhre, aged 59 years, presently working as Chrgeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at Room No.05, Deepkiran Bldg., "C" Wing, Thanekarwadi (Kopri), Thane (E) Pin-400 603.
32. A.S.Kesarkar, aged 52 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran, Dist.Raigad, and residing at 303, Trishul Bldg No.2, S.J.Marg, Lower Parel, Mumbai 400 013.
33. R.A.Urankar, aged 55 years, presently working as Chargeman, (Factory) in the Naval Armament Depot, Karanja, Tal. Uran,

Dist.Raigad, and residing at 715/04,
 Ganesh Kriya CHS Ltd, Charkop,
 Kandivali (West), Mumbai-400 067. ... *Applicants*
(Advocate Shri Ramesh Ramamurthy)

VERSUS

1. Union of India, through
 The Secretary, Ministry of
 Defence, Government of India,
 South Block, New Delhi-110 001.
2. The Chief of Naval Staff,
 Naval Headquarters IHQ,
 Ministry of Defence (Navy),
 R.K.Puram, New Delhi-110 011.
3. The Director of Civilian Personnel,
 Integrated Headquarters, Ministry
 of Defence (Navy), Government
 of India, R.K.Puram, New Delhi-110 011.
4. The Flag Officer, Commanding-in-Chief,
 Western Naval command,
 INS Angre, SBS Marg,
 Fort, Mumbai-400 001.
5. The Director General of Naval
 Armaments, Naval Headquarters,
 West Block-V, R.K.Puram,
 New Delhi-110 011.
6. The Chief General Manager,
 Naval Armament Depot,
 Gun Gate, SBS Marg, Fort,
 Mumbai.
7. The General Manager,
 Naval Armament Depot,
 Karanja, Tal.Uran, Dist.Raigad 400 701.
8. The General Manager,
 Naval Armament Depot,
 Trombay, Mumbai-400 086. ... *Respondents*
(Advocate Shri V.B. Joshi)

ORDER (Oral)
Per : R. N. Singh Member (J)

Heard the learned counsels for the parties.

2. **MA No. 785/2015:** By way of the present MA, the applicants who are 33 in number and at the time of filing of the above said OA were working as Chargemen in the Naval Armament Depot, Raigad have approached this Tribunal by way of the aforesaid OA with similar reliefs and have prayed for permission to file the aforesaid OA jointly. In view of no objection from the learned counsel for the respondents and also taking into consideration the fact that these very applicants have earlier approached this Tribunal jointly by way of OA No.667/2000, the **MA is allowed.**

3. **OA No.514/2015:** By way of present OA, the applicants have prayed for the following reliefs;

"8.a) *That this Hon'ble Tribunal be pleased to quash and set aside the order dated 15th October, 2014 (Annex. "A-1") passed by the respondents;*

8.b) *That this Hon'ble Tribunal be pleased to direct the respondents to grant all the*

applicants in this OA pay scale of Rs.550-9000 in the post of erstwhile Senior Chargeman now designated as Chargeman (Gr-I) with effect from 1.1.1996 with all further consequential benefits flowing therefrom;

8.c) Such other and further orders be passed as the facts and circumstances of the case may require;

8.d) Cost of this Application be provided for."

4. The learned counsel for the applicants submits that earlier these applicants along with few other similarly placed persons have approached this Tribunal by way of OA Nos.587/2000 & 667/2000 for same reliefs as prayed in the present OA. The said OAs were disposed of by a common order/judgment dated 06.09.2004 (Annex.A-3) of this Tribunal and the operative portion of the order reads as under:

"..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 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."

5. From the directions of this Tribunal in the order dated 06.09.2004, it is evident that after decision of the Hon'ble High Court of Kerala in WP against the order/judgment dated 19.03.2003 of the Ernakulam Bench of this Tribunal in OA No.180/2001 the same was binding upon the parties to the present OA as well. The Hon'ble High Court of Kerala vide order/judgment dated 01.06.2011 dismissed the **WP No.30853/2003 (Union of India & Ors. Vs. M.K.S, Pillai & Ors.)** (Annex. A-4). Learned counsel for the applicants submits that in pursuance to the directions of this Tribunal in order/judgment dated 06.09.2004, the respondents have taken action for implementation of the directions of this Tribunal and the same is evident from the order dated 27.05.2014 (Annex. A-14) whereby

they have calculated the financial implications also. However, in place of giving effect to the order dated 06.09.2004 of this Tribunal, the respondents have passed the impugned order dated 15.10.2014 (Annex.

A-1) which reads as under:

"CP(P)/8416/VI CPC/TSS

15 Oct. 2014

*The Flag Officer Commanding-in-Chief
(for CCPO)
Western Naval Command
Mumbai*

*The Flag Officer Commanding-in-Chief
(for CCPO)
Eastern Naval Command
Visakhapatnam.*

*The Flat Officer Commanding-in-Chief
{for SSO (CP)}
Southern Naval Command
Kochi.*

*The Commander-in-Chief
(for CAPO)
Andaman & Nicobar Command
Port Blair.*

Disparity in the pay scale of Chargeman in Navy.

1. Consequent to implementation of the 5th CPC recommendations, Chargeman of AWS of NASO were granted higher pay scale of Rs.5500-9000 whereas their counterparts in other organizations (Naval Dockyards, NAIO etc) were granted pay scales of Rs.5000-8000 w.e.f 01 Jan 1996. This had created a sense of discrimination amongst left out categories of Chargeman in Navy.

2. Accordingly, a proposal for grant of upgraded pay scale of Rs.5500-9000 to left out categories of Chargeman w.e.f. 01 Jan 1996 was

taken up with MoD/MoF. However, the same was not accepted by MoD stating that it will have wider financial implications. However, pay parity has been maintained w.e.f 01 Jan 2006 (post 6th CPC). This was also communicated to Command HQs vide letter of even number dated 18 Sep 2014.

3. In view of the above, financial documents submitted by Command HQs in support of above proposal are returned herewith for retention by the concerned units.

Sd/-
(Gulab Singh)
Commander
JDCP(Pay)

Encl: As above."

6. In response to the notice received from the Tribunal, the respondents have filed their reply. Para 6 of such reply-affidavit of the respondents reads as under;

"...6. With reference to para 4(I) of OA, I say that the judgment passed by Hon'ble High Court of Kerala in WP 30853 of 2003(S) was to give directions to retain higher Pay Scale of erstwhile Sr. Chargeman of ammunition workshop staff of NASO. NASO has two different stream of Chargeman viz. Factory and Ammunition Workshop. 5th CPC recommended Pay Scale of Rs.5500-9000 to erstwhile Sr. CM of AWS Staff. Prior to 5th CPC entry grade of Tech. Supervisory Cadre of Ammunition Workshop of NASO was Sr. CM. As per the Pay structure of Supervisory Cadre entry grade pay of Rs.5000-8000 was recommended by 5th CPC for all Technical Supervisory Cadre of Indian Navy. 5th CPC recommended Pay Scale of Rs.5500-9000 for erstwhile Sr. CM of Ammunition wing of NASO considering the same as Senior/promotion post of Chargeman as there was no Chargeman post in that Cadre. Thus, the contention of the applicants to grant Pay Scale of Rs.5500-9000 at par with erstwhile SCM of AWS staff would be bad in law and needs to be rejected.

7. In para 7 of the reply-affidavit, the respondents have averred that financial implications data from all cadres with a view to examine the issue was gathered. However, the same was turned down by the Ministry of Defence vide their letter dated 15.10.2014 and such letter has been impugned by the applicants in the present OA. In para 8 of their reply-affidavit, the respondents have averred that the Ernakulam Bench of this Tribunal has dismissed OA No.516/2006 (**Shri K. Bhaskaran & others**) for upgradation of pay scale of Senior Chargeman from 5000-8000 to Rs.5500-9000 on the lines of Senior Chargeman of Ammunition wing in Naval Armament Supply Organization vide order dated 26.06.2008 and the said order has been upheld by the Hon'ble High Court of Kerala.

8. However, when the matter has been taken up for hearing on 18.03.2019, a copy of an order dated 16.10.2018 issued by the Ministry of Defence, Government of India has been placed on record and the same reads as under:

"Government of India
Ministry of Defence
New Delhi

To, New Delhi, the 16th Oct 2018

*The Chief of the Naval Staff
New Delhi.*

IMPLEMENTATION OF COMMON ORDER OF
HON'BLE HIGH COURT OF KERALA DATED 20
JUL 2017 IN OP(CAT)271/2016 AND
OP(CAT)213/2017 FILED BY SHRI K.
BHASKARAN AND SHRI ME UTAMA KURUP OF
NSRY KOCHI

Sir,

I am directed to convey the sanction of the President to implement the common order of Hon'ble High Court of Kerala dated 20 Jul 2017 in OP(CAT)271/2016 and OP(CAT) 213/2017 in respect of applicants only. The pay scales of applicants (Senior Chargemen) of Naval Ship Repair Yard, Kochi will be revised from Rs.5000-8000 to Rs.5500-9000 w.e.f. 1st Jan 1996.

2. *This issues in consultation with Ministry of Finance, Department of Expenditure vide their I.D. No.10(14)/E.III(B)/2015 dated 08 Oct 2018 and Ministry of Defence (Finance) vide their I.D. No.10(22)/NA/2018 dated 09 Oct 2018.*

Sd/-

*(Dinesh Kr. Lakhunna)
Under Secretary to the Govt. of India
Tele:2301949.*

Copy to:

1. *The CGDA, Ulan Batar Road, Delhi Cantt – 10*
2. *Dir (Fin/Budget/MoD (Fin)*
3. *The Director General of Audit (AF/Navy), Church Road, New Delhi – 110 011.*

4. *The PCDA (Navy), Mumbai*

5. *The Flag Officer Commanding-in-Chief, HQ SNC, Kochi.*

6. *The Jt. Dir. Audit Defence Services, Mumbai."*

9. However, from the very speaking order/letter dated 16.09.2014 (Annex. A-16) of the respondents, it appears that the Hon'ble High Court of Kerala Vide their order dated 18.07.2013 in WP(C) No.1206/2009 has ordered that the petitioners are left with liberty to move the competent authority in the Government for appropriate relief as may be available to him in accordance with law in respect of their claim for parity and in case such representation is made, the competent authority in the Government will consider the matter expeditiously.

10. From the aforesaid facts, it is evident that the respondents were bound by the judgment of the Hon'ble High Court of Kerala in **WP No.30853/2003(S) in Union of India & Ors. Vs. M.K.S. Pillai & Ors.** In view of the directions of this Tribunal in the order dated 06.09.2004, now it is the admitted fact that the contention on behalf

of the applicant that the judgment of the Hon'ble High Court of Kerala in **M.K.S.**

Pillai (supra) is being implemented in respect of the respondents therein is not disputed by the respondents in any of their affidavits or by their learned counsel. The other defence taken by the respondents to dispute and deny the claim of the applicants has been in their reply-affidavit that the Ernakulam Bench of this Tribunal had dismissed the OA filed by Mr. K. Bhaskaran referred herein above. However, from the order/letter dated 16.10.2018, it is evident that the competent authority i.e. the President has conveyed the sanction for implementing the common order of the Hon'ble High Court of Kerala dated 20.07.2017. It is not disputed by the learned counsel for the respondents that the Hon'ble High Court has passed the order dated 20.07.2017 in WP No.271/2016 and 213/2017 wherein the prayer for grant of pay scale of Rs.5500-9000 in place of Rs.5000-8000 to Bhaskaran has been granted.

11. Shri V.B. Joshi, learned counsel for

the respondents submits that now the respondents are in the process of gathering information about persons similarly placed as in M.K.S. Pillai and Bhaskaran and to consider grant of relief prayed by the applicants. From a perusal of the order dated 16.10.2018, it is evident that the sanction of the Hon'ble President has been conveyed for grant of pay scale of Rs.5500-9000 to the applicants i.e. Bhaskaran & Ors. and as noted above, the necessary information and financial implications have been considered and gathered by the respondents earlier also. In this background, we do not find any reason for the respondents not to grant similar benefits to the applicants in the present OA.

12. Accordingly, ***the OA is allowed*** with the following directions:

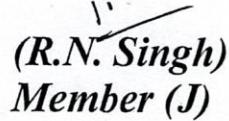
- i) The respondents to consider grant of the same benefits with regard to their claim of pay scale of Rs.5500-9000 in place of Rs.5000-8000 as being granted to the applicants in ***M.K.S. Pillai & Ors. in WP No.30853/2003(S) and Mr. K Bhaskaran & Ors.***

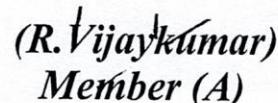
in WP No.1206/2009 and pass necessary order(s) in this regard.

ii) After the applicants are granted the aforesaid pay scale of Rs.5500-9000, the applicants shall be entitled for interest on the arrears of pay on such re-fixation @ 6% w.e.f. 01.09.2011 i.e. after three months of the date of judgment of the Hon'ble High Court of Kerala in the case of **M.K.S. Pillai (supra)**.

iii) The above exercise shall be completed by the respondents within three months of receipt of a certified copy of this order.

iv) In the facts and circumstances, no order as to costs.


(R.N. Singh)
Member (J)


(R. Vijaykumar)
Member (A)

dm.


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