

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
(CIRCUIT AT PORT BLAIR)**

**No. O.A. 10/AN/2016**

**Date of order:** 12/06/2019.

**Present:** Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. N. Neihial, Administrative Member

Shri N. Venugopal  
S/o Shri R. Narasimhan  
R/o Junglighat, Port Blair  
Working as Engine Driver – II.

**.. Applicant**

**-Versus-**

1. The Union of India through the Secretary  
Ministry of Shipping, New Delhi.
2. The Lieutenant Governor  
Andaman & Nicobar Islands  
Raj Nivas, Port Blair.
3. The Administration  
Andaman and Nicobar Islands  
Through the Chief Secretary  
Secretariat, Port Blair.
4. The Chief Port Administrator  
Port Management Board  
Andaman & Nicobar Islands, Port Blair.
5. The Assistant Director  
Port Management Board  
Port Blair.

**.. Respondents**

**For the Applicant : Ms. A.S. Zinu**

**For the Respondents : Ms. A. Nag**

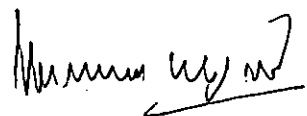
ORDERN. NEHSIAL, MEMBER (A):

Being aggrieved with the action of the respondent authorities for non-granting the pay scale of Rs. 10000-15200 as salary, the applicant has preferred the instant O.A. under Section 19 of the Administrative Tribunal Act, 1985 seeking the following reliefs:-

- "8(i) An order do issue commanding the respondents authorities to pay Rs. 10000-15200 as salary thereafter revised the same in terms of recommendation of 6<sup>th</sup> Pay Commission.
- (ii) An Order be passed directing the respondent authorities to treat the applicant to be equal in terms of the service rendered by him in the same manner as that of other similarly circumstance persons.
- iii) An Order be passed directing the respondent authorities to grant all consequential and monetary benefits to the applicant after declaring that the application is entitled to pay a scale of Rs. 10000-15200.
- iv) An Order be passed directing the respondent authorities to pay a damaged to the applicant for not granting the Pay Scale of Rs. 10000-15200 despite having requisite qualification.
- v) An Order be passed directing the respondent authorities to act in accordance with law.
- vi) Any other relief(s) that the applicant may be entitled to under the facts and circumstances and/or any other appropriate order/direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice."

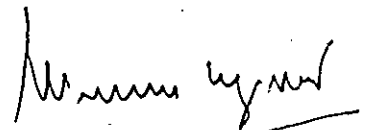
2. Grounds for the reliefs of the applicant are as follows:

"The applicant has taken the ground that as there was no qualified Chief Engineer and the post was lying vacant since 2000, he was performing the duties and responsibilities of Chief Engineer, in an officiating capacity, in different vessels and, therefore, he is entitled to the pay scale of Rs. 10000-15200. Applicant states that although he has already acquired the



qualification for Chief Engineer in the meantime but he is not asking for promotion and only prayed for the pay scale for the work he has performed. His further averment is that although deputationists, who do not have the qualification as that of the applicant, were given the pay scale of Chief Engineer. Under Article 39(d) of the Constitution of India, he prays for equal pay for equal work. As the applicant was engaged during exigency of work, he must be remunerated commensurately to the nature and duties he discharged. He further submitted that the inaction of the authorities in granting him equal pay for equal work is illegal, unlawful and in violation of Article 14, 15, 16 & 21 of the Constitution of India."

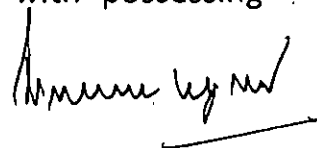
3. This is the second round of litigation. Previously in the O.A. No. 351/00177/2015, this Tribunal in its order dated 08.10.2015, without deciding the matter on merit, directed the respondent authority to give detailed reply which may contained all pleas which the respondent authorities might think fit and proper as per law, within a period of two months from the date of receipt of the order. Accordingly, the respondent authorities vide order dated 18.12.2015 issued a detailed a speaking order wherein they rejected the demand of the applicant for promotion to Chief Engine Driver as well as demand for the scale of Chief Engineer for not having requisite qualification/not covered by recruitment rules. They also denied that the applicant has been deputed to work as Chief Engineer in the vessels as claimed by the applicant. In the reply filed on behalf of the respondent Nos. 4 & 5 dated 14.01.2019, they have pointed out amongst others that the applicant was never appointed as Chief Engine Driver nor he was asked to perform the duties of Chief Engineer in any of the Floating



Craft of the PMB. In this regard, it is stated that 2 posts of Chief Engineer in the scale of Rs. 10,000-15,000 (Pre-revised) are available in the PMB. The method of recruitment to these posts as per the existing RR is "*deputation including short term contract*". Hence, the applicant who is working as Engine Driver-II is not eligible for appointment to the post of Chief Engineer. Besides, as per the records available in the PMB, the applicant does not possess the required qualification for the post of Chief Engineer.

4. In this O.A., the applicant is basically praying for the scale of Chief Engineer of Rs. 10,000-15,200 on the basis of the principle of equal pay for equal work. He also highlighted that the other officers who had on deputation, namely, K. Mohd. Ali and Shri Mohd. Yacub also did not have requisite qualification for the post of Chief Engineer, but they have given the scale of Chief Engineer, i.e. Rs. 10,000-15,200.

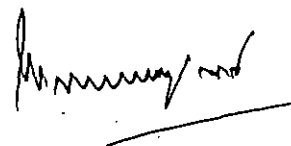
5. We have gone through the recruitment rules for the post of Chief Engineer. It has been indicated that the method for recruitment is '*Deputation including short term contract*' from the officers of the Central/State Govt./Public Sector Undertaking/Semi-Govt./State Autonomous bodies etc., holding analogous post on regular basis in the parent cadre/department and with five years service in the grade rendered after appointment thereto on a regular basis in the scale of pay of Rs. 8000-13,500 or equivalent in the parent cadre/department or equivalent or eight years service in the grade rendered after appointment with possessing



professional qualification and experience of (i) Marine Engineer Officer Class-III (FGN) or (ii) Marine Engineer Officer Class-II (NCV Chief Engineer).

6. We also seen the documents submitted by the applicant that he claimed to have been regularly assigned duties and responsibilities of the post of Chief Engineer. His rejoinder submitted on 03.04.2017 at para 10 page 4, he had indicated as many as eight office orders issued by the respondents during the period from 08.06.2000 to 22.12.2011. On going through these lot of orders, it is observed that the applicant has been given temporary assignment of a few days/sometime as duration of as short as three or four days in addition to his duties as Engine Driver IInd class.

7. We found that these temporary assignments of additional duties do not give right to claim the pay scales of the post for which temporary additional assignments are given. The scale of particular post can be only claimed on the basis of recruitment to that post either by direct recruitment promotion or deputation as per recruitment rules. Remuneration for additional duties can be claimed in the form of special pay or allowance if the rules provides for it. Moreover, the applicant does not possess even the required qualification for claiming the post of Chief Engineer and does not cite any specific order. A copy of legal judgment dated 06.03.1998 passed in Civil Appeal Nos. 1568-1569 of 1998 (@ SLP (C) Nos. 11839-11840 of 1997) made available on 04.06.2019 is not exactly similar to his case and found not applicable.



8. Keeping in view of the above, we feel that claim of the applicant for 'equal pay for equal work' in the present context of his occasional temporary assignment is not maintainable as per law. Hence the prayer of the applicant is found devoid of merit.

9. Accordingly, the O.A. is dismissed. No order as to the costs.

(N. Neihisial)  
Administrative Member

(Bidisha Banerjee)  
Judicial Member