

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/450/2019

Date of Order: 07.11.2019

Between:

S. Pratapa Yadav, S/o. late S.G. Yadav, Gr. B,
Age 61 yrs, Occ: Retired Employee,
R/o. H. No. 12-2-823/A/1/9, Santoshnagar Colony,
Mehdipatnam, Hyderabad – 500 028.

...Applicant

AND

1. The Union of India Rep by its Secretary,
Ministry of Defence, South Block, New Delhi -110011.
2. The Director of Civilian Personnel,
Integrated Headquarters, Ministry of Defence (Navy)
Talkatora Stadium Annex Building, New Delhi - 110001.
3. The Director General of Naval Armament Inspection,
Integrated Headquarters, Ministry of Defence,(Navy)
West Block-V, Wing 1 FF, R.K.Puram, New Delhi - 110066.
4. The Flag Officer Commanding in Chief, For CCPO,
Head quarter, Eastern Naval Command,
Visakhapatnam - 530014.

..... Respondents

Counsel for the Applicant ... Mrs. Anita Swain

Counsel for the Respondents ... Mr. M. Venkata Swamy,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for fixation of pay in the pay scale of Rs.5500-9000 (pre-revised) as per the order of the Hon'ble Kerala High Court in OP (CAT) No. 213/2017, dt. 20.07.2017 & batch.

3. Brief facts are that the applicant was working as Senior Chargeman in NAIO (National Armament Inspection Organisation) of the respondents organisation in the Pay scale of Rs.1400-2300 before 5th CPC. On implementation of 5th CPC, the post of Senior Chargeman of NAIO was re-designated as Chargeman-II in the pay scale of Rs.5000-8000 while as the Senior Chargemen of NASO (National Armament Supply Organisation) belonging to the same respondents organisation were re-designated as Chargemen-I with pay scale of Rs.5500- 9000 vide Ministry of Finance OM dated 11.9.2001, which obviously created an anomaly in the pay scale amongst similarly situated employees. To rectify the anomaly, respondents downgraded the scale of Senior Chargeman of NASO from Rs.5500 – 9000 to Rs.5000-8000 resulting in a flurry of litigation. Courts interfered and restored the pay scale to the aggrieved. Consequently, the 2nd respondent proposed on 21.1.2014 to the 1st respondent for enhancing the pay scale to Rs.5500-9000 for the Senior Chargeman of NAIO and Naval Dockyard on par with similarly placed employees in NASO. After assessing the financial implication to examine implementation of the proposal, it was turned down on 15.10.2014. Aggrieved, similarly placed employees of NSRY Kochi

approached the Hon'ble Ernakulam Bench of this Tribunal in OA No. 180/01149 of 2014, wherein the relief sought was declined on 16.09.2015. The matter was carried to the Hon'ble High Court of Kerala in OP (CAT) 213/2017 & batch, wherein the Hon'ble High Court vide Judgment dated 20.7.2017 granted the relief, which was extended only for those who approached the court and not the applicants. All the applicants are retired employees. Hence the OA is filed for the granting the pay scale of Rs.5500-9000 (pre-revised) w.e.f. 01.01.1996 on par with the similarly situated employees as well as that of the Chargeman of NSRY and for consequential benefits.

4. Though notice was issued to the respondents on 30.04.2019, no reply statement has been filed so far. However, as similar matters viz., OA Nos. 1259/2018 and 9/2019 have been disposed of by this Tribunal wherein the respondents filed reply statements and the respondents being same in all the matters, this OA was taken up for hearing with consent of both the parties.

The respondents submitted that, prior to the 5th CPC the Senior Chargeman in NASO, NAIO and Naval Dockyard had similar scale of Rs.1400-2300. While implementing 5th CPC, the 3 grade structure of Senior Chargeman, Foreman and Senior Foreman in Technical Supervisory Staff (TSS) was restructured into 4 grade structure of Charge Man Grade II, Chargeman Grade I, Asst. Foreman and Foreman. However, while implementing the 5th CPC recommendations, the Chargeman- I in NASO were granted pay scale of Rs.5500-9000 whereas

those in NAIO were given Rs.5000-8000 leading to an anomaly, which, when brought to the notice of an Anomaly Committee, it was recommended to downgrade the pay scale of Senior Chargeman of NASO to Rs.5000-8000, admitting that the hike effected was a mistake. On being challenged in various Courts by the Senior Chargeman, the decision went in their favour. Minister of Defence after examining the financial implication involved has turned down the upgradation of Pay Scale as submitted by the subordinate formations. Aggrieved by this decision, when the matter was adjudicated by the Hon'ble High Court of Kerala, the decision was once again in favour of the petitioners therein. Consequently, Govt. of India has granted sanction to implement the order only in respect of those who approached the Hon'ble High Court. Another 15 serving/retired employees of CNA (South) filed OA 180/00255/2015 and got similar relief from the Hon'ble Ernakulam Bench of this Tribunal. In view of the cited judgments, the case for upgradation for non-petitioners along with financial implication is being resubmitted to Ministry of Defence for consideration.

5. Heard both the Counsel and perused the pleadings.

6. I) As seen from the details of the case, the applicant while working in NAIO as Senior Chargeman was granted lower pay scale of Rs.5000- 8000 instead of Rs.5500-9000 as was granted to similarly placed employees in NASO. The matter when taken up with the anomaly committee, it was decided to reduce the pay scale of Senior Chargeman to Rs.5000-8000 which, when challenged in the Hon'ble High Court of

Kerala in OP (CAT) 213/2017 and OP (CAT) 271/2016, favourable orders were issued in respect of the petitioners to enhance the pay scale to Rs.5500-8000. When the financial implication was let known to implement the decision, the proposal to upgrade the scale for all those eligible was rejected but confined it to those who approached the Court, as per Govt. of India Orders. This forced 15 other retired/ serving employees to approach the Hon'ble Ernakulam Bench in OA 255/2015 seeking similar relief which was allowed, even as per the respondents. Consequently, a fresh proposal is being submitted to Min. of Defence for reconsideration of upgradation of the scale to Rs.5500-9000 in respect of the applicants and also in regard to the others who are eligible but did not approach the courts.

II) From the material papers filed by the applicants, it is seen that Hon'ble Ernakulam Bench of this Tribunal was moved in OA/180/00328/2018 by a similar person, which was disposed vide order dt. 28.11.2018 directing the respondents therein to grant the pay scale of Rs.5500-9000 to the applicant therein w.e.f. 1.1.1996 with consequential benefits. It is well settled law that similarly situated employees have to be granted the relief as was granted to those similarly placed. If the administrative authorities discriminate amongst persons similarly situated, in matters of concessions and benefits the same directly infringes the constitutional provisions enshrined in Articles 14 and 16 of the Constitution. Tribunal relies on the observations of the Hon'ble Supreme Court made in a cornucopia of judgments given hereunder, while asserting as stated.

Amrit Lal Berry vs Collector Of Central Excise, (1975) 4 SCC 714 :

“We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.”

Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648:

“...those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”

V CPC report, para 126.5 – Extending judicial decision in matters of a general nature to all similarly placed employees:

We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed & Ors Vs. UOI & Ors, (OA 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh V. UOI [(1992) 19 ATC 94 (SC)], dt. 20.07.1998; K.I. Shepherd V. UOI [(JT 1987 (3) SC 600)]; Abid Hussain V. UOI [(JT 1987 (1) SC 147], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”

*In a latter case of **Uttaranchal Forest Rangers' Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346**, the Apex Court has referred to the decision in the case of **State of Karnataka Vs. C. Lalitha, 2006 (2) SCC 747**, as under:*

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.”

Applicant is a retired employee and seeks the benefit of pay scale w.e.f. 01.01.1996 as was granted to other similar employees with consequential benefits.

III. Therefore, keeping the aforementioned circumstances in view and the law on the subject, respondents are directed to examine and consider granting relief to the applicant as sought for, with consequential benefits, in a period of 6 months from the date of receipt of this order, by issuing a speaking and well reasoned order.

IV. With the above direction the OA is disposed of with no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 7th day of November, 2019
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