

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
CIRCUIT BENCH SITTING
AT KAVARATTI
UT OF LAKSHADWEEP

ORIGINAL APPLICATION NO. 181/00934 of 2016

Friday, this the 13th day of December, 2019

CORAM

HON'BLE MR. JUSTICE L. NARASIMHA REDDY ...CHAIRMAN
HON'BLE MR. E.K.BHARAT BHUSHAN ...ADMINISTRATIVE MEMBER

Malik A.P.,
 Technical Assistant (Electrical),
 Museum & Planetarium,
 Department of Science and Technology,
 Union Territory of Lakshadweep. ...Applicant

(By Advocate Mr.Joby Cyriac)

Versus

1. Union of India,
 Represented by the Secretary to Government,
 Ministry of Finance,
 Department of Expenditure,
 New Delhi – 110 001.
2. Union of India,
 Represented by the Secretary to Government,
 Ministry of Science and Technology,
 New Delhi – 110 001.
3. The Secretary,
 Department of Science and Technology,
 Union Territory of Lakshadweep,
 Kavaratti.
4. The Administrator,
 Union Territory of Lakshadweep,
 Kavaratti. Respondents

(By Advocate Mr. K.C.Muraleedharan, ACGSC for Respondents-1&2 and Shri S.Manu for Respondents-3&4)

This application having been heard on 13th December, 2019, the Tribunal on the same day delivered the following :

O R D E R (ORAL)

JUSTICE L. NARASIMHA REDDY, CHAIRMAN

The applicant was appointed as a Technical Assistant (Electrical) in the Department of Science and Technology, Union Territory of Lakshadweep, in August, 2010, and was placed in the pay scale of Rs.5200-20200 with Grade Pay of Rs.2800.

2. Earlier, the applicant filed OA No.12/2015 before this Bench stating that the scale of the pay fixed for the post of Technical Assistant is not in accordance with the recommendations of the 6th Pay Commission. It is stated that the 6th Pay Commission addressed the issue pertaining to scientific staff which included the Technical Assistant also, and though it was directed that they shall be kept in the pay scale of Rs.6500-10500, particularly, when the qualifications prescribed for the post is Degree in Engineering, the respondents did not extend that benefit.

3. The applicant contends that the qualification prescribed for the post of Technical Assistant is Degree in Engineering and viewed from any angle the pay scale of

Rs.6500-10500 with the corresponding grade pay, ought to have been extended to him.

4. The OA No.12/2015 was disposed of on 06.02.2015 directing the respondents to pass a reasoned order, on the representation submitted by the applicant. In compliance with the same, the respondents passed an order dated 24.09.2015, rejecting the plea of the applicant. This OA is filed challenging the order dated 24.09.2013 (Annexure A/3), and to direct the respondents to place him in the Pay Band-2 with the Pay Scale of Rs.9300-34800 with Grade Pay of Rs.4600, in conformity with the recommendations of the 5th & 6th Pay Commissions, and to upgrade his pay scale in the corresponding pay band, and to maintain relativity of the post of Technical Assistant, in all respects.

5. The applicant contends that a combined reading of the recommendations of the 5th & 6th Pay Commissions would clearly indicate that the technical staff must be in the pay scale, which at a later stage, had been upgraded to Rs.9300-34800, and that the respondents have not followed the clear mandate.

6. A detailed counter affidavit is filed on behalf of respondent Nos.3 & 4. It is stated that the post held by the applicant is Technical Assistant, and the department has

evolved the pay structure in the entire organization in such a way that there is proper balance at every stage. It is also stated that except that the 6th Pay Commission has reiterated the recommendations of the 5th Pay Commission, it did not make any independent recommendations for the post of Technical Assistants. According to the respondents, the recommendations of the 5th Pay Scale have already been implemented and the applicant who was appointed long thereafter cannot have any grievance at all.

7. We heard Mr.S.Manu, learned counsel for the respondents.

8. The applicant joined the service of the respondent organisation in the year 2010, that is, long after the recommendations of the 5th & 6th Pay Commissions were made. Heavy reliance is placed upon the recommendations of the 6th Pay Commission in relation to the scientific staff.

The relevant paragraph reads as under:-

“3.5.7 Large Number of scientific and technological staff exists in different Ministries/Departments /Organisations classified as scientific. They assist scientific officers in work related to experiments, field reports, surveys, collection of samples and other scientific work. The Fifth CPC had considered this category in detail and had made certain recommendations. The Fifth CPC had recommended parity between posts of scientific staff carrying minimum

qualifications of engineering degree and a post graduate degree with the scale of Rs.6500-10500 being recommended for these posts. This relativity, wherever already conceded, may need to be continued in light of the fact that this Commission has recommended placement of all posts carrying minimum direct recruitment qualifications of a degree in engineering in pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4600 corresponding to the pre-revised pay scale of Rs.7450-11500. “

From a perusal of this, it becomes clear that extensive reference was made to the recommendations of the 5th Pay Commission, and the 6 Pay Commission did not make any specific recommendations for the post in question. The observation that the posts carrying the minimum qualification for direct recruitment in the form of a Degree in Engineering must be in Pay Band-2, cannot be read in isolation. It is only when the entire subject and scheme is read as a whole, that, a clear picture would emerge. The employees in the organization where the applicant is working, particularly those who appointed much prior to 2010 have not raised any claim. It is only the applicant who is harping on the implementation of the so called recommendations of the 6th Pay Commission. Once it emerges that the 6th Pay Commission did not make any specific recommendation for the post in question, we cannot grant any relief.

9. Assuming that there was any specific recommendation by the 6th Pay Commission, and it was not implemented, the course open to the applicant is to raise the issue before the anomalies committee. No such steps were taken. On the other hand, 7th Pay Commission has also made its recommendations and they were implemented. At the end of the day, the grievance of the applicant is traceable to the recommendations of the 5th Pay Commission, which the 6th Pay Commission has reiterated. We cannot address that issue at this length of time.

10. The OA is accordingly dismissed. There shall be no order as to costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

**(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN**

List of Annexures in O.A. No.181/00934/2016

1. Annexure A1 - True copy of the extract of the relevant paragraphs of the 6th Pay Commission Report.
2. Annexure A2 - True copy of the petitioner's representation dated 09.09.2014 submitted through proper Channel seeking up-gradation of Pay Scale.
3. Annexure A3 - True copy of the order No. F.No.DST/Lakshadweep-S&T/2K-9/Sectt dated 24.09.2015 issued by the 3rd Respondent.
4. Annexure A4 - True copy of the report dated 13.05.2015 of the 3rd respondent with respect to the nature of duty of the Technical Assistants (Electrical) Museum and Planetarium.
5. Annexure A5 - True copy of the notification inviting application for Junior Planetarium Engineer/ Junior Scientific Officer by Jawaharlal Nehru Planetarium , Bangalore.
6. Annexure A6 - True copy of the prospectus for the recruitment to the post Technical Assistant at Department of Science Technology and Environment, Govt of Puducherry.
7. Annexure A6(a) - True copy of the statement showing the duties and responsibilities of Technical Assistant at Puducherry issued by the Public Information Officer, Department of Science, Technology and Environment, Puducherry along with covering letter dated 23.9.2016.
8. Annexure A7 - True copy of the Office notice F.No.01/01/2013-S&T which was received under RTI Act with covering letter dated 20.08.2014.
9. Annexure A8 – True copy of the Lakshadweep Electricity Department (Group B&C Technical Posts, Non Gazetted) Recruitment Rules 2009 published vide Notification F.No.40/19/2008-Estt/Ele dated 19th December, 2009.
10. Annexure A9 – True copy of the relevant part of the Central Civil Services Revised Pay Rules 2008 (Part C) published vide extraordinary Gazette of India dated 29.08.2008.
11. Annexure A10 - True copy of the relevant pages of the Recruitment Rule called the Lakshadweep Administration Department of Science and Technology (Group 'B' and 'C') Scientific/Technical Non-Ministerial Posts) published vide Notification F.No.1/2/2010 – S&T(2) dated 23.04.2010.
