



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS. 6886-6887 OF 2011**

**Manish Kumar Rai**

**... Appellant**

*versus*

**Union of India & Ors.**

**... Respondents**

**J U D G M E N T**

**ABHAY S. OKA, J.**

**FACTUAL ASPECTS**

**1.** These appeals take exception to the judgment and order dated 27<sup>th</sup> October 2010 of the Armed Forces Tribunal, Principal Bench at New Delhi on a writ petition filed by the appellant before the Bombay High Court, which was transferred to the Armed Forces Tribunal (for short, ‘the Tribunal’).

**2.** The appellant was working in the post of Artificer III in the Indian Navy. The sailors employed in the Indian Navy are divided into two categories: (a) non-technical and (b) technical. Both categories have different branches. One of the technical branches is of Artificers. Artificers are of various types such as Aircraft Artificers, Electrical Artificers etc. The appellant contended that the Artificers are highly skilled technical personnel. The sailors in the Artificer branch are graded

according to their level of technical competence, experience, and responsibilities. The ranks of sailors in the Artificer branch start from Artificer V, Artificer IV, Artificer III, Artificer II, Artificer I, Chief Artificer, Master Chief Artificer II<sup>nd</sup> Class and Master Chief Artificer I<sup>st</sup> Class. Artificer cadre is categorised as “X group” sailors. On the other hand, non-Artificers from the non-technical branch are categorised in “Y group” and “Z group”.

**3.** On 30<sup>th</sup> August 2008, the Government of India accepted the 6<sup>th</sup> Central Pay Commission recommendations. Accordingly, a Gazette Notification of 30<sup>th</sup> August 2008 was issued, which was brought into force with retrospective effect from 1<sup>st</sup> January 2006. According to the appellant's case, all personnel from the armed forces with a pay scale of S-9 category were placed in pay band-2 with grade pay of Rs.4200 in the revised pay structure of the 6<sup>th</sup> Pay Commission. However, Artificers in classes I, II and III, whose pay scale was in the S-9 category, were granted grade pay of Rs.3400, though they were placed in pay band-2. As the anomaly of grade pay regarding Artificers in classes I, II and III was not resolved, the appellant filed a writ petition under Article 226 of the Constitution of India before the Bombay High Court. By order dated 27<sup>th</sup> January 2009, the Bombay High Court directed the respondents to examine the appellant's grievance regarding the grade pay of Artificers in ranks I, II and III and to pass appropriate orders after hearing the appellant, if necessary. Accordingly, the appellant's advocate submitted a representation to the first respondent-Union of India. On 20<sup>th</sup>

April 2009, the Naval Headquarters, Ministry of Defence passed a speaking order dated 20<sup>th</sup> April 2009. By the said order, the representation was rejected. The appellant challenged the said order by filing a writ petition before the Bombay High Court. After the establishment of the Tribunal, the writ petition was transferred to the Tribunal and numbered as a Transfer Appeal. The Tribunal dismissed the Transfer Appeal by the first impugned order dated 27<sup>th</sup> October 2010. The appellant applied for a review of the said judgment. However, the Review Petition was rejected by the second impugned order dated 2<sup>nd</sup> February 2011.

### **SUBMISSIONS**

4. The learned counsel appearing for the appellant referred to the Gazette Notification dated 30<sup>th</sup> August 2008 issued by the Union of India. It is provided that the pay bands and grade pay for the same ranks in both groups will be the same. The learned counsel pointed out that the Chief Petty Officer, who was granted grade pay of Rs.4200, belongs to a non-technical branch. He pointed out that the sailors from non-technical branches are given the ranks of Seaman II, Seaman I, Leading Seaman, Petty Officer, Chief Petty Officer, Master Chief Petty Officer II and Master Chief Petty Officer I. He relied upon Navy instructions No. 2/S/96, which provided that Artificers III and Chief Artificers have relative ranks of Chief Petty Officer. He also pointed out that, upon promotion to the rank of Artificer III, the Artificer sailors are appointed as Chief Petty Officers by a warrant issued by the President of India. He, therefore, submitted that though Artificers of III, II and I class are also

ranked as Chief Petty Officers, the grade pay of Rs.4200 granted to Chief Petty Officers has been denied to Artificers of III, II and I class, which is highly discriminatory. He submitted that in the counter affidavit filed by the first respondent, it was accepted that Artificers of class I, II and III hold a relative rank of Chief Petty Officer. Still, they are denied grade pay of Rs.4200 on par with the grade pay of the Chief Petty Officer. He also relied upon Navy instructions No. 2/S/96, annexed as Annexure R-2 of the counter affidavit. He also relied upon clarification issued by the Chief of the Naval Staff by a letter dated 5<sup>th</sup> September 1977 clarifying that Artificers of class III and above are Chief Petty Officers. The learned counsel submitted that the fact that only the Chief Artificer and Chief Petty Officer are eligible for promotion to Master Chief Petty Officer cannot be a reason to deny the grade pay of Rs.4200 to Artificers of Class III, who are Chief Petty Officers.

5. The learned counsel relied upon a decision of this Court dated 9<sup>th</sup> November 2023 in Civil Appeal No.1663 of 2016 in the case of ***Union of India & Ors. vs. D.G.O.F. Employees Association and Anr.***<sup>1</sup>. He also relied upon what is held by this Court in the case of ***Haryana State Minor Irrigation Tubewells Corporation Ltd. & others vs. G.S. Uppal & Ors.***<sup>2</sup>. Inviting our attention to the findings recorded by the Tribunal, he submitted that the same are completely erroneous.

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<sup>1</sup> 2023 SCC OnLine SC 1471

<sup>2</sup> (2008) 7 SCC 375

6. Learned Additional Solicitor General appearing for the respondents pointed out that only when Artificers of grade III are promoted to the post of Chief Artificer, they can be considered to be equivalent to Chief Petty Officer (non-technical). As the Artificers of ranks III to I are below the rank of the Chief Artificer, their grade pay has to be lower than that of the Chief Artificer. However, the grade pay given to Artificers of rank I to III is higher than Petty Officers' grade pay but lower than that of the Chief Artificer/Chief Petty Officer (non-technical). In short, the submission of the learned ASG is that the same grade pay cannot be granted to Artificer III and Chief Artificer as the Chief Artificer is a promotional post for Artificers of Class III. She stated that Artificers work under the command of the Chief Artificer. Learned ASG pointed out the grade pay granted to various sailors in the X group and sailors in the Y group (non-technical).

### **CONSIDERATION OF SUBMISSIONS**

7. The appellant placed reliance on a communication issued by the Director of Personnel in Naval Headquarters dated 16<sup>th</sup> November 2000 (Annexure P-I). In the said communication, which deals with the seniority of Artificers viz-a-viz non-Artificers, it is stated thus: -

“The contention that seniority status of Artificers vis-a-vis non-artificers is ambiguous and unresolved is incorrect. The Regulation 247 of Reg Navy Part III and Navy Instruction 2/96 clearly lays down that the relative rank of Artificers 3<sup>rd</sup>/2<sup>nd</sup>/1<sup>st</sup> Class and Chief Artificers is that of a Chief Petty Officer.”

8. This is the primary document on which the appellant is relying upon. The communication dated 16<sup>th</sup> November 2000 refers to the seniority status of Artificers vis-a-vis non-Artificers. It refers to Regulation 247. We have, therefore, perused Regulation 247. We may note here that Regulation 247 does not deal with equivalence. Clause (1) of Regulation 247 provides that the crews of Indian Naval Ships shall rank and command after Naval Cadets according to Regulation 247. Clauses (1) to (3) of Regulation 247 are relevant, which read thus:

**“247.** (1) The crews of Indian Naval Ships shall rank and command after Naval Cadets according to this Regulation.

(2) Any sailor of any one of following ranks shall rank and command before any sailor of a rank below it in the following list, except that sailors exercising Military Command rank and command before all sailors placed under their command:-

Chief Petty Officer Petty Officer Leading Seaman Able Seaman Ordinary Seaman Boy Seaman

(3) Sailors belonging to any one of the ranks mentioned in sub-regulation (2) shall rank and command among themselves according to their seniority in that rank provided that:

(a) Chief Engine-Room Artificers, Chief Ordnance Artificers, Chief Electrical Artificers, Chief Shipwright Artificers, Chief Aircraft Artificers. Chief Mechanics, Chief Aircraft Mechanics and Chief Electrical Mechanics shall rank and command over all other ratings of these eight

branches. "Chief" ratings within one of these branches shall rank and command between themselves according to seniority in "Chief" rating. "Chief " ratings of two or more of these branches shall rank and command between themselves by seniority as Chief Petty Officer. Where "Chief" ratings of any of these eight branches are together with Chief Petty Officers of other branches they will rank and command according to seniority as Chief Petty Officer.

(b) Engine-Room Artificers, Ordnance Artificers Electrical Artificers, Shipwright Artificers and Aircraft Artificers of a particular class shall rank and command over all Engine- Room Artificers Ordnance Artificers Electrical Artificers Shipwright Artificers and Aircraft Artificers of a lower class. Within one of these branches sailors of the same class shall rank and command according to their seniority in that class

(c) For purposes of departmental work only, in the absence of the departmental officer, the seniormost artificer or mechanic sailor of the department concerned may be directed to take Charge of the department and deputise for the departmental officer.”

**9.** Therefore, it is apparent that the Chief Artificer’s rank has command over Artificers of classes I to III. Even assuming that Artificers of grades III, II, and I are equivalent to Chief Petty Officers, the Chief Artificers have command over them.

**10.** At this stage, we may refer to Navy Order 100/67 which deals with the seniority of Artificers vis-a-vis non-Artificers. It records that Artificers of Class III and above are Chief Petty

Officers and will rank and command with Chief Petty Officers of the other branches depending upon their seniority as Chief Petty Officers. Thus, this rank has been given only for the purposes of seniority vis-a-vis non-Artificers. Hence, for the purposes of seniority, Chief Artificers and Artificers of rank III to I may be equivalent to Chief Petty Officer. But, the Chief Artificer has command over Artificers of III, II and I grade. Moreover, the Chief Artificer is the promotional post for Artificers of Class III.

**11.** The impugned judgment refers to a table incorporated in paragraph 13. We may note here that the Artificers of Grade IV are equivalent to Petty Officers. Only the Chief Artificer is entitled to promotion to the post of Master Chief Artificer. Artificers of grades I, II and III are not entitled to seek promotion to the post of Master Chief Artificer. The Artificers of class III are entitled to be promoted to the posts of Chief Artificers. Therefore, for the purposes of the pay band, the Chief Artificers in 'X Group' and Chief Petty Officer in 'Y Group' are treated as equivalent. We may note here that the promotional avenue available to Chief Artificer is of Master Chief Artificer-II. The Chief Petty Officer has a promotional avenue to the post of Master Chief (PO) – II. Master Chief Artificer -II and Master Chief (PO) -II have been given the same grade pay of Rs.4600. For the purposes of grade pay, Artificers of grades I, II and III are placed between Artificers of grade IV and Chief Artificer. Though for the purposes of seniority, Artificers in grades III may be Chief Petty officers, they cannot seek promotion directly to the post of Master Chief Artificers.



They can seek promotion to the post of Chief Artificer. Therefore, the grade pay of the Artificer III to I category is between the grade pay of Artificer IV and the grade pay of Chief Artificer. The grade pay of Artificer IV is Rs.2800 and the grade pay of Artificers III to I is Rs.3400. The grade pay of Chief Artificer is Rs.4200/-.

**12.** Therefore, there is neither any illegality nor arbitrariness in giving grade pay to Artificers III to I which is more than the grade pay of Artificer IV but less than the grade pay of Chief Artificers. The Speaking Order dated 20<sup>th</sup> April 2009 refers to the fact that under Regulation 247, the “Chief” rating is given only to Chief Artificer and not to Artificers of grades III to I. It also notes that Artificers of grades III to I cannot be directly promoted to the post of Master Chief Artificer.

**13.** In the circumstances, the Tribunal committed no error in rejecting the petition filed by the petitioner.

**14.** Accordingly, we see no merit in the Civil Appeals and the same are dismissed.

.....J.  
(Abhay S Oka)

.....J.  
(Ujjal Bhuyan)

**New Delhi;  
October 23, 2024.**