

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No. 3187/01
TA No.

21-10-02 Date of Decision

Sh. Raj Mohand vs. ...Petitioner (s)

(Sh. M. L. Sharma) ...Advocate for Petitioner (s)

V E R S U S

UOI & Anr. ...Respondents

(Sh. R. L. Dhanwan) ...Advocate for respondents

Coram :-

Hon'ble Shri Govindan S. Tampi, Member (A)

Hon'ble Shri Shanker Raju, Member (S)

1. To be referred to the Reporter or not ? YES ✓
2. Whether it needs to be circulated to other Benches of the Tribunal ? NO

(GOVINDAN S. TAMPI)
MEMBER (A)

12/11/02

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 3187/2001

NEW DELHI, THIS THE 21ST DAY OF OCTOBER, 2002

HON'BLE SH. GOVINDAN S.TAMPI, MEMBER (A)
HON'BLE SH. SHANKER RAJU, MEMBER (J)

1. S/Sh. Brij Mohan
S/o Sh. Puran Chand
2. Om Prakash
S/o Sh. Shiv Ram
3. Mohd. Salahuddin
S/o Sh. Nizamuddin
4. Jagmohan Narang
S/o Sh. Kishan Chand
5. Hari Singh
S/o Sh. Lala Ram

All working as Inspectors Wireless (Traffic)
Northern Railway at Delhi/New Delhi.
C/o Om Prakash, 164/11, Thompson Road
Railway Colony, New Delhi - 02.

...Applicants

(By Advocate Sh. M.L.Sharma)

Vs.

1. The Union of India through
The Chairman, Railway Board.
The Principal Secretary to
the Govt. of India, Ministry of Railways
Rail Bhawan, New Delhi.
2. The General Manager
Northern Railway
Baroda House, New Delhi.

...Respondents

(By Advocate Sh. R.L.Dhawan)

O R D E R (ORAL)

By Hon'ble Sh. Govindan S.Tampi,

The reliefs sought for by the applicants in
this OA are as below :-

8.1 to allow the OA and quash the impugned
notification No. PC-V/98/DAC/1 (Pt.4) dt. 30-1-2001
(Ann.A-1) to the extent it stipulates the 'Date of
Effect'. These orders take effect from the date of
issue ; consequently ;

8.2 to direct the respondents to give these order dt. 30-1-2001 (Ann.A-1) from the date of enforcement of Revised Pay Rules 1997 i.e. 1.1.1996 with all benefits accruing in favour of the petitioner of fixation of pay as per its para 3 and seniority and interest @ 12 % p.e. thereon ;

8.3 to grant any other or further appropriate relief as deemed just and proper by this Hon'ble Tribunal, besides cost and expenses of the present litigation, as per facts and circumstances of the case. //

2. Heard S/Sh. M.L.Sharma and R.L.Dhawan, Id. counsel for the applicant and the respondents respectively

3. Applicant No.1 has been working as Inspector Wireless (Traffic) in the grade of Rs. 1600-2660/- from 1991 and applicants No. 2 - 5 have been working as Head Signaller in the grade of Rs. 1400-2300/- from 1994 in Northern Railway. Vth Central Pay Commission (hereinafter called as CPC) realising the importance and relevance of the Traffic Signallers recommended that the Head Signaller be in the grade of Rs. 1600-2660/- and Inspector Wireless be in the grade of Rs. 1640-2900/-. This had come into force w.e.f. 1-1-1996 in terms of Railway Service (Revised Pay) Rules, 1997. However, the respondents gave categories only the revised scale of Rs. 4500-7000/- and Rs. 5000-8000/- instead of giving them the benefit of Rs. 5000-8000/- and Rs. 5500-9000/-, on the plea that the revised scales for

Traffic Signallers applied only to those in Transport (Traffic) Deptt. and not to those in Signallers and Telecom Deptt. ^{like} ~~where~~ the applicants ~~work~~. Against this disparity, the applicants made representations and the matters were referred to the Deptt. Anomalies Committee, which met on 7-4-99. The Committee felt that if parameters like recruitment, interview, nature of duties etc. are found to be comparable, there was no reason not to extend the same to those Signallers in S & T Deptt. as well. Accordingly fresh notification was issued on 30-1-2001 extending the benefit but the revision was given effect to only from the date of the Notification and not from 1-1-1996 as it should have been. Applicants' repeated representations did not evoke any positive result. Hence this OA.

4. The grounds raised in this OA are that :-

(i) parity to the applicants was denied only on account of the lapse on the part of the respondents ;

(ii) disparity in the grade of Traffic Signallers/Inspector Wireless was considered by the Vth CPC who granted the same grade which was accepted by the Govt. but this had escaped the attention of the Railway Board ;

(iii) qualifications, recruitment standard, nature of duties etc. being totally similar, there was no reason to keep them in two different scales of pay ;

(iv) the rectification of the anomalies should naturally have been officiated from 1-1-1996 itself ;

(v) the revised pay scales having come into effect from 1-1-1996 on the basis of the revised pay Rules, there was no reason why it should have been denied/delayed only in the case of the applicants.

(vi) the applicants have been subjected to considerable financial dis-advantage vis-a-vis their colleagues by the issuance of the impugned notification and direction that this should come into force only from 30-1-2001. The same was arbitrary and discriminatory. The applicants, therefore, prayed that OA be allowed with full reliefs to them.

5. In the reply filed on behalf of the respondents, duly reiterated by Sh. R.L.Dhawan, ld. counsel during the oral submissions, the points raised by the applicants are rebutted. According to them, a few categories of staff in the Railways in respect of which, no specific mention was made by the Vth CPC were described as 'left out categories' and were granted only standard replacement scales in terms of Pay Commission's recommendations. Cases of some of these categories were taken up for re-examination but they were not considered as those falling within the purview of the Anomalies Committee. Anomalous situation arose only when certain recommendations were made by the Commission and the same as justifiably not made applicable to the employees. This was not the case with the applicants. The improvement in their pay scales which were adopted later did not arise out of the acceptance of the recommendations of the Vth CPC. The same could be considered as sanctions made differently and, therefore, they could be given effect to only from the date on which the orders were issued

and not from 1-1-1996, as claimed by the applicants. The applicants in this case working as Wireless staff in the S & T Department are part of the 'left out categories' and, therefore, the improvement in their scale of pay could be ordered only from a subsequent date. Applicant No.1 was originally in the grade of Rs. 1400-2300/- with replacement of scale of Rs. 4500-7000/- but was granted financial upgradation in the scale of Rs. 1600-2660/- / Rs. 5000-8000/- w.e.f. 1-10-1999 on the basis of the respondents' Notification dt. 29-3-2000. Applicants No. 2 - 5 were also working as Inspector Wireless and were given the replacement scale of Rs. 4500-7000/-, which is revised. The plea raised by the applicants that they should get the benefit of pay fixation from 1-1-1996 itself was not acceptable as they belonged to S & T Section and for whom the higher pay came about not on the basis of Vth CPC's recommendations but on the basis of subsequent orders. In that scenario, the applicants cannot claim that their refixation also shall be made effective from 1-1-1996.

6. We have carefully considered the matter and we are convinced that the applicants have a case. Railway Board's letter No. PC-V/97/1/RSRP/1 dt. 16-10-1997 bringing for Railway Service (Revised Pay) Rules, 1997, states that "The revised scales take effect from 1st January, 1996. The Schedule has the sanction of the President". It is also found that para 83.132 of the Pay Commission's recommendations refers to Head Signallers in the scale of Rs. 1400-2300/- as being entitled to the proposed scale of Rs. 1600-2660/- and Inspectors Wireless (Traffic) Group II in the scale of Rs. 1600-2660/- as entitled

to the scale of Rs. 1640-2900/-. The applicants though worked in the same organisation had been kept away from this benefit only because they were in the Signallers and Telecom ^{Dept} ~~sector~~, against which they have represented and the matter was raised before the Department's Anomaly's Committee ^{for decision} Railway Board's letter No. PC-V/98/DAC/1 (Pt.4) dt. 30-1-2001 ^{in which} ~~states~~ ^{unably} that Ministry of Railways with the approval of the President have decided that the pay scale allotted to certain categories of staff, consequent to the implementation of the recommendations of the Vth Central Pay Commission as given in the Annexure should be amended. The categories in the Annexure included the applicants also. The applicants have also been given the scale as proposed by the Pay Commission but effective from 30-1-2001, the date of issue of the letter. The respondents do not deny that the applicants - Head Signallers and the Inspector Wireless (Traffic) in S & T are performing the same jobs as their counterparts in Railways elsewhere, but say that as they were in the S & T Deptt., their case had not specifically been placed before the Pay Commission and no recommendations had been made in their case. Only on account of this, a distinction has been made, treating them as belonging to 'left out categories' and making them eligible for the replacement scale on the higher rates only on a subsequent dates. This distinction cannot be upheld. The fact that certain categories remained to be specifically mentioned by the Pay Commission is not the fault of the concerned categories, but of the administration and therefore, the latter cannot take shelter under the plea that the higher benefit which

they were entitled like all other colleagues could be made available only from subsequent dates. This is discriminatory and arbitrary. The applicants also are entitled for the benefit of the higher scale not from the subsequent dates but from 1-1-1996 as in the case of others. This is the only way justice can be meted out to them. However, as the applicants were given the lower revised scale only on account of a genuine mistake in interpretation on the part of the respondents and not malafide, ^{the} request for neither interest nor cost is to be granted.

7. In the above view of the matter, the OA succeeds to a substantial extent and is accordingly disposed of. The respondents shall treat the applicants as having been granted the revised higher scales of pay from 1-1-1996 as in the case of all others and not from 30-1-2001 as indicated by the respondents. Impugned order dt. 30-1-2001 stands modified to that extent. The respondents shall pay to the applicants the revised pay and allowances w.e.f. 1-1-1996 along with arrears. This shall be done within four months from the date of receipt of a copy of this order. The applicants' request for cost and interest are rejected, being devoid of merit.

S. Raju

(SHANKER RAJU)
MEMBER (J)

/vksn/

GOVINDAN S. TAMPI
MEMBER (A)