

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA NO. 2392/1999

New Delhi this 29th day of February 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Diploma Engineers Association,
Railways (DEAR)
(Affiliated with All India Federation of Diploma
Engineers)

through

2. Shri O.P. Deshwal,
Junior Engineer (Works)
President, DEAR Northern Zone,
9/7, Sewa Nagar, Railway Colony,
New Delhi.
3. Shri S.B.S. Sharma
General Secretary,
Secretary, Northern Zone
Under Dy. C.E.E.O
(G.C.) C.S.B. New Delhi
4. Shri Dharam Singhy,
Section Engineer (Works)
Northern Railway,
Tilak Bridge,
New Delhi
5. Shri A.S. Tiwari,
Section Engineer (ETL)
Central Railway, Mumbai,
R/o MBI 215/1 Rly Colony,
Bawan Chowk, Thakurli
Distt. Thane.

.....Applicants

(By: Shri B.S. Mainee, Advocate)

VERSUS

Union of India

Through

1. The Chairman, Railway Board,
Rail Bhawan, Raisina Road,
New Delhi -110 001

2. The Secretary, Min. of Railways,
(Railway Board),
Rail Bhavan, Raisina Road,
New Delhi

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.....Respondents

(By: Shri E.X. Joseph Sr. Advocate)
Shri V.S.R. Krishna, Advocate.

O R D E R

Shri Govindan S. Tampi, Member (A)

This application has been filed by Diploma Engineers Association of Railways (DEAR for short) seeking parity in scales of pay with Jr. Engineers of I & B Ministry as well as better promotional avenues.

2. The points raised by the applicant Association and four others in this application and reiterated during the hearing before us on 22.2.2001 are summarised as below:-

i) Members of the Association are Jr. Engineers working in various branches of Indian Railways - Permanent-Way, Works, Bridges, Electrical, TRS, TRD, TL, Mechanical, Signalling, Telecom, C&W and Head Draftsmen - on whose efficient performance determines safety of Indian Railways.

ii) their duties are highly onerous, in nature calling for greater vigilance and extra ordinary calibre.

iii) they are almost as a rule, called upon to deal with materials and stores worth lakhs of rupees

as well as to manage and supervise thousands of thus functioning literally as the 'backbone' of the Indian Railways.

iv) inspite of their important and significant role in the safe running of the trains, administration has not recognised their worth, as would be evident from their scales of pay vis-a-vis those of Jr. Engineers with similar or lesser qualification, working in a few other Ministries, shown in the chart below:-

S.No.	Post	Pay scale After IIIrd Pay Commi- ssion	Pay scale after IVth Pay Commi- ssio	Pay scale after Vth Pay Commi- ssion.	Qualific- ation
1	2	3	4	5	6
1.	Jr. Engrs./ Tech. Super- visor on the Rlys.	Rs.425-700	Rs.1400-2300	Rs.5000-8000	3 Yrs. Dip. in Engg. & 1-2 yrs. intnsive Training.
2.	Chief Radiographer	425-640	1640-2900	6000-9000	2 yrs Dep. in Radiography
3.	Engg. Asstt. I&B Min.	425-700	2000-3200	6500-10500	3 yrs. Dip.in Engg.
4.	Jr. Engr. (Telecom.)	425-700	1640-2900	5500-9000	-do-
5.	Site Engr. (Rites)	425-700	2000-3200	6500-10500	-do-
6.	Jr. Engr. (C.P.W.D.)	425-700	i) 1400-2300 ii) 1640-2900 (Automatically after 5 years) iii) 2000-3200 (Automatically after 15 years.)	5000-8000 5000-9000	-do- Time bound pay scales

- v) Master Craftsmen of Indian Railways, one of the feeder cadres for the Technical Supervisor/ Jr. Engineers grade (applicants) have been given the pay scale of Rs. 5000-8000 w.e.f. 24.11.98, without raising the pay scale of the applicants.
- vi) while the Jr. Engineers of I & B Ministry (Engineering Assistants/ E.As.) have been given Rs. 2000-3200/- (revised scales of Rs. 6500-10500/-) those in CPWD have been placed in the scale of Rs. 1400-2300/- (Rs. 5000-8000/-) but with automatic rise to Rs. 1640 - 2900 (Rs.5000-9000) in five years and to Rs. 2000-3200/- (Rs.6500-12500/-) in twelve years. However the applicants are made to stagnate in Rs. 1400-2300/- (Rs. 5000-8000), though their jobs are more onerous and difficult.
- vii) the applicants have much lesser chances for elevation to Gazetted posts with not more than 3 to 4% from the grade making it to Group 'C', compared to those in other Ministries whose chances of promotion are of the order of 40 to 70%.
- viii) repeated representations filed by the applicants for amelioration of their service conditions and improvement in their pay scales have not evoked any response from the respondents.

ix) legal notice dt. 27.1.99 served on the respondents seeking benefits commensurate with their duties and responsibilities and seeking parity with Engineering Asstts. (E.As.) of I&B Ministry also had not been responded.

According to Shri B.S. Mainee, learned counsel for the applicants, neither the Railways Administration nor the 5th Central Pay Commission has bothered to take into consideration the genuine problems faced by the applicants and do them justice. It was therefore for the Tribunal to step in and do the needful to redress their grievances; as has been done in the case of the Engineering Asstts, of I&B Ministry, urges Sh. Mainee. He also argues that when Railways have themselves brought out changes in pay scales of as many as fifteen categories of staff, after the adoption of the 5th Pay Commission Recommendations, there was no reason at all for denying such a dispensation in the case of the applicants.

3. Fiercely contesting the arguments raised on behalf of the applicants, the respondents, in their written submission as during well as the oral pleas made by Sh. E.X. Joseph, learned Senior counsel alongwith Sh. V S R Krishna, learned counsel, argue as follows:

- a) the applicants have resorted to redressal of their grievances through an unrecognised association, with whom the respondents are not bound to deal or correspond with. If they had any genuine grievances, they could have been vented through one of the three

Railways staff Federations. Unless they do so they cannot expect any response. The present application itself would appear to be a ruse to gain recognition for their association through back door, which the Tribunal cannot encourage.

- b) the amelioration of the conditions of the Govt. staff and the improvement of their pay scale have been subject of periodic examination by successive Pay Commissions, who had given recommendations in 1948, 1960, 1973, 1986 and 1996. The Pay commissions which were expert bodies headed in all cases by a retired judge of the Supreme Court, have made extensive recommendations, keeping in mind the duties and responsibilities of various categories of staff, fairness in administration, availability of funds and the same have been duly accepted by the Govt. from time to time including for Railways.
- c) Railways do have extensive machinery for redressal of grievances of staff like Permanent Negotiating Committees (PNC) as well as Joint Consultative Machinery (JCM), which from time to time deal with the problems of the staff including the the cadre of the applicants. However, only recognised Associations / unions have a role in this. Once a Pay Commissions' recommendation has been given effect to, the officers and staff have to wait for 5 years before changes are sought for. Now that the said period of 5 years is over after the adoption of 5th

Pay Commission recommendations the applicants can now comfortably make their pleas but through the recognised channels.

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- d) examination and determination of issues like 'equal pay for equal work' fall within the exclusive domain of expert bodies like Pay Commission and Courts and Tribunals are not called upon to interfere with the recommendation of such expert bodies except on grounds of unjust and arbitrary state action or inaction or any grave error. This has been reiterated time and again the Hon'ble Supreme Court, as observed in the cases of Prabhat Kiran Maithani and Others Vs Union of India and Another [1977 Supreme Court Cases L&S 279,] State of UP & Others Vs J. P. Chaurasiya and others [1989-(i) Sec. 121] and Umesh Chandra Gupta Vs ONGC 1989-[Supp (1) SCC 184]
- e) the 5th Central Pay Commission had specifically considered the matter of pay scale of subordinate Engg. Cadres in various Ministries and Departments including Railways and had recommended revised pay scales. The pay scales so recommended have also been adopted by the Railways. The Commission did examine the aspect of parity of Jr. Engineers of Railways with those in CPWD but did not find any case for the same. similarly the case of Engg. Asstts. of I&B Ministry was also examined but it was observed that they were already enjoying the higher pre-revised scale of Rs. 2000- Rs.3200/- on account of a specific decision of the Hon'ble Supreme Court.

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- f) Railway Board's Communication dated 24.11.98 with regard to Mistries and Master Craftsmen, was issued to obviate certain anomalies and the same does not give any special right for pay rise to the Jr. Engineers.
- g) career progression among Technical Supervisors / Jr. Engineers in Railways on an overall basis is considered as superior to that in other Departments and in most cases, promotion are available in a comparable or better time frame as compared to CPWD. Averments to the contrary are against facts.

Shri Joseph, learned Sr. Counsel thus brings out that none of the points raised by the applicants would justify any reconsideration of the issue and the application deserves to be rejected outright.

4. We have very carefully deliberated upon the contentions raised by the applicant and the respondents. The Tribunal is not per se concerned with the internecine quarrels or squabbles amongst the various staff organisations in the Railways. Nor is it relevant for the Tribunal to find out whether any particular staff association is specifically recognised by the Railways or not before an application is entertained. Tribunal is only called upon to examine whether any patent injustice has been done to any section of the staff or not in any given matter and if so to direct corrective measures to undo the injustice. Seen in the perspective we do not feel that the applicants have any legitimate case. Undoubtedly they have

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vaxed eloquence. on their importance in the Railway Administration and have described themselves as "the backbone of Indian Railways. According to them, therefore, the amelioration of their conditions and improvement of their pay scales in the manner they desire are sine qua non for ensuring Railways' efficiency and safety. This, to our mind is a tall order Without detracting to any extent from the recognised and accomplished role of the Junior Enggs..., we have to observe that they perform tasks, important in their own way, in the Railways alongwith other officers and staff both senior and junior to them. This has been duly recognised by the successive Pay Commissions who have recommended suitable pay scales for them, keeping in mind their relative role in the Organisation, parity of their jobs with those similarly placed in other Ministries, Financial implications etc. 5th Central Pay Commission has also done the same. Their recommendation have been duly accepted and given effect to by the Railways in the case of the applicants. We see no reason at all to assail the above.

5. Applicants' charge that they have suffered hostile discrimination vis-a-vis Jr. Engineers of CPWD is answered by the respondents who state the promotional prospects for the Technical Supervisors/Jr. Engineers in Railways are faster than in CPWD and that their career progression is more favourably ordained. We accept this averment of the respondents. Their claims for parity with Eng. Asstts. (E.As) of I&B Ministry also has no basis. E.As. came to be granted the higher pre-revised pay scale of Rs. 2000/- - Rs. 3200/- on account of the Hon'ble

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Supreme Court's decision dated 7.1.1991, upholding the decision of the Madras Bench of CAT in OA No. 654/89 filed by A. Rajasekharan. In spite of that, on the adoption of the recommendations of the 5th Pay Commission EAs were only placed in the scale of Rs. 1600-2660/- (Rs.5000- 8000/-); the higher grade of Rs.2000-3200/- (Rs.6500-10500) being restricted to those who were in position before 1.1.96 and that too as personal to them. This was also the decision of this Bench in which both of us had participated, on 4.1.2001, while allowing the OA No.1867/1998. Evidently therefore the allegation of hostile discrimination raised by the applicants falls to the ground.


6. The applicants have charged that the Railway administration and the Pay Commission have not done them justice and desired that the Tribunal should therefore step in and direct modifications in scales of pay. We regret, we are not permitted to do so. Nor are we inclined to substitute our opinion for the wisdom of an expert body like the Pay Commission. The Hon'ble Apex Court has time and again warned against the Courts and Tribunals interfering with the findings of the pay Commission on slender material (See Prabhat Kiran Maithani and others Vs Union of India and Another, State of UP and Others Vs. J P Chaurasiya and Others, Umesh Chandra Gupta Vs ONGC, supra). The decision of the Hon'ble Supreme Court in the case of Secretary Finance Deptt. and Others Vs West Bengal registration Service Association and Others 1993 [SUPP (1) SCC 11] relied upon by both the applicants and the respondents also states the above. The Court says "It is well settled that equation of posts and determination of

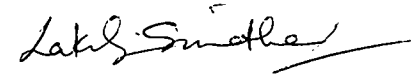
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✓ pay scales are the primary function of the executive and not the judiciary and therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commission etc. But that is not to say that the court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction."

The above observation of the Hon'ble Apex Court squarely covers the present case as the Pay Commission have duly examined the case of the applicants and have given their recommendations and the same have been duly adopted by the Railways. There is nothing arbitrary about the recommendations. Nor have the applicants succeeded in making out any case of inaction on the part of the Railways in dealing with their demands. The applicants cannot, in the present circumstances, ask for more than what they have got.

6. In the above view of the matter, we are convinced that the present application has no merit. It is therefore, dismissed. However, in the circumstances of the case, we do not order any cost.


(Govindan S. Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Patwal/