

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Date of decision. 26.4.89

O.A. 1738/89

All India Railway Cabinmen
Association and others .. Applicants

Vs.

Union of India and others .. Respondents

Mr. B. S. Mainee - for applicants

Mr. Shyam Moorjani - for respondents

CORAM

Hon'ble Mr. S. P. Mukerji, Vice Chairman

Hon'ble Mr. J. P. Sharma, Judicial Member

ORDER

S. P. MUKERJI

(Hon'ble Vice Chairman)

In this application dated 28.8.89 the five applicants who are working as Cabinmen in the Northern Railway and their Association have prayed that they should be given the same pay scales as have been given to the Shunting Jamadar/Shunting Masters. Even though the question of fixation of pay scales is a policy matter governed by the executive authorities and the Tribunal cannot take upon itself the role of an expert Pay Commission unless there are blatant discrimination and violation of Articles 14 and 16 of the Constitution, we went into the merits of the case. The applicants have produced the comparative pay scales of Shunting Jamadars, Shunting Masters, Shunters and Cabinmen on various occasions. From page 22 of the paper book it is clear that whereas the Cabinmen Glass I and some Cabinmen were in the scale of Rs. 60-75 whereas some Cabinmen along with Switchman were in the scale of Rs. 61-85. As against this the Shunting

Jamadars and Shunting Masters were in the higher scale of Rs.75-105 and some Shunting Jamadars were in the scale of Rs.60-75. On revision, all the Cabinmen were given the revised pay scale of Rs.105-135 whereas Shunting Jamadars were given two different scales namely, one of Rs.105-135 like that of Cabinmen and another category of Shunting Jamadars were given the pay scale of Rs.125-155 which was the same pay scale as given to the supervisor category of Block Cabinman.

2. On the recommendations of the Third Pay Commission as shown at Annexure A.2 (Page 25 of the paper book) whereas the pay scale of Cabinmen was revised from 105-135 to that of Rs.225-308, the shunting Jamadars in the two scales of Rs.125-155 and 105-135 were given a common pay scale of Rs.225-350 which is higher than the revised pay scale given to the Cabinmen. Shunting Masters who were in the still higher scale of Rs.130-200 were given the still higher scale of Rs.330-480. At Annexure A.3 (page 29 of the paper book) statement has been produced indicating the comparative pay scales under Group 'C' and 'D' posts as allowed in 1983. The existing pay scale and revised pay scales were allowed as follows:

Cabinmen Gr.II	210-270	revised Rs.260-400
Cabinmen Gr.I	225-308	Cabinman (Gr.I)
Shuntsman/Cabinman	210-270	Raised Cabinman/Leverman/Shunting
Leverman	200-250	Rs. 210-270 + Cabinman II
Shunting Jamadar	Rs.225-350	→ (revised Rs.330-480)
Shunting Master Grade VI	Rs.330-480	Revised Rs.330-480: Shunting Master II
Shunting Master Grade I		Revised Rs.425-640: Shunting Master I

3. From the above statement it is clear that the categories of Shunting Jamadar and Shunting Masters from the ^{Second} Third Pay Commission onwards were always in a higher

pay scale than that of Cabinmen. If in the hoary past lower category of Shunting Jamadars were in the same pay scale as Cabinman, that does not entitle all Cabinmen to get the higher pay scale of Shunting Jamadars. The second and third Pay Commissions had maintained the pay differentiation between Cabinman and Shunting Jamadar and we see no violation of the equality provision of Articles 14 and 16 of the Constitution. A Division Bench of the Hon'ble Supreme Court in Secretary, Finance Deptt and others vs. West Bengal Registration Services Association and others, ATR 1992 (2) SC 617, held that equation of pay scales, job evaluation and determination of pay scales are the primary functions of the executive and not of the judiciary. A similar view was expressed by the Hon'ble Supreme Court in Judgment Today 1992(2) SC 27 and JT 1989(3) SC 188 at 193. In another case JT 1989(3)/208 it was observed that equation of posts should be left with the government or the Pay Commission and Courts should not tinker with such equivalence unless extraneous consideration, arbitrariness or discrimination are alleged.

4. In this case a bold statement has been made that the disparity in pay scales introduced by the Third and Fourth Pay Commissions in the pay scales of Shunting Jamadars and Cabinman is discriminatory and thus violative of Articles 14 and 16 of the Constitution of India. This cannot be accepted as no malafides can be alleged against a high powered expert commission like the Third and Fourth Pay Commissions. In Mewa Ram Kanoji Vs. AIIMS. 1990(1) SLJ 161 the Hon'ble Supreme Court held that the doctrine of equal pay for equal work is not a fundamental right.

5. Equation of pay scales of Cabinmen and Shunting Jamadars had been gone into by the Principal Bench of the Tribunal in their judgment dated 13.9.91 in T.A.467/86. The following extracts from the judgment will be very relevant:

"At the outset, it has to be pointed out that the relief claimed in the plaint is for a declaratory decree that the applicant and other Cabinmen are entitled to the grade of Rs.225-350, the scale of pay allowed to shunting jamadars. No doubt, at one point of time, shunting jamadars were on the scale of pay of Rs.225-350/- when the Cabinmen were allowed the grade of Rs.225-308. However, even before the filing of the plaint, the category of shunting jamadars was elevated from their original grade of Rs.225-350 to a higher grade consisting of three scales of pay, namely, Rs.330-480 to the extent of 40%, Rs.380-560 to the extent of 40% and Rs.425-640 in respect of the remaining 20%. This was as a result of the restructuring which had also the effect of giving higher grade to cabinmen as well from their original scale of Rs.225-308 to Rs.260-400/- Indeed, this is admitted in paragraphs-13 and 14 of the plaint. In the face of the above, the claim for a declaratory decree for the cabinman for the grade of Rs.225-350 is evidently to their detriment.

"We do not propose to dismiss the suit on the aforesaid ground alone, as as such we proceed to consider the matter on merits, posing the question whether cabinmen are entitled to the scale of pay of Shunting Jamadars. In respect of this matter, it has to be highlighted that this Tribunal will be loath to interfere in matters of fixation of pay of various categories of officers when such fixation has admittedly been done on the strength of the recommendations of an expert body which had gone into the question in its proper perspective. It is on record that the revision of pay of cabinmen and shunting jamadar was considered by the Third Central Pay Commission, which recommended the scale of pay of Rs.225-308 for the Cabinman and Rs.225-350 for the shunting jamadar.

⁴ A portion of the report of the Commission has been extracted by the respondents in the written statement which is to be following effect.

"It appears that Cabinman in grade of I.S. 105-135(which was the pre.revised scale) do not prefer to be posted as Shunting Jamadars, even on promotion, in view of the more difficult conditions of work prevailing in the yard. The main function of Cabin staff relates to setting points and adjusting signals for the reception and despatch of trains and for shunting operations."

"Thus it is evident that it was taking into account the responsibilities of either category that the revision of pay was proposed. In this context, the plea of the respondent in the written statement that while the shunting Jamadars have to work under difficult conditions of work, the cabinman need only remain in position in the cabin, is quite relevant. It has also been pointed out that a Cabinman is not expected to have as much alertness as a shunting jamadar."

6. In the light of what has been discussed above, we see no merit in the application for judicial intervention and dismiss the same without any order as to costs.

J. P. Sharma
(J.P.Sharma) 20.4.93
Member (Judicial)

S. P. Mukerji
(S.P.Mukerji)
Vice Chairman

Pronounced by me in open court
on this 20.4.93.

J. P. Sharma
(J.P.Sharma)
Member (J)