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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO.785/88

Hon'ble Shri Justice S.C.Mathur, Chairman
Hon'ble Shri P.T.Thiruvengadam, Member(A)

New Delhi, this 25th Day of March, 1995

1. B.K. Bhagat
2. D.K. Johri
3. T.R. Sachdeva
4. P.K. Sharma
5. P.K. Ghose
6. Naranjan Singh
7. R.K. Tyagi
8. S.S. Tyagi
9. V. Kaliappan
10. N.M. Chadda
11. Ramesh Kumar
12. Satishwar Parshad
13. Sawroop Singh
14. B.K. Chakravarti
15. Ravinder Singh
16. M.K. Dey
17. Satish Kumar Josh
18. Satguru Parkash Singh
19. J.K. Datta
20. Parmatam Lal
21. Veer Singh
22. Shiv Om Pathak
23. Anil Bishnoi
24. R.S. Hooda
25. Bir Singh
26. S.K. Kalra
27. Sohan Lal
28. Bachu Lal
29. Vijay Parkash
30. Bant Singh

.... Applicants

All C/o Shri D.N. Govardhan, Advocate, 30
Lawyers Chamber, Supreme Court, New Delhi.

Versus

Union of India through

1. C/o Chairman, Railway Board
Rail Bhavan, New Delhi
2. The Chief Personnel Officer
Northern Railways
Baroda House
New Delhi.
3. The Chief Signal & Telecom Engineer
C&T Department
Northern Railway
New Delhi

.....2/-



4. The Director Pay & Accounts
Railway Board
Rail Bhawan
New Delhi.

.... Respondents

(By Shri P.S.Mahendru, Advocate)

O R D E R

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicants in this OA are Electrical, Signal Mechanical, Telecommunication and Wireless Maintainers of Northern Railway working in Signal and Telecommunication (S&T) Department. Prior to the introduction of the Fourth Pay Commission scales, they had been drawing pay in the Pay Scale of Rs.380-560. After 1.1.86 they were fitted in the scale of Rs.1320-2040. This OA has been filed for fitment in the scale of Rs.1400-2300 from 1.1.86 and for the grant of consequential benefits.

2. We note that a similar prayer had been made with regard to the same categories of staff in OA No.1880/88 filed before this Bench of the Tribunal. This OA was decided on 17.4.1990 and the only direction given was that the case of Electrical Signal Maintainers, be reviewed afresh by the respondents. That OA had been filed by Indian Railway Signal and Telecom Staff Association who had claimed that the association was registered as a trade union representing about 12000 out of nearly 21000 employees working in the Signal and Telecommunication Department of the Railways. Learned counsel for the applicants in the OA before us stated that to his knowledge the applicants herein were not associated with the earlier OA. Even otherwise certain additional grounds are now being advanced. In the circumstances, we proceeded to hear both the sides.

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3. The learned counsel for the applicants stressed the following points.

i) The applicants are called Maintainers in the Signal & Telecom department whereas in other departments the workers are called as Mistries. There is only change in the nomenclature as there are no Mistries in the open line as well as in construction and the said posts are named as Maintainers only.

ii) In Signal & Telecom Department, they were earlier designated as Mistries and the change in the nomenclature should not result in disadvantage to them.

iii) Maintainers in S&T Department function as the lowest level supervisory staff. Instructions of Railway Ministry issued on 2.7.87 (Annexure 'C' to OA) spell out the following:

"2.The Board have considered the recommendation of the Fourth Pay Commission vide para 11.27 of their report that the lowest supervisory level in all Departments should be in scale of Rs.1400-2300 and have decided that Mistries in pre-revised scale in the Mechanical, Electrical, S&T and Civil Engineering Departments including Permanent Pay Mistries, Bridge Mistries, Works Mistries and Mistries in open line workshops, etc. should be allotted the revised scale of Rs.1400-2300 w.e.f. 1.1.86."

It was argued that Maintaners in S&T Department functioning at the lowest supervisory level in the Department should thus have been provided with a replacement scale of Rs.1400-2300

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iv) The nature of work handled by Maintainers in the S&T Department is more onerous, highly professional, technical and involves safety in train operation. They deal with highly sophisticated equipments.

v) Qualifications and training of the Maintainers in S&T Department are of a higher level compared to Mistries in other Departments.

vi) Historically the Maintainers in S&T Department had been enjoying better or at least equal pay scales vis-a-vis Mistries. Anomaly of lower pay scale has arisen only after 1.1.86. The following details were referred

| Sl. No. | Category | Recommendations of Pay Commissions | | | |
|---------|--|------------------------------------|--------------------|--------------------|-----------|
| | | Ist | IIInd | IIIrd | IVth |
| | | Rs. | Rs. | Rs. | Rs. |
| 1. | Mistries (including P.W.Mistries, etc) | 80-160 | 130-212 150-240 | 330-480 380-560 | 1400-2300 |
| 2. | MSM,ESM,TCM | 100-185 | 175-240 | 380-560 | 1320-2020 |

vii) There are no Mistries in S&T Department and hence there is a case for conferring the pay scale of Rs.1400-2300 to the highly skilled Maintainers. Heads of S&T Department of various Zonal Railways have justified the grant of scale of Rs.1400-2300 to the Maintainers of the Department.

4. Learned counsel for the respondents referred to the reply filed. It is made out that during the last 40 years, the category of Maintainers in S&T Department has been

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treated as Artisans on the basis of nature of their duties by different Pay Commissions and Tribunals presided over by highly qualified Engineers and Technocrats appointed by the Ministry of Railways. The main functions of these staff relate to Maintenance of equipments requiring manual dexterity and skills. As such there is no justification in the claim of the applicants for treating them as Technical Mistries or Supervisors. The staff do not work independently, but function under the supervision of Inspectors who are classified as Supervisors.

5. Channel of promotion is open to Signal Maintainers to the grade of Assistant Inspectors in the scale of Rs.1400-2300 and higher grades.

6. Mistry is a Supervisor whereas Maintainers in S&T Department are Artisans and thus the duties performed by them are different. Maintainers have been given the replacement scales as applicable to skilled and highly skilled Artisans. If the post, now held by the applicants had a semblance of designation of Mistry 40 years ago, that could not advance the case of the applicants as the decisions taken during the last 40 years by the Railway Board on the recommendations of the Fourth Pay Commission and several Tribunals cannot be ignored. Mistries have been recommended at higher scale by the Fourth Pay Commission **keeping** in view the supervisory duties. For example, a Permanent Pay Mistry, supervises the work of 3 to 4 gangs consisting of 40 to 60 Gangmen. The respondents deny that the applicants are at lowest supervisory level.

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7. After hearing both the sides we note that the various Pay Commissions had gone into the Pay Scales of different employees including Maintainers of S&T Department of the Indian Railways. Specialised bodies like Railway Workers Classification Tribunal, 1948 had classified the Signal Maintainers in Signal and Telecommunication Department as skilled Artisans on the basis of the nature of their duties. Trade tests for promotion from one skilled category to another had also been prescribed based on the report of the specialised subcommittee appointed in the year 1950. Third Pay Commission (1973) had recommended that the pay structure of the Maintainers in the S&T Department should continue to be under the same pattern as for workshop staff. The respondents have brought out in their reply that the association of S&T staff had raised the issue that the Signal Maintainers are not Artisans and should be treated on par with the Inspectors, before the 4th Pay Commission. The Commission had not given any specific recommendations for either higher replacement scales or superior distribution of posts in different scales of pay. Only normal replacement scales had been granted.

8. Learned counsel for the respondents relied on the observations of their lordships of the Supreme Court in V. Markendaya and Others Vs. State of Andhra Pradesh and Others (AIR 1989 SC 1308). It has been held that relief to an aggrieved person seeking to enforce the principles of equal pay for equal work can be granted only after it is demonstrated before the Court that individual discrimination is practised by the state in prescribing two different scales for the two class of employees without

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there being any reasonable classification for the same. The question of what scale should be provided to a particular class of service must be left to the executive and only when discrimination is practised amongst equals, the Court should intervene to undo the wrong and to ensure equality among the similarly placed employees.

9. We are also aware of the observations of the apex Court in the following cases

i) State of West Bengal and Others Vs. Harinarayan Bhowal and Others (1994)27 ATC 524). Hon'ble Supreme Court in this case has held as under:

"Unless a very clear case is made out and the court is satisfied that the scale provided to a group of persons on the basis of the material produced before it amounts to discrimination without there being any justification, the court should not take upon itself the responsibility of fixation of scales of pay, especially when the different scales of pay have been fixed by Pay Commission or Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material. It need not be emphasised that in the process undertaken by the court anomaly in different services may be introduced, of which the court may not be conscious, in the absence of all relevant materials being placed before it."

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ii) State of U.P. Vs. J.P. Chaurasia (AIR 1989 SC 19)

"It is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, the answer to which depends upon several factors, namely, evaluation of duties and responsibilities of the respective posts and its determination should be left to expert bodies like the Pay Commission. The court should normally accept the recommendations of Pay Commission."

10. In the circumstances of the case, the OA is dismissed and there shall be no order as to costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)

MEMBER(A)

S. C. Mathur

(S.C. MATHUR)

CHAIRMAN

/RAO/