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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
~~PRINCIPAL BENCH~~
PRINCIPAL

O. A. No. ~~XXXXXX~~ 937/86 199

DATE OF DECISION 3-9-81

Sat Pal Chopra & others

Applicant (s)

Mr. G.D.Bhandari

Advocate for the Applicant (s)

Versus

Union of India & others

Respondent (s)

Mr.O.N.Moolri

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. Rampal Singh, Vice Chairman

The Hon'ble Mr. N.V.Krishnan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

N.V.Krishnan, AM

The application has been filed by 2 categories of railway employees viz. Hand Crane Jamadars and Steam Crane Firemen. They have sought a direction to the respondents to grant them the benefit of the pay scales applicable to skilled category of artisans and consequential benefits.

2. This grievance has arisen in the following circumstances.

2.1 The case of the Hand Crane Jamadars can be stated first. The applicants 1 to 6 are employed as Hand Crane Jamadars in the Traffic Department of Northern Railway in the Delhi Division.

2.2 It is claimed that Hand Crane Jamadar is in the grade of Rs 80-110 in the authorised scale (A.S., for short). This was revised to Rs 210-290 in the revised scale (R.S., for short) (Annexure-A).

2.3 In this connection it is also contended that the applicants 1 to 6 are not in the lower grade of Rs 75-95 (A.S.) which was revised to Rs 200-250 (R.S.). This pay scale applies ~~to~~ only to "Hand Crane Jamadar Tindal Coal", which is the designation obtaining in the Loco Department.

2.4 On the basis of the recommendation of a Joint Committee suggesting measures of relief to unskilled and semi-skilled artisan staff the Railway Board issued an Office Memorandum dated 13.11.82 (Annexure-B). We are concerned with one of the decisions taken in para 2(i) of Annexure-B which reads as under:-

"(i) Trades presently designated as semi-skilled as indicated in the attached list I & II should be re-classified as skilled in grade Rs 260-400."

2.5 Though para 2(i) of Annexure-B refers to list I and list II attached to that memorandum, such lists are not found attached with the Annexure-B filed by the applicant. Instead, at the end of the memorandum there is a "List of semi-skilled trade designation as per Standard Trade Test Manual of 1952 proposed for re-classification as skilled grade", from which extracts have been given in respect of entries 34 & 44. The applicants 1 to 6 rely on entry 34 in this list. It is submitted that the semi-skilled trade designation as per the 1952 Trade Test Manual was 'Rigger'. In column 4 the other semi-skilled

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trade designations which exist in various Railways, in addition to 'Rigger' are mentioned. One such designation is 'Crane Jamadar'.

2.6 The applicants 1 to 6 contend that para 2(i) of Annexure-B and entry No.34 of the list appended to Annexure-B clearly indicate that Crane Jamadar should be re-classified as a skilled trade in grade Rs 260-400. This has not been done by the respondents. This is their main grievance. They contend that the expression "Crane Jamadar" in column 4 of the list against entry 34 is wide enough to include persons like the applicants who are employed as Crane Jamadars in the Traffic Department.

2.7 It is further contended that, by a subsequent letter dated 4.8.86 (Annexure-C), 8 more categories of semi-skilled artisans were re-classified as skilled artisans. One such category is "Hand Crane Operator".

The applicants 1 to 6 contend that this category also obviously refers to them as there is no other class of artisans called Hand Crane Operators. Therefore, the benefit of this circular should be given to them.

2.8 The case of the Steam Crane Fireman can now be considered. Applicants 7 to 12 are Steam Crane Firemen in the Traffic Department of Northern Railway.

2.9 It is submitted that the 'Steam Crane Firemen' are equivalent to 'Steam Man' shown in column 2 of the list appended to Annexure-B against entry No.44 and accordingly, they are also entitled to be treated as skilled grade artisans.

3. After re-structuring the semi-skilled trades into skilled grades as mentioned above, further benefits were granted to railway employees by re-structuring. This is referred to in the Annexure-C letter. The applicants have stated that the benefit of skilled grade and restructuring have not been given to them despite their representations. They have therefore sought these reliefs in this application.

4. The respondents have filed a reply. Three preliminary objections have been taken. One relates to limitation because the applicants are, admittedly, seeking relief based on the Railway Board's letter dated 13.11.82 (Annexure-B). Another objection is that two different categories of persons have filed a common application, which is not permissible. Thirdly, the applicants have not exhausted the alternative remedies and one applicant, Suresh Kumar, does not appear in the party array.

5. In so far as limitation is concerned, this is a continuing grievance and, therefore, limitation will apply only to restricting the reliefs to the period not barred by limitation. Though the applicants fall in two categories they seek relief under the same order and hence this is not fatal to maintainability of the application. Lastly, this is a general grievance and representations have been made. Any relief given should be made applicable to all persons similar situated. Therefore, these objections have no force.

6. On merits, in so far as applicants 1 to 6 are concerned the Respondents have submitted as follows:

6.1 The pay scale applicable to Hand Crane Jamadar was Rs 75-95 (AS) and not Rs 80-110 (AS) as claimed by them.

The corresponding revised scale is Rs 200-250 (RS).

This is not the scale applicable to the semi-skilled category which is Rs 210-290 (RS).

6.2 No doubt, the scale of Rs 80-110 (AS) is also applicable to another group of Hand Crane Jamadars in the Loco Department, the revised pay of which is the semi-skilled grade of Rs 210-290 (RS). This pay scale does not apply to the Crane staff of the Traffic Department. The following averments are re-produced in this connection.

"It is however submitted that the pay scale in various departments are fixed on the basis of various factors which differ from department to department. Accordingly, the service conditions, pay scale and channels of promotions also differ from department to department. The pay scales prescribed in Loco Department are not applicable to crane staff of Traffic Department. The pay scale of hand crane Jamadars in traffic department was Rs 75-95 (AS) as already submitted hereinfore and not Rs 80-110 (AS) as alleged."

6.3 Applicants 1 to 6 are designated as Hand Crane Jamadars and they cannot be covered by entry No.44 of the list attached to Annexure-B circular which refers to only Crane Jamadar in the semi-skilled grade as can be seen from heading in column 4.

6.4 In so far as Annexure-C is concerned, the semi-skilled artisan which has been re-classified as skilled artisan is the category called "Hand Crane Operator". Obviously, the applicants do not belong to this category.

6.5 The orders referred to in Annexures B & C of the petition are applicable to the Crane Staff of the mechanical department and not to the applicants who are working in the Traffic Department. Therefore, the respondents deny that any relief is due to applicants
 1 to 6.

7. In regard to applicants 7 to 12 who are steam crane firemen, respondents state that no relief can be given to them because they cannot claim to be Steam Man as shown against entry 44 of the list appended to Annexure-B.

8. We have heard the counsel and perused the records.

9. Annexure-A is the order issued in connection with the revision of pay scales. The post 'Hand Crane Jamadar' is listed at 2 places, one having an authorised scale of Rs 75-95, and the other having Rs 80-110. The applicant has not been able to establish beyond doubt, that his authorized scale is Rs 80-110. If he wanted, he could have proved this by documentary evidence, like extracts from Service Book, for example. In the circumstances, we are inclined to accept the contention of the respondents that the lower scale applies to Hand Crane Jamadar of the Traffic Department--to which applicants 1 to 6 belong-- and the higher scale is applicable to the Hand Crane Jamadars of the Mechanical Department.

10. The revised scale corresponding to the authorized scale of Rs 75-95 attached to the posts of Crane Jamadars ~~had~~ held by the applicants 1 to 6 in the Traffic Department is Rs 200-250 (RS). The question is whether Rs 200-250 (RS) is the pay scale of a semi-skilled artisan. The Annexure-D and Annexure-P Notes dated 14.10.83 and 26.6.84 of the Divisional Accounts Officer, Northern Railway take the position that only posts in the revised scale of Rs 210-290 will be considered as semi-skilled grade posts. This finds corroboration from the following:

(i) Para 2 (iii) of the Annexure-B circular

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refers to the semi-skilled grade as follows:

"(iii) 50% of the existing strength in unskilled artisan categories in the open line establishments (all departments) applicable should be allotted the semi-skilled grade (Rs 210-290) and designated as Khalasi-Helper."

(ii) By Annexure-C, 8 more categories of semi-skilled grades were given the benefit of re-classification subject to certain conditions. Condition (i) attached to this benefit is that it will have notional effect from 1.1.84 and actual effect from 1.1.86. For the period prior to 1.1.86 the payment will be restricted as follows:

"From semi-skilled grade Rs 210-290 to skilled grade-III Rs 260-400 @ Rs 20/- p.m. i.e. 480 for 24 months."

Hence, Rs 200-250 is, *prima facie*, not a scale applicable to semi-skilled grade.

11. Therefore, a conclusion could be reached that applicants 1 to 6 are not entitled to any relief. However, there is another aspect that requires consideration. Annexure-B circular letter dated 13.11.82 of the Railway Board contains the basic order in this respect. Para 2 (i) reproduced in para 2.4 supra shows that the trades designated as semi-skilled trades in list I and list II should be re-classified as skilled grade. It would thus appear that the criterion whether the pay scale attached to the post of artisan is Rs 210-290 or something else is not determinative of the issue whether the applicants are semi-skilled artisans. The issue is to be decided only on the basis of the inclusion in list I and list II referred to therein.

12. The applicants 1 to 6 have not been able to satisfy us that the list appended to the Annexure-B letter includes the post held by them and is categorized as a semi-skilled grade post.

13. An extract of that list is reproduced below:

"List of semi-skilled trade designation as per Standard Trade Test Manual of 1952 proposed for re-classification as skilled trade.

S. No.	Semi- Skilled Trade designa- tions as per 1952 Trade Test Manual.	Syllabus No. as per Trade Test Manual	Semi-skilled trade design- nation as existing on the Railways, in addition to what is men- tioned in Col.2 with similar work content.	Remarks
1	2	3	4	5
34	Rigger	91	Crane Jamadar/ Gunner Serang/ Slinger/Tindal/ Tindal Slinger/ Chairman/ Lifter/Hookman.	(i) Those doing lifting low posi- tioning of load by giving signals to the crane driver/ operator and slinging, Selecting chains, Hooks, clamps, Wire-ropes, tickle etc. after assessing the load to be lifted while working either as gang leader or independently to be classified as skilled workers and re-designated as crane jamadar in all departments except Engg. Bridge construction where they would be designated as serang. (ii) Those working under the guidance of crane jamadar/ serang for tying the chain rope etc. will be in semi-skilled grade and designated as slinger in all the departments except in Civil. Engg. Bridge Construction where they will be called as rigger.

The following can be noted:

(a) It is clear from the heading to this list that these categories are only proposed for re-classification and not ordered to be re-classified. This is due to the fact that some more enquiry was to be done by the Railways as will be clear from para 5 of Annexure-B circular reproduced below:

"5. While re-classifying semi-skilled posts to skilled grade as per list I & II, the Railways may also re-classify such semi-skilled grades which are listed in Col.4 of List I and Col.2 of List No.II since the Railways follow different designations in respect of these trades, provided the standards trade test as applicable to the designations given under Col.2 of list No.I and col.3 of list No.II are applied in these cases also."

(b) Thus the Railway Administration has to certify that the standards trade test applicable to the trade of Rigger shown in col.2 was also applicable to the trades mentioned in col.4. Neither party has made any averment in this behalf.

(c) It is noteworthy that while including the trade "Crane Jamadar" in col.4 there is no further qualification with reference to the pay scale.

(d) The remarks at Sl.No.(i) and (ii) also show that classification into skilled grade and semi-skilled grade is not dependent on the pay scale but the job content.

(e) It is also clear that the classification and re-designation applies to all Department and not merely to the Loco Department as contended by the Respondents.

14. That leaves for consideration the implication of the Annexure-C order by which the semi-skilled category of 'Hand Crane Operator' has been re-classified as a skilled grade. The respondents have contended that as applicants 1 to 6 are only Hand Crane Jamadars, they cannot be treated as Hand Crane Operators and hence

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simultaneously

cannot get the benefit of Annexure-C circular. But the learned counsel for the respondents also could not explain who a Hand Crane Operator is. If the applicants claim that they are covered by 'Crane Jamadar' in Ann.B, they cannot claim that they are also Hand Crane Operators.

It appears that this refers to the hand crane driver as the remarks at item (i) against S No.34 aforesaid speaks of the 'crane driver/operator' in the same breath.

15. For the aforesaid reasons, we are of the view that the claims of applicants 1 to 6 cannot be finally disposed of by us now and this matter has to be remitted to the respondents with suitable directions.

16. In regard to the applicants 7 to 12, we cannot agree with the contention that the designation "Steam Man" against entry No.44 in the List appended to Annexure-B circular would include the category designated as "Steam Crane Fireman". It is significant to note that, unlike against entry no. 34 relating to Rigger no entry is made under column 4 which suggests that the Railways have adopted only the designation shown in column 2 and not different designations like Steam Crane Fireman.

17. In the rejoinder submitted by the applicants it is stated that the benefits of Annexure B & C circulars in regard to Steam Crane Fireman have been given by the Deputy Controller of Stores, Northern Railway, Shakurbasti. In support thereof, the applicants have produced Annexure-C circular issued in May 1983. We have carefully perused this circular which relates to re-classification in terms of the Annexure-B circular. The benefit of the skilled

grade Rs 260-400 has been given to the following staff in the semi-skilled grade:

- (A) A.T.D. grade - Rs 210-290
- (B) Semi-skilled Hammer Man at Shakurbasti.
- (C) Semi-skilled Fitters at Shakurbasti
- (E) Semi Skilled Painters
- (F) Semi Skilled Tailors

Admittedly they are all in the semi-skilled grade.

In respect of category (D) there is no mention that they belong to semi-skilled category. The designation of the persons to whom the benefit is given is shown as Steamman. This does not lend support to the argument that Steam Crane Fireman are the same as Steamman. In terms of entry No. 34 in the list at the end of Annexure-B, Steam man is a semi-skilled trade and is entitled to re-classification as skilled grade. Annexure-M circular gives the benefit of skilled grade to Steam man only and not to Steam Crane Fireman. Therefore, Annexure-M circular is distinguishable and does not support the case of the applicants 7 to 12.

18. In the circumstances, we do not find any merit in the application of applicants 7 to 12.

19. In the light of the aforesaid conclusions we dispose of this application with the following declaration, direction.

(i) We declare that the question whether the post held by applicants 1 to 6 and designated as 'hand crane jamadar' is in the semi-skilled grade is to be determined only on the basis of its being designated as such in list I and list II attached to the Railway Board Circular dated 13.11.82 (Annexure-B) as stated in para 2(i) thereof and this requires further verification by the respondents.

(i)

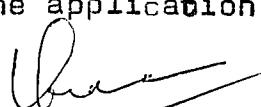
(ii) We declare that the aforesaid posts of hand crane jamadars shall be deemed to be included in the category "crane jamadar" included in column 4 against entry 34. of the list attached to Annexure-B, if on enquiry, it is found that the standards trade test as applicable to both these designations are the same.

(iii) We declare that the aforesaid semi-skilled trade designated as 'crane jamadar' shall be classified as skilled grade if, on enquiry, it is ascertained that the standard trade test as applicable to this designation is the same as that for the designation 'Rigger' in column 2 against s.no. 34 of the list attached to Ann.B.

(iv) We declare that if ~~xx~~ it is found that the applicants 1 to 6 are required to do, as Hand Crane Jamadars, the job described in the remarks at item (i) under column (6) against entry no 34 'Rigger' they shall be classified as skilled grade and designated as crane jamadar, even if they cannot get the benefit on the basis of the declarations at s.no. (ii) and (iii) above.

(v) The respondents are directed to re-consider the reliefs sought by applicants 1 to 6 in this application, keeping in view our observations, declarations and directions, and pass appropriate order, within a period of three months from the date of receipt of this judgement. We also direct that if any relief is granted, the financial benefit thereof shall accrue to the applicants 1 to 6 from 3.11.85 (i.e. twelve months from the date ~~xx~~ on which this application was taken cognizance of by this Bench) keeping in view the issue of limitation

(vi) The application of applicants 7 to 12 are dismissed.


(N.V. Krishnan)
Administrative Member

Rampal Singh 3.9.91
Vice Chairman