

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 1056/86

DATE OF DECISION: 27.2.1992.

ALL INDIA RAILWAYS TYPISTS
ASSOCIATION & OTHERS ...APPLICANTS

VERSUS

UNION OF INDIA & ANOTHER ...RESPONDENTS

CORAM:-

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS SHRI MUKUL ROHTAGI,
COUNSEL.

FOR THE RESPONDENTS SHRI P.H. RAMCHANDANI,
SENIOR COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

All India Railways Typists Association, Delhi through its General Secretary and others have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, claiming same benefits in respect of upgradation, promotion, allowances etc. as given to other categories grouped under the 'ministerial staff' as distinguished from the 'non-ministerial staff'.

2. The entire edifice of the O.A. is based on the premise that the applicants fall under the category of ministerial staff and that other categories like Clerks in the restructuring of the cadres have been given better deal than the category of Typists. The applicants union which is unrecognised by the union admits that the restructuring ordered w.e.f. 1.1.1979

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has since undergone change and their avenues of promotion have been further improved.

Group 'C' cadres in the Railways are restructured on the basis of percentages, as would be apparent from the following table relating to typist and Clerks:-

STATEMENT INDICATING THE CADRE OF TYPISTS, CLERKS AND STENOGRAPHERS

Category	Scales		Restructured category of clerks	
	IIIrd Pay Commission Scale (RS) w.e.f. 1.1.1973	IVth Pay Commission Scales (RPS) w.e.f. 1.1.1986	w.e.f. 1.1.79 Auth.: PCIII/78/UPG/8	w.e.f. 1.1.84 Auth.: PCIII/84/UPG/9 dt.16.11.1984

(1)	(2)	(3)	(4)	(5)
	(Rs.)	(Rs.)		
Office staff/Ministerial	260-400	950-1500	45%	20%
staff(Estt.)	330-560	1200-2040	43%	35%
& other than Estt.	425-700	1400-2300	9%	3-%
excluding Accounts staff)	550-750	1600-2660	2.5%	10%
	700-900	2000-3200	0.5%	5%

Pay scale (pre-revised) (Rs.)	Restructured typist cadre		
	w.e.f. 1.1.79 (Auth. PCIII/78/ UPG/8 dt.1.1.79	w.e.f. 1.8.83 with proforma benefit from 1.8.82 (Authority PCIII/80E/UPG/ 19 dated 29.7.1983	
Typist	260-400	45%	35%
	330-560	43%	42.5%
	425-700	10%	13%
	550-750	2%	7%
	700-900	Nil	2.5%

The respondents have also taken the following preliminary objection:-

contd. 3.

The main grounds justifying the demand for parity with the clerical cadres are:-

- a) that the category of Typists forms part of the ministerial staff and as such they are entitled to same benefits as made available to clerks etc.
- b) the Fourth Central Pay Commission to whom they had submitted a memorandum have not given them a fair deal;
- c) that from their cadre 23 posts in the lowest grade are to be surrendered to provide savings for higher graded posts in the cadre of Stenographers.
- d) No supervisory work is entrusted to the supervisors of the typists.

By way of relief they have prayed that Typists being ministerial cadre be declared at par with clerical counterparts and that they be given the same benefits of service conditions from the date it was given to their clerical counterparts including the same percentages.

3. The respondents in their counter-affidavit have taken the stand that the clerical category has been given a slightly higher percentage in higher scales taking into consideration the multifarious nature of their work and responsibility which are decided superior to and more taxing than the functions of the Typists. Further, the two categories are not comparable as entrants to the typists cadre have the option to switch over to clerical stream within 5 years of their joining the service. They have further been provided an opportunity even after completion of 5 years service to compete for the post of Stenographer.

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All India Railways Typists Association is not a union recognised by the Ministry of Railways. The improvement in percentages by way of restructuring of cadre has been made in consultation with the two recognised unions of the Railways after discussion in the Departmental Council of the JCM. The application does not challenge any order and therefore is not tenable. The respondents further submit that Typists and Clerical staff belong to two different distinct categories and classes and therefore there is no question of any discrimination or violation of Articles 14 and 16 of the Constitution of India. The clerical staff were given the higher percentages long time ago. In these circumstances if the Typists had any grievance on that account the cause of action, if any, is barred by limitation. Further the reliefs claimed are also vague and ambiguous.

Besides the above objections on merits the respondents submit that the clerical cadre has been provided a slightly better structure in view of the varying standard of recruitment prescribed and the manifold duties and responsibilities attached to the posts in the clerical cadre. While there is a provision for induction of graduates in the intermediary grade of Rs.330-560 in the clerical cadre through selection conducted by the Railway Recruitment Board, recruitment to Typist cadre is made in the lowest grade for which

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the minimum prescribed qualification is matriculation or pass in the 10th standard with 40% marks in the qualifying examination as against 50% marks for recruitment to the clerical category. Two cadres are, therefore, not comparable. Regarding other issues raised by the applicant the respondents have submitted that special pay of Rs.35 was granted to the Upper Division Clerk in the scale of Rs.330-560 in nonSecretariat Administrative Offices who attended to work of a more complex and important nature w.e.f. 5.5.1979 on the basis of the report of the Committee of the National Council (JCM). This was confined only to 10% of the posts in the cadre. By the very nature of the special pay it cannot be extended to the post of Typist whose nature of work cannot be termed as being of complex nature. As regards the surrendering of 23 posts the respondents state that these are to be surrendered all over the Railways and the Production Units to offset the cost of upgradation. There would hardly be any impact on the cadre of Typists which has approximately 5000 posts.

The contention of the applicants that knowledge of typing is helpful in operating computer is also refuted by the respondents by stating that operating the computer is highly a specialised and skilled process. A reservation clerk cannot be substituted by a typist, as the booking clerks are specially trained in reservation rules for performing reservation functions. The avenues of promotion for Typists and Booking Clerks are altogether different and there can be no mix up.

4. The applicants have filed a rejoinder.

5. We have heard the learned counsel for both the parties and perused the record including the

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written arguments filed by the learned counsel for the applicant and considered the matter very carefully. We find that the claim founded on the grouping of Typists under the ministerial category can no longer be sustained as in the amended rule of the Indian Railway Establishment Manual (IREM) various categories of staff have been grouped under a broad heading as "ministerial and non- ministerial" categories. Rule 169a to Rule 172 deal with the various categories in accounts staff while Rule 173 deals with electronic data processing centre. Rule 174 (b) deals with the "other than the accounts department", and include office clerks and their avenues of promotion, Typist and their avenues of promotion, Stenographers and their avenues of promotion etc. Further the recruitment rules having distinctly different provisions for the two categories. We are, therefore, not inclined to accept the argument that the Typists should be equated with Clerks. Further among the clerks again there are several streams on the Railways e.g. Commercial Clerks, Office Clerks, Trains Clerks etc. Even these cadres are not distributed on a uniform percentage basis, as will be apparent from the following:-

Category	<u>Scales of pay</u>	<u>Percentage</u>
1. Commercial Clerks	260-430	45
	330-560	40
	425-640	6
	455-700	4
	550-750	4
	700-900	1
2. Office Clerks	260-400	45
	330-560	40
	425-700	10
	550-750	4
	700-900	1

3. Weigh Bridge Clerks	260-400	45
	330-560	40
	425-640	6
	455-700	4
	550-750	4
	700-900	1
5. Trains Clerks	260-400	45
	330-560	40
	425-640	10
	550-750	5

It would thus be seen that the posts in various cadres have been distributed on percentage basis having regard to the duties and responsibilities and not merely on the basis of mathematical formulae. We also cannot be oblivious of the fact that the percentages allocated for each grade in the cadre have been arrived at in consultation with the staff side of the departmental council (JCM) by the respondents keeping in view the special requirement of the Railways and the duties and responsibilities of each category.

The Third Pay Commission had observed that the Railways are the only department who has a separate category of the Typists. It is apparently against this background that the Fourth Central Pay Commission who had the occasion in the recent past to consider this matter have made the following recommendation:-

"10.436. Railways have a separate cadre of typists in pay scales ranging from Rs.260-400 and Rs.700-900. The minimum qualification for recruitment to the lowest grade of typist is matriculation with proficiency in typing at the rate of 40 words per minute. It has been suggested that the typists' cadre may be merged with the clerical cadre. This is an administrative matter and it is for the Department of Railways to take appropriate action.

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They may consider absorbing them in the stenographers cadre also if the typists acquire the requisite qualifications."

Since the matter has been considered recently as above by the Fourth Central Pay Commission and a decision in this regard is to be taken by the respondents, we do not find any justification for judicial interference in the matter.

In the above conspectus of the case, we are not impressed by the contention that since the category of Typists is enumerated in paragraph 174(b) of the IREM under the grouping 'other than accounts departments', it should be treated at par with the other categories, mentioned thereunder in all respects. The relevant factors for allocation of scales of pay are the duties and responsibilities attached to the post and not grouping of certain category and posts under a convenient heading. Percentage distribution of posts in a cadre is a device operated on the railways to allocate different scale of pay in the hierarchy for efficient disposal of work keeping in view the duties and responsibilities at different levels in the cadre. In the circumstances of the case, the OA is devoid of merit and is dismissed. No costs.

Before we part with the case, we would like to observe that the recommendations of the Fourth Central Pay Commission were received in or about September 1986 for the non-gazetted staff. Sufficient time has since elapsed for the respondents to finalise

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their consideration of the relevant recommendations.

Para 10.4.36 of the Fourth Central Pay Commission's Report deals with the typists on the Railways and the respondents should not, therefore, delay in taking a decision on the specific recommendations referred to any longer. In fact they should do so most expeditiously if not already done and communicate the same to the all concerned.

J. P. Sharma

(J. P. SHARMA)
MEMBER(J)

I. K. Rasgotra
(I. K. RASGOTRA)
MEMBER(A) 27/2/92

February 27, 1992.