

20.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. 154/87

Date of decision: 13.XII.91

Indian Railway Signal & Tele-
Communication Staff Association
through the President

Applicant.

Versus

Union of India & another

Respondents.

Sh.B.S.Mainee

Counsel for the applicant.

Shh.P.S.Mahendru

Counsel for the
respondents.

CORAM:

**The Hon'ble Justice Sh.Ram Pal Singh, Vice Chairman(J).
The Hon'ble Sh.I.P.Gupta, Member(A).**

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A)).

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant association is a registered trade union of employees working in the Signal & Telecommunication Department of Railways. The members of the association belong to Class III & IV (Technical) staff of the Department.

2. The applicant has submitted that the respondents have always treated the maintenance staff of Signal and Telecommunication Department as belonging to one single cadre. The Signal and Telecommunication Department of the Railways has the following category of the staff:-

Designation	Grade	Scale of pay (pre-revised scales)	By direct recruitment	By promotion
A. Signal Maintainer Mechanical.	Grade III	Rs.260-400	50%	50%
Signal Maintainer Electrical.	Grade II	Rs.330-480	33 $\frac{1}{3}$ %	66 $\frac{2}{3}$
Telecommunication Maintainer.	Grade I	Rs.380-580	-	100%
Wireless Inspector				
B. Signal Inspector	Grade III	Rs.425-700	40%	60%
Telecommunication Inspector	Grade II	Rs.550-750	-	100%

Wireless Inspector	Grade I	Rs.700-900	-	100%
Chief Inspector	-	Rs.950-1040	-	100%

2. The learned counsel for the applicant submitted the following facts in support of the argument that the maintenance staff, right from the post of Signal Maintainers (Mechanical) to that of Chief Inspector, should belong to one cadre.

a) 60% of the vacancies in Grade III of the Inspectors are filled by promotion of Maintainers (Grade I). The Maintainers and the Inspectors ~~at the lowest level~~ belong to Class III of the Railway service.

b) A letter dated 18.7.76 written by (C.T.E.) contained inter-alia the following provision:-
 'Unlike Loco Inspectors and Traffic Inspectors who do not have any direct responsibility regarding the maintenance workload and who only supervise or inspect the work of the staff under them, the Signal Inspectors and Telecom Inspectors are in fact maintenance staff and should accordingly be called Technician/Sr. Technicians/Chief Technicians depending upon the grade in which they are working.'

c) The functions discharged by Maintainers are performed by the Inspectors in major stations depending upon the workload.

3. The applicant's grievance is that even though Maintainers and Inspectors form a single cadre but respondents have split them into two cadres for the purpose of restructuring. The respondents set up a cadre restructuring Committee in February, 1978 to study the pay scales and suggest methods of removing anomalies, while

on the ministerial side and in the posts of Station master, Assistant Station Master and Assistant Superintendent the Committee recommended combined cadres, the staff of Signals and Telecommunications Department have been split into two categories for the purpose of restructuring. The respondents have treated the Maintainers as artisan staff and fixed the percentages of higher post on that basis. The posts of Inspectors have been treated as a separate cadre and separate revised percentages of post in various grades have been fixed accordingly. As a result the applicant association had suffered adversely.

4. The relief sought is for quashing the respondents' letters of 10.7.85 and 1.5.84 and directing the respondents to treat the Maintainers and Inspectors of S & T Department as forming one cadre. The applicant had moved Hon'ble Supreme Court for enforcement of the rights of the employees of the Signal & Telecommunication Department and the Supreme Court gave the following order on 4.5.87:-

"Writ petition is allowed to be withdrawn with liberty to move the High Court"

This application may accordingly be made.

5. The learned counsel for the respondents mentioned that the Railway Workers Classification Tribunal, 1948 classified the Signal Maintainers in S & T Department as skilled artisan on the basis of the nature of their duties. The main functions of the Maintainers relate to maintenance of equipment like block instruments, track circuits, teleprinters, micro-wave communications, telephone exchanges etc. The pay structure of the staff conforms to the pattern of Railway workshop staff.

The third Pay Commission recommended that the existing system should continue and the maintenance staff should be given the same scales of pay as recommended for workshop staff. The third Pay Commission also recommended setting up of an expert Committee for reviewing existing categorisation of workshop staff. The Railway workers classification Tribunal was constituted in 1976 and the Tribunal gave the precise definition of the word 'artisan'

"Any person practising a trade which requires manual skill, experience and also use of tools, shall be considered as an 'artisan' "

The Tribunal also laid down the definition of unskilled category, semi-skilled category, skilled category, highly skilled Grade II and skilled grade I. The reclassification/restructuring of artisan staff was examined by a joint committee consisting of Officers of Ministry of Railways and representatives from All India Railwaymens Federation and National Federation of Indian Railwaymen. The Committee recommended the percentages of posts in highly skilled grade I, highly skilled grade II and skilled categories. The Fourth Pay Commission considered the issue regarding treatment of Signal Maintainers at par with Inspectors but the Commission also did not give any specific recommendations for either higher replacement scale or superior distribution of posts in different scales of pay. The applicants urged upon ^{all} / points including those mentioned in the impugned letters of the Railway Board, dated 1.5.84 and 10.7.85 before the fourth Pay Commission. The learned counsel for the respondents, therefore, argued that the applicants should have challenged the Fourth Pay Commission's report, instead of the aforesaid two letters.

6. The learned counsel for the respondents also quoted the decision of the Punjab and Haryana High Court

contd...5p....

in Shiv Dayal versus State of Haryana and others (1972 S.L.R. 35) where it was held that revision of pay scales is in the discretion of the Government.

7. The learned counsel for the respondents also brought out that the application is barred by limitation are since the impugned letters/ dated 10.7.85 and 1.5.84 whereas the application was filed on 27.10.87. The learned counsel for the applicant however, argued that the Tribunal is empowered to go into the question and remove discrimination. Besides the applicants have been representing to the respondents in the matter and the applicant had also filed a writ petition in the Supreme Court and the Hon'ble Supreme Court had given the liberty to move the High Court and the application was accordingly made in the Tribunal.

8. The liberty to move the High Court, as given by the Hon'ble Supreme Court would imply making of an application within law and, therefore, within the limitation prescribed in law. The application has been filed beyond the period of one year, prescribed under the limitation clause of the Administrative Tribunals Act. In the circumstances of the case, the ground of discrimination cannot also be overstretched to imply that Maintainers cannot be placed in a separate cadre from that of Inspectors.

9. Apart from that it is observed from above that the adjustment and fitment of Maintainers and Inspectors in separate grades and treatment of Maintainers as artisans, have been considered from time to time by various expert bodies. As observed in the case of P.Savitha versus Union of India (A.I.R. 1985 S.C. 1124) equation

of pay are matters primarily for the executive government and expert bodies like the Pay Commission.

10. In the conspectus of the aforesaid facts the application is barred by limitation and is bereft of merit also. The application, is therefore, dismissed both on account of limitation as also on merit. There is no order as to costs.

I.P.Gupta
(I.P.GUPTA) 13/12/91
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)