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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

O.A.No.731 of 1987      Date of Decision: 30.7.93

Northern Railway Class Two Officers

Association

.....Petitioner.

Versus

Union of India & others .....Respondents.

CORAM:

Hon'ble Mr. Justice V.S. Malimath, Chairman.

Hon'ble Mr. S.R. Adige, Member(A)

For the petitioners:

Mrs. Shyamla Pappu, Sr.  
Counsel with Shri B.S.  
Mainee, counsel.

For the respondents:

Shri K.T.S. Tulsi, Addl.  
Solicitor General with  
Shri R.P. Singh and Shri  
R.L. Dhanwan, Counsel.

JUDGMENT

(By Hon'ble Mr. S.R. Adige, Member(A).)

By this application, the Northern Railway Class Two Officers Association represented by their General Secretary Shri S.K. Bhandari, and two others have sought for a direction in the following terms from this Tribunal:

"declaring the classification maintained in the Railways in the category of Assistant Officers who are promoted from the lower post to the gazetted post of Assistant officers as belonging to Group B and the directly recruited Assistant Officers as belonging to Junior Scale of Group A and fixation of pay on that basis and creation of promotional avenue both regular and officiating on that basis as arbitrary, discriminatory, unconstitutional and to treat the said two categories of officers as equals on an equal footing".

2. The facts may be set forth briefly. The services in Railways are divided into Groups A, B, C and D. Groups A and B are gazetted, while Groups C and D are non-gazetted. We are concerned with Group

A, B and C services in this case. As laid down in Rule 207 of the Indian Railways Establishment Code, the appointment to Group B services is made by the Zonal Railway by promotion from those persons in Group C service as under:

- i) 75% through process of selection conducted by 4 Heads of Department, syllabus of which includes professional knowledge in the discipline in which the employee is working as also finance establishment, stores, etc.
- ii) 25% through Limited Departmental Competitive Examination of the serving employees in the discipline having put in not less than five years of service and not below the grade of Rs.1400-2300. This competitive examination covers one's own discipline, General knowledge, General English etc.

As laid down in Paragraph 205 of the Indian Railway Establishment Code, recruitment to Group A service in the various departments of Railways shall be made through-

- (a) Competitive Examination held by the Union Public Service Commission; (60% of vacancies)
- (b) Promotion of officers in Group B service including officiating Group B Railway Officers of the service or department (40% of vacancies).

3. Rule 209 of the Indian Railways Establishment Code lays down that such promotions shall be made by selection on merit from amongst Group B Officers of the departments concerned with not less than three years of non-fortuitous service in the grade. If the quota reserved for Group B officers for promotion to junior scale is not fully utilised, the remaining vacancies may be filled by Government in accordance with

the recruitment rules and in consultation with the UPSC and the DPC for this purpose shall consist of a representative of the UPSC as Chairman and two representatives of the Ministry of Railways as Members.

4. The following table shows the <sup>evolution</sup> of the pay scales for Group A, B and C Railways services from a point of time prior to the First Pay Commission right upto the present day, as furnished by the applicants which has not been denied by the respondents.

IN RUPEES PER MONTH

|                 | A         | B         | C   |
|-----------------|-----------|-----------|---|
| Before 1st.     |           |           |   |
| Pay Commission. | 250-900   | 240-600   | N.A.  |
| After 1st.      |           |           |   |
| Pay Commission. | 350-850   | 275-800   | 200-500                                       |
| After 2nd       |           |           |   |
| Pay Commission. | 400-950   | 350-850   | 450-575.                                      |
| After 3rd       |           |           |   |
| Pay Commission. | 700-1300  | 650-1200  | 700-900<br>840-1040<br>840-1200<br>(75 Posts) |
| After 4th       |           |           |   |
| Pay Commission. | 2200-4000 | 2000-3500 | 2375-3500                                     |

5. Placed below is a table showing the channel of promotion vis-a-vis direct recruitment in the Civil Engineering Department of Railways, but also applicable to the other departments in the Railway, as furnished by the applicant, which has <sup>also</sup> not been denied by the

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7 . The respondents have contested the application and argue that the existing classification of the <sup>posts</sup> /Officers into Group A Junior Scale and Group B <sup>posts</sup> /Officers, is based upon the recommendations of successive Pay Commissions which are an Expert Body and the reasons for the difference is based upon perfectly rational criteria with a direct nexus with the object sought to be achieved, and is not at all influenced by arbitrary or extraneous considerations.

8. We have heard Ms. Shymla Pappu, Senior counsel on behalf of the applicants and Shri K.T.S. Tulsi, Addl. Solicitor General on behalf of the respondents.

9. Ms. Pappu began by contending that <sup>the</sup> differential treatment meted out to Officers holding Group B posts and those holding Junior Scale of Group A posts was a legacy of colonial rule, inasmuch as prior to Independence Group A posts were reserved practically exclusively for Europeans, while Group B posts were the maximum that the Indians could normally aspire to. She has averred that this invidious distinction was unfortunately still being perpetuated right upto the present day, <sup>although</sup> as far as back in 1946 itself, the Chief Commissioner for Railways, who was the seniormost functionary of that department in the course of his evidence before the Ist. Pay Commission (Varadachariar Commission) had explained that "Railway Board and the Government were committed to the amalgamation proposal because it was not possible in the Railway Administration to differentiate the duties to be allotted to the Officers of the junior scale of the superior service from those to be assigned to members of the lower gazetted service".

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10. She, however, stated that the amalgamation proposal was never implemented and argued that although, after the enactment of the Constituion the justification for abolishing this unjust, arbitrary and unconstitutional, differential treatment was placed before successive Pay Commissions, they, in their recommendations had continued to maintain the difference, which had been accepted by Government. In this connection relevant extracts from the IInd Pay Commission, IIIrd Pay Commission and IVth Pay Commission are reproduced as follows:-

IInd PAY COMMISSION:

" The Varadachariar Commission examined this question at considerable length, and while some members of the Commission thought that all posts in the Class II Services where the duties were indistinguishable from those discharged by members of the Class I services should be merged in the junior scale of Class I, the attitude of the majority- to quote the Commission's own words- was as follows:-

'The inclination of the majority of members, however, was that it was desirable to retain the two classes; but, in departments where the differentiation between the two classes was not necessary or possible either because of the mode of recruitment or because of the difficulty of distinguishing between the importance and responsibility of the duties respectively performed by Class I and Class II officers, the two fold classification may be dispensed with and the two groups treated as one gazetted service'.

We put the proposal of the associations of Class II staffs to several of the official witnesses, and none of them supported it. They said that in practically even Department there was a large volume of work which could be entrusted appropriately only to Class II officers: it was sufficiently difficult and responsible not to be entrusted to Class III Officers, but not such that it should be attended to by highly qualified or talented persons such as those recruited to the Class I services- as part of their training. Their point, in other words, was that the amalgamation proposed by the service associations would be wasteful. One of the official witnesses also said that the proposed arrangement might prove harmful to the interests of Class III officers who are now promoted to Class II, but many of whom, not being of the

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standard of Class I, would lose their promotion altogether if the Class grades were abolished. He added, with reference to Class II services to which there is no direct recruitment at all, that if those recruited to the Class III services were to be promoted straight to Class I, it would be necessary to consider whether direct recruitment at the intermediate level should not be introduced.

We have come to the conclusion that there is not adequate justification for recommending a change in the present system (except that if our recommendations in a later chapter regarding the abolition of the present classification of the services into four Classes is accepted, the difference would be limited to pay scales). The slightly lower remuneration of direct recruits to Class II is justified by the lower qualifications and standards laid down for that Class; and the pay which those promoted from a Class III service are likely to draw, will not often compare unfavourably with the pay of a junior Class I officer. Even when there is a difference, it will usually be insignificant."

#### IIIrd PAY COMMISSION:

"The associations of Class I Gazetted Officers have demanded the abolition of the Class II gazetted services and their merger with the junior scale of the corresponding Class I services, on the plea that members of the Class II services normally perform the same functions as are performed by members of the Class I services at junior levels. A more or less similar plea was made before the First and Second Pay Commissions also. However, both these Commissions did not accept the plea, and recommended the continuance of Class II posts as a separate entity.

We have again considered whether the existing pattern of having Class I and gazetted Class II service requires any change. While direct recruitment is made to the junior scale of the organised Class I services (or to the lower segment of the integrated scale in certain cases) the well-understood intention is that these direct recruits will spend only

- a relatively short period in the junior scale or the lower segment of the integrated scale, as the case may be. During this period, which is usually 6 years or so, the direct recruit undergoes a period of in-

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service training, and acquired considerable experience, as he is continuously called upon to meet fresh challenges, and encourage to take responsibility. The career grade is the senior scale. The intention is to build up the direct recruit so that he can hold the top administrative posts while he is still young, and to develop his qualities of drive and initiative. On the other hand, the Class II services often mark the culmination of the career of efficient Class III employees, though direct recruitment also does take place, as indicated earlier. While the Class II Officer often exercises similar statutory powers as a Junior Class I officer, the responsibilities he is called upon to discharge, however, are somewhat more routine, and there is a greater degree of supervision. We are of the view that, having regard to the different roles assigned to these services, and to the need for building up cadres to man the senior administrative posts, the existing division into Class I and Class II services should be retained.

The merger of this category with the Junior Class I cadre would mean an addition to this base of approximately another 30,000 posts, most of which would have been filled by lower standards of recruitment and promotion. Moreover this vastly expanded base would, by considerable reducing the further promotion prospects of the directly recruited Class I Officers, render that service unattracted and the Class I services would thus fail to attract candidates of the right calibre. There would also be another serious objection. If all the Class II posts are converted into Junior Class I, it would mean that selection to the new cadres would be through the Union Public Service Commission, partly by promotion and partly by direct recruitment. At present, generally speaking, the Class II is largely promoted from below. Conversion to Class I implies that, to the extent that these posts are filled by direct

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recruitment, the avenues of promotion now available for Class III would shrink.

Most of the official witnesses have favoured the continuance of the existing differentiation. In regard to the practice in some departments of recruiting personnel for the Class I and the Class II from the same competition, depending on their ranking and putting them initially on jobs which are indistinguishable, except for their designations, the official witnesses do not see any anomaly in this practice since the period for which this situation prevails in the organised Class I services is short, and ceases as soon as the direct recruit to the Class I moves into the Senior Scale and assumes higher responsibilities.

We have, therefore, come to the conclusion that the distinction made at present between the Class II and the Junior Class I grades is justified and that it not repugnant to any particular principle. The Class II cadre should, therefore, continue as a separate entity."

IVTH PAY COMMISSION:

"There are about 13,600 group B gazetted engineering posts of which the majority is in the scale of Rs.650-1200. The scales of pay recommended by us in chapter 8 will be applicable to these posts.

Group B gazetted engineering Officers mostly assist the group A officers. The main demand of associations of group B gazetted engineering officers has been for the merger of group B posts with group A. The railway association has specifically represented that group B and junior scale group A officers perform the same duties with similar responsibilities and therefore these two scales should be merged on the principle of equal pay for equal work. We have carefully considered the matter. We note that this matter was also considered by the Third Pay Commission who did not find any justification for such a merger. In our existing scheme, group B posts mainly serve as promotional avenues for group C posts and only



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insignificant percentage of direct recruitment to group B posts takes place. We would not like to change the existing structure as it has withstood the test of time. We feel that the classification of group B and Junior scale (group A) is justified and it is not repugnant to any particular principle.

The group B officers federation from the railways represented that while a percentage of posts (40 percent) is reserved for promotion of group B officers cannot rise to higher levels. They have, therefore, suggested that a percentage of posts should be earmarked for promotee officers for promotion to higher level posts, viz., junior administrative grade and above. We have carefully considered the matter. Group B promotee officers on promotion to group A posts/ services are merged in the common pool of group A officers and are eligible for further promotion along with group A officers on the basis of their length of service in group A and merit, on with directly recruited Group A officers. We therefore find no justification for earmarking a percentage of higher posts for promotee officers

11. It would be clear from the reading of the above extracts that they are not confined to Class II and Class I services of the railways alone, but to all the services of Government of India as a whole.

12. Mrs. Pappu also invited attention to various orders issued by the Head Quarter<sup>office</sup> of the Northern Railway from time to time to emphasize the fact that the officers promoted to, or holding group B posts have relieved <sup>Junior Scale</sup> group A officers, and similarly group A <sup>Scale</sup> Junior/ officers have relieved those holding group B posts. She contends that because group B posts and group A junior scale posts are virtually interchangeable, the categorisation of posts depends upon the individual holding it, and there is no demarcating line between group B posts and junior scale group A posts. In this connection, she has referred to <sup>the</sup> Statement in reply to

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Parts (a) to (c) of assurance in respect of unstarred question No.7567 dated 28.4.89 in Lok Sabha in which it has been stated that in the Civil Engineering, Mechanical Engineering, Traffic, Electrical, Signal & Telecommunication, Stores, Accounts and Personnel Departments of Railways, Junior scale posts and Group B posts are operated interchangeably and, therefore, it is not possible to segregate the two. Similarly, in reply to unstarred question No.8305 dated 5.5.89 regarding promotional prospects of Grade B officers, it has been stated as follows:-

" The allotment of a lower scale to Assistant officer Class II is based on the specific recommendations of the Third Pay Commission contained in Chapter 13, Vol.I of their Report. The Higher scale has been allotted to Junior scale Class I to attract candidates of the right calibre. For a Class I officer the Junior scale post is essentially for undergoing in-service training and for acquiring experience to enable him to occupy higher posts in the cadre. The duties and responsibilities performed --on the working post are the same and the posts are interchangeable. The Fourth Pay Commission after considering this have not recommended partly in scale for these two categories of officers."

13. Mrs. Pappu also invited attention to the letter dated 23.9.91 issued by the Railway Ministry to the General Secretary, Indian Railways Promotee Officers' Federation, Gorakhpur in which it has been stated as follows:-

"The post of Asstt. officers in the lowest rung of gazetted cadre on the Indian Railways is combined junior scale/Group B except for IRMS and RPF and it is not possible to clearly demarcate the junior scale posts and group B posts in an organisation like the Indian Railways. The post is considered as group A Jr. Scale when it is manned by Jr. Scale group A officer, otherwise it is a group B post. No doubt, a large number of

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Group B officer have been allowed to officiate in Sr. scale as an adhoc measure."

13. In support of her contention that officers holding group B posts and those in the junior scale group A posts perform the same duties and responsibilities, Ms. Pappu drew attention to the schedule of disciplinary powers conferred upon the Assistant and Officers, (Junior scale/Group B) in regard to withholding of promotion and increments, recovery from pay, reduction to a lower post or lower time scale, reduction to lower stage in the time scale, compulsory retirement, appointments to non-gazetted staff, promotion and confirmation, countersigning T.A. bills, etc, which shows that the Assistant and Officers (Junior scale/Group B) are indeed vested with the same disciplinary powers .

14. Towards the close of her arguments, Ms. Pappu modified the relief prayed for somewhat, and stated that <sup>what</sup> Group B officers (Pay scale Rs.2000-3500) in essence were praying for <sup>was</sup> parity in salary with group A Officers (Pay scale Rs.2200-4000), as they were performing the same duties, responsibilities etc., on the basis of equal pay for equal work. In this connection she referred to the ruling of the Hon'ble Supreme Court in 'Bhagwan Dass & others Vs. State of Haryana & others' (AIR 1987, Supreme Court 2049 wherein it has been held that under Articles 311 and 39(d) of the Constitution, equal pay cannot be denied to those persons doing similar work, merely on the ground that the modes of recruitment are different or that some are appointed on regular basis, while others are not.

15. Opening his arguments, Shri K.T.S. Tulsi, learned Additional Solicitor General pointed out that the

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applicants had not mounted any challenge to the findings/recommendations of the successive Pay Commissions, which were expert bodies. The applicants had now changed the focus of their claim of merger of Group B with Group A posts (Junior Scale) to that of pay parity between the two sets of posts on the ground that their duties and responsibilities were identical but these very claims had been turned down by successive Pay Commissions, because they had that held/the nature, quality and level of responsibility performed by incumbents to Group B posts and those ing Group A (Junior Scale) posts were quite different. He emphasized that Government's decision to maintain the difference in pay scale between Group B posts and Group A (Junior Scale) posts were not based on arbitrary or extraneous considerations, but ~~the~~ <sup>on the</sup> recommendations of the successive Pay Commissions, which were expert bodies. In this connection, he invited attention to the extracts of successive Pay Commissions' reports, quoted above, right from the 1st in Pay Commission (Varadachariar Commission) onward, where/ it had <sup>been</sup> held desirable <sup>in the public interest</sup> to retain the distinction between Group B and Group A posts. In the II<sup>nd</sup> Pay Commission's report, it had been reported that there was no need for recommending a change in the present system. The Third Pay Commission had dealt with this point in detail and had noted that both the level of responsibility as well as the degree of supervision in respect of Group B Officers and Group A (Junior Scale) Officers were quite different. This was a question of fact determined after lengthy examination of the witnesses, submission of memoranda by different Staff Associations, detailed enquires, spot inspections etc, and

hence by no means could be termed as arbitrary or based upon extraneous considerations. Shri Tulsi urged that if pay parity was conceded, it would be impossible to refuse other attendant benefits including merging of the two sets of posts, because granting pay parity <sup>while</sup> ~~and~~ denying other consequential benefits <sup>and</sup> would itself be discriminatory and violative of Article 14 of the Constitution.

16. In this connection, Shri Tulsi invited our attention to the fact that the Third Pay Commission had noted that while direct recruitment was made to the junior scale of the organised Class I, the well-understood intention was that the direct recruit would spend only a relatively short period in these posts, to provide him the necessary training and to develop his quality of drive and initiative, so that he could successfully hold the top administrative posts while he is still young. On the other hand, the Class II services often marked the culmination of the career of efficient Class III employees and while Class II officers often exercise similar statutory powers as Junior Scale Class I Officers, the nature of responsibility and degree of supervision being different, equality could not be imposed amongst unequals. There was a rational nexus between the maintenance of this difference and the object sought to be achieved. Hence the existing arrangement could not be termed as violative of the Constitution.

17. Shri Tulsi also drew attention to the apprehension voiced by the <sup>11</sup> Third Pay Commission that any merging of Group B posts with Group A posts, would render recruitment to Group A less attractive, besides affecting the promotional prospects of Group C category adversely, neither of which would be in the public interest.

18. In this connection, Shri Tulsi relied on the

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following judgments:

In 'State of U.P. and others Vs. J.P. Chaurasia & others' 1989(1) S.C.C. 121, the Hon'ble Supreme Court has held as follows:-

"The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bence Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to be Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

In 'Umesh Chandra Gupta & others Vs. O.N.G.C. & others' 1989 Supp(1) S.C.C. 584, the Hon'ble Supreme Court has been pleased to stress the same point of view.  
Again in 'K. Vasudevan Nair & others Vs. UOI & others' 1991 Supp(2) SCC 134, the Hon'ble Supreme Court had held that as the pay revision by the Government was based on the recommendations of Third Pay Commission which were expert bodies- the extent of material and expertise before the Pay Commission was specifically referred to- interfere<sup>ce</sup> with the same was not ordinarily called for.

19. Similarly in 'Federation of All India Customs and Central Excise Stenographers & others Vs. UOI & others' 1988(3) SCC 91, the Hon'ble Supreme Court had held that

"Equal pay for equal work is a concomitant of Article 14 but equal pay for unequal work will be a negation of that right. Equal pay must depend upon the nature of work done; it cannot be

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judged by the mere volume of work; there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less- it varies from nature and culture of employment. In the case of stenographers and personal assistants, there is an element of faith, reliability and responsibility. The differentiation has been sought to be justified in view of the nature and the types of the work done, i.e. on intelligible basis.

There is an element of value judgment of those who are charged with the administration in fixing the scales of pay and other conditions of service. Differentiation in implementing the award or the recommendations of pay Commission without rational basis may amount to discrimination. But so long as such value judgment is made bonafide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination.

In the light of the averments made and on the facts of the case, it is not possible to say that the differentiation is based on no rational nexus with the object sought to be achieved."

20. We have carefully considered <sup>the</sup> rival contentions of <sup>the</sup> two parties, in the light of their pleadings, the submissions made, and the materials on record. We note that the existing difference between Group B Officers and Junior Scale Group A officers is found not on arbitrary or extraneous considerations, but is based on <sup>the</sup> recommendations of successive Pay Commissions who have applied their mind to this matter, and after detailed <sup>and</sup> exhaustive investigations have repeatedly held that the distinction made at present between

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Class II and Junior Scale Class I services is fully justified, and is not repugnant to any particular principle. There is also a rational nexus between the maintenance of the distinction and the object sought to be achieved, viz. that of attracting officers of superior calibre to man the higher level posts; ensuring adequate avenues of promotion for Class III officers etc. The Pay Commissions after enquiry have held that notwithstanding the fact that there is no clear demarcation line between Group B posts and Junior Scale Group A posts, the level of responsibility and the degree of supervision in respect of Group B officers cannot be equated with Junior Scale Group A officers. These are questions of fact determined by the Pay Commission which is an Expert Body. Thus, conceding the applicants' claim would amount to treating unequals as equals which would itself be violative of Article 14 of the Constitution.

21. Further more, we note from Para 205 of the Indian Railways Establishment Code that 40% of the vacancies in Group A services in the Railways are to be filled up by promotion of officers from Group B services. Granting parity in salary between Group B services and Junior Scale Group A services would mean that officers who are promoted would be treated on the same footing as officers in the feeder category. This again would lead to unequals being treated as equals, which would be violative of Article 14 of the Constitution.

22. In the light of the facts and circumstances of the case, therefore, the prayer for treating Group B officers and Junior Scale Group A officers as equals <sup>on an</sup> equal footing, or granting them pay parity is rejected.



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23. Before concluding we would advert to an important point regarding pay scale sanctioned for Group B officers in the Railways, which although not specifically forming a part of the relief claimed, has been raised by the applicants in their pleadings as well as in the course of arguments by Mrs. Pappu. This concerns the anomalous situation created by the grant of pay scale of Rs. 2000-3500/- for those promoted to Group B posts while those in the feeder category, occupying in the highest of Class C posts are in the pay scale of Rs. 2375-3500/-. Mrs. Pappu emphasized in this connection that 75% of the posts in Group B are filled by promotions from those occupying the highest rung in Group C, while 25% of the posts in Group B are filled by a limited departmental examination open to all those who are occupying Group C posts. Thus, for the majority of the persons promoted from Group C to Group B, it would mean that on promotion they get a lower scale of pay. This is on the face of it arbitrary and violative of Article 14. Shri Tulsi very rightly and fairly conceded that this situation was indeed anomalous.

24. In this connection, he invited our attention to the copy of the minutes of the 3rd meeting of the National Anomaly Committee held on 14.12.89, the copy of the minutes of the meeting of the Indian Railways Class II officers Federation held with the Railway Board on 30.1.90, as well as the correspondence exchanged between the Railway Minister and the Finance Minister, the copies of which were also furnished for our perusal. From these materials, it appears that before the Fourth Pay Commission,

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there were very supervisors in the grade of Rs.840-1200/- in Group C services in the Railways (present scale Rs.2375-3500/-) being supervised by Group B officers in the grade Rs.650-1200 (present scale Rs.2000-3500). However, as a result of the recommendations of Fourth Pay Commission, all Supervisors even in the grade Rs.840-1040 were given the replacement scale of Rs.2375-3500/- with the result that there were as many as 6000 supervisors in the grade of Rs.2375-3500/- who were being supervised by Group B officers in the scale of Rs.2000-3500/-. The Railway Minister had pointed out this peculiar anomaly and had urged that the Group B officers' scale in the Railways must be paid at least somewhat higher than Group C officers as most of the Group B officers stayed in the grade of Rs.2000-3500/- for a large number of years. In his reply dated 6.4.90, the Finance Minister had stated that a similar situation even existed prior to the implementation of the report of Fourth Pay Commission and the only difference was that the officers now being supervised had increased in number, because of the merger of the grade Rs.840-1040 in the scale of Rs.2000-3500-. Surprisingly he has asserted that the pay scale of Rs.2000-3500/- was not inferior to of Rs.2375-3500/-. He further averred that any change in the pay scale of Group B officers of the Indian Railways, would have repercussions on all the Group B posts which would lead to similar demands from Officers holding Group B in the other departments of Government of India also. Hence, this request was rejected by him.

24. We are not persuaded to accept these as valid grounds. It cannot be denied that the scale of Rs.2000-3500/- is inferior to that of Rs.2375-3500/-. Thus, when a person in Group C services in the pay

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scale of Rs.2375-3500/- is promoted to a Group B post, in fact the promotion <sup>he enters a lower pay scale than</sup> Thus, the Supervisory authority functions in a pay scale lower than that of the persons he supervises. Pay scales form one of the crucial determinants to determine the service hierarchy and it hardly needs reiteration that for proper supervision, control, discipline, maintenance of morale etc. the Supervisory Authority should be placed in pay scale higher than that of those whom they are supervising. If they are placed in a pay scale equal to or less than that it will imply that unequals are being treated as even less than equals, which itself is violative of Article 14 of the Constitution. Merely because the anomaly is continuing since well before the Fourth Pay Commission does not make it any the less anomalous or violative of Article 14. This problem appears to be peculiar to the Railways. None of the other Group B services of the Government of India appear to have raised this issue in any application before the Tribunal. Therefore, the apprehension that granting of a somewhat higher pay scale to Group B services in the Railways would have repercussions on all the Group B posts, does not appear to be well founded. As relief in this form was not asked in the application, we consider it just and proper to grant relief only from the date of the judgment.

25. In the result, we direct the respondents to accord to the Group B services of the Indian Railways a scale of pay higher than the existing scale of Rs.2375-3500/- drawn by Group C services with effect from the date of this judgment. The prescription of the higher scale shall be done within four months from the date of receipt of

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the judgment and arrears due from today shall be paid within a further period of four months .

26. There will be no order as to costs.

*S. R. Adige*  
(S.R.ADIGE)  
MEMBER(A)

*V. S. Malimath*  
(V.S.MALIMATH)  
CHAIRMAN.

(ug)