

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 1527/1990

New Delhi, this 6th day of ^{Decem}_{ber} 1994

6/12/94

Shri C.J. Roy, Member (J)
Shri S.R. Adige, Member (A)

1. The Indian Railway Technical Supervisors' Association (Regd) through the General Secretary
A-145, Saraswati Vihar
New Delhi-110 004
2. Shri Rakesh Kumar Kamboj
Chargeman 'B', Paint Shop
North Eastern Rly, Izat Nagar
3. Shri R.N. Shukla
Chargeman 'B', Mechanic Shop
North Eastern Railway, Izatnagar .. Applicants
(By Shri B.S. Mainee, Advocate)

Versus

Union of India, through

The Secretary
M/Railways, Rail Bhawan
New Delhi

.. Respondents

(By Shri Shyam Moorjani, Advocate)

O R D E R

(Hon'ble Shri C.J. Roy, Member (J))

In this application, the applicants at No.2 and 3 are aggrieved against the Railway Board's Order dated 24.9.86 (Annexure A-1) and 2.7.87 (Annexure A-2) relating to revised scales of pay for Railway services. Brief facts leading to the filing of this application are that the pre-revised scale of Rs.425-700 attached to the grade of Chargeman, in which the applicants are working, was clubbed alongwith that of Mistriess/Highly skilled Grade I (Rs.380-560) and Master Craftsmen (Rs.425-640) by the implementation of the IV Pay Commission's recommendation and revised to Rs.1400-2300, as per the impugned orders cited supra.

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2. The applicants claim that the technical qualification, duties and responsibilities attached to the grade of Chargeman are much higher, inasmuch as that they are in the supervisory capacity, than that of the other three categories, i.e. Mistry/Highly skilled Grade I/Master Craftsman - feeder categories for promotion to grade of Chargeman - and therefore because of the impugned orders the respondents have undermined the supervisory status of the post of Chargeman. They protested against this by way of representation dated 3.3.88 (Annexure A-3A) followed by another dated 28.12.88 (Annexure A-4 & A-8) but there was no response. Consequent upon the decision of the Bangalore Bench dated 27.7.89 (in OAs 2029, 2039 to 2041/88) in a case of similar nature in favour of the applicants in those OAs, the applicants in the present OA also made another representation on 16.9.89 (Annexure A-5) followed by reminder on 8.2.90 (Annexure A-6) to the respondents praying to extend the benefits of the OAs cited above to them, but again there is no reply. Hence this claiming the application/following the reliefs:

- (i) To direct the respondents to re-evaluate the nature of duties/responsibilities in the post of Chargemen and revise their pay scale with effect from 1.1.86; and
- (ii) To direct the respondents to fix the pay scale of the applicants appropriately from 1.1.86 and give arrears thereof.

3. The respondents have filed their reply inter alia stating that the revision of grades/scales of pay was made by the IV Pay Commission in 1986 after due deliberations and representations of various recognised federations and other recognised associations and therefore it is too late a stage now to traverse beyond the IV Pay Commission's recommendations.

4. The respondents further state that both the Mistry and Chargeman are supervisors and allotment of grades to these posts was valued according to their experience in employment in the course of their service. They contend that the first representation was made by the applicants on 3.3.88, which itself was beyond limitation/date of recommendations of the IV Pay Commission and that the judgements cited them (Bangalore Bench) is not applicable to them. Therefore, they say that the applicants are not entitled for the relief claimed.

5. The applicants have filed their rejoinder reasserting their contentions in the OA. We have heard the learned counsel for the parties and perused the records. Now the main point for consideration is whether the Supervisory officers and the supervised are to be given the same pay, which is an irrationality or not.

6. The case of the applicants is that the duties of the Chargeman are that of supervisory in nature carrying with more responsibilities, the equation of the pay scales with feeder categories is inequitable, anomalous, unjustified and discriminatory resulting in indiscipline and inefficiency and it also negates the very basis for determination of pay scale with nature of duties and responsibilities involved in the post of question. It is also their case that their detailed representation to the Chairman, Anomalies Committee (IV Pay Commission) on 28.12.88 has not been replied to so far. During the course of the argument, the learned counsel for the applicants cited another decision of the Principle Bench in a case of similar nature, viz. OA 1776/88, 19/89 and 886/89 dated 6.2.92, decided in favour of the applicants on which further reliance is made.

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7. The case of the respondents is that both the Chargemen and Mistries are performing similar type of supervisory jobs and the recommendation of the IV Pay Commission, which went through all the pros and cons of the various representations, was implemented by the respondents after due consultations with the concerned staff and the same can not be reopened at this stage. The learned counsel for the respondents also denies that the judgements cited by the applicants are applicable in this case. Rather he placed his reliance on the decision of the Principle Bench in OA 1738/89 decided on 20.4.93 dismissing the appeal of the applicant for equal pay scale between the Cabinmen and the Shunting Jamadar/Masters in Northern Railway.

8. We have seen the judgements cited by both the parties. In OAs 2029/88 (Bangalore Bench) it was the case of Permanent Way Inspectors seeking higher pay scale of Rs.1600-2660 in place of Rs.1400-2300 recommended by the IV Pay Commission, as they were to supervise the work of Permanent Work Mistries and Direct Track Maintenance Mistries who were also given the scale of Rs.1400-2300 from the pre-revised scale of Rs.380-560. In this case, the Tribunal declared that "equation of the "supervisory" post of PWI with those of PWM, DTTM etc. (which are in feeder channel to it) for the purpose of fixation of pay scale w.e.f. 1.1.86, is ex-facie inequitable and anomalous" and directed the competent authority to "re-evaluate the nature of duties and responsibility of the applicants objectively and revise their pay scales with effect from 1.1.86, fix their pay and grant them arrears".

Similarly, in OA 1776/88 etc. decided by the Principal Bench on 6.2.92, it was the case of the applicants seeking higher pay scale of Rs.550-900 from that of Rs.425-700 with effect from 1.1.73, direction was given to the respondents 'to rationalise the pay scales of the applicants to a grade higher than that of Rs.425-700 from 1.1.88 and to fix their pay notionally in the higher scale'. But these judgements have not found favour with the decision rendered by the Hon'ble first court of the Principal Bench in OA 2090/1990 dated 17.10.94. So, in our view, the judgements cited by the applicants' counsel will not help the applicants. We note that the Fifth Pay Commission has been constituted and it is already functioning in full swing. Therefore, we dispose of this OA with the following direction:

9. The respondents are directed to consider referring the case of the applicants to the Fifth Pay Commission, as early as possible, if not already done so. No costs.

S.R. Adige
(S.R. Adige)
Member (A)

C.J. Roy
(C.J. Roy)
Member (J)

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