

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
**

O.A.No. 2957/91.

Date of decision 4/1/93

Central Government Staff .. Applicants
Car Drivers' Association,
and Others.

vs

Union of India & Ors. .. Respondents

CORAM:

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

The Hon'ble Member Mr. I.P. Gupta, Member (A)

For the Applicant .. Shri D.C. Vohra counsel.

For the Respondents .. Shri Jog Singh with
Ms. Jaswinder Kaur, counsel.

✓(1) Whether Reporters of local papers may be allowed *yes* to see the Judgement ?

✓(2) To be referred to the Reporter or not ? *yes*

JUDGEMENT

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

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants have requested for a direction for setting aside/modifying the respondents O.M. dated 30th September, 1991 and a direction to devise promotional scheme and graded structure for staff car drivers as adopted by the

Ministry of Railways whereunder the grades of Rs. 950-1500, 1200-1800 and 1320-2040 have been specified for the staff car drivers in the Ministry of Railways.

2. The Learned Counsel for the applicants contended that -

i) The Fourth Pay Commission recommended the scale of Rs. 950-1500 for the staff car drivers.

Earlier there used to be a selection grade for the staff car drivers prior to implementation of the Fourth Pay Commission. 20 per cent of the posts existed in the selection grade (Rs. 330-480) from 1st August, 1976 but after the recommendation of the Fourth Pay Commission this grade was abolished and the non-selection grade of Rs. 260-400 was revised to Rs. 950-1500.

While on the one hand the staff car drivers of

all Ministries are placed in the scale of

Rs. 950-1500, the Ministry of Railways have

given graded scale for their staff car drivers.

In this connection they referred to Annexure 'S'

to the application where it has been mentioned

that the pay-scales of drivers in the
Ministry of Railways are as follows :-

- (a) Driver Grade III .. Scale Rs. 950-1500
- (b) Driver Highly Skilled Gr.II .. Scale Rs.1200-1800
- (c) Driver Highly Skilled Gr.I .. Scale Rs.1320-2040

The recruitment rules are attached to this Annexure which is dated 14th June, 1991. The recruitment rules prescribe that the candidates should have working knowledge of English and Hindi and a qualifying licence for driving car with atleast three years experience in driving.

The discrimination between the pay-scales of staff car drivers in the Ministry of Railways and in other Ministries, according to the Learned Counsel for the applicant, is arbitrary and illegal.

- (ii) Law is settled on the point that where all things are equal i.e. where all relevant considerations of the same persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments

(iii) By the impugned letter dated 13th September, 1991 the respondents issued an order relating to career advancement of Group 'C' and Group 'D' employees (Annexure T). By this scheme they provided for introduction of a scheme to ensure atleast one promotion in service career to each Group 'C' and Group 'D' employee. The said O.M. stated that the promotional grade in the case of staff car driver in the scale of Rs. 950-1500 would be Rs. 1200-1800 but this promotional grade would be available to employees who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post. The maximum of the scale in the grade of drivers would be reached only after about 25 years and, therefore, the scale of Rs. 1200-1800 could be available only after 26 years, the scale being 950-20-1150-EB-25-1500. The pre 1.1.1986 system of selection grade was available only after 14 years.

(iv) Once the principle has been conceded for giving atleast one promotion during the service career of the staff car driver, then

is no reason why the graded structure and time period for promotion to higher scale cannot be devised at par with the structure available to the staff car drivers in the Ministry of Railways.

3. The Learned Counsel for the respondents argued that the scale of pay for each post is determined with reference to recruitment qualification. Promotions are considered against the available vacancies in the promotional grades. The pay scales given to the staff car drivers in the Ministry of Railways is graded because they have been declared as 'Artisans'. In industrial establishments, the posts are categorised as un-skilled, semi-skilled, skilled and highly skilled keeping in view the skill required to perform a job. Drivers, based on the skill, have been placed in skilled category. The distribution of posts between the skilled category and skilled Grade I and Grade II category is also in a prescribed ratio. In non-industrial establishments posts are classified as Group 'A', Group 'B', Group 'C' and Group 'D'. The recommendations in respect of one group of posts have no bearing on the recommendations of other group of posts as each group of posts is independent of the other. The recommendations in respect of Artisan

staff and for motor vehicle drivers in paras 11.24 and 11.64 of Chapter II of the Fourth Central Pay Commission have been accepted by the Government. Para 11.24 lays down the following pattern :-

" 11.24 After considering all relevant aspects of the matter we recommend that the pay scales for workshop staff should be as follows :-

<u>Category of post</u>	<u>Proposed scale of pay (Rs.)</u>
xxx	xxx
Skilled	
{Rs. 260-350}	950-1500
{Rs. 260-400}	
{Rs. 320-400}	
Highly Skilled Grade II (Rs. 330-480)	1200-1800
Highly Skilled Grade I (Rs. 380-500)	1320-2040
xxx	xxx "

Para 11.64 says that the drivers of motor vehicles including staff car in the existing scales of Rs. 260-350 and Rs. 260-400 in all offices of the Government may be placed in the scale of Rs. 950-1500. Therefore the staff car drivers in various Ministries are placed in the revised scale of Rs. 950-1500.

The Ministry of Railways have placed various posts in the category of staff car drivers as indicated below :-

<u>S.No.</u>	<u>Category</u>	<u>Pay Scales (RPS)</u>
1.	Master Craftsman/Head Staff Car Driver.	Rs 1400-2300
2.	Drivers Skilled Grade-I	Rs 1320-2040
3.	Drivers Skilled Grade-II	Rs 1200-1800
4.	Drivers Skilled	Rs 950-1500

No specific recruitment rules have been framed so far.

Recruitment to the initial grade (Rs. 950-1500) is done by inviting applications from Group 'D' staff of Railway Board and the eligible candidates are subjected to a trade test to be conducted by a qualified person from the Mechanical Department. Trade test qualified candidates are further interviewed by a DPC to form the panel.

As regards the promotion to the higher grade it is mentioned that the senior candidates as per their seniority in the lower grade, keeping in view the reservation rules, are considered for promotion through a selection committee subject to their clearing the trade test. The scheme of selection grade prior to the Fourth Pay Commission was abolished after acceptance of the recommendations of the Fourth Pay Commission as the scheme did not provide uniform benefit to various categories of employees. To compensate for the abolition of selection grade the Commission had recommended elongated scale of pay and also three stagnation increments namely one each on completion of two years after reaching the maximum of the scale as against one increment available in the pre-revised set up.

4. Analysing the facts and arguments in this case, we find that there is uniformity in the initial grade of staff

car drivers in all Ministries, the initial grade being 950-1500. However, the Ministry of Railways have provided with memo. dated 25.9.91 a graded structure later by their memo. dated 14th June, 1991/ a graded structure for their staff car drivers. The graded structure provides the scales of Rs. 950-1500, 1200-1800, 1320-2040 and 1400-2300. This graded structure has been given by the Ministry of Railways by treating the staff car drivers as skilled category, skilled grade II category, skilled Grade I category and Master Craftman. The posts are distributed in various grades in the structure according to some ratios prescribed by the Ministry of Railways. We do not find any difference in the type of work done by the staff car drivers in the Ministry of Railway than that done by the staff car drivers in other Ministries. There is no difference in the recruitment rules, the content of job to be performed and other relevant factors. No doubt, there can be difference in the pay scales if the amount of physical or mental work entails different quality of work, some more sensitive, some requiring more tact, some less; it varies from nature and culture of employment but we fail to decipher any such difference. We concede that equation of posts and equation of pay are matters primarily for the Executive (Government)

and expert bodies like the Pay Commission and not for courts but we must hasten to say that where all things are equal i.e. where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. There must be an intelligible basis in regard to any differentiation made. It has also to have a rational nexus with the object sought for. Government must be a model employer and it cannot take advantage of its dominant position. Any unreasonable discrimination has to be removed and where all things are equal no discrimination should be made on the ground of there being different departments.

5. In the conspectus of the aforesaid facts, we direct the respondents to devise a promotional scheme for the staff car drivers with the graded structure (950-1500, 1200-1800 and 1320-2040) similar to one provided by the Ministry of Railways, if the recruitment rules and the content of the jobs are similar. It is open to the respondents to prescribe the ratio in regard to various posts in

the structure and as an urgent measure the ratios
for scales 950-1500 and 1200-1800 should be
considered preferably within 4 (four) months from
the date of communication of this order, along
with the method of selection.

6. With aforesaid direction the case is disposed
of with no order as to costs.

I.P. Gupta
(I.P. GUPTA)
MEMBER(A) 4/1/93

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

MP- 21 u/93
is listed
today.