

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 760/91
T.A. No.

199

DATE OF DECISION 01-10-1993

<u>Shri Prem Prakash Mediratta</u>	Petitioner
<u>Shri Sant Singh</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri P.S. Mahendru</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. N.V. KRISHNAN, VICE CHAIRMAN (A)

The Hon'ble Mr. B.S. HEGDE, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? *
3. Whether their Lordships wish to see the fair copy of the Judgement ? *
4. Whether it needs to be circulated to other Benches of the Tribunal ? *

JUDGEMENT

(Hon'ble Shri N.V. Krishnan, Vice Chairman(A))

The applicant had filed O.A. 243/86 which was disposed of by the judgement dated 13-3-87 An.R-A2 with the following directions:-

"For the reasons set out above we direct the respondents to refix the scale (RS) of the applicants with effect from 1-4-74 at Rs.380-560. The applicants will be entitled to arrears of pay and allowances from 1-4-74 consequent upon this. "

2. The respondents implemented this judgment and revised his pay scale to Rs.380-560 from 1-4-74 and he was given the benefit of pay in this pay scale upto 31-12-1985. From 1-1-1986 the applicant's pay was fixed in the revised pay scale of Rs.1320-2040 instead of in the revised pay scale of Rs.1400-2300. It is to be noted that both these revised pay scales are applicable to the pre-revised pay scale Rs.380-560 but in respect of different posts. The applicant had filed CCP 5/87 for implementation of the order and

therein he also moved an MP 2361/88 for giving him the benefit of the higher revised pay scale Rs.1400-2300 from 1-1-1986. This was disposed of by the order dated 19-12-88 An.RA-1 by observing that this was a fresh cause of action and therefore could not be disposed of in that MP.

3. Therefore the applicant filed R.A.11/89 in the O.A. That R.A. was disposed of by the order dated 14-3-91 by which the Tribunal directed that this R.A. should be treated as a fresh original application. Accordingly, the R.A. was converted into a fresh O.A. as mentioned above and it is this O.A. that is being disposed of.

4. The applicant's contention is that in the judgment dated 13-3-87 in O.A.243/86 (An.RA-2) the Tribunal had come to a clear conclusion that the applicants therein- who are now the applicants before us- were supervising highly skilled workmen as is evident from the certificate of the Chief Signal Tele-Com Engineer (CSTE) Northern Railway vide para 15 of the judgment. Therefore, the Tribunal allowed the pay scale of Rs.380-560 to the applicants from 1-1-74. A copy of para 11.22 to 11.28 of the 4th Pay Commission's Report has been annexed as R-A5. The pre-revised pay scale of Rs.380-560 was applicable to both technical supervisors as well as to highly skilled Grade I. It is seen from that report that the revised scale recommended for the pre-revised scale of Rs.380-560 in respect of highly skilled Grade I is Rs.1320-2040. The pre-revised pay scale for the lowest technical supervisory post is also Rs.380-560 but the revised pay scale recommended was Rs.1400-2300. These recommendations were accepted by Government.

5. The respondents have given the applicant the revised pay scale of Rs.1320-2040 from 1-1-1986

corresponding to highly skilled Grade I on the ground that the applicant was not a technical supervisor. This is the grievance of applicant.

6. The applicant has contended in the R.A. converted into the O.A. as follows:-

"Hence out of the two categories they ought to be treated as more akin to be identified with the category of Technical Supervisors rather than with that of the workshop staff and (ii) that the pre-revised scale of Rs.380-560 allowed to them by this Hon'ble Tribunal was never given to them on parity with the Highly Skilled grade I (Rs.380-560) but it was given solely on the consideration that they did perform the supervisory duties, they were lineated with the category of Technical Supervisors and hence the lowest supervisory scale prescribed for technical supervisors, i.e. Rs.1400-2300 (revised) ought to be given to them."

On this basis the prayer made is that the applicant be given the benefit of the revised pay scale Rs.1400-2300 from 1-1-1986.

7. The respondents have filed their reply to the R.A. which is taken as the reply to the converted O.A. also. It is contended that a SLP filed by the respondents against An.R-A2 judgment is still pending and that, therefore, it would not be proper to add anything to that judgment at present. It is also contended that the applicants were only progressmen and it is stated in para 5 of the reply that this is an ex cadre post and the progressman "supervises the work of highly skilled workers Grade II from the progress point of view." The revised pay scale of Rs.1400-2300 is applicable only to technical supervisors i.e. Mistri and Chargemen who supervise the work of highly skilled workers Grade I & Grade II from the technical point of view. The Railway Administration has never classified progressmen as technical supervisors. Therefore, the applicants' revised pay scale has been correctly determined at Rs.1320-2040.

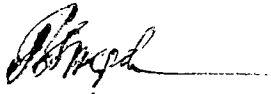
8. We have heard the learned counsels for the parties. The main contention of the respondents is that as the applicants were not technical supervisors, they are not entitled to the revised pay scale of Rs.1400-2300.

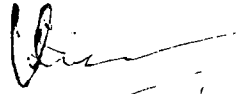
9. We are of the view that it is not now open to the respondents to raise this contention because a clear finding has been given in para 15 of the R.A.2 judgement that the progressmen were supervising the work of highly skilled workmen. This declaration is based on the certificate given by the Chief Signal & Tele-Com Engineer, Northern Railway. It is in view of this certificate that, in the first instance, the Railway Board granted the pay scale of Rs.380-560 to the applicants from 1-1-74 as mentioned in para 8 of R.A.2 judgment but went back on that order subsequently. It is clear that the applicants were supervising the work of highly skilled workmen of Grade I also because the certificate referred to in the judgment does not qualify it by specifying that progressmen supervised any Highly skilled Grade II work. That being the case, they cannot be equated with highly skilled Grade I but should be treated as holding the post of technical supervisors. As such posts were held by the applicant on 31-12-1985, they are entitled to the revised pay scale of Rs.1400-2300 applicable to the post of technical supervisors in the pre-revised pay scale of Rs.380-560.

9. For the aforesaid reasons, we allow this application and direct the respondents to fix the applicants' pay with effect from 1-1-1986 on the post of Progressmen in the revised pay scale of Rs.1400-2300 and grant them all arrears of pay within a period of three months from the date of receipt of this order. It is, however, made clear that these orders will be subject to the decision of the

Supreme Court in the appeal filed against the An.RA2 judgment in respect of which the Supreme Court has granted special leave by the An.RA3 order.

10. The application is disposed of as above. There will be no orders as to costs.


(B.S. HEGDE)
Member (J).
01-10-1993


17/10/93
(N.V. KRISHNAN)
Vice Chairman (A)
01-10-1993