

12

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. No.2175/2004

New Delhi, this the 25th day of July, 2005

**HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

1. Prem Saini son of R.S. Saini,
R/o C-6/A, Basant Lane,
New Delhi.
2. Vijai Kumar son of Bal Kishan,
R/o G-57, Jagat Puri,
Delhi.
3. Surendra Kumar Jain,
Son of Rati Ram Jai,
R/o H.No.403-E/1,
Gali No.4, Shastri Marg, Chhajjupur,
East Babarpur, Shahdara,
Delhi.
4. Trilochan Singh, Son of Jeet Singh,
R/o 14-E, Mahavat Khan Raod,
Rouse Avenue,
New Delhi.

-Applicants

(By Advocate Shri T.S. Pandey, proxy for Shri H.P. Chakravorty,
Advocate)

-Versus-

1. Union of India through its Chairman,
Railway Bhawan,
New Delhi.
2. General Manager, Northern Railway,
Baroda House,
New Delhi.
3. Divisional Railway Manager,
Northern Railway, Delhi Division,
Delhi.
4. Senior Divisional Personnel Officer,
Northern Railway, Delhi Division,
Delhi.

-Respondents

(By Advocate Shri P.K. Yadav)

29

O R D E R (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

Applicants, who are working as Stenographers in Northern Railway, Delhi Division, by virtue of this OA, assail respondents' order dated 19.8.2004, rejecting their request for grant of pay scale of Rs.1640-2900.

2. While working as Stenographers in the pay scale of Rs.1200-2040, having passed the speed test of 80 w.p.m. applicants were further promoted in the pay scale of Rs.1400-2600 in Zonal Railways.
3. In pursuance of Fourth Central Pay Commission's recommendations, Government of India vide OM dated 29.10.86 extended the orders of revision of pay scale to the employees of Autonomous Organizations as well. For Central Government employees vide OM dated 31.7.1990 pay scale was revised to Rs.1640-2900 w.e.f. 1.1.86 in the case of Stenographers Grade 'C'.
4. On passing Stenographers test at the speed of 100 w.p.m. incumbents are promoted to the pay scale of Rs.1640-2900. Applicants preferred OA-1305/2004 for parity of pay scale. By an order dated 26.5.2004 directions have been issued to dispose of the representation, which on rejection by respondents, gives rise to the present OA.

5. Learned counsel for applicants states that in CWP No.3342/95, High Court of Delhi in **S.C. Vats v. D.D.A.** by an

order dated 17.5.95 granted pay scale of Rs.1640-2900 w.e.f. 1.1.1986, which was affirmed in LPA No.309/98 vide order dated 10.12.2001. In the above view of the matter it is stated that applicants are also entitled to similar treatment.

6. One of the arguments advanced is that whereas in the Railway Board, attainment of 100 w.p.m. speed entitles a Stenographer to the pay scale of Rs.1640-2900, whereas in the Zonal Railways there is an intermediary grade and as there is no rational for creating this difference and the only difference is on account of placement in different wings, whereas the Stenographers perform identical duties and have all functional requirements identical, doctrine of 'equal pay for equal work' steps in and the action of the respondents is discriminatory and violative of Article 14 of the Constitution of India.

7. Learned counsel would contend that this aspect of the matter regarding comparability with Stenographers in Railway Board has not been discussed in the impugned order.

8. On the other hand, respondents' counsel vehemently opposed the contentions and stated that as all the functional requirements, including mode of recruitment etc. are different in case of Stenographers in Railways and Stenographers Grade 'C' in CSSS, the claim of applicants is misconceived.

9. As regards decision of the High Court (supra) it is stated that therein the Autonomous Body was involved whereas the issue is not covered with CCS (RP) Rules, 1986.

10. Learned counsel states that paragraph 176 of the Indian Railway Establishment Manual, Volume-I (IREM-I, for short) defines the hierarchy and as the pay scale of Rs.1640-2900 is a promotional scale the same cannot be accorded to applicants. It is stated that there is a difference in the duties and other functional requirements. Accordingly principle of 'equal pay for equal work' would not be attracted.

11. We have carefully considered the rival contentions of the parties and perused the material on record. It is trite law that in the matter of parity of pay it is for the expert body like Pay Commission to evaluate the duties and responsibilities and the Court would not assume their role. However, if in the parity of pay on judicial review it is found that whereas two classes are identically situated in all respects and there is no reasonable differential criteria then treating equals unequally would be infraction to the doctrine of equality, laid down under Article 14 of the Constitution.

12. Although we have in mind paragraph 176 of the IREM-I where four grade structure is specified for Stenographers, yet in the Railway Board Stenographers performing identical duties and all functional requirements being identical, on attainment of speed of 100 w.p.m. grant of pay scale of Rs.1640-2900 and depriving applicants to the same pay scale when they discharge the same functions and shouldering the same responsibilities is an infraction to the doctrine of equal pay for equal work.

13. Though applicants have taken a plea of their comparison with the Stenographers of Railway Board, yet we do not find any discussion to this regard in the impugned order passed by respondents.

14. As there is non-application of mind, this OA is partly allowed. Impugned order is set aside. Respondents are directed to re-examine the claim of applicants vis-à-vis Stenographers in Railway Board and thereafter to pass detailed and speaking orders, within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)

Member (J)

'San.'

V.K. Majotra
(V.K. Majotra)

Vice-Chairman(A)

25/7/05