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CAT/J/12

*Requestive of
case.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 582 of 1987
~~XXXXXX~~

DATE OF DECISION 27.3.1991

Kirtisinh D. Jadeja

Petitioner

Mr. V.S. Mehta

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. N.S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. R.C. Bhatt Judicial Member

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?

Kirtisinh D. Jadeja,
Retired Transit Inspector,
Western Railway,
'Satyarth',
12, Janta Janardan Society,
Race Course,
Rajkot-360 001.
(Advocate Mr. V.S. Mehta)

.. Petitioner

Versus

1. Union of India,
Through,
General Manager, W. Rly.,
Churchgate,
Bombay-400 020.
2. Director Establishment,
Railway Board,
Ministry of Transport,
Govt. of India, Rly. Dept.,
New Delhi.
3. Chief Commercial Superintendent,
Western Railway, Churchgate,
Bombay - 400 020.

(Advocate - Mr. N.S. Shevde) .. Respondents

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. R.C. Bhatt .. Judicial Member

O.A. No. 582 of 1987

O R D E R

Dated : 27.3.1991

Per : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

In this petition, under section 19 of the Administrative Tribunals Act, 1985, the applicant has asked for relief in terms of the applicant and other incumbants of the cadre of Transit Inspector Western Railway to be given all the benefits of restructuring and consequential increases in the higher graded post on upgradation on restructuring granted to the incumbents of the cadres of Commercial Inspector of Western Railway. The other reliefs claimed by him flow from this main relief. During the hearing, learned advocate for the applicant on being asked how other incumbents of the cadres can be given such a relief without

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this Tribunal involving itself into a major exercise of ^{make} restructuring and ~~without~~ ^{now passed and} other incumbent ~~is~~ being parties, in the case, he stated that he restricts his relief only to the applicant in this case. He pleads that the case was first taken up in the Gujarat High Court which had asked for a speaking order to be issued by Director Establishment Railway Board, ~~This~~ speaking order is annexed at Annexure A and is dated 25.10.1985. The main grievance of the petitioner is that as stated in para 4:2 of that order, the Railways order dated 20.12.1983 in so far as it is applicable to the category of the Commercial Clerk should be applied to all the employees working in the Transit Cell of Western Railway. The memorandum dt. 19.11.1986 annexed at Annexure A-1 follows and implements the conclusion of the speaking order referred to above. In that memorandum the pay scale of Rs. 455-700 applicable to Transit Inspector has been upgraded to Rs. 550-750. The revision of the cadre involves reduction of some posts as stated in that memorandum. As a result, the applicant finds his pay scale increased from 455-700 to 550-750. The grievance is that Transit Inspector who are doing an important job have been equated with Commercial Clerk and the resultant treatment to them has not given them benefits and terms of increase of post as has been allowed to Commercial cadres of Inspector, that those promotion prospects and increase of pay scales available to the petitioner are much less compared to those made available to Inspector, therefore he should be treated at par with Commercial Inspector and not Clerks.

2. Learned advocate for the respondents states that the order of the Director Establishment has been passed following directions of the Hon'ble Gujarat High Court. In Para 2:3 he has noted that during the hearing, the Transit Inspectors have modified their stand and stated

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that they should be given the cadre structure applicable to the Traffic Inspector and Office Ministerial Staff which are placed in a slightly more advantageous position. The officer has further noted that the restructuring orders have been issued by the Ministry separately for the Commercial Inspectors, Traffic Inspectors, Commercial Clerks, Office Ministerial Staff etc. with varying percentage for posts in different scales.

3. Another plea of the petitioner is that the ~~day~~ of ^{should have} increase of post, ~~has~~ been uniform between the Transit Inspector and Commercial Inspector. He has been unable to show why uniformity of increase is necessary or incumbents from any policy, direction or rule in support of his contention.

4. After hearing learned advocates, we find there are several important hurdles which cannot be crossed by the petitioner for obtaining relief ^{which} he has claimed. The hurdles arises from the nature of relief itself. Although he restricts his relief only to himself, it is obvious that if granted there would be discrimination against other similarly situated who would raise their claim as a result. The nature of the relief would open the doors by ^{our} judicial intervention for a revision of ^{order of} restructuring which has been considered appropriate by the respondent authorities. It is well established that revision of pay scale and of posts and of restructuring of cadres is within the scope of policy making by the executive and on a proper consideration of the question they have to make an appropriate decision, wherever necessary after obtaining reports of competent bodies like Pay Commission or Staff ^{Cadre} Selection Commission created for this purpose. The second hurdle is that out of ^{numerous} ~~innumerous~~ before the Gujarat High Court, only the petitioner has come up for obtaining

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relief against the impugned orders of the Director Establishment and the memorandum arising out of it. Obviously, any orders therefore, passed in his favour would effect those who ~~are~~ ^{were} parties before the Gujarat High Court but ~~not~~ ^{> are not} in this case. The High Court's directions have been fulfilled adequately by the orders given by the Director Establishment and there is no dispute that the petitioners were allowed opportunity and were in fact heard by the Director Establishment. The third hurdle is that on fact ^w there is nothing shown why ~~it~~ ^w incumbent on the railway authorities not to give the same treatment to the Transit Inspector as is given to Clerks and not to the Commercial Inspector because quite possibly the Commercial Inspector and Transit Inspector Differ in ^{and} the numbers of their ~~xxx~~ cadre ⁱⁿ in their recruitment and no ^{common} policy regarding restructuring would be adopted for them. It also appears that ~~on~~ one stage, the Transit Inspectors themselves had modified their stand earlier prayed ~~before~~ before the Gujarat High Court when they were given hearing by the Director Establishment. During the hearing, learned advocate for the petitioner stated that the statement as recorded in this respect as reproduced ^{above} is not factual but there appears to be clear proof that Director had applied his mind to the question of giving treatment to Transit Inspector analogous to that to Commercial Inspector, Traffic Inspector or Ministerial Staff.

5. Inspite of these hurdles, although we do not feel it necessary, proper or justifying in the facts and circumstances to go to the extent of giving any direction ~~that it is~~ ^{we would} ^{like to} ~~proper~~ ^{done} to make ~~such~~ observations. We find that in the memorandum at Annexure A-1 dt. 19.11.1986 there is no mention in terms to the post or pay scale of Transit Inspector and it is not clear whether that memorandum therefore fully incorporates

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the decision in respect of restructuring regarding Transit Inspectors. We, therefore, do not exclude the possibility of there being left some room for the grievance of the petitioner to be considered by the respondent authorities at the level of Director Establishment to consider appropriate relief, the petitioner may avail of the opportunity of placing his grievance before the Director and in doing so plead his case on the basis of his petition before us. If necessary Member (Staff) may also give a further hearing to the petitioner to consider whether there is justification to give the treatment to Transit Inspector, analogous to that given to Commercial Inspector instead of Clerks. We are confident that these authorities will not hesitate to pass orders on merits for doing so merely for the reason that the petitioner having brought his grievance before this Tribunal.

With the above direction, we dispose of the case.
No order as to costs.

R C Bhatt
(R C Bhatt)
Judicial Member

P H Trivedi
(P H Trivedi)
Vice Chairman

*Mogera