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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

*NO
Revised
pay scale*

O.A. No. 94 OF 1990 and O.A. 95 OF 1990
~~XXXXXX~~ **and O.A. 96 OF 1990.**

DATE OF DECISION 03.12.1992.

Shri A.S.Pujara and Others. **Petitioners**

Shri M.B.Buch. **Advocate for the Petitioner(s)**

Versus

Union of India & Ors. **Respondent**

Shri B.R.Kyada. **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. N.V.Krishnan : Vice Chairman

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

O.A.NO. 94 OF 1990

Shri A.S.Pujara,
Taragauri Mension,
3 Kotak Street,
Rajkot - 360 001.

...Applicant.

(Advocate : Shri M.B.Buch)

Versus

1. Union of India,
(Notice to be served through :
Secretary to Govt.of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. General Manager,
Western Railway
Church Gate,
Bombay - 400 020.
3. Divisional Office,
Office of DRM, Western
Railway, Rajkot Division,
Rajkot.

...Respondents.

(Advocate : Shri B.R.Kyada)

O.A./95/90

Sum. Roshan A.Jam,
104-D, Kothi Compound,
Rajkot.

...Applicant.

(Advocate : Shri M.B.Buch)

Versus

1. Union of India,
(Notice to be served through :
Secretary to Govt.of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.
2. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
3. Divisional Office,
Office of DRM,
Western Railway,
Rajkot Division,
Rajkot.

...Respondents.

(Advocate : Shri B.R.Kyada)

O.A.No.96 OF 1990.

Shri Yunus A.Jam
104-D, Kothi Compund,
Rajkot.

...Applicant.

(Advocate : Shri M.B.Buch)

versus

1. Union of India,
(Notice to be served through :
Secretary to Govt. of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.

2. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

3. Divisional Office,
Office of DRM,
Western Railway,
Rajkot Division,
Rajkot.

...Respondents.

(Advocate : Shri B.R.Kyada)

O R A L O R D E R
O.A.NO. 94 OF 1990. and
O.A.NO. 95 OF 1990. and
O.A.NO. 96 OF 1990.

Dated : 03.12.1992.

Per : Hon'ble Mr.N.V.Krishnan : Vice Chairman.

These three applications are being disposed of by this common order with the consent of the parties ~~xxx~~ as they raise similar issues.

2. It is sufficient if the facts of O.A./94/90, are briefly stated. The applicant was appointed on 25/5/84, under the third respondent as a junior clerk on the pay scale of Rs.260-400 in the Sports Quota and, therefore, his pay

When was fixed at the maximum of pay scale i.e., Rs.400/- the revised pay scales came in to force w.e.f. 1.1.1986, the normal rules of fixation ~~is~~ of pay, in the revised pay scales were applied and accordingly, the applicant's pay was fixed at Rs.1,350/- P.M. from 1.1.86, in the corresponding revised pay scale of Rs.950-1500/-.

3. The applicant would not probably have had any grievance with this re-fixation of the pay but for the fact that, subsequent to 1.1.86, the initial pay of one Girish Jivrajbhai Tank, who was ~~also~~ appointed on 11.11.86 against the Sports' Quota, to the same post of junior clerk in the revised scale of Rs.950-1500/- was fixed at the maximum of Rs.1,500/- of that pay scale. In other words, he was given the benefit of the maximum of the pay scale then prevailing. There is also another such instance viz. that of Sudhir Shantilal Tanna appointed on 1.9.87 against the Sports Quota, as Junior clerk on the pay scale Rs.950-1500, and his pay was also fixed at the maximum of the pay scales viz. Rs.1500/-, The applicant felt aggrieved by what he felt to be discrimination between Sportsmen. He therefore, made a representation (Annexure-A-III) dated 25.11.1986, addressed to the General Manager, Western Railway, the second respondent. In this representation he has not specifically referred to the initial pay fixation of his juniors Tank and Tanna, at the maximum of the pay scale but he has stated, that those appointed on Sports Quota after 1.1.1986, have been given the maximum of the pay scale (i.e. Rs.1500/-) as starting pay. He also made

the following averments in that representation :

"According to policy laid down by the Government that one who has been appointed by GM on Sports Quota should be awarded a maximum pay. In this way, my pay may please be fixed as Rs.1500/- per month, ~~as~~ i.e., maximum scale of Junior Clerk."

This representation was rejected as is clear from the letter dated 13.1.1986 (sic.13.1.1987) ~~and~~ of the third respondent addressed to him.

4. The applicant made one more representation on 25.3.1987, Annexure-A-4, to the General Manager (along with the applicants in the two other cases). This representation was considered and the applicants were advised by the third respondent's letter dated 20.5.1987 (Annexure-IV) that their pay has been fixed correctly. One more representation to the Railway Board on 15.6.1987 (Annexure-V) by the three applicants met with the same fate ~~vide~~ third respondents letter dated 30.7.1987 (Annexure-V).

5. Hence, this application has been filed for a declaration that the fixation of his pay at Rs.1350/- from 1.1.1986 is violative of Articles-14, and 16 of the Constitution of India, and that a direction be given to the respondents to fix his pay from 1.1.1986 at Rs.1,500/- being the maximum of the revised pay scale of Rs.950-1500/-.

6. The material facts in the other two applications are also similar. In O.A./95/90, the applicant was appointed on 12.8.1981, at the maximum of Rs.400/- in the pay scale of Rs.260-400/-. In the revised pay scale ~~of~~ her pay was fixed at Rs.1,350/-, from 1.1.1986. The applicant in O.A./96/90, was appointed on 3.7.1984, at the maximum of pay scale of Rs.260-400/- and on 1.1.1986, his pay on the revised pay scale was fixed at Rs.1,350/-. All the applicants have a common prayer as mentioned above.

7. The respondents have filed a reply stating that the pay of the applicants from 1.1.1986 in the revised pay scale, has been fixed in accordance with the rules relating to fixation of pay in the revised pay scales and that, therefore, the applicants are not ~~any~~ entitled to any relief.

8. We have heard the parties and perused the records.

9. The learned counsel for the applicants sought to get support for their case from the second proviso to Rule-8, of the extracts of the Rules produced, by the respondents as Annexure-R-1, being extracts from the notification no. PC-IV/86/RSR/1 dated 19.09.1986, which reads as follows :

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"8. Date of next increment in the revised scale -

The next increment of a Railway servant whose pay has been fixed in the revised scale in accordance with sub-rule (1) of rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing rule;

Provided that in cases where the pay of a Railway servant is stepped up in terms of Note 3 or Note 4 or Note 7 to sub-rule (1) of rule 7, the next increment shall be granted on the completion of qualifying service of twelve months from the date of the stepping up of the pay in the revised scale;

Provided further that in cases other than those covered by the preceding proviso, the next increment of a Railway servant, whose pay is fixed on the 1st day of January, 1986 at the same stage as the one fixed for another Railway servant junior to him ~~is~~ in the same cadre and drawing pay at a lower stage than his in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier;

A plain reading of the proviso~~s~~ show that they deal with date of increment and not pay fixation as such and will be attracted only if comparison is made with juniors who had been in service before 1.1.86, on ^{the} pre-revised scales of pay. ^u Hence this rule has no relevance.

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10. Though the applicant has contended in para-4, of his representation dated 25.11.1986, Annexure-A-3, that the policy laid down by the Government is that the persons appointed to the Sports Quota should be given as starting pay the maximum of the pay scales, the applicant has not produced any document to prove this contention. He only tried to point out that this appears to be the practice as would be evident from the way, the pay of the three applicants was fixed in the pre-revised pay scales which were applicable when they joined service, and the pay of Tank and Tanna were fixed in the revised pay scales which were in force when they joined. We also find that there is no specific reply to this contention in the replies given to the applicants earlier. The reply to the learned O.A. also does not elucidate this matter. The learned counsel for the respondents submits that he has no information whether there is a such policy decision of Government as averred by the applicant.

11. In this view of the matter we find that it will be only fair that the applicants are given an opportunity to represent their case to the first respondent through the proper channel (i.e., Divisional Railway Manager/General Manager), based on the existence of such a policy as is referred to in the extract in para- 3, Supra and to consider whether fixing their pay at Rs.1350/- on the pay scale, Rs.950-1500/- from 1.1.86, is not inconsistent in with this policy.

12. In these circumstances we dispose of these applications with the following directions :

(a) The applicant in each O.A. is permitted to send, within one month from the date of receipt of this order, through the proper channel, a detailed representation to the first respondent, to consider his claim for fixation of pay from 1.1.1986 at Rs.1,500/-i.e., the maximum of the pay scale Rs.950-1500/-.

(b) In case such representation is received the third respondent is directed to transmit it immediately with his comments, if any, to the second respondent. If the second respondent finds merit in the representation and that the prayers are in accordance with law, he shall allow them and grant the necessary relief within two months from the date he receives the representation. If he feels otherwise, he shall forward the same to the first respondent, within the same period with his comments and the first respondent shall consider the representations afresh and dispose them of in accordance with law, within two months ~~from~~ of the date of their receipt, under intimation to the applicant.

13. These three applications disposed of accordingly.

A copy of this order shall be placed in each of the case.

Sd/-.
(R.C. Bhatt)
Member(J)

Sd/-.
(N.V. Krishnan)
Vice Chairman

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Date	Office Report	ORDER
20/7/93		<p>Mr. Kyada is present for the original respondents. None is present for the applicant. M.A./333/93 is filed by respondents in O.A./95/90 for extension of further period of 6 months to the respondents to decide the representation made by the applicant. O.A./95/90 was decided on 3/12/92. Separate representation from the applicants' have been received by the respondents on 26/2/93. and thereafter 4 detailes of service were collected by the respondents and sent to Head Quarter office for decision on 11/3/93 as mentioned in M.A.. Thereafter, she 4 months have passed, still the decision is not taken by the respondents on the representation. No reply is filed to this M.A.. In the interest of justice, we extend time upto 31/8/93.. M.A. is disposed of accordingly.</p> <p style="text-align: right;">N (R.C.Bhatt)</p> <p style="text-align: left;">M.R.Kolhatkar (M.R.Kolhatkar) Member (A)</p> <p style="text-align: right;">Member (J)</p> <p style="text-align: center;">Sah</p>

Date	Office Report	Order
3-11-93		<p>None is present for the applicant. Mr.Kyada is present for the respondents.</p> <p>2. The respondents have filed this M.A.on 8/10/93 for extention of time for a further period of 6 months to decide the representation made by the applicant as per the order of this Tribunal dated 3/12/1992. It is mentioned in the M.A.that the representation was given to the department on 26-2-93 and then it was sent to Head Quarter office for decision on 11th March,1993. It is sad that even till today the respondents has^{Order} not complied with our order that they had decide the representation within 2 months from the receipt of the representation. Though, we see no justification in ^{for} extention of time as prayed, we, in the interest of justice, last chance give time ^{time} to the respondents to comply with our order by 15-12-93 and thereafter no further time will be given. M.A. is disposed of.</p>
		<p><u>M.R.Kolhatkar</u> (M.R.KOLHATKAR) Member (A)</p> <p><u>R.C.Bhatt</u> (R.C.BHATT) Member (J)</p> <p>ssh</p>