

3 (10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
AT JAIPUR

O.A. No. 602/90

DATE OF DECISION 2.6.1992

Commercial Inspectors
Welfare Association &
Another.

Petitioner/Applicants

Mr. Prahlad Singh

Advocate for the Petitioner(s)

VERSUS

Union of India & Others

Respondent

Advocate for the Respondent(s)

CORAM:

Hon'ble B.B. Mahajan, Member (Adm.)
Hon'ble Gopal Krishna, Member (Judl.)

Mr. GOPAL KRISHNA, MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*.
2. To be referred to the Reporter or not? *yes*.
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*.
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*.



G. Krishna
(Gopal Krishna)
Member (Judicial)

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

Date of Decision : 2-6-92 .

O.A. No. 602/90

Commercial Inspectors Welfare Association & Another	...	Applicants
Mr. Prahlad Singh	...	Counsel for Applicants
Union of India & Others	...	Respondents

CORAM:

Hon'ble B.B. Mahajan, Member (Adm.)
Hon'ble Gopal Krishna, Member (Judl.)

MR. GOPAL KRISHNA, MEMBER (JUDICIAL) :

Applicants appointed as Commercial Inspectors in the Western Railway have filed this application under Section 19 of the Administrative Tribunals Act, 1985 (for short, the Act) for directing the respondents to allow them the benefits of revisions of pay vide Railway Board Circular dated 15.5.87 from that date with consequential benefits.

2. The facts of the case giving rise to this application may be briefly stated as follows :

... 2 ..



G.Krishna

192

- 2 -

Applicant No. 1 is an association of Commercial Inspectors working under the Western Railway and it has been formed for the purpose of espousing the cause of its members before the railway authorities and other concerned authorities. Applicant No. 2 is an active member of the Commercial Inspectors Welfare Association (Applicant No. 1) and he is posted as Commercial Inspector (Control), D.R.M, Office, Western Railway, Ajmer. The members of this association were recruited as Commercial Apprentices in the Western Railway with effect from 18.8.86 and the recruitment was made after selection by the Railway Service Commission. Shri O.P. Kulshrestha, Secretary of the Applicant No. 1 was asked to report for training with effect from 18.8.86 vide Annexure A-2. Thereafter, thirteen Commercial Apprentices were admitted for training vide Annexure A-3. After the completion of two years training they were confirmed as Commercial Inspectors in September, 1988 in the grade of Rs. 455-700 (Revised 1400-2300). The respondent No. 2 had issued a letter No. E(NG)/II/84/RC.3/15(AIRF) New Delhi, dated 15.5.87 to the General Managers of the Railways and Chairmen of all Railway Recruitment Boards, which, inter-alia, provides that in future the ^{recruitment of} Traffic and Commercial Apprentices should be made in the grade of Rs. 550-750 (1600-2660) (RP), the qualification for recruitment would continue to be graduation except that in the case of Commercial Apprentices, additional qualifi-



Cpl.

Cpl.

- 3 -

cation of a degree of law would not be necessary.

It further provides that Commercial Apprentices would be recruited also for the posts in the scale of Rs. 550-750/1600-2660 (RP). Para 2 (12) provides that Apprentices under training will be absorbed only in the scale of Rs. 455-700/1400-2300 (RP) or Rs. 470-750/1400-2600 (RP), as the case may be for which they have been recruited. Para 2 (15) provides that Traffic/Commercial Apprentices working in the lower scale of Rs. 455-700/1400-2300 (RP) and Rs. 470-750/1400-2600 (RP) on getting selected for recruitment in the higher scale of Rs. 550-750/1600-2660 (RP) as per above provisions, will not be required to be sent for training again. They will, however, have to appear for and qualify the final retention test alongwith their batchmates and their seniority will be regularised as per normal rules alongwith other candidates in that batch vide Annexure A-1. It is averred that O.A. Nos. 322/88 and 488/87 were filed against the letter dated 15.5.87 (Annexure A-1) before the Hon'ble Madras Bench of this Tribunal which vide its judgement dated 4.12.89 had directed the respondents that the benefits of the revision of pay and fitment



Chakrabarti

- 4 -

on absorption vide Railway Board's letter dated 15.5.87 should be given to the applicants in both the O.As with consequential monetary benefits exempting them from any further retention test. A review of the said order dated 4.12.89 was sought but the review petition was dismissed and the Hon'ble Madras Bench of this Tribunal^{held} that the benefits accruing out of a judicial decision have to be uniformly^{ly} made applicable even to those employees who have not chosen to approach the Tribunal and a direction has been given that the respondents will have to implement the order in the context of all those persons recruited under the old scheme. The SLP against this judgement was dismissed by the Hon'ble Supreme Court on 23.7.90. It is further averred that the Ernakulam Bench and the Bombay Bench of this Tribunal have taken similar views. Thereafter, representations were made from time to time by all the serving Commercial Inspectors in different Divisions of the Western Railway vide Annexures A-4, A-5, A-6, A-10 to the concerned authorities and a notice of demand for justice dated 22.10.90 was sent by all

G₂



C. Krishna.

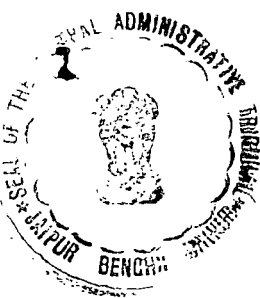
15

- 5 -

the Commercial Inspectors who were members of the Applicant No. 1 vide Annexure A-11 but their grievances could not be redressed.

3. We have heard the learned counsel for the applicants. We have carefully perused the records. No reply to the application was filed on behalf of the respondents or any one of them in spite of repeated opportunities and none has been present for respondents although notices had been served on them.

4. The point to be determined is whether the applicants are entitled to the pay scale of Rs. 1600-2660 after completion of their training for two years as claimed by them. It is urged on behalf of the applicants that the denial of the benefits of revision of pay scales to the applicants vide letter dated 15.5.87 (Annexure A-1) is illegal, arbitrary and unreasonable. It is true that the respondents by the circular dated 15.5.87 have tried to make a distinction between the applicants and those persons recruited after the issue of the letter dated 15.5.87. It would be unfair and unreasonable to treat those recruited prior to the issue of the letter dated 15.5.87 and those recruited after that



C. Krishna

16

- 6 -

date as belonging to two different categories. It is also contended on behalf of the applicants that there could be no reasonable classification on the basis of litigating and non-litigating employees and denial to the applicants of the benefit which has been allowed to similarly circumstanced Traffic/Commercial Apprentices, who have filed cases before the Tribunal would also be violative of Articles 14 and 16 of the Constitution. There appears to be force in this contention. The respondents have not contested the application. In OA No. 117/91 Mithai Lal & Others Vs. Union of India and Others (decided on 27.4.92), the Jodhpur Bench of this Tribunal laid down as follows :

" It was held by the Hon'ble Supreme Court in K.I. Shpehard Vs. Union of India (1987 (2) SCALE 599) that "some of the excluded employees have not come to Court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners." (para 19). It has also been held by the Principal Bench of the Tribunal in ATR 1988 (2) CAT 518,



Cp Krishna

17

- 7 -

A.K. Khanna Vs. Union of India that not extending benefit of a judgement to the officials who are similarly situated would amount itself to a discrimination violative of Articles 14 and 16 of the Constitution (para 3). Since the applicants are similarly situated, they are also thus entitled to the benefit of the judgement by the Madras Bench and other Benches of the Tribunal as noted above." The application was accordingly allowed by the Jodhpur Bench.

5. In view of the above, we allow the application and direct that the benefits of revision of pay and fitment on absorption vide Railway Board's letter No. E(NG)II/84/RC.3/15(AIRF) dated 15.5.87 shall be given to the applicants from 15.5.87 ~~the applicants from 12.5.87~~ with consequential monetary benefits. This shall be done without putting them through any final retention test. We also direct that the fitment shall be done and arrears disbursed within a period of 90 days from the date of receipt of the copy of this order. The applicants shall also be paid costs @ Rs. 500/-



C.K. Khanna

... 8 ...