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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

OA No. 137/1994

Date of order: 19-2-1997

1. Commercial Welfare Inspectors (Promotee) Association, Western Railway, represented by Shri Noor Mohammad, who is President of the Association.
2. Noor Mohammad S/o Shri Nazir F/o Fida Hussain Khatha Building, Gurudwara Road, Kota.

Versus

1. Union of India represented by the General Manager, Western Railway, Churchgate, Bombay.
2. Commercial Welfare Inspectors Association (Direct Recruitment) represented by Shri O.P.Kulshrestha, posted as CMI, Bandikui, Western Railway, Jaipur.

Mr. P.P.Mathur, Advocate, Briefholder for

Mr. R.N.Mathur, counsel for the applicants.

Mr. Manish Bhandari, counsel for the respondent No.1.

CORAM:

Hon'ble Mr. Gopal Prishna, Vice Chairman

Hon'ble Mr. O.P.Sharma, Administrative Member

O R D E R

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants Commercial Welfare Inspectors (Promotee) Association, Western Railway, represented by Shri Noor Mohammad, President, who is also described as applicant No.2, have prayed that the members of the Commercial Welfare Inspectors Association (Direct Recruit) represented by Shri O.P.Kulshrestha, respondent No.2 in this OA, may be declared as junior to the members of the applicant association and that respondents No.1, the Union of India represented by the General Manager, Western Railway, Bombay may be directed to

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give pay scale of Rs. 1600-2660 (EP) to the members of the applicant association w.e.f. the earlier date from which this scale of pay has been given to the members of the association which is respondent No.2 in this application.

2. The facts of the case, as stated by the applicants, are that they were initially promoted as Commercial Inspectors from the lower posts, in the avenue of promotion, on different dates, in scale Rs. 1400-2300 (old scale Rs. 425-640) on dates all falling before 1987. They were promoted to scale Rs. 1600-2660 (EP) on various dates during 1988 and 1989. They have also got promotions to still higher grades, which fact, however, is not quite relevant for the purpose of deciding the present OA. The Railway Board issued a circular dated 15.5.1987 providing that Commercial Inspectors appointed from amongst the Commercial Apprentices shall be appointed in pay scale of Rs. 550-750 (corresponding new pay scale Rs. 1600-2660). The circular was to have prospective effect and was to be applicable only to those Commercial Inspectors who had been appointed from amongst Commercial Apprentices after 15.5.1987. The aforesaid circular was challenged before various Benches of the Tribunal with regard to the benefit of pay scale being given from the date mentioned in the circular. It was held by the various Benches of the Tribunal including the Jaipur Bench that the benefit of this higher pay scale cannot be denied to those Commercial Apprentices who had been appointed prior to 15.5.1987. The decision given by the Jaipur Bench of the Tribunal dated 2.6.1992 in OA No. 602/90, Commercial Inspectors Welfare Association and Anr. Vs. Union of India and Ors. is at Ann.E1 to the reply of respondent No.1. The Tribunal held that the Commercial Inspectors appointed from amongst the Commercial Apprentices are entitled to get all benefits of pay scale w.e.f. the

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date such benefit has been given to other Commercial Inspectors appointed in a similar manner and the circular dated 15.5.1987 issued by the Railway Board has been held to be illegal. Following the judgment of the Tribunal, the benefit of pay scale has been given to the Inspectors appointed from the category of Commercial Apprentices. But respondent No.1 has not only given benefit of higher pay scale Rs. 1600-2660 to the members of respondent association but has also assigned higher seniority to them. It is the case of the applicants that assignment of the higher seniority to them is illegal and arbitrary, inasmuch as, the Tribunal never issued directions regarding assignment of higher seniority to them. Seniority and grant of higher pay are two different matters. Though there is an anomaly, in that juniors have been given higher pay scale but this fact alone would not entitle them to higher seniority over their seniors.

3. The respondent No.1, the Union of India represented by the General Manager, Western Railway, Bombay has filed its reply with which, as stated earlier, it has annexed Ann.E1 being the judgment of this Bench of the Tribunal on the basis of which action impugned by the applicants was taken by the respondents.

4. We have perused the material on record including the reply of respondent No.1. We have also heard the Briefholder for Mr. F.N.Mathur, counsel for the applicants and Mr. Manish Bhandari, counsel for respondent No.1. None has represented respondent No.2 nor has any reply been filed on behalf of respondent No.2 i.e. Commercial Welfare Inspectors Association (Direct Recruit).

5. The issue arising in this OA had now been resolved by the Hon'ble Supreme Court by its judgment dated 6.5.1996 in Union of India and Anr. etc. etc. Vs. M.Bhaskar


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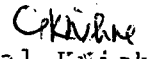
and Ors. etc. etc. reported at 1996 (2) SLJ 25. In this judgment the Hon'ble Supreme Court has held, reversing the decision of the various Benches of the Tribunal on the issue, that Traffic/Commercial Apprentices appointed prior to 1987 cannot be granted the benefit of higher pay scale of Rs. 1600-2660 in terms of the Railway Board's OM dated 15.5.1987. Thus the benefit of higher pay scale granted to such Commercial Apprentices by the judgments of various Benches of the Tribunal has been taken away by the judgment of the Hon'ble Supreme Court. The learned counsel for the respondent No.1 placed before us during the arguments a copy of an order dated 16.12.1996 passed by the Jaipur Division of the Western Railway whereby the benefit of higher seniority granted to some members of the respondent association i.e. Commercial Welfare Inspectors Association (Direct Recruit) has been withdrawn following the judgment of the Hon'ble Supreme Court, referred to above. Thus the first prayer of the applicants, regarding members of the respondent association being declared as junior to the members of the applicant association stands redressed. As regards the second prayer of the applicant association that its members may be given pay scale of Rs. 1600-2660 (RF) w.e.f. the earlier date from which such scales have been given to members of the respondent association, it has now become infructuous, in view of the fact that grant of higher pay scale to the members of the respondent association would not be admissible because of the judgment of the Hon'ble Supreme Court.

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6. In the result, the OA is disposed of accordingly. No order as to costs. A copy of the order dated 16.12.1996 presented by respondent No.1 is taken on record.


(O.P.Sharma)
Administrative Member


(Gopal Krishna)
Vice Chairman