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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2865 /2003

This the 1st day of September, 2004.

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

Indian Railway Statistical Inspectors
Association,
224/1, Railway Colony,
Kishan Ganj, Delhi-110007
through

1. Shri K. K. Singh,
Secretary.
2. Shri Sunil Kerketta,
Statistical Inspector,
Northern Railway,
Baroda House, New Delhi.
3. Shri Ashok Kumar,
Statistical Inspector,
Northern Railway,
Baroda House, New Delhi.
4. Shri M. K. Jain,
Statistical Inspector,
Railway Board, New Delhi.

... Applicants

(By Shri B. S. Maine, Advocate)

-versus-

1. Union of India through
Railway Board,
Ministry of Railways,
Rail Bhawan, New Delhi.

... Respondents

(By Shri Shailendra Tiwari, Advocate)

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O R D E R (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :

Applicants are aggrieved by Annexure A-1 dated 30.1.2001 in terms of which the Statistical Inspectors have been provided the replacement scale of Rs.5000-8000/5500-9000 w.e.f. 30.1.2001 instead of 1.1.1996. It is contended that while all recommendations of the Fifth Central Pay Commission (CPC) were implemented w.e.f. 1.1.1996, applicants have been discriminated against in this connection and have been allowed the benefit w.e.f. 30.1.2001. They are also aggrieved that respondents have not provided the apex scale of Rs.7450-11500 in the category of Statistical Inspectors though all other categories with which the applicants had been clubbed, particularly the ministerial category, were allowed the apex scale.

2. The learned counsel of applicants stated that the pay scales and percentage of the posts in various pay scales of the Statistical Inspectors were at par with Welfare Inspectors, Personnel Inspectors, Publicity Inspectors etc., and after the 3rd CPC there were three pay scales as below :

i)	Rs.425-640 Rs.425-700	30%
ii)	Rs.550-750	40%
iii)	Rs.700-900	30%

The Statistical Inspectors were in scale Rs.425-700 while other Inspectors such as Welfare Inspectors, Personnel Inspectors etc. were in scale Rs.425-640. After 4th CPC, Commercial Inspectors,

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Traffic Inspectors and Statistical Inspectors were placed in the initial scale of Rs.1400-2300. The next higher scale of Rs.550-750 was replaced by Rs.1600-2660/5500-9000. However, after the 5th CPC recommendations the pay scale of Rs.1400-2300 of all other categories of Inspectors who were earlier at par with the Statistical Inspectors were replaced by Rs.5000-8000, yet the Statistical Inspectors were placed in the lower scale of Rs.4500-7000. It is contended that the case of Statistical Inspectors was neither put up before nor considered by the 5th CPC with the result while the pay scale of Rs.1400-2300 for all other categories of Inspectors was replaced by Rs.5000-8000, the case of applicants was inadvertently left out. The Railway Reforms Committee (1984) had recommended that most of the Statistical Inspectors and Supervisors should be in the highest grade available to Class-III non-gazetted staff. The Railway Board decided that the Committee's recommendations would be kept in view at the time of undertaking cadre review on the Railways. According to the applicants, though several upgradations have since taken place in inspectorial cadres of other departments, the cadre of Statistical Inspectors has been stayed put since 3rd and 4th CPCs. On the representation of applicants, the matter was referred to the Departmental Anomalies Committee (DAC) which made the following recommendations :

“Improvement in pay structure of Statistical Inspectors had been agreed to in principle. Since this is a peculiar category where recruitment of graduates is not resorted to, 100% posts are filled up from amongst Senior Clerks who are graduates with specific background. This is a unique feature in the

case of this category. Further induction as Statistical Inspector is an irreversible process and the incumbents do not have the choice to go back to their parent cadre. Considering all aspects, it was agreed that this category may also be dealt with as a left out category with improvement of pay scales being effected with the approval of MR.”

3. The learned counsel of the applicants summed up the anomaly pertaining to the Statistical Inspectors as under :

- “i) 100% of Statistical Inspectors Gr.III are filled up from Volunteers from amongst Senior Clerks, with three years service. Earlier, Sr. Clerks were in grade Rs.1200-2040 and Statistical Inspectors Grade-III in next higher Gr. 1400-2300. Now Fifth Pay Commission has upgraded the scale of Sr. Clerks to Rs.1400-2300 and, in the absence of any positive recommendation, Statistical Inspectors Gr.III retain the old scale of Rs.1400-2300 only. The result, Sr. Clerks with three years will not volunteer to become Statistical Inspector Gr.III which is in the same scale.
- ii) Further, the Pay Commission has recommended, for the first time, the highest Group ‘C’ grade Rs.7450-11500 to the Ministerial cadre (viz. Chief Office Supdt.) which the Sr. Clerk can aspire to become in his own line. But, in the replacement scales of Statistical Inspectors there is no provision for Grade Rs.7450-11500 and as such, since induction as Statistical Inspector is an irreversible process, the career of Sr. Clerks who volunteer to join as Statistical Inspectors is doomed.”

As such, applicants have sought that they should be accorded the revised scale of pay of Rs.5000-8000 and 5500-9000 w.e.f. 1.1.1996 as available to other inspectorial cadres. They have also asked for apex scale of Rs.7400-11500 as available to all other categories of Inspectors and even the ministerial staff. The learned counsel has

relied on **State of Punjab v. Bhupinder Singh & Ors.**, 2004 (1) SC SLJ 547.

4. The learned counsel of respondents, on the other hand, stated that the 5th CPC had not made any specific recommendation about the pay scale of Statistical Inspectors, therefore, the normal replacement scale, i.e., Rs.4500-7000/5000-8000 had been provided to them w.e.f. 1.1.1996 from which date all recommendations made by the 5th CPC were implemented. However, keeping in view the anomaly created due to allotment of improved pay scale to the category of Senior Clerks which is the feeder category for Statistical Inspectors, the DAC recommended improvement in their scales and in pursuance of these recommendations Statistical Inspectors were provided the following improved scales w.e.f. 30.1.2001 :

IV CPC Scale	Revised Scale w.e.f. 1.1.1996	Improved Scale w.e.f. 30.1.2001
1400-2300	4500-7000	5000-8000
1600-2660	5000-8000	5500-9000
2000-3200	6500-10500	6500-10500

The learned counsel contended that as the 5th CPC had not made any specific recommendation regarding the Statistical Inspectors they were granted the normal replacement scale, i.e., Rs.4500-7000/5000-8000 w.e.f. 1.1.1996 and further the proposal of granting apex Group 'C' scale Rs.7450-11500 was not granted on consideration by the Government. He relied on **Union of India v. Tarit Ranjan Das**,

 (2003) 11 SCC 658 .

5. The learned counsel of the respondents has also shown us the departmental record relating to anomaly and respondents' action concerning the applicants.

6. Admittedly, the Statistical Inspectors were in the higher scale of Rs.425-700 vis-à-vis other categories of Inspectors who were in scale Rs.425-640 after the 3rd CPC recommendations. After the 4th CPC, aforesaid other Inspectors were placed in the initial scale of Rs.1400-2300. The next higher scale of Rs.550-750 was replaced by scale Rs.1600-2660/5500-9000 and the scale Rs.700-900 was replaced by Rs.2000-3200/6500-10500. However, after the 5th CPC the pay scale of Rs.1400-2300 of all other categories of Inspectors who were earlier at par with the Statistical Inspectors was replaced by scale Rs.5000-8000 but the Statistical Inspectors were placed in the lower scale of Rs.4500-7000. It has not been established before us that the case of the Statistical Inspectors was considered and decided by the 5th CPC in any manner. Obviously, this category was left out by the 5th CPC. Vide Annexure A-4 dated 16.11.1984 relating to cadre review and restructuring all Group 'C' and 'D' cadres, the category of Statistical Inspectors was clubbed with Welfare Inspectors, Personnel Inspectors, Publicity Inspectors etc. The Railway Reforms Committee, (1984) recommended that most of the Statistical Inspectors and Supervisors should be in the highest grade available to Class-III non-gazetted staff so as to attract and retain talent and expertise. However, these recommendations were kept in abeyance for being taken up at the time of undertaking

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cadre review on Railways. In view of several upgradations in various inspectorial cadres except the cadre of Statistical Inspectors, on representation of Statistical Inspectors, the DAC considered the grievances of the applicants as anomalies. However, departmental recommendations have been turned down by the Department of Expenditure, Ministry of Finance.

7. We have considered the rival contentions as also the material available before us including the related departmental file. It is discovered that although the DAC as also the department had made specific recommendations relating to the anomaly in question, the Ministry of Finance, Department of Expenditure vide their OM dated 8.7.2003 rejected them on the ground that the 5th CPC had not considered and recommended in favour of the Statistical Inspectors.

8. In the case of **Tarit Ranjan Das** (supra) the respondents who were working as Stenographers Grade-II in the Geological Survey of India had claimed the same pay scale as paid to Stenographers Grade 'C' in the Central Secretariat. The 5th CPC having regard to comparative functional requirements and other aspects had held that there was no equivalence. It was further held that the principle of equal-pay-for-equal-work cannot be applied merely on the basis of designation or nature of work; other relevant factors have also to be taken into account. In our view, this decision has no application to the facts of the present case. While in the case of **Tarit Ranjan Das**, the 5th CPC had taken into consideration comparative requirements and other aspects of the respondents vis-à-

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vis the Stenographers Grade 'C' in the Central Secretariat, in the present case, the 5th CPC had not considered the claims of the applicants on merit. The category of Statistical Inspectors was clearly left out without considering their claims. Furthermore, the DAC as also the department had recommended scales for the applicants as available to other categories of Inspectors.

9. In the case of **Bhupinder Singh** (supra) the issue was whether the revised pay scales of skilled and semi-skilled staff working in the Printing and Stationery Department were applicable w.e.f. 1.1.1986, when 3rd Punjab Pay Commission gave its report, or w.e.f. 14.2.1989 when the State Government issued its notification implementing the recommendations of the Pay Commission. It was held that respondents would be entitled to revised pay scales w.e.f. 1.1.1986 notionally for calculation of retiral benefits but they would not be paid arrears of the difference in the pay scale from the date as claimed.

10. In the facts of the present case, the respondents have not contested that initially Statistical Inspectors had superior scale of Rs.425-700 vis-à-vis other Inspectors. After the 4th CPC, all Inspectors were placed in initial scale of Rs.1400-2300. Disparity commenced only after the 5th CPC. While the Statistical Inspectors were placed in the lower scale of Rs.4500-7000, other categories of Inspectors were upscaled to Rs.5000-8000. The 5th CPC had not considered claims of Statistical Inspectors and had not made any recommendations regarding them. They were left out of the

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Commission's consideration. Not only that the other categories received replacement scale of Rs.5000-8000, ministerial cadre was recommended rise up to the highest Group 'C' grade Rs.7450-11500, the recommendations of the DAC favouring the Statistical Inspectors and those of the department were turned down by the Ministry of Finance, Department of Expenditure obviously on the ground that the 5th CPC had not made any recommendations relating to their category.

11. Respondents have failed to establish before us that the claims of Statistical Inspectors were ~~considered and then rejected~~ by the 5th CPC. Obviously, their claims were not rejected on merits by taking into consideration the relevant factors, such as nature of work, duties and responsibilities, qualifications etc. of the applicants as Statistical Inspectors vis-à-vis other categories of Inspectors. Obviously, applicants had been meted out a discriminatory treatment. The ratio of the case of **Bhupinder Singh** (supra) is squarely applicable to the facts and circumstances of the present case.

12. Having regard to the facts and circumstances of this case as also the reasons as discussed above, we find substantial merit in this OA. However, the same is partly allowed as follows :

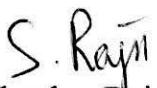
(1) Applicants shall be entitled to revised pay scale stated in Annexure A-1 w.e.f. 1.1.1996 notionally for calculation of retiral benefits but they will not be paid arrears of the difference in the pay scales from 1.1.1996, as claimed.

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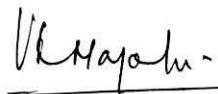
(2) Annexure A-1 dated 30.1.2001 would stand modified qua the applicants in terms of (1) above.

(3) Respondents shall consider providing apex scale of Rs.7450-11500 to the category of Statistical Inspectors as available to all other categories of Inspectors and even to the ministerial staff.

Respondents shall implement the above directions expeditiously and preferably within a period of three months from the date of communication of these orders.


(Shanker Raju)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)

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