

OA 706/2013 – IRTSA-vs-UOI - Higher Grade Pay to JE & SSE

Brief on the argument happened on 27.11.2015 at CAT Chennai

Argument placed by senior council on behalf of Railways

- Pay scales of JE & Senior. Tech were always equal from 1986 and there was no anomaly.
- Administrative decisions which are statutory in nature cannot be altered.
- Any alteration of Grade Pay to JE & SSE will have cascading effect upto top, which will disturb relativities.
- Applicants were given chance in the Pay Commission to argue their case.
- Pay scales were given based on Pay Commission's recommendations and there is no case for equal pay equal work.
- Applicant's Association is not a recognised one, since respondents need not reply to their memorandums and need not to convey the decisions taken on their demands.
- Has submitted a compilation on Supreme Court Judgements in support their argument that CAT should not alter the Pay scales & it should be left to the administration for deciding on the pay scale.
- Particularly quoted Civil Appeal No.77 of 2013 arising out of SLP 21221/2004, apex court said that "Central Administrative Tribunal exceeded its jurisdiction in issuing the directions, it has issued and the High Court was in error in not setting them aside and accordingly, the original applications filed before Central Administrative Tribunal were cancelled.
- There is no merit in applicant's arguments and the petition should be dismissed.

Argument placed by council on behalf of IRTSA

- ✓ Senior Technicians and Junior Engineers were in different scale as submitted in par 12 of rejoinder in page-8 and also in Annexure-7 of OA as in the para 54.36 of 5th Pay Commission report. Recruitment qualification, training, job requirements, etc are higher for JE.
- ✓ JE is promotional post & Senior Technician is feeder post – were given separate specific pay scales / Grade pay by pay commissions.
- ✓ 6th Pay Commission had recommended Grade Pay Rs.2800 to Senior Technicians. It recommended Grade Pay Rs.4200 by merging the JE-II in pre-revised pay scale of Rs.5000-8000 & JE-I in pre-revised pay scale of Rs.5500-9000. By placing senior Technician in the grade pay of Rs.4200, respondents not only equated them with JE-II, but also with JE-I who were two grades above.
- ✓ With regard to SLP 21221/2004 submitted by the respondent, it is submitted that
 - i. Honble Supreme Court has upheld the implementation of Anomaly Committee on the pay of typist for which no recommendations was given by Pay Commission.
 - ii. In this case 6th pay commission has given specific recommendations for the Grade Pay of Senior Technician and JE, placing the JE above Senior Technician, since JE is promotional post for senior technician having higher recruitment qualifications, trainings etc, which was altered by the respondent.
 - iii. Further decision taken by the respondent in DAC item no.3 (Page 33 of rejoinder) for grant of Grade Pay Rs.4600 to JE and Rs.4800 to SSE was not implemented by respondent. Thus respondents are arguing against their own decision.
 - iv. Basic spirit behind this OA is based on Supreme Court decision as per established law that "an equal cannot be over an equal", "Promotion' implies advancement to a higher grade" & "Supervisor should be in a scale higher than Supervised".
- ✓ Applicants' demand is not equal work equal pay, but higher pay for a post which has higher duties, responsibilities, accountabilities, etc.
- ✓ After many of the representations were not considered by the respondents, CAT is the legitimate channel available for the applicants.
- ✓ Applicants' petition has merit and shall be allowed.

CAT Bench observed that any decision given without involving Finance Ministry & DoPT will not be appropriate, since implementation of judgement (if any) have to be done by them. Hence, the Bench has given direction to serve notice to other two respondents, Ministry of Finance & DoPT, who have not submitted any reply so far and posted the next hearing to 15th December 2015.