

**Highlights of Rejoinder statement submitted by IRTSA in O.A.1568/2017 at
CAT Chennai pleading higher GP/Pay Level for JE & SSE**

1. Senior Section Engineers (SSEs) & Junior Engineers (JEs) on the Railways have been unjustly placed in the Grade Pay of Rs.4600 and Rs.4200 respectively which are the same as those of the employees working under them, which violates the basic principle of law of natural justice - upheld by various Court including by the Hon'ble Supreme Court of India that –
 - a. *"An equal cannot be over an equal"*
 - b. *'Promotion' implies advancement to a higher grade; &*
 - c. *Supervisor should be in a scale higher than Supervised.*
2. 3rd CPC kept the pay scale of Master Crafts Man (now Senior Technician) Rs.425-640 below than JE Pay scale of Rs. 425-700.
3. 5th CPC accepted that the identical pay scales of Master craftsman, Mistry and Chargeman (now JE) have resulted in a large number of court cases.
4. Based on ruling of Principal Bench of CAT New Delhi in OA No. 1527/1990 (IRTSA Vs UOI), 5th CPC specifically dealt with the problem of supervisor and supervised being placed in the same scale of pay and removed the anomaly by recommending the pay scale of Rs.4500-7000 to Master Craftsman and Rs. 5000-8000 for Technical Supervisors / Chargeman-B (since re-designated as Junior Engineer-II). But later Government / Railways upgraded the scale of Master Craftsman without corresponding upgrading of the scale of JE – in contravention of the principle of natural justice thereby disturbing the vertical relativity recommended by 5th CPC.
5. 6th CPC (in Para, 2.2.11 of its Report) - recommended that – “Grade pay will determine the status of a post with a senior post being given higher grade pay. Grade pay being progressively higher for successive higher posts, the employees on promotion will get monetary benefit on promotion in the form of the increased Grade Pay apart from the benefit of one additional increment”.
6. 6th CPC recommended that promotion & feeder cadres being placed in identical pay scale is anomalous and recommended that employees on promotion will get monetary benefit on promotion in the form of the increased grade pay apart from the benefit of one additional increment.
7. 6th CPC recommended Grade Pay of Rs.4200 for JE I & II (merged together) vide para 7.36.77 and placed Senior Technician below JE by recommending the Grade Pay of Rs.2800 vide para 7.36.71 & 3.8.27. By upgrading the Grade Pay of Senior Technician to Rs.4200 on par with JEs, Basic recommendation of 6th CPC that “Seniority of a post will depend on the grade pay drawn. This will invariably be more for a higher level post” got violated, by placing the Grade Pay of both junior post (Sr. Technician) and Grade Pay of promotional post (JE) as Rs.4200.
8. Senior Technicians placed in the Grade Pay of Rs.4200 made the situation that JE I (Pre-revised scale of Rs.5500-9000) two grades above Senior Technician, have since been placed in the same Grade Pay of Senior Technician.
9. Have no grouse over upgrading the grade pay of Sr. Technicians to Rs.4200. It is only refusal act of Government to place the Junior Engineers above the Sr. Technician aggrieved Technical Supervisors.
10. Railway Board's impracticable preposition that the work of Senior Technicians in grade Rs.5000-8000 will be supervised by JE grade-I in the scale Rs.5500-9000 instead of JE-II in the scale Rs.5000-8000 (letter No. E[NG]/I/99/PM7/3 (RBE No.31/2005), dated 22-2-2005) is also violated after modification done in 6th CPC recommendations.
11. Many categories who were in the pay scale Rs.425-700 on par with JE-II are now placed in pay level-7 of 7th CPC Pay matrix, whereas JE-I pay which was Rs.550-750 above all these categories is placed only pay level-6 of 7th CPC Pay matrix.
12. Many points pertaining to Technical Supervisors discussed by Railways in their O.M. dated 13.04.2015 submitted to 7th CPC were not based on actual facts which are refuted by the IRTSA.

13. 7th CPC in Para 5.1.23 recommended that “*when the employee receives a promotion or non-functional upgrade, he/she progress one level ahead on the horizontal range*”
14. 7th CPC in para 1.27 also recommended that anomalies that were created after 6th CPC could not be rectified till date. Also suggested that an appropriate body may be created to look into anomalies, if any arising out of the implementation of the recommendations of the Seventh CPC.
15. In para 22.3 & 22.6 of the Judgement Hon’ble CAT Chandigarh in OA 060/00211/2014, it has been held that Railways is a multi-disciplinary operational system governed by separate pay rules and DAR rules and it is not governed by CCS & CCS classification, control & appeal rules. Railway servants specifically excluded from CCS rules 2008 as per explanatory memorandum. Due to unique nature, Railways stands in different footing than other Ministries of Central or State Governments.
16. Railways consciously made the decision vide its O.M dated 11.06.2010 to upgrade the Grade Pay of JE from Rs.4200 to Rs.4600 and SSE from Rs.4600 to Rs.4800 based on functional justifications, etc.
17. Railways made a decision to place 29,721 posts of SSE in Grade Pay Rs.4800, based on the recommendations of 7th Pay Commission in para 11.40.113 pertaining to Technical Supervisors of its report, recommending that Ministry of Railways should consider enhancing the number of posts in the next higher level.
18. Railways’ claim for establishing parity between accounts & non-accounts officer cadres and between accounts & non-accounts senior supervisory cadres of all departments is different from that of plea of IRTSA claiming higher Grade Pay / Pay Level for Technical Supervisors based on the recommendations of pay commissions and based on the settled law.

19. **Prayer**

- i) To issue direction to the Government to enhance the Grade Pay / Pay Level of Junior Engineers on Railways to at least higher than those of the Senior Technicians working under them; And
- ii) To enhance the Grade Pay of Senior Section Engineers on Railways to adequately above the Grade Pay / Pay Level of Junior Engineers and the Chief Office Superintendents & others working under them.
- iii) To pass any other order or direction deemed fit and proper in the facts and circumstances of the case; and thus render justice.

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