

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 1957 of 2010

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member
SOMNATH AICH & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.A.Chakraborty, counsel
For the respondents : Mr.S.Banerjee, counsel (E.Rly.)
Mr.A.K.Banerjee, counsel (S.E.Rly.)



Heard on : 8.7.14

Order on : 29.8.14.

O R D E R

Ms. Bidisha Banerjee, J.M.

Aggrieved by non-implementation of 6th CPC recommendation, and alleging discrimination this application has been filed ^{by} some Chemical and Metallurgical Assistants – I of Railways seeking the following relief :

- a) To pass an order fixing the pay scale of the applicants (C.M.A-I) in pay scale of Rs.12,540 entry pay for revised pay structure for direct recruits on and from 1.1.06 in pay band 2 with grade pay Rs.4600/- as recommendation in the gazette notification RBE 103/08 dated 4.9.08, First Schedule Part A, Section II.
- b) To pas an order fixing the pay scale of the applicants in pay band 2 in Grade Pay Rs.4600/- as per recommendation of the Sixth Pay Commission w.e.f. 1.1.06 and to pay differences of salary.
- c) To pass an order directing the authorities to pay the applicants in similar Grade Pay as applicable to other Engineering Graduates and Post Graduates at present as per recommendation of the Sixth Pay Commission.
- d) To pass an order directing the concern authorities to treat CMA-I in similar grade Pay of Rs.4600/- as applicable to other Engineering Graduates and Post Graduates.
- e) To pass an order directing the concern authorities to put the applicants being CMA-I, who are directly appointed, in Grade Pay of Rs.4600/- with entry pay rate of Rs.12,540/- as per the RBE 103/08 recommendation and pay all the differences of salary with immediate effect as early as possible.

- f) To pass an order directing the authorities to quash and/or scrap and/or set aside the speaking orders passed in pursuance to the Hon'ble Tribunal order in as much as said order have been passed without taking into account the recommendation of the Sixth Pay Commission and pass an order to pay the applicants in similar Grade Pay as applicable to other Engineering Graduates and Post Graduates.
- g) To pass an order directing the respondents to reconsider the representations of the applicants in connection with anomaly and discrimination in pay scale by not keeping the applicants in Grade Pay of Rs.4600/- though they are entitled.
- h) An order allowing the applicants to move joint application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.
- i) To pass an order directing the concern authorities to take immediate steps for allowing pay grade of Rs.4600/- to the applicants as per recommendation of the Sixth Pay Commission w.e.f. 1.1.06 and to pay all the arrears w.e.f. 1.1.08 as early as possible.

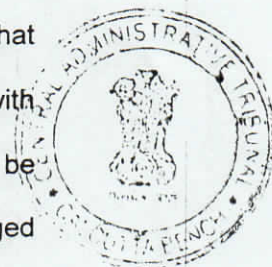
2. The applicants who are serving as a Chemical & Metallurgical Assistant - I (CMA I in short) under Divisional Mechanical Engineer (D), E. Railway, and are posted at various places, for example Burdwan and Kharagpur, are aggrieved by the non-extension of scale of pay and Grade Pay as recommended by the 6th CPC for all directly recruited Engineering Graduates. It is their specific contention that the 6th CPC in its recommendations at para 3.4.7 had recommended the Grade Pay of Rs.4600/- for all subordinate Engineering Cadres carrying minimum entry qualification of a degree. Our attention is drawn to recommendations at para 3.4.7 which is reproduced verbatim hereinbelow (with supplied emphasis) as follows:

3.4.7 Fifth CPC had recommended that all posts carrying minimum qualifications of diploma in engineering should be placed in the pay scale of Rs.5000-8000. While this recommendation was accepted, however, its implementation has not been uniform because the recommendation was interpreted differently in different departments and organisations. The scale of Rs.5000-8000 will now get merged with the scales of Rs.5500- 9000 and Rs.6500-10500 on account of restructuring of pay scales being recommended by the Commission. To ensure that the recommendation made by Fifth CPC and accepted by the Government is uniformly implemented in the revised structure



of pay bands, the Commission recommends that all posts in Subordinate Engineering cadres carrying minimum qualification of diploma in engineering for direct recruits and having an element of direct recruitment should be placed in the running Pay Band PB-2 of Rs.8700-34800 along with a grade pay of Rs.4200 corresponding to the pre-revised pay scale of Rs.6500- 10500. Simultaneously, all posts in Subordinate Engineering cadres carrying minimum qualifications of a degree in engineering and having an element of direct recruitment should be placed in the running Pay Band PB-2 of Rs.8700-34800 along with the grade pay of Rs.4600 corresponding to the pre-revised pay scale of Rs.7450-11500. These posts will form feeder cadre for promotion to the posts in running Pay Band PB-3 of Rs.15600- 39100 carrying grade pay of Rs.5400 (pre-revised Rs.8000-13500) in which direct recruitment to Group A Engineering cadre posts is made.

Since the applicants are holding the post where minimum entry qualification was Degree in Engineering, it is their specific contention that they should be accorded the pay scale of Rs.9300-34,800/- i.e. PB-2 with Grade Pay Rs.4600/- in terms ^{of b.l.} with para 3.4.7 (supra) and should not be made to languish with Grade Pay Rs.4200/- in PB-2. They have alleged discrimination and claimed parity with other cadres having Grade Pay of Rs.4600/-. They have further claimed that the Railway Board has proposed to grant Grade Pay Rs.4600/- to CMA I and that in a recruitment notice RRB, Muzaffarpur has already notified the result of selection to the posts of Chemical & Metallurgical Assistant with a Grade Pay of Rs.4600/-, with documents in substantiation thereof.



3. Heard Id. Counsel for both sides and perused the materials on record.
4. As the matter with regard to according higher Grade Pay to CMA-I in terms of para 3.4.7 (supra) required acceptance by the Railway Board of the recommendations of the 6th CPC, we had referred the matter to the Railway Board and directed the respondents to ascertain whether the

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Railway Board has agreed to accord Grade Pay Rs.4600/- to CMA I in terms of para 3.4.7 (supra).

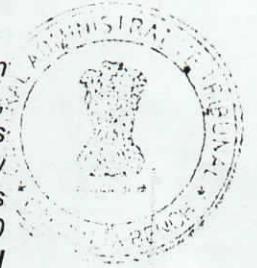
5. ~~Today~~ ^{bb.} During the course of hearing the respondents' counsel Mr.S.Banerjee appearing on behalf of the Railway Board has placed on record a communication by the Dy. Director, 6th Pay Commission to the Railway Board on 13.9.13, which records the following :

"It is also, observed that the 6th Central Pay Commission had specifically examined the demands of Chemists & Metallurgists working on the Railways vide para 7.36.91 of their report and made the following observations/recommendations:

7.36.91 *It is observed that Chemists and Metallurgists were given parity with the Subordinate Engineering Cadres. The Commission, however, is of the view that issues relating to change of designations etc. are best decided by the administrative Ministry keeping in view the functional exigencies. In any case, Commission has recommended merger of the scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. Due to this, the posts of Chemical and Metallurgical Assistant (C&MA) Gr.II (JCMA), C&MA Gr.I (CMA) and Lab Superintendent shall automatically be placed in Pay Band PB-2 of Rs.8700-34800 along with a grade pay of Rs.4200 corresponding to the pre-revised pay scale of Rs. 6500-10500. Consequently, the post of Lab Superintendent should be upgraded and merged with the next higher post of Superintendent (X-Ray/Spectrograph/Industrial Engineering). The posts of Chemical and Metallurgical Assistant (C&MA) Gr.II (JCMA) and C&MA Gr.I (CMA) will stand merged.*

Consequent upon acceptance of recommendations of 6th CPC by Government of India/Union Cabinet, vide Resolution dated 29.8.08, above recommendations has already been implemented vide statutory rules viz. S.No.10 & 11 of table under Part-A (Section) of First Schedule, annexed to Railway Services (Revised Pay) Rules, 2008 notified under article 309 of the Constitution vide GSR 643(E) dated 4.9.08 and Schedules circulated vide Board's letter No. PC-VI/2008/II/RSRP/1 dated 11.9.08.

The 6th CPC as a general principal allotted revised pay structure of PB2 GP Rs.4200 to all categories in pre-revised scales Rs.5000-8000 and RS.5500-9000. The CMA-I were in pre-revised scale of RS.5500-9000. Various other categories on Railway in above scale like Je-I, Traffic Controller, Chief Train Clerk, Office Supdt-II etc. have also been allotted revised pay structure of PB2 GP Rs.4200. Education qualification is not the only criteria for allotment of higher pay structure. There are numerous other factors like duties/responsibilities, horizontal & vertical relativities, paying



capacity of government, etc. Which are also equally relevant for allotment of scale.

The applicant's contention that Railway Board has already decided to grant Grade Pay Rs.4600/- to Chief Metallurgical Assistant -I in pursuance to the proposal taken in PNM meeting is completely false and baseless. In this regard it is further clarified that Permanent Negotiating Machinery (PNM) is not a competent forum to effect change in pay scale of any category of Railway employees which have been allotted by Ministry of Railway through statutory rules, consequent upon acceptance of recommendations of 6th CPC by Union Cabinet. The position was explained to staff side in subsequent PNM meeting.

There is no decision of Government of India/Ministry of Railways till date for grant of Grade Pay Rs.4600 (in Pay Band PB-2) to the posts of Chemical & Metallurgical Assistants (CMA) Gr.I in pre-revised scale Rs.5500-9000 working on the Railways. The Centralized Employment Notification No. 02/2012 (copy enclosed) was published on 21.4.12 notifying the post of CMA (Chemical and Metallurgical Assistant) with Grade Pay Rs.4200/-."

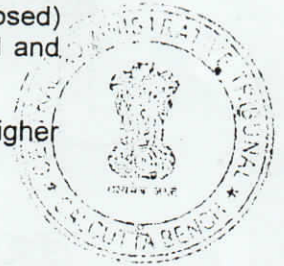
With regard to RRB, Muzaffarpur notification of result with higher

Grade Pay it is contended that

"As regard the issue pertaining to RRB/Muzaffarpur is concerned it is clarified that during the process of notifying the result by RRB/Muzaffarpur on 30.1.13, the Grade Pay for the post of Chemical & Metallurgical Assistant was inadvertently published as Rs.4600/-. The same has since been corrected vide corrigendum/notice dated 13.8.13 notified by RRB/Muzaffarpur (copy enclosed)."

6. In view of such specific recommendations with regard to Chemists and Metallurgists by the 6th CPC itself, as reflected in para 7.36.91 of its report, recommending Grade Pay of Rs.4200/- for CMA-I, the action of the respondents in according Grade Pay of Rs.4200/- to the CMA-I cannot be faulted with since they have not acted ultra vires the 6th CPC recommendations. We cannot direct the authorities to implement the general recommendation of para 3.4.7 of 6th CPC, as highlighted by the applicants, in absence of any malafide or arbitrariness specifically alleged.

However, we find that the specific recommendation in para 7.36.91 appears to run contrary to para 3.4.7 of the 6th CPC recommendations and



the situation is quite anomalous to that effect, at least with regard to "the CMA" whose entry qualification is Degree in Engineering.

7. Since the Ministry of Railways are yet to decide on grant of Grade Pay of Rs.4600/- in PB-2 in terms of para 3.4.7 to the CMA-I the OA is disposed of with the consent of the parties with a direction upon the Railways to decide the matter within two months or else to refer the matter to the Anomalies Committee if there is already one in the Railways arising out of 6th CPC or to refer the matter appropriately to the 7th CPC.

8. The OA is accordingly disposed of. No order is passed as to costs.


(JAYA DAS GUPTA)

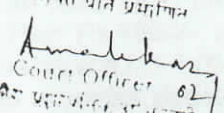
MEMBER (A)

in




(BIDISHA BANERJEE)

MEMBER (J)

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प्रमाणित किया जाता है

Court Officer 02/9/14
केन्द्र अधिकारी
Central Administrative Tribunal
केन्द्र कार्यालय
Calcutta Bench

(a) Sl. No. of the appln. 3026
(b) Name of the applicant. MR. A. Chakrabarty
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