

PETITIONER:
INDIAN RAILWAY SAS STAFF ASSOCIATION AND ORS.

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 21/01/1998

BENCH:
SUJATA V. MANOHAR, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:
THE 21ST DAY OF JANUARY, 1998

Present:

Hon'ble Mrs. Justice Sujata V. Manohar
Hon'ble Mr. Justice D.P. Wadhwa

Mr. S.K. Mehta, Mr. Dhruv Mehta, Mr. Fazlin Anam and Ms. Shobha Verma, Advocates for the appellants.

Mrs. K. Amreshwari, Sr. Advocates, Mr. A.K. Sharma and Ms. Anjani Ayyengar, Advocates with her for the respondents.

J U D G M E N T

The following Judgment of the Court was delivered:
D.P. Wadhwa, J.

The appellants are aggrieved by that part of the order dated April 26, 1991 of the Central Administrative Tribunal (for short 'the Tribunal') whereby the Tribunal did not accept their contention that they being in the pay scale of Rs. 2000-3200 be also granted the Group B status like their counterparts in the office of the Comptroller and Auditor General of India (CAG) and the Controller General of Defence Accounts (CGDA).

The appellants had also raised another issue before the Tribunal that they should also be granted revised pay-scale of Rs. 2000-3200 w.e.f. 1.1.1986 and not from 1.4.1987 as was granted by the respondents. The Tribunal directed the respondents to fix the appellants in the revised scales of pay w.e.f. 1.1.1986 on notional basis and make actual payment of the differential amount consequent to re-fixation of pay in the revised scales w.e.f. 1.4.1987. Against this part of the relief granted to the appellants by the Tribunal, Union of India came in appeal in this Court and by judgment dated July 15, 1994 (1995 Supp 3 SCC 600) the court reversed the decision of the Tribunal and held that the appellants would be entitled to revised pay scales only with effect from 1.4.1987. It is therefore not necessary for us to go into this controversy which stands settled.

The first appellant is an Association of Subordinate Account Service (SAS) Staff working in the Railways. Other appellants are serving in the Railways as Section Officers or Travelling Inspectors of Accounts. The appellants contend that in various Ministries and Departments of the Central Government, notably Railways, Defence, Posts and Telegraphs,

CAG, CGDA etc., there is an Accounts establishment called SAS. They, therefore, contend that SAS Railways have always been equated and granted parity with SAS (CAG) in the matter selection grades, pay scales, status etc. and that any deviation from the traditional parity with the SAS Railways and SAS (CAG) and SAS (CGDA) etc. would be discriminatory and violative of Articles 14 and 16 of the Constitution. The main grievance of the appellants, therefore, is that while they have been placed in the pay scale of Rs. 2000-3200, they have not been granted Group 'B' status as has been done in respect of their counterparts in CAG and CGDA in the same pay scale.

The genesis of the dispute it would appear relates back to the report of the Fourth Central pay Commission (Commission for short). The Commission noted that there were about 65,000 posts of accounts staff in Groups B and C working in different departments/offices of the Government of India and that the posts were in different pay scales and designation. It noted that there were organised accounts cadres under CGDA, CAG, Railways and Departments of Posts and Telecommunication. The Commission considered the existing pay-scale of the accounts posts in the organised cadres and it then looked into the representations of the associations of the accounts staff. The report of the Commission relating to accounts staff, in relevant part, is as under:

" 11.36. The main demand of the associations of accounts staff under CGDA, CAG, Railways and Departments of Posts and Telecommunications is that their pay scales should be the same as for the staff in the Indian Audit and Accounts Department (IA&AD). They have pointed out that there was parity all along, which was disturbed in March, 1984 when there was a restructuring of IA&AD into two separate cadres, i.e. audit cadre and accounts & establishment cadre. As a result, higher pay scales were given to 80 per cent of the staff on the audit side. They have also claimed that the duties and responsibilities performed by them and the staff on the audit side of IA&AD are comparable. The all India Defence Accounts Association had also filed a writ petition in the Supreme Court requesting the Hon'ble Court to direct the government for bringing the pay scales of auditors and Section officers working in the Defence Accounts Department at par with those in the IA&AD. The writ petition was however allowed to be withdrawn by the Supreme Court as both the parties agreed that the questions raised in the petition would be better decided by this Commission. The association subsequently made their submission before us both in writing and orally.

11.37. Some of the official witnesses have also emphasised the need for parity in pay scales between IA&AD and other departments. The Controller General of Defence Accounts has stated that the nature of duties and responsibilities assigned to the auditors and section officers of the defence accounts department is an integrated one combining audit, payment, accounting, financial advice and allied functions. He has therefore suggested that, having regard to the complexity and arduous nature of the jobs, they should be given the highest scale of pay given to the corresponding staff in IA&AD. The Controller General of Accounts has stated that the statutory audit functions performed by the staff of IA&AD are in no way unique as the Internal audit functions of the civil accounts staff under his organisation include most of the audit functions performed by the statutory audit staff. Railway have pointed out that their accounts cadre had a traditional parity with audit which should be maintained considering the diversity, nature and quality of their work. The Departments of P&T have suggested that whatever pay scales are given to the accounts staff in other departments, should be given to the accounts staff in these departments also.

11.38. We have considered the matter. There has all along been parity between the staff in the IA&AD and accounts staff of other departments, which has been disturbed by restructuring IA&AD into two separate cadres viz., audit cadre and accounts and establishment cadre and giving higher pay scales to a major portion of staff on the audit side. The audit and accounts functions are complementary to each other and are generally performed in many government offices in an integrated manner which is necessary for their effective functioning. The staff in these offices perform functions of internal check and audit suited to the requirements of each organisation which are equally important. There is direct recruitment in the scale of Rs.330-560 in all the audit and accounts cadres through Staff Selection Commission/Railway Recruitment

Boards from amongst university graduates. We are therefore of the view that there should be broad parity in the pay scales of the staff in IA&AD and other accounts organisation. Accordingly, we recommend that the posts in the pay scale of Rs. 425-700 in the organised accounts cadres may be given the scale of Rs.1400-2600. In the Railways, this will apply to the posts of sub-head in both the ordinary and selection grades. We also recommend that this should be treated in future as a functional grade requiring promotion as per normal procedure. The proposed scale of Rs.2000-3200 of section officer may also be treated as a functional grade. With the proposed scales, there will be no selection grades for any of the posts. As regards the number of posts in the functional scales of Rs. 1400-3600 and Rs. 2000-3200, we note that about 53 per cent of the total posts of junior/senior auditor and 66 per cent of the total posts of ordinary and selection grade of section officer in IA&AD are in the respective higher scales. Government may decide the number of posts to be placed in the scales of (i) Rs. 1400-2600 and (ii) Rs. 2000-3200 in the other organised accounts cadres taking this factor into consideration. All other accounts posts may be given the scales recommended in chapter 8."

On the basis of the recommendation of the Fourth Pay Commission aforesaid, Central Government, in the Ministry of Railways (Railway Board) issued an order dated June 18, 1987 relating to restructuring of accounts staff, which is as under:

"The General Managers,
All Indian Railways,
Production Units, etc.
(As per mailing list)

Subject :- Restructuring of
Accounts staff.

The Fourth Central Pay Commission vide para 11.38 of Part-I of its Report have recommended that there should be broad parity in the pay scales of the staff in IA&AD and other Accounts Organisations. It has further recommended that the proposed scales of pay of Rs.1400-2600 and Rs. 2000-3200 may be treated as functional grades in future and that there will be no selection grade for any of these posts. As regards the number of posts in the higher functional scales, the Commission left this

matter for the Government to decide.

2. The revised scales of the pay for the Accounts staff have already been notified vide this Ministry's letter No. PCIV 86/Imp/Schedule/1 dated 24-9-1986. In accordance with the orders therein, certain persons have already been allowed the higher revised scales of pay subject to the conditions laid down therein.

3. The question regarding number of posts to be placed in the higher scales of pay has been under the consideration of this Ministry. It has now been decided that the ratio of number of posts in higher and lower scales in the accounts cadres may be as follows:-

(i) Section officers (A/cs.). Rs. 2000-60- 80%

Inspector of Stores 2300-EB- 75-

Accounts (ISA), Inspector 3200

of Station Accounts (TIA)

Rs.1640- 60- 20%

2600-EB- 75-

2900

(ii) Clerks Grade-I (including Rs.1400-40- 80%

existing Sub-Heads) 1600-50- 2300-

EB-60- 2600

Rs. 1200-30- 20% 1560-EB-

40- 2040

As regards designation, orders will follow.

4. These orders take effect from 1-4-1987. As regards criteria for appointment to the higher functional grades requiring promotion to the grades of Rs.1400-40-1600-50-2300-EB-60-2600 and Rs. 2000-60-2300-EB-75-3200, orders will follow.

sd/-

(G. CHATTERJEE)

Executive Director, Pay Commission.

Railway Board."

As seen above the validity of this order has been upheld by this Court fixing the revised scale of pay with effect from 1.4.1987.

As far as the recommendation of the Commission is concerned revised pay scale has been given to the appellants. There cannot be any grievance on that score as the recommendation has been accepted by the Central Government. The Commission, however, in its report did not recommend that posts in pay-scale of Rs.2,000-3200 in CAG, CGDA and other Ministries and Railways be all treated as group B posts. The Commission recognised that grouping did not strictly follow the pattern based on pay-scale in various Ministries etc. and observed that the existing classification for those posts might continue.

In 1984, the work organisation in the CAG's office was restructured and the functioning of Audit and Accounts were separated. 80% of the posts of Section Officers (Audit) were upgraded to the pre-revised scale of RS. 640-1040/- and given the Group B gazetted status. The staff who were manning the accounting functions work, however, continued in

the scales of pay for the account staff. This disturbance in the parity in pay scales between the Audit and Accounts staff was not only resented in the establishment of CAG but also led to protest from the Accounts staff of the Railways. This gave rise to the demand from the Railway Account staff for re-establishing the parity in the pay scales etc. with the Audit staff in the CAG's office. The parity in the pay scale was, however, restored on the recommendations of the Commission and in pursuance thereof the Department of Expenditure, Ministry of Finance, Government of India, issued instructions, among others, to the Finance Commissioner, Railways for reconstructing the Accounts staff, as per instructions extracted below:

"4. The question regarding number of posts to be placed in the higher scales of pay has been under the consideration of the Government and it has now been decided that the ratio of number of posts in higher and lower scales in the organised Accounts cadres as well as in Accounts Wing of the IA&AD may be as follows :-

- | | |
|-------------------------------------|-----|
| i) Section Officer (SG) | Rs. |
| 2000-60-2300-EB-75-3200 80% | |
| ii) Section Officer | Rs. |
| 1640-60-2600-EB-75-2900 20% | |
| iii) Section Accountant | Rs. |
| 1400-40-1600-50-2300-EB-60-2600 80% | |
| iv) Junior Accountant | Rs. |
| 1200-30-1560-EB-40-2040 20% | |

The designations in different Organised Accounts cadres may be different. In such cases also, the pay structure on these lines may be decided.

5. These orders take effect from 1.4.1987. The respective cadre controlling authorities may now take necessary action to prescribe criteria for appointment to the higher functional grades requiring promotion to the grades of Rs. 1400-40-1600-50-2300-EB-60-2600 and Rs. 2000-60-2300-EB-75-3200 on the same lines as adopted for Audit stream and thereafter take necessary action to implement these orders."

As seen above the restructuring of the Accounts cadre in the Railways had accordingly been carried out and relevant section of the staff granted the scale of pay of Rs. 2000-3200/- which is same as in CAG office. The appellants, however, submit that not only that they have been granted the same pay scales but they should also be accorded parity in group classification with their counterparts in CAG and CGDA organisations. This the respondents are not prepared to grant.

Promotion to the level of Section Officer (Accounts), Inspector of Store Accounts, Inspector of Station Accounts with the Railways from Upper Division Clerks etc. is after passing an examination conducted by the Railways and it is admitted that the standard of examination is comparable to that obtaining in the SAS examination of the Audit

Department of CAG. However, it is submitted that standard of examination alone cannot be the sole criterion for determining parity in all respects. As seen above, the Commission had also gone into the question of classification of posts in the Central Government in detail and made certain recommendation for classification of posts in various groups. But then the Commission also recommended that where there were deviations of the nature as recommended by it, the existing classification for those posts might continue and the Government might, however, review the classification in such cases as and when necessary. The Pay Commission accepted the rationale of certain deviations from the classifications recommended by it.

The respondents have submitted that the matter of classification of posts in the Railways was examined in the context of the recommendations of the Pay Commission but it was decided to leave the existing classification untouched. Accordingly the posts carrying pre-revised scales of Rs. 700-900/- and Rs. 650-960/- were granted replacement scale of Rs. 2000-3200/- and the posts carrying the scale of Rs. 840-1040/- were allotted the replacement scale of Rs. 2375-3500/- and all these posts continued to be in Group 'C' 80% of the posts of Section Officer (Accounts) which were in the pre-revised scale of Rs. 500-900/- were given the upgraded revised scale of Rs. 2000-3200/- and classified as Group 'C' on par with other posts which had been granted the replacement scale of Rs. 2000-3200/-. It was, therefore, submitted that within the Railways, there was no discrimination against any section of employees. It is submitted that Group 'B' posts in the Railways of all departments are placed in the scale of Rs. 2000-3200/- but in the Account Department it is in the scale of Rs. 2375-3500/-. It is then submitted that appointments to Group 'B' posts in the Railways are made in accordance with certain prescribed selection procedure. The selection process is different in the Accounts Department and other departments in the Railways. The procedure followed in other departments of Central Government, according to the respondents, is not relevant as each department is free to evolve its own procedure for promotion etc. to suit its requirements. Respondents also submitted that, while contradicting the plea of the appellants, Section Officers in CAG, CGDA, Railways and Departments of Post and Telecommunications did not form an organised All India Service and, therefore, their pay, status, promotional prospects have to be decided keeping in view the peculiar and special needs of the different departments. Respondents denied that there was any violation of fundamental rights of the Accounts employees of the Railways in not according Group 'B' status though they were placed in the revised scale of Rs. 2000-3200/- as their counterparts in CAG and CGDA. The Tribunal considered various aspects of the matter and also reports of the earlier Pay Commissions and rejected the claim of the appellants. This is how the Tribunal examined the matter :

"It will be observed from the above that the intent of the Pay Commission's observation regarding parity has been made in the context of pay scales. The said recommendation does not allude to the status and the avenues of promotion etc. In fact, the Pay Commission has stated that promotion from the functional grade

shall be "as per normal procedure". Obviously, the applicants have in their mind horizontal relativity with the audit staff when they articulate about traditional parity but this is not supported by the relevant recommendation of the Pay Commission. Railways are a multi-disciplined organisation and for them the internal relativities both the vertical and horizontal within the organisation are of much greater import and relevance than a horizontal comparison within an outside organisation/agency. In fact, no case has been made out before us to establish that there has always been a complete parity between the Audit staff and the Railways Accounts staff. Group 'C' officers in the Railway Accounts staff have always been subjected to a more rigorous selection for promotion to Group 'B' than has been the case in other departments e.g. C&AG, CGDA etc. Besides, as said earlier, the Railways are multi-disciplined and multi-dimensional organisation. This is not the case either in the case of C&AG or in the case of organisation of CGDA etc. The Railways cannot be expected to blindly follow the path followed by "inclusive" organisations. Compared to C&AG, the Railways are 'exclusive' organisation, being a multi-disciplined one. Besides to our mind, there has never been complete parity between the Railway staff and the Audit/other Accounts staff in the other departments and as observed earlier, nor any such case has been made out. For instance, the Railway employees have traditionally enjoyed and zealously protected certain benefits exclusively available to them which are denied not only to other Accounts establishments but also to the generally of Central Government employees. The traditional parity has been only in the pay scale and this has been re-established w.e.f. 1.4.1987. Even the parity in the pay scale is a later development consequent to broad banding of the scale of pay by respective Pay Commissions.

In the case before us it is the Railway SAS employees who are seeking to be equated in the matter of status, promotional procedure etc. with the Section Officers in

the C&AG's office and CGDA's office. The offices of CGDA and C&AG are not multi-disciplined organisations like the Railways. The internal relativity in the Railways would thus carry great weightage with the Railway Administration when they consider equation with outside organisations of a section of the staff from within the organisation. The total parity with outside organisations would disturb the internal relativities which have far-reaching implications both positive and negative. The negative aspects of total parity cannot be brushed under the carpet. Further the procedure for promotion are designed to suit the special requirements of the organisational structure. The Railways have always followed a more rigorous selection procedure, as group 'B' Accounts Officer have also per force to acquire reasonable knowledge of the functioning of the other disciplines within the Railway to become effective in their job besides the accounts and financial function. We do not, therefore, see any merit in the petition for diluting the procedure of selection to Group 'B' posts followed on the Railways which has stood the test of time."

We are of the view that the Tribunal has taken a correct view of the matter. As noted above, the Fourth Central Pay Commission had recommended that the existing system of classification of posts in various departments of the Central Government may be continued and had indicated the corresponding pay limits in the revised pay structure. The Commission had also recommended that the Government might, however, review the classification in such cases as and when necessary. The Railways reviewed the whole position and taking into consideration various aspects of the matter decided that the existing system of classification as in vogue in the Railways to continue. The circumstances which went into such consideration have been enumerated as under:

- "i) On the Railways posts in scale of Rs. 2000-3200/- and Rs. 2375-3500/- are merely off shoots of restructuring and do not in a real sense constitute a Group 'B' cadre either from the point of view of responsibilities or duties.
- ii) Adoption of the pay limits for classification implemented on the civil side would result in placing a very large number of posts in scales Rs.1640-2900/-, Rs.2000-3200/- and Rs. 2375-3500/- in Group 'B'. This would include the categories like Mail Drivers, Office Superintendents, Lab.

Supdts., Stenographers, Teachers, Sr. Console Operators, Asstt. Programmers, Chief Power Controller, Chief Traction Loco Foreman 'A'. Fuel Inspector 'B' Driving Inspector, Power Controllers, Loco Foreman (B), Traction Loco Controller, Asstt. Loco Foreman (R), Driving Inspector, Section officer Accounts, Inspector of Station Accounts, Inspector of Travelling Accounts, Matrons, Radiographers, Pharmacist, Inspector in PRF, etc.

iii) Nearly 32000 posts in scale of Rs.2000-3200/- and Rs. 2375-3500/- would become entitled for 3 additional 1st A passes per annum, besides eligibility to additional luggage on these passes.

iv) On the Railways, all appointments to Gr. 'B' posts are made on the basis of a selection consisting of a written examination viva-voce and assessment of records which is not the case on the civil side. The promotional avenues and methodology would have to be reviewed.

v) At present, Group 'B' constitutes the managerial level, exercising control over staff in the lower grades. If the classification norms on the civil side is adopted on the Railways it would lead to drastic upheavals in the hierarchial structure.

vi) Group 'B' officers are entitled to Stenographic Assistance in Scale of Rs. 1200-2040/- on a sharing basis, on the Railways. Increase in the number of Group 'B' posts would lead to the need for a corresponding increase in the number of Stenographers in this scale.

vii) It would lead to problems regarding accommodation on the Railways."

Classification of posts into gazetted or nongazetted cannot be done purely on the basis of scales of pay. There can be many criteria; administrative, procedural and others which have to be taken into consideration by the authorities concerned before deciding on the classification. Admittedly, Railways have a number of posts of different operative categories in department such a Operating, Mechanical, Civil, Electrical, S&T etc. where field operators may have scales of pay of Rs.2000-3200/- or Rs. 2375-3500/- which have been classified as Group 'C' only. As such it cannot be said that there is any discrimination against the Account staff in the scale of Rs. 2000-3200/-.

In Associate Banks Officers Association vs. State Bank of India & Ors. [JT 1997 (8) S.C. 422] employees unions of various banks which were subsidiaries of the State Bank of India under the State Bank of India (Subsidiaries Bank) Act,

1959 claimed higher terminal benefits, better medical facilities and extra increments in their pay-scale on the ground that such benefits were available to the employees holding equivalent or similar ranks in the State Bank of India. This Court declined to give relief to the petitioners and said that "equal pay for equal work for both men and women" was one of the Directive Principles of State Policy laid down in Article 39(d) of the Constitution had been applied in cases of irrational discrimination in the pay-scales of workers doing the same or similar work in an organisation and that it had not been applied when there was a basis or an explanation for the difference. The Court said that extending this principle to compare pay-scales in one organisation with pay-scales in another organisation would be stretching of the doctrine even though between the employees doing comparable work and if at all it had to be applied it must be done with caution lest the doctrine snaps. This Court said that many ingredients go into the shaping of wage structure in any organisation and that a simplistic approach, granting higher remuneration to other workers in other organisations because another organisation had granted them, might lead to undesirable results. In the present case what we find is that the appellants have been granted the same pay-scale as that given to the staff in the Indian Audit and Accounts Department. Their grievance here is that they should be given the same status viz., their post be incorporated in Group B post as is existing in the CAG and CGDA.

In *State of Punjab and others vs. Om Parkash Kaushal and others* (1996) 5 SCC 325 the State Government granted uniform pay scales to the teachers employed in various privately managed schools in the State of Punjab. The pay scales were similar to the pay scales drawn by the Government teachers. This was in pursuance to Section 7 of the Punjab Privately Managed Recognised School Employees (Security of Service) Act, 1979. There was no dispute that the pay scales and dearness allowance which were being paid to the private teachers were not less than what was being paid to the Government teachers holding corresponding posts. The private teachers however wanted that their conditions of service should be same as that of Government teachers. This Court negatived this plea and said that other conditions of service relating to the Government teachers could not be extended to private teachers.

In *Central Railway Audit Staff Association and others vs. Director of Audit, Central Railway and others* 1993 Supp (3) SCC 458 the employees belonging to the Office of the Comptroller and Auditor General of India, working in the Railway Audit Department were Designated as Section Officer prior to March 1, 1984. They got promotion from that day as Assistant Audit Officers and were designated as Officers Group B Gazetted. On the recommendations of the Fourth Pay Commission, pay scale of Assistant Audit Officer was revised to Rs. 2000-3200 from January 1, 1986. The grievance of these Assistant Audit Officers Group B Gazetted was that the Indian Railways should not have denied to them the benefits, such as, issue of Railway Travel Passes/P.T.Os, allotment of Railway Quarters, giving of accommodation in Rest Houses/Retiring Rooms, taking of family members while on tour, etc.- which benefits were admissible to Group B Gazetted Officers of the Railways. It was submitted on behalf of the Railways that the fact that the Assistant Audit Officers in Railway Audit Department, on the pay scale of Rs. 2000-3200 but designated by the CAG of India as Group B Gazetted was not sufficient to equate them with Group B

Officers of the Railways who held higher posts with scale of pay of Rs. 2000-3500 and that if the Railways gave facilities and privileges to the Assistant Audit Officers, who were not Railway servants, treating them on a par with railway servants of Group 'B', they could find no valid reason to deny such facilities and privileges to the railway servants holding posts on the pay scale of Rs. 2000-3200. The Railway further said that if that had to be done, the Indian Railways would be required to extend similar facilities and privileges to all railway servants who hold posts in the Indian Railways on the scale of pay of Rs. 2000-3200 which meant extending the benefits to thousands of railway servants involving heavy financial burden on the Railways. This Court found that the contentions raised on behalf of the Assistant Audit Officers were unacceptable in that, if accepted, they would lead to unjust results of the Indian Railways conferring special privileges and facilities upon persons belonging to foreign department of Comptroller and Auditor General of India while their own servants who held equivalent posts on the same scale of pay would be denied such privileges and facilities. The Court, therefore, found substance in the submissions made on behalf of the Railways.

Thus, the simplistic solution to classification merely based on the scales of pay might lead into various complications and might lead to administrative hierarchical imbalances in any particular organisation. Selection procedure for appointment to a particular group post and requirements of a department for classification of posts are valid considerations and any disturbance thereof would certainly lead to compounding of problems. We, therefore, cannot subscribe to the view that the scale of pay alone can be the criteria for classification of posts. Respondents have given valid and justifiable reasons as to why the Account staff in the scale of Rs. 2000-3200/- cannot be put at par with their counterparts in CAG of CGDA in respect of putting the Account staff in Group 'B' posts merely on the basis of parity of pay scales.

There is no merit in this appeal. Therefore, the appeal is dismissed with costs.