

## **HIGHLIGHTS OF COURT CASE FILED BY IRTSA ON 29-4-2013**

### **IN CAT CHENNAI VIDE OA 706-2013 IRTSA-VS-UIOI**

#### **FOR HIGHER GRADE PAY OF JES & SSES ON RAILWAYS**

*Central General Body (CGB) Meeting of the IRTSA, held on 4<sup>th</sup> & 5<sup>th</sup> December, 2012 at RCF Kapurthala, had Resolved that – as the numerous Representations at various levels, over the years had not brought in the justice to JEs & SSES, as such - the Indian Railways Technical Supervisors Association (IRTSA) should file a Case in the CAT (Central Administrative Tribunal), for grant of Grade Pay of Rs.4600 for Junior Engineers (JEs) and a Grade Pay of Rs.4800 for Senior Section Engineers (SSE) on the Indian Railways.*

*A case has been filed in Chennai Bench of CAT (Central Administrative Tribunal), on 29-4-2013, vide Original Application (OA) No 706-2013, IRTSA & another -Vs- Union of India & Others.*

*IRTSA is represented by K.V. Ramesh, JGS – as authorized by Central President & GS IRTSA).*

*A Team of Leading Advocate of Chennai will plead on behalf of IRTSA) –*

*M/s K.M. Ramesh, S. Apunu & V. Suredar*

*First Hearing has been fixed on 12-7-2013.*

#### **MAIN ARGUMENTS RAISED BY IRTSA IN THE OA.**

1. Grade Pay granted to Junior Engineers and Senior Section Engineers are in violation of law of natural justice that an equal cannot be over an equal and the same are not commensurate with the duties and responsibilities shouldered by them in safe and punctual train operations.
2. While deciding the Grade Pay of Junior Engineers and Senior Section Engineers their hierarchical position, duties and responsibilities to supervise a large work force including the Technicians, Senior Technicians as well as the Clerical Staff including Chief Clerk & Office Superintendent working under them were not considered - in complete disregard to the settled law that :
  - An equal should not be over an equal;
  - Promotion' implies advancement to a higher grade; &
  - Supervisor should be in a scale higher than Supervised.
3. Sixth Central Pay Commission 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”. The same principle was followed by Sixth Central Pay Commission by recommending the Grade Pay of Rs.2800 for Senior Technicians, below the JE Grade Pay.
4. Third Central Pay Commission kept the Apex scale of Technicians Rs.380-560 below the pay scale of Junior Engineers (then designated as Chargemen-B) granting them a scale of Rs.425-700. Master Craftsman (MCM) in the scale Rs.425-640 was introduced w.e.f. 14.2.1986 as personal post to Senior Technicians.
5. Pay scales of Rs.1400-2300 granted by Fourth Central Pay Commission to Chargeman-B (now JE), to Mistry (now Supervisors) and to MCM (now Senior technician). This resulted in hierarchal confusion, which was corrected by the Fifth and again by Sixth Central Pay Commissions which restored the vertical relativity between the JEs and Senior Technicians.
6. The correction made by the Fifth and Sixth Central Pay Commissions were each time undone by Ministry of Railways – by revising the grade of Senior Technicians at par with the JEs thus disturbing the vertical relativity between the JE and Senior Technicians who work under JEs.
7. Principal Bench of CAT New Delhi in OA No. 1527/1990 IRTSA-vs-UIOI, had accepted the contention of the Petitioners and directed the respondents to consider higher pay scale to JEs as ‘an equal cannot be over an equal’. This direction was duly considered and accepted by Fifth Pay Commission while deciding the Pay scale of JEs – and it recommended a higher Pay Scale of Rs.5000-8000 for the JEs II - as against the scale of Rs.4500-7000 it recommended for Senior Technicians (Previously called MCM).
8. But later Government / Ministry of Railways upgraded the scale of Master Craftsmen (Senior Technicians) without correspondingly upgrading the scale of Chargemen (Junior Engineers/JEs).
9. The Ministry of Railways tried to circumvent the problem of supervisors being placed in the same scale as that of the employees working under them; and the Railway Board through its letter No.

E[NG]/I/99/PM7/3 (RBE No.31/2005), dated 22-2-2005 made the impracticable proposition that the work of Senior Technicians (MCM) 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 – even though in actual practice the JE-II continued to supervise Senior Technicians (MCM).

10. The Railway Labour Tribunal (1969) – headed by Justice Miabhoy - had held that the work in a section could not be segregated and also in most cases post of JE grade-I was not available at the same working area. Further, the benefit of fixation was allowed to Senior Technician on their promotion to JE-II from Senior Technician but the scale / Grade Pay was the same on promotion as JE from Senior Technician (earlier called Master Craftsmen/MCM).
11. The Railway Board orders dated 22-2-2005 mentioned above has become more irrelevant now as the JE-II in the pre-revised scale of Rs.5000-8000 and JE-I in the pre-revised scale of Rs.5500-9000 have been merged and granted the Grade Pay of Rs.4200 as recommended by the Sixth Pay Commission.
12. The Sixth CPC recommended the Grade Pay of Rs.4200 for JE I & II (merged together) and the Grade Pay of Rs.2800 for the Senior Technicians but the Railway Board later on (*vide letter No. ---* ----- Dated: -----) changed Grade Pay of Senior Technicians to Rs. 4200, which made the situation of JE I (Pre-revised scale of Rs.5500-9000) placed in the same Grade Pay of Senior Technician.
13. The Junior Engineers (JEs) and Senior Technicians have as such again been placed in the same Grade Pay of Rs.4200 – even though the Junior Engineers (JEs) supervise the Senior Technicians - which is totally in violation on principle of natural justice as well as against the settled law (by the Apex Court) that an “equal cannot be over an equal” – in keeping with the provisions of Article 39 of the Constitution of India.
14. Senior Section Engineers (SSEs) who are now in Grade Pay of Rs.4600 have to supervise the work of a very large number of JEs, Technicians and Senior Technicians, besides that of Stores Clerk, Office Clerks, Head Clerks, Office Superintendents and Chief Office Superintendents. The Chief Office Superintendents working under the SSE, have been also placed in the Grade Pay of Rs.4600 at par with SSEs – in disregard of the settled law that an equal should not be over an equal; & Supervisor should be in a scale higher than Supervised.
15. In view of higher nature of duties & responsibilities, the Pay Scale of SSE has always been higher than pay scales of Supervisors of other departments in Railways. During Third Pay Commission highest pay scales of Rs.840-1040 and Rs.840-1200 were allotted to the apex scale of Senior Technical Supervisors. All other categories including those of in the highest grade of Teachers, Nurses and Accounts Staff were allotted two or three grades below the SSEs/FO/PFO.
16. After the implementation of Sixth Central Pay Commission - the SSE with the direct recruitment element of Degree in Engineering had been allotted the Grade Pay of Rs.4600, whereas the apex scales of some of the other categories i.e. Teachers, Nurses and Accounts Staff were now placed in the Grade Pay of Rs.4800. Rs.5400 and even higher – disturbing the vertical relativity, in complete disregard to the Qualifications, Training, Duties & Responsibilities of the SSE towards ensuring the safety and efficiency of the Trains & its related operations, repairs, maintenance and production processes.
17. The Fifth Central Pay Commission had adopted a Common Multiple Factor of 3.25 for all categories of Staff from S 1 to S 34 - except S-13 scale which was granted to SSE. Fifth Pay Commission has recommended only Rs.7000-11500 to the SSEs placed in S-13 scale. After a lot of representations (and agitations) by IRTSA) it was later on revised to Rs.7450-11500, only minimum of the scale had been revised and corresponding revision of maximum of the scale had not been done. This had reduced the span of years of the scale from 20 years to 18 years. The scale has been kept low to accommodate S-14 scale above it by the difference of Rs.50 only.
18. The principle of Sixth Central pay Commission by calculating the Grade Pay as 40% of maximum of the Fifth Pay Commission scales had kept the S-13 (SSE) scale in disadvantageous position. If the same common multiple factor of 3.25 was applied by the Fifth CPC to the scale of SSE (S-13), they should have been given the Pay scale of Rs 8000-13500 by the Fifth CPC and consequently their grade pay should have been Rs 5400 after the Sixth Central Pay Commission.

19. Apex pay scale of Senior Section Engineers (SSE) has always been higher than the pay scales of supervisors of other departments in Railways. After the Third pay commission highest pay scale of Rs.840-1200 was allotted to the apex scale of Technical supervisors i.e. Senior Section Engineer (then Foreman). Pay scales allotted to Technical Supervisors was even higher than that of pay scales allotted to Group-B (Gazetted).
20. In Indian Railways the direct recruitment in the Accounts cadre is in PB-1 with the Grade pay of Rs.2800 and in the Clerical & Station Master cadre it is also the same. In the case of Technical Supervisors the direct recruitment is made at the level of Junior Engineers (Grade Pay Rs.4200) with Diploma in Engineering as qualifications and one year Training. Senior Section Engineers are recruited with the educational qualification of Graduate in Engineering with a training of one year and granted PB-2 with the Grade Pay of Rs.4600.
21. Technical Supervisors, working in Indian Railways shoulder the direct responsibilities of safe, efficient & 'Failure-proof' production, repair, maintenance and operation of Rolling Stock, Locomotives, P-Way, Works, Bridges, Signal & Telecommunication systems, Over-Head Equipments (Electrification) and other assets and equipment on the Railways. Introduction of large number of new trains, addition of new assets and introduction of new technologies etc have substantially added to their duties and responsibilities over the years. Other departments provide only necessary support to them to enable them to discharge their functions.
22. The Honourable Supreme Court of India – (reported in (1996) 1 SCC 562) - has held as *under*:
- “8. The High Court, in our opinion, was not right in holding that promotion can only be to a higher post in the Service and appointment to a higher scale of an officer holding the same post does not constitute promotion. In the literal sense the word “promote” means “to advance to a higher position, grade, or honour”;. So also 'promotion' means “advancement or preferment in honour, dignity, rank, or grade” (Ref: Webster's Comprehensive Dictionary, International Edition., page1009) 'Promotion' thus not only covers advancement to a higher position or rank but also implies advancement to a higher grade. (Ref: [Union of India vs. S.S. Ranade](#) (1995) 4 SCC 462 at page 468).*

23 **Relief sought:-**

In view of the facts and grounds mentioned above, the applicant prays for the following reliefs:-

To issue direction to the respondents to enhance the Grade Pay of Junior Engineers on Railways to at least higher than those of the Senior Technicians working under them; and to enhance the Grade Pay of Senior Section Engineers on Railways to adequately above the Grade Pay of Junior Engineers and the Chief Office Superintendents working under them, with all the consequential benefits of arrears of pay and allowances with interest @ 18% per annum from the date the amount became due to the actual date of payment.

**Encl: One: I N D E X OF DOCUMENTS ATTACHED**

- **WITH THE OA 706 – 2013 IRTSA-VS-UI IN CAT CHENNAI**

**(Harchandan Singh)**  
**General Secretary, IRTSA**

**I N D E X OF DOCUMENTS ATTACHED BY IRTSA**  
**WITH THE OA 706-2013 IRTSA-VS-UI IN CAT CHENNAI BENCH**

S.NO.	DATE	DESCRIPTION OF DOCUMENTS RELIED UPON	PAGE NO.
1.	27.04.2013	Synopsis of the case	
2.	27.04.2013	Original Application	
3.	24.04.2013	Letter authorizing Shri K.V. Ramesh, Joint General Secretary to file OA (Ann.A-1)	
4.	04/05/12/2012	Copy of the Resolution (Ann.A-2)	
5.	XXXX	List of members of the 1 <sup>st</sup> Applicant Union (Ann.A-3)	
6.	XXXX	Extracts of Para 2.2.11 of Sixth Central Pay Commission report (Ann.A-4)	
7.	XXXX	Extract of Paras 7.36.71, 3.8.27 and Para 7.36.77 of Sixth Central Pay Commission recommendations (Ann.A-5)	
S.NO.	DATE	DESCRIPTION OF DOCUMENTS RELIED UPON	PAGE NO.
8.	XXXX	Table showing disturbance of vertical relativity between Junior Engineer and Senior Technician who works under the Junior Engineer (Ann.A-6)	
9.	XXXX	Extract of Paras 54.33, 54.34, 54.35, 54.36, 54.37 & 54.38 of Fifth Central Pay Commissions Recommendations (Ann.A-7)	
10.	22.02.2005	Order of the Railway Board (Ann.A-8)	
11.	25.11.2009	Railway Board's letter (Ann.A-9)	
12.	XXXX	Table showing Grade Pay allotted by Sixth PC, mode of filling and recruitment qualifications (Ann.A-10)	
13.	XXXX	Comparative Table showing the pay scales of Teachers, Nurses and Accounts Staff (Ann.A-11)	
14.	XXXX	Table showing calculation of Grade Pay as 40% of maximum of Fifth Pay Commission Scale (Ann.A-12)	
15.	XXXX	Table showing Pay Scale allotted to Group C and Group B in all Pay Commissions (Ann.A-13)	
16.	XXXX	Recruitment qualification & Training of Junior Engineers and Senior Section Engineers (Ann.A-14)	
17.	XXXX	Duties and responsibilities of Technical Supervisors (Ann.A-15)	
18.	11.09.2008	Impugned Railway Service Revised Pay Rules (Ann.A-16)	
19.	22.09.2008	Impugned Railway Board's Order re: Grade Pay awarded to Accounts, Nursing & Teaching Staff (Ann.A-17)	
20.	23.09.2008	Impugned Railway Board's order re: Grade Pay awarded to Accounts, Nursing and Teaching Staff (Ann.A-18)	
21.	08.10.2012	Memorandum submitted by the 1 <sup>st</sup> Applicant to the Railway Board (Ann.A-19)	