

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

HEARD ON: 02.02.2026 & 03.02.2026
DELIVERED ON: 03.02.2026

CORAM:
THE HON'BLE CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN

C.O.C.T. 2 of 2013
Pallab Kanti Chattopadhyay

Versus
Union of India & Ors.

Appearance:-

Ms. Debjani Sengupta
Ms. Paulomi Ghosh

.....for the Petitioner

Mr. Rabi Prosad Mookherjee
Mr. Piyash Choudhury

.....for the respondents

JUDGEMENT (ORAL):

PER, SUJOY PAUL, CJ.:-

1. This petition filed under Article 226/227 of the Constitution assails the order of Central Administrative Tribunal, Calcutta Bench in O.A. No. 392 of 2007 dated 27.11.2012, whereby the tribunal rejected the prayer of the petitioner for giving him pay protection at par in comparison with his junior, who was already getting higher pay in the same scale or pay.
2. The case of petitioner in nutshell, is that from the date of initial appointment till occupying the post of Field Officer on which petitioner and private respondents were appointed through direct recruitment, petitioner was all along senior to the private respondent. The respondent, for no valid

reason on the direct recruitment post of Field Officer fixed the pay of private respondent more than the petitioner and declined the prayer of petitioner for stepping up of pay. The petitioner has meticulously prepared a comparative chart, which contains the relevant dates of holding different posts by petitioner & pvt. respondent, the pay scale and qualifications that were necessary to decide this matter. The said chart will indicate in juxtaposition, the journey of the petitioner and the private respondent in the department. The chart is reproduced for ready reference.

COMPARATIVE STATEMENT OF PAY IN RESPECT OF

Senior

Shri P. K. Chattopadhyay, R.A.
B.A. (Hons.) in Geography

Junior

Shri Amitabha Chakraborty, R.A.
B.A. (Hons.) in Geography

<p>Joined as Junior Draftsman on 20.5.1976 20.5.1976 Rs. 330/- 1.5.1977 Rs.340/- 01.05.1985 Rs.428/-</p>	<p>Joined as Junior Draftsman on 28.02.1977 28.2.1977 Rs.330/- 01.02.1978 Rs.340/- 01.02.1984 Rs.404/- 01.02.1985 Rs.416/-</p>
<p>Ad-hoc promotion to Draftsman in normal Promotion Channel. (Rs.425-700) E.Q. B.A(Hons) in Geography 50% direct, 50% promotion from Jr. Draftsman</p> <p>21.2.1981 Rs.425/- 1.2.1982 Rs.440/- 1.2.1985 Rs.485/- (up to 31.5.1985)</p>	<p>Ad-hoc promotion to ex-cadre post of J.R.A.(Rs.425-700) E.Q. M.A. in Geography 100% direct recruitment i.e. no promotion channel from Junior Draftsman</p> <p>Up-graded to 550-900 as per Cat judgment w.e.f. 1.1.73 and merged with S.R.A 26.8.1982 Rs.550/- 1.8.1983 Rs.575/- 1.8.1984 Rs.600/- (up to 31.5.1985)</p>
<p>Reverted to substantive post (Jr. Dman) 1.6.1985 Rs.428/- 1.1.1986 Rs.1410/-(As per 4th CPC) 1.5.1986 Rs.1440/-</p>	<p>Reverted to substantive post (Jr.Dman) 1.6.1985 Rs.416/- 1.1.1986 Rs.1330/-(As per 4th CPC) 1.2.1986 Rs.1410/- 1.2.1987 Rs.1440/-</p>
<p>Again promoted to Draftsman w.e.f. 18.7.1986 18.7.1986 Rs.1480/-(w.r. to Rs.485 last drawn as Dman w.e.f. 1.12.1985) 1.3.1987 Rs. 1520/-(DNI advanced) 1.3.1988 Rs.1560/-</p>	<p>Promoted to Draftsman w.e.f. 13.1.1988 13.1.1988 Rs.1480/- 1.2.1988 Rs.1520/-(under FR 22C)</p>
<p>Directly recruited to the post of Field Officer in the scale of Rs.1640-2900(4th CPC) E.Q.B.A hons in Geography. 24.6.1988 Rs.1640/- (Under FR</p>	<p>Directly recruited to the post of Field Officer in the scale of Rs.1640-2900(4th CPC) E.Q.B.A hons in Geography. 24.6.1988 Rs.1760/- (WR. To Rs.600/-</p>

22(a)(1) 1.3.1989 Rs.1700/-(under FR.22(C) & onwards. 1.3.1995 Rs.2060/-	last drawn as J.R.A. w.e.f 31.5.1985 1.8.1988 Rs. 1820/-(DNI advance for last officiating spell) & onwards 1.8.1985 Rs.2240/-
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* Posts of Field Officer and Senior Research Assistant was merged w.e.f. 8.4.1989 and re-designated as Research

Assistant

3. The facts so mentioned in the chart prepared by the petitioner were not disputed by the respondent department. Thus, on the basis of admitted facts, the pivotal question before us is as to whether the private respondent was entitled to get the higher pay and if yes, why petitioner should be deprived of the fruits of the stepping up of the pay at par with junior. Pertinently, this question cropped up because after becoming unsuccessful before the tribunal, the petitioner filed COCT 6 of 2011 before this Court.
4. This Court by order dated 25.04.2011 remanded the matter back to the tribunal to **i)** decide whether the petitioner would be entitled to the similar benefit as of Amitava Chakraborty or **ii)** whether Amitava Chakraborty would be re-fixed at a lower scale to take care of the grievance of the petitioner.
5. In turn, the tribunal decided the application by impugned order and rejected it by holding that the petitioner has not filed any seniority list to show that he is senior to the private respondent. By placing reliance on certain pay fixations made in favour of private respondent, learned tribunal opined that O.A. was barred by time because the private respondent went on a deputation as Junior Research Assistant (JRA) before 01.11.1982 and as per section 21(2) of Administrative Tribunals Act, 1985, the tribunal does not have jurisdiction when cause of action arose before that date. The tribunal on the one hand stated that it did not have jurisdiction to decide

the matter and on the other hand, dealt with the matter on merits and opined that principle of stepping up of pay is not attracted when their pay in the post before direct appointment was different. For these cumulative reasons, the claim of petitioner was dismissed by the tribunal.

CONTENTION OF PETITIONER:

6. Ms. Debjani Sengupta, learned counsel for petitioner by taking this Court to the aforesaid comparative statement contended that since initial appointment on the post of Junior Draftsman and further promotion as Draftsman, the petitioner was not only senior qua private respondent, petitioner was consistently drawing higher pay in the same scale than the private respondent. The categorical pleading in the O.A. that petitioner is all along senior to the private respondent, has not been disputed by the private respondent or the department. Thus, even if the seniority list has not been filed by the petitioner, it will not cause any dent to petitioner's claim.
7. It is further canvassed that the only reason assigned in the affidavit in opposition before the tribunal by the department is about the *ad hoc* promotion of private respondent on the ex-cadre post of Junior Research Assistant with effect from 26.08.1982. He although got *ad hoc* promotion to the post of Junior Research Assistant in the pay scale of Rs. 425-700, the said pay scale was revised pursuant to order of tribunal as Rs. 550-900 with effect from 01.01.1973. In view of this retrospective revision of pay scale, indisputedly the private respondent started drawing higher pay scale of Rs. 550-900, whereas petitioner was drawing in the pay scale of Rs. 425-700.

8. It is strenuously contended that the private respondent, upon reversion, came to his substantive post of Junior Draftsman with effect from 1.06.1985. The substantive pay scale for this post was Rs. 425-700 and the chart shows that the last pay drawn by him in the post of Junior Draftsman was Rs. 1440. The same was the pay drawn by the present petitioner. However, upon further promotion to the post of Draftsman, the petitioner occupied the said post with effect from 18.07.1986, whereas the private respondent was promoted later on 13.01.1988. The last pay drawn by petitioner and private respondent on the post of Draftsman were Rs. 1560 and Rs. 1520 respectively. Thus, before appointment to the post of Field Officer, the last pay was drawn in the same pay scale and in the same cadre by petitioner and private respondent. Since petitioner had drawn more pay qua private respondent, there was no justification in giving fixation to the private respondent in the pay scale of Field Officer (Rs. 1640-2900) which he was not holding immediately before his appointment as JRA.
9. Admittedly, petitioner and private respondents were appointed through direct recruitment on the post of Field Officer on the same day with effect from 24.06.1988. The respondents fixed the petitioner at the stage of Rs. 1640 from 24.06.1988 and Rs. 1700 with effect from 01.03.1989 whereas for these two dates, the private respondent got the pay of Rs. 1760 and Rs. 1820 respectively.
10. It is submitted that if the junior has drawn more pay, the principle of stepping up of pay must apply and tribunal has erred in not applying the same on incorrect grounds. The petitioner is not challenging the *ad hoc* promotion of private respondent to ex-cadre post of Junior Research

Assistant in the year 1982 and therefore, question of lack of jurisdiction of the tribunal does not arise. The petitioner is claiming that he is entitled for stepping up of pay because junior is drawing more pay and both, just before appointment on direct recruitment as Field Officer, were in the same pay scale of Rs. 1400-2300. The tribunal's order is, therefore, liable to be interfered with and department may be directed to give benefit of stepping up of pay to petitioner.

11. Learned counsel for the department on the other hand, supported the impugned order of the tribunal and urged that the stand taken by the department before the tribunal will be the stand of the department before this court as well.

FINDINGS:

12. The march of events flowing from comparative statement (supra) shows that all along the petitioner was senior to the private respondent. Except for the limited period, when private respondent was enjoying the ex-cadre post of Junior Research Assistant on *ad hoc* basis, he was on a higher pay scale of Rs. 500-900. His said assignment was on *ad hoc* basis on ex-cadre post. Upon his reversion from said ex-cadre post, when he joined the substantive post of Junior Draftsman, the benefit of pay protection flowing from the ex-cadre post of Junior Research Assistant was not extended in his favour. This is clear from the chart, which shows that the petitioner and the private respondent both were drawing the same pay of Rs. 1440 when they were last holding the post of Junior Draftsman. Pertinently, upon promotion as Draftsman, the petitioner drew more pay in the said pay scale of Rs. 1400-2300. Petitioner has drawn Rs. 1560 as his last pay as Draftsman, whereas private respondent has drawn Rs. 1520 on the said scale. The principle of

stepping up of pay can be pressed into service if both the incumbents are holding the same post and are in the same cadre. If the junior is getting more pay despite satisfying the aforesaid conditions, senior is entitled to get the benefit of stepping up of pay.

13. A careful reading of page 7 of the affidavit in opposition of the department filed before the tribunal shows that respondents have given benefit of more pay to the private respondent considering his last pay drawn on the post of Junior Research Assistant during past spell of his *ad hoc* officiation. Thus, the pertinent question before the tribunal was whether this benefit could have been given and if given, whether petitioner could have been deprived from the fruits of stepping up of the pay.
14. In our opinion, the petitioner's prayer was confined to stepping up of pay at par with his juniors and he had not challenged the *ad hoc* promotion of private respondent as Junior Research Assistant. The petitioner has also not called in question the pay granted to the private respondent upon his direct recruitment as Field Officer. The singular prayer of petitioner is to grant him stepping up of the pay. We need to examine the matter from this angle because tribunal has erred in holding that it did not have jurisdiction.
15. Tribunal miserably failed to see that no attack is made by the petitioner to the *ad hoc* promotion or grant of pay given to the private respondent in the year 1982 as Junior Research Assistant. Thus, this finding of tribunal deserves to be interfered with.
16. The Tribunal, in our opinion, had jurisdiction to examine whether upon appointment of petitioner and private respondent as direct recruit Field Officer, petitioner deserves stepping up of pay. This event of direct

recruitment had taken place in the year 1988, the date after Administrative Tribunals Act, 1985 came into being. Thus, by no stretch of imagination, it can be said that tribunal did not have jurisdiction to decide the question of stepping up of pay of the petitioner.

17. Once it is an admitted position that petitioner is senior to private respondent, non-production of seniority list will not cause any prejudice to the petitioner. Thus, tribunal's finding in this regard must be turned down.
18. The last and main question is whether the petitioner is entitled to get the benefit of stepping up of pay. In the judgment of Supreme Court reported in **(2011) 15 SCC 772, Commissioner & Secy. to Govt. of Haryana vs. Ram Sarup Ganda**, it was held that principle of stepping up of pay can be applied if junior and senior both are holding same post, same cadre in the same pay scale and junior is drawing more pay. The comparative statement aforesaid, shows that although private respondent was getting more pay while working as *ad hoc* Junior Research Assistant, the said pay was not protected when he became Junior Draftsman. Petitioner and private respondent started drawing same pay. On next promotion as Draftsman, the petitioner was not only promoted earlier to private respondent, he was drawing more pay in the pay scale of Rs. 1400-2300. Thus, the petitioner is admittedly senior and/or drawing equal or more pay on various posts. Thus, stepping up of pay must be extended in favour of the petitioner. It is noteworthy that pvt. respondent held the post of JRA on *ad hoc* basis long back in the year 82-83 and thereafter reverted as Jr. Draftsman. Then he was promoted as Draftsman. Thus his pay drawn on the post of JRA could not have been protected by operation of FR 22-C. Petitioner accordingly

deserves stepping up of pay at par from the date his junior was getting more pay in the scale of 1640-2900/-.

19. Even assuming that F.R. 22C (renumbered as F.R. 22(1) a(1)) is applicable, it must be made applicable in similar manner for petitioner and private respondent. The petitioner was drawing more pay on the next below post of Draftsman than the private respondent. In that case, petitioner certainly deserves stepping up of pay at par with his junior.
20. In view of foregoing discussions, impugned order dated 27.11.2012 passed in O.A. No. 392 of 2007 cannot sustain judicial scrutiny. Resultantly, said order is set aside.
21. As a result, respondents are directed to step up the pay of the petitioner on the post of Field Officer in the pay scale of Rs. 1640-2900 at par with the private respondent from due date and grant him all consequential, benefits arising thereto.
22. Let the entire exercise be completed within 90 days from the date of production of this judgment.
23. The writ petition is **allowed**.

(SUJOY PAUL, C.J.)

I agree.

(PARTHA SARATHI SEN, J.)