

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11579 OF 2015

Jayashree Anil Sathey

....Petitioner

Versus

Security Printing and Minting
Corporation of India Ltd. & Ors.

....Respondents

Appearances :

Mr. Rajeev N. Kumar, for Petitioner.

Ms. Anjali Neel Helekar a/w. Ms. Yogita S. Tembe for Respondent.

CORAM : DHIRAJ SINGH THAKUR &
SANDEEP V. MARNE, JJ.

DATE : 11 JULY 2023.

JUDGMENT: (*Per – Sandeep V. Marne, J.*) :

Rule. Rule is made returnable forthwith. With the consent of parties, petition is taken up for final hearing.

2. Petitioner has filed this petition challenging communication dated April 18, 2015 thereby rejecting her request for grant of benefit of bunching under Rule 7(1)(A)(ii) of the Central Civil Services (Revised Pay) Rules, 2008 (**Revised Pay Rules of 2008**). She has further prayed for Writ of

Mandamus for fixation of her pay in accordance with Rule 7(1)(A)(ii) by granting benefit of bunching as provided under the Proviso to the said Rule.

3. Brief facts of the case are that the Petitioner was an employee of Currency Note Press at Nashik having appointed on the post of Junior Hindi Translator on July 17, 1984. She was promoted to the post of Assistant Manager (Official Languages) on October 20, 1993 on formation of Security Printing and Minting Corporation of India Limited, the Petitioner's services were absorbed in the corporation with effect from 1 September 2008. The Petitioner was promoted to the post of Deputy Manager (Official Languages) in July 2014.

4. On implementation of recommendations of 6th Central Pay Commission with effect from January 1, 2006 Petitioner's pay was revised under the provisions of the Central Civil Services (Revised Pay) Rules, 2008. In July 2012, Petitioner noticed that her pay was fixed almost equal to Dr. P. D. Chaturvedi, who was 12 years junior to her. Therefore she made representation dated April 18, 2013 for grant of bunching increments under Rule 7 of the Revised Pay Rules 2008 so as to maintain proper difference between her basic pay and that of Dr. Chaturvedi. It is averred that upon examination of the Petitioner's representation dated April 18, 2013, her case was recommended by the Manager (HR) vide letter dated May 20, 2013. The representation was however returned by the Deputy General Manager on June 3, 2013 to be decided at the level of the Currency Note Press. The Petitioner thereafter made several representations. She also served a notice dated February 24, 2015 through her advocate. Finally her advocate received

response dated April 18, 2015 by which it was communicated that Petitioner is not entitled to the benefit of the bunching increments.

5. We have heard Mr. Rajiv Kumar the learned counsel appearing for the Petitioner and Ms. Anjali Helekar the learned counsel appearing for Respondent.

6. To understand the concept of 'bunching', it would be necessary to reproduce Rule 7 of Central Pay Commission (Revised Pay) Rules 2008.

“7. Fixation of initial pay in the revised pay structure

(1) The initial pay of a Government servant who elects, or is deemed to have elected under sub-rule (3) of Rule 6 to be governed by the revised pay structure on and from the 1st day of January, 2006, shall, unless in any case the President by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely-

(A) In the case of all employees:-

(i) the pay in the pay band / pay scale will be determined by multiplying the existing basic pay as on 1-1-2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.

(ii) if the minimum of the revised pay band / pay scale is more than the amount arrived at as per (I) above, the pay shall be fixed at the minimum of the revised pay band / pay scale;

Where, in the fixation of pay, the pay of Government servants drawing pay at two or more consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised pay structure at the same stage in the pay band, then, for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band. Grade pay would not be taken into account for the purpose of granting increments to alleviate bunching.

In the case of pay scales in Higher Administrative Grade (HAG) in the pay band PB-4, benefit of increments due to bunching shall be given taking into account all the stages in different pay scales in this grade. In the case of HAG+ scale, benefit of one increment for every two stages in the pre-revised scale will be granted in the revised pay scale.

If by stepping up of the pay as above, the pay of a Government servant gets fixed at a stage in the revised pay band / pay scale (where applicable) which is higher than the stage in the revised pay band at which the pay of a Government servant who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the letter shall also be stepped up only to the extent by which it falls short of that of the former.

(iii) The pay in the pay band will be determined in the above manner. In addition to the pay in the pay band, grade pay corresponding to the existing scale will be payable.

NOTE. - Illustration 1 on the above is provided in the Explanatory memorandum to these Rules.

(B) In the case of employees who are in receipt of special pay / allowance in addition to pay in the existing scale which has been recommended for replacement by a pay band and grade pay without any special pay / allowance, pay shall be fixed in the revised pay structure in accordance with the provisions of Clause (A) above.

(C) In the case of employees who are in receipt of special pay component with any other nomenclature in addition to pay in the existing scales, such as per personal pay for promoting small family norms, special pay to Parliament Assistants, Central (Deputation on Tenure) Allowance, etc., and in whose case the same has been replaced in the revised pay structure with corresponding allowance / pay at the same rate or at a different rate, the pay in the revised pay structure shall be fixed in accordance with the provisions of Clause (A) above. In such cases, the allowance at the new rate as recommended shall be drawn in addition to pay in the revised pay structure from the date specified in the individual notifications related to these allowances.”

(emphasis added)

7. Revised Pay Rules 2008 were notified for implementing recommendations of 6th Central Pay Commission (CPC). As per those

recommendations, the concept of 'pay scales' which was prevalent up to 5th Pay Commission regime was replaced with the concept of 'Pay Band + Grade Pay'. Thus, multiple pay scales were compressed into single Pay Band. The hierarchical difference of posts which was earlier identifiable by different pay scales, become identifiable by different Grade Pays. Thus, though different hierarchical posts in an organization may be granted same pay band, their hierarchy become identifiable by different Grade Pay applicable to different posts. The recommendations of the 6th CPC was made applicable from January 1, 2006.

8. Under Rule 7 of the Revised Pay Rules 2008, the revised pay in the recommended Pay Band is to be determined by multiplying existing basic pay as on January 1, 2006 by factor of 1.86. However, there were cases where the revised basic pay, after multiplying earlier basic pay by factor of 1.86, fell below the minimum of the revised pay band. To illustrate, posts carrying pre-revised pay scale of Rs.6500-200-10500 was granted revised pay band PB-3 of Rs.15600-39100 + Grade Pay Rs.5400/- as per the Revised Pay Rules, 2008. An employee drawing basic pay of Rs. 6500/- on 31-12-2005, was to be granted revised pay by multiplying Rs. 6500 with the factor of 1.86. So his/her revised basic pay would be arrived at Rs. 12090, which falls below the basis level of Rs. 15600 in the revised Pay Band of Rs. 15600-39100. To take care of such a situation, Rule 7(1) (A)(ii) provided that if the minimum of the revised pay band is more than amount arrived after multiplying factor 1.86, the pay shall be fixed at the minimum of the revised pay band. Thus in the illustrated case, though the revised basic pay of the employee is arrived at Rs. 12090, we would be granted revised basic pay of Rs. 15600.

9. However, this system of placing employees at the minimum level of the Pay Band (whose revised pay fell below the minimum of the pay band) created an anomalous situation in certain cases, where junior as well as senior employees started drawing same revised pay. This concept is known as 'bunching', where junior and senior employees are bunched at the same level of pay. To take care of such a situation resulting in bunching of pay, a Proviso is added to Rule (1)(A)(ii) making provision for grant of additional increments so as to ensure that the senior employee draws more pay than his junior counterpart.

10. Following illustration would make the concept of bunching further clear:

Pre-Revised pay : 6500 – 200 - 10500

Revised Pay Band : PB3 – 15600-39100 + Grade Pay 5400/-

Employee	Basic Pay as on 01.01.2006	Revised pay after multiplying by factor 1.86	Revised pay as per 6 th CPC
Junior Employee	6500/-	12090/-	15600/-
Senior Employee	8300/-	15440/-	15600/-

11. Thus, in the above illustration, though the senior employee in the above illustration was nine stages above his junior counterpart as on 01.01.2006 (meaning thereby that he had earned 9 increments because of putting in 9 additional years of service on a post over his junior), both start drawing same basic pay of Rs.15600/- upon re-fixation of their pay in the 6th CPC scale. To take care of this situation, the Proviso to Rule 7(1)(A)(ii) makes a provision for grant of one increment for every two stages of bunching. Thus,

in the above illustration, senior officer will be given four additional increments while fixing his revised pay in the 6th CPC Pay Band.

12. Having understood concept of 'bunching' under the Proviso to Rule 7(1)(A)(ii) of Revised Pay Rules 2008, we proceed to examine whether Petitioner has made out any case for grant of bunching increments.

13. It must be observed at the very outset that the Respondent have not recorded any reasons for rejecting case of the Petitioner vide communication dated April 18, 2015. The only reason recorded is rejection of case of Dr. P. D. Chaturvedi, Asstt. Dir. (OL), IG Mint, Mumbai. With a view to find out whether reasons were recorded atleast while rejecting case of Dr. Chaturvedi, we have gone through the Order dated June 10, 2014 passed by the Government of India, Department of Economic Affairs in the case of Dr. Chaturvedi. However, it appears that even in case of dr. Chaturvedi, no reasons are recorded while rejecting her case.

14. In ordinary course therefore, we would have been justified in remanding the case for reconsideration for recording of reasons in Petitioner's case. However, keeping in mind the fact that the petition is pending since year 2015 and the Petitioner has retired from service on August 31, 2014, we proceed to examine her claim on merits, instead calling remanding the matter to Respondents to seek reasons for rejection of her claim.

15. For better understanding of Petitioner's claim for grant of bunching increments, it would be necessary to examine what was her basic pay as on 31-12-2005 and how her pay has been fixed in pursuance of the Revised Pay Rules 2008. Petitioner was in the prerevised pay scale of Rs. 6500-10500

and he Petitioner's basic pay as on 31-12-2005 was Rs. 8700/-. The post held by Petitioner was granted revised Pay Band of Rs. 15600-39100 plus Grade Pay of Rs. 5400/- w.e.f. 01-01-2006. In the revised Pay Band, Petitioner's basic pay has been revised to Rs. 16190 w.e.f. 01-01-2006.

16. In support of her claim for grant of bunching increments, Petitioner has relied upon following 'Self Generated Table' at page No.35 of the petition:

SELF GENERATED TABLE AS PE RULE 7(1)(A)(i)(ii)
FIXATION TABLE FOR ASSISTANT DIRECTOR (OL)
ON UPGRADATION TO GROUP A

Pre-revised Scale (S – 12)
Rs.6500-200-10500

Revised Pay Band + Grade Pay
PB-3 Rs.15600-39100 + Rs.5400/-

(1) Pre-revised Basic Pay	(2) ** Pre-revised Basic Pay x 1.86 rounded to 10 Rule 7(1)A(ii)	Revised Pay			
		(3) **Pay in the Pay Band Before bunching Rule 7(1)A(ii)	(4) Pay in the Pay Band After bunching Increment = 3% or Multiply by 1.03 rounded to 10 Rule 7(1)A(ii)	(5) Grade Pay	(6) Revised Basic Pay
6500	12090	15600	15600	5400	21000
6700	12470	15600	15600	5400	2100
6900	12840	15600	15600*1.03 = 16070	5400	21470
7100	13210	15600	16070	5400	21470
7300	13580	15600	16070*1.03 = 16560	5400	21960
7500	13950	15600	16560	5400	21960
7700	14330	15600	16560*1.03 = 17060	5400	22460
7900	14700	15600	17060	5400	22460
8100	15070	15600	17060*1.03 = 17580	5400	22980
8300	15440	15600	17580	5400	22980
8500	15810	15810	17580*1.03 = 18110	5400	23510
8700	16190	16190	18110	5400	23510
8900	16560	16560	18110*1.03 = 18660	5400	24060
9100	16930	16930	18660	5400	24060
9300	17300	17300	18660*1.03 = 19220	5400	24620

9500	17670	17670	19220	5400	24620
9700	18050	18050	$19220 \times 1.03 = 19800$	5400	25200
9900	18420	18420	19800	5400	25200
10100	18790	18790	$19800 \times 1.03 = 20400$	5400	25800
10300	19160	19160	20400	5400	25800
10500	19530	19530	$20400 \times 1.03 = 21020$	5400	26420

** Columns 2,3 columns have been added to show intermediate stages of table generation.

- In column(2) as pr Rule 7(1)(A)(i) all stages in column(1) from Rs.6500 to Rs.13500 are multiplied by 1.86.
- In column(3) as per Rule 7(1)(A)(ii) 10 stages in column (2) less than minimum of PB3 are fixed at minimum of PB3 i.e. Rs.15600 and rest value are copied from column(2).
- In column(4) as per Rule 7(1)(A)(ii) since 10 stages are bunched at Rs.15600 bunching benefit of one increment over pay in pay band for every two stages bunched is given.
- In column(6) as per Rule 7(1)(A)(iii) grade pay is added to column(4) to get total pay.

Based on Pay Fixation Rule 7 of CCS(RP) Rules 2008, also applicable for upgradation of posts, this table with bunching benefit worked out by myself (similar to Department of expenditure) in the manner recommended by the Sixth Pay Commission, is to be used in all organizations for pay fixation in all cases, whether the post is isolated or there are any number of juniors/seniors etc. in these scales.

17. Perusal of the above table would indicate that the Petitioner was drawing basic pay of Rs. 8700/- during 5th CPC regime up to December 31, 2005. After coming into effect of the Rules of 6th CPC revised pay Rules 2008, her pay was fixed at Rs.16190/- w.e.f. January 1, 2006. This figure of Rs.16190/- is arrived at by multiplying her pre-revised pay of Rs.8700/- by factor of 1.86 as per Rule 7(1)(A)(i).

18. The above table shows that there has been no bunching in the case of Petitioner as her revised pay was not fixed at the minimum level (Rs. 15600) of the pay band of Rs.15600-39100. Her revised pay was fixed at higher level at Rs.16190/-.

19. The Petitioner has also produced following chart to show the fixation of her pay vis-a-vis her colleagues:

S.No.	Name	Basic on 01.01.2006 as per Vth Pay Commission	Pay in Pay Band + Grade pay on 01.01.2006	Pay in Pay Band + Grade pay on 01.07.2012	Date of Appointment in AD(OL)
1	Mrs. J. A. Sathaye	8700	21590	31910	20.10.1993
2	K. P. Srivastava	9700	23450	33980	23.06.1995
3	Y. P. Shukla	8300	21000	30410	01.01.1997
4	Surya Prakash	7700	21000	30570	08.04.2002
5	Dr.(Mrs.) P. D. Chaturvedi	7100	21000	30370	02.05.2005

As can be from the above table, even though I am senior to Dr. P. D. Chaturvedi by 12 years and the difference in our basic before 01.01.2006 was Rs.1600 (Rs.2976 with D.A. + DP), after pay fixation in VI Pay Commission the difference in pay is only Rs.590, which is less than even one annual increment. Also three employees are bunched at same of pay of Rs.21000. Although Mr. Surya Prakash is senior to Dr. P. D. Chaturvedi by 3 years and Mr. Y. P. Shukla is senior to Dr. Chaturvedi by 8 years, they have been fixed at same pay and that too at the minimum of pay scale PB-3 at Rs.21000, resulting in bunching.

20. Relying on the above chart, Petitioner has submitted that though she was senior to Dr. P. D. Chaturvedi by 12 years, her revised pay is fixed at Rs. 16190 + G. P. 5400 = Rs.21000/-, whereas the revised pay of Dr. Chaturvedi is fixed at Rs. Rs.15600 + G. P. 5400 = Rs.21000/-. The revised pay of Shri. Y. P. Shukla and Shri. Surya Prakash was also fixed at Rs.15600 + G. P. 5400 = Rs.21000/-. Thus, there appears to be bunching of pay (15600+G. P. 5400=Rs.21000) in respect of Shri. Shukla, Shri. Surya Prakash and Dr. Chaturvedi. However, we are not called upon to determine whether Shri. Shukla or Shri. Surya Prakash are entitled to grant of bunching increments under Proviso to Rule 7(1)(A)(ii) of Revised Pay Rules 2008. So far as Petitioner is concerned, there appears to be no bunching as her pay was fixed at higher level at Rs.16190 + G. P. 5400 = Rs.21590.

21. Ld. Counsel for Petitioner has strenuously urged before us that though no bunching at the level of Rs. 15600 is noticed in case of Petitioner, there is admittedly bunching of pay in cases of her juniors Shri. Shukla and Shri. Surya Prakash at Rs. 15600 and therefore on grant of bunching increments to them, they would draw higher pay than Petitioner despite being junior to her. This submission cannot be countenanced. Firstly, no evidence is placed on record to show that Shri. Shukla or Shri. Surya Prakash are granted bunching increments. Secondly, there is no provision in the Rules to provide bunching increments to seniors (in whose case there is no bunching of pay), only because their juniors become entitled to grant of bunching increments. Thirdly, in the event of juniors drawing higher pay than senior, the senior employee can always claim benefit of 'Stepping-up of Pay'. Therefore Petitioner is not entitled to grant of increments under Proviso to Rule & (1) (A) (ii) of the Revised Pay Rules 2008.

22. We are therefore of the view that there is no error in Petitioner's pay fixation under the Revised Pay Rules of 2008. The impugned action of the Respondents does not warrant any interference at the instance of this Court. Writ Petition being devoid of merit is dismissed with no order as to costs. Rule is discharged.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.