



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 161 of 2015

Date of Decision: 08.07.2025

Shri. Ashit Kumar Baruah,
 Son of (L) D.C. Baruah,
 Resident of Quarter No. Type-III/3,
 NEHU Campus, Shillong, Meghalaya.

..... Petitioner

-Versus-

1. North Eastern Hill University (NEHU),
 NEHU Campus, Shillong 793 002,
 Meghalaya,
 Represented by the Registrar.
2. The Registrar,
 North-Eastern Hill University,
 NEHU Campus, Shillong – 793 002,
 Meghalaya.
3. The Deputy Registrar (Establishment-I),
 North-Eastern Hill University,
 NEHU Campus, Shillong – 793 002,
 Meghalaya.

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. A. Paul, Sr. Adv. with
 Ms. R. Dutta, Adv.

For the Respondent(s) : Mr. S. Sen, SC, NEHU with
 Ms. E. Blah, Adv.



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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |
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JUDGMENT

1. The petitioner herein is serving in the North Eastern Hill University (NEHU) in the capacity of a Technical Assistant in the Department of Basic Sciences and Social Service, School of Technology, which is a non-teaching post.

2. It is the case of the petitioner that he has initially joined the service on 15.12.1988 and was appointed as a Mechanic 'B' in the University Science Instrumentation Centre, NEHU on the strength of Memo No. 5381 dated 26.09.1988. Thereafter, he was appointed as Technician 'C' vide office order dated 09.01.1989, w.e.f. 15.12.1988, his scale of pay then was fixed at ₹ 1320-2040/-. This was because of the fact that the post of Mechanic 'B' payscale which was fixed at ₹ 1200-1800/- was merged with that of Technician 'C' whose payscale was ₹ 1320-2040/-. He was therefore placed in the payscale of ₹ 1320-2040/-. The corresponding payscale as per the 5th Central Pay Commission (CPC) being ₹ 4000-6000/-.

3. It is further the case of the petitioner that as per the recommendations of the 5th CPC, the replacement payscale of the petitioner ought to have been ₹ 4500-7000/- and not ₹ 4000-6000/- as was fixed for his post at the relevant point of time.

4. On his representations, the Executive Council Resolutions vide office order dated F2.16/CPC/2002/Vol.I-699 dated 09.04.2003 granted the



petitioner the payscale of ₹ 4500-7000/-. At the same time, his post was re-designated as Technical Assistant, with the core payscale fixed at ₹ 4500-7000/-. The effective date of re-designation was 01.01.1996.

5. On a different note, though related to the case of the petitioner, it was stated that under the UGC Scheme, One Time Upward Movement (OTUM) was available to employees as a financial upgradation, also known as the first financial upgradation (FFU) on their completion of 8 years of service. Again, in August 1999 another scheme known as the Assured Career Progression (ACP) Scheme came into being providing two financial upgradations to an employee on completion of 12 years of service and then on completion of 24 years of service. Finally, the Modified Assured Career Progression (MACP) Scheme came into force on 19.05.2009, wherein is provided that there shall be three financial upgradations under such scheme counted from direct entry grade on completion of 10, 20 and 30 years of service respectively.

6. Heard Ms. A. Paul, learned Sr. counsel along with Ms. R. Dutta, learned counsel for the petitioner who has submitted that the petitioner on his post being re-designated to Technical Assistant, he was placed in the core payscale of ₹ 4500-7000/- w.e.f. 01.01.1996. This was done so vide order dated 09.04.2003.

7. In the same order, it was clearly mentioned that the second financial upgradation (SFU) will be given subsequently, which establishes the fact that the petitioner was only granted the first financial upgradation (FFU) vide order dated 09.04.2003 w.e.f. 04.04.2001 with the payscale of ₹ 5500-9000/-, submits the learned Sr. counsel.

8. The learned Sr. counsel has further submitted that what is due to the



petitioner, is that based on his date of joining on 15.12.1988 he completed 8 years of service on 15.12.1996 and is therefore to be granted the first financial upgradation under the OTUM scheme with a higher payscale of ₹ 5500-10500/- w.e.f. 15.12.1996. In such natural progression, he was entitled to the second financial upgradation under the ACP scheme w.e.f. 15.12.2008 (on completion of 12 years of service) in the payscale of ₹ 6500-10500/-. Finally, the petitioner is also entitled to the third financial upgradation, under the MACP scheme w.e.f. 15.12.2018 (on completion of 30 years of service) in the payscale of ₹ 9300-34800 + Grade Pay of ₹ 5400/-.

9. However, the petitioner was granted the first financial upgradation in the payscale of ₹ 5500-9000/- vide order dated 09.04.2003 w.e.f. 04.04.2001 with One Time Upward Movement (OTUM) not being given to him. Instead of being given the second financial upgradation (SFU), the authorities vide office order dated 07.07.2014 granted the third financial upgradation in the payscale of PB-2 (9300-34800) + Grade Pay of ₹ 4600/- under the MACP Scheme to the petitioner w.e.f. 04.04.2011.

10. It is also the submission of the learned Sr. counsel that when the post of Technician 'C' was redesignated to Technical Assistant with core payscale of ₹ 4500-7000/- w.e.f. 01.01.1996, the same cannot be considered as financial upgradation. On the contrary, the respondent University claimed to have given financial upgradation to the petitioner under OTUM in the payscale of ₹ 4500-7000/- w.e.f. 14.12.1996, when the petitioner was already drawing the same payscale w.e.f. 01.01.1996 on his post being re-designated. As such, such contention cannot be sustained.

11. It is finally prayed that in the light of the contention of the petitioner as regard his due entitlement of the financial upgradations under the



OTUM(1st FU), ACP(2nd FU) and MACP(3rd FU) with relevant revised payscale as was calculated by the petitioner herein, the memo being F.No.09-37/Estt-I/Per/2000-3530 dated 16.04.2015 whereby the representation of the petitioner for grant of benefit under OTUM/ACP Scheme was rejected and also the Order dated 07.07.2014 wherein is seen the table showing the financial benefits given to the employees of the respondent/NEHU, the name of the petitioner figuring at Sl. No. 3 said to have been granted the 3rd FU under the MACP Scheme in PB-2 + 4600 GP w.e.f. 04.04.2011 are liable to be set aside and quashed.

12. Per contra, Mr. S. Sen, learned Standing Counsel, NEHU affirming the stand of the respondent/NEHU has submitted that the basic facts of the employment of the petitioner cannot be contradicted inasmuch as what is borne out from the records would reveal that the petitioner was initially appointed as Mechanic 'B' in the USIC w.e.f. 16.06.1987 on adhoc basis in the payscale of ₹ 800-1150/- (4th CPC). Vide order dated 09.01.1989 issued by the Registrar, NEHU the petitioner was then appointed as Technician 'C' on adhoc basis in the payscale of ₹1320-2040/- corresponding to ₹ 4000-6000/- (5th CPC) w.e.f. 15.12.1988. The petitioner was then appointed on regular basis as Technician 'C' w.e.f. 09.07.1991 in the same payscale of ₹ 4000-6000/- (5th CPC). The nomenclature of Technician post of USIC has been re-designated again w.e.f. 09.03.1992 and the post of Technician 'C' held by the petitioner was renamed as Technician 'III'.

13. The learned Standing Counsel has further submitted that it is a fact that the post of Technician was re-designated as Technical Assistant and, on such re-designation, vide order dated 09.04.2003 the petitioner was placed in the core payscale of ₹ 4500-7000/- w.e.f. 01.01.1996. It is the process of cadre restructuring that the post of the petitioner was renamed as Technical



Assistant and he was thus placed in the next higher payscale of ₹ 4500-7000/-.

14. Ordinarily under the One Time Upward Movement (OTUM) Scheme the petitioner is entitled to a next higher payscale on completion of 8 years of service from the date of initial appointment, as such, he would have been eligible to this higher payscale only w.e.f. 15.12.1996, however, because of the process of re-designation his payscale was increased w.e.f. 01.01.1996. Therefore, it is the contention of the learned Standing Counsel that the petitioner had received the first financial upgradation w.e.f. 01.01.1996.

15. As the petitioner was granted financial upgradation on re-designation w.e.f. 01.01.1996 he was eligible for further financial upgradation on completion of 12 years of service hence and accordingly, under the first financial upgradation as per the ACP scheme his next financial upgradation ought to have been w.e.f. 01.01.2008. However, vide relevant order dated 09.04.2003 he was granted the said first financial upgradation under the ACP scheme in the payscale of ₹ 5500-9000/- w.e.f. 04.04.2001. By this, the petitioner got a quantum jump of payscale from ₹ 4500-7000/- to ₹ 5500-9000/-, submits the learned counsel Standing Counsel.

16. It is the further submission of the learned Standing Counsel that the MACP Scheme came into being in the year 2009 vide Office Memorandum dated 19.05.2009. In this regard, vide communication dated 09.07.2010 by the Chief Statistical Officer addressed to the Registrar, NEHU the same was also extended by the UGC to make it applicable to all non-teaching employees of Central Universities, including NEHU. However, while implementing the said MACP Scheme, UGC has also laid down certain



conditions, inter alia, at clause VI which reads as follows:

“VI. It is to be ensured that in case of any promotion, personal promotions, time bound promotions (One Upward Movement/Second Upward Movement), in-situ promotions, any upgradations, any club structuring scheme, personal pay scales schemes, any restructuring of cadres, implementation of local cadre review committee recommendations, any large scale/mass stepping up exercise etc. carried out by the Universities in the past (before 8.4.1998 and thereafter financial upgradation awarded under ACP Scheme of 9.8.1999, if any) resulting into financial benefits of higher pay scales have to be adjusted against the MACP Scheme.”

17. From a reading of the said MACP Scheme applicable to the employees of NEHU, it can be seen that an employee is entitled to 3(three) financial upgradations in his/her whole service career which includes such upgradation received through other schemes like ACP etc. or by way of cadre restructuring.

18. In the case of the petitioner herein, he has received the first financial upgradation by way of cadre restructuring when his post was re-designated as Technical Assistant, his payscale fixed at ₹ 4500-7000/- w.e.f. 01.01.1996 and then under the ACP Scheme he was granted the 2nd financial upgradation w.e.f. 04.04.2001, in the payscale of ₹ 5500- 9000/-, he was therefore granted the 3rd financial upgradation under the MACP Scheme w.e.f. 04.04.2011 with payscale in PB-2 (₹ 9300-34800) with grade pay of ₹ 4600/-. As such, this being the case, the petitioner has been given all the three financial upgradations in his service career, he is not entitled to any further financial upgradation, this petition being devoid of merits, the same may be dismissed as such, finally submits the learned Standing Counsel.

19. This Court has observed that the dispute between the parties herein is only with regard to the correctness of the placement of the petitioner in



his service career, particularly in the post of Technical Assistant vis-à-vis the payscale said to be applicable to him, taking into account the financial upgradations he has received/yet to receive or such financial upgradations which he ought to have been placed corresponding to the payscale attached thereto.

20. It is the contention of the petitioner that so far, he has received only two financial upgradations, that is, the first one w.e.f. 04.04.2001 where his payscale was fixed at ₹ 5500-9000/-. This too, not being the correct payscale that he ought to have been given. According to him, since the date he joined service on 15.12.1988, on completion of 8 years for which he was entitled to the OTUM Scheme, therefore, as on 15.12.1996, his payscale should be fixed at ₹ 5500-10500/-

21. That the initial date of appointment of the petitioner as Mechanic 'B' being 15.12.1988 is not disputed. Vide order dated 09.01.1989 he was then appointed as Technician 'C' w.e.f. 15.12.1988. His pay then was ₹1320-2040/- (pre-revised) corresponding to ₹ 4000-6000/- under the 5th CPC. If he is to be granted the Onetime Upward Movement benefit of financial upgradation, his payscale will then be fixed at ₹ 4500-7000/- (5th CPC) w.e.f. 15.12.1996. However, vide order dated 09.04.2003 his post was re-designated to Technical Assistant with payscale of ₹ 4500-7000/- w.e.f. 01.01.1996. It is noticed that in the same order dated 09.04.2003, the chart marked as 'II' has the name of the petitioner at Sl. No. 1 and at column No. VII, noted as "Pay scale of OUM, if any with effective date", corresponding to the name of the petitioner is also noted the payscale "4500-7000- w.e.f. 15.12.1996 (OUM)". This means that the petitioner has indeed been granted the financial upgradation under OUM w.e.f. 15.12.1996. In this regard, this Court has also noticed that at Annexure A-20, page 89 of the affidavit-in-



opposition of the respondent/NEHU is found an order No.F.5-3/CRC/97(P-I)/491 dated 22.03.2001 granting one upward scale of pay under the scheme of One Upward Movement to the Non-Teaching Employees of NEHU detailed in Annexure-I, II, III and IV. The name of the petitioner figures in Annexure-I-Shillong Campus at Sl. No. 27 and the effective date for the application of the scheme to him is 14.12.1996. This has further been confirmed by the statement issued by NEHU regarding details of employees eligible for grant of One Upward Movement as approved by the Departmental Promotion Committee on 12.05.2000 where the name and designation of the petitioner is found at Sl. No. 7 and his effected dated for placement to the upward scale was given 14.12.1996. He was eventually placed in the next higher payscale of ₹ 4500-7000/- w.e.f. 01.01.1996.

22. It may not have been noticed that when his post was re-designated, although he was placed in the payscale of ₹ 4500-7000/-, the same was made w.e.f. 01.01.1996, therefore, he has gained about 12 months of additional increased payscale, if one takes the grant of OUM into account.

23. At Part-II of the said order dated 09.04.2003, the name of the petitioner is listed at Sl. No. 1 with columns indicating the date of appointment etc. At column X under the heading “Benefits: FFU”, the petitioner payscale was fixed at ₹ 5500-9000/- w.e.f. 04.04.2001. This, according to the learned Standing Counsel for the NEHU, is the first financial upgradation under the ACP Scheme. Here too, if one takes the payscale of the petitioner at the relevant point of time, that is, ₹ 4500-7000/- , the next higher payscale is ₹ 5000-8000/- which is due to the petitioner if he is get the next financial upgradation. But by getting ₹ 5500-9000/- as the financial upgradation under the ACP Scheme, w.e.f. 04.04.2001, the petitioner is financially benefitted by such placement.



24. As has been observed hereinabove, the petitioner has been granted financial upgradation under the OUM scheme, this can only be termed as the first financial upgradation. Even though he is said to have received the FFU under the ACP scheme w.e.f. 04.04.2001, in effect this has to be considered as his second financial upgradation in his service career. He is therefore, eligible to get the third financial upgradation which is now under the MACP scheme. Accordingly, vide order No. F.2-15(A)/CRC/2014/952 dated 07.07.2014 the petitioner was granted the third MACP w.e.f. 04.04.2011, that is, ten years after the second financial upgradation was given to him in the payscale of PB-2 with grade pay of ₹ 4600/-.

25. In view of the above, it cannot be said that the petitioner has received only two financial upgradations in his service career and that the order dated 07.07.2014 has been passed arbitrarily and without due consideration to the case of the petitioner herein.

26. Accordingly, this Court finds no merits in the case sought to be made out by the petitioner, the same is hereby rejected.

27. Petition disposed of. No costs.

Judge