

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No.1682/2025

Reserved on: 14.10.20025
Pronounced on: 03 .11.2025
Uploaded on : 04.11.2025

whether the operative part or full
judgment is pronounced: Full

UT of Jammu and Kashmir and others

....Petitioners

Through: - Mrs. Monika Kohli Sr. AAG

vs

...Respondent(s)

Roopali Puri wife of Sachin resident of House No. 45 Lane No.1
Garden Avenu Talab Tillo Jammu

Through: - Mr. Sachin Sharma Advocate.

CORAM: **HON'BLE MR. JUSTICE SANJEEV KUMAR,JUDGE**
HON'BLE MR. JUSTICE SANJAY PARIHAR JUDGE

JUDGMENT

Sanjeev Kumar J

1. This petition by the UT of Jammu and Kashmir and two others filed under Article 226 of the Constitution of India seeks to challenge an order and judgment dated 21.09.2022 passed by the Central Administrative Tribunal, Jammu Bench, Jammu ("Tribunal") in TA No. 6583/2021 titled *Roopali Puri vs. State and Others*, whereby the Tribunal has allowed the TA filed by the respondent, quashed Office Memo No. A/35(09)-560 dated 16.08.2018 issued by petitioner No. 2 herein, and restrained the petitioners from disturbing in any

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manner the salary of the respondent fixed and drawn in terms of SRO 42 dated 02.02.2011.

2. Before we advert to the grounds of challenge, a brief look at the factual antecedents leading to the filing of this petition would be worthwhile.

3. Vide Government Order No. 2392-LD (Estt) of 2009 dated 26.10.2009, the respondent was appointed as Legal Assistant in the then pay scale of Rs. 9300-34000 with Grade Pay of Rs. 4200 in the Jammu and Kashmir Legal Subordinate Service. It is pertinent to note that the post of Legal Assistant, against which the respondent came to be appointed, was notified by the Jammu and Kashmir Services Selection Board vide Advertisement Notification dated 05.10.2007 in the then pay scale of Rs. 6500-10500, which came to be revised to the pay band of Rs. 9300-34800 with Grade Pay of Rs. 4200 in terms of the Jammu and Kashmir Civil Services (Revised Pay) Rules, 2009 [“Revised Pay Rules of 2009”], issued vide SRO 93 dated 15.04.2009. The pay revision which took place in terms of SRO 93 (supra) was given effect from 01.01.2006, with the effective date of implementation from 01.07.2009. The Revised Pay Rules of 2009, as were notified on 15.04.2009, contained Rule 8 which provided for fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 01.01.2006. The said Rule came to be revised by the Government vide SRO 266 dated 31.08.2009 read with the addendum to SRO 266 (supra). By virtue of SRO 266 (supra), Rule 8

as it existed at the time of notification of the Revised Pay Rules of 2009 was recast *ab initio*. Rule 8 as recast vide SRO 266 (supra) read with its addendum provided for fixation of basic pay of different posts falling in PB-1, PB-2, and PB-3 having different grade pays. It also laid down the procedure for fixation of basic pay of fresh appointees.

4 While implementing the Revised Pay Rules of 2009, an anomaly was noticed, in that, a large number of posts which were much below the posts in the erstwhile pay scale of Rs. 6500-10500 came to be clubbed together and given the same pay band with the same grade pay. Under the Revised Pay Rules of 2009, the Junior Legal Assistants and the Legal Assistants were placed in the same pay band with the same grade pay. This anomaly which had occurred in the Revised Pay Rules of 2009 could not be removed even after issuance of SRO 266 (supra) and the addendum thereto.

5 With a view to address the issue, the Government for the first time in the year 2011 came up with SRO 42 dated 02.02.2011, wherein different pre-revised pay scales placed in pay band-2 were given different grade pays so as to maintain the hierarchy of grades. The pre-revised pay scale of Rs. 6500-10500 was thus given the grade pay of Rs. 4280 in PB-2 i.e., Rs. 9300-34800. SRO 42 (supra) was given effect notionally from 01.01.2006 and monetarily from 01.07.2011. The said SRO was accompanied by a ready reckoner as well. The ready reckoner indicated the revised minimum basic pay of the post of Legal Assistant as Rs. 16,070. As is alleged, the benefit of

SRO 42 (supra) was not given to the respondent and other similarly situated persons. On a representation moved by the respondent for fixation of her pay strictly in accordance with the schedule appended with SRO 42 (supra), the Government in the Department of Law vide its communication dated 08.08.2011 clarified that the respondent was entitled to monetary benefit w.e.f. 01.01.2011 on fixation of her salary in accordance with SRO 42 (supra). While the issue was pending with the Administrative Department of the respondent, the Department of Finance vide communication dated 12.04.2018 clarified that the basic pay of fresh recruits like the respondent is to be fixed in accordance with SRO 42 (supra) read with Rule 8 of the Revised Pay Rules of 2009. The respondent has also placed on record a communication issued by the General Administration Department (GAD) dated 18.04.2018, clarifying that the posts in Pay Band-2 with Grade Pay of Rs. 4280 were to be regulated in terms of SRO 42 (supra) by taking the basic pay as Rs. 16,370. In pursuance of the aforesaid clarification issued by the GAD, the pay of the respondent was accordingly fixed by taking her basic pay as Rs. 16,370, and she was also released arrears of salary on account of such fixation.

6 While the respondent was receiving the salary released in the manner aforesaid, the Government in the Department of Finance issued Office Memo dated 16.08.2018 (supra) clarifying that newly incorporated grade pays under SRO 42 (supra) were applicable to all employees in the revised pay structure. However, the ready reckoner attached to the said SRO would be applicable to and shall be relevant

for pay revision of employees who stood appointed before 01.01.2006 and were holding these posts on 01.01.2006. This Office Memo of the Department of Finance dated 16.08.2018 had the effect of revising the pay of the respondent and, therefore, was called in question by her in SWP No. 1696/2018, which on transfer to the Tribunal came to be registered as TA No. 6583/2021.

7 The aforesaid petition was contested by the petitioners by filing their counter affidavit. In the counter affidavit, it was contended that the pay scale of fresh recruits was governed by Rule 8 of the Revised Pay Rules of 2009 and that the ready reckoner appended with SRO 42 (supra) was not applicable to fresh recruits appointed on or after 01.01.2006. The contention of the petitioners was rebutted by the respondent by filing a rejoinder. It was contended by the respondent that Rule 8, on which strong reliance was placed by the petitioners, stood amended/recast vide SRO 266 (supra) and the addendum issued thereto, and, therefore, the pay scale of the respondent was governed by the ready reckoner provided along with SRO 42 (supra). It was thus argued that the Department of the respondent had rightly fixed the pay of the respondent by treating her revised basic pay as Rs. 16,370.

8 The Tribunal, having considered the rival contentions, came to the conclusion that the office memo impugned in the TA, which was in the nature of executive instructions, could not have supplanted the provisions of SRO 42 (supra) which was statutory in character. It was thus concluded by the Tribunal that the respondent

was entitled to fixation of her pay under SRO 42 (supra) and by reference to the reckoner provided therewith. The Tribunal, accordingly, allowed the TA of the respondent, quashed the office memo impugned before it, and restrained the petitioners from disturbing or reducing the salary of the respondent already fixed in terms of SRO 42 (supra) by treating her basic pay as Rs. 16,370.

9 The impugned order passed by the Tribunal is assailed by the petitioners on the ground that the Tribunal has failed to appreciate that vide office memo dated 16.08.2018, the Government had not amended any pay revision rules but had only issued a clarification with respect to the applicability of the ready reckoner attached to SRO 42 (supra). The clarification, it is urged, was issued to allay the doubts expressed by various quarters regarding fixation of pay of employees appointed to the posts carrying grade pay of Rs. 4210, Rs. 4220, Rs. 4240, Rs. 4260, and Rs. 4280 in Pay Band-2 (Rs. 9300-34800) on or after 01.01.2006 in terms of SRO 266 (supra) read with SRO 42 of 2011 (supra). The impugned judgment of the Tribunal is also called in question on the ground that the Tribunal has erroneously interpreted SRO 42 of 2011, which was not meant to change the existing mechanism of initial pay fixation for newly appointed employees and was instead introduced to provide different grade pays within Pay Band-2 to maintain hierarchy in the matter of pay for different posts. It was thus contended that the ready reckoner attached to SRO 42 was not meant for direct recruits and was introduced for fixation of pay of

employees who were already in service before 01.01.2006 and were holding pre-revised pay scales on 01.01.2006.

10 *Per contra*, it is argued by learned counsel appearing for the respondent that the judgment of the Tribunal has correctly captured the essence of SRO 42 and has upheld the basic salary of the respondent as Rs. 16,370 by reference to the ready reckoner attached with the said SRO. He would, therefore, support the judgment of the Tribunal on all the pleas taken note of and accepted by the Tribunal to arrive at the conclusion holding the respondent entitled to fixation of her salary in the basic pay of Rs. 16,370.

11 Having heard learned counsel for the parties and perused the material on record, it is necessary to set out a few admitted facts.

12 The post of Legal Assistant in the Jammu and Kashmir Legal Subordinate Service was notified in the year 2007 by the J&K SSB in the then pay scale of Rs. 6500-10500. In terms of the Revised Pay Rules of 2009 notified by the Government vide SRO 93 dated 15.04.2009, the pay revisions took effect from 01.01.2006 with the effective date of implementation as 01.07.2009. The respondent came to be appointed vide Government Order dated 26.10.2009 in the pay band of Rs. 9300-34800 with Grade Pay of Rs. 4200 (PB-2), which was the revised pay scale corresponding to the pre-revised pay scale of Rs. 6500-10500. The fixation of pay in the revised pay structure of employees like the respondent, appointed as fresh recruits on or after

01.01.2006, was regulated by Rule 8, which, for facility of reference, is set out below:

“8. Fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 1.1.2006.

The entry-level pay in the revised pay band of direct recruits appointed on or after 1.1.2006 shall be the minimum of the pay in the revised pay band and the applicable grade pay. In such cases, where the emoluments in the pre-revised pay scale (s) (i.e. basic pay in the pre-revised pay scale(s) plus Dearness Pay plus Dearness Allowance applicable on the date of joining) exceeds the sum of the pay fixed in the revised pay structure and the applicable dearness allowance thereon, the difference shall be allowed as personal pay to be absorbed in future increments in pay”.

13 Rule 8 as it existed at the time of issuance of the Revised Pay Rules of 2009 clearly provided that the entry-level pay of the direct recruits appointed on or after 01.01.2006 in the revised pay band would be the minimum of the pay in the revised pay band and the applicable grade pay. It further provided that in such cases where the emoluments in the pre-revised pay scale, i.e., basic pay in the pre-revised pay scale plus dearness pay plus dearness allowance applicable on the date of joining, would exceed the sum of pay fixed in the revised pay structure and the applicable DA thereon, the difference would be allowed as personal pay to be absorbed in future increments in pay. It is thus clear from a plain reading of Rule 8 as it existed at the time of issuance of notification of the Revised Pay Rules of 2009 that para (2) of Rule 8 referred to above was applicable to the fresh recruits appointed between 01.01.2006 and 01.07.2009. The respondent, who was appointed on

26.10.2009, was thus not covered by para (2) of Rule 8 reproduced above.

14 It is equally true that the pre-revised pay scale of Rs. 6500–10500, existing at S.No. 16 of the First Schedule to the Pay Revision Rules of 2009, along with the lower pay scales figuring from S.No. 11 to 15, was revised to the same pay band of Rs. 9300–34800 with Grade Pay of Rs. 4200. This resulted in an anomaly whereby the posts of Junior Legal Assistant, Legal Assistant, and several other posts came to be placed in the same pay scale, thereby disturbing the hierarchy of grades commensurate with the respective posts. The Pay Revision Rules of 2009 also contained a ready reckoner for pay fixation. So far as PB-2 (9300-34800 + GP 4200) corresponding to the pre-revised pay scale of Rs. 6500-10500 is concerned, the same was indicated at page 35 of the ready reckoner. The revised basic pay corresponding to the basic pay of Rs. 6500-10500 was indicated as Rs. 16,290. Rule 8 as it existed in the Pay Revision Rules of 2009 at the time of its notification was recast *ab initio* vide SRO 266 dated 03.08.2009. Rule 8 as recast vide SRO 266 reads thus:

“8. Fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 1.1.2006: The following tables indicate the entry level pay in the pay band at which the pay direct recruits to a particular post carrying a specific grade pay will be fixed on or after 1.1.2006. In such cases, where the emoluments in the pre-revised pay scales(s) (i.e basic pay in the pre-revised pay scale(s) plus dearness pay plus dearness allowance applicable on the date of joining) exceeds the sum of pay fixed in the revised pay structure and the applicable dearness allowance thereon, the difference shall be

allowed as personal pay to be absorbed future increments in pay.

-1S (Rs. 4440-7440)

Grade pay	Pay in the pay band	Total
1300	4440	5740
1400	4790	6190
1650	4930	6580

PB-1(Rs.5200-20200)

Grade pay	Pay in the pay band	Total
1800	5200	7000
1900	5830	7730
2000	6460	8460
2400	7440	9840
28700	8370	11170

PB-2(Rs.9300-34800)

Grade pay	Pay in the pay band	Total
4200	9300	13500
4600	12540	17140
4800	13350	18150
5200	14160	19360
5400	14700	20100

15 From a reading of the recast Rule, it is evident that fixation of pay in the revised pay structure of fresh recruits appointed on or after 01.01.2006 was to be fixed as per the table contained in the recast Rule 8. The entry-level pay in Pay Band-2 with GP 4200 was indicated in the table as 9300 + 4200 = 13,500. The recast Rule 8, however, retained the earlier position that in such cases where the emoluments in the pre-revised pay scale i.e., basic pay in the pre-revised pay scale plus dearness pay plus dearness allowance applicable on the date of joining, would exceed the sum fixed in the revised pay structure and the applicable DA thereon, the difference would be

allowed as personal pay to be absorbed in future increments in pay. Obviously, this retained portion was applicable to those who were appointed after 01.01.2006 and up to 01.07.2009 i.e., the date of implementation of the Pay Revision Rules of 2009. The anomaly in respect of different pre-revised pay scales placed in the revised pay band 9300-34800 (PB-2) carrying the same grade pay of Rs. 4200 was removed by the Government under SRO 42 (supra). The pre-revised pay scale of Rs. 6500-10500 attached to the post of Legal Assistant and other identical posts came to be placed in the revised Pay Band-2 i.e., 9300-34800 with GP of Rs. 4280. The lower pre-revised pay scales which were placed in PB-2 were provided different but lower grade pays so as to maintain the hierarchy of posts and the corresponding pay scales. This removal of anomaly in terms of SRO 42 (supra) was made w.e.f. 01.01.2006 and monetarily w.e.f. 01.07.2011. The placement of the pre-revised pay scale of Rs. 6500-10500 in revised pay band 9300-34800 with GP of Rs. 4280 and similar changes in the lower posts in the same PB necessitated issuance of a fresh ready reckoner corresponding to new entries. The basic pay in the revised pay band 9300-34800 with GP of Rs. 4280 was fixed at Rs. 16,370. It is on the basis of this ready reckoner attached with SRO 42 (supra), the respondent is claiming fixation of her salary at Rs. 16,370, whereas the same is sought to be denied to her on the ground that the ready reckoner is only a guide for pay fixation of employees who were in position as on 01.01.2006 and were receiving salary in the pre-revised

pay scales existing at the time of notification of the Pay Revision Rules of 2009.

16 Before we proceed further, we deem it appropriate to set out Rule 7 of the Revised Pay Rules of 2009 hereinbelow:

“Rule - 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 Government 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.

Provided further that:-

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 case of pay scales 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 posts carrying scale of Rs. 75500-80000, 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 latter 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.

- (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.

Note-1 Where a post has been upgraded, the fixation of pay in the applicable pay band will be done in the manner prescribed in accordance with Clause (A) (i) and (ii) of Rule 7 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the upgraded scale will be payable in addition.

Note-2 In the case of merger of pay scales, pay in the revised pay bands will be fixed in the manner prescribed in accordance with Clause (A) (i) and (ii) of Rule 7 by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding the resultant figure to the next multiple of ten. The grade pay corresponding to the higher merged scale will be payable in addition.

Note-3 A Government servant who is on leave on the 1st day of January 2006 and is entitled to leave salary shall become entitled to pay in the revised pay structure from 1.1.2006 or the date of option for the revised pay structure. Similarly, where a Government servant is on study leave on the first day of January, 2006, he will be entitled to the benefits under these Rules from 1.1.2006 or the date of option.

Note-4 A Government servant under suspension, shall continue to draw subsistence allowance based on existing scale of pay and his pay in the revised pay structure will be subject to the final order on the pending disciplinary proceedings.

Note-5 Where a Government servant is holding a permanent post and is officiating in a higher post on a regular basis, the pay shall be fixed under this sub-rule

with reference to the officiating post only, and the pay so fixed shall be treated as substantive pay.

Note-6 Where the 'existing emoluments' exceed the revised emoluments in the case of any Government servant, the difference shall be allowed as personal pay to be absorbed in future increases in pay.

Note-7 Where in the fixation of pay under sub-rule (1), the pay of a Government servant, who, in the existing scale was drawing immediately before the 1st day of January, 2006 more pay than another Government servant junior to him in the same cadre, gets fixed in the revised pay band at a stage lower than that of such junior, his pay shall be stepped up to the same stage in the revised pay band as that of the junior.

Note-8 Where a Government servant is in receipt of personal pay on the 1st day of January, 2006, which together with his existing emoluments exceeds the revised emoluments, then, the difference representing such excess shall be allowed to such Government servant as personal pay to be absorbed in future increases in pay.

Note-9 In cases where a senior Government servant promoted to a higher post before the 1st day of January, 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on or after the 1st day of January, 2006, the pay in the pay band of the senior Government servant should be stepped up to an amount equal to the pay in the pay band as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Government servant subject to the fulfillment of the following conditions, namely:-

- (i) Both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.
- (ii) The pre-revised scale of pay and the revised grade pay of the lower and higher posts in which they are entitled to draw pay should be identical.
- (iii) The senior Government servants at the time of promotion should have been drawing equal or more pay than the junior.
- (iv) The anomaly should be directly as a result of the application of the provisions of Article 77-B of J & K CSRs or any other rule or order regulating pay fixation on such promotion in the revised pay structure. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provision of this Note need not be invoked to step up the pay of the senior officer.

- (2) Subject to the provisions of rule 5, if the pay as fixed in the officiating post under sub-rule (1) is lower than the pay fixed in the substantive post, the former shall be fixed at the same stage as the substantive pay”.

17 From a reading of Rule 7 in juxtaposition with the Ready Reckoner attached with the Pay Revision Rules of 2009 and the Ready Reckoner attached with SRO 42 (supra), it transpires beyond any doubt that the figures arrived at in Column-II are by applying the methodology provided in Rule 7(1)(A) of the Pay Revision Rules of 2009, and are in respect of employees who were in service as on 01.01.2006 and were receiving their pay in the pre-revised pay scales, i.e., the pay scales existing at the time of promulgation of the Pay Revision Rules of 2009. The methodology provides for determining the pay in the revised pay band by multiplying the existing basic pay as on 01.01.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10. If the maximum of the revised pay band/pay scale is more than the amount arrived at as per the above, the pay shall be fixed at the minimum of the revised pay band/pay scale. It is thus evident that the fixation of pay in the revised pay band as provided in the Ready Reckoner is only in respect of employees who were in service as on 01.01.2006 and is not applicable to fresh recruits appointed on or after 01.01.2006.

18 Rule 8, as it existed originally and as recast in terms of SRO 266 (supra), lays down clearly and unequivocally that the entry-level pay in the pay band, to which the pay of the direct recruits appointed on or after 01.01.2006 to a particular post carrying a specific grade pay shall be fixed in the manner provided in the table which is

part of the recast Rule 8. So far as Pay Band 9300–34800 with Grade Pay 4200 is concerned, the pay of a direct recruit appointed on or after 01.01.2006 has to be fixed at $9300 + 4200 = 13500$. Similarly, in the pay band PB-2 (6500–10500) with Grade Pay 4280, which is the pay scale prescribed for the post of Legal Assistant, the pay has to be arrived at in terms of the recast Rule 8 reproduced above, and this will bring the basic pay of fresh recruits to the post of Legal Assistant and equivalent to $9300 + 4280 = 13580$ and not 16370 as is claimed by the respondent on the basis of the Ready Reckoner.

19 We have carefully analysed the rule position in the light of rival contentions and we are of the considered opinion that the Ready Reckoners, which are strongly relied upon by the respondent, are meant for fixation of pay of the existing employees, i.e., employees who were appointed before 01.01.2006 and were in position on the said date. The Reckoner attached to SRO 42 (supra) was necessitated by the prescription of new pay grades to various pay scales in PB-2, i.e., those which were mentioned from S. No. 11 to 16 of PB-2. This necessitated the issuance of the Reckoner for fixation of pay of the existing employees, i.e., employees who were appointed before 01.01.2006, into the new pay band with the revised grade pay.

20 It is here that the respondent as also the Tribunal has totally misunderstood the Pay Revision Rules of 2009 as amended from time to time. The fixation of pay of the existing employees, i.e., those employees who were appointed before 01.01.2006 and were in position

on the said date, is regulated and governed by Rule 7 of the Rules of 2009 and the Ready Reckoner issued by the Government for facilitating such fixation. The pay of fresh recruits, i.e., those who were appointed on or after 01.01.2006, is governed by Rule 8 of the Pay Revision Rules of 2009 as recast vide SRO 266 (supra) and strictly as per the table provided therewith. The Ready Reckoner issued with SRO 42 (supra) only provides for fixation of pay of existing employees in PB-2 with revised pay grades issued in respect of entries 11 to 16. It needs no reiteration that prior to issuance of SRO 42, the existing pay scales mentioned at S. No. 11 to 16 of the First Schedule of the Pay Revision Rules of 2009 were placed in PB-2 (9300–34800) with the same Grade Pay of Rs. 4200. It is this anomaly which was corrected by the Government vide SRO 42 (supra), and different grade pays were prescribed corresponding to the different existing pay scales so as to maintain the superiority and hierarchy of the posts and the corresponding pay.

21 Since there was a change in the grade pay in respect of many existing pay scales, including the pay scale of Rs. 6500–10500 attached to the post of Legal Assistant and equivalent, a fresh Ready Reckoner was issued so as to facilitate the fixation of pay of existing employees under Rule 7 of the Revised Pay Rules of 2009. As already indicated and reiterated, Rule 7 as also the Ready Reckoners had no application to the pay fixation of the respondent, who was a fresh recruit appointed to the service after 01.01.2006. Her salary was thus liable to be fixed in terms of Rule 8 as recast vide SRO 266 (supra). The

communication issued by the Finance Department, which was impugned in the TA, was nothing but a clarification of the true and correct position existing in the Pay Revision Rules of 2009 and, therefore, could not have been, by any stretch of reasoning, termed as an ‘amendment’ to the Pay Revision Rules of 2009.

22 We are in full accord with the legal position adumbrated by the Tribunal to the extent that executive instructions in the shape of clarifications or otherwise cannot supplant or override statutory rules. However, in the case on hand, we clearly find that the office memorandum, which was the subject matter of challenge before the Tribunal, was only a clarification of the existing position and did not add to or subtract anything from the Pay Revision Rules of 2009 as amended from time to time, which, of course, are statutory in nature. It needs to be mentioned here that during the course of arguments, it was also brought to our notice by the petitioners that the Government vide S.O. 05 dated 03.01.2024 has made further amendment to the Pay Revision Rules of 2009 as an addendum to SRO 42 (supra), providing for fixation of entry-level pay of direct recruits in the following manner:

"The Entry Level Pay of the direct recruits (officers/officials) which comes under the purview of SRO 42 of 2011 shall be as per following matrix:-

S.No.	Pre-revised Scale	Pay Revised Scale	Pay Grade	Pay Entry Level Basic
12	5150-150-8300	9300-34800	4210	9580+4210=13790
13	5500-175-9000	9300-34800	4220	9630+4220=13850
14	5600-175-9100	9300-34800	4240	9800+4240=14040
15	5700-200-10100	9300-34800	4260	9980+4260=14240

16 6500-200-10500 9300-34800 4280 11250+4280=15530

This shall be deemed to be existing in rules abinitio and shall have effect notionally from 1st January, 2006 and monetarily from 01-01-2011."

23 So far as the pre-revised pay scale of Rs. 6500–10500 is concerned, the same remains in the revised pay scale of Rs. 9300–34800 with Grade Pay of Rs. 4280. However, for fixation of entry-level basic pay, the revised pay shall be taken as $11250 + 4280 = 15530$. This SRO has been issued to amend the Pay Revision Rules of 2009 notionally w.e.f. 01.01.2006 and monetarily from 01.01.2011.

24 Be that as it may, for the reasons we have stated hereinabove, we find merit in this petition and the same is, accordingly, allowed. The impugned judgment passed by the Tribunal is set aside and, as a consequence, the T.A. filed by the respondent is dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
03.11.2025
Sanjeev

Whether the order is speaking: Yes
Whether the order is reportable: Yes