



2026:DHC:8907-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010458292026
+ **W.P.(C) 14101/2026, CM APPL. 65990/2026, CM APPL. 65991/2026 & CM APPL. 65992/2026**
DIRECTOR GENERAL DOORDARSHAN & ORS.

.....Petitioners

Through: Mr. Sahil Bhalaik, Adv.

versus

RAJ KISHORE SINGH

.....Respondent

Through: Mr. Prem Chand with Mr. P.C. Das, Advs.

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA****JUDGMENT (ORAL)**

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06.10.2026**C. HARI SHANKAR, J.**

1. This writ petition assails judgment dated 09 October 2025 passed by the Central Administrative Tribunal¹ in OA 2025/2017. The Tribunal has, by the impugned judgment, allowed the claim of the respondent for stepping up of his pay in the post of Assistant Engineer² to be at par with the one R. K. Sharma.

2. We may reproduce the reasoning of the Tribunal, as contained in para 6 of the impugned judgment, thus:

¹ "the Tribunal" hereinafter

² "AE" hereinafter



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“6. Following are the admitted facts :-

(i) Applicant was initially appointed as EA on 12.01.1984, promoted to the post of Sr. EA on 27.10.1987 and as AE on 28.06.1994 whereas one Shri R.K. Sharma was initially appointed as EA on 13.03.1985, promoted to the post of Sr. EA on 30.09.1989 and as AE on 14.11.1994, thus, it is an admitted fact that the applicant remains senior to Shri R.K. Sharma at every stage of his service carrier.

(ii) It is also an admitted fact that the Shri R.K. Sharma was drawing higher pay comparing to the applicant. Present case is not the case where pay of junior was wrongly fixed, rather it is the case of respondent that Shri R.K. Sharma is getting salary as per his entitlement. Therefore, the anomaly remains that the applicant despite being senior is getting a lesser salary than Shri R.K. Sharma.

(iii) FR-22 provides that the stepping up should be done in case the conditions specified therein are fulfilled i.e. both the junior and senior officers should belong to the same cadre and the post in which they were promoted or appointed should be identical and in the same cadre.

(iv) It is not the case of the respondents that Shri R.K. Sharma was getting higher salary because of the additional emoluments being attached to the nature of work and the duties being discharged at the junior position.

(v) The only reason to oppose the claim of pay parity of the applicant with his junior given by the respondents is that Shri R.K. Sharma had given his option for fixation of his pay from March, 1995 at the time of his promotion to the post of AE from 14.11.1994. Resultantly, the pay of Shri R.K. Sharma was fixed as Rs.2975/- w.e.f. 01.03.1995 with date of next increment as 01.03.1996. However, pay of the applicant was fixed as Rs.2900/- from the date of his promotion to the post of AE i.e. 28.06.1994 with date of next increment as 01.06.1995. Thus, the sole reason for pay anomaly is exercise of option at the time of pay fixation to the post of AE by the applicant and Shri R.K. Sharma.

(vi) The applicant, in the present case, is claiming affirmative relief of equality as enshrined under Article 14 of the Constitution of India. The applicant is claiming stepping up of his pay at par with his junior Shri R.K. Sharma, who has been drawing more pay than the applicant under F.R.22.

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(vii) The facts of the present case are not covered under instances/events mentioned under para 3 of DOP&T OM No.4/3/2017-Estt(Pay-I) dated 26.10.2018 on the subject “Stepping up of pay – Consolidated guidelines- reg.” Rather, the present case is fallen under the eventualities discussed in para 2 of the said OM dated 26.10.2018 issued by the DOP&T.

(viii) The principle of parity/equality at work place in same cadre would entitle the applicant for stepping up of his pay at par with his junior Shri R.K. Sharma.”

3. In the feeder post of Senior Engineering Assistant, it is not in dispute that the respondent and R.K. Sharma were drawing the same pay.

4. The Tribunal has, in the impugned judgment, placed reliance on the following para from the judgment of the Supreme Court in ***Union of India v. P. Jagdish***³:

“7. So far as the second question is concerned it depends upon the applicability of the principle of stepping up. *Admittedly, the respondents had been promoted earlier to the category of Head Clerks and some of their juniors who were continuing as Senior Clerks against the identified posts carrying special pay of Rs 35 per month on being promoted to the post of Head Clerks later than the respondents got their pay fixed at a higher level than the respondents. Under the provisions of Fundamental Rules to remove the anomaly of a government servant promoted or appointed to a higher post earlier drawing a lower rate of pay in that post than another government servant junior to him in the lower grade and promoted or appointed subsequently to the higher post, the principle of stepping up of the pay is applied. In such cases the pay of the senior officer in the higher post is required to be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up is required to be done with effect from the date of promotion or appointment of the junior officer. On refixation of the pay of the senior officer by applying the principle of stepping up, the next increment of the said officer would be drawn on completion of the requisite qualifying service with effect from the date of te refixation of pay. This principle*



becomes applicable when the junior officer and the senior officer belong to the same category and the post from which they have been promoted and in the promoted cadre the junior officer on being promoted later than the senior officer gets a higher pay. This being the principle of stepping up contained in the Fundamental Rules and admittedly the respondents being senior to several other Senior Clerks and the respondents having been promoted earlier than many of their juniors who were promoted later to the post of Head Clerks, the principle of stepping up should be made applicable to the respondents with effect from the date their juniors in the erstwhile cadre of Senior Clerks get promoted to the cadre of Head Clerks and their pay was fixed at a higher slab than that of the respondents. The stepping up should be done in such a way that the anomaly of juniors getting higher salary than the seniors in the promoted category of Head Clerk would be removed and the pay of the seniors like the respondents would be stepped up to a figure equal to the pay as fixed for their junior officer in the higher post of Head Clerk. In fact the Tribunal by the impugned order has directed to apply the principle of stepping up and we see no infirmity with the same direction subject to the aforesaid clarifications. This principle of stepping up which we have, upheld would prevent violation of equal pay for equal work but grant of consequential benefit of the difference of salary would not be correct for the reason that the respondents had not worked in the post to which 35% [sic Rs 35 as] special pay was attached in the lower cadre. But by reason of promotion the promotee-juniors who worked on the said posts, in fact, performed the hard duties and earned special pay. Directions to pay arrears would be deleterious to inculcation of efficiency in service. All persons who were indolent to share higher responsibilities in lower posts, on promotion would get accelerated arrears that would be deleterious to efficiency of service. Therefore, though direction to step up the pay on notional basis is consistent with Article 39(d) of the Constitution, it would be applicable only prospectively from the date of the promotion and the fixation of the scale, stepping up of the scale of pay would be prospective to calculate future increments on the scale of pay in promotional post only prospectively. The appeal is dismissed but in the circumstances there would not be any order as to costs.”

(Emphasis supplied)

5. The Tribunal has also placed reliance on an Office Memorandum⁴ dated 26 October 2018 issued by the Department of



Personnel and Training⁵, which holds that, where the anomaly in pay has arisen because of the application of FR 22(I)(a)(1)⁶, the senior in the promotional post would be entitled to stepping up of pay at par with his junior.

6. Aggrieved by the aforesaid decision, the judgment of the Tribunal, Doordarshan has filed the present writ petition. We have heard Mr. Bhalaik, learned Counsel for the petitioner and Mr. Prem Chand, learned Counsel for the respondent.

⁵ “DOPT” hereinafter

⁶ **22(1)** The initial pay of a Government servant who is appointed to a post on a time- scale of pay is regulated as follows:

(a) (1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale shall be fixed by giving one increment in the level from which the Government servant is promoted and he or she shall be placed at a cell equal to the figure so arrived at in the level of the post to which promoted or appointed and if no such cell is available in the level to which promoted or appointed, he shall be placed at the next higher cell in that level.

Save in cases of appointment on deputation to an ex-cadre post or to a post on ad hoc basis or on direct recruitment basis, the Government servant shall have the option, to be exercised within one month from the date of promotion or appointment, as the case may be, to have the pay fixed under this rule from the date of such promotion or appointment or to have the pay fixed initially at the next higher cell in the level of the post to which he or she is promoted on regular basis and subsequently, on the date of accrual of next increment in the level of the post from which Government Servant is promoted, his pay shall be re-fixed and two increments (one accrued on account of annual Increment and the second accrued on account of promotion) shall be granted in the level from which the Government Servant is promoted and he or she shall be placed at a cell equal to the figure so arrived, in the level of the post to which he or she is promoted; and if no such cell is available in the level to which he or she is promoted, he or she shall be placed at the next higher cell in that level.

In cases where an ad hoc promotion is followed by regular appointment without break, the option is admissible from the date of initial appointment or promotion to be exercised within one month from the date of such regular appointment.

In cases where an officer has retired as ad hoc before being regularised to that post and later on has been assessed during the process of regularisation and found fit by the competent authority along with his or her juniors, who are still in service and are eligible to avail of the option facility from a date on which the retired employee was still in service, the same option facility shall also be extended to the retired employee, to be exercised within three months from the date when his or her junior became eligible to avail of option facility and in cases where such retired employee was himself the junior most, he or she may exercise the option facility within three months from the date when his or her immediate senior became eligible to avail of option facility:

Provided that where a Government servant is immediately before his promotion or appointment on regular basis to a higher post, drawing pay at the maximum of the level of the lower post, his initial pay in the level of the higher post shall be fixed at the cell equal to the figure so arrived at in the level of the post to which promoted or appointed by increasing his pay in respect of the lower post held by him on regular basis by an amount equal to the last increment in the level of the lower post and if no such cell is available in the level to which he is promoted or appointed, he shall be placed at the next higher cell in that level.



7. Mr. Bhalaik submits that the OM dated 26 October 2018, on which the Tribunal placed reliance, is not applicable, as para 5 makes it clear that the OM applies only from 1 January 2016, whereas the promotion of the respondent as AE took place much prior thereto in 1994.

8. We had drawn the attention of Mr. Bhalaik to a recent decision of Supreme Court in *Jai Prakash Singh v. The State of Uttar Pradesh*⁷, in which the Supreme Court has held as under:

15. It is fundamental that a senior officer cannot be paid less than a junior officer holding the same post. The position regarding fixation of pay of the appellant and Dr. Pradeep Kumar is so grossly anomalous that the same violates Article 14 of the Constitution of India as well as the provisions in Article 39(d) of the Constitution. Undisputed facts are that both the appellant as well as Dr. Pradeep Kumar were serving as Readers in the Department of Education and that the appellant had obtained M. Phil and Ph. D degrees prior to Dr. Pradeep Kumar obtaining the same. A junior receiving a higher pay compared to the pay of the senior has to be justified with reference to valid factors. No demonstrable difference in qualifications for the post, source of recruitment, experience, responsibility and accountability is placed on record which could be proffered as a justification for denying equal pay to the appellant for equal work of equal value. The Government Orders, relied upon by Ms. Goel, embody policy decisions of the Government; however, the same have to yield to the over-arching principles of equality and equal pay for equal work enshrined in the Constitution to the extent they are inconsistent therewith. We, thus, see no valid reason to uphold the impugned order of the High Court. The same stands set aside.

9. Mr. Bhalaik submits that the judgment in *Jai Prakash Singh* is clearly distinguishable, as the Supreme Court had proceeded on the premise that both the officers in that case were holders of the same



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educational qualification. However, Mr. Bhalaik has very fairly drawn our attention to the OM dated 4 November 1993 issued by the DOPT, which deals with stepping up of pay. We deem it appropriate to reproduce the OM in its entirety, thus:

“No. 4/7/92-Estt.(Pay-I)
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi, the 4-11-1993
OFFICE MEMORANDUM

Subject:- Stepping up of pay.

Cases for stepping up of the pay of seniors in a pay scale that of juniors are generally considered if the following conditions are satisfied:-

- (a) both the junior and senior officer. should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) the scales of pay of the lower and higher posts in which the junior and senior officer: are entitled to draw pay should be identical;
- (c) the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments or on any other account the above provisions will not be invoked to step up the pay of senior officer.

2. Instances have come to the notice of this Department requesting for stepping up of pay due to the following reasons:-

- (a) where a senior proceeds on Extra Ordinary Leave which results in postponement of Date of Next Increment in the lower post, consequently he starts drawing less pay than his junior in the lower grade itself. He, therefore, cannot claim pay parity on promotion even though he may be promoted earlier to the higher grade;
- (b) If a senior foregoes/refuses promotion leading to his junior being promoted/appointed to the higher post earlier,

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junior draws higher pay than the senior. The senior may be on deputation while junior avails of the ad-hoc promotion in the cadre. The increased pay drawn by a junior either due to ad-hoc promotion in the cadre. The increased pay drawn by a junior either, due to ad-hoc officiating/regular service rendered in the higher posts for periods earlier than the senior, cannot therefore, be as anomaly in strict sense of the term.

(c) If a senior joins the higher post later than the junior, for whatsoever reasons, whereby he draw less pay than the junior, in such cases senior cannot claim stepping up of pay at par with the junior.

(d) If a senior is appointed later than the junior in the lower post itself whereby he is in receipt of lesser pay than the junior, in such cases also the senior cannot claim pay parity in the higher post though he may have been promoted earlier to the higher post.

(e) When a person is promoted from lower to a higher post his pay is fixed with reference to the pay drawn by him in the lower post under FR 22-C and he is likely to get more pay than a direct appointed whose pay is fixed under different set of rules. For example a UDC on promotion to the post of Assistant gets his pay fixed under FR-22C with reference to the pay drawn in the post of UDC, whereas the pay of Assistant (DR) is fixed normally at the minimum under FR 22-B(2). In such cases, the senior direct recruit cannot claim pay parity with the junior promoted from a lower post to higher post as seniority alone is not a criteria for allowing stepping up.

(f) Where a junior gets more pay due to additional increments earned on acquiring higher qualifications.

3. In the instances referred to in paragraph 2 above, a junior drawing more pay than the senior will not constitute an anomaly. In such cases, stepping up of pay will not, therefore, be admissible.

4. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India.

5. Hindi version will follow.

Sd/-



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(MRS/ REVATHY IYER)
DEPUTY SECRETARY TO THE GOVT. OF INDIA”

10. Having heard Mr. Bhalaik, we do not find this to be a case deserving of interference by us in exercise of the extraordinary jurisdiction vested in us by Article 226 of the Constitution of India.

11. It is not in dispute that the anomaly in pay, between the respondent and R.K. Sharma arose, in the present case, because R. K. Sharma had opted for fixation of his pay at the time of his promotion to the post of AE with effect from 14 November 1994, however, after he drew his next increment, whereas the respondent's pay was fixed with effect from 28 June 1994 and his next increment was made available to him thereafter.

12. This is a clear instance of a discrepancy in pay arising as a consequence of applicability of FR-22A, which permits an officer to opt, at the stage of his promotion, to draw the pay of the higher post either before or after he draws his next increment. The discrepancy in pay having arisen between the respondent and R. K. Sharma having arisen on this core, it is directly relatable to the FR 22(I)(a)(1). The DOPT OM dated 4 November 1993 *supra* to which our attention was drawn by Mr. Bhalaik clearly sets out, in the opening paragraph, the various circumstances in which stepping up of pay is generally considered. Though, Mr. Bhalaik seeks to rely on the words “generally considered” to state that these instructions are not binding, it is clear that, having been issued by the DOPT, which is the nodal authority for service issues relating to the government servants under the Allocation of Business Rules framed under Article 77 of the Constitution of

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India, the OM would be binding on the petitioner.

13. All three criteria envisaged in clauses (a) to (c) in the opening paragraph of the DOPT OM dated 4 November 1993 are applicable.

14. We are also of the view that the enunciation of the law in para 15 of ***Jai Prakash Singh*** is absolute in terms and disapproves of any situation in which a junior in a higher post would draw a pay lower than the senior.

15. In that view of the matter, we do not deem this to be a case deserving of interference under Article 226 of the Constitution of India.

16. The writ petition is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

OCTOBER 6, 2026/yk