

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 11150 of 2015

Soumitra Paul & Ors.

-Vs-

Union of India & Ors.

For the Petitioners	: Mr. Debojyoti Ghosh Mr. Sizan Nandi
For the Respondents	: Mr. Ranjan Kumar Sinha Ms. Smita Das De
Heard on	: 19.06.2024, 24.07.2024, 03.09.2024, 21.08.2025, 24.09.2025
Judgment on	: 24.10.2025

Ananya Bandyopadhyay, J.:-

1. The petitioners, who are presently discharging duties in the posts of Constable and Head Constable under the Railway Protection Force (RPF), Metro Railway, Kolkata, function under the supervisory jurisdiction of the Inspector General-cum-Chief Security Commissioner, RPF, Eastern Railway. The petitioners assert that they have been subjected to a continuous financial disadvantage owing to arbitrary and retrospective interpretation of pay fixation norms by the respondent Railway authorities.
2. It had been the emphatic grievance of the petitioners, upon their initial appointment, they were extended the benefit of two advance increments in accordance with the recommendations of the 4th Central Pay Commission

(CPC). These increments were granted in recognition of specific recruitment policies that formed part of their service terms. Additionally, the petitioners claimed eligibility to bunching benefits, which were intended to mitigate disparities arising due to overlapping pay stages between the pre-revised and revised pay scales.

3. However, with the advent of the 5th Central Pay Commission, effective from 01.01.1996, the petitioners submit that the respondent Railway authorities engaged in an erroneous and retrospectively punitive revision of pay, whereby the two advance increments previously granted were unilaterally adjusted and deducted. This adjustment was carried out pursuant to a Railway Board Circular dated 27.03.2002, which was further circulated vide letter dated 30.01.2004 by the Chief Personnel Officer, Eastern Railway. The impugned circular misinterpreted the recommendations of the 5th CPC and directed deduction of benefits previously sanctioned under the 4th CPC, thereby nullifying the financial gain already accrued to the petitioners. The Circular, thus, resulted in a reduction of the revised pay post-implementation of the 5th CPC.
4. The petitioners further urged vide communication dated 04.12.1997, the pay of the petitioners was revised and upgraded to Rs. 3050-4590 in view of the 5th CPC. However, despite such upgradation, the benefit of the two advance increments was not restored, nor was there a proper reflection of the bunching benefit to which the petitioners were entitled. This omission not only contradicted the spirit of the 5th CPC recommendations but also violated the expressed instructions of the Railway Board's own circular dated 30.01.2001, issued through the Executive Director (Pay Commission), Railway Board.

5. The petitioners forwarded timely and repeated representations, first on 21.08.2013 and thereafter before the Financial Adviser & Chief Accounts Officer (FA & CAO), Metro Railway, Kolkata, seeking redressal of the anomaly and correction of their pay fixation. The respondent authorities, however, rejected their representation without offering a reasoned or statutory justification, instead citing the impugned Railway Board circular of 2002.
6. Thereafter, seeking transparency and explanation for such deduction of their financial entitlements, the petitioners filed a request under the Right to Information Act, 2005. In response, vide letter dated 12.11.2013, the respondent authorities furnished a note which unequivocally stated that the formula advanced by the petitioners could not be accepted as the two advance increments granted under the 4th CPC had been adjusted during fixation under the 5th CPC based on the 2002 circular.
7. The petitioners argued this retrospective adjustment of already accrued benefits was not only arbitrary but also violative of the principles of natural justice. They contended any executive order or circular that sought to override benefits already conferred by a prior pay commission could not be sustained in law, unless exercised under proper legislative authority.
8. The petitioners also contested the impugned order dated 13.11.2013 issued by the Assistant Security Commissioner, RPF, Metro Railway, which reaffirmed the deduction of the two advance increments, which passed nearly a decade after the benefit was conferred, offended the principle of legitimate expectation and violated the doctrine of non-arbitrariness enshrined in Article 14 of the Constitution of India.

9. Further, by relying upon Railway Board Orders of 1997 and Para 50(1)/IC/97 of the 5th CPC, the petitioners asserted that even in terms of “bunching” benefit, they were entitled to at least one increment in the revised scale for every three increments earned in the pre-revised scale. Despite such explicit recommendations being accepted by the Government, the petitioners contended no such benefit was extended to them.
10. The representations dated 10.11.2014 and 03.02.2015 addressed to the Chief Security Commissioner and the Inspector General of RPF as annexed, reflected claims laid out in detail. However, no corrective action was taken.
11. The petitioners alleged the Railway authorities failed to distinguish between pay upgraded due to departmental decisions and pay revised due to Central Pay Commission recommendations. The adjustment of advance increments during the 5th CPC fixation was impermissible since those increments had been conferred under a separate administrative scheme and not as part of CPC implementation alone.
12. The petitioners asserted despite the upgradation of pay to the level of Central Police Organisations (vide Railway Board’s letter dated 04.12.1997), they were denied the corresponding financial benefits, thereby rendering the exercise illusory and without real effect.
13. The petitioners also raised a distinct but related grievance with regard to the fixation of the date of financial benefit under the ACP/MACP Schemes. In their representation dated 12.03.2015, they relied upon Rule 63.1 of the Railway Protection Force Rules, 1987, which clearly stated:

"Subject to sub-rule (2), the period of training including in-service courses shall be treated as duty for all purposes."

14. It had been the contention of the petitioners that, accordingly, their date of joining at the training centre ought to be considered for computing the qualifying period for ACP/MACP benefits.
15. In response, the respondent authority issued a communication dated 01.04.2015, relying on a Railway Board Order dated 29.04.2011, to the effect that Rule 63.1 was withdrawn with effect from 09.04.2011, and thus could not be relied upon for benefits sought thereafter.
16. The petitioners assailed this view on the ground that a statutory rule enacted under the Railway Protection Force Act, 1987, could not be withdrawn by an executive circular, unless duly amended by Parliament. They submitted the retrospective withdrawal of a statutory benefit, particularly when the eligibility accrued prior to the withdrawal, was manifestly unjust and contrary to settled constitutional principles.
17. The petitioners relied upon the Supreme Court's dicta in multiple judgments holding that retrospective operation of executive instructions could not impair vested rights, and statutory rules could not be abrogated without appropriate legislative sanction. Consequently, the impugned communication dated 01.04.2015, rejecting the petitioners' claim for proper reckoning of their date of joining for MACP benefits, is bad in law, *non est* in the eyes of law, and liable to be set aside.
18. The representations dated 12.03.2015 along with the impugned rejection letter dated 01.04.2015, bearing No. SC/19-E/MACP/Policy, issued by the Staff Officer to the Chief Security Commissioner, Metro Railway, Calcutta, have been placed on record as Annexures P-11 and P-12.

19. The petitioners conclusively urged this Court to grant relief by:-

- a) Directing restoration of the two advance increments initially granted under the 4th CPC and wrongly deducted under the 5th CPC;
- b) Re-fixation of pay in accordance with the proper interpretation of CPC recommendations and Railway Board orders;
- c) Granting ACP/MACP benefits by reckoning the date of joining training as qualifying service, as per Rule 63.1 of the RPF Rules, 1987;
- d) Setting aside the impugned circulars and rejection letters to the extent they contradicted statutory provisions or operated retrospectively to the prejudice of the petitioners.

20. The Learned Advocate representing the petitioners submitted as follows:-

i. The petitioners, working as Constables and Head Constables in the Railway Protection Force (RPF) under the Metro Railway, Eastern Railway, Kolkata, have approached this Court invoking its constitutional writ jurisdiction, assailing the arbitrary and retrospective withdrawal of financial benefits and erroneous pay fixation stretching from the 4th to the 6th Central Pay Commission (CPC), including denial of statutory entitlements under the RPF Rules, 1987.

ii. The gravamen of their grievance is threefold:

- a. Anomalous pay fixation and non-recognition of advance increments earned during training under the 4th CPC;
- b. Non-implementation of "bunching benefit" and improper re-fixation under the 6th CPC;

- c. Unlawful exclusion of the training period from qualifying service for the purposes of ACP and MACP schemes, in derogation of Rule 63.1 of the RPF Rules, 1987.
- iii. The issue raised is not one of mere administrative oversight. It strikes at the root of constitutional fairness, and the statutory sanctity of service jurisprudence, where benefits once validly conferred under prevailing rules cannot be withdrawn retrospectively, thereby unsettling the legitimate expectations of the petitioners.
- iv. It is an admitted fact that the petitioners were enrolled as trainees in 1993 under the 4th CPC regime, drawing a basic pay of Rs. 825/- with incremental accruals of Rs. 15/- each on a periodic basis. By 1995, the petitioners had reached a basic pay of Rs. 885/- due to successive advance increments legitimately earned during their training.
- v. However, upon implementation of the 5th CPC, the Railway authorities adjusted and/or deducted two of the advance increments, bringing down their pay to Rs. 855/- through orders dated 15.03.2001 and 27.03.2002, without affording any opportunity of hearing – thereby offending the doctrine of *audi alteram partem*, a cardinal principle of natural justice.
- vi. This abrupt downward revision was not just administratively oppressive, but legally untenable, being in direct conflict with the binding directives of the Ministry of Home Affairs dated 04.12.1997 and 10.10.1997 which never mandated retrospective withdrawal of increments.

- vii. The Hon'ble Supreme Court in *Union of India & Ors. v. Harananda & Ors.* [(2018) 1 SCC (L&S) 26] held unequivocally that benefits once conferred under an existing regime cannot be withdrawn to the detriment of employees with retrospective effect, unless such withdrawal is expressly authorized by law.
- viii. Similarly, in *A.A. Calton v. Director of Education* [1983 SCC (L&S) 356, Para 5], the Hon'ble Apex Court emphasized that no administrative instruction or circular can override statutory entitlements or upset accrued rights retrospectively.
- ix. The deductions were contrary to statutory authority, and by misinterpreting the CPC's recommendations as binding law. In *ITW Signode India Ltd. v. Collector of Central Excise* [(2004) 3 SCC 48, Para 56], the Supreme Court reiterated that delegated legislation or administrative clarification cannot override or distort the parent Act or statutory rules.
- x. The petitioners' further grievance is the non-grant of bunching benefit, despite clear entitlement under the 6th CPC's implementation scheme. Representations dated 10.11.2014 and 03.02.2015 by the petitioners remained unanswered until the rejection order of 01.04.2015, bereft of reasoning and in flagrant disregard of fairness.
- xi. Bunching benefit, as per the 6th CPC, is not a discretionary incentive but a compensatory mechanism to protect seniors from drawing equal or lesser pay than juniors due to anomalies in revised pay structures. The denial of such benefit violates the

principle of equal pay for equal work, protected under Article 14 of the Constitution.

- xii. Perhaps the most glaring illegality arises from the treatment of the training period (from 1993 to 1994) as "pre-appointment", thereby excluding it from qualifying service under ACP and MACP schemes.
- xiii. Rule 63.1 of the Railway Protection Force Rules, 1987, framed under the Railway Protection Force Act, 1957, unequivocally states that the date of enrolment shall be the starting point of service for all purposes. The Rule carries the force of law and has primacy over executive instructions or CPC recommendations.
- xiv. The exclusion of the training period, therefore, runs counter to the statutory command and is liable to be struck down as *ultra vires*. In *Ram Ratna International v. Union of India*, the Hon'ble Court held that a statutory rule framed under a Central Act cannot be overridden by administrative convenience or internal interpretation.
- xv. The RPF Rules constitute subordinate legislation, duly notified and holding the status of superior legal authority vis-à-vis policy guidelines or pay commission recommendations.
- xvi. The Hon'ble Supreme Court has consistently held that statutory or accrued financial benefits cannot be curtailed retrospectively, unless a legislative mandate to that effect exists. In:
 - a. *M/s Usha Martin Telecom Ltd. v. Commissioner of Customs*,
 - b. *BPL Mobile Communication Ltd. v. Commissioner of Customs*,
 the Courts struck down retrospective financial adjustments, ruling that such action infringes on settled and crystallized service rights.

- xvii. The principles governing subordinate legislation and its interaction with parent law are equally well settled. In *ITW Signode (supra)*, it was held that the primary Act always prevailed and the rules must be read within its four corners. Delegated legislation cannot alter, modify or frustrate the purpose of the main statute.
- xviii. The case of the petitioners is emblematic of systemic injustice, where lawful entitlements have been retrospectively nullified without statutory basis, consultation, or procedural fairness.
- xix. The withdrawal of increments, denial of bunching benefits, and exclusion of training period are not isolated administrative errors but constitute a continuing wrong, warranting correction in the exercise of this Hon'ble Court's constitutional writ jurisdiction under Article 226.

21. The Learned Advocate representing the petitioner urged this Court to:-

- a. Declare the deduction of two advance increments as unauthorised and void;
- b. Direct the respondents to re-fix the petitioners' pay appropriately with restoration of increments and bunching benefit;
- c. Declare that the training period qualifies as service under ACP and MACP schemes, in line with Rule 63.1 of RPF Rules, 1987;
- d. Award consequential monetary benefits with interest, to undo the continuing financial prejudice suffered by the petitioners.

22. The Learned Advocate representing the respondents submitted as follows:-

- i. The respondents drew the attention of this Court to the foundational premise of the petitioners' engagement with the Railway Protection Force, namely, the issuance of the recruitment call letter dated 25.02.1993. It was specifically highlighted that clause 10(c) of the said letter clearly stipulated that the engagement of the selected candidates would commence with a mandatory training period of nine months, during which a fixed stipend of Rs.825/- per month would be paid.
- ii. The call letter unambiguously demarcated the training period as one distinct from regular service, during which the candidates would not enjoy the full rights and emoluments of permanent appointment. Reliance is placed on Rules 63.1 and 63.2 of the Railway Protection Force Rules, 1987, to support the proposition that formal appointment and the commencement of service tenure begin only upon completion of training.

23. The petitioners presently discharging duties as Constables and Head Constables under the Railway Protection Force (RPF) have assailed the arbitrary and retrospective withdrawal of accrued financial benefits and the erroneous pay fixation stretching from the 4th to the 6th Central Pay Commission.

24. The petitioner petitioners had been aggrieved of the following:-

- i. The anomalous pay fixation resulting from the non-recognition and deduction of two advance increments granted during training under the 4th CPC Mandate

- ii. The non-implementation of the bunching benefit and improper re-fixation under the 6th CPC and
- iii. The unlawful exclusion of the training period from qualifying service for the purpose of ACP/MACP Schemes, in derogation of Rule 63.1 of the RPF Rules 1987

25. The notification of the Office of the Sr. SC/RPF, Metro Railway Kolkata being No.MRTS/SC.583/0 Pt.III/1411 dated 13.11.2013, *inter alia*, stated as follows:-

“

Sub: Anomaly in fixation of pay of Constables during fixation of Pay on 5th & 6th CPC.

29 nos. Constable of different Post/RPF/M.Rly had submitted representations addressed to IG-cum-CSC/RPF/E.Rly regarding anomaly in pay fixation of Constables during 5th & 6th CPC.

On scrutiny, it is seen that their pay fixation under 5th & 6th CPC, as per Rly Bd's order no.PC.V/2000/R-II/9/1 dtd. 15.3.2001 (5th PC) and CPO/ER/Kolkata's no.10(01)/2004 & PC-VI/2008/1/RSRP/1 dtd. 11.9.2008 (6th CPC) is correct and there is no anomaly in their pay fixation which is duly vetted by associate finance.

The formula adopted for pay fixation on 5th PC is as under and accordingly fixation of 6th PC also done.

Existing scale of Constable in 4th PC Rs.825-15-900-EB-20-1200/- + 2 advance increment

<i>Rs.885-30=</i>	<i>Rs.855/-</i>
<i>DA: 148%=</i>	<i>Rs.1265/-</i>
<i>1st interim Relief</i>	<i>Rs.100/-</i>
<i>2nd interim Relief</i>	<i>Rs.100/-</i>
<i>Existing incumbent</i>	<i>Rs.2320/-</i>
<i><u>40% Basic</u></i>	<i><u>Rs.342/-</u></i>

Total Rs.2662/-

Pay fixed Rs.2750+140 = Rs/2890/- w.e.f. 01.01.96 in sc. Rs.2750-4400/- + 2 Adv. Inc. Pay raised Rs.2960/- w.e.f. 01.10.96

Pay raised Rs.3030/- w.e.f. 01.10.97

Pay fixed Rs.3050/- w.e.f. 10.10.97 in sc. Rs.3050-4590/- in 5th CPC vide Bd's L/No.PC-V/97/G-4 dtd. 30.6.2000 under FR.23

Pay raised Rs.3125/- w.e.f. 01.10.98

After thorough scrutiny it is seen that the fixation made by this office as well as other division of E.Rly including HQ and S.E.Rly is correct as per Bd's order circulated vide CPO/E.Rly's Sl. No.10(01)/2004 dtd. 30.01.2004 there is no anomaly in fixation as done by the Administration.

It is observed that confusion arises amongst the staff from the 1st fixation sheet of RPF Constables made by S.E.Rly based on ready reckoner circulated by FA & CAO (PC)/S.E.Rly vide no. SAO/PC/5th/9 dtd. 01.06.2001 which was done incorrectly without following the Rly Bd's order vide no.PC-V/2000/R-II/9/1 dtd. 27.3.2002 (CPO/E.Rly's sl. No.10(01)/2004 dtd. 30.01.2004. Subsequently, S.E.Rly also modified the fixation as per above mentioned Rly Bd's order adjusting two advance increments as per Board's guideline and excess payment made due to wrong fixation made earlier was also recovered.

Hence, the fixation made by this office as well as all the Divisions and HQ of E.Rly and also S.E.Rly (subsequently) is correct and there is no anomaly found on scrutiny.

.....”

26. The communication by the petitioner addressing to the IG-cum-Chief Security Commissioner/RPF, Easter Railway, 14th Stand Road, 3rd Floor, Koilaghat Building, Kolkata-700001 on 10.11.2014 replicated as follows:-

“

I would like to inform that I had appealed vide dated. 21.08.2013 as above to you but no reply has yet been achieved from your

end. I would like to furnish some matter of fact that before the date of upgradation of Pay Scale i.e. 10.10.1997, I have earned 4 (four) annual increment and 2 (two) advance increment as per extant Rules, i.e. 6 (six) increments. So, I was eligible for 2 (two) bunching increment with the pay fixation w.e.f. 10.10.1997 which was not done in my favour.

As per above direction No.Director/RPF letter No.2012/Sec(E)/RC-3/26 dated 27.08.2012. We should be given ACP w.e.f. 2005 instead of had given to us 10.08.2006.

And also upgraded pay fixation may be clarified i.e. pre revised scale (Vth CPC) Constable Rs.3350-4590, Head Constable Rs.3200-4900, ASI Rs.4000-6000, VI CPC may be placed in the respective pay scale constable Rs.3200-4900 Head Constable Rs.4000-6000 & ASI Rs.4500-7000 and respectively vide resolution No.5/2/2006-E.III(A) dated 05.10.2006 point no.7.36.94 & Rly. Board's RBE No.172/2008 dated 11.11.2008.

As per Railway Board's RBE No.103/2008 dated. 04.04.2008 vie para 7/(1)/A/(I)(II), my pay was not done properly as I was granted 1st ACP in scale 4000-6000/- w.e.f. 10.08.2006, but the fixation pay was not done in accordance with the fitment table of Vth CPC.

In view of the above, I hope that you will be kind enough to take necessary action in this regard and give order to re refixation for the same.

.....”

27. The statement of fixation of pay under Railway Service (Revised Pay) Rules, 1997 replicated as follows:-

“.....

9. (i) *Revised Pay as fixed under Sub-rules (1)(A) or 1(B) 1(C) or 1(D) of Rule 7 at the stage in the Revised scale next above the amount against item 7 above.*
- (ii) *Number of increments to be allowed on account of bunching (see first proviso under Rule 7(I)(A) (if admissible)*

(iii) *Stepped up revised pay on account of bunching (if admissible)*

10. *If one increment is ensured in the proposed scale for every 3 increments in the existing scale, the stage of pay in the proposed scale (See Second proviso under Rule 7(I)(A)).*

7. Fixation of initial pay in the revised scale :

(1) *The initial pay of a Railway servant who elects, or is deemed to have elected under sub-rule (3) of Rule 6 to be governed by the revised scale on and from the 1st day of January, 1996, 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) an amount representing 40 per cent of the basic pay in the existing scale shall be added to the 'existing emoluments' of the employee;

(ii) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage next above the amount thus computed.

Provided that –

(a) if the minimum of the revised scale is more than the amount so arrived at, the pay shall be fixed at the minimum of the revised scale;

(b) if the amount so arrived at is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale.

Provided further that –

where in the fixation of pay, the pay of Railway servants drawing pay at more than four consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised scale at the same stage, the pay in the revised scale of such of these Railway servants who are drawing pay beyond the first four consecutive

stages in the existing scale shall be stepped upto the stage where such bunching occurs, as under, by the grant of increment(s) in the revised scales in the following manner, namely:

- (a) for Railway servants drawing pay from the 5th upto the 8th stage in the existing scale – by one increment;*
- (b) for Railway servants drawing pay from the 9th upto the 12th stage in the existing scale, if there is bunching beyond the 8th stage – by two increments;*
- (c) for Railway servants drawing pay from the 13th upto the 16th stage in the existing scale, if there is bunching beyond the 12th stage – by three increments.*

If by stepping up of the pay as above, the pay of a Railway servant gets fixed at a stage in the revised scale which is higher than the stage in the revised scale at which the pay of a Railway 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.

Provided also that –

The fixation thus made shall ensure that every employee will get at least one increment in the revised scale of pay for every three increments (inclusive of stagnation increment(s), if any) in the existing scale of pay.”

28. Grade S-4 of the scale of pay recommended by the Commission is stated as follows:-

“Grade S-4: Rs.2750-55-4400 Rs.2750-70-3800-75-4400

.....

(II) With regard to fixation of pay in the revised scales, the percentage of pre-revised basic pay to be added as fitment shall be 40% as against 20% recommended by the Fifth Central Pay Commission. The other recommendation of the Commission as a result of “bunching” (for the fifth stage) has been accepted; however, the fixation shall be made in

the manner that every employee will get at least one increment in the revised scale of pay for every three increments in the pre-revised scale of pay.”

7. In respect of personnel of Central Police Organisations, in the rank from Constable to Subedar Major, Ministry of Home Affairs will carry out an exercise for rationalization of ranks so as to achieve parity with Delhi Police, pending which the scales recommended by the Fifth CPC will be applied.

29. The Learned Advocate representing the respondent authorities had strenuously submitted a counter-narrative emphasizing the alleged reduction of the advance increments was not a unilateral withdrawal but a necessary technical and procedural restructuring aimed to achieve uniformity across the cadre in the light of the 5th CPC. It was asserted that the process of pay re-fixation, guided by the Railway Board Circular dated 27.03.2002 merely recalibrated the pre-existing benefit with respect to the exclusion of the training period, reliance was placed upon the initial recruitment process, where the training period with its fixed stipend was clearly demarcated as a period distinct from regular service, the formal tenure of which commenced only upon completion of said training citing Rules 63.1 and 63.2 in support thereof.

30. It was further urged the petitioners acted upon misconception of the method of pay fixation. The respondent authorities did not display any *mala fide* intention or acted illegally.

31. Indisputably the petitioners had accrued a basic pay of Rs.885/- by 1995 due to successive advance increments legitimately earned during their training which crystallized into an accrued financial right. The subsequent unilateral adjustment and deduction to Rs.855/- carried out

without affording any opportunity of hearing constituted a blatant infraction of the doctrine of *audi alteram partem*, a cardinal principle of natural justice.

32. Furthermore, the action offends the doctrine of legitimate expectation.

Once a financial benefit has been conferred, accepted and acted upon, the employee acquires a legitimate expectation that such benefit will not be withdrawn except the authority of law. The administrative circulars claimed to be complied by the respondents in revising the pay fixation of the petitioners had been direct conflict with the binding directives of the Ministry of Home Affairs and could not sustain in law. It had been conclusively held by the Apex Court that it had been a settled principle of law as well as binding precedents that statutory or accrued financial benefits could not be curtailed retrospectively unless a legislature mandate to that effect existed within striking down retrospective financial adjustment that infringe upon settled and crystallized service rights. Rule 63 of the RPF Rules, 1987 stated as follows:

“63. Regulation of training period:

63.1 Subject to sub-rule (2), the period of training including in-service courses shall be treated as duty for all purposes

63.2 During the period of training, the recruits shall be paid stipend or pay and allowances as may be specified from time to time.”

33. It had been the admission on the part of the Learned Advocate representing the respondents that during the mandatory training period of 9 months of fixed stipend of Rs.825/- per month would be paid. It was further asserted upon conclusion of the training period, the petitioners,

including Soumitra Paul, were appointed as Constables in the pay scale of Rs. 825-15-900-20-1200. In accordance with prevailing practice under the 4th CPC, the Petitioners were granted two advance increments, raising the basic pay from Rs. 825/- to Rs. 855/- with effect from 10.08.1994. Subsequent annual increments were applied appropriately, bringing the basic pay to Rs. 870/- from 01.10.1994 and further to Rs. 885/- by 01.10.1995. With the introduction of the 5th Central Pay Commission on 01.01.1996, the pay scale applicable to RPF personnel was revised to Rs. 2750-70-3800-75-4400. The respondents rely on the authoritative directive of the Railway Board Circular dated 27.03.2002 (Letter No. PC-V/2000/R-II/9/1), subsequently communicated via CPO/Eastern Railway Circular No. 10(01)/2004. The re-fixation process, as per Clause (iii) of the said Circular, mandated that the two advance increments granted earlier under the 4th CPC would be provisionally set aside for the purpose of identifying the corresponding stage in the new scale. Thereafter, equivalent increments in the revised scale would be granted to restore parity. Applying this methodology, the petitioners' pre-revision pay of Rs. 885/- was reduced to Rs. 855/- (excluding Rs. 15 x 2), which was mapped to the 5th CPC stage of Rs. 2750/- (being the minimum of the scale). Upon restoration of the two increments (Rs. 70 each), the pay was re-fixed at Rs. 2890/- as on 01.01.1996.

34. The Learned Advocate representing the respondents argued that the pay was fixed in strict conformity with the central guidelines and did not reflect any unilateral withdrawal of benefits, but a technical restructuring mandated for uniformity across the cadre. It was contended that following the re-fixation under the 5th CPC, the petitioners continued to receive

annual increments as per the schedule. The sequence of increment and pay progression from 1996 to 2005 is meticulously detailed, reflecting transparent compliance with pay rules. Further, it was asserted that any temporary withholding of increments due to disciplinary action, specifically from 01.10.2003 to 31.03.2004, was pursuant to administrative discipline and is not under challenge in this petition.

35. With the advent of the 6th Central Pay Commission, the petitioners' pay was again restructured as per statutory norms. The revised scale, as recommended and accepted by the Union Government, has been implemented without deviation. A reference is made to Page 55 of the writ petition where these details are tabulated. The Respondents strenuously submit that the Railway Board Circular dated 27.03.2002 cannot be impugned as being arbitrary or illegal, since it merely operationalises a consistent method of adjustment for all personnel who received advance increments under the 4th CPC.

36. It was further argued:-

- a. The advance increments were not denied, but recalibrated under the revised scale.
- b. No vested or accrued benefit has been taken away retrospectively.
- c. The entire process is guided by executive policy harmonised with CPC recommendations, and not by ad hoc discretion.

37. The grievances of the petitioners stem from a misapprehension of the method of pay fixation and not from any illegality or malice on part of the respondents. It was accordingly prayed that the Writ Petition be dismissed as being devoid of merit.

38. The conjoint reading of the aforesaid sub-rules prescribed inclusion of the period of training in service to be treated as duty. Therefore, the period of training undergone by the petitioners could not be isolated or segregated from their period of service. Once an employee similarly circumstanced that the petitioners successfully completes the period of training to continue with his or her future service should relate to the previous date of being granted an appointment to the post for which prior condition of undergoing training was a necessary condition. The period of training cannot be excluded from the entire service period of an employee and facilities and career progression should be considered from the date of joining the service as a trainee and to be continued thereafter computing the period of such training to be added with the entire service career of an employee on successful completion of training. If an employee was to be estimated unsuccessful in completing the training the service of the same may be discontinued. However, if an employee successfully completes the training period or the probation period as a trainee or a probationer his or her date of induction in service for future absorption and calculation of service tenure must include the period of training undergone by the aforesaid employee.

39. In the instant case, the basic sum of Rs.825/- along with two increments amounting to Rs. 855/- which was further increased from time to time in consonance with the recommendations as well as the regulations as aforesaid the same could not be construed as a stipend. A stipend is distinct from the salary or pay and allowance. A stipend comprises a fix sum of money for a specific activity in the form of an internship, trainee

etc. and cannot form the basis for determining the future increment whereas salary or pay and allowance constitute a regular ongoing payment which is bound to a particular employment.

40. Rule 63.2 as aforesaid includes pay and allowances as may be specified from time to time.

41. The respondent-authorities had granted pay and allowances in the form of salary to the petitioners contrary to the claim of stipend. In view of marked distinction between applicability of the same stipend could not have been the basis on which the future benefits were granted to the petitioners. The petitioners received Rs.825/- as the pay along with two increments as mentioned above and could not have been distinguished to be a stipend.

42. The bunching benefit as per the 6th CPC had been compensatory mechanism to mitigate disparity arising of overlapping pay scales intended to protect the senior employees from the anomaly and disparity of drawing equal or lesser pay than their juniors. It is granted to ensure equal pay for equal work a right protected under Article 14 of the Constitution of India when an administrative authority fails or violates to enure such benefit in accordance to the Pay Commission's recommendation further rejecting the representations without reasoned justification portrayed non-compliant arbitrariness. The exclusion of the training period from qualifying service contradicted the expressed mandate of Rule 63.1 of the RPF Rules, 1987. This rule unequivocally stated the date of enrolment should be the starting point of service for all purposes which exemplified the rule of law and primacy vis-à-vis any executive instructions or policy guideline.

43. A statutory rule framed under a Central Act cannot be superseded by administrative convenience or internal interpretation. The RPF Rules being a creation of the legislature had been legally binding by virtue of the same being duly notified and assuming the status of a statutory legislation which reigns supreme over CPC recommendation or executive policy. Administrative action on the part of the respondent-authority to exclude the training period cannot be legally acceptable and such contention of the Learned Advocate representing the respondent to exclude the training period undergone by the petitioners for assessing the service tenure cannot be acceptable. Accordingly, the claim on behalf of the respondent-authority that the petitioners were misdirected and acted upon mere misapprehension of pay fixation is negated. In case of conflict between the statutory law and the recommendations issued by a concerned administrative authority the primary Act should always prevail and the rules promulgated thereunder must be legally sacrosanct. Delegated legislation cannot acquire the status to modify, alter or frustrate the purpose of the original statute.

44. Accordingly, the circulars and office letters issued by the respondent-authorities as mentioned in the prayer portion of the writ petition are set aside.

45. In view of the above discussions, the instant writ petition being WPA 11150 of 2015 is disposed of with the following directions:-

- a. The respondent-authorities are directed to re-fix pay of the petitioners appropriately restoring the benefit of deduction of two advance increments from the pay of the petitioners with effect from the date of initial deduction.

- b. The petitioners will be entitled to the bunching benefits under the 6th CPC and the respondent-authorities are to re-fix their pay accordingly.
- c. The period of training of the petitioners shall be considered as qualifying service for the purpose of ACP and MACP Schemes compliance with the provisions of Rule 63.1 of the RPF Rules, 1987. The impugned circulars and rejection letters to the extent contradictory to the aforesaid statutory principle are hereby set aside.
- d. Consequential monetary benefits including arrears arising from the re-fixation should be awarded to the petitioners along with interest at the rate of 6 per cent per annum within a period of 6 months from the date of communications of this order.

46. There is no order as to costs.

47. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)