



2025:DHC:10829-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 16.10.2025
Pronounced on: 04.12.2025

+ **W.P.(C) 3518/2024**

AWANISH CHANDRA MISHRA Petitioner
Through: Mr.Ankur Chhibber,
Mr.Anshuman Mehrotra and
Mr.Nikunj Arora, Advs.
versus

**DELHI HIGH COURT THROUGH IT'S REGISTRAR
GENERAL & ANR.** Respondents
Through: Ms. Anu Bagai and Ms.Aanchal
Pundir, Advs. for R-1
Mrs.Avnish Ahlawat, SC for
GNCTD with Mr.Nitesh Kumar
Singh, Ms.Aliza Alam and
Mr.Mohnish Sehrawat, Advs.
for R-2

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. The present Writ Petition has been filed by the petitioner,
praying for the following reliefs:

*“I) Issue a Writ of Certiorari seeking quashing
and setting aside of impugned Minutes of
Meeting dated 03.11.2022 and order dated
15.12.2022 passed by Respondent rejecting
Petitioner's representation dated 20.03.2019
and Supplementary Note dated 23.09.2022
alongwith impugned Pay Fixation orders*



dated 22.12.2022, 31.05.2019 and 05.12.2018 vide which the Respondent wrongly revised / protected his pay w.e.f. 24.12.2009 with Grade Pay of Rs. 4600 instead of Rs. 4800/-.

II) Issue a Writ of Mandamus thereby directing the Respondent to re-fix pay of the Petitioner in terms of Office Order dated 13.07.2018 issued from the Office of Ld. District and Sessions Judge, Delhi in pursuance of this Hon'ble Court judgement dated 09.07.2015 passed in W.P. (C) No. 5392/2011 in Grade Pay of Rs. 4800/- w.e.f. 24.12.2009 with all the consequential benefits and thereafter granting him the benefits of Non Functional Grade Pay of Rs. 5400/- w.e.f. 28.03.2013 and MACP benefits with Grade Pay of Rs. 6600/- on completion of 10 years of service on 28.03.2019 alongwith interest @ 12% per annum."

BRIEF FACTS OF THE PRESENT CASE:

2. The petitioner, *vide* Memorandum No. 2/968/F.1(7)/98 dated 12.06.1998 issued by the Office of the learned District & Sessions Judge (HQs), Delhi, was offered appointment to the post of Lower Division Clerk (LDC) in the Pay Scale of Rs. 3050–4590, which he accepted and joined on 18.06.1998.

3. Upon qualifying the Departmental Competitive Examination, the petitioner was appointed as Stenographer (Grade-III) in the Pay Scale of Rs. 4000–100-6000 with effect from 24.12.2002. Subsequently, he was promoted to the post of Stenographer (Grade-II) in the Pay Scale of Rs. 5000–8000 (pre-revised) *vide* Order dated 28.03.2009.

4. The petitioner was appointed as Senior Personal Assistant (SPA) on deputation to the High Court of Delhi, in the Pay Scale of Rs. 9300–34800/- with the Grade Pay of Rs. 4600/-, *vide* Orders dated



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14.05.2009/30.05.2009.

5. Later, the petitioner was selected through an open competitive examination for the post of Personal Assistant (PA) in the High Court of Delhi, in the Pay Band of Rs. 9300–34,800/- with the Grade Pay of Rs. 4200/-, and was issued Offer of Appointment No. 40082/Estt./E-IV dated 21.11.2009.

6. The petitioner tendered his technical resignation from his previous post at the District Court, which was accepted with effect from 24.12.2009, thereby granting him the benefit of past service under Rule 26 (2) of the Central Civil Services (Pension) Rules, 1972 [hereinafter referred to as the ‘CCS (Pension) Rules’]. He joined the High Court of Delhi as a Personal Assistant on 24.12.2009.

7. Pursuant to the Judgment dated 02.05.2013 passed in W.P.(C) No. 6522/2012, titled *Manoj Kumar & Ors. v. High Court of Delhi Represented by its Registrar General & Ors.*, 2013:DHC:2237-DB, the Grade Pay of Personal Assistants was upgraded from Rs. 4200 to Rs. 4600/-, along with consequential benefits.

8. Having qualified the Departmental Examination, the petitioner, *vide* Office Order dated 23.07.2014, was promoted as Senior Personal Assistant (SPA) with effect from 21.07.2014, against an existing vacancy under the 50% promotion quota, in the Pay Band of Rs. 9300–34,800/-, with the Grade Pay of Rs. 4800/-.

9. In the meantime, pursuant to the Judgment dated 02.05.2008 passed by this Court in W.P.(C) No. 484/1988 and other connected matters, titled *Mirza Zahid Beg & Ors. v. Union of India & Ors.*, 2008:DHC:1528-DB, and the Judgment dated 09.07.2015 passed by this



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Court in W.P.(C) 5392/2011, titled *Civil and Sessions Court, Stenographers Association (Regd) v. The District and Sessions Judge*, 2015:DHC:5384-DB, the pay of the District Court employees, including Stenographers, was revised to ensure parity with the High Court staff with effect from 01.01.1996.

10. Consequently, the pay of the petitioner was revised/re-fixed by the Office of the learned District & Sessions Judge, Delhi, *vide* Office Order dated 13.07.2018, with effect from 18.06.1998 for the post of LDC in the pay scale of Rs.4500–125–7000 (pre-revised), and thereafter with effect from December 2002 for the post of Stenographer (PA) in the Pay Scale of Rs. 5500–175–9000 (pre-revised), and with the Grade Pay of Rs. 4800/- with effect from 28.03.2009 for the post of SPA.

11. The petitioner was thereafter granted the Non-Functional Pay in Level 10 (Rs. 56100-177500) as per the 7th Central Pay Commission (CPC) on 24.08.1998.

12. Consequent to the revision of pay by the Office of the District & Session Judge pursuant to the Order dated 13.07.2018, the pay of the petitioner was revised and protected by the respondents *vide* Pay Fixation Order dated 05.12.2018, with effect from 24.12.2009, that is, the date on which the petitioner joined the High Court of Delhi in the Pay Band-II with the Grade Pay of Rs. 4600/-.

13. Aggrieved by the above, the petitioner submitted a representation dated 20.03.2019 to the respondents, requesting re-fixation of his pay in terms of the Office Order dated 13.07.2018 in the Grade Pay of Rs.4800/- with effect from 28.03.2009 and, consequently, the grant of the Non-Functional Upgradation in the Grade Pay of Rs.



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5400/- with effect from 28.03.2013, and thereafter, the benefit of Modified Assured Career Progression (MACP) in the Grade Pay of Rs. 6600/- with effect from 28.03.2019.

14. However, the respondents, *vide* Memorandum dated 16.10.2019, rejected the representation of the petitioner.

15. Aggrieved by the above, the petitioner filed W.P.(C) No. 1887/2021 before this Court.

16. In the Counter Affidavit filed by the respondents in the said Writ Petition, the respondents, relying upon a copy of the purported Office Memorandum dated 08.04.2016, contended that the petitioner was entitled only to the protection of the “Pay Band” and not the “Grade Pay”. However, on 18.08.2022, the learned counsel for the petitioner pointed out that the Office Memorandum (OM) relied upon by the respondents was merely a draft O.M., and that the final O.M. was issued only on 17.08.2016, wherein the distinction between the Pay Band (PB) and the Grade Pay (GP) had been deleted.

17. Consequently, this Court, *vide* Order dated 18.08.2022, observed that *prima facie* the petitioner was entitled to pay protection in respect of his entire pay, including the Grade Pay, and adjourned the hearing for the learned counsel for the respondents to obtain instructions.

18. On 16.09.2022, the respondents admitted before this Court that the earlier rejection order was erroneous, as the O.M. dated 08.04.2016 had never been issued or notified. In view thereof, this Court, *vide* Order dated 16.09.2022, set aside the Order dated 16.10.2019 rejecting the representation of the petitioner, and directed the respondents to



consider the matter afresh and pass an informed decision. The said writ petition was disposed of with the said direction.

19. Pursuant to the liberty granted, the petitioner submitted a Supplementary representation dated 23.09.2022 to the respondents, requesting re-fixation of his pay in terms of the Office Order dated 13.07.2018 and this Court's Orders dated 18.08.2022 and 16.09.2022. However, the respondents rejected the petitioner's representation *vide* the Impugned Minutes of Meeting dated 03.11.2022 and the Order dated 15.12.2022, relying upon the Office Memorandum dated 21.10.2009 and invoking the provisions of FR 15 (a).

20. Aggrieved thereby, the petitioner has filed the present Writ Petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER: -

21. The learned counsel for the petitioner submits that the respondents have incorrectly denied proper fixation of the pay to the petitioner by placing reliance on the Department of Personnel & Training O.M. No. F.No. 13/9/2009-Estt(Pay-I) dated 21.10.2009 and FR 15(a), which are not applicable to the facts of the present case. He submits that FR 15(a) applies only to cases where an officer is transferred from one post to another. The O.M. dated 21.10.2009 stipulates that, on transfer to a lower post/scale under FR 15(a), the pay of a government servant holding a post on regular basis is to be fixed at a stage equal to the pay drawn in the higher grade; and where the appointment to a lower post under FR 15(a) is on the employee's own request, the pay in the Pay Band is to be fixed at a stage equal to that



drawn prior to such appointment, *albeit* with the Grade Pay of the lower post. He submits that, as the said O.M. pertains only to transfers under FR 15(a), and the present case concerns the petitioner's substantive appointment to the post of Personal Assistant with the respondents pursuant to a selection process, the O.M. dated 21.10.2009 has no application. The petitioner's case, he submits, is governed by the O.Ms dated 05.08.2015 and 17.08.2016.

22. The learned counsel for the petitioner further submits that the respondents have also erred in observing that, for the purposes of granting benefit under FR 22(B) and protection of pay, only the pay in the Pay Band deserves protection and not the Grade Pay. He submits that Rule 3(8) of the Central Civil Services (Revised Pay) Rules, 2008 (hereinafter referred to as the 'Pay Rules') defines 'Basic Pay' as the pay drawn in the prescribed Pay Band plus the applicable Grade Pay, excluding other types of pay such as special pay, etc. Therefore, it is the Basic Pay that must be protected and cannot be bifurcated in the manner sought to be done by the respondents.

23. He also places reliance on the Judgment in ***Bahadur Singh & Ors. v. Jaspreet Kaur Talwar & Ors.***, 2022 SCC OnLine SC 1077, to submit that the Supreme Court has clarified that 'Pay' would also include the Grade Pay.

24. He further submits that the petitioner has also been discriminated against *vis-à-vis* Mr.Shailendra Kumar and Mr.Dhirender Kumar, who were also appointed as Personal Assistants in the Office of the learned District & Sessions Judge (HQs), Delhi, and were later sent on deputation to this Court and subsequently absorbed as Personal



Assistants, however, in their cases, the Grade Pay of Rs.4800/- was protected.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS: -

25. On the other hand, the learned counsel for the respondents submits that, in terms of FR 22(B), the petitioner is entitled to the protection of only the pay in the Pay Band and not the Grade Pay. She submits that the Pay Rules draw a distinction between “pay,” defined in Rule 3(5), “Grade Pay,” defined in Rule 3(6), and “Basic Pay,” defined in Rule 3(8) of the Pay Rules. She submits that, therefore, only the pay in the Pay Band is to be protected and, in the present case, such protection has been afforded to the petitioner at two stages.

26. She further submits that the petitioner voluntarily appeared in the examination and sought appointment to the post of Personal Assistant, which is a post lower than the Senior Personal Assistant that he held in the District Court. Having done so, and drawing an analogy from FR 15(a), she submits that he was entitled only to the protection of the Grade Pay in terms of the O.M. dated 21.10.2009.

27. With respect to Mr. Shailendra Kumar and Mr. Dhirender Kumar, the learned counsel for the respondents submits that, as they were appointed on deputation and subsequently absorbed by the respondents, they were entitled to the protection of the Grade Pay in terms of the O.M. dated 17.06.2010. She submits that they were granted the Grade Pay of Rs. 4800/- on account of the Assured Career Progression (ACP)/Modified Assured Career Progression (MACP) benefits.



ANALYSIS AND FINDINGS: -

28. We have considered the submissions made by the learned counsels for the parties.

29. From the above sequence of events, it would be evident that, when the petitioner was appointed as a Personal Assistant in this Court, he was holding the substantive post of Stenographer (Grade-II) in the District Court with a Grade Pay of Rs.4600/-. He was initially appointed with a Grade Pay of Rs.4200/-, which was upgraded to Rs.4600/- only pursuant to the Judgment of this Court in **Manoj Kumar** (supra). Subsequently, in view of the Judgments of this Court in **Mirza Zahid Beg** (supra) and **Civil and Sessions Court Stenographers Association (Regd)** (supra), the Grade Pay of Stenographer (Grade-II) in the District Court was increased to Rs.4800/-. The petitioner seeks protection of this Grade Pay, which has been denied by the respondents.

30. FR 22 (B) (2) reads as under:

“F.R.22-B. (2) The provisions contained in sub-rule (1) shall apply mutatis mutandis to cases of Government servants appointed on probation with definite conditions against temporary posts in another service or cadre where recruitment to permanent posts of such service or cadre is made as probationers, except that in such cases the fixation of pay in the manner indicated in Clause (b) of sub-rule (1) shall be done under Rule 31 of these Rules immediately on the expiry of the period of probation and on regular officiating appointment to a post, either permanent-or temporary, in the service or cadre.”

31. A reading of the above would show that what is protected for a



government servant is the position in the time scale of the service or post. The Grade Pay must correspond to the service that he joins. As rightly contended, there is a distinction between the Pay in the Pay Band, the Grade Pay, and the Basic Pay, which are three different concepts in terms of the Pay Rules. The Pay Rules define these terms as follows:

““Pay in the pay band” means pay drawn in the running pay bands specified in Column 5 of the First Schedule.

“Grade Pay” is the fixed amount corresponding to the pre-revised pay scales/posts.

“Basic Pay” in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay, etc.”

32. Therefore, the petitioner was only entitled to protection of his position in the Pay Scale upon being appointed by the respondents pursuant to his own decision to apply for the same. It is only due to a subsequent decision of this Court that the post he was holding in the District Court was upgraded to a higher post as compared to the one he took in this Court. However, this subsequent event will not entitle him to seek a higher Grade Pay applicable to the post he was holding in the District Court, having been appointed at a lower post in this Court.

33. We do tend to agree with the petitioner that, strictly speaking, Rule 15 (a) or the O.M. dated 21.10.2009 may not be applicable to the case of the petitioner, as the said provision applies to a situation where a government servant seeks transfer to a post carrying a lower Grade Pay on his own request, which is not a case herein. However, the underlying



analogy of this provision cannot be overlooked. In the present case, the petitioner was working as a Stenographer (Grade-II) with the District Court in the Grade Pay of Rs.4600/-. He voluntarily chose to join the respondent no.1 as a Personal Assistant, which, at the relevant time, carried a lower Grade Pay of Rs. 4200/-, while being fully aware that his Grade Pay would consequently reduce. The Grade Pay of Stenographer (Grade-II), which is now equivalent to that of Senior Personal Assistant in the High Court, was subsequently increased to Rs.4800/- in terms of the Judgments of this Court which have been referred hereinabove. While working as a Personal Assistant, he cannot, therefore, claim the Grade Pay of Senior Personal Assistant, having himself voluntarily accepted appointment to a lower post of Personal Assistant.

34. Consequently, both in terms of the FR 22 (B) and otherwise, the claim of the petitioner for the Grade Pay of Rs.4800/- cannot be sustained. In this regard, we may also draw reference to the O.M. dated 05.08.2020 issued by the DoP&T, which gives the illustration of the manner of fixation of pay as under:

**“(A) MANNER OF FIXATION OF PAY OF
GOVERNMENT SERVANT UNDER FR 22-
B(1) CONSEQUENT TO HIS
APPOINTMENT IN LOWER POST
THROUGH DIRECT RECRUITMENT,
WHERE HIGHER DUTIES AND
RESPONSIBILITIES ARE NOT
INVOLVED**

*A Central Government Employee on his
appointment to a post in lower Level in
different service or cadre in Central
Government which does not carry duties and*



responsibilities of greater importance than those attached to the post held earlier by him on regular basis before such appointment and having a provision of probation period in new post, may during probation draw the presumptive pay of the post held earlier by him on regular basis, if it is higher than the minimum of the Time Scale of the new post. He would also draw annual increments on such presumptive pay. However, it is to be ensured that during probation, presumptive pay should always be greater than the pay of the new post after drawl of increment(s). Subsequently, on successful completion of his probation, his pay will be fixed under FR 22(1)(a)(2).

Protection of Pay in the above manner should not, at any of these stages, exceed the maximum of the Level of the new post in Pay Matrix.

Illustration

An officer was drawing pay of Rs.78,500 in Cell 6 in Level 11 (with DNI 01.07.2018) before his appointment to a post in Level 10 on 01.04.2018 which does not carry duties and responsibilities of greater importance than those attached to the post held earlier by him before such appointment. There is a provision of 2 years probation period in new post.

Since the first Cell Value in Level 10 (Rs.56,100) is less than the Last Basic Pay i.e. Rs. 78,500/- in Level 11. Hence during probation, he will draw the presumptive pay i.e. Rs.78,500/- in Level 11 and would also draw annual increments according to the pay drawn in his previous post in Level 11.

On 01.04.2018- Rs.78,500 (Level 11)

On 01.07.2018- Rs.80,900 (Level 11)

On 01.07.2019- Rs.83,300 (Level 11)



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On successful completion of his probation period and on confirmation w.e.f. 01.04.2020, the pay of the officer would be fixed under FR 22(1)(a)(2). Since no such Cell of Rs. 83,300/- is available in Level 10, his pay would be fixed at next higher cell i.e. Cell 15 in Level 10 at Rs. 84,900 with next date of increment 01.01.2021."

35. As far as the plea of parity with Mr.Shailendra Kumar and Mr.Dhirender Kumar is concerned, it is not disputed that although these officers were working in the capacity of Personal Assistant in the District Court, they were first taken on deputation and, thereafter, absorbed with the respondent no.1. At the time of their absorption, they were already drawing Level-8 in their Parent Office on account of the MACP benefit having been granted to them with effect from 02.03.2019 and 21.07.2019, respectively. Applying the O.M. dated 17.06.2010, their Grade Pay was, therefore, protected. Being governed by different set of Rules, therefore, the plea of parity cannot be maintained by the petitioner.

36. In view of the above, we do not find any merit in the present Writ Petition. The same is, accordingly, dismissed.

37. There shall be no orders as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

DECEMBER 4, 2025/ns/DG