



2025:DHC:11045-DB



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

Reserved on: 30.10.2025
Pronounced on: 09.12.2025

+ **W.P.(C) 9312/2024**

UNION OF INDIA & ORS.Petitioners
Through: Mr.Anshuman, SPC with
Mr.Kanav Vir Singh, Adv.

versus

SHRI DURGA DUTT SAINIRespondent
Through: In person

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. This petition has been filed challenging the Order dated 25.05.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 575/2019, titled ***Durga Dutt Saini v. Union of India Through the Secretary Ministry of Defence & Ors.***, allowing the O.A. filed by the respondent herein, with the following directions:

"9. In view of what has been observed and narrated hereinabove, the present OA is



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allowed. The impugned order is quashed and set aside. Respondents are directed to fix the salary of the applicant when he was promoted to the post of SO, the same as fixed for his counterpart Mr. Surjit Kumar. The applicant shall be entitled to all consequential benefit that may arise on actual basis. The order may be complied within a period of 12 weeks from the date of receipt of a certified copy of this order.

10. It is made clear that in case the order is complied within the said period as given to the respondents, the applicant will not be entitled to any interest, however, if the respondents fail to comply within the aforesaid period, the applicant will be entitled to interest as per GPF rates for each month of delay. However, there shall be no order as to costs."

2. The petitioners further challenge the Order dated 28.11.2023 passed in R.A. No. 155/2023 in O.A. No. 575/2019, whereby the review application filed by the petitioners herein against the Order dated 25.05.2023 was dismissed by the learned Tribunal.

FACTS OF THE CASE

3. Briefly stated, the facts giving rise to the present petition are that the respondent, on 29.04.1986, was appointed as an Auditor in the Controller of Defence Accounts Department through a competitive examination conducted by the Staff Selection Committee. Thereafter, in 1992, the respondent was promoted to the grade of Senior Auditor. On 06.08.2001, he was promoted, *via* a Limited Departmental Competitive Examination, to the post of Section Officer (A) (SO (A));



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whereafter he was promoted to the grade of Assistant Accounts Officer.

4. The case of the respondent before the learned Tribunal was that his junior, namely, one Mr. Sujit Kumar Singh, had been drawing a higher salary of Rs. 7,500/- in contrast to Rs. 6,900/- being drawn by him, despite being promoted to the post of SO (A) on 09.01.2002, that is, after the respondent's promotion to the said post.

5. The respondent filed a representation there-against, which came to be rejected by the petitioners by an order dated 05.10.2018, which led to his filing the O.A. before the learned Tribunal, praying for the following reliefs:

"a) Allow the Application of the Applicant under section 19 of the Administrative Tribunals Act 1985 with interest.

b) Direct the respondents to extend the benefit of the judgement and order dated 13.11.2002 in OA No. 260 of 2002 in favour of the applicant by stepping up his pay with interest.

c) Quash and set aside the impugned order dated 05.10.2018.

d) Grant the cost. ..."

6. The learned Tribunal, by its Impugned Order dated 25.05.2023, allowed the O.A., holding that the petitioners should have stepped up the pay of the respondent to that as was fixed for Mr. Singh from the date of his promotion to the post of SO(A), that is, from 06.08.2001. The review application filed by the petitioners there-against came to be dismissed, *vide* the Impugned Order dated 28.11.2023, on the ground that the petitioners were merely re-arguing the matter.



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7. Aggrieved of the Impugned Orders passed by the learned Tribunal, the petitioners have filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS

8. The learned counsel for the petitioners, at the outset, submits that the learned Tribunal failed to note that the O.A. filed by the respondent was barred by limitation inasmuch as the alleged pay dispute arose in the year 2002 and the respondent filed the O.A. in 2019, that is, after a lapse of 17 years.

9. He submits that even otherwise, there is no merit in the case of the respondent. He highlights that Mr. Singh joined service on 10.04.1972, that is, more than 14 years prior to the appointment of the respondent to the post of Auditor on 29.04.1986. As a result of the same, Mr. Singh was receiving more increments and drawing a higher pay than the respondent at every stage.

10. He submits that as per the Department of Personnel and Training (DoPT) Office Memorandum (O.M.) No. 4/7/92-Estt dated 04.11.1993, the anomaly in question must be a direct result of the application of Fundamental Rule (FR) 22-C in order for stepping up of pay to apply. He places reliance on the Judgement of the Supreme Court in *Union of India & Anr. v. R. Swaminathan & Ors.*, (1997) 7 SCC 690.

11. He states that Mr. Singh was already in the pay scale of Rs. 6,500-200-10,500 from 09.08.1999, following his 2nd financial upgradation after completing 24 years of service. Mr. Singh did not



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receive any pay fixation benefits upon promotion to the post of Section Officer and therefore, the anomaly was not a result of the application of FR 22-C (amended to FR 22(I)(a)(1)).

12. He also places reliance on Clause 3(e) of the DoPT O.M. No. 4/3/2017-Estt (Pay-I) dated 26.10.2018, to submit that even as per the said O.M., being senior in the roster does not entitle the respondent to claim stepping up of pay at par with any junior who is drawing more pay than him at every stage, having multiple increments more than him on account of having served many more years.

13. He submits that the reliance placed on the decision dated 13.11.2002 passed by the Madras Bench of the learned Tribunal in O.A. 260/2002, titled *R. Sridharan and Ors. v. The Controller of Defence Accounts and Ors.*, was misplaced as the same was completely different in facts and circumstances.

14. He submits that therefore, the Impugned Orders passed by the learned Tribunal are erroneous and liable to be set aside.

SUBMISSIONS OF THE RESPONDENT-IN-PERSON

15. The respondent, who appears in-person, submits that the present petition is highly belated and has been filed only on account of the Orders passed by the learned Tribunal in the contempt proceedings initiated by the respondent against the petitioners for non-compliance with the Impugned Order dated 25.05.2023. He highlights that in the said contempt proceedings, the petitioners repeatedly gave false assurances that compliance of the Impugned Order passed would take



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place. He submits that, in fact, this Court was initially of the view that the present petition ought to be dismissed without issuance of notice, but thereafter, and on account of the respondent not giving his appearance, issued notice *vide* Order dated 15.07.2024.

16. He places reliance on the order in ***R. Sridharan*** (supra), to submit that the same squarely covers the present matter and has in fact been upheld by the High Court of Madras as well as by the Supreme Court. He submits that the petitioners have also implemented the said Order.

17. He submits that even otherwise, the O.M. No.4/3/2017-Estt (Pay-I) dated 26.10.2018 issued by the DoPT mandates that the pay of a senior government servant in the higher post should be stepped up to a figure equal to the pay as fixed for the junior government servant in that higher post.

ANALYSIS AND FINDINGS

18. We have considered the submissions made by the learned counsel for the petitioners and the respondent, who has appeared in person.

19. The issue involved before us is whether the respondent was entitled to stepping up of his pay at par with Mr. Singh, who was admittedly promoted later than respondent as SO(A) but was drawing a higher pay than him.

20. To answer the above issue, we would first reproduce the career graph of the respondent and Mr. Singh from the Impugned Order:



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S. No	Name	DD Saini, SA0/8329204	Sujit Singh, AAO/8306322
1.	Date of Appointment and grade under which appointed	29.04.1986 in Auditor grade (1200-30-1500) Rs. 1200 fixed	11.04.72 (pay scale 130-5-160-8-200) 01.04.1986 Rs. 1500/-
2.	Date of promotion in Sr. Auditor Grade	1.11.1992 (1400-40-1600) 16.11.1992 Rs. 1400/-fixed 01.04.1993 Rs. 1480/-fixed	01.04.87-1600/- (Senior Auditor Promotion)
3.	Pay as on 01.01.1996	Rs. 5675/- (01.04.1996- Rs. 5850/-)	Rs. 6200/- in Sr. Auditor grade (01.04.1996- Rs.6375/-)
4.	Pay on 09.08.1999	Rs. 6375/- (pay on 1-4-1999-Rs. 6375/) ACP not applicable.	Rs. 7100/- in Sr. Auditor grade. (Financial Upgradation ACP Scheme) (01.04.2000 Rs. 7300/-)
5.	Date of promotion in SO(A) grade	06.08.2001 (6500-200-10500) Rs. 6900/- fixed SO(A) Promotion w.e.f 06.08.2001 01.04.2002 Rs. 7300/- 01.04.2003 Rs. 7500/-	09.01.2002 SO(A) Promotion 01.04.2001 Rs. 7500/- 01.04.2002 Rs. 7700/- 01.04.2003 Rs. 7900/-
6.	Date of Promotion in AAO grade	01.04.2004 Rs. 8125/- fixed on AAO Promotion (pay scale 7450-225-11500) 01.01.2006 Rs. 8350/-	01.04.2005 Rs. 8300/- 01.01.2006 Rs. 8500/- 03.04.2006 Pay fixed Rs. 8800/- AAO Promotion
7.	Pay fixed in 6 th CPC	01.01.2006 15540+4800/- 01.07.2006 16150+4800/- 01.07.2007 16780+4800/-	01.01.2006 15810+4800/- 01.07.2006 17070+4800/- (AAO Promotion wef 03.04.2006; option exercised 01.07.2006) 01.07.2007 17730+4800/-
8.	Date of MACP in 5400/- grade	06.08.2011(Rs.20230+5400)	Retired from service w.e.f 30.09.2007
9.	Date of promotion in AO grade	01.04.2013(Rs.22550+5400)	

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10.	Date of promotion in SAO grade and pay fixed in 6th CPC	01.04.15 (Rs 24330-5400)	
11.	Basic pay as on 01.01.2016 in 6th CPC	Rs. 24330+5400	
12.	Pay fixed in 7th CPC w.e.f. 01.01.2016	01.01.16-Rs77900 (L10) 01.07.16-Rs. 84900 (L10)	

21. From the above career graph, it would be evident that Mr. Singh was appointed on 11.04.1972, whereas the respondent was appointed in the Auditor Grade on 29.04.1986, that is, 14 years after Mr. Singh. While Mr. Singh was promoted as Senior Auditor on 01.04.1987, the respondent was promoted to the said Grade on 01.11.1992. It is only on 09.01.2002, when the respondent gained promotion to the post of SO(A) through LDCE, that he became senior to Mr. Singh. Mr. Singh, however, drew more pay than the respondent because of grant of the financial upgradation under the Assured Career Progression (ACP) Scheme. His pay, even at the feeder post of Senior Auditor, remained higher than the respondent.

22. In these facts, in our opinion, the learned Tribunal has erred in holding that the respondent was entitled to the stepping-up of pay.

23. Note 10 appended to Rule 7 of the Central Civil Services (Revised Pay) Rules, 2008, which provides for stepping of pay, carves out an exception in cases where the senior government servant at time of promotion was drawing a lesser pay than the junior, and also where the junior, by virtue of any advance increments granted to him, gets a higher pay fixation. In the present case, these exceptions are clearly



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applicable to the respondent. We quote the said Rule as under:

“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 President by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds alien 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:-

xxx

Note 10 – ...

xxx

(c) the senior Government servants at the time of promotion should have been drawing equal or more than the junior.

(d) the anomaly should be directly as a result of the application of the provisions of the Fundamental Rule 22 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.”

24. Mr. Singh was admittedly drawing higher pay in the feeder cadre due to his length of service and being promoted to the feeder cadre post of Senior Auditor prior to the respondent herein and being his senior. He also drew a higher pay due to the grant of the ACP benefit which is a personal benefit granted on length of service in terms of the O.M. No. 35034/1/97-Estt(D) issued by DoPT dated



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09.08.1999 issued in implementation of the 5th Central Pay Commission recommendations.

25. The learned Tribunal has placed reliance on the O.M. No.4/3/2017-Estt(Pay-I) dated 26.10.2018 to extend the benefit of stepping up of pay to the respondent. It has, however, placed reliance on Clause 3 of the same, without appreciating the effect of Clause 3(e) and Clause 3 (f) thereof. These clauses read as under:

“3. The following instances/events wherein juniors draw more pay than seniors, do not constitute anomaly and, therefore, stepping up of pay will not be admissible in such events:

xxx

(e) If a senior is appointed later than the junior in the lower post 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 if he draws less pay than his junior though he may have been promoted earlier to the higher post.

(f) Where an employee is promoted from lower post to a higher post, his pay is fixed with reference to the pay drawn by him in the lower post under FR 22(I)(a)(1) read with Rule 13 of CCS(RP)Rules, 2016 and due to his longer length of service in the lower grade, his pay may get fixed at a higher stage than that of a senior direct appointed to the same higher grade and whose pay is fixed under different set of rules. For example a Senior Secretariat Assistant (SSA) on promotion to the post of Assistant Section Officer (ASO) gets his pay fixed under FR 22(I)(a)(1) with reference to the pay drawn in the post of SSA, whereas the pay of ASO(DR) is fixed under Rule 8 of CCS(RP) Rules, 2016 at the minimum pay or the first Cell in the Level, applicable to ASO to which he is appointed. In such a case, the senior ASO (DR) cannot claim pay parity with that of the promotee junior ASO.”



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26. Therefore, even in terms of O.M. No.4/3/2017-Estt(Pay-I) dated 26.10.2018, and specifically in terms of Clauses 3(e) and 3(f) which were attracted to the case of the respondent as against Mr. Singh, the respondent was not entitled to a stepping up of pay only because Mr. Singh, though promoted later to the post of SO(A), was drawing a higher pay than the respondent.

27. The case of *R. Sridharan* (supra) was distinct in its facts inasmuch as therein the junior was drawing a lesser pay in the feeder cadre as compared to his senior.

28. The learned Tribunal has also noted the delay of the respondent in filing of the O.A. and while referring to an order where the relief was restricted to one year prior to the filing of the O.A., not confined the relief to the respondent accordingly. However, as we have held that the respondent even otherwise was not entitled to stepping up of his pay, we need not go into the question of limitation in this Writ Petition.

29. In view of the above, the Impugned Orders passed by the learned Tribunal cannot be sustained. The same are, accordingly, set aside.

30. The petition is allowed in the above terms.

NAVIN CHAWLA, J.

MADHU JAIN, J.

DECEMBER 09, 2025/sg/ik