



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

Date of decision: 10th DECEMBER, 2025

IN THE MATTER OF:

+ **W.P.(C) 3349/2014**

RAJU SHARMA & ORS

.....Petitioners

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra Mr. Nikunj Arora, Mr. Arjun Panwar, Mr. Amrit Koul, Mr. Prahil Sharma, Ms. Muskaan and Anshuka Verma, Advocates

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Bhagwan Swarup Shukla CGSC, Mr Sarvan Kumar, Mr. Yash Baraliya and Mr. Mukesh Kumar Pandey, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present Writ Petition has been filed with the following prayers:

“i) Issue a writ of certiorari or any other writ or order, quashing the impugned order dated 21.6.2013 and further directing the respondents to fix the pay of the Petitioners in the upgraded pay scale of Rs.4500-7000/- and fix the same in the revise pay scale of Rs.5200-20200 after protecting the minimum pay of Rs.8560/- with Grade Pay of Rs.2800/- will effect from 1.1.2006, or from the date they became ASI.



(ii) Direct the respondents to grant the Petitioners consequential arrears of pay from due dates with interest thereon.

(iii) issue any further or any other order or direction to the Respondents in the interest of justice.”

2. Shorn of unnecessary details, the facts as stated in the present Petition are that the Petitioners are serving personnel in the Ministerial Cadre (Combat) of the Sashstra Seema Bal [SSB] under the Ministry of Home Affairs [MHA]. The Petitioners were promoted as Assistant Sub-Inspector [ASI] at different points in time prior to 01.01.2006 i.e. the cut-off date for the implementation of the 6th Central Pay Commission [6th CPC].

3. Petitioner No. 1 i.e. Raju Sharma, was appointed in the SSB as a Constable (Ministerial) on 10.06.1994. Subsequently, he promoted as Head Constable [HC] in the year 1998 and on 13.10.2003 he was promoted to the rank of ASI. As per the organizational structure of the SSB, personnel are known by their ranks and there is no distinction of pay on the basis of posting in the sub-cadre such as Ministerial, Communication, Stenographer, etc. The post of ASI (Ministerial) was one of the few posts in the SSB structure that is exclusively promotional and there was no avenue for direct recruitment to the rank of ASI.

4. Prior to the 6th CPC the Pay Scale of ASI in the SSB was Rs. 4000-6000/-. The 6th CPC recommended the upgradation of the Pay Scale from Rs. 4000-6000/- to Rs. 4,500-7,000/-. This was eventually replaced in the Revised Pay Scale to Rs. 5200-20200/-, with a Grade Pay of Rs. 2,800/-. The Government accepted the Revised Pay Scale *vide* the Central Civil Service (Revised Pay) Rules, 2008 [2008 Rules], these rules were notified



on 29.08.2008 and gave effect to the revision retrospectively from 01.01.2006. Consequently, the pay scale for the rank of ASI was revised and placed in pay Band-I at Rs. 5,200-20200/- with a Grade Pay of Rs. 2,800/-.

5. The 2008 Rules also prescribe a minimum pay for Direct Recruits joining on or after 01.01.2006. The pay of ASI who were working in the rank of ASI prior to 01.01.2006 in other cadres, where the option of direct recruitment at the rank of ASI is available, were protected at the Direct Recruit's pay of Rs. 8,560/- (Plus Grade Pay of Rs.2,800/-). However, since there is no avenue for direct entry in the cadre of the Petitioners, they were neither given the upgraded pay scale of Rs.4500-7000/- nor was their pay fixed at the minimum pay scale fixed for Direct Recruit in the rank of ASI.

6. As per the 2008 Rules individuals who held the rank of ASI before the implementation of the 6th CPC, were to have their pay revised in terms of the 2008 Rules. Their pay would be multiplied by a factor of 1.86 and the resultant figure being rounded off to the next multiple of 10. In the event that the pay of previously recruited personnel, subsequent to the revision, were to fall short of the starting pay of the direct recruits, who were recruited in the rank subsequent to the implementation of the 6th CPC, the pay of personnel recruited prior in time were to be stepped up in order to bring it at par with the Direct Recruits. However, for the members of ASI (Ministerial) cadre this increment was not made applicable as there was no avenue of direct recruitment to the rank of ASI in the Ministerial cadre.

7. The Petitioners have averred that the 2008 Rules created an anomalous situation where the clock runs backwards. Even though they have put in more number of years in service they have been placed at a disadvantaged position *vis-à-vis* their juniors from other cadres who were



promoted to the post of ASI later than the Petitioners, the Petitioners did not have their pay stepped up to bring it at par with the Direct Recruits. In order to better understand the anomalous pay scale disparity it would be apposite to use the case of Petitioner No. 1 as an example to that of a personnel recruited directly in the rank of ASI.

S. No.	Particular	Petitioner No. 1	ASI (Tele) Tajeshwar Singh
1.	Date of Appointment as a Constable	10.06.1994	18.12.1995
2.	Date of Promotion as ASI	13.10.2003	28.02.2007
3.	Pay as on 28.02.2007, after revision of pay in the rank of ASI, in terms of the 6 th CPC	Rs. 8140+2800 Grade Pay	Rs. 8560+2800 Grade Pay

8. In the year 2011, an Anomaly Committee was set up to examine the stepping up the of pay of seniors where direct recruitment was available. In the meanwhile, aggrieved by the pay discrepancy, the Petitioners made a representation to the Respondents.

9. The representation of the Petitioners have been rejected by Respondent No. 2 vide intra-office note dated 21.06.2013[**Impugned Order-I**]. The relevant portion of the said office note reads as under:

“As per decision of MoF communicated by MHA vide UO No. 27012/96/-2010/PF-V dated 25th April, 2011, stepping up of pay is permitted to remove the anomaly between those already in service prior to 01.01.2006



and Direct Recruit juniors subject to fulfillment of the following conditions:-

(a) Stepping up the basic pay of seniors can be claimed only in the case of the cadres which have an element of direct recruitment and in cases where directly recruited junior is actually drawing more basic pay than the seniors. In such cases, the basis, pay of the seniors will be stepped up with reference to the basic pay of the directly recruited junior provided they belong to the same seniority list for all purpose.

(b) Further, Govt. servants cannot claim stepping up of their revised basic pay with reference to entry pay in the revised pay structure for direct recruits appointed on or after 01.01.2006 as laid down in Section-II of Part-A of First Schedule to the CCS (RP) Rules, 2008, if their cadre does not have an element of direct recruitment in that grade or in cases where no junior is drawing basic pay higher than them.

In the instant cases, the above terms & conditions have not been fulfilled and this office has not received any Govt. order/instructions contrary to the above Rules position. Hence, their cases cannot be considered.”

10. Aggrieved by the Impugned Orders, the Petitioners filed the present Writ Petition in the year 2014. The pleadings were completed on 21.01.2016, whereafter this Court vide its order of the same date issued Rule DB and listed the matter in the category of regular matters. Thereafter, vide our order dated 27.02.2024, this Court disposed off the matter in terms of the following observations:

“5. We note that in identical facts situation we have disposed of a writ petition being S Siva Kumar vs.



Union of India through its Secretary & Anr. W.P.(C)
15467/2023 on January 5, 2024 by stating as under:-

"For parity of reasons, this writ petition is disposed of at the admission stage itself, directing the respondents to examine the case of the petitioner in terms of decision in Vinoj V. V. and Ors. (supra) within four weeks from today and if the petitioner is found eligible, his pay be refixed and arrears thereof, along with interest @ 9% p.a., be paid within four weeks thereafter. The petitioner who according to the respondents is not covered by the decision of Vinoj V. V. and Ors. (supra), be informed by the respondents in writing citing reasons therefore. "

6. So for parity of reasons, this writ petition is disposed of directing the respondents to examine the case of the petitioner in terms of the decision in Vinoj V. V. and Ors. (supra) within four weeks from today and if the petitioners are found eligible their pay be re-fixed and arrears thereof alongwith interest @ 9% per annum be paid within four weeks thereafter. In the eventuality, the case of the petitioners is rejected, liberty is with the petitioners to revive this petition by filing a miscellaneous application and bringing on record the order passed by the respondents.

7. The order to be passed by the respondents shall be without being influenced by the order dated June 21, 2013 which has been impugned by the petitioners in this petition as the said order was issued before the petition of Vinoj V. V. and Ors. (supra), was decided."

11. Pursuant to these directions Respondent No. 2 vide order dated 30.04.2024 [**Impugned Order-II**], rejected the claim of the Petitioners for



being placed in the revised pay scale. The relevant portion of the impugned order-II reads as under:

“3. AND WHEREAS, the petitioners were appointed as Naik (Clerk) in the year-1991 onwards SSB under Cabinet Secretariat. Later on, the petitioners were promoted to the rank of HC (Min) in the pay Scale of Rs. 3200-85- 4900. Subsequently, SS1 shifted from Cabinet Secretariat to MHA on 13/01/2001 but, they were promoted to the rank of ASJ (Min) in the year-20(J3 onwards in the pay Scale of Rs. 4000-100-6000 as per the Recruitment Rules of Cabinet Secretariat Notification No. A.12018/3/99-DO-1-1169 dated 18/11/1999 due to non- availability of new RRs Based on recommendation of 6th CPC, the pay of the petitioners were fixed according to the fitment table of 6th CPC.

4. AND WHEREAS, as per Recruitment Rules to the post of Assistant Sub-Inspector (Min) vide Cabinet Secretariat Notification No. A.12018/3/99-1000-1-1169 dated 18/11/1999, MHA Gazette Notification dated 13/02/2007 & dated 02/06/2011, there is no element/provision of direct entry to the post of Assistant Sub-Inspector (Min) in SSB, and the provision of direct entry pay of Rs. 8560/- GP Rs. 2800/- could not be granted to the petitioner promoted before 01/01/2006 to the rank of ASI(Min) in view of MoF & DOE CM No. 8-23/2017-E.IIIA dated 28/09/2018.

5. AND WHEREAS both the cases are different in nature as the petitioners of Vinoj V.V & Ors are appointed under Direct entry level of HC (Driver-Cum Pump Operator) and petitioners of Raju Sharma & Ors were promoted to the rank of Assistant Sub-Inspector (Ministerial) as there is no element/provision of direct



entry level exist in the Recruitment Rules to the post of ASI(Min) in SSB.

6. NOW THEREFORE, facts available in the matter of Raju Sharma & Ors V/s UOI duly examined in terms of the decision in Vinoj V.V & Ors and as per guidelines of MoF & DOE OM No. 8-23/2017-E.IIIA dated 28/09/2018 and found that Shri Raju Sharma & Ors are not eligible to fix the pay in the upgraded pay scale of Rs. 4500-7000/- and fix the same in the revise pay scale of Rs. 5200-20200 after protecting the minimum pay of Rs. 8560/- with Grade Pay of Rs. 28001- with effect from 1.1.2006 or from the date they become ASI.”

12. Pursuant to the passing of the impugned order-II, the Petitioners filed CM APPL. 27748/2024 seeking revival of the present Petition. *Vide* order dated 14.05.2024, notice was issued to the Respondents, whereafter the matter was heard and reserved on 06.10.2025.

13. The learned Counsel for the Petitioner while assailing the Impugned Order(s), has argued as under:-

- i. The SSB has a rank structure where there is no distinction between the various Trades in the subordinate ranks for the purposes of pay and allowance or fixation of pay. Therefore, when the classification of ranks does not recognize the particular Trade one belongs to it is obvious that an employee who was appointed to a particular rank gets equal or more pay than an employee who joined later.
- ii. The Respondents have misunderstood the case of stepping up when a senior has been promoted and his pay is fixed at a stage



lower than that of a junior and rejected the case on misdirection in fact.

- iii. The SSB in its substantive rules does not create a distinction between the sub-cadres of a rank and the Petitioners being senior cannot be discriminated against on the basis of an irrelevant consideration. The non-availability of the avenue of direct recruitment to the post of ASI cannot be taken to the disadvantage of the Petitioner.
- iv. The Respondents have failed to place the Petitioners in the upgraded pay scale of Rs.4500-7000 in the first place and then fix their pay in the Revised Pay scale of Rs.5200-20200, the Petitioners have been forced to draw less pay than a direct recruit joined on or after 01.01.2006.
- v. The 2008 Rules stipulated that there would be a minimum even for a Direct Recruit who joins with a Grade Pay of Rs.2800/- and it does not mean that a person who has been working in the same post can be given less pay than him.
- vi. The statutory rule of the SSB does not recognize Trade wise classification of personnel but recognizes only rank wise classification. Trade wise classification is not recognized by the Statutory Rules, denial of the minimum pay of the post is violation of the Fundamental Right guaranteed in Article 14 and 16 of the Constitution of India.
- vii. Prescription of direct mode of recruitment cannot be relevant consideration for depriving the petitioners the rank wise parity in fixation which was consistently being followed.



- viii. The Petitioners have lost out on their pay and allowances *vis-a-vis* those who joined along with them or as juniors only because at the level of ASI other Trades have direct recruitment, which is not a relevant to consideration for disturbing the parity which was although maintained.
- ix. Respondents vide impugned Order dated 21.06.2013 rejected the representation of the Petitioners on the ground that the Petitioners are not meeting the stepping up criteria of presence of direct recruitment in the post of ASI and junior drawing more pay. The Respondents have cited the problem itself as the reason for the problem rather than applying the mind and removing the anomaly. Existence of direct recruitment at ASI level neither changes character of post nor the duties and responsibilities for the Petitioners to be deprived of the minimum of the post ASI, which is a rank applicable in all the cadres, despite having worked in the post for more time. Besides existence of the direct recruitment cannot change the conditions of service of the existing employees of Communication and Stenographer Cadres for the ASI there to have higher pay than the Petitioners. The SSB Rules do not recognize differentiation based on cadres. Above all one rank one pay and pension is now universally admitted everywhere in Forces.
- x. Reliance has been placed on the judgments of his Court in Vinoj V.V. v. Union of India, 2018 SCC OnLine Del 12714.



14. Per contra, the learned Counsel for the Respondent has vehemently opposed the arguments advanced by the learned Counsel for the Petitioner. He submits as under:

- i. The claim of the Petitioner is fundamentally misconceived as the cadre of ASI (Ministerial) is a promotional cadre with no provisions for direct recruitment. It has been averred that Entry Pay of Rs. 8,560 that has been prescribed by Rule 8 of the 2008 Rules would be applicable only to direct recruits and not to existing employees whose pay is exclusively governed by Rule 7 of the 2008 Rules. Therefore, the fixation of the pay of the Petitioners at Rs. 7,820/-(plus Grade Pay of Rs. 2,800/-) was in accordance with law.
- ii. The Petitioner cannot draw parity with ASIs in other cadres as these cadres have distinct recruitment rules, educational qualifications, technical duties and seniority structures. The Respondents submit that the cadres are not interchangeable and therefore any comparison across cadres is untenable. The difference of pay received by ASI (Tele) and ASI (Steno) arises from their independent recruitment quotas to which Rule 8 of the 2008 Rules applies.
- iii. Learned Counsel for the Respondent has emphasised that the 6th CPC did not recommend uniform “entry-pay” for all cadets within a rank, rather it recognised cadre specific structures. The Petitioners have already received Grade Pay of Rs. 2,800/-.
- iv. Reliance has been placed on the clarification issued by MHA *vide* UO No. 27012/96/2010/PF-V dated 25.04.2011 whereby it



was elucidated that stepping up of pay is permissible to remove anomaly between those already in service prior to 01.01.2006 and Direct Recruit juniors are subjected to two conditions. Firstly, the cadre must have an element of direct recruitment, where directly recruited junior is drawing more basic pay than seniors. In such cases the basic pay of seniors will be stepped up with reference to the basic pay of the directly recruited junior, if they belong to the same seniority list for all purposes. Secondly, the government servants cannot claim stepping up of their revised basic pay, with reference to entry pay in the revised pay structure for direct recruits appointed on or after 01.01.2006 as laid down in Section-II of Part-A of First Schedule of the 2008 Rules, if their cadre does not have an element of direct recruitment in that grade or in cases where no junior is drawing basic pay higher than them.

- v. The judgement of this Court in Vinoj V.V. v. Union of India, **2018 SCC OnLine Del 12714** is distinguishable on the facts of the present case.
- vi. The rejection of the Representation of the Petitioners on 30.04.2024 was strictly in compliance of the directions of this Court, after a detailed examination of the Petitioner's case and applicable rules. It has also been submitted that the Petitioner's have failed to demonstrate any illegality, perversity or violation of the statutory provisions in the impugned dated 30.04.2024.

15. Heard learned Counsels for the parties and perused the material on record.



16. The fundamental question which arises for the determination of this Court is whether the Petitioners, who were promoted as ASI(Ministerial) prior to 01.01.2006 are entitled to have their pay fixed at the entry pay level of Rs. 8,560 which has been prescribed by the 6th CPC for Direct Recruits under Rule 8 of the 2008 Rules, notwithstanding the fact that there is no provision for direct recruitment of ASI in the Ministerial cadre, and whether the Respondent's refusal to pay the Petitioner at par with Direct Recruits violates Article 14 of the Constitution.

17. It is the case of the Petitioner that interpretation of 2008 Rules given by the Respondent has resulted in an anomalous and unjust situation whereby the seniors are drawing lesser pay than the juniors and such an interpretation of the 2008 Rules is in the teeth of Article 14 and 16 of the Indian Constitution and against the scheme of the 6th CPC. The Respondents, on the other hand, have justified the disparity on the ground that the post of ASI (Ministerial) is a purely promotional cadre and there is no provision for direct recruitment. Thus, Rule 8 of the 2008 Rules does not apply and Entry Pay is contingent upon the mode of appointment and not the post itself.

18. Since the fundamental controversy with respect to parity of pay emanates from the rank system in the SSB it would be pertinent to peruse the Sashastra Seema Bal Rules, 2009 [**SSB Rules**] as well as to Rule 7 and 8 of the 2008 Rules.

19. Rule 8 of the SSB Rules, lays down the structure of the SSB. The said rule reads as under:



“8. Ranks. (1) The officers and other members of the Force shall be classified in accordance with their ranks in the following categories, namely:-

(a) Officers

- (i) Director-General.*
- (ii) Additional Director-General.*
- (iii) Inspector- General.*
- (iv) Deputy Inspector-General .*
- (v) Commandant.*
- (vi) Second -in-Command.*
- (vii) Deputy Commandant.*
- (viii) Assistant Commandant.*

(b) Subordinate Officers

- (i) Subedar Major*
- (ii) Inspector*
- (iii) Sub-Inspector.*
- (iv) Assistant Sub- Inspector.*

(c) Under Officers

- (i) Head Constable*
- (ii) Naik*
- (iii) Lance Naik*

(d) Enrolled persons other than Under Officers

- (i) Constable.*
- (ii) Enrolled follower s.*

(2) Matter s relating to Inter-se seniority of persons belonging to the same rank shall be determined in accordance with such rules as may be made in this behalf.



(3) Notwithstanding anything contained in these rules, the Director General may, subject to confirmation by the Central Government as provided hereinafter, grant to an officer or Inspector of the Force a rank, mentioned in clause (a) of sub-rule (1), as a local rank, whenever considered necessary by him in the interest of better functioning of the Force.

(4) An officer or Inspector of the Force holding a local rank,-

(a) shall exercise the command and be vested with the power s of an officer holding that rank;

(b) shall cease to hold that rank, if the grant of such rank is not confirmed within one month by the Central Government or when so ordered by the Director-General or when he ceases to hold the appointment for which the rank was granted;

(c) shall not be entitled to any extra pay and allowances for holding such rank; and

(d) shall not be entitled to claim any seniority over other officers of the Force by virtue of having held such rank.”

20. Rule 7 of the 2008 Rules, which deals with the fixing of initial pay in the revised pay structure read 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 hen or



would have held alien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely:-

(A) in the case of all employees:-

(i) the pay in the pay band/pay scale will be determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.

(ii) if the minimum of the revised pay band/ pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band/payscale;

Provided further that:-

Where, in the fixation of pay, the pay of Government servants drawing pay at two or more consecutive stages in an existing scale gets bunched, that is to say, gets fixed in the revised pay structure at the same stage in the pay band, then; for every two stages so bunched, benefit of one increment shall- be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment- will be calculated on the pay in the pay band. Grade pay would not be taken into account for the purpose of granting increments to alleviate bunching.

In the case of pay scales in higher administrative grade (HAG) in the pay band PB-4, benefit of increments due to bunching shall be given taking into account all the stages in different pay scales in this grade. In the case of HAG+ scale, benefit of one increment for every two stages in the pre-revised scale will be granted in the revised pay scale.



If by stepping up of the pay as above, the pay of a Government servant gets fixed at a stage in the revised pay band/ pay scale (where applicable) which is higher than the stage in the revised pay band at which the pay of a Government servant who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up only to the extent by which it falls short of that of the former.

(iii) The pay in the pay band will be determined in the above manner. In addition to the pay in the pay band, grade pay corresponding to the existing scale will be payable.”

“Note 10:- In cases where a senior Government servant promoted to a higher post before the day of January, 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on, or after the day of January, 2006, the pay in the pay band of the senior Government servant should be stepped up to an amount equal to the pay in the pay band as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior Government servant subject to the fulfillment of the following conditions, namely: -

(a) both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(b) the pre-revised scale of pay and the revised grade pay of the lower and higher posts in which they are entitled to, draw pay should be identical.



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

(d) the anomaly should be directly as a result of the application of the provisions of 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.

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

21. Rule 8 of the 2008 Rules, which deals with fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 01.01.2006, reads as under:

“8. Fixation of pay in the revised pay structure of employees appointed as fresh recruits on or after 1.1.2006 - Section II of Part A of the First Schedule of these Rules indicates the entry level pay in the pay band at which the pay of direct recruits to a particular post carrying a specific grade pay will be fixed on or after 1.1.2006.

This will also be applied in the case of those recruited between 1.1.2006 and the date of issue of this Notification. In such cases, where the emoluments in the pre-revised pay scale(s) [i.e., basic pay in the pre-revised pay scale(s) plus Dearness Pay plus Dearness Allowance applicable on the date of joining] exceeds



the sum of the pay fixed in the revised pay structure and the applicable dearness allowance thereon, the difference shall be allowed as personal pay to be absorbed in future increments in pay.”

22. During the pendency of this petition this Court in Vinoj V.V. v. Union of India, **2018 SCC OnLine Del 12714**, pronounced on 30.11.2018, dealt with a similar factual matrix. In Vinoj V.C. (Supra), 62 Petitioners who had been appointed as Head Constables (DCPO), in the Central Industrial Security Force [CISF], between the years 1997-2005 had approached this Court seeking parity of pay with their juniors who had been subsequently promoted. In the facts of this case, a restructuring had been undertaken in the CISF in the year 2005 permitting induction of drivers in the rank of Constables. Resultantly, the post of HC was made a promotional post and freshly promoted HCs were granted a basic pay of Rs. 7,510/- and grade pay of Rs. 2,400/- across all branches w.e.f. 01.01.2006. The Petitioner who had been directly appointed to the post of HCs, were being given a basic pay of Rs. 6,750/- and same grade pay of Rs. 2,400/- and resultantly a situation had been created within the same rank of HCs there were two classes of employees receiving different pay. This Court, after going through the general jurisprudence in this regard held as under:

“13. This is precisely the principle that was underscored in the decision of this Court in Somvir Rana (supra). In dealing with a rider similar to the one that the Respondents seek to impose in the present case, i.e. stepping up of pay would not be available if the cadre in question “does not have any immune of direct recruitment” or where “no junior is drawing the basic pay higher than him”, this Court in Somvir Rana (supra) held as under:



“5. The above clarification notices that pay scales at the same post in some cadres in the case of promotees were lower than the pay scales applicable to the direct recruits. To correct this anomaly, the clarification states that stepping up of basic pay of the seniors would be permissible in the case of those cadres (i) where appointment by way of direct recruit is permissible and (ii) when direct recruited junior actually draws basic pay more than the seniors.

6. This clarification has not been accepted by the Tribunal and, in our opinion, rightly. The anomaly and discrepancy of fixing lower pay scale for promotees amounts to invidious discrimination and violates of Article 14 of the Constitution. The same post with identical duties and responsibilities, ex facie cannot have two different pay scales, one for the promotees and the other for direct recruits. The difficulty in accepting the plea of stepping up in terms of the clarification dated 13.03.2009, is the second condition that requires, the direct recruits should have actually joined before any stepping up of pay can be granted. The date of joining would be different as filling up of the direct recruitment vacancies in the cadre would depend upon vacancy position, selection, etc. This is unacceptable as it would be fortuitous and even whimsical. In any case, the same post cannot have two pay scales - one for the promotee and other for the direct recruit for it violates the principle of “equal pay for equal work.” Stepping up of pay to be granted on satisfaction of the stipulated conditions would not rectify and undo the discrepancy and inconsistency inherent when two



different pay scales are stipulated for the same post.

7. When and after initial pay of promotee Trained Graduate Teacher is fixed in terms of the order of the Tribunal, increment would be calculated and payable as in cases covered by Section II of Part A of the first schedule of the Rules as applicable to the direct recruits.”

14. In other words, the guiding principle was to be that in the same post having identical duties and responsibilities, there cannot be two different pay scales, one for the promotees and another for direct recruits.

15. In the present case, the result of a restructuring, an anomaly situation has arisen where, as a result, promotee HCs are receiving a basic pay higher than the erstwhile directly recruited HCs. Factually, the Petitioners point out that their juniors directly recruited as constables after 2005 and subsequently granted the Modified Assured Career Progression (MACP) benefit are getting basic pay of Rs. 7,510/- whereas the Petitioners, who are senior to them, are getting lesser basic pay of Rs. 6,750/-. This situation is precisely what has been disapproved of by this Court in its judgment in Somvir Rana (supra) which was subsequently affirmed by the Supreme Court. Furthermore, the decision in Somvir Rana (supra) has been implemented by the authorities by way of the OM dated 28th September 2018.

16. It is the same principle that informed the decision of this Court in C. P. Chakravarthy (supra) which dealt with a more or less similar case involving the post of HC (Clerk) in the CISF. There again, the differential basic pay of Rs. 7,510/- for one set of HCs and Rs.



6,750/- for another set of HCs was disapproved of by this Court. As noted hereinbefore, the decision in *C. P. Chakravarthy (supra)* has been accepted by the CISF and implemented.

17. More recently, in a decision dated 23rd October 2010 in W.P.(C) 8902/2017 (*Virender Singh v. Union of India*), this Court, in view of the OM dated 28th September 2018, directed its implementation and grant of pay to the petitioners therein who were in the ITBP at Rs. 9,910/- [Rs. 7,510/- + Rs. 2,400/-].

18. Finally, reference was made by learned counsel for the Respondents to the circular dated 5th November 2018 issued by the CISF itself where the rider that the stepping up of pay scales would be available only to such posts which had an element of direct recruitment was reiterated. This Court holds that the aforementioned circular dated 5th November 2018 is not consistent with the settled legal position and, therefore, cannot come in the way of the Petitioners getting relief. It appears that the CISF issued the above circular without keeping in view the correct interpretation of the settled legal position in the OM dated 28th September 2018 and as explained by this Court in *Somvir Rana (supra)*.

19. For the aforementioned reasons, the Court is of the view that maintaining the basic pay of the Petitioners at Rs. 6,750/- is discriminatory and violative of Article 14 of the Constitution of India. Accordingly, the Respondents are directed to fix the basic pay of the Petitioners at Rs. 7,510/- at par with other HCs with effect from 1st January 2006. The arrears will be paid to the Petitioners not later than eight weeks from today.”



23. The judgement of this Court in Vinoj V.V.(Supra) was challenged vide SLP (Civil) No. 20583/2019, however the same was dismissed in limine *vide* order dated 19.07.2019 passed by the Apex Court.

24. Having considered the judgment of this Court in Vinoj V.V. (Supra), which addressed a similar situation of inversion of pay scale following implementation of the 6th CPC, it is also necessary to evaluate the argument of the Respondent through the parameters of Article 14 of the Indian Constitution. A classification made by the State must always rest upon some real and substantial distinction. Further, this distinction must have a reasonable bearing and just relation to the things in respect to which the classification is made and a classification which is made without any substantial basis should be regarded as invalid. This position has been enunciated by the Apex Court in State of W.B. v. Anwar Ali Sarkar, (1952) 1 SCC. The relevant excerpts read as under:

“85. It is now well established that while Article 14 is designed to prevent a person or class of persons from being singled out from others similarly situated for the purpose of being specially subjected to discriminating and hostile legislation, it does not insist on an “abstract symmetry” in the sense that every piece of legislation must have universal application. All persons are not, by nature, attainment or circumstances, equal and the varying needs of different classes of persons often require separate treatment and, therefore, the protecting clause has been construed as a guarantee against discrimination amongst equals only and not as taking away from the State the power to classify persons for the purpose of legislation. This classification may be on different bases. It may be geographical or according to objects or occupations or the like. Mere



classification, however, is not enough to get over the inhibition of the article. The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others, and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them. In short, while the article forbids class legislation in the sense of making improper discrimination by conferring privileges or imposing liabilities upon persons arbitrarily selected out of a large number of other persons similarly situated in relation to the privileges sought to be conferred or the liability proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense I have just explained. The doctrine, as expounded by this Court in the two cases I have mentioned, leaves a considerable latitude to the Court in the matter of the application of Article 14 and consequently has the merit of flexibility.”

(Emphasis Supplied)

25. The Apex Court in the case of Sukanya Shantha v. Union of India, (2024) 15 SCC 535, has summarised the jurisprudence in this regard and has explained the broad contours of Article 14. The relevant excerpts reads as under:



“34..... S.R. Das, J., in Ram Krishna Dalmia v. S.R. Tendolkar [Ram Krishna Dalmia v. S.R. Tendolkar, 1958 SCC OnLine SC 6 : 1959 SCR 279 : AIR 1958 SC 538] , held that the classification “may be founded on different bases, namely, geographical, or according to objects or occupations or the like”, but it needs to have a reasonable nexus with the object of the statute. It was held that “Article 14 condemns discrimination not only by a substantive law but also by a law of procedure”. Furthermore, the Court “may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation”. The Court further reiterated that: (SCC OnLine SC para 12)

“12. ... (ii) A statute may direct its provisions against one individual person or thing or to several individual persons or things but no reasonable basis of classification may appear on the face of it or be deducible from the surrounding circumstances, or matters of common knowledge. In such a case the court will strike down the law as an instance of naked discrimination,..”

35. Subsequently, in E.P. Royappa v. State of T.N. [E.P. Royappa v. State of T.N., (1974) 4 SCC 3 : 1974 SCC (L&S) 165] , a Constitution Bench of this Court added a crucial principle of non-arbitrariness to the discourse of equality under Article 14. The Court was adjudicating the validity of an administrative order. The Court held that: (SCC p. 38, para 85)

“85. ... Equality is a dynamic concept with many aspects and dimensions and it cannot be “cribbed, cabined and confined” within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to



arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14, ...”

36. The principle of non-arbitrariness and reasonableness was then emphasised in the seven-Judge Bench decision in *Maneka Gandhi v. Union of India* [*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248] . It was held: (SCC pp. 283-84, para 7)

“7. ... Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness, pervades Article 14 like a brooding omnipresence and the procedure contemplated by Article 21 must answer the test of reasonableness in order to be in conformity with Article 14. It must be “right and just and fair” and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.”

37. To test the validity of laws, the twin test of intelligible differentia and reasonable nexus held ground. Whether the test of arbitrariness is a valid principle under Article 14 led to a conflicting set of decisions. [The conflicting judgments have been summarised in *Assn. for Democratic Reforms (Electoral Bond Scheme) v. Union of India*, (2024) 5 SCC 1 : (2024) 243 Comp Cas 115.] In *Shayara Bano v. Union of India* [*Shayara Bano v. Union of India*,



(2017) 9 SCC 1 : (2017) 4 SCC (Civ) 277] , in testing the validity of Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 which validates the triple talaq, R.F. Nariman, J. endorsed the test of manifest arbitrariness. It was held: (SCC p. 99, para 101)

“101. ... The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14.”

38. A formalistic understanding of the classification test was then critiqued by this Court in *Navej Singh Johar v. Union of India* [*Navej Singh Johar v. Union of India*, (2018) 10 SCC 1 : (2019) 1 SCC (Cri) 1] . The Court was dealing with a challenge to the constitutionality of Section 377 of the Penal Act, 1860, to the extent that it criminalised consensual sexual conduct between adults. In his concurring opinion, one of us (D.Y. Chandrachud, J.) held: (SCC p. 209, para 409)

“409. Equating the content of equality with the reasonableness of a classification on which a law is based advances the cause of legal formalism. The problem with the classification test is that what constitutes a reasonable classification is



reduced to a mere formula: the quest for an intelligible differentia and the rational nexus to the object sought to be achieved. In doing so, the test of classification risks elevating form over substance. The danger inherent in legal formalism lies in its inability to lay threadbare the values which guide the process of judging constitutional rights. Legal formalism buries the life-giving forces of the Constitution under a mere mantra. What it ignores is that Article 14 contains a powerful statement of values—of the substance of equality before the law and the equal protection of laws. To reduce it to a formal exercise of classification may miss the true value of equality as a safeguard against arbitrariness in State action. As our constitutional jurisprudence has evolved towards recognising the substantive content of liberty and equality, the core of Article 14 has emerged out of the shadows of classification. Article 14 has a substantive content on which, together with liberty and dignity, the edifice of the Constitution is built. Simply put, in that avatar, it reflects the quest for ensuring fair treatment of the individual in every aspect of human endeavour and in every facet of human existence.”

The Judges declared that Section 377 is manifestly arbitrary. The doctrine of manifest arbitrariness was also adopted in the Constitution Bench decision in Joseph Shine v. Union of India [Joseph Shine v. Union of India,].

42. The constitutional standards laid down by the Court under Article 14 can be summarised as follows. First, the Constitution permits classification if there is intelligible differentia and reasonable nexus with the object sought. Second, the classification test cannot be



merely applied as a mathematical formula to reach a conclusion. A challenge under Article 14 has to take into account the substantive content of equality which mandates fair treatment of an individual. Third, in undertaking classification, a legislation or subordinate legislation cannot be manifestly arbitrary i.e. courts must adjudicate whether the legislature or executive acted capriciously, irrationally and/or without adequate determining principle, or did something which is excessive and disproportionate. In applying this constitutional standard, courts must identify the “real purpose” of the statute rather than the “ostensible purpose” presented by the State, as summarised in ADR [Assn. for Democratic Reforms (Electoral Bond Scheme) v. Union of India, (2024) 5 SCC 1 : (2024) 243 Comp Cas 115] . Fourth, a provision can be found manifestly arbitrary even if it does not make a classification. Fifth, different constitutional standards have to be applied when testing the validity of legislation as compared to subordinate legislation.”

(Emphasis Supplied)

26. After having gone through the rival contentions, the judgements of coordinate bench of this Court and the dictum of law as laid down by the Apex Court, we are of the considered opinion that the Respondent’s action of differentiating between ASI (Ministerial) from ASIs belonging to other cadres is not based on a reasonable classification and the interpretation given to the 2008 Rules, by the Respondents has resulted in creation of two classes of ASIs one drawing different pay for the same work. The Respondents have not been able to demonstrate any intelligible differentia that distinguishes ASI (Ministerial) from other ASIs in a manner which is consistent with the object of pay fixation under the 6th CPC. The only justification which has



been provided and re-iterated time and again by the Respondents in order to justify the difference in pay scales is that there is no avenue of direct recruitment for the post of ASI in the Ministerial cadre. This is contrary to the law as laid down in Vinoj V.V. Resultantly, the impugned order dated 30.04.2024 issued by the Respondent No. 2 cannot be sustained and is hereby set aside. In view of the above, we are of the view that the Respondent's refusal to step up the Petitioner's pay to Rs. 8,560/-, which corresponds to the minimum revised pay structure for the rank of ASI, is arbitrary, discriminatory and in the teeth of law.

27. The Respondents are directed to match the pay of the Petitioners in the rank of ASI (Ministerial) by granting them the minimum of the revised pay band i.e. Rs. 8,560/- plus the applicable Grade Pay of Rs. 2,800/-, as is applicable to ASIs in the other cadres. The re-fixation shall be with retrospective effect from 01.01.2006 and the Petitioners are to be granted all consequential benefits.

28. The Respondents shall file a compliance affidavit within four weeks.

29. The Writ Petition, along with pending applications (if any), stands disposed of.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

DECEMBER 10, 2025

Prateek/VR