

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14784 of 2025

Vijay Kumar Singh, Son of Late Rambaleshwar Prasad Singh @ Baleshwar Prasad Singh, Resident of Village Gopinathpur, P.O. Sri Sia Jagdish, District Muzaffarpur presently residing at Mohalla Salimpur Ahra, Narayan Niwas, Lane No. 2, P.O. and P.S. Kadamkuan, District Patna, Pin Code- 800003.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway Hajipur, District Vaishali at Hajipur.
2. The Principal Chief Personal Officer/General Manager (Personnel) East Central Railway, Hajipur, District Vaishali at Hajipur.
3. The Principal Chief Commercial Manager, East Central Railway Hajipur, District Vaishali at Hajipur.
4. The Assistant Personnel Officer (Personnel), Principal Chief Personnel Officer/General Manager Personnel, East Central Railway Hajipur, District Vaishali at Hajipur.
5. The Assistant Personnel Officer/ESM For General Manager (Personnel), Hajipur, District Vaishali.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Siya Ram Shahi
Mr. Rajesh Ranjan Kumar, Advocate
For the Respondent-UI: Mr. Vishal Ranjan, Advocate
Mr. Mayank Mohan, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 22-01-2026

The present writ petition has been filed against the order dated 21.02.2024, passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as “the learned CAT”) in O.A. No.050/00566/2023 whereby and



whereunder while the challenge to the impugned order dated 16.09.2022, issued by the Assistant Personal Officer/ESM on behalf of the General Manager (Personnel), Hajipur, rejecting the representation of the petitioner dated 14.7.2022, challenging the reduction of pay-scale from Rs.66000/- to Rs.64100/- has been rejected, however, the prayer of the petitioner to quash the recovery being made on account of wrong pay fixation has been allowed. Consequently, the respondents have been directed to refund the recovered amount within a period of 90 days of the date of receipt of the certified copy of the order dt. 21.2.2024.

2. The brief facts of the case, according to the petitioner, are that he joined the post of Commercial Clerk on 21.11.1983 in the pay-scale of Rs.260-430 at Zonal Training School Bhuli, Dhanbad, whereafter his pay-scale was revised and fixed on 01.01.1986 as Rs. 915-1540/-, whereupon his pay was increased to Rs.1075/- with effect from 01.04.1986. The petitioner was then promoted to the post of Senior Commercial Clerk with effect from 01.04.1993 in the pay-scale of Rs.1200-2040/- and his pay was fixed as Rs.1260/- per month. Thereafter, the recommendation of the 5th Pay Commission had come, hence the pay of the petitioner was fixed at Rs.4100/- in the pay scale of Rs.4000-6000 with effect from 01.1.1996. The petitioner was



again promoted to the post of Head Commercial Clerk in the pay-scale of Rs.5000-8000/- with effect from 17.03.2003 vide office order dated 29.01.2004 and his pay-scale was fixed as Rs.5000 w.e.f. 17.03.2003. However, subsequently in terms of Memorandum No. ECR/HRD/174 dated 13.04.2005, the petitioner was declared surplus and redeployed against the corresponding grade of Commercial Inspector in the pay-scale of Rs.5000-8000/-. The petitioner was then promoted to the post of Commercial Inspector-II from the post of Commercial Inspector-III in the pay-scale of Rs.5500-9000 and his pay was fixed as Rs.5850 with effect from 04.01.2008.

3. It is the further case of the petitioner that after coming into force of 6th Pay Commission Recommendation, the pay of the petitioner was categorized in PB-2 (Rs.9300-34800 + Grade Pay-4200) with effect from 01.1.2006 and the same was revised with effect from 01.01.2006 to Rs.10140+Grade Pay of Rs.4200 in view of RBE 40/2012. Consequent to the 7th Pay Commission Recommendation, the pay-scale of the petitioner was revised and fixed as Rs.55200/- (Level-7) and till the month of January, 2022, his basic pay had been raised to Rs.66000/-, however in the month of February, 2022, i.e. the month of retirement of the petitioner, the respondents had reduced the monthly salary of the



petitioner from Rs.66000/- to Rs.64100/- illegally and then all the retiral benefits of the petitioner were also paid on the basis of the reduced basic salary. The petitioner had then filed a detailed representation before the respondent no.2 on 14.7.2022, however the same has been rejected vide order dt. 16.09.2022, which was challenged by the petitioner by filing O.A. No.050/00566/2023, however the issue regarding reduction of the monthly salary of the petitioner had not found favor with the learned CAT and the challenge of the petitioner to the order dt. 16.09.2022 has been rejected.

4. The learned counsel for the petitioner has submitted that firstly, no opportunity of hearing was granted to the petitioner prior to reducing his basic pay from Rs.66000/- to Rs.64100/-, consequently the order dated 16.09.2022 is an unreasoned and cryptic order, passed without application of mind, hence the same is required to be quashed. On merits, it is submitted that the respondents have relied upon RBE No.33/2016 to reduce the basic pay of the petitioner from Rs.66000/- to Rs.64100/-, however the same is not applicable to the case of the petitioner since the petitioner got the benefit of promotion in the pay-scale of Rs.5000-8000/- much prior to 01.01.2006 and moreover, only one promotion has been given in between 01.1.2006 to 4.1.2008,



in the pay-scale of Rs.5500-9000/-, i.e. w.e.f. 04.01.2008 while being promoted from the post of Commercial Inspector-III to the post of Commercial Inspector-II. Thus, the pay of the petitioner had been rightly fixed as Rs.66000/- and paid to him till the month of January, 2022, however, his basic pay-scale has been illegally reduced to Rs.64100/- in the month of February, 2022 with retrospective date, which is illegal and unwarranted.

5. *Per contra*, the respondents have stated that the petitioner was appointed as Commercial Clerk on 21.11.1983 (revised GP Rs.2000) and promoted to the post of Senior Commercial Clerk on 01.04.1993 (revised GP Rs.2800) and then he was promoted to the post of Commercial Inspector Grade-III, whereafter he was promoted as Commercial Inspector Grade-II in pay scale of Rs.5500-9000/- and pay was fixed at Rs.5850 w.e.f. 04.01.2008. It is stated that on implementation of 6th CPC recommendation with effect from 01.01.2006, pay of the petitioner was fixed at Rs.10140 + Grade Pay Rs.4200 in the scale of Rs.9300-34800/-. On 01.07.2006, the pay of the petitioner was fixed at Rs.10,570 + G.P. Rs.4200 by granting normal annual increment. In the meantime, the Railway Board issued RBE No.33/2016 dated 08.04.2016 wherein guidelines were provided for fixation of pay in cases of promotion taking place in pre-revised pay structure



in between 01.01.2006 to 29.08.2008 (the date of notification of CCS (RP) Rules, 2008) and consequently merger of pre-revised pay-scale of promotional and feeder post in common grade. Thus, the Railway Board directed that in cases where promotion took place in pre-revised pay structure during the period between 01.01.2006 and the date of notification of CCS (RS) Rule 2008, when pre-revised and revised pay-scale were different and the post carried the character of feeder and promotional grade, pay fixation on such promotion shall be allowed under Rule 13 of CCS (RS) Rule, 2008. In this regard, reference has been made to the Office Memorandum dt. 16.10.2015, issued by the Deputy Secretary to the Government of India, Ministry of Finance, Department of Expenditure, Government of India, New Delhi. Relevant portion whereof is being reproduced herein below:-

“The undersigned is directed to say that consequent upon coming into force of the CCS(RP) Rules, 2008, which were notified on 29.8.2008 but are effective from 1.1.2006, fixation of pay on promotion on or after 1.1.2006 is carried out as per Rule 13 thereof. This Rule is invoked only in cases of promotion from one Grade Pay to another in the revised pay structure.

2. xx xx xx

3. xx xx xx



4. *Now, instances have been brought to the notice of this Ministry where the feeder and promotional posts have been merged in view of the merger of the pre-revised pay scales applicable to the erstwhile feeder and promotional posts in a common grade/post after the promulgation of CCS(RP) Rules, 2008, due to which the character of posts being promotional and feeder grades as existing during the period from 1.1.2006 to the date of notification of CCS(RP) Rules, 2008 stood rescinded with retrospective effect from 1.1.2006 and consequently, a question, has been raised as to whether Rule 13 of CCS(RP) Rules, 2008 may apply for fixation of pay on promotion taking place during the period between 1.1.2006 and the date of notification of the said Rules, when the fixation of pay was actually done as applicable in the event of promotion in the pre-revised structure.*

5. *xx xx xx*

6. *Accordingly, it has been decided that in cases where promotion took place in the pre-revised pay structure during the period between 1.1.2006 and the date of notification of CGS(RP) Rules, 2008 when the pre-revised and revised pay scales were different and the posts carried the character of feeder and promotional grades, pay fixation on such promotion shall be allowed under Rule 13 of the CCS(RP) Rules, 2008, subject to the following conditions:-*

(i) The promotion had taken place between 1.1.2006 and the date of notification of CCS(RP) Rules, 2008 as per the Recruitment Rules then in vogue, which clearly



provided for such posts being promotional grade for the feeder grade from where the promotion took place and where the posts were subsequently merged in a single post/ grade consequent upon promulgation of the CCS(RP) Rules, 2008,

(ii) FR 22 (I) (a) (1), which was applicable for fixation of pay on promotion before promulgation of CGS(RP) Rules, 2008, was invoked for fixation of pay in these cases in the pre-revised structure during the period between 1.1.2006 and the date of notification of the CCS (RP) Rules 2008,

(iii) The concerned employees had opted to come over to the revised pay structure from a date occurring prior to the date of notification of CCS(RP) Rules, 2008,

(iv) The concerned Recruitment Rules have been amended subsequently to provide for merger of these grades into a single grade/post.”

7. *This order applies only in case of promotions carried out in the pre-revised structure during 1.1.2006 and the date of notification of CCS (RP) Rules, 2008. Thus, the benefit of Rule 13 of CCS (RP) Rules, 2008 would not apply in cases of appointment to the post which was in the higher pay scale in the pre-revised pay structure, where such appointment is made after the date of notification of CCS (RP) Rules, 2008.*

6. It has been stated by the respondents that the petitioner was given benefit of pay fixation on 04.01.2008 from 5600/- to



5850/- with promotional increments, hence the benefit of pay fixation as per RBE No.33/2016 cannot be allowed for the same period because in the pre-revised pay grade, he was given the benefit of increment from Rs.5000-8000/- to Rs.5500-9000/-, thus after implementation of 6th Central Pay Commission Recommendation with effect from 01.01.2006, he cannot be allowed an additional increment again in merger of grade pay Rs.5000-8000/- to Rs.5500-9000/-.

7. We have heard the learned counsel for the parties and perused the materials on record and we find that though the recovery of the excess amount of salary paid to the petitioner has been quashed by the learned CAT, however as far as the reduction of pay-scale from Rs.66000/- to 64100/- is concerned, the learned CAT has held the same to be correct and this aspect of the matter has been challenged before this Court by the petitioner in the present writ petition.

8. The facts of the present case lie in a narrow encompass, inasmuch as the petitioner was appointed on the post of Commercial Clerk on 21.11.1983 (revised Grade Pay of Rs.2000), whereafter he was promoted to the post of Senior Commercial Clerk on 01.04.1993 (revised Grade Pay of Rs.2800). The petitioner while working as Senior Commercial



Clerk in the pay-scale of Rs.4000-6000, i.e. pre-revised pay-scale was posted at O/O, CCM/ECR/Hajipur, thereafter the petitioner was promoted on 29.01.2004 as Head Commercial Clerk in the pay-scale of Rs.5000-8000/-, i.e. pre-revised pay-scale (with effect from 17.03.2003) and his pay was fixed at Rs.5000/- with effect from 17.03.2003 in the pay-scale of Rs.5000-8000/-, which was raised to Rs.5150/- in the same pay-scale w.e.f. 01.03.2004 and to Rs.5300/- on 01.03.2005. On 13.04.2005, the petitioner was declared surplus and redeployed against corresponding grade in Commercial Inspector Scale of Rs.5000-8000/-, whereafter his pay was raised to Rs.5450/- w.e.f. 01.3.2007 and Rs.5600/- w.e.f. 01.3.2007. On 04.01.2008, the petitioner was promoted from the post of Commercial Inspector Grade-III (Pay-scale of Rs.5000-8000/-) to Commercial Inspector Grade-II in the pay-scale of Rs.5500-9000/- and his pay was fixed at Rs.5850 w.e.f. 04.01.2008.

9. The sixth Pay Commission recommendation were implemented w.e.f. 01.01.2006 and pay fixation of the petitioner, who was at that time Commercial Inspector in the pay scale Rs. 5000-8000/- was done in PB 2 Rs. 9300-34800+ GP Rs. 4200 w.e.f. 01.01.2006 as under :-

On 01.01.2006 Pay Rs. 9860 + GP Rs.4200



On 01.07.2006 Pay Rs. 10290 + GP Rs.4200

On 01.07.2007 Pay Rs. 10730 + GP Rs.4200

On 01.07.2008 Pay Rs. 11,180 + GP Rs.4200

On 01.07.2009 Pay Rs. 11,650 + GP Rs.4200

On 01.07.2010 Pay Rs. 12,130 + GP Rs.4200

On 01.07.2011 Pay Rs. 12,620 + GP Rs.4200

10. As per RBE No.40/2012 dated 23.03.2021 Railway employees due to get their annual increment between Feb to June during 2006 were granted one on 01.01.2006 in pre-revised scale as one time measure and then they were given next increment in the revised pay structure on first July. Thus, the Petitioner's pay fixation as per RBE No. 40/2012 is as under:-

01.01.2006-Rs. 10,140+ G Rs.4200

01.07.2006 Rs. 10570 + GP Rs. 4200

01.07.2008 Rs. 11,480 + GP Rs.4200

01.07.2009 Rs. 11,950 + GP Rs.4200

01.07.2010 Rs. 12,240 + GP Rs.4200

01.07.2011 Rs. 12,940 + GP Rs.4200

01.07.2012 Rs. 13,640 + GP Rs.4200

11. On 05.11.2014 third MACP was granted to the petitioner and pay fixation as Commercial Inspector was done in GP-Rs. 4200. On furnishing option pursuant to memo dated 28.03.2014



pay fixation was done in GP Rs.4600. On 01.01.2016, as per 7th CPC pay fixation, the petitioner's pay was further raised in L-7. However, the Pay fixation of the petitioner was carried out erroneously in light of RBE No. 33/2016.

12. Thus, the facts and circumstances of the present case would show that on 29.01.2004, the petitioner was promoted in pre-revised pay scale of Rs.5000-8000/- and the pay was fixed at Rs.5000/- w.e.f. 17.03.2003, which was further raised to Rs. 5150/- in pay scale of Rs. 5000-8000/- w.e.f. 01.03.2004. The pay was again raised to Rs.5300/- in the pay scale of Rs. 5000-8000/- w.e.f. 01.3.2005. The petitioner was then promoted on 04.01.2008 from Commercial Inspector grade III in pre-revised pay scale Rs.5000-8000/- to Commercial Inspector Grade II in pre-revised pay scale Rs.5500-9000/-. The Petitioner was once again granted benefit of promotional increment on promotion & his pay of Rs.5600/- was raised to Rs. 5850/- w.e.f. 04.01.2008. The CCS (RP) Rules 2008 were notified on 29.08.2008 and the pre-revised pay scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- posts, which constituted feeder grades and promotion grades, were merged in identical grade.

13. At this juncture we may take note of Rule 13 of CCS (RP) Rules 2008, which stipulates that in case of promotion



from one grade pay to another in revised pay structure, the fixation will be done as provided therein and not otherwise. The Railway Board had then issued RBE No.33/2016 dated 08.04.2016, enclosing a copy of OM dated 16.10.2015 of Ministry of Finance, Department of Expenditure, stipulating therein that same will be applicable *mutatis-mutandis* on the Railways. The OM dated 16.10.2015 relates to fixation of pay in cases of promotion taking place in pre-revised pay structure between 01.01.2006 and the date of notification of CCS (RP) Rules 2008, i.e. 29.08.2008. Para-1 of the said OM states that on coming into force of CCS (RP) Rules 2008, notified on 29.08.2008 w.e.f. 01.01.2006, the fixation of pay on promotion on or after 01.1.2006 is to be carried out as per Rule 13 of the CCS (RP) Rules 2008 in cases of promotion from one grade pay to another in revised pay structure. Para 2 states that in terms of Section 1 of Part A of first schedule of CCS (RP) Rules 2008, which provides for revised pay structure in the form of applicable pay bands and grades Pay corresponding to various pre-revised pay scales, certain pre-revised pay scales have been merged in a common grade Pay in the revised pay structure w.e.f. 01.01.2006, thus the posts in those pre-revised pay scales which have been merged in a common grade pay w.e.f.



01.01.2006, are normally required to be merged even if these posts constituted feeder and promotional grades in the pre-revised pay structure. Para 6 of the said OM provides that where promotion took place in pre-revised pay structure during the period between 01.01.2006 and 29.08.2008, i.e. the date of notification of CCS (RP) Rules 2008, when the pre-revised and revised pay scales were different and the posts carried the character of feeder and promotional grades, pay fixation on such promotion shall be allowed under Rule 13 of the CCS (RP) Rules, 2008, subject to the conditions mentioned therein.

14. Therefore, in light of RBE No.33/2016, since the petitioner was promoted on 29.01.2004 in pre-revised grade Rs.5000-8000/-, whereafter he was further promoted from feeder grade of Rs.5000-8000/- to promotional grade Rs. 5500-9000/- on 04.01.2008 and his Commercial Inspector Grade II promotional grade falls within the period 01.01.2006 to the date of notification of CCS (RP) Rules 2008, i.e. 29.08.2008 and such promotional grade post stood rescinded with retrospective effect from 01.01.2006, there is no question of fixation of pay on promotion taking place during the period 01.01.2006 to 29.08.2008. Thus, in view of RBE No.33/2016, benefits of Rule 13 of CCS (RS) Rules 2008 shall not be available to the



petitioner, since his pre-revised grade promotional post was in higher pay scale in the pre-revised pay structure. Thus, in light of the instructions contained in RBE No. 33/2016, the mistake made in fixation of pay of the petitioner was rectified.

15. At this juncture, it has been submitted by the Ld. Counsel for the respondents that fixation of pay scales is essentially an executive function and exercising statutory power pertaining to fixation of pay will not attract the principles of natural justice. Reference has been made to the judgment rendered by the Hon'ble Supreme Court of India in the case of ***M. Ramanatha Pillai Vs. State of Kerala, reported in (1973) 2 SCC 650***, wherein it has been held as follows:-

“Doctrine of estoppel is not applicable against the State while acting in public or sovereign capacity.”

16. Now, we find it apt to depict the amendment made in the pay-scale of the petitioner by way of comparative chart, which has been annexed with the written statement filed by the respondents before the learned CAT and is being reproduced herein below:-

Pay Drawn Earlier		Revised Pay		Remarks
Date	Pay	Date	Pay	
01.07.2007	11020+4200	01.07.2007	11020+4200	Annual Pay Increment
04.01.2008	11020+4200	04.01.2008	11480+4200	In compliance of the letter of



				Accounts Department bearing No. ECR / FIN / PN / Service Verification & Continuity / 2020-2021 dt. 12.03.2021, pay has been revised as per 33/16.
01.07.2008	11950+.4200	01.07.2008	11480+4200	Annual Pay Increment
01.07.2009	12440+4200	01.07.2009	11950+4200	Annual Pay Increment
01.07.2010	12940+4200	01.07.2010 to 05.07.2010	11950+4200	On account of remaining on lap from 22.06.2010 to 05.07.2010, pay increment has been made effective.
		06.07.2010	12440+4200	
01.07.2011	13460+4200	01.07.2011	12940+4200	Annual Pay Increment
01.07.2012	13990+4200	01.07.2012	13460+4200	Annual Pay Increment
17.03.2013	13990+4600	17.03.2013	13460+4600	IIIrd MACP
01.07.2013	15110+4600	01.07.2013	14640+4600	Option Pay Fixation
01.07.2014	15710+4600	01.07.2014	15220+4600	Annual Pay Increment
01.07.2015	16320+4600	01.07.2015	15820+4600	Annual Pay Increment
01.01.2016	55200(L-7)	01.01.2016	53600(L-7)	As per 7 th CPC Pay fixation
01.07.2016	56900(L-7)	01.07.2016	55200(L-7)	Annual Pay Increment
01.07.2017	58600(L-7)	01.07.2017	56900(L-7)	Annual Pay Increment
01.07.2018	60400(L-7)	01.07.2018	58600(L-7)	Annual Pay Increment
01.07.2019	62200(L-7)	01.07.2019	60400(L-7)	Annual Pay Increment
01.07.2020	64100(L-7)	01.07.2020	62200(L-7)	Annual Pay Increment
01.07.2021	66000(L-7)	01.07.2021	64100(L-7)	Annual Pay Increment

17. Having regard to the aforesaid facts and circumstances of the case, we find that the contention of the learned counsel for the petitioner to the effect that Circular No. RBE No.33/2016 is not applicable in the case of the petitioner, since the petitioner got the benefit of promotion under the pay-scale of Rs.5000-8000 much prior to 01.01.2006, i.e. with effect from 17.03.2003



and only one promotion has been given in between 01.01.2006 to 04.01.2008 (in the pay-scale of Rs.5500-9000) with effect from 04.01.2008 while being promoted from the post of Commercial Inspector Grade-III to the post of Commercial Inspector Grade-II, is not correct, inasmuch as the petitioner was admittedly promoted on 29.01.2004 in the pre-revised pay-scale of Rs.5000-8000/-, whereafter he was further promoted from feeder grade of Rs.5000-8000/- to promotional grade of Rs.5500-9000/- on 04.01.2008 and the promotion of the petitioner from Commercial Inspector Grade-III to Commercial Inspector Grade-II also falls within the period of 01.01.2006, to the date of notification of the CCS (RP) Rules 2008, i.e. 29.08.2008. In such view of the matter, as per mandate of RBE No.33/2016 read with Office Memorandum dated 16.10.2015 issued by the Deputy Secretary to the Government of India, Ministry of Finance, Department of Expenditure, Government of India, New Delhi, the promotion grade posts stood rescinded with the retrospective date with effect from 01.01.2006. Thus, there is no question of fixation of pay on promotion taking place during the period 01.01.2006 to 29.08.2008, hence the benefit of Rule 13 of CCS (RS) Rules, 2008 shall not be applicable in the case of the petitioner, since pre-revised grade promotional posts



was in higher pay-scale in the pre-revised pay structure. Thus, we find that the pay of the petitioner has rightly been reduced from Rs.66,000/- to Rs.64,100/-.

18. Consequently, we find that the present writ petition is bereft of any merit, hence the same stands dismissed.

(Mohit Kumar Shah, J)

I agree.

Soni Shrivastava, J

(Soni Shrivastava, J)

kanchan/-

AFR/NAFR	AFR
CAV DATE	09.12.2025
Uploading Date	29.01.2026
Transmission Date	NA

