

27 **16.02.**
2026

Ct. No. 24

Ab

WPA 6649 of 2025

Rabi Ranjan Chattopadhyay
Vs.
Indian Statistical Institute and others.

Mr. Kallol Basu,
Mr. Suman Banerjee.

... for the petitioner.

Mr. D. N. Ray,
Ms. Sayani Roy Chowhury,
Ms. Biswadeepa Mondal.

... for the respondents.

1. The petitioner is aggrieved on two counts. First, that he is entitled to not have any coercive steps against him insofar as recovery of monies erroneously paid to him from the Institute are concerned. Second, that the re-fixation of his pay cannot be permitted, as the same is sought to be done after a delay of almost 14 years.
2. Mr. Basu, learned Advocate appearing for the petitioner, even before delving into the facts, has placed reliance of a judgment of this Hon'ble Court reported in WPA 14712 of 2024 (Parthanil Roy vs. Indian Statistical Institute and Ors.) in which a Co-ordinate Bench of this Hon'ble Court held that in view of the inordinate delay and laches on the part of the authorities concerned "it shall not be open to the respondents to claim refund of excess payment that was made due to errors on their part".
3. There is a second limb to the judgment relied upon,

inasmuch as, the same allows the respondent authorities to re-fix the pay of the petitioner in accordance with law and the relevant Rules.

4. Mr. Basu's principal grievance is that having served as an Associate Professor since 2010 in the respondent-institute, in 2025, his pay band/pay scale cannot be re-fixed. In fact, the basis of re-fixation appears to be an erroneous notion of the authorities, according to him. Thus, this re-fixation on an erroneous basis ought not be permitted.
5. Mr. Ray, learned Senior Advocate appearing for the respondents, submits that he is *ad idem* with Mr. Basu insofar as realization of the excess payment is concerned and does not seek refund of excess payment that was made erroneously, in view of the judgment of this Hon'ble Court.
6. The only bone of contention between the parties that remains to be adjudicated is whether the authorities can be permitted to re-fix the petitioner's pay since 2010.
7. Mr. Ray has submitted that the petitioner was promoted to the post of Associate Professor on May 31, 2011, which was done erroneously. Hence, the party always has a right to rectify its error, if there be any.
8. The criteria for appointment to the post of Associate Professor is as under:

- (i) Ph. D. with 1st Class or equivalent in the appropriate branch with a very good academic record throughout.
- (ii) Minimum of six years teaching/industry/research experience of which at least three years should be at a level of Assistant Professor, Senior Scientific Officer/Senior Design Engineer.

9. Mr. Ray contends that the petitioner was only a year and a few months through as an Assistant Professor and hence did not qualify for the minimum six years teaching as stipulated as an eligibility criteria. However, Scheme of revision of pay of teachers and equivalent cadres in universities and colleges following the revision of pay scales of Central Government employees on the recommendations of the Sixth Central Pay Commission dated December 31, 2008 specifies that there shall only be three designations in respect of teachers in universities and colleges, namely, Assistant Professors, Associate Professors and Professors. In fact, it clarifies that Lecturers in service at the pre-revised scale shall be read re-designated as Assistant Professors with AGP of Rs.6000/-. The petitioner had been a Lecturer in the respondent institute since 1999. Clearly, the position of Lecturer, since December 2008 has been re-designated as that of an Assistant Professor.

Hence, this argument of Mr. Ray does not find favour.

10. The second limb of his submission, insofar as the eligibility criteria is concerned, relates to the fact that an Assistant Professor can be considered for the post of Associate Professor only if he fulfils the eligibility criteria of being in a particular pay band – PB3 as specified in the notification F. No. 23-I/2008-TS II dated August 18, 2009. According to Mr. Ray, the first part of Clause 1(iii)(1) relates to eligibility criteria for being considered to the post of Associate Professor. To be so considered, an Assistant Professor ought to be in pay band 3 as afore-stated and only then the criteria as specified in Clause 1(iii)(2) would come into play. He seems to find favour in the interpretation in the order dated March 11, 2025 issued by the Chief Executive of the Indian Statistical Institute whereby the Assistant Professor qualified to be considered to the post of Associate Professor has been foisted with a particular pay band. Hence, according to him, this error ought to be rectified and even though the institute does not wish to recover the same from the petitioner by way of refund of excess payment, the re-fixation allegedly done sometime in April 2025, ought to be allowed.

11. Mr Ray submits that the notification of December 31, 2008 does not apply in this instant case.

12. I have heard the parties at length and considered the records.

13. The first and foremost issue is whether the petitioner was entitled to be considered to the post of Associate Professor in 2011 itself. The petitioner had rendered his service in the institute since 1999 as a Lecturer. Since 2008, the post of Lecturer was done away with and the teaching staff in a University/College were classified into three posts, that of Assistant Professor, Associate Professor and Professor. Lecturers were at par with Assistant Professors since 2008, pursuant to the notification of December 31, 2008. In fact, the petitioner had been serving as a Lecturer since April 1999 with the respondent institution.

14. If the petitioner was indeed serving as a Lecturer, which post was later re-designated as that of an Assistant Professor, the petitioner was entitled and eligible to be considered under Clause 1(iii)(2) of the notification dated August 18, 2009. The petitioner had already rendered six years of teaching and had three years at the level of Assistant Professor (which was then designated as Lecturer) since 1999. Thus, the petitioner was entitled to apply.

15. Let me now advert to the question of an eligibility criteria couched in Clause (1)(iii)(1) of the notification of August 18, 2009, as argued by Mr.

Ray. If Clause (1) was to be considered as a part of the eligibility criteria, it would render a substantial part of Clause (2) otiose. Thus, as Clause (2) specifies a person could be engaged for six years in teaching or industry or research experience. If pay band 3 was a *sine qua non* for appointment to the post of Associate Professor, in that event, persons engaged in industry and research would not be eligible to apply. This is contrary to the eligibility criteria spelt out in Clause (2). Thus, the clauses themselves have to be given a harmonious construction, which would uphold the pith and substance of a notification.

16. The interpretation sought to be given by Mr. Ray on the basis of the Office Order on March 11, 2025 would not only be contrary to the legislative intent, but would render a subsisting clause completely nugatory. This construction is impermissible in law.
17. If the notification does not apply to the Respondent Institute, as contended by Mr. Ray, in that event, the institute should not be bound by the designation of Assistant Professor. The institute should have continued with the designation of Lecturer. The institute has redesignated Lecturers as Assistant Professors and cannot now do a volte face to say that they are not bound by the notification. The institute cannot at the same time blow hot and cold

over the same document.

18. The petitioner had, therefore, been rightly promoted in 2011 to the post of Associate Professor as he had more than six years of teaching experience with at least three of those years being at the level of Assistant Professor (previously designated Lecturer), at the same institution.

19. In any event, re-fixation of the Scheme after a period of 14 years would not only result in an onerous and inequitable situation for the petitioner but his pension and post retiral benefits would be severely impacted.

20. I find that there has been no error in granting promotion to the petitioner to the post of Associate Professor nor does the petitioner's pay band require any re-fixation.

21. The abject apathy of the authorities is beyond comprehension as they are presently seeking to scale down and/or re-fix the pay scale of the petitioner, on the ground of their own error, after lapse of 14 years from the date of his appointment.

22. I respectfully agree with the decision of the learned Single Judge referred to Mr. Basu in WPA 14712 of 2024 to hold that no refund of excess money as claimed by the respondents from the petitioner is permissible.

23. In the facts and circumstances of the instant case,

as I do not find any erroneous appointment of the petitioner, the question of re-fixation of the petitioner's pay scale, who has retired on January 31, 2026, does not arise.

24. In view of the afore-stated discussion, the order of March 11, 2025 is set aside. The writ petition is allowed to such afore-stated extent.

25. The respondent authorities are directed to take appropriate steps to release the petitioner's outstanding payments as expeditiously as possible.

26. There shall, however, be no order as to costs.

27. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)