

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.C.T. 153 of 2025

Shri Prabal Chandra Boral & Ors.

Vs.

The Union of India & Ors.

For the Petitioners : Mr. Mr. N. P. Biswas,
Ms. Sretapa Sinha,
Mr. Ankan Das,
Ms. Shradhya Ghosh

For the Respondents/ U.O.I. : Mr. Ajay Chaubey,
Mr. Samrat Ghosh

Judgment on : 27.03.2026

Supratim Bhattacharya, J.:

1. The petitioners were the applicants before the Central Administrative Tribunal (CAT for short) in O.A. No. 66 of 2016. The O.A. was dismissed by the CAT vide judgment dated 04.12.2023, which is the subject matter of the present writ petition.
2. The writ petitioners were working as Laboratory Technicians in the Metal and Steel Factory at Ishapore. By a communication dated 17.10.2014 issued by the Director General, Ordnance Factories their pay scale at that point of time in pay band Rs. 5,200/- to Rs. 20,200/- with Grade Pay Rs. 2,800/- was revised, to pay band Rs. 9,300/- to Rs. 34,800/- with Grade Pay Rs. 4,200/-. The revision

was made effective to the post of Lab Technicians with effect from 01.01.2006. Before making available the revised pay scale, the various units/ordnance factories were required to ensure that the Laboratory Technicians strictly possess the newly introduced requisite qualification for appointment as per Statutory Rules and Orders dated 03.08.2005, ("SRO 88" for short).

3. The petitioner's/applicants were appointed much prior to coming into force of SRO 88. At the time of their appointment the candidature were assessed on the basis of requisite qualification prescribed in another SRO 104/SRO-14 (E), as per the provision prevalent in the 1979 recruitment rules.
4. The petitioners were not possessing the subsequently introduced requisite qualification for appointment in terms of SRO 88 of 2005, and have thus been deprived of the benefit of pay revision with effect from 01.01.2006 by virtue of this communication dated 17.10.2014. The petitioners' representation for grant of the revised pay scale was rejected by the Works Manager of their unit at Ishapore on 17.06.2015.
5. It is under such circumstances that the petitioners moved the Central Administrative Tribunal, Kolkata Bench by filing an O.A. No. 66 of 2016. The petitioners/applicants prayed for the following relief before the Tribunal:

"i) An order / direction may be issued to cancel, withdraw, modify and/or rescind the impugned Order No. 042/BPMS/CAT/PER/M dated 17.10.2014, issued by the DHS, Ordnance Factory Board, Kolkata, directing that all those Laboratory Technicians who are to be given the higher / revised Pay Scale strictly possess the required qualification as

per SRO 88 dated 3rd August, 2005 and as contained at Annexure – A/4.

ii) An order / direction may be issued to cancel, withdraw and/ or rescind the order No. 935/3/E(Prom)/Up-gradation/LT dated 17.06.2015, issued by the Works Manager,/Admin. Metal & Steel Factory, Ishapore, rejecting the representations of the applicants for grant of revised pay scale w.e.f. 01.01.2006, as contained at Annexure – A/5.

iii) An direction and / or order may be issued to the respondents authorities and to each of them, their subordinates / agents to forthwith grant the revised Pay Scale of PB 2 9300- 34800 with G.P Rs 4200/- to the applicants with effect from 01.01.2006 and make payment of all consequential benefits including arrears of pay and allowances.

iv) To permit the applicants to file this application jointly under the provisions of sub-rule (5) (a) of Rule 4 of the Central Administrative Tribunal (Procedure) Rules, 1987.

v) And / or to pass such order or further order or orders and/or direction or directions as this Hon'ble Tribunal may deem fit and proper.”

6. The Tribunal has rejected the claim of the applicants/petitioners relying upon rejection of a similar claim by the Hyderabad Bench of the Central Administrative Tribunal in O.A. 396 of 2015 vide order dated 03.06.2021.
7. The learned advocate for the applicants/petitioners submits that the distinction sought to be created by the letter dated 17.10.2014, in the grant of revised pay scale with effect from 01.01.2006 is unsustainable. The present petitioners/applicants were serving the respondent organization since long. They possessed the requisite qualification for appointment as per SRO 104 under the 1979 Rules, which applied at the time of their appointment. Qualification for appointment as Laboratory Technicians was enhanced after coming into force of SRO 88 in the year 2005. The job requirement of the petitioners *vis-à-vis* those appointed on the same post after 2005

continued to be the same. The pay and emoluments were also uniform between the petitioners and those subsequently appointed, based on the requisite qualifications prescribed in the year 2005, and even thereafter.

8. The letter reads:

“The competent Authority in the Government of India has agreed to revise the Pay Scale of the post of Lab Technicians working in the Hospitals of DGOF Organization as under:

<i>Present Pay Scale</i>	<i>PB 1 5200-20200 with G.P Rs.2800/-</i>
<i>Revised Pay Scale</i>	<i>PB 2 9300-34800 with G.P Rs.4200/-</i>

The new Pay Scale will take effect from 01-01-2006.

However, the units may ensure that all those Laboratory Technicians who are to be given the higher/revised Pay Scale strictly possess the required qualification as per SRO 88 dated 3rd August, 2005 (Relevant portion is enclosed as an annexure to this letter).

Copy of Factory Order Pt.II notifying grant of revised Pay Scale to the eligible Laboratory Technicians may be forwarded to OFB for information and record.

(DR. ROTASH KANWAR)

DSH

For Director General, Ordnance Factories.”

9. Vide one letter dated 17.10.2014 pay scale was revised with effect from 01.01.2006.

10. It is submitted by the learned Advocate for the writ petitioners that such revision was to be implemented automatically to the petitioners who are incumbents of the same post and there is no scope for

examining the suitability of the present petitioners based on a qualification requisite for direct recruitment to their post introduced much after their appointment, in the year 2005.

11. We find that clarifications were being sought regarding the date of next increment, the method of fixation of pay on promotion after 01.01.2006, use of fitment tables for case of pay fixation under Rule 11 of the CCS (Revised pay) Rules, 2008, fixation of pay of government servants who were on deputation and got promoted in the cadre while on deputation. Therefore, the Government of India, in the Ministry of Finance Department of Expenditure issued certain clarifications which are contained in the office memorandum dated 13.09.2008. The petitioners relied upon Clarification 6 of the OM dated 13.09.2008 which reads:

“Clarification 6: Procedure for placing employees in upgraded scales in case of merger of scales/upgradations recommended by the Sixth CPC.....

(ii) Similarly, in the case of upgradations recommended by the Pay Commission, i.e. where all posts in a particular grade have been granted a higher replacement pay scale/grade pay, the suitability of the incumbents need not be assessed for granting them the higher replacement scale/grade pay. The incumbents will automatically be granted the replacement pay scale/grade pay recommended by the Commission. Their pay in the pay band will be fixed with reference to their fitment table corresponding to pre-revised pay scale. However, the grade

pay corresponding to the upgraded post will be granted.....”

12. In support of their submissions, the learned advocate for the petitioners/applicants placed reliance on decision of the Apex Court in the case of ***Union of India and Others Vs. Atul Shukla And Others*** reported in ***(2014) 10 SCC 432*** as well as decision of the Apex Court in the case of ***State of Punjab & Ors. Vs. The Senior Vocational Staff Masters Association & Ors.*** reported in ***2017 (9) SCC 379***.
13. The learned advocate for the respondents on the other hand submits that the order of the Director General dated 17.10.2014 clearly mandates grant of benefit of revision to Lab Technicians possessing the qualification requisite for direct recruitment as per SRO 88 on 03.08.2005. The officials of the unit where present applicants/petitioners were serving, sought clarification in this regard, whether the petitioners can be extended the benefit of revised pay scale with effect from 01.01.2006. The higher authorities, however, have turned down such request which is apparent from the communication dated 01.03.2016 issued by the Director General to the Metal & Steel Factory, Ishapore where the petitioners were performing their duties.
14. It is submitted that the petitioners' case is squarely covered by the decision of the Hyderabad Bench vide its order dated 03.06.2021, passed in O.A. No. 021/00396/2015 passed in the case of ***B. Ramchandrar Goud and Anr vs. Union of India and Ors.*** Relying

upon the said decision the Tribunal has passed the impugned order. Since the decision of the Hyderabad Bench was binding on the Central Administrative Tribunal, Kolkata Bench, the petitioners/applicants cannot be heard to contend that there is any infirmity in the order passed by the Tribunal in their case.

15. We find that basis for depriving the petitioners the benefit of the pay revision with effect from 01.01.2006 is the introduction for essential requisite qualification for appointment on the petitioner's post in the 2005 recruitment rules. We, therefore, consider it apposite to quote the provision in this regard in the 1979 Rules, under which the petitioners were appointed; and the 2005 Rules, which reads as follows:

***“Previous Recruitment Rules-
S.R.O. 104/S.R.O.-14(E)***

Passed B.Sc. with Chemistry as one of the subjects and training in clinical laboratory work for 5 years; or Passed Matriculation or Equivalent examination with Physics and Chemistry as subject and diploma in clinical laboratory technique/practice as conferred by State Medical Faculty; or In case of Ex-servicemen passed Matriculation or equivalent examination or special Army certificate of education and classification/recognised as Laboratory Technician class 1 or class II by competent service medical authorities. Preference may be given to suitably Qualified ex-Army Medical Corps Personnel.

***Current Recruitment Rules
S.R.O.-88 dated 03.08.2005***

Essential:

(i) Passed B.Sc. with Biochemistry/Micro biology/Life Science or equivalent from a recognised Institution.

(ii) Candidate should possess diploma in Medical Laboratory Technology from a recognised Institution.

(iii) Must possess at least one year experience in Medical Laboratory.

(iv) Must have working knowledge of computer.”

16. Upon consideration of the rival submissions we find that the only reason why the Tribunal has rejected the petitioner's claim is on the

ground that similar claim was rejected by the Hyderabad Bench of the Central Administrative Tribunal. The tribunal while rejecting the petitioner's claim has quoted from the order passed by the Hyderabad Bench. Ongoing through the extract quoted in the tribunal's order we find that reliance was placed by the Hyderabad bench on the Recruitment Rules 2005, whereby the requisite qualification for appointment of laboratory technicians was enhanced.

17. We also find that the Recruitment Rules of 2005, while enhancing the requisite qualification for direct recruitment of laboratory technicians has retained the process for appointment to the post of laboratory technician by promotion from amongst the Blood Transfusion Assistant ("BTA" for short) with 5 years regular service in the grade in Ordinance factory organization. The 2005 Rules also provides for absorption of persons with the revised qualification. We therefore find that the 2005 Rules containing the SRO 88 retains an option for appointment of laboratory technicians by way of promotion from amongst the BTA, who were appointed even prior to issuance of SRO 88, and did not necessarily possess the requisite qualification for direct recruitment to the post, as notified in the selfsame rule. The rules clearly contemplate a parallel existence of laboratory technicians directly recruited with the higher qualification, and those laboratory technicians who are appointed by way of promotion, and not having the qualification requisites for direct recruitment.

18. We also find that the union of India has not brought on record any material to show that there is any distinction whatsoever in the work being performed by the present petitioner's and those who may have been subsequently appointed upon possessing the enhanced requisite qualification as per SRO 88. It is also not in dispute that prior to issuance of the impugned letter dated 17.10.2014, the writ petitioners appointed under the earlier SRO 104, and other lab technicians appointed based on a higher qualification as per SRO 88, where all being paid the same salary. There is no material whatsoever to show that any hierarchical distinction has been created under the 2005 Rules based on the new qualifications prescribed therein for direct recruitment of laboratory technicians.
19. We also considered decision of the Apex Court in the case of **Atul Shukla** (*supra*) relied upon by the learned Advocate for the writ petitioner. The Apex Court in the judgment was considering a solitary question whether the continuance of the services of the respondents therein, in the rank of Group Captain (Timescale) in the Indian Air Force up to the age of 57 years could be made dependent upon whether they were serving in the flying duty; and whether those serving in ground duty could be deprived of such benefit and allowed continuance in service only up to the age of 54 years. The Apex Court considered its earlier judgments in the case of **Col. A.S. Iyer v. V. Balasubramanyam** reported in **(1980) 1 SCC 634** and decision in the case of **Air India v. Nergesh Meerza & Ors.**, reported in **(1981) 4 SCC 335**. Considering the principles stated in this decision

the Apex court was of the view that classification in two groups for prescribing different retirement age was offensive to article 14 and 16 of the Constitution of India. The Apex court found the difference portrayed in employability of the Timescale Officers *vis-à-vis* selected officers, to be more illusory than real. The conclusion was founded on a consideration of the material that the distinction sought to be created was not justifiable. The relevant considerations was with reference to the earlier two judgments noted above in the case of **A.S. Iyer** (*supra*) and **Nergesh Meerza** (*supra*). Relevant extract of judgment of the Apex court in the case of **Atul Shukla** (*supra*) reads:

“28. It is trite that birthmark of an officer who is a part of the cadre of Group Captains cannot provide an intelligible differentia for the classification to be held valid on the touchstone of Articles 14 and 16 of the Constitution. We may in this regard gainfully refer to the decision of this Court in Col. A.S. Iyer v. V. Balasubramanyam [(1980) 1 SCC 634 : 1980 SCC (L&S) 145] , wherein Krishna Iyer, J. as His Lordship then was rejected a somewhat similar argument to justify a classification based on the birthmarks of the members of a cadre. He said: (SCC p. 654, para 45)

“45. Let us eye the issue from the egalitarian angle of Articles 14 and 16. It is trite law that equals shall be treated as equals and, in its application to public service, this simply means that once several persons have become members of one service they stand as equals and cannot, thereafter, be invidiously differentiated for purposes of salary, seniority, promotion or otherwise, based on the source of recruitment or other adventitious factor. Birthmarks of public servants are obliterated on entry into a common pool and our country does not believe in official casteism or blue blood as assuring preferential treatment in the future career. The basic assumption for the application of this

principle is that the various members or groups of recruits have fused into or integrated as one common service. Merely because the sources of recruitment are different, there cannot be apartheidisation within the common service.”

(emphasis supplied)

29. In *Air India v. Nergesh Meerza* [(1981) 4 SCC 335 : 1981 SCC (L&S) 599] , a three-Judge Bench of this Court was examining whether a rule that permitted retirement of hostesses, within four years of her joining service, was reasonable. This Court held that if the factors or circumstances that are taken into consideration while fixing the age of superannuation are inherently irrational or illogical, the decision fixing the age of retirement will be flawed. The Court observed: (SCC p. 339)

“There can be no cut and dried formula for fixing age of retirement. It is to be decided by the authorities concerned after taking into consideration various factors such as the nature of the work, the prevailing conditions, the practice prevalent in other establishments and the like. But the factors to be considered must be relevant and should bear a close nexus to the nature of the organisation and the duties of the employees. So where the authority concerned takes into account factors or circumstances which are inherently irrational or illogical or tainted, the decision fixing the age of retirement is open to serious scrutiny.”

20. The other judgement relied upon by the learned advocate for the petitioners is also of the Hon’ble Supreme Court of India in the case of **Senior Vocational Staff Masters Assn.** (*supra*) in that case also there was an issue whether the “vocational masters would be entitled to pay scale of Rs.6,400-10,640/- being given to vocational lecturers” who were designated as such subsequently on acquiring a higher qualification. The Apex court in paragraph 27 of the judgment held:

“27. We are conscious of the fact that a differential scale on the basis of educational qualifications and the nature of duties is permissible. However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority in according a differential treatment unless some good reasons are disclosed. Thus, the decisions relied upon by the learned Senior Counsel are clearly distinguishable and are not applicable to the facts of the present case.” (emphasis supplied)

21. Under the circumstances, we are of the opinion that introduction of a differential treatment, resulting in unequal treatment amongst employees on the same post, i.e., laboratory technicians performing the same work; and without there being any hierarchical structure based on which a distinction can be made, is unsustainable. The impugned letter depriving the petitioners of the upgraded pay scale is discriminatory and violative of Article 14 and 16 of the Constitution of India.

22. The judgment in the case of **Atul Shukla** (*supra*) and **Senior Vocational Staff, Masters Association** (*supra*) leave no ambiguity as regards the legal position. The petitioners and other laboratory technicians are part of a common cadre. There is no distinction in the work discharged by the petitioners *vis-à-vis* those appointed on the same post based on the qualifications prescribed in SRO 88. We

also noticed that SRO 88 continues to acknowledge the qualification for appointment as laboratory technicians, possessed by the petitioners, for the purpose of making appointment against the promotion quota from amongst the BTA. The position of higher qualification, requisite for appointment under SRO 88, therefore, does not justify treatment of those appointed on the same post of the laboratory technicians to SRO 88 differently than those appointed under SRO 88. The distinction is not unjustifiable, nor does not reveal any occasional object sought to be achieved by such distinction.

23. Such distinction is also unsustainable in view of the office memorandum dated 13.09.2008 issued by the Department of Expenditure in the Ministry of Finance, Government of India, extracted above. The same clearly mandates that while granting higher replacement scale in upgraded scale, suitability of the individual incumbents need not be assessed.

24. We therefore, are of the considered view that the impugned order dated 17.10.2014 issued by the DHS, Ordnance Factory Board, Kolkata, insofar as it restricts the benefit of higher/revised pay scale to those who possessed the qualifications requisite for appointment under SRO 88 to be unsustainable. We therefore, hold that the order dated 17.10.2014 to this limited extent is unsustainable and quashed. We therefore, find consequential order dated 17.06.2015 issued by the Works Manager/Admin. Metal & Steel Factory,

Ishapore, rejecting the petitioners' representation, also to be unsustainable. The same is also quashed.

25. We direct the respondent authorities to grant the revised pay scale of pay band Rs.9,300/- to Rs.34,800/- with Grade Pay 4,200/- to the applicants/writ petitioners with effect from 01.01.2006, with consequential benefits. The impugned judgment of the Tribunal dated 04.12.2023 in our above considered opinion and for the reasons stated above is unsustainable. The judgment of the Tribunal dated 04.12.2023 is hereby set aside. The writ petition is allowed and the original application bearing OA. No. 350/00066/2016 is allowed in these terms.

26. Urgent Photostat certified copy of this Judgment, if applied for, be given to the parties on completion of usual formalities.

I agree.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)

(A.D.)