

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

The Hon'ble Smt. Urmita Datta (Sen)
Member (J)

J U D G M E N T

-of-

Case No. : O.A. 757 of 2016

**West Bengal Subordinate Food
& Supplies Association, Kolkata & Ors.**

.....

Applicants.

-Versus-

The State of West Bengal & Others.

.....

Respondents.

For the Applicant

: Mr. B.R. Neogi,
Mr. A.K. Niyogi,
Ld. Advocates.

For the State Respondent

: Mr. G.P. Banerjee,
Mr. M.N. Roy,
Ld. Advocates.

Judgment delivered on : 21st July, 2022.

**The Judgment of the Tribunal was delivered by :
The Hon'ble Smt. Urmita Datta (Sen), Member (J)**

J U D G M E N T

The instant application has been filed praying for following reliefs :

“ a) Leave may be granted to file and move the instant application jointly as because the cause of action and the prayers of the applicants are similar and identical as per rule 4(5)(a)(b) of the West Bengal Administrative Tribunal’s (Procedure) Rules, 1994;

b) An order directing the respondents to forthwith fix the pay of the Chief Inspector higher than Inspector that is Scale No. 12 from the date of joining as Chief Inspector and to pay the applicants all arrears of salaries and allowances;

b) Issuance of any other order or orders and/or direction as this Hon’ble Tribunal may deem fit and proper.”

2. In the instant application, applicant worked as Chief Inspector of Food & Supplies Department. Initially, some Inspectors of Food & Supplies Department approached before the Hon’ble High Court at Calcutta being C.O. No. 20188 (W) of 1994, which was subsequently transferred as TA No. 987 of 1996 and was disposed of by this Tribunal vide order dated 10.07.1997, directing the respondents to grant Scale no. 10 of ROPA, 1990 for the post of Inspector. Being aggrieved with, the State respondents had filed one WPST No. 287 of 1997,, which was dismissed by the Hon’ble High Court vide order dated 19.11.1997. Subsequently, the appeal of the State respondents was also again dismissed by the Hon’ble Apex Court vide order dated 18.03.2004 in CA No. 4791 of 1999.

3. In view of the above, the Finance Department, Government of West Bengal had issued one Memo. dated 08.03.2005 (Annexure-C) extending the benefit of initial order dated 10.07.1997 passed in TA-987 of 1996 to the petitioners being Inspector of Food & Supplies. Further, vide Notification dated 26.06.2012 issued by the Finance Department, Government of West Bengal allowed Scale no. 10 of ROPA, 1990 to the Inspector (Annexure-D). In the meantime, some Chief Inspectors, Food & Supplies Department had approached the Hon’ble High Court, which was subsequently transferred and numbered as TA-567 of 1997 before

this Tribunal and this Tribunal vide order dated 15.09.1997 had followed judgment dated 10.07.1997 passed in TA-987 of 1996.

4. It has been held that the Inspector of Food & Supplies would be granted Scale no. 10 of ROPA, 1990 therefore, the Chief Inspector cannot get the same scale of pay as it is a promotional post.

5. However, as per the applicants, in the TA-567 of 1997, the Inspectors have been granted scale no. 11 of ROPA Rules, 1981. The applicants being Chief Inspectors are entitled to get the higher scale i.e. scale no. 12 from the Inspector.

6. It has been submitted by the counsel for the applicants that admittedly, Chief Inspector is a promotional post as an Inspector has to be promoted as Chief Inspector and when the Inspectors have been granted the Scale no. 10 under ROPA 1990, the applicants should not get equivalent scale being higher in post and responsibility.

7. In view of the above, the applicants have prayed for an appropriate order. It has been further submitted by the applicants that when the Division Bench of this Tribunal had directed that the Chief Inspector should get higher scale than scale no. 11 and that order not having been challenged in higher forum, had attained finality. Therefore, the Chief Inspectors are entitled to get Scale No. 12. As per the applicants, from perusal of ROPA Rules, 1981, it would appear that Scale No. 10 and Scale No. 11 are same and almost identical i.e. Rs.425-895/- and Rs.425-1050/- and subsequently, in ROPA Rules., 1990 in the revised Scale Nos. 10 and 11 are same and almost identical. Therefore, they are entitled to get the scale no. 12 under ROPA Rules, 1990, which is Rs.1420-3130/-. Therefore, according to the counsel for the applicants, they are entitled to get Scale No. 12.

8. No reply has been filed by the State respondents.

9. I have heard both the parties and perused the records. It is noted that some of the Inspectors of Food & Supplies Department filed an application before the Hon'ble High Court at Calcutta being C.O. No. 20188 (W) of 1994 praying for grant of higher scale of pay of Rs.1390-2970/- (i.e. Scale No. 10 under ROPA Rules, 1990).

10. It is noted that two (2) Inspectors of Food & Supplies Department filed one Civil Order No. 1985 (W) of 1990 (Abhijit Kumar Samaddar & Another v. State of West Bengal & Others), wherein the Hon'ble High Court, Calcutta had directed the State respondents to consider the case of the applicants for proper scale of pay. Thereafter, one C.O. No. 20188 (W) of 1994 was filed before the Hon'ble High Court, which was subsequently transferred as TA No. 987 of 1996 to this Tribunal and was disposed of by this Tribunal vide order dated 10.07.1997, directing the respondents to grant Scale No. 10 of ROPA, 1990 for the post of Inspectors, which was ultimately affirmed by the Hon'ble Apex Court vide their order dated 18.03.2004 and ultimately the respondents in compliance with the Tribunals order had issued one Memorandum dated 08.03.2005 (Annexure-C), which is as follows :

“.....5. The undersigned is, therefore, directed by order of the Governor to say that in compliance with the order of the Hon'ble Tribunal read with the order passed by the Hon'ble Division Bench and dated 10.03.2004 of the Hon'ble Supreme Court, the Governor has been pleased to allow the writ petitioners, being Inspectors of Food & Supplies, under the Food & Supplies Deptt. (as per list enclosed) the scale no. 10, i.e. Rs.1390-2970/- notionally w.e.f. 01.01.1986 under the ROPA Rules, 1990 actual effect being given from 01.01.1988 in terms of the said Rule. This benefit is awarded to the petitioners as personal to them.

6. All consequential benefits in accordance with the above rule will be available to the petitioners.....”

11. Further, since even after issuance of the Memorandum dated 08.03.2005, all the Inspectors had not been effectively granted Scale No. 10 of ROPA, 1990, therefore, again another Memorandum dated 26.06.2012 (Annexure-D) was issued with the following instructions :

“..... In the circumstances, the undersigned, in enclosing copy of the said Finance Department Memo., is directed to request to all the Directors, other Heads of Offices, the RJDs, DCF&ss, SCF&ss, R.O.s etc. concerned under this Department to ensure that strict compliance of the instructions contained in Finance Department Memo. referred above, be made and fixation of pay of all those concerned in accordance with the said Memo. be, if not yet done, made without any further delay.

In case of those meanwhile retired on superannuation or not in service now for any reason, their pay may be re-fixed cancelling all previous fixations, allowing the benefit as stated above and the same may be conveyed to the Principal Accountant General (A&E), West Bengal, Kolkata Pay & Accounts Office or concerned Treasury Offices for taking necessary actions at their end.....”

12. In the meantime, this Tribunal in TA No. 567 of 1997 vide their order dated 15.09.1997 has held inter-alia :

“..... Accordingly, we dispose of this application with a direction upon the concerned respondents viz. to give the petitioner the benefit of scale No. 11 of ROPA Rules, 1981 for his tenure in the post of Inspector of Food & Supplies with all consequential benefits within eight weeks from the date of communication of this order, and to consider the scale of pay as Chief Inspector of Food & Supplies which must be higher than the scale of pay of the Inspector of Food & Supplies, and fix an appropriate scale of pay within eight weeks from the date of communication of this order.....”

13. From the perusal of the afore-mentioned judgment with regard to the entitlement of the appropriate scale for the post of Inspector of Food and Supplies Department, it is observed that as per the different pronouncement of court even by the Hon’ble Apex Court, the Inspectors of Food and Supplies Department are entitled to get at least the scale 10 of ROPA, 1990. Therefore, as admittedly the post of Chief Inspector is higher than the post of Inspector, they are entitled to get higher pay-scale than the pay-scale prescribed for the Inspector. Even the State respondents vide their Memo. dated 26.06.2012 has themselves admitted that the Inspector of Food & Supplies is entitled to get Scale No. 10 of ROPA, 1990. Therefore, the Chief Inspectors obviously would get higher than the Scale of the Inspectors, which is a promotional post of Inspector. As the applicants are similarly circumstanced with the petitioners of the aforementioned cases, they are entitled to get extension of benefits of the aforesaid judgments.

14. Therefore, I direct the Secretary, Food and Supplies Department to consider the case of the applicants taking into account the judgment dated 10.07.1997 passed in TA No. 987 of 1996, which was subsequently affirmed by the Hon’ble Apex Court vide their order dated 18.03.2004 passed in CA No. 471 of 1999, as referred in the Memo dated 26.06.2012 supra as well as Order dated 15.09.1997 passed in TA No. 567 of 1997, while taking into account the relevant ROPA Rules and to re-fix the pay and allowances of the Chief Inspector after verifying their respective cases and fixing their pay-scale in the appropriate pay-scale from appropriate dates and to communicate his decision with follow-up action by way of a reasoned and speaking order within a period of four months from the date of receipt of the order.

15. Accordingly, the OA is **disposed of** with the above observations and directions with no order as to costs.

Urmita Datta (Sen)
Member (J)