

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 377 of 2024

GOPAL CHANDRA DEY -- VERSUS – The State of West Bengal & Ors.

Serial No. For the Applicant : Mr. Gaurav Haldar,
and : Mrs. Priya Sasmal,
Date of : Learned Advocates
order

For the State Respondents : Mr. Gautam Pathak Banerjee,
Learned Advocate

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15.05.2025

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The applicant in the instant Original Application prayed for stepping up his pay in terms of the Rule 55 (4) of the West Bengal Service Rules, 1971 Part-I.

The contention of the applicant is that, he is senior to the Private Respondent No. 7 namely one Parbez Ali Mondal, still he is drawing lesser salary than the Private Respondent. It is not in dispute that, both the applicant and private respondent initially joined as 'Constable' in West Bengal Police on 10.03.1994 and 05.07.1994 and later got promotion to the post and/or rank of Assistant Sub-Inspector of Police on 01.03.2004 and 11.03.2013 respectively and presently both are Sub-Inspectors of Police in Diamond Harbour Police District under the West Bengal Police Directorate. The applicant was promoted and assumed charge of Sub-Inspector of Police on 21.12.2011 and the private respondent was later promoted and assumed charge of Sub-Inspector of Police on 29.07.2021.

The contention of the applicant is that, although both are presently posted as Sub-inspector of Police in Diamond Harbour Police District, yet there is a disparity of pay between the applicant and the private respondents as apparent from the Memo No. 940 /RO dated 11.09.2023 of the Superintendent of Police, Diamond Harbour Police District. Accordingly, he prays for stepping up his pay at par with the private respondent and he is squarely covered by the Rule 55 (4) of the WBSR, 1971 Part-I read with provisions of ROPA Rules, 2019.

The State Respondents have filed their Reply and the applicant filed his Rejoinder to the said reply filed by the State Respondents.

In the reply filed by the State Respondents, particularly in paragraph 7 (ii) of the said Reply, the Tribunal finds that, the main contention of the State Respondents is that, the applicant and the private respondent belonged to different footing when they were initially

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appointed as Constable in West Bengal Police. It is also stated in the reply that, there exists no such final Gradation List of 'Constables' and 'Assistant Sub-Inspector of Police' in the West Bengal Police Directorate to determine the absolutely seniority the applicant in relation to the cited private respondent. It is also stated that the Government vide order dated 20.12.2024 has regretted the proposal of the Director General of Police, West Bengal for stepping up the pay of the applicant. The said Order dated 20.12.2024 of the Government is annexed with the Reply as Annexure "R-1".

The applicant in his Rejoinder states that, without any Gradation List of Constables and ASI as stated in the reply, how could the promotion of the applicant and the private respondent to the post of Assistant Sub-Inspector of Police and Sub-Inspector Police could have given. The applicant further states that, there the Gradation list of Sub-Inspectors (UB & AB) is available in the Website of the West Bengal Police Directorate and the same was uploaded on 27.09.2023. The applicant repeats and reiterates the contention raised in the Original Application for stepping up his pay at par with the private respondent in terms of Rule 55 (4) of the WBSR, 1971 Part-I.

On hearing the Learned Advocates for the respective parties and on perusal of the materials on record, the Tribunal finds it is imperative to look into the Rules regarding stepping up of pay in the WBSR, 1971 Part-I.

Rule 55 (4) of the WBSR, 1971 Part-I is quoted herein below and which is as follows:-

".... Rule 55 (4) If a Government employee while officiating in a higher post draws pay at a rate higher than his Senior Officer either due to fixation of his pay in the higher post under the normal rules, or due to revision of pay scales, the pay of the Government employee senior to him shall be re-fixed at the same stage and from the same date his junior draws the higher rate of pay irrespective of whether the lien in the lower post held by the Senior Officer is terminated at the time of refixation of pay, subject to the conditions that both the Senior and Junior Officers should belong to the same cadre and the pay scale of the posts in which they have been promoted are also identical.

The benefit of this rule shall not be admissible in case where a senior Government employee exercises his option to retain un-revised scale of pay, or where the pay drawn by the senior officer in the lower post before promotion

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to the higher post was also less than that of his junior...”

From the above rules, it is clear that, both the Senior and the Junior Officers are required to be in the same cadre and in the same scale of pay of the post in which they have been promoted. It is undisputed fact that in the instant case in hand both the applicant as well as the private respondent are in the same Cadre of Sub-Inspectors (UB) in West Bengal Police Directorate and are presently posted in Diamond Harbour Police District. The scale of pay of both the applicant and the private respondent is also the same in Level 10 in terms of ROPA Rules, 2019. So, the condition as stipulated in Rule 55 (4) is squarely applicable to the claim of the applicant.

Now, coming to the Order dated 20.12.2024 issued by the Joint Secretary to the Government of West Bengal being Annexure ‘R-1’ to the reply, regretting the prayer for stepping up of pay of the applicant on the pretext of their initial joining as Constable in different District and non availability of Gradation List of Constable and ASI is of no consequence, as the applicant in the instant Original Application is praying for stepping up his pay as Sub-Inspectors of Police from the date when the private respondent was promoted and assumed charge of Sub-Inspector of Police (UB).

It is also not in dispute that the applicant joined the post and/or rank of Sub-Inspector of Police (UB) on 21.12.2011 whereas the private respondent was later promoted and assumed charge of Sub-Inspector of Police on 29.07.2021 and presently, they are in the same Cadre of Sub-Inspectors of Police (UB) as reflected in the Memo No. 940/RO dated 11.09.2023 which is annexed with the Original Application at page 23 and 24. It is also not in dispute that, their scale of pay is the same in level 10 of the ROPA Rules, 2019 and also of the fact that, there is a Gradation list of Sub-inspector of Police (UB & AB) published in the website of the West Bengal Police Directorate vide Org No. 254/CRO/Per/A-63/2022 (Pt-II) dated 27.09.2023. From the extract of the Finally Published Gradation List of Sub-Inspector (UB & AB), which is annexed to the Original Application at page 27 to 33, the Tribunal finds that the name of the Applicant is appearing at Serial No. 695 whereas the name of the Private Respondent is appearing at Serial No. 5077 of the said Finally Published Gradation List so uploaded by the West Bengal Police Directorate.

In the above context the Tribunal is of the opinion that the Order dated 20.12.2024 issued by the Joint Secretary to the Government of West Bengal being Annexure ‘R-1’ to the reply, regretting the prayer for stepping up the pay of the applicant is quashable and hence, it

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is set-aside and quashed with a further direction to the Respondent Authorities specially the Respondent Nos. 2, 3 and 4 to step up the pay of the applicant at par with the private respondent from the date from which private respondent assumed the charge of Sub-Inspector of Police i.e., 29.07.2021 following Rule 55 (4) of WBSR Part-I and to pay the arrears of differential pay to the applicant. The entire exercise of stepping up of pay and paying the arrears with effect from 29.07.2021 is to be completed within a period of six months from the date of communication of this Order.

With the above observation the Original Application is accordingly, disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.