



2026:DHC:5037



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Reserved on: 25th February, 2026**
Pronounced on: 1st June, 2026

+ **W.P(C) 7796/2008, CM APPL. 46598/2022**

KALI RAM KAUSHIK

S/o Late Sh. Subh Ram Kaushik
R/o A/35, Shiv Enclave, Near Udaseen Ashram,
Nangloi Road, Nazaf Garh,
New Delhi-110043.

.....Petitioner

Through: Mr. Gaurav Serawat, Mr. U.
Srivastava and Mr. M.K. Gaur,
Advocates.

Versus

1. **UNION OF INDIA THROUGH**

The Secretary,
Ministry of Human Resource Development,
Department of Education, Shastri Bhawan,
New Delhi.

2. **THE INDIAN INSTITUTE OF TECHNOLOGY DELHI**

Through its Director
Hauz Khas, New Delhi-110016.

.....Respondents

Through: Mr. T. P. Singh, SPC for R-1/UOI.
Mr. Arjun Mitra and Ms. Jayanti Jha,
Advs. for IIT, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



NEENA BANSAL KRISHNA, J.

1. The present Writ Petition has been preferred under Article 226 of the Constitution of India *seeking issuance of appropriate writs/directions for grant of pay scale of Rs.8000-13500 in place of Rs.7500-12000, allegedly arising from the Petitioner's promotion/ upgradation under the Recruitment & Career Development Scheme (R&CDS), along with consequential financial benefits.*

2. ***The brief facts are*** that the Petitioner was initially working in the Technical Cadre in the Respondent Institute, namely Indian Institute of Technology Delhi. He was granted promotional advancement from the post of Senior Technical Assistant (STA) in the pay scale of Rs.2000-3200 to the post of Senior Technical Assistant (**Selection Grade**) [STA (SG)] in the higher pre-revised pay scale of Rs.2000-3500, under the *Recruitment & Career Development Scheme (R&CDS)*, notified by IIT Delhi, vide Notification dated 06.12.1994. The promotion was granted after completion of 8 years in service in terms of *Office Order No. IITD/Estt.II/98/644* dated 18.02.1998, with retrospective effect from 01.08.1996.

3. The Recruitment & Career Development Scheme (R&CDS), notified by IIT Delhi vide Notification dated 06.12.1994, governed recruitment, promotion and career progression of non-academic technical and administrative staff. Under this Scheme, the **Petitioner progressed through the technical hierarchy, to the post of Senior Technical Assistant (Selection Grade) [STA (SG)]**. This post was higher than Technical Assistant, and the post of Senior Technical Assistant, which constituted a higher promotional grade, within the same cadre structure.



4. Pursuant to the implementation of the recommendations of the *Fifth Central Pay Commission* and the directions issued by the *Ministry of Human Resource Development [MHRD]* vide *Letter No. F.No.19-7/98-TS.1*, dated 29.04.1998, regarding revision of pay scales of non-faculty employees of IITs, *the pre-revised pay scales, underwent restructuring and revision.*

5. Consequently, vide *Office Order No. IITD/Estt.II/98/3982* dated 30.06.1998, the pay of the Petitioner, who had already been promoted as STA (SG) in the pre-revised scale of Rs.2000-3500, was revised and fixed in the corresponding revised pay scale of Rs.7500-12000 with effect from 01.01.1996, along with consequential increments admissible thereunder.

6. Subsequently, IIT Delhi issued Office Order dated 12.06.2001 pursuant to *Board Resolution No. BG/43/2000*, whereby employees who were earlier in the pre-revised scale of Rs.2000-3500, were extended the revised scale of Rs.7500-12000 to remove anomalies arising from merger of the scales Rs.2000-3200 and Rs.2000-3500, after implementation of the Fifth Central Pay Commission. The benefit was granted notionally from 01.01.1996 and financially from 01.07.2000. *However, the Office Order specifically stipulated that the grant of the revised scale of Rs.7500-12000 was purely provisional and subject to the final decision of the Standing Committee on Executive Matters (SCEM) of the IIT Council.*

7. The Petitioner exercised the requisite option/undertaking and accepted the said revised scale, subject to the aforesaid condition. The Petitioner also accepted the revised fixation with actual monetary benefits, restricted to 01.07.2000.



8. **The Petitioner stated that once the revised scale of Rs.7500-12000 had been granted to him after his promotion/ upgradation as STA (SG), he became entitled to the next higher promotional scale of Rs.8000-13500.** The Petitioner thereafter, continued to submit representations, claiming entitlement to the higher pay scale of Rs.8000-13500 on the premise that the revised scale of Rs.7500-12000 ought to be treated as a promotional scale and that similarly situated employees in other IITs, had been granted the higher replacement scale.

9. The Petitioner contended that the anomaly created due to merger of the scales Rs.2000-3200 and Rs. 2000-3500, was only partially rectified and that employees like him who were granted the revised scale of Rs.7500-12000 became entitled to movement into the higher scale of Rs.8000-13500.

10. The Petitioner claims that his grievance has been continuing since 01.08.1996 despite repeated representations were submitted by him from time to time, including representations dated 16.09.1998, 08.03.2000 and 14.05.2008. The Respondents failed to take a final and reasoned decision for several years, and the impugned reply dated 29.08.2008, was issued only after the Petitioner sought information under the Right to Information Act.

11. It has further been contended that the cause of action is recurring and continuing in nature since the dispute pertains to fixation of pay and consequential service benefits.

12. The Petitioner has accordingly, sought issuance of an appropriate writ, order or direction directing the Respondents to grant the higher pay scale of Rs.8000-13500 in place of Rs.7500-12000, along with all consequential benefits including arrears, retrospective financial



benefits and corresponding higher designation with effect from 01.08.1996.

13. **The Respondents filed a Counter Affidavit** contending inter alia, that the Petitioner was never appointed/ promoted to *any distinct cadre/post of "Technical Officer"* and the Petitioner remained within the hierarchy of STA/STA (SG), under the R&CDS framework.

14. The Respondents explained that pursuant to implementation of the recommendations of the Fifth Central Pay Commission, the Government of India, *Ministry of Human Resource Development, vide Letter No. F.No.19-7/98-TS.1* dated 29.04.1998, it specifically directed discontinuance of the *Recruitment & Career Development Scheme (R&CDS)* and implemented the *Recruitment & Career Progression Scheme (RCPS)* with the approval from the MHRD, vide their Letter dated 22/24.2.2006, but in the said RCP Scheme, there was no designation as 'Technical Officer'.

15. Further, the Respondents relied upon the *Minutes of the 35th Meeting of the IIT Council* held on 20.02.1999, wherein it was recorded that R&CDS stood discontinued following implementation of the Fifth Central Pay Commission and that IITs should await implementation of the *Assured Career Progression Scheme*, in line with Central Government policy.

16. Reliance has also been placed upon the *Minutes of the 36th and 37th Meetings of the Council of IITs*, wherein the Council specifically observed that Boards of Governors of IITs, were not competent to independently alter pay scales, service conditions or promotional structures involving financial implications, without prior approval of the Government of India, Ministry of Finance and DoPT.



17. The Respondents further submit that the grant of scale Rs.7500-12000 itself was only a provisional anomaly-removal measure, subject to approval by competent authorities and could not confer any vested right upon the Petitioner to claim a further higher scale of Rs.8000-13500.

18. Reliance has been placed upon the clarification issued by the *Ministry of Human Resource Development* dated 04.03.2008, wherein it was specifically observed that grant of scale Rs.7500-12000 to employees holding the pre-revised scale of Rs.2000-3500, had been made “in violation of Government orders” and *that the correct revised scale ought to have been Rs.6500-10500*. The said clarification further stated that such higher scales granted by IITs, could be reversed while implementing the *Recruitment & Career Progression Scheme (RCPS)*.

19. On the basis of the aforesaid clarification and institutional decisions, the Respondents rejected the representation of the Petitioner, vide communication dated 29.08.2008, holding that the grant of scale Rs.7500-12000 and the date from which financial benefits had been granted, were already “in order” and that the claim for higher scale of Rs.8000-13500, was untenable .

20. In this regard, reliance may also be placed upon *State of U.P. v. J.P. Chaurasia (AIR 1989 SC 19)* wherein the Supreme Court held that matters relating to pay fixation, equation of posts and determination of service conditions, primarily fall within the domain of the Executive Government and expert bodies, such as Pay Commissions. It was further observed that where such determination has been undertaken by an expert body, the Court



should normally refrain from interfering unless the decision is shown to have been made on extraneous considerations.

21. Similarly, in Union of India v. P.V. Hariharan (1997) 3 SCC 568, the Supreme Court reiterated that fixation of pay scales is primarily the function of the Government acting upon the recommendations of expert bodies, such as Pay Commissions, and that judicial forums should exercise restraint in interfering with such matters unless a clear case of hostile discrimination is made out.

22. **The Petitioner filed his Rejoinder** controverting the stand of the Respondents and contended that the clarification dated 04.03.2008 was not applicable to his case and that the Respondents themselves had repeatedly acknowledged and implemented the scale of Rs.7500-12000, through Office Orders, Board Resolutions and Council deliberations .

23. It was further contended that the *Minutes of the 38th Meeting of the Council of IITs* dated 07.09.2003, clearly acknowledged that the scale of Rs. 7500-12000 had already been granted notionally from 01.01.1996 with financial benefits from 01.07.2000 and that the Council only declined ante-dating of actual financial benefits. According to the Petitioner, this demonstrates institutional recognition of the revised scale itself.

24. Reliance was also placed by the Petitioner upon the judgment in Manjit Singh &Ors. V. UOI &Anr. W. P. (C) 2764/2001 wherein this Court had observed that denial of already recognized pay benefits to similarly situated employees, despite extension of such benefits in other IITs, may amount to hostile discrimination, violative of Article 14 of the Constitution of India. It was contended that employees similarly situated to the Petitioner



in other IITs, had been granted higher replacement benefits and therefore denial of the same to the Petitioner was arbitrary and discriminatory.

Submissions heard and record perused.

25. The core issue arising for consideration in the present Writ Petition is, *“Whether the Petitioner was merely granted promotional advancement from the post of Senior Technical Assistant (STA) to Senior Technical Assistant (Selection Grade) [STA (SG)] within the same technical cadre under the Recruitment & Career Development Scheme (R&CDS), or whether he had been promoted to any distinct higher post/cadre so as to entitle him to claim the higher pay scale of Rs.8000-13500?”*

26. The principal contention of the Petitioner is that once the revised scale of Rs.7500-12000 was granted to him after implementation of the Fifth Central Pay Commission, he automatically became entitled to the next higher scale of Rs.8000-13500 along with corresponding designation and consequential financial benefits.

27. Per contra, the Respondents have contended that the Petitioner was never promoted to any separate cadre or post carrying the pay scale of Rs.8000-13500. It has been submitted that the Petitioner’s promotional advancement under the Recruitment & Career Development Scheme (R&CDS) culminated at the stage of Senior Technical Assistant (Selection Grade) [STA (SG)] in the pre-revised scale of Rs.2000-3500 and that the subsequent placement in the scale of Rs.7500-12000 was only a consequence of pay revision and anomaly removal after implementation of the Fifth Central Pay Commission.



28. However, this contention proceeds on a misconception between a promotional advancement and a pay-fixation/anomaly-removal measure.

29. The Petitioner was on the post of Senior Technical Assistant (STA) who was granted salary advancement, under the Recruitment & Career Development Scheme (R&CDS) from the pre-revised pay scale of Rs.2000-3200 to the Senior Technical Assistant (Selection Grade) [STA (SG)], in the higher **pre-revised scale of Rs.2000-3500**, vide Office Order dated 18.02.1998 with effect from 01.08.1996.

30. It is further undisputed that pursuant to implementation of the recommendations of the *Fifth Central Pay Commission*, the Petitioner's pay was revised and fixed at the scale of Rs.7500-12000. However, from the material placed on record, particularly the R&CDS Notification dated 06.12.1994, it is evident that no distinct cadre or post of "Technical Officer" existed, insofar as the Petitioner's channel of promotion under the technical hierarchy, was concerned. The hierarchy under the Scheme only contemplated progression from Technical Assistant to Senior Technical Assistant and thereafter, to Senior Technical Assistant (Selection Grade). Thus, while the Petitioner undoubtedly received the salary advancement to *Selection Grade, within the cadre structure, the record does not support the contention that he was ever appointed or promoted to any separate higher post/cadre carrying an independent replacement scale of Rs.8000-13500.*

31. This is also clear from Notification of the Ministry of Human Resource Development which directed discontinuance of the Recruitment & Career Development Scheme and restrained IITs from independently altering pay structures or creating higher scales without approval of the



Government of India. *The Minutes of the 35th Meeting of the IIT Council held on 20.02.1999 further recorded that R&CDS already stood discontinued after implementation of the Fifth Central Pay Commission and that IITs should await implementation of the ACP Scheme, in line with Central Government policy.*

32. Significantly, no material has been placed on record before this Court demonstrating specific approval by the Government of India sanctioning grant of the scale Rs.8000-13500 to employees situated similarly to the Petitioner under the R&CDS framework.

33. Thus, it is established that the Petitioner was ever promoted to any distinct higher cadre/post carrying the pay scale of Rs.8000-13500, so as to claim any consequential higher designation or retrospective monetary benefits with effect from 01.08.1996.

34. The next question which emerges is, *“Whether the revised pay scale of Rs.7500-12000 granted to the Petitioner was only a provisional pay-fixation/anomaly-removal measure, subject to approval of the Standing Committee on Executive Matters (SCEM), IIT Council and Government authorities, thereby disentitling the Petitioner from claiming the higher scale of Rs.8000-13500 as a matter of right?”*

35. The Petitioner has contended that once the scale of Rs.7500-12000 was granted and continued in his favour, the same attained finality and could not be treated as provisional in nature. Reliance has also been placed upon the *Minutes of the 38th Meeting of the Council of IITs* dated 07.09.2003, to claim that the scale stood recognized by the IIT Council itself.



36. On the other hand, the Respondents have contended that the grant of the scale of Rs.7500-12000 was **always provisional and subject to approval of the competent authorities** including SCEM/IIT Council and the Government of India. It has further been contended that the said scale itself was granted contrary to Government Orders and could not create any vested right in favour of the Petitioner.

37. The Office Order dated 12.06.2001 itself specifically stipulated that the grant of the *revised scale of Rs.7500-12000* was **provisional and subject to the final decision of the Standing Committee** on Executive Matters (SCEM)/IIT Council. However, as already discussed hereinabove, the material on record clearly demonstrates that the **Petitioner never acquired any substantive promotional entitlement beyond the post of STA (SG)**.

38. The record further reflects that the **Petitioner himself exercised the option/undertaking accepting the aforesaid condition and also accepted the revised fixation with actual financial benefits restricted to 01.07.2000**. Once the Petitioner accepted the benefit subject to such express conditions, he cannot subsequently contend that the said scale conferred upon him a vested right to claim a still higher scale of Rs.8000-13500.

39. The *Minutes of the 38th Meeting of the Council of IITs* dated 07.09.2003 recorded that the scale of Rs.7500-12000 had already been granted notionally from 01.01.1996 with financial benefits from 01.07.2000 and that *only the request for ante-dating of actual financial benefits was declined*. However, the said deliberations merely indicate that the issue remained under consideration owing to anomalies arising after



implementation of the Fifth Central Pay Commission. The same cannot be construed as conferring final and unconditional approval by the Government of India, for grant of the higher scale of Rs.8000-13500.

40. Further, the *Minutes of the 36th and 37th Meetings of the IIT Council* clearly emphasized that the Boards of Governors of IITs, were not competent to independently alter service conditions, pay scales or promotional structures involving financial implications without concurrence of the competent Government authorities, including the Ministry of Finance and DoPT.

41. In this regard, reference may also be made *to Section 31 and 33(2) (b) of the Institutes of Technology Act, 1961*, which provides for the establishment of the IIT Council as the central statutory body overseeing the functioning of the Institutes. It reads as under:

“31. Establishment of Council.—

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established a central body to be called the Council.”

“33. Functions of Council.—

(1)...

(2) Without prejudice to the provisions of sub-section(1), the Council shall perform the following functions, namely:-

(a)...

(b) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest...”



42. A conjoint reading of the aforesaid statutory provisions makes it evident that matters pertaining to cadre structure, methods of recruitment, service conditions and allied policy decisions concerning employees of the Institutes are vested within the statutory domain of the IIT Council. Consequently, individual IITs or their respective Boards of Governors could not have independently altered pay structures, created higher promotional avenues or granted financial upgradations involving policy and financial implications outside the approval mechanism contemplated under the statutory framework and the policy directions of the Central Government.

43. At this stage, reference may also be made to *State Fisheries Officers Association, West Bengal v. State of West Bengal (1997) 9 SCC 65*, wherein the Supreme Court declined to direct grant of retrospective monetary benefits contrary to the policy decision of the Government and held that no direction can be issued compelling the Government to extend financial benefits inconsistent with its approved policy framework, particularly in matters involving financial implications and executive discretion.

44. The aforesaid principle assumes significance in the present case inasmuch as the *Petitioner seeks grant of a higher pay scale and consequential monetary benefits, despite the absence of approval by the competent Government authorities and contrary to the policy framework reflected in the decisions of the IIT Council and the Ministry of Human Resource Development.*

45. The clarification issued by the Ministry of Human Resource Development dated 04.03.2008, also assumes significance. *The Ministry specifically observed that grant of the scale of Rs.7500-12000 to employees*



holding the pre-revised scale of Rs.2000-3500, had been made contrary to Government Orders and that the correct revised scale ought to have been Rs.6500-10500. The clarification further stated that such higher scales granted by IITs could be reversed, while implementing the Recruitment & Career Progression Scheme (RCPS).

46. Thus, the entire framework emerging from the institutional record clearly demonstrates that the scale of Rs.7500-12000 was only an interim anomaly-removal/pay-fixation measure arising out of revision and merger of pre-revised scales and did not constitute any substantive promotional scale carrying further replacement benefits.

47. It has been next contended on behalf of the Petitioner that once the revised scale of Rs.7500-12000 stood granted notionally with effect from 01.01.1996 and financially from 01.07.2000, the Petitioner became entitled to all consequential benefits flowing therefrom, including placement in the higher scale of Rs.8000-13500, arrears, retrospective monetary benefits and corresponding higher designation with effect from 01.08.1996.

48. This Court finds that the foundation of the Petitioner's claim for consequential benefits rests entirely upon the assumption that the revised scale of Rs.7500-12000 constituted a substantive promotional scale carrying further replacement benefits. However, as already discussed hereinabove, the material on record clearly demonstrates that the **Petitioner never acquired any substantive promotional entitlement beyond the post of STA (SG).**

49. Admittedly, the Minutes of the 38th Meeting of the Council of IITs dated 07.09.2003 recorded grant of the scale of Rs.7500-12000 notionally



from 01.01.1996 with financial benefits from 01.07.2000. However, the said deliberations did not amount to final approval by the Government of India for grant of the higher scale of Rs.8000-13500 or consequential retrospective monetary benefits.

50. Further, as already discussed, the clarification issued by the Ministry of Human Resource Development dated 04.03.2008 specifically observed that the grant of the scale of Rs. 7500-12000 itself was contrary to Government Orders and that the appropriate revised scale ought to have been Rs.6500-10500.

51. Significantly, no material has been placed on record to establish that the Government of India ever approved a grant of the scale of Rs.8000-13500 or a corresponding higher designation and consequential arrears, to employees situated similarly to the Petitioner under the R&CDS framework.

52. Insofar as the challenge to the *impugned communication dated 29.08.2008* is concerned, this Court finds that the said decision was taken after consideration of the Petitioner's representations, the applicable policy framework, the Minutes of the IIT Council Meetings and the clarification issued by the Ministry of Human Resource Development. *The impugned communication, therefore, cannot be said to suffer from arbitrariness, irrationality or jurisdictional infirmity warranting interference under Article 226 of the Constitution of India.*

53. At the same time, this Court cannot overlook that although the Petitioner was granted the revised scale of Rs.7500-12000 pursuant to institutional decisions taken by IIT Delhi, *the Respondents never withdrew the said benefit and continued the same throughout.* There is nothing on



record to show that the said benefit was ever formally cancelled or withdrawn in accordance with due process of law.

54. To sum up, the Petitioner was granted *Selection Grade Scale under Recruitment & Career Development Scheme (R&CDS)*, but it was subject to approval from **competent authorities**. This Scheme got replaced by *Recruitment & Career Progression Scheme (R&CPS)*, and the fitment of pay scales was accordingly, done in the light of Fifth Pay Commission recommendations and the Notifications issued by Govt. of India, thereof.

55. In view of the aforesaid discussion, it is held that the Petitioner has failed to establish any legal or vested right to claim the higher pay scale of Rs.8000-13500 or consequential designation/post and retrospective monetary benefits, with effect from 01.08.1996.

56. **The Writ Petition is accordingly, dismissed along with pending Application(s), if any.**

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 01, 2026