



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 01.09.2026
Judgment delivered on: 03.09.2026
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CNR No. DLHC010002052011

+ **W.P.(C) 4178/2011**

THE COMMISSIONER MCD AND ORS

.....Petitioners

versus

RAJINDER PARSHAD SHARMA AND ORS

.....Respondents

Advocates who appeared in this case

For the Petitioners : Mr. Tushar Sannu, SC and Mr. Vaibhav Tripathi, Advocate.

For the Respondents : Mr. Shivanshu Bhardwaj, Mr. Himanshu Bhardwaj and Mr. Sudhanshu Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

CM APPL. 49150/2026 (clarification)

1. By this order, we shall decide CM Application No.49150/2026, which has been filed by the respondent herein with the following prayers:-



“a. Clarify the order dated 13.05.2026 passed in W.P.(C) No. 4178/2011 to the extent that the grade pay applicable to the post of Administrative Officer at the relevant point of time was different and higher from that of Superintendent, and also to the extent that the fixation in favour of the Respondent should be carried out by the Petitioners keeping in mind the subsequent revisions to the pay structure that has been carried out for the post of Administrative Officer; and/ or

b. To pass such other and further order, which this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

2. Suffice to state that initially the captioned writ petition was decided vide order dated 07.05.2013.

3. Thereafter, the Supreme Court passed the order dated 10.01.2014 to the following effect:-

“After arguing the matter for sometime, learned counsel for petitioner sought permission to withdraw the Special Leave Petition to enable the petitioner to file a Review Application. Liberty is granted without any liberty to challenge the same very impugned order before this Court . The Special Leave Petition is dismissed as withdrawn.”

4. The petitioner filed the Review Petition No.473/2018, which was decided by this Court vide order dated 13.05.2026 by stating in paragraphs 14-15 as under:-

“14. Suffice it to state, this Court had not taken into consideration the Office order dated 31.08.2005, whereby the respondent was granted promotion to the post of Superintendent on ad hoc basis in the scale of Rs.6,500-10,500 which is a higher scale and also the fact that, while



working as Superintendent on ad hoc basis, he was given current duty charge of the post of AO/AAC vide officer order dated 31.08.2007. Though current duty charge does not involve grant of the pay of the post, but in this case, the scale of pay of AO/AAC was also Rs.6,500-10,500 equivalent to the scale of Superintendent, which was given to the respondent with effect from 31.08.2005. The respondent, who was promoted in the scale of Rs.6,500-10,500 as Superintendent shall continue to draw the scale even if he was given current duty charge as AO/AAC because he shall be entitled to the scale as Superintendent from which he was given current duty charge, of the post of AAO/AAC.

15. So, it follows the respondent shall not be entitled to the pay of Superintendent w.e.f. 18.05.2005 but surely w.e.f. 31.08.2005 and he shall continue to draw the scale of Rs. 6,500-10,500 even if he was given current duty charge of the post of AO/AAC. This we say in view of the judgment referred to by the Tribunal in the case of Selveraj (supra) and also in the case of S. N. Paracer (supra).”

5. The submission of Mr. Shivanshu Bhardwaj, learned counsel for the applicant is primarily that though this Court had granted the pay of the Superintendent in the pay scale of Rs.6500 – 10500 including the revised pay under pay band-II in grade pay of Rs.4800/-, but the conclusion drawn by this Court in paragraph no.14 that the pay of the Superintendent/AO/AAC being Rs.6500 – 10500 (pre-revised) equivalent/identical is erroneous. According to him, the respondent shall be entitled to the grade pay of Rs. 5400/- with effect from the date when he was given current duty charge of AO/AAC.

6. The submission of Mr.Bhardwaj is drawing our attention to the



application to contend that the pay of AO/AAC has undergone revision in pay band-II with grade pay of Rs. 5400/- and as such the respondent would be entitled to the pay in the grade pay of Rs.5400/- with effect from 31.08.2007 when the petitioner, who while working as Superintendent on *ad hoc* basis was given current duty charge on the post of AO/AAC.

7. The petitioners herein have filed a reply to this application wherein in paragraph nos.9 and 14, *inter alia*, it is stated as under:-

“9. It is submitted that, on examination of the Service Book of Respondent No.1/Applicant, it is revealed that he has already been granted the Pay Scale of Rs.6,500-200-10,500/- w.e.f. 31.08.2005 for the post of Superintendent. Thereafter, consequent upon implementation of the 6th Central Pay Commission recommendations, his pay was placed in Pay Band-II (Rs.9,300-34,800) with Grade Pay, of Rs.4,800/- w.e.f. 01.01.2006, and fixed at Rs.13,210/- + Grade Pay of Rs.4,800/-, vide order No.AC(Estt.)/F.No.57/UDC-II/2015/2793 dated 12.02.2015 (already filed as part of Annexure A-7 (Colly.) to the application), as is duly borne out from the relevant extract of his Service Book.

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12.It is well settled that an officer who is merely assigned the current/additional duty charge of a higher post, without being promoted thereto regularly or on ad hoc basis continues to draw the pay and grade pay of his own substantive post, and does not acquire any entitlement to the pay or grade pay attached to the post whose charge he holds, particularly where, as here, the terms of the assignment itself expressly disclaim any such entitlement. Respondent No.1/Applicant, having accepted the assignment of current duty charge subject to the aforesaid express



terms and conditions, cannot now be permitted to claim the Grade Pay of Rs.5,400/- attached to the post of Administrative Officer, an entitlement which never accrued to him.”

8. So, the issue is whether in terms of our order dated 13.05.2026, the respondent is entitled to grade pay of Rs.5400/- with effect from 31.08.2007.

9. We have already concluded in paragraph no.15 of the order dated 13.05.2026 that even if the government employee is given current duty charge of higher post, he would be entitled to the pay attached to the higher post.

10. The petitioners herein have not contested the said finding. Their only plea in the reply is that if an officer is merely assigned current / additional duty charge of a higher post, without being promoted thereto regularly or on *ad hoc* basis he shall continue to draw the grade pay of his own substantial post and does not acquire any such entitlement to pay or grade pay attached to the post, whose charge he holds. This stand is contrary to the conclusion as drawn by us in paragraph no.15 above.

11. The pay of AO/AAC has been revised in the Pay Band-2 with grade pay of Rs.5400/-. Surely, the respondent shall be entitled to grade pay of Rs.5400/- with effect from 31.08.2007, when he was given the current duty charge.

12. Accordingly, we hold that the respondent shall be entitled to grade pay of Rs.5400/- with effect from 31.08.2007. To that extent, we clarify the order dated 13.05.2026. All consequential action of payment of arrears with



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interest at the rate of 6% per annum shall be made to the respondent/applicant herein within a period of three months from today.

13. The application is allowed in the aforesaid terms.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 03, 2026

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