

**Serial No. 01**  
**Supplementary List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 44 of 2015

Date of Decision: 31.10.2023

Shri. Surajit Dutta Vs. North Eastern Hill University & Ors.

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Ms. A. Paul, Sr. Adv. with  
Ms. R. Dutta, Adv.

For the Respondent(s) : Mr. S. Sen, SC, NEHU with  
Ms. S. Shallam, Adv.

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|-----|---|--------|
| i)  | Whether approved for reporting in<br>Law journals etc.: | Yes/No |
| ii) | Whether approved for publication<br>in press:           | Yes/No |

**JUDGMENT**

1. This is an application preferred under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of mandamus and/or certiorari or any other writ, order or direction. The specific prayer as extracted being as follows:

*“In the premises aforesaid it is prayed that Your Lordships may be pleased to call for the Records, issue a Rule calling upon the*

*respondents to show cause as to why a writ in the nature of certiorari or any other appropriate writ should not be issued quashing and setting aside the impugned Memo No.F.75/Estt-I/Per/MACP/2009 (Part File)-3638 dated 19.12.2014, the Minutes of 8<sup>th</sup> Meeting of LCRC held on 19<sup>th</sup> and 20<sup>th</sup> August 2014 (Item No. 14) and pay fixation statement dated 20.12.2013 and/or why appropriate directions should not be issued directing the respondents to place the petitioner on first financial upgradation in Pay Band –2- Rs.9300 - 34800 + Grade Pay Rs. 4600 (pre-revised scale of Rs.6500-10500) w.e.f. 27.01.1999 and on second financial upgradation in Pay Band – 2 – Rs.9300-34800 + Grade Pay Rs.4800 w.e.f. 27.01.2009 and on third financial upgradation in pay Band (53000-167800) level-9 w.e.f. 27.01.2019 and to grant the financial upgradation under ACP and MACP Schemes due unto the Petitioner and pay the arrears of salary and other allowances as per the entitlement and on cause or causes being shown and after hearing the parties be pleased to make the Rule absolute and/or may pass such further or other order or orders as Your Lordships may deem fit and proper.”*

2. Heard Ms. A. Paul, learned Sr. counsel appearing for the petitioner who has submitted that the petitioner is an employee of North Eastern Hill University (NEHU) serving as Proof Reader in the Publication Cell which is a non-teaching post and which has no promotional avenues.

3. The petitioner joined the said post on 27.01.1989 in the pay scale of ₹ 1200-2040, however, on 07.04.1989 the said pay scale was corrected to enable the petitioner to draw the same at the rate of ₹ 1320-2040 w.e.f. 27.01.1989.

4. According to the petitioner, when the recommendation of the 5<sup>th</sup> Central Pay Commission came to be implemented w.e.f. 01.01.1996, the pay scale of Proof Reader was fixed at ₹ 5500-9000. However, the respondent University having adopted such recommendation of the 5<sup>th</sup> Central Pay Commission vide Notification dated 29.09.1998, has wrongly

fixed the pay scale of the Proof Reader at ₹ 4000-6000/-.

5. On this account, the petitioner then filed a representation for correction of the same and for fixing his pay scale at ₹ 5500-9000. The Vice-Chancellor, pursuant to the recommendation of the Sub-Committee constituted on the strength of a resolution of the Executive Council of the University No.EC:109:2001:4(1) dated 04.05.2001, issued Notification dated 16.08.2001 whereby the replacement pay scale of the petitioner was then fixed at ₹ 5500-175-9000 w.e.f. 01.01.1996, which has been fixed as the core pay scale for the post of proof reader in the NEHU.

6. It is also the case of the petitioner that since the Assured Career Progression Scheme (ACP) was implemented from the month of August 1999, which scheme provided for two financial upgradations on completion of 12 and 24 years of service to those employees who are stagnated in the same post without any promotion, he has thus completed 12 years of service on 27.01.2001, having joined service on 27.01.1989. He is, therefore, entitled to the first financial upgradation to the next higher pay scale which is ₹ 6500-10500. The said upgradation was, however, not given to the petitioner.

7. On 19.05.2009, the Modified Assured Career Progression Scheme (MACP) came into being, replacing the ACP Scheme. This scheme provides for three financial upgradations of 10 years interval, that is, on an employee completing 10, 20 and 30 years of service respectively. The benefit of such scheme will come into effect from 01.09.2008 with the termination of the ACP Scheme on 31.08.2008. The learned Sr. counsel for the petitioner has also submitted that the University Grants Commission (UGC) has extended the MACP Scheme to all non-teaching employees of

all Central Universities in the country.

8. Again, it is the case of the petitioner that he has completed 10 years of service on 27.01.1999 and as such, under the MACP Scheme, he is entitled to the first financial upgradation w.e.f. 27.01.1999 and on completion of 20 years of service, is also entitled to the second financial upgradation on 27.01.2009 and finally on completion of 30 years of service, he is to get his third financial upgradation w.e.f. 27.01.2019. But such financial upgradations were not given to him, asserts the petitioner.

9. The learned Sr. counsel for the petitioner went on to submit that the respondent authority vide order dated 20.12.2013 has granted financial upgradation to the petitioner fixing his pay scale at ₹ 6500-10500 w.e.f. 01.01.2008 and has termed such upgradation as the second financial upgradation. This, according to the petitioner is not correct as the said financial upgradation dated 20.12.2013 ought to have been the first upgradation, since no earlier financial upgradation was given to him. Again, since in the year 2013 the MACP Scheme is holding the field, the petitioner should have been given the financial upgradation as per such scheme, that is, after completion of 10 years of service, the same being on 27.01.1999.

10. The learned Sr. counsel has reiterated that it was the Executive Council in its meeting held on 04.05.2001 that has recommended that the core pay scale of Proof Reader be fixed at ₹ 5500-9000 upon which the Vice Chancellor had issued the Notification dated 16.08.2001 by which the petitioner was granted the pay scale of ₹ 5500-9000. This was a replacement scale as on the date the said pay scale was given that is, on 01.01.1996, the petitioner has not yet completed 8 years of service and as such, was not eligible for consideration under the One Time Upward

Movement (OTUM) Scheme for financial upgradation. Again, even under the ACP Scheme, the petitioner could not have been eligible for upgradation as he has yet to complete 12 years of service. Therefore, the petitioner was only given the replacement scale and not any financial upgradation, whether it be the first or second.

11. The petitioner was given his first financial upgradation in the pay scale of ₹ 6500-10500 vide order dated 20.12.2013 w.e.f. 01.01.2008 when actually his first financial upgradation was due to him on 27.01.1999 upon completion of 10 years of service, submits the learned Sr. counsel. Even this upgradation was termed as a Second Financial Upgradation (SFU) vide Order dated 20.12.2013 and was also considered as an upgradation under the ACP Scheme.

12. If the petitioner was due for his first upgradation on 27.01.1999, in the pay scale of ₹ 6500-10500 (5<sup>th</sup> CPC), his second financial upgradation should have been on 27.01.2009 in the pay band-2 of ₹ 9300-34800 plus grade pay of ₹ 4800 as per the 6<sup>th</sup> CPC recommendation which has not yet been given to him. Following this, the petitioner ought to have been given the third financial upgradation in the pay band of ₹ 53100-167800 with grade pay of ₹ 5400 level-9 under the 7<sup>th</sup> CPC recommendation w.e.f. 27.01.2019. This too, was not yet given to him.

13. It is because of this anomalous situation which has deprived the petitioner of his legitimate entitlement as far as financial upgradation is concerned that this petition was filed with the prayer as aforesaid, submits the learned Sr. counsel.

14. In reply, Mr. S. Sen, learned standing counsel, NEHU has refuted

the contention and submission made by the learned Sr. counsel for the petitioner and has submitted that apart from certain uncontroversial facts the claim of the petitioner as was made out in this writ petition cannot be sustained inasmuch as the actual factual position has not been appreciated.

15. That the petitioner joined as Proof Reader on 27.01.1989 in the University on adhoc basis, initially in the pay scale of ₹ 1200-2040, is not denied. On 23.10.1989 the service of the petitioner was regularised in the pay scale of ₹ 1320-2040, such pay scale being effective from 17.10.1989.

16. Reference has also been made to the Office Memorandum (OM) dated 02.12.1997 from the Ministry of Finance, Government of India whereby the 5<sup>th</sup> CPC recommendation was accepted. In this OM, statutory/autonomous bodies etc., which includes the NEHU, were allowed to adopt the revised pay scale as incorporated in Part-A of the First Schedule to the Central Civil Services (Revised Pay) Rules, 1997.

17. The learned standing counsel has also referred to a communication No.F.31-3/97(CU) dated 10.04.1998 issued by the Joint Secretary, University Grants Commission (UGC) to the Registrar, NEHU wherein the approval of the UGC to revision of scales of pay of non-teaching employees of the University was conveyed. In this notification, it is seen that in the list showing approved pay scale in the Government of India at Serial No. 36, for Proof Reader the pre-revised scale before the 5<sup>th</sup> CPC recommendation was ₹ 1200-2040. It is, therefore, admitted that the NEHU in granting the writ petitioner the pay scale of ₹ 1320-2040, the same was done outside the approved pay scale of ₹ 1200-2040.

18. In its Eight Emergent Executive Council Meeting of the University

held on 08.05.1998 a resolution was passed to adopt the revised scales of pay approved by the UGC for non-teaching employees of the University belonging to Group-B, C and D category w.e.f. 01.01.1996 pursuant to the recommendation of the 5<sup>th</sup> CPC.

19. The learned counsel has also submitted that in the said resolution dated 08.05.1998, it was resolved to frame an Ordinance and in such Ordinance, the pay structure of the proof reader, also clubbed with other posts, at serial number 7 for the corresponding pay scale as per the 5<sup>th</sup> CPC recommendation is ₹ 4000-6000. The Notification dated 29.09.1998 at Annexure-4 of the amended writ petition also confirmed this fact. In the same meeting, it was also resolved to identify the anomalous cases having pay scales without the UGC's approval and the same to be brought to the notice of the UGC for necessary action.

20. In this regard, the UGC has taken note of the fact that the petitioner was given the pay scale of ₹ 1320-2040 instead of ₹ 1200-2040 (pre-revised), however, from the revised pay structure, in respect of non-teaching staff of the University, the revised pay structure in terms of the statement of the same annexed with the notification issued by the University on 07.06.1999 would show that under group 'C' at Serial No. 48, as regard the post of Proof Reader, the pre-revised pay scale of ₹ 1320-2040 has been revised to ₹ 4000-6000.

21. Again, vide order No.F.5-3/CRC/97(P-1)/373 dated 12.06.2000, the University through the Vice-Chancellor, NEHU on the recommendation of the Department Promotion Committee (DPC) has granted One Upward Scale of Pay under the Scheme of One Upward Movement in the scale of pay to the non-teaching employees wherein the name of the petitioner

figures at Serial No. 150 in the annexures to the said order. By such order, the petitioner was drawing a scale of ₹ 1320-2040 (pre-revised) with ₹ 4000-6000 (revised) is now placed at ₹ 1400-2300 (pre-revised) and ₹ 4500-7000 (revised).

22. The learned standing counsel has then submitted that the petitioner vide representation dated 04.07.2000 has made a prayer to be granted upward scale of ₹ 5500-9000 from the date of completion of eight years of service, this apparently refers to the One Upward Movement Scheme which an employee is entitled to if he is stagnated in the same post for eight years. Comparison has also been made to those employees who are serving as UDCs and Stenographers who were also initially placed in the same pay scale of ₹ 4000-6000 but are recommended to be placed in the scale of ₹ 5500-9000 when the petitioner was also at the relevant point of time placed in the same pay scale of ₹ 4000-6000 but he was recommended to be now placed at ₹ 4500-7000.

23. The University vide notification dated 03.08.2000 has, through the Vice-Chancellor, constituted a committee to look into the different anomalies in the scale of pay being granted to the different cadres of non-teaching employees. The recommendation of such committee as regard the pay scale of the Proof Reader of the University, the same was made, keeping in mind the grant of One Upward Movement Scheme upto 08.04.1998, in that the core scale of pay of ₹ 1320-2040 (pre-revised) to ₹ 4000-6000 (revised) will now, under the One Upward Movement scale of pay become ₹ 1640-2900 (pre-revised) to ₹ 5500-9000 (revised). A Sub-Committee constituted by the Executive Council to look into this issue has reiterated the recommendation that the Proof Reader be placed in the pay



scale of ₹ 5500-9000 w.e.f. 01.01.1996. Consequently, a notification dated 16.08.2001 was issued by the Registrar conveying the decision of the Vice-Chancellor to grant the pay scale of ₹ 5500-9000 w.e.f. 01.01.1996 to the Proof Reader of the University. It is, however, made clear that in view of the grant of the higher pay scale, the Proof Reader will not be entitled to any benefit under the One Upward Movement Scheme.

24. The learned counsel has submitted that vide notification F.No.30-9/99 (CU) dated 18.12.2000, the UGC have extended the ACP Scheme to all the employees of Central University, including NEHU whereby all existing financial upgradation schemes were discontinued. As per clause (iv) of the said notification, any financial upgradation large scale/mass stepping up etc. already granted to the employees have to be adjusted against the ACP Scheme.

25. Following the directives of the UGC, the respondent University has granted another financial upgradation under the ACP Scheme to the petitioner on completion of 12 years of service, such financial upgradation being the Second Financial Upgradation with the pay scale fixed at ₹ 6500-10500 w.e.f. 01.01.2008. This was done since the First Financial Upgradation was already granted w.e.f. 01.01.1996 in the pay scale of ₹ 5500-9000, submits the learned standing counsel.

26. It is also the submission of the learned standing counsel that vide notification No. F.4-5/2009(JCRC) dated 09.07.2010, the UGC has now extended the Modified Assured Progression Scheme (MACP) to the non-teaching employees of NEHU. Any financial upgradation large scale/mass stepping up etc. already granted to the employees under the ACP Scheme will now have to be adjusted against the said MACP Scheme.

27. The petitioner having been granted the first financial upgradation in the pay scale of ₹ 5500-9000 w.e.f. 01.01.1996, the second financial upgradation under the ACP Scheme w.e.f. 01.01.2008, on his completion of 12 years of service, he is, therefore now eligible for the third financial upgradation under the MACP Scheme which will be given to him as and when he is due for the same, submits the learned standing counsel.

28. It is, therefore, prayed that since no anomaly has occurred in the pay scale of the petitioner, this petition is made without any merits, the same is liable to be rejected and dismissed as such.

29. This Court has given due consideration to the contention and submission of the learned counsels for the respective parties and has also perused the pleadings available on record.

30. The facts of the case have been elucidated above as could be gathered from the placement of the argument of the parties, the basic fact being that there is no denial that the petitioner is an employee of the NEHU working as a Proof Reader in the Publication Department and that the said post has no promotional avenue have been established herein.

31. There is also no controversy to the fact that the petitioner at the time of his appointment, firstly on Adhoc basis was drawing the initial pay of ₹ 1200-2040 and on his appointment being made permanent, he was drawing his salary in the pay scale of ₹ 1320-2040.

32. With the implementation of the recommendation of the 5<sup>th</sup> CPC as directed by the UGC, the relevant application being to the employees of the Central Universities, NEHU being one of them, the petitioner has claimed that as per such recommendation, his pay scale ought to be revised to the

scale of ₹ 5500-9000, but the same was fixed in the scale of ₹ 4000-6000. However, on his making a representation in this regard before the University authorities, the same was now given to him in the scale of ₹ 5500-9000 w.e.f. 01.01.1996.

33. The petitioner on being granted the next higher pay of ₹ 6500-10500 w.e.f. 01.01.2008, apparently under the ACP Scheme purportedly on completion of 12 years of service, the relevant notification to this effect indicating that the said pay scale is the Second Financial Upgradation as far as the petitioner is concerned, the petitioner has resisted such contention, maintaining that he was never given any financial upgradation earlier to this date and, therefore, the same ought to have been considered as the First Financial Upgradation and following.

34. Going back, what is seen is that the Government of India vide Notification dated 30.09.1997 has brought out the Rules known as the Central Civil Services (Revised Pay) Rules, 1997 to become effective from 01.01.1996, under which rules, the pay structure of the Central Government employees was revised. Under the First Schedule to the said Rules, the revised scales for posts carrying present scale in group 'A', 'B', 'C' and 'D' have been notified.

35. Relevant to the subject matter herein, under group 'A', for those within the pay scale of ₹ 1320-2040, the revised pay scale is ₹ 4000-6000. ₹ 1320-2040 being the initial pay scale for Proof Reader, including the petitioner herein.

36. It may be mentioned that vide Office Memorandum dated 12.12.1997, issued by the Ministry of Finance, Government of India,

Autonomous Organisations, such as the NEHU, being a Central University are allowed to adopt the said CCS (Revised Pay) Rules of 1997, however, the scale of pay to be revised should only corresponds to those under Part 'A'.

37. The instructions under the said Office Memorandum dated 12.12.1997 was adopted by the UGC whereby the same was also conveyed to the Registrar, NEHU vide letter dated 10.04.1998. The NEHU in turn, in the Eighth Emergent Executive Council Meeting held on 08.05.1998 has in its resolution No. 7 resolved to accept the UGC's instruction dated 10.04.1998(supra). At resolution No. 8, it was resolved to frame the Ordinance and Statute as regard the condition of service of the employees. Accordingly, under the proposed Ordinance, the pay structure and emoluments of Proof Reader, clubbed together with UDC/Stenographer/Dark Room Camera Operator etc., falling within the initial pay scale of ₹ 1200-1800 to ₹1320- 2040 is fixed at ₹ 4000-6000.

38. Following the above mentioned relevant resolutions, the NEHU vide Notification dated 29.09.1998 have notified the said pay structure confirming the revised pay scale for the post of Proof Reader as ₹ 4000-6000.

39. Vide Order dated 12.06.2000, the Vice-Chancellor, NEHU has granted One Upward Scale of Pay to those non-teaching employees whose names appeared at Annexure-I, II, III & IV of such Order. This was in course of implementation of the One Upward Movement Scheme. Here too, the name of the petitioner appeared at Sl. No. 150 of the said Annexure. The next higher pay scale to which the petitioner is now placed is ₹ 1400-2300 (pre-revised) to ₹ 4500-7000 (revised).

40. In all this, a situation has arisen wherein a number of employees across the board have petitioned the competent authorities to correct what according to them is an anomalous situation which has occurred since the revision of pay was undertaken as per the recommendations of the 4<sup>th</sup> Central Pay Commission, such anomalies further magnified at the time of revision of pay under the 5<sup>th</sup> CPC.

41. To address this issue, the Vice-Chancellor has appointed a Committee to give its view in the matter. The Pay Anomaly Committee after a series of sittings has made a number of suggestions and as regard the post of Proof Reader, the Committee, taking everything into consideration, has suggested that the scale of pay to be granted to Proof Reader should be “Core” scale of pay of ₹ 4000-6000 (revised) and with One Upward Movement scale to be given, the revised scale will now be ₹ 5500-9000.

42. The Executive Council in its One Hundred and Ninth meeting held on 04.04.2001, has considered the recommendation of the Pay Anomaly Committee and has referred the matter to a Committee to look into the same. The said Sub-Committee in its meeting held on 24.04.2001 has inter alia, decided that Proof Reader of NEHU be placed in the scale of pay of ₹ 5500-9000 w.e.f. 01.01.1996 and the same be treated as core pay scale.

43. In deference to the resolution of the Executive Council passed in its 109<sup>th</sup> meeting held on 04.04.2001, the Vice-Chancellor of the NEHU has ordered that Proof Reader of NEHU be granted the scale of pay of ₹ 5500-9000 w.e.f. 01.01.1996. However, in the next paragraph in the notification issued in this regard by the Registrar dated 16.08.200, it is further said that the Vice-Chancellor has ordered that Proof Reader will not be entitled to any benefit under the One Upward Movement Scheme in view of granting

of the higher scale of pay of ₹ 5500-9000.

44. Herein lies the whole controversy, that is, the interpretation of the Notification dated 16.08.2001 wherein was conveyed the decision of the Vice-Chancellor as pointed out herein above.

45. The petitioner insists that by the said Notification, the Vice-Chancellor has accepted the resolution passed by the Executive Council in its 109<sup>th</sup> meeting held on 04.04.2001 in which the relevant resolution has decided that the pay scale of ₹ 5500-9000 w.e.f. 01.01.1996 is the core pay scale of the petitioner which means that it was a replacement scale and not a financial upgradation.

46. The respondent/NEHU on the other hand, has pointed out that in the second paragraph, it has been clearly spelt out that the scale of ₹ 5500-9000 is a higher pay scale, which means that it was a financial upgradation given to the petitioner, in fact, it was a two-step jump upward from what he is entitled to at the relevant period, that is to the core pay scale of ₹ 4000-6000 and under the One Upward Movement Scheme he is to get the next higher pay scale of ₹ 4500-7000, but instead, the petitioner has even skipped the next higher pay scale of ₹ 5000-8000 to finally get the scale of ₹ 5500-9000. This is, therefore, a clear case of financial upgradation and not the core pay scale.

47. Taking everything into consideration, this Court would observe that the contention of the petitioner that the relevant resolution of the Executive Council dated 04.04.2001 that the core pay scale of Proof Reader of the NEHU should be ₹ 5500-9000 w.e.f. 01.01.1996 have subsequently been overruled by the Notification dated 16.08.2001 issued on the authority of

the Vice-Chancellor, who has the final say in the matter in which it is clearly indicated that although the petitioner have been given the pay scale of ₹ 5500-9000 w.e.f. 01.10.1996, the same is taken as a grant of a higher pay scale. Nothing is mentioned that it is a replacement pay scale.

48. Again, to the point of repetition, the fact that under the relevant authority issued by the Finance Ministry in its Office Memorandum dated 02.12.1997, the same duly accepted by the UGC and correspondingly adopted by the NEHU by the issue of relevant Ordinance and necessary Notification in this regard, the pay scale of the petitioner as on 01.01.1996 ought to be in the scale of ₹ 4000-6000. By finally being given the scale of ₹ 5500-9000 w.e.f. 01.01.1996, he was indeed given the higher pay scale, which in effect can be taken as a financial upgradation, thus making it the first financial upgradation as on 01.01.1996.

49. The Order dated 20.12.2013 granting the benefit under the ACP Scheme to the petitioner whereby his pay scale was not given at ₹ 6500-10500, w.e.f. 01.01.2008 on his completion of 12 years of service can indeed be taken as a Second Financial Upgradation and therefore, there is no infirmity in the relevant order as such.

50. In view of the observations made above, this Court is of the view that the petitioner has not been able to make out a case in his favour and the actions of the respondent NEHU have been justified as far as fixation of the proper pay scale of the petitioner is concerned.

51. As far as the third financial upgradation is concerned, the petitioner as and when he is due, the NEHU shall process the same expeditiously considering the fact that this matter has travelled for quite some time before

this Court.

52. With the above, this petition is disposed of with the same being rejected. No costs.

**Judge**

Meghalaya  
31.10.2023  
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