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

Decided on: 17.09.2025

+ W.P.(C) 13053/2018

VIKAS GUPTA

.....Petitioner

Through: Mr. Kushagra Bansal and Mr. V.K. Gupta, Advocates.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Sanjay Sharma Darmora, Mr. Yoginder Uniyal, Ms. Pratibha Sharma, Ms. Anchal and Mr. Nitin, Advocates for R-4 and 5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

1. The petitioner, who is a Person with Disability [“PwD”], was employed as a Deputy Manager (Marketing) in MMTC Ltd. [respondent Nos. 4 and 5 herein], pursuant to a special recruitment drive for PwDs in the year 2007. At the time of employment, the petitioner’s disability was assessed at 79% orthopedic disability, which increased to 86% by the time the writ petition was filed.¹

2. In the writ petition, he has sought the following reliefs:

“a) Issue Writ of Mandamus thereby directing the Respondents to revise the basic pay of the Petitioner as per the Office Order No. MMTC/CO/20/IRP/2009 dated 04.05.2009 along with the requisite five increments as approved at the time of appointment of the Petitioner

¹ Disability certificate dated 05.06.2017 [Annexure 1 to the writ petition].



and further grant benefits of stroke promotions as per O.M. No. IRP/32/2008 dated 27.06.2008; and

b) Issue writ of Mandamus thereby directing the Respondents to grant benefits such as four (4) days Special Casual Leave, Time relaxation of one (1) hour in officer hours, Handicapped allowance. Financial assistance for purchase of caliper shoes, etc and other benefits as approved by the Respondents vide their O.M No. 36035/3/2013-Estt.(Res) dated 31.03.2014 and No. MMTC/SC-ST CELL/PWD/2018-19 dated 05.07.2018 and as per the directions issued by the Hon'ble Court of the Chief Commissioner for Person with Disabilities vide their order dated 02.04.2018; and

c) Issue writ of Mandamus any other appropriate writ/order or thereby directing the Respondents to formulate general policy for persons with disabilities in the light of Rights of Persons with Disabilities Act, 2016; and

d) Special costs of the proceedings may also be awarded to the Petitioner; and

e) Pass any other order(s) as this Hon'ble Court may deem fit, in the facts and circumstances of the case, in the interest of justice.”

3. By order dated 28.07.2025, prayers (b) and (c) were disposed of, with the direction that the relief sought would be considered by MMTC, treating the writ petition as a representation. Learned counsel were heard only on prayer (a), and this judgment will therefore deal with the petitioner's claim for revision of his basic pay, and consequential relief.

4. I have heard Mr. Kushagra Bansal, learned counsel for the petitioner, and Mr. Sanjay Sharma Darmora, learned counsel for MMTC.

5. The petitioner's claim arises out of the terms of his original appointment, which provided for grant of five advance increments. In the advertisement issued by MMTC in the year 2007, two posts of Deputy Manager (Marketing) were advertised, in the category of “*Locomotors disability (Orthopedically handicapped) or Hearing Impairment (partially deaf)*”. The pay scale mentioned in the advertisement was Rs. 8,600-250-14,600. The following two clauses of the “*General*



Information” in the advertisement are relevant for adjudication of the present dispute, and are reproduced hereinbelow:

“3. Pay scales of executives of the Company are due for revision w.e.f 1st January 2007.

4. Upto 5 advance increments can be considered to be given in deserving cases. The total cost to the Company including 5 advance increments would be around Rs.4.25 lacs approx.”

6. An offer of appointment was issued to the petitioner on 28.06.2007, which mentioned the same pay scale of Rs. 8,600-250-14,600. He joined the post of Deputy Manager (Marketing) on 13.07.2007, following which his pay was fixed by an Office Order dated 23.07.2007. The petitioner’s offer of appointment was thereafter modified by an addendum dated 12.09.2007, which stated that he would draw his salary on the basic pay of Rs. 9,850/- per month in the pay scale of Rs. 8,600-250-14,600. The communication dated 12.09.2007, is reproduced below:

“Vide Memorandum dated 28.06.2007 Shri Vikas Gupta was offered the post of Dy. Manager (Marketing) in the pay scale of Rs.8600-250-14600 on terms and condition mentioned therein.

*2. **It has been decided that he shall draw his salary on the basic pay of Rs.9850/- per month in the pay scale of Rs.8600-250-14600 alongwith** admissible allowances **from the date he joined the services of MMTC Ltd. as Dy. Manager.***

3. The addendum forms part and parcel of the offer of appointment dated 28.06.2007.”²

7. A further Office Order was issued on 27.06.2008, by which the posts of Deputy Manager and Manager were treated as a stroke/band post with the combined strength of the two grades being considered for recruitment and/or promotion. It was further provided as follows:

² Emphasis supplied.



“9. The eligibility period for promotion to the next grade in respect of management graduates including MBA (Finance) recruited through campus from other institutions / university in the grade of Dy manager (pay scale of Rs, 8600-250-14650 with five additional increments) shall be 2 years subject to other provisions laid down in the promotion policy.”

8. The controversy in the present case turns on an Office Memorandum [“OM”] dated 26.11.2008 issued by the Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises, Government of India. The OM was aimed at revising the pay of executives at various levels in public sector enterprises. Level E1, which corresponded to the existing pay scales of Rs. 8,600-250-14,600 was revised to Rs. 16,400-40,500. It was also provided that the annual increment would be at the rate of 3% of the revised basic pay.³

9. Following this directive, MMTC issued an Office Order dated 04.05.2009, revising the pay scale of E1 executives as above, and also provided for the annual increment of 3%. The relevant clauses of the said office order are as follows:

“In pursuance of the Presidential Directives issued by Ministry Commerce & Industry, Govt. of India, vide order No. 11/9/2009-FT(M&O) dated 27th April, 2009, the Competent Authority has approved revision of pay scales of executives holding Board level and below Board level posts w.e.f 1.1.2007. The existing pay scales and corresponding revised pay scales in respect of each level are given below:

<i>GRADE as per DPE</i>	<i>Designation & Grades in MMTC</i>	<i>Existing pay scales (Rs.)</i>	<i>Revised pay scales (Rs.)</i>
<i>E1</i>	<i>Dy. Manager & equivalent (E-1)</i>	<i>8600-250-14600</i>	<i>16400-40500</i>
<i>xxx</i>	<i>xxx</i>	<i>xxx</i>	<i>xxx</i>

³ Clause 5 of OM dated 26.11.2008.



2. **Pay Fixation/fitment benefit:**

- i) A uniform fitment benefit @30%, on basic pay plus DA @78.2% as on 1.1.2007 would be allowed to all executives. The aggregate amount would be rounded off to the next ten rupees and pay fixed in the revised scale.
- ii) If any extra ordinary increment(s) and/or increase in the pay in respect of executives have been granted with retrospective effect, which affects the revision of pay as on 1.1.2007, such increment and/or increase in pay will be ignored for the purpose of fitment/pay revision.
- iii) Where executives drawing pay at two or more consecutive stages in an existing scale get bunched, then for every two stages so bunched, benefit of one increment shall be given.
- iv) Basic pay in the pre revised scale of pay as on 1.1.2007 would include stagnation increment(s)
- v) The Non-Practicing Allowance, Family Planning Pay, Educational Pay and Incentive Pay for qualification of Hindi, if any, will not be reckoned for fixation of pay in the revised pay scale and will continue to be drawn at existing rates until further orders.

2.2 The pay in respect of employees, who were promoted/appointed on or after 1.1.2007 from non-executive grade to the executive grade, shall be fixed provisionally at the minimum of the corresponding scale in the executive category. On implementation of revised scales of pay of non-executive categories which is also due w.e.f. 1.1.2007 pay of such employees will be re-fixed in the revised pay scales of executives.

2.2.1. Executives appointed on or after 1.1.2007 at the minimum of the pre-revised pay shall be deemed to have been appointed at the minimum of revised scale of pay.

2.2.2. Additional pay equivalent to Rs.1250/-per month granted to the Executives appointed in the grade of Deputy Manager on or after 1.1.2007 will be taken into account over and above minimum scale as at 2.2.1 above.

2.2.3. Executives who have joined from other PSUs/Central/State Govts and whose pay is revised in their earlier organizations), they shall be entitled. to normal pay protection as per rules.

3. **Increment:**

3.1 **Annual Increment**

The annual increment will be @3% of the revised basic pay and will be rounded off to the next multiple of Rs.10/-. Annual increment shall continue to be drawn on 1st April / 1st October, for below Board level executives and on anniversary date of joining for Board level executives as per their terms of appointment.”



10. By another Office Order dated 19.11.2009, MMTC notified a monthly special allowance w.e.f. 01.05.2009, for those Deputy Managers who had joined between 01.01.2007 and 31.03.2009 with a basic pay of Rs. 9,850/- per month [Rs. 8,600-250-14,600] at the time of initial appointment. The petitioner was entitled to special allowance of Rs. 1,280/- per month, as a result of this Office Order.

11. The Office Order dated 19.11.2009, was, however, rescinded by a subsequent Office Order dated 20.09.2012, and the pay of such Deputy Managers was refixed in purported compliance with the earlier Office Order dated 04.05.2009. The Office Order dated 20.09.2012 provides as follows:

“Competent Authority has approved to rescind office order no. 308/P/SC-11/2009 dated 19.11.2009 retrospectively from 19.11.2009 and re-fixation of pay of direct recruit Deputy Managers who joined the Company between 1.1.2007 and 31.3.2009 in accordance with paras 2.2.1 and para 2.2.2 of office, order No. MMTC/CO/20/IRP/2009 dated 04th May, 2009, quoted herein below :

Quote

1.2.1 Executives appointed on or after 1.1.2007 at the minimum of the pre-revised pay shall be deemed to have been appointed at the minimum of revised scale of pay.

2.2.2 Additional pay equivalent to Rs. 1250/- per month granted to the Executives appointed in the grade of Deputy Managers on or after 1.1.2007 will be taken into account over and above minimum scale as at 2.2.1 above. Unquote.

2. AGE at Corporate Office and concerned regional offices are advised to recalculate arrears of Dy. Managers who joined MMTC between 1.1.2007 and 31.2.2009 based on revised basic pay in terms of this office order after adjusting the amount of special allowance drawn in terms of office order no. 308/P/SC-II/2009 dated 19.11.2009. The perks and the allowances on the revised pay scales shall be eligible from 26.11.2008.

3. Copies of revised pay fixation orders covered under this order may please be forwarded to Corporate Office.”



12. The petitioner's pay was sought to be refixed w.e.f. date of joining, i.e. 13.07.2007, on this basis. Although this Office Order was issued only on 20.09.2012, it appears to be in terms of a file noting of MMTC of May, 2009, which has been placed on record. A copy of the said file noting is reproduced below:

“Clause 2.2.2 of Office order dated 04-5-2009 regulating fixation of pay of Deputy Managers who joined MMTC after 1-1-2007 pertains to additional Pay of Rs.1250/- per month. As the amount of Rs.1250/- is to be taken into account over and above minimum scale, the Committee considers to settle these cases as per illustration given below:

<i>Effective Date of pay</i>	<i>Pre-revised</i>	<i>Revised pay</i>	<i>Remarks</i>
<i>A date of appointment</i>	<i>9850</i>	<i>17650</i>	<i>Starting Pay (16400+1250)</i>
<i>Due date of first Annual Increment</i>	<i>10100</i>	<i>18180</i>	<i>Annual Increment granted @3% of 17650</i>
<i>Due date of second Annual Increment</i>	<i>10350</i>	<i>18730</i>	<i>Annual Increment granted @3% of 18180</i>

May kindly approve please.

(Vijay Kr. Sehgal) (Deepak Dua) (S.N. Nayyar) (P.K. Ajbani)
Sr. Officer Manager Sr. Mgr. (F&A) Sr. Mgr. (Admn.) Mgr. (IA)”

13. The rationale for this fixation has been explained in a note of the Chief General Manager (P&A)⁴ dated 19.05.2009, which is as follows:

⁴ Part of Annexure 11 of the writ petition.



“The idea behind allowing 5 additional increments to new recruits, appointed after 01/01/07 was to bring their salary level at par with those offered by other progressive PSUs. The 5 additional increments was intended to be absorbed in the Pay Revision. The absorption of advance increments is resulting in pay falling short of emoluments currently drawn by them. To protect the amount equivalent to 5 increments i.e. Rs. 1250/-, it is suggested their pay be fixed at the minimum scale of pay and Rs. 1250/- be allowed as P.P. till they are promoted to Manager level. On promotion the PP Will stand (illegible). As per the current policy the new recruits are eligible for promotion on completion of two years subject to qualifying the laid down parameters with respect to performance. Rs. 1250/- so allowed as PP will not qualify for any allowances.

Pay fixation details of individual new recruits be drawn and submitted to the undersigned.”⁵

14. The grievance of the petitioner is that the revision of his pay at Rs. 17,650/- does not account for the annual increment of 3% provided in the revised pay scales, but rather incorporates into the revised pay scale, the advance increments which he earned under the pre-revised pay scales. The petitioner’s original pay at the time of joining was fixed at Rs. 9,850/- per month, being the minimum of the applicable pay scale [Rs. 8,600/- + Rs. 1,250/- (on account of five advance increments of Rs. 250/- each)]. While revising the pay scale, MMTC has taken the revised minimum of Rs. 16,400/-, but added to it the sum of Rs. 1,250/- computed under the pre-revised pay scales. According to the petitioner, however, the correct computation in terms of the revised pay scales, would be to include five increments of 3% as provided thereunder. Calculated on this basis [five increments of 3% each] on the base of Rs. 16,400/-, his starting pay would be revised to Rs. 19,020/- per month instead of Rs. 17,650/- per month.

⁵ Emphasis supplied.



15. Mr. Bansal drew my attention to an Office Order dated 19.03.2012, issued by Bharat Sanchar Nigam Limited [“BSNL”], which also concerned grant of five advance increments to E1 level executives, who were in the revised pay scales of Rs. 16,400-40,500. The initial pay of such executives was fixed by BSNL at Rs. 19,020/-.⁶ Similarly, an Office Order of GAIL dated 30.04.2009 dealt with this issue in the following manner:

“2.3.4 Executives appointed on or after 1.1.2007 with additional increments in the pre-revised pay scales will be granted equal number of increments in the revised pay scales subject to the condition that the pay so arrived, will be restricted to the revised pay of an executive in the same grade who was on the rolls of the company as on 31.12.2006 and drawing the same pre-revised pay. In respect of such executives who have joined from other PSUs and whose pay will get revised in the earlier organisation, they shall be entitled to normal Pay protection as per rules.”

16. The petitioner and other similarly placed employees made a representation to MMTC on 03.05.2017 for refixation of their pay. The position of the respondent, however, is that the grant of five advance increments in the advertisement of 2007 was discretionary and could not be claimed as a right. It was submitted by Mr. Darmora that the petitioner’s initial appointment was at the minimum of the pre-revised pay scale, and he should be deemed to have been appointed at the minimum of the revised pay scale.

17. Having heard learned counsel for the parties, I am of the view that the petitioner’s submissions are merited. The respondent is right in suggesting that the grant of five advance increments was not promised to all candidates in the original advertisement, but only consideration was to

⁶ Annexure 15 to the writ petition.



be given for such advance increments in “*deserving cases*”. However, this submission misses the crucial point that the petitioner was, in fact, considered deserving, and his “*basic pay*” was fixed at Rs. 9,850/- from the original date of appointment, by an addendum to his offer of appointment issued on 12.09.2007. The terms of the said communication, extracted above, makes this position very clear.

18. Thus, five advance increments were granted to him from the date of his appointment and were part of his basic pay. This was also reflected in the Office Order dated 19.11.2009, by which special allowance was fixed for such Deputy Managers at Rs. 1,280/-. The rescission of Office Order dated 19.11.2009, by the subsequent order dated 20.09.2012, required re-calculation of the affected employees’ pay in accordance with the order dated 04.05.2009, which in turn implemented the revised pay scale of Rs. 16,400-40,500 with increment of 3%. MMTC has conflated the minimum of the revised pay scale with the increments of the pre-revised pay scale. I have not been shown any OM or other legal basis to justify such a course. When the five advance increments were included as part of the petitioner’s basic pay, and were not regarded as “*additional pay*”, neither Clause 2.2.1 nor Clause 2.2.2 of Office Order dated 04.05.2009 can govern the petitioner’s case. Clause 2.2.1 refers to executives appointed at the minimum of the pre-revised scale, but the petitioner was appointed with five advance increments. Similarly, Clause 2.2.2 refers to additional pay, but cannot be applied to this case, as the petitioner’s original “*basic pay*” was fixed inclusive of five advance increments.



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19. While the practice of another Public Sector Undertaking [“PSU”] cannot per se be binding on MMTC, the note of the Chief General Manager (P&A) dated 19.05.2009 itself reflects the objective of bringing the salary of new recruits “*at par with those offered by other progressive PSUs*”. While MMTC computed the revision differently, the rationale expressed in the said note underscores the relevance of a comparison with other PSUs also. The practice of BSNL and GAIL, in exactly the same situation, thus, also fortifies the petitioner’s case.

20. For the aforesaid reasons, the writ petition is disposed of by directing MMTC to revise the petitioner’s basic pay to Rs. 19,020/- per month w.e.f. 13.07.2007, and grant consequential benefits of such relief.

PRATEEK JALAN, J

SEPTEMBER 17, 2025

SS/AD/