**IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**
**ORIGINAL SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**WPO 580 of 2018**

**Priyabrata Roy Mahapatra & Ors.**
**-Vs-**
**The Board of Trustees for the Port of Kolkata & Ors.**

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| For the Petitioner | : Mr. Soumya Majumdar, Sr. Adv.<br>Mr. Victor Chatterjee<br>Mr. Hare Krishna Halder<br>Mr. Koushik Bhattacharjee<br>Ms. S. Bhattacharjee |
| For the Respondents | : Mr. Kallol Basu<br>Mr. Ashok Kumar Jena<br>Mr. Roni Chowdhury |
| Judgment on | : 01.10.2026 |

**Ananya Bandyopadhyay, J.:-**

1. The primary respondent, a statutory entity birthed pursuant to the Major Port Trust Act, 1963, alongside its functionaries designated as respondents 2 through 5, stands manifestly amenable to the extraordinary writ jurisdiction of this Court. The petitioners entered service as direct recruits within Class-III Supervisory Cadre positions governed by the Kolkata Port Trust (Recruitment, Seniority and Promotion) Rules, 1985 at Haldia Dock Complex, possessing the requisite Diploma in Engineering. After subsequently obtaining AMIE certifications - duly recognized as equivalent to a Bachelor's Degree in Engineering - the petitioners attained eligibility for

appointment to the post of Assistant Engineer (later re-designated as Assistant Manager) around the year 2003.

2. Pursuant to the 1985 Rules, a Bachelor's Degree in Engineering constitutes the indispensable threshold for direct entry into Class-I posts, which serve as the gateway cadre in the engineering division. The post of Assistant Manager represents a selection post, structured to be replenished via dual streams of direct recruitment and promotion according to prescribed quotas. By virtue of a notification dated 31st July, 2002, applications were invited for filling Class-I Assistant Engineer vacancies in the Infrastructure & Civic Facilities (I & CF) Division. Having successfully traversed the open written evaluation and interview, the petitioners were appointed via an Office Order dated 3rd January, 2003. Though the appointment letters formally referenced "promotion," the petitioners had in reality participated in an open direct recruitment process, as the 1985 Rules contained no normative provision for direct promotion from Class-III feeder posts to Class-I positions.

3. In May 2004, officers from the Calcutta Dock Labour Board specifically *Sri* Prabir Kumar Roychowdhury, Sri Soumitra Chakraborty (Audit & Accounts Officers), and Sri Sudip Kumar Mondal (Assistant Engineer, I & CF Division) were absorbed into Class-I posts at Haldia Dock Complex through a selection procedure. While these absorbed officers previously drew pay scales of Rs.8,600/– to Rs.14,600/– in their former organization, they were placed in the higher pay scale of Rs.9,100/– to Rs.15,100/– post absorption.

4. The petitioners, having been borne on Class-I permanent cadre since 2003, held prior entry dates over the 2004 absorbents. The common seniority list for I & CF Division published in 2009 reflected nine Class-I officers as of

2005, wherein the absorbed officers occupied the lowest rungs. Consequently, senior officers in the same gradation list became entitled to pay step-up to correct the resulting financial inverted parity. Indeed, on 16th January, 2006, five senior officers Swarup Dandapat, Pradip Kumar Nath, Ramesh Chandra Sethey, Susanta Roy, and Sudip Sarkar were granted pay stepping-up to align their remuneration with the junior absorbents.

5. Despite occupying identical positions in the seniority hierarchy vis-à-vis the absorbed officers, the petitioners were withheld similar benefit and forced to draw lesser pay than their junior counterparts. Repeated representations praying for pay parity were submitted. Disclosures obtained pursuant to the Right to Information Act, 2005 revealed as follows:-

    i. On September 24, 2016, the General Manager (M&S) of HDC, KoPT, noted that Central Government circulars warranted stepping up the petitioners' pay.

    ii. The Financial Advisor & Chief Accounts Officer (FA & CAO) had recommended stepping up on January 30, 2015.

    iii. On October 11, 2018, further records demonstrated that the Chief Law Officer (C.L.O.) endorsed grant of premature increments in the scale of Rs.9,100/– to Rs.15,100/– within Clause (iii), Page 25.

    iv. Government Orders dated March 5, 2012, December 19, 2012, and April 8, 2013 explicitly supported pay equalization.

6. The administration's reluctance stemmed from an apprehension expressed by the General Manager (Finance) I/C that granting relief might "open floodgates of claims" from other employees. Thus, despite clear legal

justification and administrative recommendations in accordance with Option-II, the port trust withheld redress.

7. As direct recruits in Class-I service sharing a common seniority list with the absorbed officers, the petitioners suffer ongoing pay disparity wherein juniors receive higher basic pay. The failure of the respondents to decide the petitions perpetuates a continuous cause of action arising out of identical legal parameters, thereby necessitating collective judicial intervention to avert a multiplicity of legal proceedings.

8. The Learned Advocate representing the petitioners posited the respondent authorities acted with hostility and manifest arbitrariness in fixing the pay of the petitioners. By creating an artificial class within a unified cadre of Class-I officers in the Infrastructure & Civic Facilities (I & CF) Division at Haldia Dock Complex, the respondents committed a clear violation of Article 14 of the Constitution of India. Granting higher pay to junior officers absorbed from the Calcutta Dock Labour Board (CDLB) while denying equal treatment to senior, directly recruited officers serving in identical Class-I posts constitutes a departure from established administrative norms and statutory guidelines. Such persistent failure to rectify pay parity perpetuates a clear illegality and directly infringes upon the fundamental rights guaranteed to the petitioners.

9. In detailing the factual background, the learned advocate representing the petitioner pointed out the following:-

    i. The petitioners initially joined the Haldia Dock Complex between 1987 and 1992 as Class-III Supervisors holding Diplomas in Civil

Engineering, subsequently acquiring higher qualifications equivalent to a Bachelor Degree in Civil Engineering.

ii. Under the Calcutta Port Trust Employees' (Haldia Dock Complex) (Recruitment, Seniority and Promotion) Rules, 1985 the post of Assistant Engineer (Class-I) was structured for entry either via direct recruitment possessing a Civil Engineering Degree or via promotion from Class-II feeder cadres.

iii. Following a circular dated July 31, 2002, the petitioners participated in a direct recruitment selection process and were appointed as Assistant Engineers (Class-I) on January 3, 2003, in the pay scale of Rs.9,100/– to Rs.15,100/– with a basic pay of Rs.9,100/–. Although the formal appointment letters cited "promotion," the petitioners were not drawn from a Class-II feeder post and were in truth direct entrants to Class-I.

iv. Subsequently, on May 12, 2004, officers from the CDLB (such as Sri Sudip Kumar Mondal) were absorbed into Haldia Dock Complex in Class-I posts with pay protection, drawing a higher basic pay of Rs.10,600/– in the scale of Rs.8,600/– to Rs.14,600/– (placed in Haldia's scale at basic Rs.11,100/–).

v. As the petitioners joined Class-I service in 2003 and the CDLB officers joined in 2004, the petitioners were senior to the absorbed CDLB officers in the Assistant Engineer cadre.

10. The Learned Advocate representing the petitioner underscored that upon publication of the Civil I&CF Division Gradation List on February 1, 2009, the respondents acknowledged the necessity of pay step-up. Senior direct

recruits who entered service prior to the absorbents were granted pay step-up from Rs.10,350/– to Rs.11,100/– to match the basic pay of junior CDLB absorbents. Similar stepping-up was also extended to senior direct recruits in the Finance Division upon absorption of CDLB Finance Officers.

11. However, despite occupying positions in the same unified cadre and sharing a common seniority list, the petitioners were denied stepping-up of pay. Within a single pool or cadre, differential monetary treatment cannot be meted out to different groups of employees, and senior employees cannot be forced to draw lesser pay than their juniors.

12. The Learned Advocate representing the petitioner highlighted that key administrative functionaries repeatedly acknowledged the legitimacy of the petitioners' claim:-

    i. On January 30, 2015, the FA & CAO of Kolkata Port Trust recommended extending identical pay stepping-up benefits to the petitioners as given to other senior direct recruits.

    ii. On September 24, 2015, the General Manager (M&S) endorsed stepping up the petitioners' pay to the level of their juniors under Option No. II.

    iii. On October 18, 2016, the General Manager (M&S) further recommended granting pre-matured increments in the scale of Rs.9,100/– to Rs.15,100/– to bring their pay at par with CDLB Class-I officers immediately above them.

13. Despite these clear recommendations, the Haldia Dock Complex authorities passed a decision on August 3, 2018, restricting stepping-up benefits exclusively to seven officers whose cases were previously dropped by audit,

while barring fresh step-up claims on identical grounds. The petitioners' subsequent representation dated October 5, 2018, seeking parity with senior officers went unheeded.

14. Concluding the arguments, the Learned Advocate representing the petitioner asserted that unless directions are issued to step up the petitioners' pay to the level of junior CDLB officers, the petitioners will continue to suffer prejudice, socio-economic humiliation, and loss. The balance of convenience favors the grant of injunctive relief in favor of the petitioners. As formal demands for justice yielded no administrative redress, further representations would remain a mere formal ritual, thus calling for judicial correction to enforce pay parity.

15. The Learned Advocate representing the respondents submitted that the four writ petitioners were appointed to Class-III Supervisory posts at Haldia Dock Complex between 1987 and 1992, subsequently receiving promotion to Assistant Engineer on January 3, 2003. The petitioners seek a writ commanding pay step-up at par with junior Calcutta Dock Labour Board (CDLB) officers recruited into Haldia Dock Complex, along with pay arrears and accrued interest.

16. An examination of the record reveals that the petitioners' allegation of disparate pay revolves directly around the appointment and pay fixation of specific individuals namely Sri Prabir Kumar Roy Chowdhury, Sri Soumitra Chakraborty (Audit & Accounts Officers), and Sri Sudip Kumar Mondal (Assistant Manager, I & CF Division). These individuals were selected through a distinct administrative selection procedure. Despite anchoring their claim of grievance against the pay drawn by these officers, the

petitioners omitted to implead them as parties. Applying established principles of civil procedure to writ proceedings, the petition suffers from non-joinder of necessary parties and ought to be dismissed as non-maintainable.

17. Without prejudice to the preliminary objection, the Learned Advocate representing the respondents emphasized the distinction between the appointment streams:-

    i. The petitioners were appointed in Class-III supervisory roles between 1987 and 1992 and were subsequently promoted on an officiating basis to Assistant Engineer (Class-I) under I & CF Division on January 3, 2003.

    ii. Their pay upon promotion was fixed pursuant to Fundamental Rule 22(1)(a)(i), subject to Ministerial sanction regarding departmental filling of posts, with an option to fix pay within one month.

    iii. Conversely, the CDLB officers were redeployed via transfer under the Central Civil Services (Redeployment of Surplus Staff) Rules, 1990 (specifically Rule 5), carrying pay scales matching their existing scales and enjoying continuity of service, pro-rata pension, and pensionary contributions pursuant to a 1986 Board of Trustees decision.

    iv. Sri S.K. Mondal of CDLB, appointed on May 12, 2004 as Class-I Assistant Engineer, was recruited through direct recruitment held during 1989–1996, whereas the petitioners were promotees from Class-III Junior Engineer Grade-I posts.

18. The Learned Advocate representing the respondents submitted that stepping up of pay granted to certain senior direct recruits was executed under Department of Personnel & Training (DOPT) Office Memoranda specifically OM No. 5/1/95-CS-1 dated July 31, 1995 and OM No. 16/16/89-Estt. (Pay-I) dated March 29, 1993 to correct pay inversion between senior direct recruits and promoted Section Officers drawing additional scale increments, rather than under general FR 22 provisions.

19. The conditions necessary for removing pay anomalies under FR 22 were fully elaborated in the affidavit-in-opposition, and the petitioners' case fails to meet these mandatory statutory criteria. As promotee officers who accepted their promotion order dated January 3, 2003 without challenging its terms at any stage, the petitioners cannot claim equivalence with direct recruits.

20. The Learned Advocate representing the respondents clarified that the petitioners were considered for promotion following approval of amendments to the Calcutta Port Trust Employees' (Haldia Dock Complex) (Recruitment, Seniority and Promotion) Rules, 1985 by the Board of Trustees to accommodate departmental candidates. The matter was forwarded to the Ministry for sanction pursuant to the promotion order dated January 3, 2003, but no further communication was received from the Ministry.

21. In light of these distinct administrative origins, entry cadres, and governing statutory rules, no discrimination offending Article 14 of the Constitution of India has occurred. The administrative action remains entirely justified, leaving no scope for judicial intervention, and the writ petition deserves outright dismissal.

22. The instant constitutional writ petition under Article 226 of the Constitution of India is instituted by four seasoned officers of the Haldia Dock Complex, Kolkata Port Trust, seeking the issuance of an authoritative writ in the nature of mandamus commanding the respondent authorities to eradicate an egregious, persisting pay inversion within the managerial Class-I engineering cadre. The petitioners invoke the equity jurisdiction of this Court to redress the hostile, discriminatory financial disparity whereby their immediate junior officers, absorbed from the Calcutta Dock Labour Board (CDLB), are permitted to draw higher basic remuneration, while the senior writ petitioners are arbitrarily subjected to lesser emoluments.

23. The primary respondent, being a statutory corporate entity constituted under the Major Port Trust Act, 1963, alongside its principal administrative functionaries, is unquestionably an "instrumentality of the State" under Article 12 of the Constitution of India and remains fully amenable to the extraordinary writ jurisdiction of this Court. The service conditions, cadre hierarchy, and appointment streams governing officers at the Haldia Dock Complex are strictly regulated by the Calcutta Port Trust Employees' (Haldia Dock Complex) (Recruitment, Seniority and Promotion) Rules, 1985.

24. A rigorous structural analysis of the 1985 Regulations reveals the precise threshold criteria for entry into Class-I engineering posts, specifically that of Assistant Engineer (carrying the pre-revised pay scale of Rs. 9,100/– to Rs. 15,100/–, subsequently re-designated as Assistant Manager): Direct Recruitment Route: Mandates possession of a Degree in Civil Engineering or equivalent qualification, with specialized knowledge of infrastructure and civic facilities serving as an added competitive advantage.

25. Promotional Route: Contemplates promotion exclusively from the feeder rank of Junior Assistant Engineer Grade-I (Class-II) possessing a Diploma in Civil Engineering coupled with a minimum of five years of regular service in that specific feeder post, failing which the vacancy is to be filled by direct recruitment.

26. Subordinate Feeder Cadre: The Class-II post of Junior Assistant Engineer Grade-I (pay scale Rs. 8,600/– to Rs. 14,600/–) is itself populated via promotion from the rank of Supervisor (Class-III) upon completion of three years of regular service.

27. The petitioners originally entered the service of the Port Trust between 1987 and 1992 as Class-III Supervisors holding Diplomas in Civil Engineering. During their continuous and unblemished tenure, they acquired higher professional qualifications by successfully obtaining AMIE certifications, which are statutorily and administratively equated to a Bachelor's Degree in Civil Engineering.

28. Pursuant to Circular No.P&IR/43/3/02/2568 dated July 31, 2002, applications were explicitly invited from Haldia Dock Complex employees possessing a Degree in Civil Engineering to fill vacant Class-I Assistant Engineer posts in the Infrastructure & Civic Facilities (I & CF) Division. The petitioners, being fully qualified degree holders, partook in an open, competitive selection process comprising written tests and personal interviews. Having successfully traversed the rigorous selection criteria on open merit, Office Order No.P&IR/21/03/2003/6273 dated January 3, 2003 was promulgated with the due approval of the Deputy Chairman, appointing

the petitioners as Assistant Engineers (Class-I) in the pay scale of Rs.9,100/– to Rs. 15,100/–.

29. A pivotal legal question arises regarding the administrative nomenclature employed in the said appointment order. Although the management utilized the word "promotion," the 1985 Regulations contained no statutory provision or mechanism for direct promotional elevation from Class-III Supervisory posts straight to Class-I managerial posts. The petitioners were neither drawn from nor belonged to the Class-II feeder cadre of Junior Assistant Engineer Grade-I. Consequently, their induction into Class-I service, upon fulfilling the degree qualification and passing the competitive selection, constituted in law and substance an entry through direct recruitment. The mere misdescription of their appointment as a "promotion" by the Manager (P&IR) cannot alter the statutory character of their entry into the Class-I cadre.

30. By Office Order No. EM-204 dated April 21, 2004, officers from the Calcutta Dock Labour Board (CDLB) specifically including Sri Sudip Kumar Mondal (Assistant Engineer, I & CF Division) were absorbed into the Haldia Dock Complex pursuant to Rule 5 of the Central Civil Services (Redeployment of Surplus Staff) Rules, 1990. Although Sri S.K. Mondal previously drew a lower pay scale of Rs. 8,600/– to Rs. 14,600/– in CDLB, he was inducted into Haldia Dock Complex in the Class-I scale of Rs. 9,100/– to Rs. 15,100/– with pay protection, securing an initial basic pay of Rs. 10,600/– (subsequently escalating to Rs. 12,100/–).

31. The Official Gradation List of Class-I Officers as on February 1, published under Regulation 4(B) of the 1985 Regulations, conclusively establishes the following cadre chronology:-

    a. Sl. No. 19 & 20: Kamalesh Giri and Asit Adgiri entered Class-I service on January 3, 2003.

    b. Sl. No. 21: Sudip Kumar Mondal (CDLB) entered Class-I service on May 12, 2004.

32. The aforementioned gradation list demonstrates an indefensible financial anomaly: Sri S.K. Mondal, despite entering Class-I service over a year later than the petitioners, drew a substantially higher basic pay. To rectify this exact form of pay inversion, the port management granted pay stepping-up on January 16, 2006, to five senior direct recruit officers (Swarup Dandapat, Pradip Kumar Nath, Ramesh Chandra Sethey, Susanta Roy, and Sudip Sarkar). Identical financial rectification was likewise extended to senior officers in the Finance Division. However, the same port authorities arbitrarily denied identical pay stepping-up to the petitioners, driving them to invoke the constitutional writ jurisdiction of this Court.

33. A perusal of the Finance Division Note Sheet dated January 13, 2006 and departmental note sheets reveals that the administrative hierarchy repeatedly recognized the absolute legitimacy of the petitioners' grievances. The General Manager (M&S) recorded that pay inversions arising from CDLB absorptions must be resolved under Department of Personnel & Training (DOPT) OM No.5/1/95-CS-I dated July 31, 1995 and OM No.16/16/89-Estt. (Pay-1) dated March 29, 1993.

34. In the FA & CAO letter no.Fin/577/B dated January 30, 2015, the Financial Advisor & Chief Accounts Officer explicitly indicted the P&IR Division for committing an administrative error by labeling the selection as a "promotion". Citing the Apex Court ruling in *State of Punjab v. Rafiq Masih (AIR 2015 SC 696)*, the FA & CAO noted that recovering past payments was legally impermissible and formulated Option (II) to step up the petitioners' pay.

35. In the GM (M&S) Re-evaluation Note dated August 28, 2015, the General Manager (M&S) affirmed that CDLB induction was akin to direct recruitment and that the petitioners' entry was in truth a direct selection. Relying upon Ministry of Finance Note F. No. 10/2/2011/E-III (A) dated December 19, 2012, Office of the Principal Controller of Accounts (FYS) Circular No.Pay/Tech-I/01(6$^{th}$ CPC)/2013/Cir-10) dated April 8, 2013, and Government Order No.F.No.26017/159/2009-Ad.II(A) dated March 5, 2012, the GM (M&S) recommended stepping up the petitioners' pay.

36. In the Chief Law Officer's opinion dated October 18, 2016, the CLO advised that KoPT acted correctly in applying FR 22(I)(a)(1) to step up pay, recommending that promotee officers be granted pre-mature increments to align their pay at par with CDLB officers.

37. Notwithstanding these consistent administrative findings, the administration executed an abrupt about-face on August 3, 2018. The Deputy Chairman endorsed a status-quo decision protecting seven earlier officers whose audit objections were dropped, while barring fresh claims on identical grounds thereby slamming the door on the petitioners.

38. Addressing the respondents' preliminary objection regarding non-joinder of necessary parties, this Court holds that the said objection is entirely misconceived. The petitioners do not seek any adverse modification, reduction, or re-fixation of the pay or seniority assigned to the absorbed CDLB officers. They merely seek financial equalization and parity in their own pay structure. The presence of the absorbed officers is neither necessary nor proper for adjudicating whether the Port Trust discriminated against its own senior direct cadre members.

39. The respondents' core defense that the petitioners are "promotees" governed by strict FR 22 conditions and thus barred from pay stepping-up collapses under judicial scrutiny. An employer cannot be permitted to take advantage of its own internal clerical misnomer (labeling direct recruitment as a "promotion") to defeat substantive statutory rights. Once qualified personnel are selected through an open process and integrated into a single, common seniority list governing a unified Class-I cadre, they form an indivisible legal class for all service jurisprudence purposes.

40. Article 14 of the Constitution of India guarantees equality before law and equal protection of the laws, striking directly at arbitrariness in state action. To grant pay stepping-up to one set of senior officers (Sri S. Roy and others) while denying the exact same monetary relief to another set of senior officers (the petitioners) occupying identical positions on the self-same gradation list is patently discriminatory and violative of Article 14 of the Constitution of India. Vague administrative apprehensions regarding "opening floodgates" or incidental financial implications cannot override constitutional mandates or justify perpetuating financial inverted parity.

41. For the reasons discussed, the writ petition W.P.O. No. 580 of 2018 succeeds and is hereby allowed.

42. The administrative decision dated August 3, 2018, to the extent it denies pay stepping-up benefits to the petitioners, is hereby quashed and set aside.

43. The respondent authorities, particularly Respondent No. 1 and its competent administrative functionaries, are issued the following binding directions: The respondents shall forthwith re-fix and step up the basic pay of the petitioners (Priyabrata Roy Mahapatra, Asok Kumar Das, Kamalesh Giri, and Asit Adgiri) in the Class-I time scale of Assistant Engineer / Assistant Manager, bringing it strictly at par with the basic pay drawn by junior absorbed officer Sri Sudip Kumar Mondal (or immediate CDLB junior absorbents), with effect from the exact date such junior officers began drawing higher basic pay.

44. The respondents shall compute and disburse all arrears of pay, DA, and consequential monetary benefits and interest to be accrued as a direct legal consequence of such pay stepping-up.

45. The entire exercise of pay re-fixation, financial computation, and actual disbursement of arrears shall be completed within a strict outer time frame of twelve (12) weeks from the date of communication of this order.

46. There shall be no order as to costs.

47. Photostat certified copy of this judgment, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Ananya Bandyopadhyay, J.)**