IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 12 of 2016

....

1. Raju Prasad, son of late Mohan Prasad, resident of Matri Aagya, Kumhar Toli, New Colony, Near House of Shankar Misthan, Hazaribagh, P.O. & P.S.-Dist-Hazaribagh, Pin 825301 (Jharkhand).
2. Satyakam, son of late Rajendra Prasad Yadav, residing at 'SATDAL, C/o. Ram Naresh Gope, Mission School Road, Near Sandwell Nursing Home, P.O., P.S. & District - Hazaribagh, Pin 825301 (Jharkhand).
3. Sunil Kumar Sinha, son of late Kailash Prasad Sinha, residing at Qr No- D.T-261, H.E.C Township, P.O. & Ranchi Pin 834004 P.S.- Dhurwa, District (Jharkhand). **..... Petitioner (s)**

Versus

1. Damodar Valley Corporation, through its Chairman, having its office at DVC Towers, VIP Road, P.O. - VIP road, P.S. Bidhannagar, District Kolkata, Pin 700054 (West Bengal)
2. Member Secretary Cum Member Finance, Damodar Valley Corporation, DVC Towers, VIP Road, P.O. VIP road, P.S. Bidhannagar, District Kolkata, Pin 700054 (West Bengal)
3. Chief Engineer-I Cum Director (HR), Damodar Valley Corporation, DVC Towers, VIP Road, P.O. - VIP road, P.S. Bidhannagar, District Kolkata, Pin 700054 (West Bengal)
4. General Manager (HR), Damodar Valley Corporation, DVC Towers, VIP Road, P.O. VIP road, P.S. Bidhannagar, District Kolkata, Pin 700054 (West Bengal)
5. Deputy Director (HR), Damodar Valley Corporation, DVC Towers, VIP Road, P.O. VIP road, P.S. Bidhannagar, District Kolkata, Pin 700054 (West Bengal)
6. Lalan Prasad Gupta, son of not known to the petitioner, presently posted as Manager-Fin (Addl Chief Accounts Officer), Quarter no. type 2/6, near officer station club, Damodar Valley Corporation, Bokarao Thermal Power Station, P.O. & P.S Bokaro Thermal, District Bokaro, Pin 829107 (Jharkhand).

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mr. Amit Kumar Das, Advocate
Mr. Kanishka Deo, Advocate

For the Resp.-State : Ms. Khalida Haya Rashmi, Advocate

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C.A.V. ON: 27/01/2026 **PRONOUNCED ON: 03/02/2026**

Heard Mr. Amit Kumar Das, Ld. Counsel for the Petitioner and Ms. Khalida Haya Rashmi, Ld. Counsel for the Respondent Corporation-Respondent No. 1 to 5. Though a Vakalanama has been filed on behalf of the Respondent No.6, but no one turned up for argument. Since the matter is almost 10 years old, accordingly, with consent of the parties the Court heard the matter on 27.01.2026 and kept the case for pronouncement of the judgment.

2. The instant writ application has been preferred by the petitioners for quashing of letter dated 16.12.2015 issued by Respondent No. 5, whereby the request for restoration of seniority of Petitioner No. 1 was rejected, and consequently to restore the seniority of the Petitioners in accordance with Clause 12 of the relevant Office Memoranda dated 09.08.2007 and 02.01.2008 by re-designating/promoting them as Senior Accounts Officers with effect from 13.08.2006, being the date on which Respondent No. 6 was promoted.

Brief Facts & Case of the Petitioners: -

3. The petitioners were appointed as Accounts Officers pursuant to an advertisement, and thereafter vide appointment letters dated 10.02.2006 they were given appointment. Respondent No. 6, Lalan Prasad Gupta, was appointed as Management Trainee in the pay scale of Rs. 8000–275–13500 on 21.07.1998 and, upon completion of training, was confirmed as Assistant Accounts Officer in the same pay scale on 17.11.1999. Thereafter, he continued to work as Assistant Accounts Officer in the Accounts & Finance Cadre without any promotion and was posted under the supervision of the Petitioners, reporting to them for official purposes.

4. At the time when the Petitioners joined as Accounts Officers in the higher pay scale; Respondent No. 6 continued to hold the post of Assistant Accounts Officer in the lower rank. As on 01.01.2007, i.e., prior to the implementation of the Uniform Career Progression (UCP) Scheme, Respondent No. 6 remained an Assistant Accounts Officer, whereas all Petitioners were working as Accounts Officers.

5. The Gradation List of Officers of the Finance & Accounts Cadre published on 10.07.2006 reflected the Petitioners as Accounts Officers in the higher scale of Rs. 8000–275–14050, while Respondent No. 6 was shown as Assistant Accounts Officer in the lower scale of Rs. 8000–275–13500, clearly ranking below the Petitioners.

6. In the year 2007, the Damodar Valley Corporation introduced the Uniform Career Progression Scheme vide Office Memorandum dated 09.08.2007, applicable to officers on roll as on or before 01.01.2007. The scheme was subsequently clarified by Office Memorandum dated 02.01.2008, which categorically provided that inter se seniority as on 01.01.2007 shall be strictly maintained and that no junior officer shall supersede a senior merely due to application of the scheme; in the event of any anomaly, the pay or scale of the senior was required to be stepped up to restore seniority.

7. Subsequent to the aforementioned, a clarification was issued to the said scheme by a three-member committee, wherein it was again clarified that merely due to application of the scheme; in the event of any anomaly, the pay or scale of the senior was required to be stepped up to restore seniority.

8. Despite these explicit safeguards, Respondent No. 6, having remained continuously in the scale of Assistant Accounts Officer since his appointment, was granted promotion under the UCP Scheme to the post of Senior Accounts Officer in the pay scale of Rs.10,000-15,200/- with effect from 13.08.2006. Subsequently, he was further promoted to the post of Manager (Finance), i.e., Additional

Chief Accounts Officer, in the pay scale of Rs.12000-16500/- with effect from 13.08.2012.

9. Due to the aforementioned disturbance caused in the seniority due to implementation of the UCP Scheme, the Petitioners thereafter made several representations to the concerned Respondent Authorities.

As no decision was communicated to the Petitioners despite considerable delay, Petitioner No. 1 invoked the RTI, Act 2005 and obtained copies of the note-sheets and noting relating to the promotion of Respondent No. 6, Lalan Prasad Gupta, as well as the file concerning the representation of Petitioner No. 1, from which it is evident that, while considering the case of Respondent No. 6 under the UCP Scheme, the Joint Director (Personnel), in his note dated 07.07.2010, recorded as follows:

> *"....... It is also to mention that as per UCP Order the juniors cannot supersede the seniors, even those who have joined as Accounts Officer/Finance Officer after joining of Shri Lalan Pd. Gupta as AAO. The gradation list is enclosed herewith and a draft order of promotion of Shri L.P. Gupta is also placed in the file of page 99/C for kind approval of competent authority."*

Thereafter, the file was again sent to the Jt. Director Personnel (DPC), who made the following comments:

> *"Now coming to the legal spectrum, Shri L.P. Gupta, AAO, BTPS is eligible as per the Office Memorandum No.PL-T/Group- A(UCP)-168 dated 09.08.2007.*
>
> *Secondly, he is also very much eligible to be considered for upgradation to the scale of Accounts Officer from the date of joining DVC as Management Trainee (Finance & Accounts) and confirmation as Asstt. Accounts Officer in the same Gr. A cadre*
>
> *Thirdly, Shri L.P. Gupta cannot be deprived of his legitimate claim on the pretext that the officer senior to him may claim step up of pay from the*

date his re-designation as Sr. AO. Neither, the seniors to Shri L.P. Gupta may be deprived of their expected claim, if any in commensuration with the provisions of Cause-3(d) of OM No.PL-PO/LWO/EO/VO/AO (HR Professionals)-06 dated 02.01.2008 as the seniority as on 01.01.07 needs to be maintained as per speaking order in the Clause-12 of OM dated 09.08.07.

Further, there is no ground on which the claim of Shri Gupta may be denied. Denial of claim of either party may create legal complications due to denial of the legitimate claim arising out of the redesignation of Shri L.P. Gupta as there is nothing personal in the service matters."

10. On the basis of the said noting, Respondent No. 6 was promoted to the post of Senior Accounts Officer with effect from 13.08.2006 and thereafter to Manager (Finance) with effect from 13.08.2012; however, despite clear recommendations and mandatory provisions of the Office Memorandum dated 09.08.2007 and 02.01.2008 requiring strict maintenance of inter se seniority, the seniority of the Petitioners was not restored, resulting in a junior officer being placed above them solely due to application of the UCP Scheme.

11. Subsequently Petitioner No. 1 even applied and obtained note sheet on the application of the Petitioner under RTI Act and the same revealed that the Addl. Director, DVC stated that the question of seniority between Shri Raju Prasad and Shri L. P. Gupta is governed by Clause 12 of the UCP Office Memorandum dated 09.08.2007, which mandates preservation of inter se seniority as on 01.01.2007. As the Petitioners joined as Accounts Officer on 01.03.2006 and was senior to

Respondent No. 6 who was then an Assistant Accounts Officer, the subsequent upgradation of Respondent No. 6 under Clause 5 of the UCP Scheme read with Clause 3(a) of the clarificatory Office Memorandum dated 02.01.2008 cannot override or disturb the seniority position protected under Clause 12.

12. Despite clear recommendations recorded in the personal file of Petitioner No. 1 for restoration of seniority, the file was forwarded to the Senior Additional Director (HR) on 11.08.2014 for issuance of the requisite order. However, after retaining the file for over four months, the Senior Additional Director (HR), disregarding all earlier noting, merely observed that UCP-related matters would be considered in due course with the approval of the competent authority and directed return of the file without any decision.

13. Aggrieved thereby, the Petitioners met the Secretary-cum-Member (Finance), who assured necessary action and advised submission of detailed representations. Accordingly, Petitioners Nos. 1 and 3 submitted representations on 22.05.2015, and Petitioner No. 2 on 26.05.2015. When no action followed, Petitioner No. 1 approached the Chairman, Damodar Valley Corporation, with a detailed representation dated 24.08.2015, followed by a reminder on 17.10.2015.

Thereafter, by communication dated 16.12.2015, the Deputy Director (HR) informed the Petitioners, without assigning any reasons, that their request for restoration of seniority had not been acceded to by the competent authority; which is in clear violation of the UCP Scheme which expressly mandates protection of inter-se seniority as it stood on 01.01.2007. Clause 12 of the OM dated 09.08.2007 (Annexure-5 of writ Petition), Clause 3(d) of the clarificatory OM dated 02.01.2008 (Annexure-6 of writ Petition), and Clause (a) of the OM dated 22.04.2013 uniformly provide that seniority shall not be disturbed by application of the scheme and that any anomaly caused by upgradation of juniors must be rectified by stepping up the senior.

Case of the Respondents: -

14. Learned counsel for the respondents filed its counter affidavit and supplementary counter affidavit, wherein they contended that in terms of Clause 5 of the UCP Office Memorandum dated 09.08.2007, read with Clause 3(a) of the clarificatory Office Memorandum dated 02.01.2008, professionally qualified Group ‘A’ officers are entitled to upgradation to the pay scale of Rs. 8000–14050 (M-2) from the date of their joining in the pay scale of Rs. 8000–13500 (M-1). Accordingly, Respondent No. 6, Shri L. P. Gupta, a professionally qualified Finance Executive, was upgraded as Accounts Officer (M-2) from the date of his joining as Management Trainee/Assistant Accounts Officer (M-1).

It was further contended that such upgradation of Shri L. P. Gupta took effect from 13.08.1998, which is prior to the joining of Shri Raju Prasad as Accounts Officer on 01.03.2006, and therefore Shri L. P. Gupta is senior. The Respondents assert that the competent authority, after due consideration and a speaking order passed on 08.12.2015, upheld this position, which was duly communicated to the Petitioners on 16.12.2015.

15. The further stand of the Respondents is that at the relevant time, Management Trainee (M-1) was the entry-level post in the Finance cadre for candidates possessing professional qualifications such as CA/ICWA/MBA (Finance), and that the post of Assistant Accounts Officer was elevated to Accounts Officer in 2003 owing to similarity in qualifications for M-1 and M-2 levels. Since both Shri Gupta and Shri Prasad possess similar qualifications, it would be inequitable to place a person who joined in 2006 above an officer who joined in 1998 merely due to a subsequent change in the induction level. The UCP Scheme, according to the Respondents, was intended to ensure uniform career progression and not to disadvantage earlier entrants like Shri L. P. Gupta.

Finding of the Court: -

16. Having heard Ld. Counsel for the parties and after going through the documents available on records, it transpires that the Respondents' assertion that Petitioners and Respondent No. 6 stood on equal footing prima facie appears to be incorrect. The post of Accounts Officer (M2) was filled through an all-India selection process initiated in 2004, open to both internal and external candidates possessing professional qualifications. (Annexure-23 of the Rejoinder Affidavit). From records it appears that Respondent No. 6, though an internal candidate, failed to qualify in the selection, whereas Petitioners were duly selected and appointed as Accounts Officer (M2) on 01.03.2006.

17. The Respondents have falsely claimed that the post of Assistant Accounts Officer (M-1) was elevated to Accounts Officer (M-2) in 2003 with retrospective effect from the date of joining; whereas in reality both posts have always existed separately and continue to be so, though now redesignated as Executive (Finance) and Assistant

Manager (Finance) respectively. Respondent No. 6 was appointed as Assistant Accounts Officer (M-1) in 1998 and remained so till June 2011, as is evident from the gradation list dated 10.07.2006 (Annexure-4 of the Writ Petition) and his promotion order dated 15.06.2011, wherein he is still shown as Assistant Accounts Officer, one post and one scale below the Petitioners.

18. Further, in 2004 the Respondents issued a vacancy notice for the post of Accounts Officer (M-2), permitting Assistant Accounts Officers (M-1) to apply, pursuant to which Respondent No. 6 applied but was not selected, an eventuality that would not have arisen had the M-1 post already been elevated in 2003. It was only by retrospective upgradation under the UCP Scheme that Respondent No. 6 was granted Accounts Officer (M-2) status from his initial date of joining, thereby unlawfully disturbing the Petitioners' seniority in clear violation of Clause 12 of the UCP Scheme, which categorically prohibits any disturbance of seniority due to its application.

19. The Respondents have themselves admitted that as on 01.01.2007, i.e., the cut-off date for implementation of the UCP Scheme, Petitioner No. 1 was serving as Accounts Officer (M2), while Respondent No. 6 continued as Assistant Accounts Officer (M1). The pre-UCP gradation list dated

10.07.2006 conclusively reflects this hierarchy, placing Petitioner No. 1 above Respondent No. 6.

20. The UCP Scheme expressly mandates protection of inter-se seniority as it stood on 01.01.2007. Clause 12 of the OM dated 09.08.2007 (Annexure-5 of writ Petition), Clause 3(d) of the clarificatory OM dated 02.01.2008 (Annexure-6 of writ Petition), and Clause (a) of the OM dated 22.04.2013 uniformly provide that seniority shall not be disturbed by application of the scheme and that any anomaly caused by upgradation of juniors must be rectified by stepping up the senior.

21. Clause 12 of the OM dated 09.08.2007 is reproduced below for ready reference:

> *'12. Seniority Position:*
>
> *The seniority position in no case shall be disturbed due to application of this scheme. For this purpose the seniority position as on the date of implementation of this scheme shall be maintained. In other words, no junior in the panel shall be allowed to supersede his senior mere on the ground of the application of the scheme.'*

22. Clause 3(a) and 3(d) of the clarificatory OM dated 02.01.2008 is reproduced below for ready reference:

> *(a) The personnel Officer/L.W.O/Adm Officer/Vigilance Officer/Estate Officer/equivalent having the qualifications as mentioned in para-5 of the UCP for Group "A" as cited above shall be upgaraded to the pay scale of Rs8000-14050 (Revised) from the date they joined as personnel Officer/L.W.O/Adm Officer/Vigilance Officer/Estate Officer/equivalent in the pay scale of Rs 8000-13,500/-.*
>
> *d) Inter-se-seniority as on 01-01-07 shall be strictly maintained, in the event, by application of these recommendations, the pay of junior becoming more than senior or the junior reaching the scale higher than the senior, the pay or scale of pay shall simultaneously be stepped up for restoration of inter-se-seniority.*

23. Thus, while upgrading Respondent No. 6 under Clause 3(a) of the OM dated 02.01.2008, the Respondents deliberately failed to apply Clause 3(d) of the very same OM, which mandates restoration of seniority. Such selective reliance on beneficial provisions while ignoring mandatory safeguards is arbitrary, discriminatory, and legally impermissible.

24. The Respondents' claim that Respondent No. 6 was upgraded to M2 in 2003 is demonstrably false. Records obtained under RTI show that Respondent No. 6 failed in the M1-to-M2 selection held in 2004, whereas Petitioner No. 1 succeeded and joined as Accounts Officer (M2) on 01.03.2006.

25. The records further suggest that Petitioner No. 1 invoked the Right to Information Act, 2005 and obtained the relevant note-sheets, which unequivocally demonstrate that while considering the case of Respondent No. 6 under the UCP Scheme, the Joint Director (Personnel), in his note dated 07.07.2010 (Annexure-13 series of the writ Petition), categorically recorded that juniors cannot supersede seniors under the UCP Scheme and that seniority reflected in the gradation list must be preserved. The subsequent noting of the Joint Director (Personnel–DPC) further clarified that although Respondent No. 6 was eligible for upgradation under the UCP Scheme, such upgradation could not prejudice the rights of seniors and that inter se seniority as on 01.01.2007 was required to be strictly maintained in terms of Clause 12 of the OM dated 09.08.2007 read with Clause 3(d) of the OM dated 02.01.2008.

26. Despite these clear and binding recommendations, Respondent No. 6 was promoted to the post of Senior Accounts Officer with effect from 13.08.2006 and thereafter to Manager (Finance) with effect from 13.08.2012, without concomitant restoration of the Petitioners' seniority, thereby placing a junior above the Petitioners solely by application of the UCP Scheme.

Subsequent note-sheets obtained under RTI clearly reveals that the Additional Director, DVC, expressly recorded that the seniority dispute between Petitioner No. 1 and Respondent No. 6 was governed by Clause 12 of the UCP OM dated 09.08.2007 and that since Petitioner No. 1 had joined as Accounts Officer on 01.03.2006, when Respondent No. 6 was still an Assistant Accounts Officer, the latter's upgradation under Clause 5 read with Clause 3(a) could not override or disturb the protected seniority position as on 01.01.2007.

Notwithstanding these categorical findings recorded on file, the matter was merely forwarded to the Senior Additional Director (HR) on 11.08.2014 without issuance of the requisite order, rendering the action of the Respondents arbitrary and contrary to the UCP Scheme.

27. The Respondents' reliance on a gradation list issued after UCP implementation is wholly misplaced. Seniority under the UCP Scheme must be determined strictly with reference to the position as on 01.01.2007, and not on the basis of altered gradation lists prepared after the scheme disturbed the Petitioners' seniority.

28. The Respondents' plea that restoration of seniority is subject to completion of a minimum period in the lower grade is unsupported by any circular or policy. On the contrary, Clause 12 of the OM dated 09.08.2007 categorically prohibits disturbance of seniority in any case.

29. Further, due to non-restoration of seniority, Petitioners suffered cascading prejudice, including denial of timely promotions and interview opportunities, and is presently compelled to work under Respondent No. 6, who was admittedly junior and had failed in the M2 selection.

30. It appears that the Respondents have placed only selective portions of the office file before this Court, suppressing subsequent noting which clearly support restoration of seniority. Notably, senior officers later corrected earlier erroneous observations and clarified that seniority restoration is independent of subsequent promotion policies.

31. It is further relevant to mention herein that in fact, the same Manager (HR), who gave Note #7 dated 21–22.08.2024, later corrected himself in Note #24, clarifying that his earlier remarks related only to M5–M6 promotion under the new 2023 Policy, and not to seniority restoration. He specifically stated that restoration of inter-se seniority pertains to gradation lists/panels and does not fall under the purview of the Policy Group. Further, in Note #21, the Senior GM (HR) also recorded that the Manager (HR)'s earlier note was incorrect.

32. The respondents themselves had constituted a high-powered committee comprising of the senior most executive functionaries including a GM-level committee with representatives from the Finance and Pay & Audit Departments to examine the grievances of the petitioners in detail. The record further transpires that after detailed scrutiny, the committee submitted its report (Annexure -19 filed through a supplementary affidavit dated 12.08.2024), categorically and unanimously recommending restoration of the seniority of the petitioners in full conformity with the UCP-scheme.

It is also relevant to mention herein that as will be apparent from the perusal of orders dated 25.09.2024, 15.10.2024, on previous occasions, the respondents themselves had sought adjournments on the pretext of awaiting the report of the high-powered committee, but despite receipt of the report and the recommendations, the respondents avoided to implement the same.

33. In view of the facts stated here in above, the petitioners are entitled for restoration of their seniority as was existing on 01.07.2007 i.e. the date on which the UCP scheme came into existence with all consequential benefits.

34. As a result, the instant writ application stands allowed. Pending I.A.s, if any, also stands closed.

(Deepak Roshan, J.)

Dated:03 / 02/ 2026
Amardeep/
N.A.F.R./A.F.R
Uploaded
05.02.2026