

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)**

WRIT PETITION NO. 18514 OF 2025

IN THE MATTER OF:

An application under Article 102(2)(a)(i) &(ii) of the
Constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Md. Nurul Amin and others

.....Petitioners

-VERSUS-

Government of the People's Republic of Bangladesh,
represented by the Secretary, Secondary and Higher
Education Division, Ministry of Education and others

..... Respondents

Mr. Mohammad Ibrahim Khalil, Senior Advocate

..... For the Petitioners

Mr. Md. Rashadul Hassan, D.A.G with

Ms. Nilufar Yesmin, A.A.G with

Mr. Md. Moshiur Rahman (Rahat), A.A.G with

Mr. Md. Motasin Billah Parvez, A.A.G with

Mr. Bishwanath Karmaker, A.A.G

.....For the Respondents

Present:

Mr. Justice Sashanka Shekhar Sarkar

And

Justice Urmee Rahman

Heard on 08.03.2026 and 29.06.2026

Judgment on 20.07.2026

Urmee Rahman, J:

In the instant matter a Rule Nisi was issued on an application under
Article 102(2)(a)(i)&(ii)of the Constitution of the People's Republic of
Bangladesh in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned memo No. 07. 00. 0000. 163. 45.069. 12-129 dated 04.11.2021 issued by the Ministry of Finance in Supersession of Rule 6 of the "এসআরও নং ১৮২-আইন/২০০৫/সম/বিধি-১/এস-৯/২০০০, তারিখ-২০/০৬/২০০৫" and in violation of the judgment and order passed by the High Court Division in Writ Petition No. 8983 of 2011 as affirmed by the Appellate Division in CPLA No. 308 of 2013 should not be declared to have been made without lawful authority and of no legal effect and why the respondents should not be directed to count the date of joining in the Development Project of the petitioners for the purpose of all admissible and financial benefits including leave, pension, time scale, selection and higher grade under the provision of Rule 6 of the "এসআরও নং ১৮২-আইন/২০০৫/সম/বিধি-১/এস-৯/২০০০, তারিখ-২০/০৬/২০০৫" and fix the salary of the petitioners in grade V of the National Pay Scale under the provisions of Para 7(1) & 7(2) of the National Pay Order 2015 in view of the judgment and order 30.04.2025 passed by the Appellate Division in Civil Appeal No. 23-24 of 2020 and/or such other or further order or orders passed as to this court may seem fit and proper”.

Facts leading to the issuance of the instant Rule, in short, are that, all the petitioners, 76 in number, were initially appointed in the development project(s) namely Female Secondary Stipend Project (FSSP), the Female Secondary School Assistance Project (FSSAP), Secondary Education Development Project (SEDP) and Female Secondary Education Stipend Project (FESP) under the Directorate of Secondary and Higher Education of the Ministry of Education. The petitioner nos. 1-69 were appointed in FSSP project which started in 1994

and completed on 30.06.2005. The petitioner nos. 70-71 were appointed in FSSAP project which started in 1993 and completed on 30.06.2001. The petitioner nos. 72-73 were appointed in SEDP project which started in 1994 and completed on 30.06.2000. The petitioner nos. 74-76 were appointed in FESP project which started in 1994 and completed on 31.12.2006. On completion of the project, all the project personnel were transferred to the regular set-up of the Directorate of Secondary and Higher Secondary Education on the following day of the completion of the respective projects. The petitioners were posted as 'Upazila Secondary Education Officer' in grade-IX of the National Pay Scale throughout the country vide notification dated 19.10.2010. While transferring the project personnel to the regular set-up, it was clearly stated in clause 2 of the Notification dated 19.10.2010 that "সমাপ্ত প্রকল্পের স্থানান্তরিত পদসমূহ রাজস্বখাতে নিয়মিতকরণের ক্ষেত্রে 'উন্নয়ন প্রকল্প হতে রাজস্ব বাজেটে স্থানান্তরিত পদধারীদের নিয়মিতকরণ ও জ্যেষ্ঠতা বিধিমালা, ২০০৫ (এসআরও নং ১৮২-আইন/২০০৫/সম/বিধি-১/এস-৯/২০০০, তারিখ ২০/০৬/২০০৫) এর ৪নং ধারার বিধানাবলীসহ প্রযোজ্য সকল বিধিবিধান অনুসরণ করতে হবে।"

The services of the petitioners were regularized vide another notification dated 27.11.2013 with effect from 2005 under the provision of Rule 6 of "••••• dated 20.06.2025", which provides that, the service of personnel regularized from the Development Projects would be counted from the date of their initial joining in the Development Projects for the purpose of all financial benefits including leave, pension, incidental and other salary benefits.

The petitioners were given selection grade in grade VII under clause 7(7) of the National Pay Scale Order, 2009 on completion of 4 (four) years' service, effective from the date of their absorption/posting under the regular setup instead of from the date of their joining in the Development Project violating the provision of Rule 6 of the S.R.O. dated 20.06.2005. Thereafter, pursuant to the power vested under Section 5 of the Services (Re-organization and Conditions) Act, 1975 the Government promulgated National Pay Order, 2015. In the said Services (Pay and Allowances) Order 2015 the provision of 'Time Scale' and 'Selection Grade' were omitted and instead, some provisions of up-gradation of pay scales have been provided in paragraph 7(1) & (2) of the National Pay Order, 2015 for those serving without any promotion.

The petitioners have been serving for the Directorate of Secondary and Higher Education without any promotion since their joining in 1993, 1994; hence became eligible for two higher grades under the provision of paragraph 7(1) & (2) of the Pay Order of 2015.

In the meantime, the Ministry of Finance issued a circular dated 21.09.2016 and on the basis of that circular the petitioners were allowed only one higher grade on completion 6 (six) years' service vide notification dated 02.06.2024 although they are entitled to get two higher grades as per the new Pay Order of 2015. The said circular dated 21.09.2016 was subsequently declared illegal by the Appellate Division in Civil Appeal No. 23-24 of 2020 vide its judgment and order dated 30.04.2025. After this judgment many departments allowed two higher

grades under the provisions of clause 7(1) and (2) of the Pay Order of 2015 to those employees, who were earlier allowed only one selection grade.

As per the provision of Rules 6 of S.R.O. 182 of 2005 the petitioners are entitled to get their previous service period in the development projects to be counted towards all admissible financial benefits. Earlier the Ministry of Finance issued an office order on 22.09.2011 refusing to count the service rendered in the Development Project, which was challenged in Writ Petition No. 8983 of 2011. A Division Bench of the High Court Division was pleased to declare that memo illegal as being inconsistent with Rules 6 of S.R.O 182 of 2005. This judgment was disposed of by the Appellate Division in Civil Petition for Leave to Appeal No. 308 of 2013 dated 10.04.2013 holding that, the expression ‘আনুষঙ্গিক সুবিধাদি’ used in rule 6 includes all benefits available to an officer and employee, which includes ‘time scale’. The Civil Review Petition No. 74 of 2013 filed against this judgment was dismissed by the judgment and order dated 05.05.2014. The concerned authority also complied with the judgment accordingly. Therefore, the issue of counting the service during the development project towards salary, leave, pension and other incidental or associated benefits was settled once for and all by the Appellate Division.

Thereafter Ministry of Finance issued another circular no. 07.00.0000.163.45.069.12-129 dated 04.11.2021, which is in effect

identical to the earlier circular dated 22.11.2011, which had already been declared illegal by the Appellate Division.

Being aggrieved thereby the petitioners served a legal notice upon the respondents requesting them to allow the petitioners' selection grade and two higher grades counting their service from the date of joining in the development projects. Though the notice was duly received, no response has been made yet and there having no other alternative and efficacious remedy available, the petitioners (as many as 76 in number) have filed the instant writ petition and obtained the present Rule.

Learned Senior Advocate Mohammad Ibrahim Khalil appears on behalf of the petitioners. At the very outset he submitted that the impugned circular dated 04.11.2021 is inherently illegal as being inconsistent with the provision of Rule 6 of the "এসআরও নং ১৮২ dated 20.06.2005" and also being in violation of the judgment and order passed by the Appellate Division in CPLA No. 308 of 2013.

He next submitted that, Rule 6 of the SRO 182 of 2005 clearly mandates that the service period in the development project would be counted towards all admissible financial service benefits and the issue was settled by the Appellate Division once and for all in CPLA No. 308 of 2013. The impugned circular dated 04.11.2021 cannot operate as a bar for the petitioners to count their services during the development projects for the purpose of all admissible financial benefits including 'time scale' and 'selection grade'.

Learned Advocate for the petitioners further submitted the circular dated 21.09.2016 issued by the Ministry of Finance clarifying the provisions of National Pay Order of 2015, was declared illegal by the Appellate Division in Civil Appeal No. 23-24 of 2020 on 30.04.2025, as such the petitioners are legally entitled to have the benefit of two higher grades as provided under clause 7(1) & 7(2) of the latest National Pay Order 2015, since the petitioners served more than 16 years in their respective posts without any promotion.

He finally submitted that, as per the judgment of the Appellate Division in CPLA No. 308 of 2013 as well as in Civil Appeal No. 23-24 of 2020, the petitioners are legally entitled to a selection grade under clause 7(7) of National Pay Order 2009 and two higher grades under the provision of the clause 7(1) & 7(2) of the latest National Pay Order 2015 and have fixed their pay in grade V of the National Pay Scale. The petitioners were appointed in grade IX of the National Pay Scale and with the selection grade their pay would be fixed in grade VII. Thereafter on completion of 10 years' service their pay would be fixed in grade VI and after six year it would be fixed in grade V of the National Pay Scale. Hence the respondents may be given a direction to that effect.

On the other hand, learned Deputy Attorney General Mr. Md. Rashadul Hassan appeared on behalf of the respondents; however, without filing any affidavit in opposition and contested the Rule upon submitting that, the impugned memo is not exactly similar to the earlier memo, which has been declared illegal by the Appellate Division. He further submitted

that in CPLA No. 308 of 2013 Appellate Division clearly held that ‘আনুষঙ্গিক সুবিধাদি’ includes ‘time scale’, therefore the petitioners’ claim to get selection grade has no lawful basis.

We have heard the learned Advocates for the respective parties and perused the writ petition, supplementary affidavits and all the documents annexed as annexure therewith.

According to the term of the Rule Nisi, the following issues fall for determination by us:

1. Is the impugned memo dated 04.11.2021 contained in Annexure- H has been issued without lawful authority and in violation of the judgment and order passed by the Appellate Division in CPLA No. 308 of 2013?
2. Whether a direction may be given to the respondents to count the petitioners’ service in the development project for the purpose of all admissible and financial benefits including leave, pension, time scale, selection and higher grade? And
3. Whether a direction may be given to the respondents to fix the salary of the petitioners in grade v of the National Pay Scale under the provisions of clause 7(1) and (2) of the National Pay Order, 2015 and in view of the judgment and order dated 30.04.2025 passed by the Appellate Division in Civil Appeal No. 23-24 of 2020?

Issue no. 1 :

Admittedly petitioners were brought under the revenue budget from the development projects following the provisions of ‘সমাপ্ত প্রকল্পের স্থানান্তরিত পদসমূহ রাজস্ব খাতে নিয়মিতকরণের ক্ষেত্রে ‘উন্নয়ন প্রকল্প হতে রাজস্ব বাজেটে স্থানান্তরিত পদধারীদের নিয়মিতকরণ ও জ্যেষ্ঠতা বিধিমালা, ২০০৫’. Rule 6 of this Regulation clearly provides that, the service period during the development project of an employee shall be counted for the purpose of calculating their ‘salary, pension and other salary benefits’. Rule 6 is quoted below:

“৬। উন্নয়ন প্রকল্পের চাকুরীকাল গণনা। নিয়মিতকৃত কোন কর্মকর্তা বা কর্মচারীর উন্নয়ন প্রকল্পে চাকুরীকাল তাহার বেতন, ছুটি, পেনশন ও আনুষংগিক সুবিধাদি নির্ধারণের ক্ষেত্রে গণনা করা হইবে।”

In Rule 5 it has been described how the seniority of the employees, who have been brought under the revenue budget, shall be determined. Rule 5 is quoted herein under:

“৫। জ্যেষ্ঠতা নির্ধারণ।-(১) এই বিধিমালার অধীন নিয়মিতকৃত কোন কর্মকর্তা বা কর্মচারীর জ্যেষ্ঠতা নির্ধারণের ক্ষেত্রে তাহার চাকুরী নিয়মিতকরণের তারিখ হইতে গণনা করা হইবে।

(২) কোন উন্নয়ন প্রকল্পে একই তারিখে নিয়োগপ্রাপ্ত একাধিক কর্মকর্তা বা কর্মচারীর জ্যেষ্ঠতা নিম্নরূপে নির্ধারিত হইবে, যথাঃ-

(ক) উন্নয়ন প্রকল্পে নিয়োগের সময় সংশ্লিষ্ট কর্তৃপক্ষ কর্তৃক প্রস্তুতকৃত মেধা তালিকা বা প্রদত্ত নম্বরের গ্রেডিং, যদি থাকে, এর ভিত্তিতে;

(খ) দফা (ক) এ উল্লিখিত তালিকা বা প্রদত্ত নম্বরের গ্রেডিং না থাকিলে সেইক্ষেত্রে ন্যূনতম শিক্ষাগত যোগ্যতা অর্জনের বৎসরের ভিত্তিতে এবং উক্ত বৎসর একই বৎসর হইলে সেইক্ষেত্রে বয়সের ভিত্তিতে।

(৩) কোন উন্নয়ন প্রকল্পে পূর্বে নিয়োগপ্রাপ্ত কোন কর্মকর্তা বা কর্মচারী প্রয়োজনীয় কাগজপত্রের অভাবে, পদাধিকারীর ত্রুটির কারণে নয়, একই পদে পরে নিয়োগপ্রাপ্ত কর্মকর্তা বা কর্মচারীর পূর্বে বা একই সঙ্গে নিয়মিত

না হইয়া পরবর্তী সময়ে নিয়মিত হইলে সেইক্ষেত্রে পরে নিয়মিত হওয়া সত্ত্বেও পূর্বে নিয়মিতকৃত কর্মকর্তা বা কর্মচারীর উপর তাহার জ্যেষ্ঠতা নির্ধারিত হইবে।

(৪) একাধিক উন্নয়ন প্রকল্প হইতে একই পদে দুই বা ততোধিক কর্মকর্তা বা কর্মচারীকে নিয়মিত করা হইলে সেইক্ষেত্রে উন্নয়ন প্রকল্পে যোগদানের তারিখের ভিত্তিতে জ্যেষ্ঠতা নির্ধারিত হইবে।

(৫) একাধিক উন্নয়ন প্রকল্প হইতে একই পদে দুই বা ততোধিক কর্মকর্তা বা কর্মচারীকে নিয়মিত করা হইলে এবং তাহাদের যোগদানের তারিখ একই হইলে সেইক্ষেত্রে বয়ঃজ্যেষ্ঠতার ভিত্তিতে জ্যেষ্ঠতা নির্ধারিত হইবে।

(৬) নিয়মিতভাবে নিয়োগপ্রাপ্ত কর্মকর্তা বা কর্মচারীর নিয়মিতকরণের তারিখ এবং নিয়মিতকৃত কর্মকর্তা বা কর্মচারীর নিয়মিতকরণের তারিখ একই হইলে সেইক্ষেত্রে নিয়মিতভাবে নিয়োগপ্রাপ্ত কর্মকর্তা বা কর্মচারীগণ নিয়মিতকৃত কর্মকর্তা বা কর্মচারীগণের উপর জ্যেষ্ঠতা পাইবেন।”

Earlier by the memo dated 22.11.2011 the Ministry of Finance denied to allow the ‘time scale’ and ‘selection grade’ of the officers and employees for their service period in the development project. This was challenged before the High Court Division and this Division by the judgment dated 14.05.2012 in writ petition No. 8983 of 2011 directed the respondents to count the seniority for fixation of salary including time scale and selection grade etc. of the writ petitioners. This judgment was challenged before the Appellate Division in CPLA No. 308 of 2013, in which Appellate Division held that,

“In respect of counting the period of service, rule 6 provides that the period in service in the development project will be counted for determining the regularized employees and officers in respect of their salary, leave, pension and other benefits. The expression ‘আনুষঙ্গিক

সুবিধাদি' used in this Rule includes all benefits available to an officer or employee and there is no scope to construe this expression in a restrictive manner. This expression includes salary, leave, pension and other incidental or associated benefits.”

Ultimately the apex Court found that,

“We are of the view that the expression 'আনুষঙ্গিক সুবিধাদি' includes time scale as well.”

With the above observations the Civil Petition for Leave to Appeal was disposed of.

In the Pay Scale of 2009 there were provisions of ‘time scale’ and ‘selection grade’. According to clause 7(7) the first-class officers of IX grade, like the petitioners, are given selection grade subject to completion of 4 years of satisfactory service as well as on the basis of seniority. Since the question of seniority is involved in granting selection grade, Appellate Division rightly did not include the ‘selection grade’ within the ambit of the term 'আনুষঙ্গিক সুবিধাদি', although the reason has not been explicitly stated in the judgment.

Therefore, the judgment of the Appellate Division remains effective so far as the ‘time scale’ is concerned and the issue is finally decided to the effect that, the expression 'আনুষঙ্গিক সুবিধাদি' (incidental benefits) shall include only ‘time scale’ and will not include ‘selection grade’.

By the impugned memo dated 04.11.2021 the Finance Division of Ministry of Finance reopened this matter again stating that, there is no

scope to count the service period during the development projects in granting time scale and selection grade. This memo was issued upon an opinion provided by the Comptroller General of Audits (CGA). The memo is reproduced herein under:

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
অর্থ বিভাগ, অর্থ মন্ত্রণালয়
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নং-০৭.০০.০০০০.১৬৩.৪৫.০৬৯.১২-১২৯

তারিখঃ ১৯ কার্তিক ১৪২৮ বঙ্গাব্দ
০৪ নভেম্বর, ২০২১ খ্রিস্টাব্দ

বিষয়: উন্নয়ন প্রকল্প হতে রাজস্বখাতে স্থানান্তরিত কর্মকর্তা/কর্মচারীদের পেনশন ও আনুতোষিক মঞ্জুরি সংক্রান্ত।

সূত্রঃ হিসাব মহানিয়ন্ত্রক ০৫/১০/২০২১ তারিখের স্মারক নং-০৭.০৩.০০০০.০০৯.৪৫.০০১.২০ (খন্ড-১)-৩০১।

উপর্যুক্ত বিষয় ও সূত্রের প্রেক্ষিতে প্রস্তাবিত বিষয়ে অর্থ বিভাগের নিম্নরূপ সিদ্ধান্ত নির্দেশক্রমে জানানো হলো:

(ক) অর্থ বিভাগের ১৫/১২/২০০৯ তারিখের অম/অবি(বাস্তঃ৪)/বিবিধ-২০(উঃস্কেল)/২০০৭/৯১ নং স্মারক ও ২২/৯/২০১১ তারিখের অম/অবি(বাস্তঃ৪)/বিবিধ-২০(উঃস্কেঃ/২০০৭/(অংশ)/৭৪নং স্মারকের সিদ্ধান্ত মোতাবেক নিয়মিতকরণকৃত পদধারীগণ উন্নয়ন প্রকল্প হতে রাজস্বখাতে স্থানান্তরিত হওয়ার পর শুধুমাত্র রাজস্বখাতের চাকরিকাল গণনা করে প্রাপ্যতা অনুযায়ী এতদসংক্রান্ত বিধি-বিধান অনুসরণে টাইমস্কেল ও সিলেকশন গ্রেড প্রদেয় হবে। উন্নয়ন প্রকল্প হতে রাজস্বখাতে স্থানান্তরিত পদের পদধারীদের উন্নয়ন প্রকল্পের চাকরিকাল গণনা করে অথবা উন্নয়ন প্রকল্পের চাকরিকালের সহিত রাজস্বখাতের চাকরিকাল যুক্ত/গণনাপূর্বক সমষ্টির ভিত্তিতে টাইমস্কেল ও সিলেকশন গ্রেড প্রদেয় নয় এবং

(খ) এ বিষয়ে হিসাব মহানিয়ন্ত্রক কার্যালয়ের ০৫/১০/২০১১ তারিখের ৩৩১নং পত্রের ৫নং অনুচ্ছেদের বিশ্লেষণ অর্থ বিভাগের ১৫/১২/২০০৯ তারিখের ৯১ নং স্মারক ও ২২/৯/২০১১ তারিখের ৭১ নং স্মারকের সিদ্ধান্তের সাথে সংগতিপূর্ণ। উন্নয়ন প্রকল্প হতে রাজস্বখাতে স্থানান্তরিত কর্মচারীগণের উন্নয়ন প্রকল্পের চাকরিকাল অথবা উন্নয়ন প্রকল্পের চাকরিকাল ও রাজস্বখাতের চাকরিকাল একত্রে গণনা করে ইতোপূর্বে টাইমস্কেল ও সিলেকশন গ্রেডে বেতন নির্ধারণ করা হয়ে থাকলে তা সংশোধনযোগ্য। এ ক্ষেত্রে এ বাবদ অতিরিক্ত গৃহীত অর্থ কর্তন বা সমন্বয় করে বেতন নির্ধারণ সংশোধনপূর্বক আনুতোষিক ও পেনশন পরিশোধ করতে হবে।

(এস এম আবদুল্লাহ আল মামুন)
উপসচিব
ফোন: ০২-২২৩৩৮৫৭৩৩

হিসাব মহানিয়ন্ত্রক
হিসাব মহানিয়ন্ত্রকের কার্যালয়
হিসাব ভবন, সেগুনবাগিচা, ঢাকা-১০০০
দৃষ্টি আকর্ষণ: অতিরিক্ত হিসাব মহানিয়ন্ত্রক (পদ্ধতি)।

We have already seen that the Appellate Division already decided that the expression 'আনুষঙ্গিক সুবিধাদি' as mentioned in Rule 6 of the "এসআরও

স্বত্ব of 2005" includes 'time scale', hence, there is no scope for the respondent No. 2 to reopen this issue and create a controversy by denying to give time scale to the regularized employees counting their service period during the project time. This memo is therefore found to be inconsistent and in violation of the judgment passed by the Apex Court. Therefore, we hold that the impugned memo dated 04.11.2021 (Annexure-H) suffers from illegality so far as denying time scale to the regularized employees by counting their service period during the project time is concerned.

Issue no. 2:

Now, we shall determine whether the petitioners before us are eligible to get the relief as has been prayed for in the second part of the Rule i.e. a direction upon the respondents to count the petitioners' service in the development project for the purpose of all admissible and financial benefits including leave, pension, time scale, selection and higher grade.

Since the Appellate Division held that the term 'আনুষঙ্গিক সুবিধাদি' includes 'time scale', there is no scope for the petitioners to claim selection grade counting their service during the project period inasmuch as that, selection grade is given not only on the basis of service period but also on the basis of seniority and according to Rule 5 of the Regulation of 2005 seniority shall be determined from the date of regularization. Admittedly the petitioners' services have been regularized with effect from 01.07.2005 i.e. from the date of absorption into the revenue budget as appears from Annexure-B. Therefore their seniority shall be considered

from that date, not from their joining in the development projects. Consequently, the selection grade cannot be considered for their service period during the development projects. Hence the petitioners' prayer as to their entitlement for 'selection grade' does not have merit.

Issue no. 3:

It is admitted that all the petitioners entered into the project in 1993 and 1994 and they were brought under the revenue budget in 2005 and they have been rendering their valuable services ever since, however, without any promotion.

It appears from the memo dated 02.06.2024 contained in Annexure-E that the petitioners have been given selection grade with effect from 01.07.2005, which is the date when they were absorbed in the revenue budget and they have further been given a higher grade as per the latest Pay Scale of 2015 with effect from 15.12.2015, which is the date of promulgation of the said pay order. It is the claim of the petitioners that by this memo they have been deprived of the benefit as has been provided under the new pay scale order of 2015.

Until 2009 all the Pay Orders contained the provision of 'time scale' and 'selection grade', however no definition of these two terms has been provided. From the corresponding provisions it is understandable that, both time scale and selection grade upgrades an employee's salary scale without changing their official designation or job title. The primary difference lies in how they are awarded. Time scale is granted

automatically to every eligible employee upon completing a specific length of service, at 8, 12 and 15 years. Selection grade, on the other hand, was merit-based and granted to a limited percentage of public servants based on performance evaluation and seniority. The new pay scale of 2015 abolished the terms ‘time scale’ and ‘selection grade’ instead introduced the term ‘higher grade’. The relevant provision of National Pay Order of 2015 is quoted below:

৭। “উচ্চতর গ্রেডের প্রাপ্যতা ১-(১) কোন স্থায়ী কর্মচারী পদোন্নতি ব্যতিরেকে একই পদে ১০ (দশ) বৎসর পূর্তিতে এবং চাকরি সন্তোষজনক হওয়া সাপেক্ষে, স্বয়ংক্রিয়ভাবে ১১তম বৎসরে পরবর্তী উচ্চতর গ্রেডে বেতন প্রাপ্য হইবেন।”

(২) “কোন স্থায়ী কর্মচারী তাহার চাকরির ১০ (দশ) বৎসর পূর্তিতে উচ্চতর গ্রেডে বেতন প্রাপ্তির পর পরবর্তী ৬ (ছয়) বৎসরে পদোন্নতি প্রাপ্ত না হইলে ৭ম বৎসরে চাকরি সন্তোষজনক হওয়া সাপেক্ষে, স্বয়ংক্রিয়ভাবে পরবর্তী উচ্চতর গ্রেডে বেতন প্রাপ্য হইবেন।”

(৩) “উপ-অনুচ্ছেদ (১) ও (২) এ উল্লিখিত আর্থিক সুবিধা বেতনস্কেলের ৪র্থ গ্রেড পর্যন্ত প্রযোজ্য হইবে এবং ৪র্থ গ্রেড বা তদুর্ধ্ব গ্রেডের কোন কর্মচারী এই সুবিধা গ্রহণপূর্বক এই আদেশের অধীন ৩য় গ্রেড বা তদুর্ধ্ব গ্রেডে বেতন প্রাপ্য হইবেন না।”

(৪) “কোন কর্মচারী দুই বা ততোধিক সিলেকশন গ্রেড স্কেল বা উচ্চতর স্কেল (টাইম স্কেল) বা কোন স্কেলের সর্বোচ্চসীমায় পৌঁছাইবার ১ (এক) বৎসর পর পরবর্তী উচ্চতর স্কেল প্রাপ্ত হইয়াছেন তিনি এই অনুচ্ছেদের অধীন উচ্চতর গ্রেড প্রাপ্য হইবেন না।”

From plain reading of these provisions it is clear that, on successful completion of ten years of service without promotion an employee shall be entitled to get a higher grade and if no promotion is given during the 10 (ten) years they shall be given another higher grade on the completion

of following 6(six) years i.e. after completion of 16(sixteen) years of service. It is also clearly spelt out that, this privilege shall be granted only for the employees up to the 4th grade and employees of grade above that will not come under the purview of this provision of higher grade. Last but not the least, in sub clause (4) it has been provided that, if any employee receives two or more selection grades or higher scale (time scale) or receives the next higher scale within the completion of 1 (one) year of reaching the highest limit of that scale, they shall not be eligible to get any higher grade as per this provision.

After promulgation of the latest Pay Scale of 2015, a circular was issued on 21.09.2016 by the Finance Division, which was challenged in Writ Petition No. 1300 of 2016 alleging that para 'ga' of that circular is inconsistency with the provision of clause 7(1) of the Pay Order of 2015; that the circular has expressly amended the provision of the Pay Order by prescribing that, employees, who were allowed one time scale would not be entitled to the benefits of higher scale on completion of 10 years service in one post and thereby putting an embargo upon the said benefits for those who were already allowed one time scale. By the judgment dated 04.01.2017 the Rule issued in the writ petition was made absolute and the circular was declared to have been issued without lawful authority and is of no legal effect. This judgment was upheld by the Appellate Division in Civil Appeal No. 23-24 of 2020 by the judgment dated 30.04.2025.

The law is therefore very clear and there is no ambiguity that employees who have served 16 (sixteen) years of service without any promotion shall be eligible to get two higher grades as per the new pay order of 2015 and employees who have received two or more selection grades or higher grades, shall not be eligible to get any higher grade under this new pay scale. We have seen from the documents annexed in the writ petition that petitioners before us joined the project in the year of 1993 and 1994 respectively and therefore, they have completed required 16(sixteen) years of service long ago and we have also found from the memo dated 02.06.2024 (Annexure-E) that, they have been given one selection grade to grade VII with effect from 01.07.2005 in view of the judgment given by the Appellate Division in CPLA No. 308 of 2013. We find that there is no illegality in giving selection grade from that date. However, the petitioners' further claim is that they are entitled to two higher grades as per para-7(1) and (2) of new Pay Order of 2015 and in the light of the judgment passed by the Appellate Division in Civil Appeal No. 23-24 of 2020. It is evident that, by the memo dated 02.06.2024 they have already been given one higher grade as per the new pay order of 2015. Hence, they are only entitled to get another higher grade as per Clause 7 (4) of the new Pay Order of 2015.

In the view of the discussion and findings made hereinabove, we find that the instant Rule shall be disposed of in the following manner:

The impugned order dated 04.11.2021 issued under the memo No. 07.00.0000.163.45.069.12-129 dated 04.11.2021 issued by the Ministry of

Finance is hereby declared without lawful authority so far relates to the rejection of providing time scale to employees regularized from the revenue project. Moreover, since the petitioners have received one selection grade under the pay order of 2009 and another higher grade under the latest pay order of 2015, they shall be entitled to get one more higher grade as per clause 7 (4) of the National Pay Order of 2015 and in view of the judgment given by the Appellate Division in Civil Appeal No. 23-24 of 2020.

In the result, the Rule is disposed of.

However, there will be no order as to costs.

Before parting this Court is constrained to observe that the issue is no longer *res integra*. The Appellate Division has authoritatively held that the expression ‘other ancillary benefits’ includes the benefit of time scale. The interpretation so rendered is binding upon all authorities under Article 111 of the Constitution. Notwithstanding such authoritative pronouncement, the respondents have chosen to reiterate the very contention that stands concluded by the decision of the Apex Court. Such an approach is wholly untenable in law and betrays a disregard for the doctrine of judicial precedent, thereby compelling the aggrieved employees to undertake avoidable litigation.

It is expected that the respondents and all authorities concerned shall faithfully implement the law declared by the Appellate Division in its true letter and spirit and shall refrain from taking positions inconsistent

therewith, so that unnecessary litigation at public expense may be avoided.

This Court record its strong disapproval of the respondents attempt to reopen, through executive action, an issue that has already attained finality by virtue of the judgment of the Appellate Division. Such a course of action is incompatible with the constitutional mandate embodied in Article 111 of the Constitution.

Let a copy of this judgment and order be communicated to the concerned authorities concerned at once.

Justice Sashanka Shekhar Sarkar, J:

I agree.