



2026:AHC-LKO:21249

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 3130 of 2026

Vivekanand Pandey

.....Petitioner(s)

Versus

Director Rajya Krishi Utpadan Mandi Parishad
U.P. Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Rajiv Srivastava, Avadhesh Kumar Singh
Counsel for Respondent(s)	: Surendra Kumar Singh

Court No. - 17

HON'BLE RAJEEV SINGH, J.

1. Heard.

2. This petition has been filed with the following prayer:-

"(i) To issue a writ, order or direction in the nature of mandamus directing the opposite parties to consider and allow the petitioner the conversion of pay from 4th pay to 5th from 1.1.1996 and 6th pay from 1.1.2006 and allow all the benefits of salary as per admissible in law considering the services of the deponent in regular scale of pay for the post.

(ii) To issue a writ, order or direction in the nature of Mandamus directing the opposite parties to pay to the petitioner, all the arrears of salary with interest."

3. Learned counsel for the petitioner submits that benefit of the salary, which was given by the 5th and 6th Pay Commission, has not been paid to the petitioner. He further submits that identical the controversy has already been decided by this Court in Writ-A No. 614 of 2020 (Udaiveer Singh Vs. State of U.P.) vide order dated 13.02.2025 issuing a writ of Mandamus to the authorities to extend the benefit of 5th and 6th Pay Commission to the petitioner concerned, who was employee of Mandi Parishad, within a period of 2 months from the date of receipt of that order. Thereafter, Special Appeal was preferred by the Mandi Parishad, U.P., i.e., Special Appeal No. 116 of 2025, which was dismissed by the Division Bench of this Court vide order dated 21.03.2025. He next

submits that a Special Leave to Appeal (C) No. 17710 of 2025 was also filed by Mandi Parishad before Hon'ble Supreme Court, and the same was also dismissed by means of order dated 21.07.2025. Thus, the submission is that as the petitioner is entitled for the aforesaid benefit, indulgence of this Court is required.

4. Learned counsel for the respondents does not dispute regarding the judgements of Hon'ble Supreme Court as well as this Court.

5. Considering the submissions of learned counsel for the parties and perusing the record, it is evident that identical controversy has been decided by this Court in Writ-A No. 614 of 2020 vide order dated 13.02.2025. The order dated 13.02.2025 is as under:-

"1. Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of respondent No.1 and Shri N.C. Mehrotra, learned counsel appearing on behalf of respondent Nos.2 to 4.

2. Under challenge is the order dated 31.12.2019, a copy of which is annexure 1 to the petition, whereby the claim of the petitioner for being given the benefits of the 5th and 6th Pay Commission has been rejected.

3. Further prayer is for a mandamus commanding the respondents to provide the benefits of the 5th and 6th in the pay scale of Rs.3050-4590 and Rs.5200-20200 respectively to the petitioner.

4. It is contended by the parties that at an earlier stretch of time, the petitioner, being aggrieved with an order dated 04.04.2015, a copy of which is annexure 8 to the petition, whereby the claim of the petitioner for being granted the benefit of the 5th and 6th Pay Commission had been rejected, had approached this Court by filing Writ Petition No.2305(S/S) of 2015 in Re: Udaiveer Singh vs. State of U.P. and Others.

5. This Court, after detailed hearing and considering the arguments of the respective parties, had passed the judgment and order dated 30.08.2019, a copy of which is annexure 9 to the petition. As the said judgment would have a direct bearing on the order impugned, consequently, for the sake of convenience, the said order is reproduced below:

"Heard learned counsel for the petitioner, learned Standing Counsel appearing for respondent no. 1 and Sri N.C. Mehrotra, learned counsel appearing for respondent nos.2 to 4.

The petitioner being aggrieved with the order dated 4.4.2015 passed by respondent

no.2, a copy of which is Annexure-1 to the petition, is before this Court. By the said order, the claim of the petitioner for being extended the benefits of 5th and 6th Pay Commission has been rejected on certain grounds. A further prayer is for a mandamus commanding the respondents to grant the benefit of the 5th Pay Commission in the pay scale of Rs.3050-4590 with effect from the due date as well as revision of the 6th Pay Commission in the pay scale of Rs.5200-20200 along with Grade Pay of Rs.1900 with effect from due date and provide all attendant benefits as admissible to the petitioner.

The case set forth by the petitioner is that he was appointed as Mandi Assistant on 18.11.1995 on a Class IV post. A copy of the appointment order is Annexure-2 to the petition. The appointment of the petitioner was in the pay scale of Rs.775-1025 with a probation period of one year. In pursuance to the appointment order the petitioner submitted his joining on 22.11.1995. Thereafter the petitioner was confirmed on the said post by means of order dated 27.06.1999, a copy of which is Annexure-3 to the writ petition. The confirmation order of the petitioner reads that he is being confirmed on the post of Mandi Assistant in the pay scale of Rs.950-1500. Subsequently the petitioner continued to work on the post of Mandi Assistant. However, when he was not given the benefit of the 5th and 6th Pay Commission, he represented to the respondents for being given the said benefits but the respondents by means of the impugned order dated 04.04.2015 rejected the claim of the petitioner. Being aggrieved with the said order and on account of not being given the benefits of the 5th and 6th Pay Commission, the present petition has been filed.

Learned counsel for the petitioner contends that the impugned order dated 04.04.2015 rejecting the claim of the petitioner for being given the benefits of the 5th and 6th Pay Commission indicates that taking into consideration the Government Orders dated 21.12.2011 and 27.01.2011, only those appointments could be regularized which were made prior to 29.06.1991 and the petitioner having been appointed after 29.06.1991, no permission for regularization had been granted by the Government and consequently the appointment of the petitioner with effect from 22.11.1995 cannot be treated to be regular so as to entail him for being given the benefits of 5th and 6th Pay Commission.

Learned counsel for the petitioner contends that the order dated 04.04.2015 whereby the claim of the petitioner for being given the aforesaid benefits has been rejected patently reflects non-application of mind inasmuch the appointment order and the confirmation order of the petitioner dated 27.06.1999 still continues to exist and consequently there is no occasion for the respondents to treat the petitioner as not

regularized so as to dis-entitle him for being given the aforesaid benefits.

On the other hand, Sri N.C. Mehrotra, learned counsel for respondents on the basis of averments contained in the short counter affidavit argues that as the appointment and subsequent regularization of the petitioner was against the relevant Government orders as referred to in the impugned order and it is only subsequently that the State Government had accorded permission on 21.08.2015 that various persons including the petitioner who were recruited up to 31.03.1996 were regularized by a duly constituted Committee. In the case of the petitioner a regularization order has been issued vide letter dated 20.11.2015, a copy of which has been filed as Annexure D-1 to the short counter affidavit. It is contended that as now the petitioner has been treated as regularized with effect from 20.11.2015 consequently there is no occasion for the respondents to grant any benefits to the petitioner taking into consideration his earlier appointment and the confirmation order dated 27.06.1999. Thus, it is contended that the impugned order of rejection has correctly been passed and the writ petition being misconceived merits to be dismissed.

On previous date i.e. 31.07.2019, Sri N.C. Mehrotra, learned counsel, was required to seek instructions as to whether the order dated 4.4.2015 has been cancelled or still continues to exist.

Today, Sri Mehrotra on the basis of instructions submits that the order dated 04.04.2015 has been cancelled vide order dated 29.08.2019.

Having heard learned counsel for the contesting parties and having perused the records what clearly comes out is that the petitioner after his appointment in the year 1995 has been confirmed as Mandi Assistant vide order dated 27.06.1999, a copy of which is Annexure-3 to the petition. The said order still continues to exist. The regularization order as has been passed by the respondents dated 20.11.2015 regularizing the services of the petitioner with effect from the date he takes over the charge in pursuance to the said order i.e. in November reflects patent non-application of mind inasmuch as once the confirmation order of the petitioner already continues to exist consequently there was no occasion for the respondents to have issued the order dated 20.11.2015. Be that as it may, the fact of the matter remains that the claim of the petitioner for grant of benefits of the 5th and 6th Pay Commission which was rejected by means of the impugned order dated 04.04.2015 already stands withdrawn by the respondents themselves through the order dated 29.08.2019. Thus, the confirmation order of the petitioner dated 27.06.1999 which still continues to exist would entail the petitioner for being given the aforesaid benefits of the 5th and 6th Pay Commission.

Accordingly taking into consideration the aforesaid discussion the writ petition is disposed of with a direction to the respondents to consider the claim of the petitioner for being given the benefits of the 5th and 6th Pay Commission with effect from the due date along with all attendant benefits.

Let such consideration be done within a period of three months from the date of receipt of a certified copy of this order."

6. From a perusal of the aforesaid order, it emerges that during pendency of the petition of the petitioner itself, the respondents had withdrawn the order dated 04.04.2015 by means of an order dated 29.08.2019 yet despite the petitioner having been confirmed as Mandi Assistant vide order dated 27.06.1999, the respondents were of the view that as the petitioner has been regularized vide order dated 20.11.2015, consequently, he would not be entitled for the benefit of the 5th and 6th Pay Commission.

7. The subsequent order of regularization dated 20.11.2015 did not find favour with the writ Court and the writ Court was of the view that as the confirmation order of the petitioner dated 27.06.1999 still continues to exist, the same would entail the petitioner for being given the aforesaid benefits of the 5th and 6th Pay Commission and accordingly, the writ petition was disposed of with a direction to the respondents to consider the claim of the petitioner for being given the benefits of the 5th and 6th Pay Commission with effect from the due date.

8. Learned counsels for the contesting parties state that the aforesaid judgment has attained finality and it was not challenged by either of the parties.

9. Thus, it is apparent that the judgment and order dated 30.08.2019, as passed by writ Court, has attained finality between the parties.

10. In pursuance to the direction issued by the writ Court dated 30.08.2019, the respondents had passed the order impugned dated 31.12.2019 whereby, on the basis of the order dated 20.11.2015 i.e. the petitioner having been regularized subsequent to his confirmation order dated 27.06.1999, the claim of the petitioner has been rejected.

11. Shri N.C. Mehrotra, learned counsel for the respondents No.2 to 4, while supporting the order dated 31.12.2019, has argued that as the confirmation of the petitioner dated 27.06.1999 had been done by an incompetent authority and was against the service rules, consequently, even if the said confirmation order had been passed and still continues to exist as of date, the petitioner cannot derive any benefit therefrom more particularly considering the regularization order dated 20.11.2015.

12. The aforesaid argument of Shri Mehrotra is found to be patently fallacious and

misconceived. The reasons are that the judgment and order dated 30.08.2019, as passed by the writ Court, has attained finality between the parties in which the writ Court, as already indicated above, has specifically indicated that as the confirmation order of the petitioner dated 27.06.1999 still continues to exist, the same would entail the petitioner for being given the aforesaid benefits of the 5th and 6th Pay Commission. Once the order has attained finality and the Mandi Parishad i.e. respondent(s) did not deem it fit to challenge the aforesaid finding of the writ Court, consequently, it is too late in the day for them to deny the petitioner the benefit of the confirmation order dated 27.06.1999 on the basis of regularization order dated 20.11.2015 more particularly when these aspects of the matter have already been considered by the writ Court vide judgment and order dated 30.08.2019 and the same has attained finality between the parties.

13. Keeping in view of the aforesaid discussion, the writ petition is allowed. A writ of mandamus is issued commanding the respondents to extend the benefit of the 5th and 6th Pay Commission to the petitioner. The said benefits would be extended to the petitioner within a period of two months from the date of receipt of a certified copy of this order.

14. Before parting with the case, the Court may consider the peculiar fact that the respondents even now profess to state that the confirmation order dated 27.06.1999 had been passed against the rules yet no action has been taken against the officer who had passed the order impugned and even as of date, the confirmation order dated 27.06.1999 still continues to exist and no action has been taken by the respondents even subsequent to the order of the writ Court dated 30.08.2019 for withdrawing the aforesaid illegal order, if any. Consequently, it is open for the respondent No.1 to initiate an inquiry against the officers who were responsible for such lapses in the Mandi Parishad. In case the inquiry is conducted, it would be open for the respondents to recover the amount, which is payable to the petitioner, from such officers who were found responsible for having passed the order dated 27.06.1999 which has resulted into payment of dues to the petitioner."

5.1. The aforesaid order was challenged before Division Bench of this Court in Special Appeal No. 116 of 2025 and the same was dismissed vide order dated 21.03.2025. The order dated 21.03.2025 is as under:-

"1. Heard Shri Sudeep Seth, learned Senior Counsel along with Shri Aditya Mohan, learned counsel for the appellants, Shri Anand Singh, learned Additional Chief Standing Counsel for the State and Shri Ashwani Kumar and Shri Avinash Sahu,

learned counsel for the private-respondent No.2.

2. The appellants have assailed the impugned judgment dated 13.02.2025 passed by the learned Single Judge in WRIT-A No.614 of 2020 [Udaiveer Singh v. State of U.P. and others], whereby the learned Single Judge while allowing the writ petition issued a direction commanding the appellants (who were respondents in writ petition) to extend the benefit of 5th and 6th Pay Commission to the private-respondent No.2 (who was the writ petitioner), payable within a period of two months from the date of receipt of a certified copy of the order.

3. Learned Senior counsel for the appellants, in furtherance of the order dated 20.03.2025 passed by this Court, has filed a supplementary affidavit, which is taken on record.

4. Learned Senior Counsel for the appellants while attacking the impugned order dated 13.02.2025 submitted that the private-respondent No.2 (the writ petitioner) was not entitled to the 5th and 6th Pay Commission.

It is pointed out that a specific plea was taken that the private-respondent No.2 was regularized in service only vide order dated 20.11.2015 and for the said reason, he could not be eligible for grant of 5th and 6th Pay Commission.

5. It is also urged that the private-respondent No.2 was appointed on ad hoc basis in the year 1995 along with seven other persons. It was specifically noted then that since regular appointment would take time, hence, in order to meet the target, the private-respondent No.2 and seven other persons were appointed on ad hoc basis with the approval of the Director.

6. It is further submitted that an ad hoc employee can only be regularized on the post subject to adherence to the relevant Government Orders and regularization Rules. This aspect of the matter has not been considered by the learned Single Judge, who has merely relied upon the earlier order passed in Writ Petition No.2305 (S/S) of 2015. It is submitted that the grounds which were raised have not been dealt with and the learned Single Judge has been influenced by the earlier order dated 30.08.2019.

7. It is further submitted that the learned Single Judge has relied upon a letter dated 27.06.1999, which is the basis for holding that the private-respondent No.2 was confirmed vide the said letter. However, it is urged that the said letter was issued by an incompetent authority and against the service Rules, hence, no benefit of the said order could be extended to the private-respondent No.2. The private-respondent No.2 was regularized vide order dated 20.11.2015 and all benefits can only be made available to the private-respondent No.2 from the date of regularization and not from 27.06.1999 especially when the alleged confirmation order was issued by an

incompetent authority and it was non-est. Apart from the fact that if the impugned order is allowed to stand, it shall saddle the appellants with grave financial implications, hence, it deserves to be set aside.

8. Learned Senior Counsel for the appellants has urged that this aspect has not been considered by the learned Single Judge nor it has adverted to the consequences of an order issued by an incompetent authority which has been considered by the Apex Court in State of Punjab v. Jagdip Singh and others, 1963 SCC OnLine 98 (SC). In view thereof, the order impugned suffers from a manifest error and deserves to be set aside after allowing the intra-Court appeal.

9. Per contra, learned counsel for the private-respondent No.2 has pointed out that the private-respondent No.2 was appointed on the post of Mandi Assistant on 18.11.1995 with a probation period of one year. The private-respondent No.2 gave his joining and thereafter a letter was issued on 27.06.1999, whereby he was confirmed on the said post. Since then, the private-respondent No.2 has continued to work on the post of Mandi Assistant. However, he was not extended the benefit of 5th and 6th Pay Commission for which he had represented with the authorities concerned and he had to approach this Court on an earlier occasion, whereby in the first instance, the writ petition of the private-respondent No.2 was disposed of with a direction to the authorities to consider and decide the pending representation of the writ petitioner.

10. In furtherance thereof, the authorities rejected the claim of the private-respondent No.2 on 04.04.2015 which prompted him to assail the said order by filing another writ petition. The learned Single Judge in Writ Petition No.2305 (S/S) of 2015, after considering the rival submissions, disposed of the said writ petition vide order dated 30.08.2019 with a direction to the Mandi Authorities to consider the claim of the private-respondent No.2 for being given the benefit of 5th and 6th Pay Commission with effect from the due date along with all attending benefits.

11. However, despite the direction, the appellants did not comply with it rather by an order dated 31.12.2019, the claim of the private-respondent No.2 was rejected. This led the private-respondent No.2 to file WRIT-A No.614 of 2020, which has been allowed by means of the impugned order dated 13.02.2025 which has been challenged by the appellants in the instant intra-Court appeal.

12. It is urged that in the aforesaid backdrop the grounds which have been taken by the appellants was already considered and rejected by the Court as shall be evident from the order passed in the earlier Writ Petition No.2305 (S/S) of 2015. It is also submitted that the appellants are not entitled to raise the same issues which had already been considered in the earlier writ petition. Moreso, when the said order was

not challenged and it attained finality. Accordingly, it is no more open for the appellants to indirectly challenge the earlier orders dated 30.08.2019 passed in Writ Petition No.2305 (S/S) of 2015 by resorting to this mechanism of filing this intra-Court appeal. Accordingly, this instant intra-Court appeal deserves to be dismissed.

13. This Court has heard the learned counsel for the parties and also perused the material available on record.

14. This Court finds that the private-respondent No.2 has been claiming benefits of the 5th and 6th Pay Commission since long. Earlier, he had preferred a Writ Petition No.6737 (S/S) of 2014, which was disposed of by means of the order dated 24.11.2014 with a direction that the claim of the private-respondent No.2 for grant of 5th and 6th Pay Commission be considered. In furtherance of the said order, the representation of the private-respondent No.2 came to be rejected on 04.04.2015. This came to be challenged by him by filing Writ Petition No.2305 (S/S) of 2015.

15. The learned Single Judge in its order dated 30.08.2019 passed in Writ Petition No.2305 (S/S) of 2015 had considered the respective submissions of the parties threadbare and thereafter recorded a finding that the private-respondent No.2 was entitled to the benefit of confirmation order dated 27.06.1999 and he would also be entitled to the recommendations of 5th and 6th Pay Commission. Learned Single Judge while passing the order dated 30.08.2019 in Writ Petition No.2305 (S/S) of 2015 had also taken note of the contentions of Mandi Authorities that the alleged letter of confirmation dated 27.06.2019 was not passed by the competent authority.

16. Since, the representation of the private-respondent No.2 was rejected once again vide order dated 31.12.2019, the same came to be challenged in WRIT-A No.614 of 2020. The learned Single Judge found that the order dated 30.08.2019 had not been assailed and, therefore, it relied upon the earlier order and recorded a finding that since the issues which have been raised by the Mandi Authorities in the instant writ petition were the same issues, which were raised and decided by the Court in its earlier order dated 30.08.2019, hence, the contentions of the Mandi Authorities were rejected and the writ petition was allowed. Further, a direction was issued commanding the Mandi Authorities to extend the recommendations of 5th and 6th Pay Commission to the writ petitioner.

17. It is not disputed that the order of confirmation dated 27.06.1999 has not been set aside or recalled by the authorities even till date. If at all, the authorities found that the order was not appropriate, it was open for the authorities to have recalled the said order. Instead, the Mandi Authorities have repeatedly rejected the representation of the private-respondent No.2 but did not recall the order dated 27.06.1999.

18. Significantly, the order passed by the learned Single Judge dated 30.08.2019 in Writ Petition No.2305 (S/S) of 2015 was very categoric and it took note of all the issues which are sought to be raised here and it was turned down.

19. It is not disputed by the appellants that the order dated 30.08.2019 passed by the learned Single Judge was never challenged and attained finality. Once, the said order was not challenged, it become binding on the authorities and they could not ignore the same. Since, a positive finding had been recorded by the learned Single Judge in its order dated 30.08.2019 which was not challenged and it attained finality, hence, it was not appropriate for the appellants to reject the representation of the writ petitioner denying him the benefit of the 5th and 6th Pay Commission.

20. From the perusal of the impugned order, it would reveal that the submissions of the learned Senior Counsel for the appellants to suggest that the contentions of the appellants were not taken note of by the learned Single Judge is incorrect inasmuch as the learned Single Judge has not only considered the submissions advanced, but also took note of the earlier order dated 30.08.2019 which had attained finality and then allowed the petition

21. There is another way to look at the admitted facts and the record would reveal that the learned Single Judge had recorded a positive finding in favour of the private-respondent No.2 in its order dated 30.08.2019 passed in earlier writ petition and it is in furtherance thereof the Mandi Authorities were required to pass a consequential order, but they rejected the claim of the private-respondent No.2 which prompted him to file WRIT-A No.614 of 2020 and in such circumstances where a positive finding was existing including the confirmation order dated 27.06.1999, nothing was left except to issue such a direction so that the private-respondent No.2 would be entitled to the benefit to the order passed by the learned Single Judge.

22. This Court further observes that it is not as if that the Mandi Authorities were not aware of the order dated 27.06.1999 and they had been repeatedly rejecting the claim of the private-respondent No.2, but they did not take any step for recalling the order dated 27.06.1999 nor any effort was made to challenge the order dated 30.08.2019 passed by the Court in Writ Petition No.2305 (S/S) of 2015. Hence, at this late stage, where the initial order was not challenged now indirectly an attempt is made to overreach the earlier order dated 30.08.2019 passed by the writ Court, through this intra-Court appeal which cannot be appreciated, hence, the submissions of the learned Senior Counsel for the appellants do not impress this Court.

23. So far as the reliance placed on the decision of the Apex Court in Jagdip Singh (supra) is concerned, the proposition is not disputed but it is not applicable to the

facts of the instant case. The order dated 27.06.1999 which is said to be without authority has not been recalled rather only the consequences are denied to the private-respondent No.2, despite the order dated 27.06.1999 being intact, hence, no benefit can be derived from the proposition as pressed by the learned Senior Counsel for the appellants.

24. We are of the considered opinion that in the given facts and circumstances of the case, the impugned order dated 13.02.2025 passed by the learned Single Judge in WRIT-A No.614 of 2020 cannot be faulted, therefore, the intra-Court appeal lacks merits and is accordingly dismissed. Costs are made easy."

5.2. It is also evident that the Special Leave to Appeal was also filed before Hon'ble Supreme Court, which was also dismissed by means of order dated 21.07.2025. Accordingly, the present writ petition is **disposed of** with liberty to the petitioner to move representation before Director, Rajya Krishi Utpadan Mandi Parishad, U.P., within a period of six weeks from today. In case such application/representation is moved, the Director is directed to decide the representation of the petitioner by a reasoned and speaking order after considering the aforesaid judgment passed by this Court in the identical matter.

(Rajeev Singh,J.)

March 24, 2026

Arpan