

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1815/1987
T.A. No.

9

198

DATE OF DECISION 21. 12. 90.

Shri J.M.Joshi & Others.

Petitioner

Shri G.D.Gupta,

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri N.S.Mehta,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P. G. Jain, Member (Administrative)

The Hon'ble Mr. J.P. Sharma, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ys*
2. To be referred to the Reporter or not? *Ys*
3. Whether their Lordships wish to see the fair copy of the Judgement? *W*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

MGIPRRND-12 CAT/86-3-12-86-15,000

J.P. Sharma
(J.P. Sharma)
Member (Jud.)

P.C. Jain
(P.C. Jain)
Member (Admn.)

Central Administrative Tribunal
Principal Bench: New Delhi.

Regn. No. OA-1815/1987

Date of Decision: 21.12.90.

Shri J.M. Joshi & Others.

.... Applicants.

Vs.

Union of India & Ors.

.... Respondents.

For the applicants

.... Shri G.D. Gupta,
Advocate.

For the respondents

.... Shri N.S. Mehta,
Advocate.

CORAM: Hon'ble Shri P.C.Jain, Member (Admn.)
Hon'ble Shri J.P.Sharma, Member (Judl.)

JUDGEMENT

(Delivered by Hon'ble Shri J.P.Sharma)

The applicant, Shri J.M.Joshi and 7 others, who are Civilian Ministerial Staff in Central Reserve Police Force (hereinafter referred to as, CRPF), filed this application under Section 19 of the Administrative Tribunals Act, 1985 to redress their grievance of not getting the same scale of pay as has been given to such erstwhile Civilian Ministerial Staff who were combatised in 1981. The applicants claimed the relief to issue an appropriate direction declaring the applicants entitled to the same scale as is being given to such Civilian Ministerial Staff who were combatised with effect from 11.6.1987 with all consequential benefits like arrears of pay and allowances etc.

2. The facts of the case are that the applicants are, at present, employed in various posts which fall within the category of Civilian Ministerial Staff in CRPF. The applicants are governed by the corresponding rules applicable to Central Government employees, while the combatised members of the CRPF are governed by CRPF Act and Rules made thereunder. In 1981, the Government converted certain Civilian/Ministerial posts (non-gazetted) into combatisation and as a result thereof, the concerned Civilian staff were asked to give option for combatisation. Even after combatisation such incumbents who

opted for combatisation were to retain the existing scales of pay and for the purpose of recruitment/appointment, seniority and promotion, were to be governed by the eligibility conditions provided for in the then Recruitment Rules in respective rank/grade. However, it is made clear by para 7 of the order dated 11.3.1981 (Annexure-B) that by and large, the duties presently being performed by the Ministerial staff will continue to be performed even in future and even after combatisation. It is further stated that only those who were combatised only their designations are changed, for example, a UDC after combatisation was called as S.I. The duties, however, of the S.I. and the UDC remained the same. (Annexure-C). Not only this, according to the applicants, the seniority of Civilian Ministerial staff both combatised and non-combatised continued to be one and combined and promotion to the higher posts and confirmation to the posts held are made from that joint seniority list, irrespective of the fact whether an incumbent belongs to combatised category or to a non-combatised category. Further, it is stated that the Civilian Ministerial Staff, like the applicants are also posted in duty battalions deployed in operational areas like Punjab, North Eastern Region etc. (Annexure-E). The other similar organisations like BSF, ITBP, CISF, the combatised and non-combatised civilian ministerial staff are having separate seniority list and promotional prospects unlike that of CRPF. The applicants are those who did not opt for combatisation and they are continuing as Civilian Ministerial Staff in various posts. The only difference between the two categories of Civilian Ministerial Staff was regarding the certain additional facilities, like ration money, free family accommodation, free uniform, washing allowance, increased earned leave etc. The 4th Pay Commission made recommendations in para 10.258 of its report which is as follows: -

"10.258. In order to have a uniform code of

discipline in the forces, ministerial staff has been combatised. The non-gazetted ministerial staff belonging to Groups B, C and D in CPQ has been combatised and given general duty ranks and allowances like ration allowance, free uniform washing allowance, compensation in lieu of quarter etc. In BSF and CRPF pay scales applicable to the corresponding general duty ranks have not been given. Due to combatisation the retirement age gets reduced by three years in respect of group B and C non-gazetted employees and these two organisations have suggested that the age of superannuation may be retained at 58 years even after combatisation. Ministry of Home Affairs have referred the matter for commission's consideration. We are of the view that it is desirable that after combatisation all its consequences should follow and we recommend accordingly."

From the above it is evident that 4th Pay Commission did not say anything about the pay scale to be given to such civilian staff who had not opted for combatisation. On the basis of the 4th Pay Commission report, the civilian/ministerial staff who were combatised were not given the same revised scale as was given to D.G. Personnel with effect from 1.1.1986. The civilian/ministerial staff who had not opted for combatisation, the applicants, were not given the same scale as was given on 1.1.86 to G.D. Personnel and were given the scale as was given to combatised civilian ministerial staff (Annexure-I). However, vide order dated 11.6.1987 (Annexure-J), the scales which were prescribed for G.D. Personnel were extended to such Civilian Ministerial staff who were combatised. As a result of this, the Civilian Ministerial Staff who did not opt for combatisation are being given the lesser scale than the one which has been ordered to be given by the orders dated 11.6.1987 to such Civilian Ministerial Staff who were combatised. The applicants made representations (Annexure K & L). The respondents gave reply (Annexure-M) stating therein that there is no anomaly, as alleged by the applicants, as the nature of duties of the combatised staff were neither akin to nor similar with that of non-combatised staff of equal status and by virtue of combatisation of the posts, the duties were not analogous nor the pay scales were identical and as such, the request of the applicants could not be accepted.

Being aggrieved by this, the applicants have filed this application claiming equal pay scales with the combatised civilian/Ministerial staff of CRPF.

3. The respondents in their written reply contested the claim of the applicant. It has been stated that though both combatised and non-combatised Ministerial Staff are performing clerical duties, the degree of utility of work of the combatised staff, to the Force, is substantial and important. Besides, the combatised Ministerial Staff have to bear the strain, of course, of training as prescribed and they will be abiding by the rigorous discipline as an Armed Force under CRPF Act, 1949 and rules of 1955, and also their retirement age has been reduced to 3 years in respect of Group 'C' and 5 years in respect of Group 'D' employees. It is further stated that normally combatisation should not ^{change the} range and gamut of duties of combatised Ministerial Staff in the ordinary course. Of ^{the} what should be done in a grave emergency is entirely a matter in discretion of the officer in control. (Annexure-1). Further it is stated that though both combatised and non-combatised Ministerial Staff have to perform the clerical duties, yet the combatised Ministerial Staff can be entrusted with the duties in the field also in the emergency as and when required as provided in DTE GENL.CRPF. New Delhi's S.O.No.1/1981-Adm. by virtue of their training in weapon-handling, imparted to them after their combatisation/enlistment. The respondents have admitted the joint seniority list of both combatised and non-combatised Ministerial Staff but it is only with an idea as not to put either of the categories of personnel in an disadvantageous position. Further, the respondents pointed out that the applicants have omitted to mention regarding the accumulation of leave in respect of combatised Ministerial Staff which is only 120 days against 180 days (now 240 days) in respect of non-combatised staff.

The respondents have further stated that although the combatised Ministerial Staff continued to perform clerical duties but they faced certain disadvantages as discussed below, which were subsequently realised by the 4th Pay Commission and ultimately their pay scales have been enhanced at par with executive personnel: -

- i) Curtailment in the length of service, 3 years in respect of Group 'C' post and 5 years in respect of 'Group 'D' post, due to reduction in superannuation age from 58/60 to 55 years, thereby resulting in great loss in pay and allowances and other perks.
- ii) Reduction in retiring age robs the privileges like Government accommodation, LTC, Medical facilities etc. for 3/5 years.
- iii) Reduction in limit of maximum accumulation of Earned Leave from 180 days (now 240 days) to 120 days, thereby loss of leave encashment on retirement/death.
- iv) Reduction in the rate of pension as persons appointed at the age of 22-25 years cannot render 33 years qualifying service due to change of superannuation age from 58/60 to 55 years.
- v) To bear the strain of course of training which the combatised Ministerial Staff have to undergo.
- vi) Abiding by the rigorous discipline of an Armed Force under CRPF Act, 1949 and CRPF Rules, 1955.

It is further stated by the respondents that the combatised Ministerial Staff have been allowed higher pay scales as applicable to the corresponding general duty ranks mainly because the reduction in their retiring age from 58/60 to 55 years and disadvantages faced by them as a result of combatisation.. It is further stated that the nature of by virtue of their rank and status conferred upon them duties of combatised Ministerial Staff are not analogous to those of non-combatised Ministerial Staff. The upward revision of pay scales in respect of combatised Ministerial Staff is for the reason that after combatisation the degree of utility of their work to the force is substantial and important. The elementary training, which includes handling of weapons, imparted to the combatised Ministerial Staff has added to the strength of trained men in the Force.

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Para 7 of Directorate General's Standing Order No.1/1981-
in
Adm. clearly shows that in a grave emergency, the services
of the trained Ministerial Staff(Combatised) can be utilized
in a manner considered appropriate by the officer in control.
It is further stated that the combatisation of the Ministerial
staff was made without any discrimination. All such staff,
who opted for combatisation were combatised accordingly.
In an emergency, the combatised Ministerial staff can be
detailed for duty with executive personnel alongwith
technical/tradesmen. The disparity in pay scales of
combatised Ministerial Staff existed prior to the
implementation of 4th Pay Commission's report, has rightly
been removed by the Government on the recommendation of the
4th Pay Commission. In view of the above, the respondents
have stated that the application is devoid of merits and
is liable to be dismissed.

4. We have heard the learned counsel for the parties at length and have gone through the record of the case.
5. The learned counsel for the applicant argued that admittedly even after combatisation, the duties of such Civilian/Ministerial staff who were combatised remained the same as were performed by them prior to combatisation and consequently the duties of such Civilian/Ministerial staff who did not opt for combatisation remained the same. The learned counsel has referred to the affidavit filed before the Hon'ble Supreme Court and in the Hon'ble High Court (Annexure-G) at page 60 of the paper book, where the respondents clearly admit that the duties of Civilian/Ministerial staff whether combatised or not remained identical. Further, the learned counsel referred to para 7 of the instructions of the Director General, CRPF dated 11.3.1981 (Annexure-B) where it has also been admitted that the duties of such Civilian/Ministerial staff who were combatised and the duties of such Civilian/Ministerial staff who were not

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combatised remained the same. The learned counsel also referred to the fact that both the combatised and non-combatised category of Civilian/Ministerial staff continued to get the same scales right from 1981 till 10th June, 1987. It is further submitted that even after the recommendations of the 4th Pay Commission were accepted and the revised scale was commenced, the Civilian/Ministerial staff who were combatised and non-combatised staff like the applicants, were given the same scale. In view of the above, the learned counsel argued that there is no reasonable basis for the respondents to suddenly come with the plea that the duties of all such Civilian/Ministerial staff who did not opt for combatisation have been different than the duties being performed by such Civilian/Ministerial staff who were combatised. It is further argued that the above plea is wholly arbitrary, discriminatory and violative of para 11 Article 14 and 16 of the Constitution of India.

line of reasoning

This of the learned counsel for the applicant on the face of it may carry some conviction but when an analysis is made of both combatised and non-combatised categories of Civilian/Ministerial staff then the difference between the two is obvious. The letter of Ministry of Home Affairs dated 28.2.1981 (Annexure -A) to the Director General, CRPF, conveys the sanction of the President of India to the combatisation by conversion of the Civilian post (non-gazetted) Ministerial staff in CRPF under the CRPF Act 1949 and CRPF Rules, 1955 and to the abolition of the civil posts (non-gazetted) Ministerial wherever necessary, with immediate effect, subject to the terms and conditions laid down in the said letter. In this letter the equivalent rank on combatisation have been given. It has been further laid down that on combatisation, the incumbent will be governed by CRPF Act and Rules for all purposes subject to certain modifications. It has been further provided that the combatised staff will wear uniform

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of the appropriate rank. It was further provided that the concessions and benefits presently available and as may be given from time to time to the members of the force shall be equally applicable to the combatised ranks. On the basis of above, the existing incumbents were given an option to opt for combatisation within a period ^{of} three months. It was further provided that those who do not opt for combatisation will continue in the civilian post until superannuation under the existing rules applicable to them which will be deemed to be personal to them. On the basis of the above letter of Ministry of Home Affairs, the Directorate of C.R.P.F. issued a standing order dated 11th March, 1981 (Annexure-B) on the subject of combatisation of Ministerial Staff (non-gazetted) in the CRPF. It was specifically laid down that in future the direct recruitment will be made to the combatised ranks only. The general policy of the revised scheme has also been mentioned and the object has been specifically emphasised as follows: -

- i) "It shall be realised that combatisation will enable the Ministerial staff getting concessions sanctioned to executive staff. The concessions and conditions of service granted to the executive Force presently and in future have been made applicable to the Ministerial Staff automatically. With the large number of concessions given to the executive Force, the disparity between the quantum of concessions of the two cadre was becoming more and more pronounced. This disparity shall vanish now.
- ii) The combatisation would give the Force a common culture. The object of combatisation of the Ministerial staff is to improve the efficiency of the Force and foster a unified culture. To achieve this end, it will be the duty of the officers in the field to keep up the morals of the Ministerial staff and allay all misapprehension so as to get the best out of them."

6. Regarding the duties of the combatised category of Ministerial/Civilian staff it has been provided that combatisation would make them more effective. Normally, combatisation should not change their range and gamut of duties in the ordinary course. Of course, what should be

done in a grave emergency is entirely a matter in the discretion of the officer in control. The age of retirement shall be as provided under CRPF Rules 43(b), but there should be a liberal policy of extension upto 58 years of age and in exceptional circumstances extension upto 60 years, will be allowed subject to physical fitness and good record of service. It has further provided that the combatised staff will be eligible to all the concessions of the executive staff presently sanctioned and as given in future with effect from 1.3.1981 or the date of option, whichever is later. A list of concessions has been given in Annexure 'A' attached to this order which is reproduced below: -

1. Ration Money according to the place of posting at the rate available for executive personnel i.e. Rs.50/89/112/- per month.
2. Free family accommodation to 80% strength of licence fee @10% of basic pay in lieu thereof irrespective of the date of entry in service; plus in classified cities viz. A and B-1 and B2 additional House Rent @ 15% and C Class $7\frac{1}{2}\%$.
3. Free uniform as per the scale prescribed by the Government for executive force.
4. Washing allowance at Rs.51/-P.M.
5. One additional LTC every year as for GD personnel.
6. The conditions for the grant of children education allowance will stand relaxed as in the case of GD personnel.
7. While posted in hard/difficult areas free accommodation for family at any other Group Centre apart from his GC.
8. 15 days casual leave in a calender year.
9. Earned leave enhanced from 30 days now available to 45/60 days in a year.
10. Attend 'C' and Hospital leave."
7. It is, therefore, clear that there was a new policy introduced to gear up the efficiency of the Ministerial/Civilian Staff in CRPF. The applicants were also given a chance to opt for combatised category of Ministerial/Civilian Staff but they constitute 15% of the staff who did not opt for combatisation. The 4th Pay Commission in para 10.253, made its recommendations which have been quoted in earlier part of the judgement. It clearly shows that to have a uniform code of discipline in the force , Ministerial/

Civilian staff have been combatised. They have also been given general duties, ranks and allowances like ration money etc. In BSF and CRPF, pay scales applicable to the corresponding general duty ranks have not been given. Due to combatisation, the retirement age gets reduced by three years in respect of Group 'B' and 'C' non-gazetted employees. Thus, the 4th Pay Commission also felt that after combatisation of the Civilian/Ministerial staff of the CRPF a different category has been created as a matter of policy. The Ministry of Finance by the notification dated 13.9.1986 (Annexure-I) in para 'C', at Sl.No.IX, the pay scales of CRPF have been revised and the revised/scales are reproduced below: -

"Central Reserve Police Force.

19. Subedar Major	550-20-650-25/750 plus Spl. pay of Rs.50/-	2000-60-2300-EB-75- 3200 without Spl. pay.
20. Inspector	550-20-650-25-750	1640-60-2600-EB-75- 2900.
21. Sub. Inspector	380-12-500-EB-15 560.	1400-40-1800-EB-50- 2300.
22. Asstt. Sub. Insp.	330-8-370-10-400- EB-10-480	1320-30-1560-EB-40- 2040.
23. Head Constable	260-6-326-EB-8- 350.	975-25-1150-EB-30- 1660.
24. Naik	225-5-260-6-290- EB-6-308.	950-20-1150-EB-25- 1400.
25. Lance Naik	210-4-250-EB-5-270 plus Spl. pay of Rs.5/-.	825-15-900-EB-1200. Spl. pay of Rs.150/-.
26. Constable	210-4-250-EB-270	825-15-900-EB-20-1200 (Initial pay to be fixed at Rs.855/-).

The Ministry of Home Affairs by the memo dated 11th June, 1987 (Annexure-J), addressed to the Director General, CRPF extended the revised pay scales admissible to the general duty ranks to the combatised non-gazetted Ministerial staff in BSF and CRPF in pursuance of the recommendations of the 4th Pay Commission in para 10.258.

8. In view of the above, it is evident that the 4th Pay

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Commission has refrained from revising the pay scales of ~~on par with centralised staff.~~ non-combatised Ministerial/Civilian Staff. The contention of the learned counsel is that since they perform the same duties so the applicants who constitute the non-combatised category of Civilian/Ministerial staff be given the same scales of pay on the doctrine of 'equal pay for equal work'. It is said that the work performed by both the categories remained the same ~~inasmuch as the post are interchangeable~~ and they are governed by combined seniority list. It is stated by the learned counsel that the classification ~~for giving~~ ^{made} different pay scales is violative of Article 14 and 16 of the Constitution. However, it is open to the State to classify employees on the basis of qualification, duties and responsibilities of the post concerned but the classification ~~has to~~ ^{itself} have reasonable nexus with the objective sought to be achieved. To get efficiency in the administration, the State would be justified in prescribing different pay scales. In the present case, though both categories belong to the Ministerial/Civilian staff but after combatisation the responsibility and utility of the combatised Ministerial/Civilian staff naturally increased. The applicants themselves did not opt for combatisation and the order dated 11.3.1981 (Annexure-B) gave a specific incentive to those Civilian/Ministerial staff who opted for combatisation. In the said order it is also mentioned that though they are required to take Arms training but they will be seldom used in the field except in the case of emergency at the discretion of Director General, CRPF. Besides, their superannuation age having been reduced to 55 years they have been given other additional advantages referred to above. Thus, though they may discharge the same duties but yet there is a definite difference between the two categories regarding the work to be done by them or to be taken from them in the event of emergency.

9. The application of the doctrine of 'equal pay for equal

work' would arise where employees are equal in every respect, but they are denied equality in matters relating to the scales of pay. The doctrine is not an abstract one, nor is this/expressly declared as a fundamental right. However, Article 39(d) read with Article 14 and 16 of the Constitution of India, enjoins the State or Union not to deny a person equality before law in matters relating to employment and this includes the renumerations.

10. The learned counsel has referred the case of Randhir Singh Vs. Union of India, AIR 1982 SC 879. This case pertains to Constable Drivers and it was directed that they should be paid pay equal to the Drivers in CRPF. In the present case the duties may be Ministerial in nature to be performed by both the categories but the utility of combatised Ministerial Civilian staff stands at a different footing than the non-combatised Ministerial/Civilian staff of CRPF. The learned counsel has also referred to the cases of Dharmender Chamoli Vs. Union of India, 1986(1) SCC 637, V.J.Thomas Vs. Union of India, AIR 1985 SC page 1124, Bhagwan Dass Vs. State of Haryana, AIR 1987 SC 2049 and Jaipal Vs. State of Haryana, AIR 1988 SC page 1504. In all these cases, there was a discrimination between two sets of persons discharging the same duties and responsibilities and working under the same employer. All these persons were equal in respect of their qualifications, the manner of recruitment and the work which was being done by them. However, this doctrine of 'equal pay for equal work' does not have universal application. In the present case in hand, the respondents have taken a definite stand that the combatised Ministerial/Civilian staff would have to abide by the rigorous discipline of an Armed Force according to the CRPF Act, 1949 and CRPF Rules, 1955. The retirement age also stands reduced by three years and the accumulation of leave in respect of combatised Ministerial/Civilian staff is 120 days against 240 days,

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in respect of non-combatised staff. A comparison of the combatised Civilian/Ministerial staff as per recommendations of the 4th Pay Commission in para 10.258 was made to the similar Armed Forces Ministerial Staff and they were allowed higher pay scales as applicable to the corresponding general duty ranks. The respondents have disputed the contention of the applicant that the 4th Pay Commission did not mention anything about the pay scales to be given to the Civilian/Ministerial staff who have not opted for combatisation and it is not correct. The 4th Pay Commission in Chapter 8 of its report has proposed the pay structure of various categories of Civilian Employees in Central Government and accordingly, the Civilian/Ministerial staff of CRPF falls under such categories of Central Government employees. In Chapter 10 of its report, the 4th Pay Commission made specific recommendations for some categories of posts in different Ministries/Departments and Organisations. The case of combatised Ministerial staff relating to enhanced pay scales at par with the executive personnel force is covered under Chapter 10. Based on the recommendations made by the 4th Pay Commission in para 10.258 of its report, the case of combatised Ministerial staff for parity in scales as executive personnel was examined in detail and a decision was taken by the Government on 11.6.1987 (Annexure-R-5). Thus, the respondents have definitely asserted that the nature of the combatised staff by virtue of their rank and status conferred upon them should not be analogous to those of non-combatised staff. After combatisation, the degree of utility of their work to the Force is substantial and important. The elementary training which includes handling of weapons imparted to the combatised Ministerial staff has added to the strength of trained men in the Force, and in a grave emergency, the services of the trained Ministerial staff (combatised) can be utilized in a manner considered appropriate by the officer in control. Thus, the respondents

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have successfully made out that there is a difference between two categories in spite of the fact that the nature of work mostly done by both the categories of Ministerial staff may be the same. The respondents have also stated that the upward revision of the pay scales of combatised Ministerial staff as a result of recommendations of the 4th Pay Commission is not arbitrary, discriminatory and violative of the Constitution of India as alleged by the applicants. Referring to the writ petition before the Hon'ble High Court and Supreme Court filed by certain members of the non-combatised Ministerial Staff, the respondents have stated that because of unequal pay scales, the non-combatised Ministerial staff shall be discriminated from the other members of the force (executive ranks). In the writ petition it was contended that the granting lower pay scales to the combatised Ministerial staff in comparison to the executive personnel was violative of Article 14 and 16 of the Constitution of India. It is further stated by the respondents ^{a stand} that the present applicants have taken/surprisingly just ^{to} opposite/what was taken by their colleagues before Hon'ble High Court and Supreme Court.

11. The respondents have also stated that in emergency the combatised Ministerial Staff can be detained for duty with executive personnel alongwith the technical/tradesmen as envisaged in para 7 of the Director General's Standing order No.1 of 1981 Admn.

12. The contention of the applicants that the combatised Ministerial Staff has not since been used as given out by the respondents, cannot be accepted on its face value. The applicants with the rejoinder have also filed certain documents to show that the alleged difference pointed out between the combatised and non-combatised category of Ministerial Staff by the respondents is minimised because of the various orders issued subsequently which are Annexure P1 to P6. However, the fact remains, that one belongs to Armed Force and the other

is Civilian Ministerial Staff. The pay scales of the two categories cannot be equated. In AIR 1988 SC page 1291, Federation of All India Custom and Excise Stenographers Association Vs. Union of India, the doctrine was not held applicable on the ground of the functional requirement of the work done, training and responsibility prescribed for the two posts. Again in State of U.P. Vs. J.P. Chaurasia, AIR 1989 SC page 19, the Hon'ble Supreme Court held that "primarily it requires among others evaluation of duties and responsibilities of the respective post. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees of performance. The quantity of work may be the same but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration. The same view has been expressed in Umesh Chand Gupta Vs. O.N.G.C., AIR 1989 SC 29 and in Tarsam Lal Gautam Vs. State Bank of Patiala & Ors., AIR 1989 SC 31. In J.P. Chaurasia's case as well as in Tarsam Lal Gautam's case (supra) there were two scales prescribed which were for consideration of the Hon'ble Supreme Court for similarly situated persons.

13. The learned counsel for the applicant has relied on the decision of Central Administrative Tribunal, Guwahati Bench in OA-17/1988 decided on 30th March, 1990 in the case of Shri Ram Gopal Agarwal & 30 others Vs. Union of India. In this case, the non-gazetted Ministerial staff and Hospital Staff under the Ministry of Home Affairs filed the

application under Section 19 of the Administrative Tribunals Act, 1985 on the subject of continuance of ration money payment which was ordered to be given to non-gazetted personnel working in certain operational areas. This amount was increased from time to time, ^{and also} by a letter dated 6.10.1987, issued by the Ministry of Home Affairs. However, ration money was sanctioned specifically to non-gazetted combatised personnel, but earlier orders which covered non-gazetted Ministerial and hospital staff was not cancelled or modified. Interpreting that with the issuance of this order the Ministerial and Hospital staff have ceased to be eligible for ration money and only the non-gazetted combatised staff was eligible, the Joint Director of Accounts by an order dated 15.1.1988 not only stopped payment of ration money but also ordered recovery of the ration money already paid from October, 1987 up to that date. The learned Bench allowed the applicants prayer that they should be paid ration money on identical terms and conditions as ordered for combatised non-gazetted personnel of CRPF contained in Ministry of Home Affairs letter dated 6.10.1987. The learned Bench has relied on the decision of Hon'ble Supreme Court reported in 1986 Suppl. SCC page 79, Monthly Rated Workmen at the Wadala Factory of the Indian Hume Pipe Co. Ltd. Vs. Indian Hume Pipe Co. Ltd., Bombay, where "a benefit prevailing for long making it a condition of service should not be allowed to be interfered with lightly to the prejudice of the workmen in absence of compelling material!"

14. The learned counsel in the aforesaid authority referred to the fact that in the said judgement those ^{who for} opted/ combatisation and those who did not opt for combatisation were treated at par and therefore, by an analogy they are entitled to also the same scale of pay. Firstly, the aforesaid judgement is not on this point. Secondly, the matter was not at all considered in this judgement. Thirdly, the non-combatised personnel of the I.B. draw ration at par with the combatised

personnel, Fourthly, the combatisation scheme in CRPF came into force in March, 1981 but orders on ration money to CRPF personnel were issued earlier to 1981 and also on many occasions by Ministry of Home Affairs after that date. Thus, the facts of the reported case and the one in hand are quite different.

15. In view of the fact that there is material distinction between the two categories of combatised Ministerial Staff and non-combatised Ministerial Staff, we find no merit in the application and the same is dismissed with no order as to costs.

J. P. Sharma
(J. P. Sharma)

Member (Judl.)

P. C. Jain
(P. C. Jain)

Member (Admn.)