

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

26.4.01 List on 29.5.01 to enable the respondents to file written statement.

No w/s has been

filed.

WS

28/5/2001

IC Usha

Member

Vice-Chairman

lm

29.5.01 Mr. B. C. Pathak, learned Addl. C.G.S.C. for the respondents prays for time for filing of written statement.

Prayer allowed. Four weeks time is granted to the respondents to file written statement.

List for orders on 28-6-2001.

bb

28.6.01 Mr. A. Deb Roy, Sr. C.G.S.C. has made request on behalf of Mr. B. C. Pathak, Addl. C.G.S.C. for the respondents for time to file written statement. Four weeks and no more time is allowed to the respondents for filing of written statement. Applicant will have two weeks thereafter to file rejoinder list on 28-8-2001.

IC Usha

Member

Vice-Chairman

bb

28.8.01 No written statement so far has been filed. List on 27/9/01 to enable the respondents to file written statement.

WS
28.9.01

Vice-Chairman

mb

27.9.01 List on 19/10/01 to enable the respondents to file written statement.

IC Usha

Member

Vice-Chairman

mb

WS
18.10.01

(3)

O.A.25 of 2001

Notes of the Registry	Date	Order of the Tribunal
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	19.10.2001	
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Request is made on behalf of Mr. B.C. Pathak, learned Addl. C.G.S.C for time to file written statement.

Request is accepted. List on 4.12.2001 for further order.

I C U Shary

Member

bb	4.12.01
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Three weeks time is allowed to the respondents to file written statement.

List on 10/1/02 for order.

A

Member(J)

I C U Shary

Member(A)

mb	10.1.02
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List on 31.1.2002 to enable the respondents to file written statement.

I C U Shary

Member

Vice-Chairman

mb	31.1.2002
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List on 20.2.2002 enabling the respondents to file written statement.

I C U Shary

Member

Vice-Chairman

bb	20.2.02
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Heard Mr. A.K. Roy, learned counsel for the applicant and also Mr. B.C. Pathak learned Addl. C.G.S.C. for the respondents.

In this application the two applicants have sought for direction for granting of higher pay scale those who have the requisite qualification of B.Ed/B.T. Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents has referred to communication sent

O.A. No. 25/2001

Notes of the Registry

Date

Order of the Tribunal

20.2.02

from the Assam Rifles referring to the revision of pay scale of Hindi Teachers on the strength communication of Ministry of Home Affairs dated 3.8.2001. The letter reads as follows :

" I am directed to refer to your letter No.A/VII-PS/T/86/Vol.IV/558 dated 15.6.2000 and in continuation of this Ministry's letter of even No. dated 11.6.2001 on the subject cited above and to convey the sanction of the President to the upgradation of pay scale of Hindi Teachers in Assam Rifles w.e.f. 1.1.96 as under :-

Post	Existing Scale	Revised Scale
i) Hindi Teacher (Graduates)	Rs.5000-8000/-	Rs.5500-9000/-
ii) Hindi Teacher (Under Graduate)	Rs.4000-6000/-	Rs.4500-7000/-

2. The expenditure on this account will be met from the sanctioned budget grant of Assam Rifles under head "Salaries".

3. This issued with the approval of Ministry of Finance, Deptt. of Expenditure vide their Dy. No. 70/5/2001-IC dated 2.8.2001 and Integrated Finance Division of this Ministry vide their Dy. No. 3317/FA(H)/2001 dated 27.7.2001 "

26.2.2002.
Copy of the letter
has been sent to
the Office for
vary the same to
be applied as well
as to the Board CG, SC.

The applicants had already obtained the relief as mentioned in the above letter. In the circumstances, the application stands dismissed as infructuous. A copy of the order is placed on record.

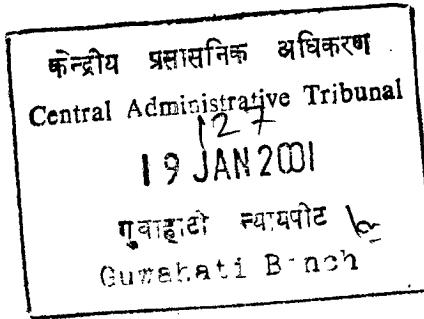
K. C. Sharma
Member

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Central Administrative Tribunal Act 1985)

O. A. No. 25 of 2001



BETWEEN

Shri Gyan Chand Prakash,
Hindi Teacher,
14 Assam Rifles, C/O 99 APO
and another

Applicants.

AND

Union of India & ors.

Respondents.

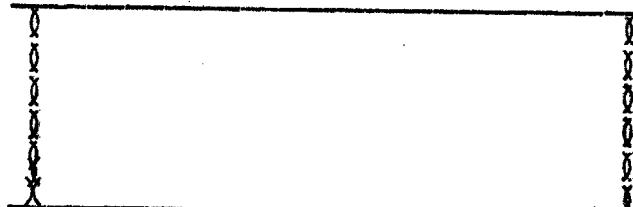
I N D E X

<u>Sl. No.</u>	<u>Description of documents</u>	<u>pages</u>
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Filed by -

For office use

Advocate.

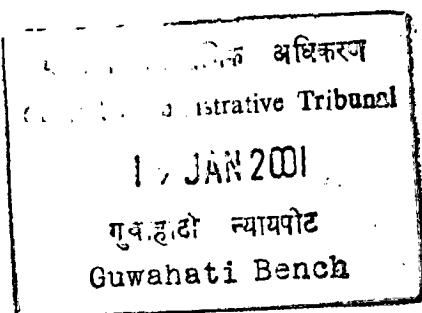


X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

through
filed by the applicant
A. Sudhir Kumar Ray
18/1/2001

For use in Tribunal's Office



Signature -
Date -

O.A. No. 25 of 2001

BETWEEN

1. 0068 H/T Gyan Chand Prakash
Hindi Teacher,
14 Assam Rifles Middle School,
C/O 99 APO.
2. 0075/H/T, Sudhir Kumar Jha,
Hindi Teacher,
14 Assam Rifles Middle School,
C/O 99 APO.

AND ... Applicants.

1. Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Home Affairs,
Central Secretariat, New Delhi.
2. The Director General, Assam Rifles,
Shillong - 11, Meghalaya.
3. The D.I.G.,
Assam Rifles, NLR (South),
4. Commandant,
14 Assam Rifles,
C/O 99 A.P.O.

... Respondents.

⑥prakash

1. Particulars of order against which the application is made :

Non sanction of higher scale of pay to which the applicant is entitled to as per the decision of the respondents.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The applicants also declare that the application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. Fact of the case :

i) That both the applicants are similarly situated persons and have been aggrieved by same cause of action and reliefs prayed by them are also same. They have common interest in the matter and hence crave leave of this Hon'ble Tribunal to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rule 1987.

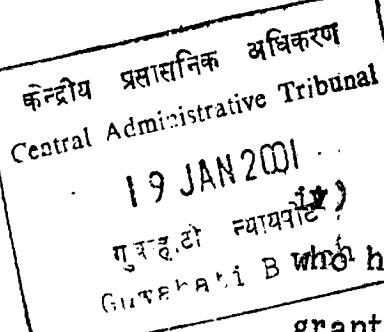
ii) That the applicant No.1 was appointed as Hindi Graduate teacher in Assam Rifles on 1.3.1987. At that time he did not have the B.Ed. qualification.

The applicant No.2 was appointed as Graduate Hindi teacher in Assam Rifles in May ,1987 . He also did not have the B.Ed. qualification at the time of appointment.

iii) That ,in July 1987 the Directorate General ,Assam Rifles, Shillong issued an order vide NO.A/VII-PS/T/86/64 dated 30.7.1987 granting higher scale of pay to Hindi teachers of Assam Rifles who have required the requisite qualification of graduation and diploma in teaching such as B.Ed, B.T. etc., and the said order was issued in terms of Govt. of India Notification dtd. 13.9.1986 under item V of 1st Schedule Part 'B' of CCS (RP) Rules ,1986.

G. M. A. A.
A copy of the order dated 30.7.87 is annexed as
Annexure - A

iii) That, thereafter by orders No.A/VII-PS/T/86/Part dated 16th April, 1993 issued from the Directorate General, Assam Rifles recommended that the teachers of Assam Rifles who have the requisite qualifications can be classified as Primary teachers and are eligible for grant of higher pay scales. But the teachers who do not have the requisite qualifications will not be entitled for grant of higher pay scales and they are to be motivated to acquire the requisite qualifications to get the benefit of higher pay scales.



A copy of the said order dt. 16.4.93 is annexed herewith as Annexure B.

That, pursuant to the aforesaid orders the teachers

A copy of order No.A/I-A/T/PS-93 dated 30th September, 1993 is annexed herewith as Annexure C.

v) That, thereafter the petitioner No.1 passed B.Ed. Examination in March, 1997 and petitioner No.2 passed B.Ed. in 1999.

vi) That, on receipt of B.Ed. certificate from the University wherefrom the petitioner No.1 passed the examination he applied to the Directorate General, Assam Rifles, Shillong on 11th February, 1998 praying for grant of higher scale of pay to which he is entitled to as per the rules of the Assam Rifles. His application was duly forwarded by the Principal, 5 Assam Rifles Jr. Public School where he was posted then.

A copy of the applicant No.1's petition along with the forwarding letter are annexed herewith as Annexure D. & E.

vii) That, on passing the B.Ed. Examination applicant No.2 also submitted an application to the authorities of Assam Rifles praying for grant of higher scale of pay to which he is entitled to as per the decision taken by the authorities vide orders dated 30.7.1987 (Annexure A to this application) and orders dated 16.4.1993 (Annexure B).

viii) That, it submitted that the authorities themselves have decided after thorough examination of the matter with the relevant Government of India Notification that the teaching staff of Assam Rifles who have the requisite qualifications as recommended by the 4th Pay Commission will be entitled to higher scale of pay and accordingly they granted higher scale of pay to the teachers of Assam Rifles who have the requisite qualifications. As such there can be no reason why the applicants who have since acquired the requisite qualifications should not granted the same benefits as are being enjoyed by the similarly situated teachers of Assam Rifles. It was also decided to motivate the unqualified teachers to acquire the requisite qualifications to get the benefit of higher pay scale. The applicants have acquired the requisite qualifications subsequently and therefore they are entitled to get the benefits of higher pay scale.

ix) That, although the applicants have submitted representations for higher scale of pay after acquiring the requisite qualifications, they have not been granted the benefit of higher scale of pay.

x) That, it is stated that the teaching staff of Assam Rifles having B.Ed/B.T.Degree have already been granted higher scale of pay pursuant to Government of India Notification in part 'B' of CCS(RP) Rules, 1986 are

Omkar

enjoying higher scale of pay, only the applicants are being deprived of their legitimate claim to get higher scales of pay from the date they passed B.Ed. Examination, for reasons best known to the authorities.

xi) That, it is stated that the action of the respondents in denying the benefit of higher scales of pay to the applicants who have since acquired the requisite qualification of B.Ed. while similarly situated teachers of Assam Rifles are enjoying the benefit of higher scales of pay, is arbitrary, malafide and discriminatory violative of all canons of justice.

xii) That, it is stated that since many of the teaching staff of Assam Rifles who have the B.Ed./B.T. Degree have been granted higher scale of pay following the Government of India Notification dated 13.9.1986 under item V of 1st Schedule Part 'B' of CCS (RP) Rules, 1986, there is no reason why the applicants should be denied the same benefit.

xiii) That, it is clearly stated in the orders No.A/VII-PS/T/86/64 dated 30th July, 1987 (Annexure A to this application) and No.A/VII-PS/T/86/Part dated 16th April 1993 (Annexure B to this application) that the question of granting higher scales of pay to the teaching staff of Assam Rifles with the relevant Govt. of India Notification has been thoroughly examined and it was decided to grant higher scales of pay to the teaching staff of Assam Rifles who have the requisite qualification of B.Ed/B.T. Accordingly the teachers of Assam Rifles with B.Ed./B.T./Parangat Degree have been granted higher scales of pay and they are enjoying the higher scales of pay. As such there can be no reason why the applicants who have acquired B.Ed. degree subsequently should not be granted the same benefit.

xiv) That, being aggrieved by the unjustified deprivation of the legitimate claim of the applicants to get the benefit of higher scale of pay which is being enjoyed by the similarly situated teachers of Assam Rifles by the respondents, the applicants have come up before this Hon'ble Tribunal, praying for a direction to the respondents to grant them higher scale of pay to which they are entitled to. Presently the applicants are drawing the scale of pay of Rs.4000-6000/- per month but after obtaining B.Ed. qualification they are entitled to the scale of pay of Rs.5,000- 8,000/-P.M.

6. GROUND FOR APPEAL:

- i) For that, the action of the respondents in not granting higher scale of pay which is being enjoyed by the similarly situated teachers of Assam Rifles after they obtained B.Ed. Degree is arbitrary, illegal, malafide and discriminatory.
- ii) For that, since the authorities of Assam Rifles themselves have decided after due consideration, vide Annexures A and B, that the teachers of Assam Rifles who have the requisite B.Ed/B.T. Degree is entitled to a higher scale of pay as per the Notification of the Govt. of India and they have actually granted higher scale of pay to the teachers of Assam Rifles who have the requisite qualifications, the action of the respondents in denying the applicants the same benefit is unjustified and highly discriminatory violative of Articles 14 and 16 of the Constitution of India.
- iii) For that, the benefit of higher scale of pay granted to other teachers of Assam Rifles who are enjoying the benefits, the applicants cannot be denied the same benefits.

Gurkha

iv) For that, having been allowed the benefit of higher scale of pay to the teachers of Assam Rifles who have B.Ed. Degree, the applicants cannot be denied the same benefits after they have obtained B.Ed. Degree. Therefore, the action of the respondents is highly illegal and unjustified.

v) For that, in any view of the matter the action of the respondents is denying the benefits of higher scale of pay to the applicants while they have allowed the same benefits to the similarly situated teachers of Assam Rifles is against all canons of justice.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicants declare that they have submitted representations to the authorities praying for redressal of their genuine claim of higher scale of pay which is being denied to them by the authorities of Assam Rifles. The authorities have already granted higher scale of pay to the similarly situated teachers of Assam Rifles in terms of Government of India Notification. The applicants have, therefore, no other alternative then to approach this Hon'ble Tribunal for redressal of their genuine grievance.

7. WHETHER ANY APPLICATION/SUIT ON THE SAME SUBJECT IS PENDING BEFORE ANY COURT OR TRIBUNAL:

The applicants further declare that they have not filed any other application or suit with regard to the matter agitated in this petition before any Court or any other Bench of this Tribunal, nor any suit or proceeding before any of them.

8. Under the facts and circumstances stated above, the applicants pray for the following reliefs :-

Ghatak

8. RELIEFS SOUGHT FOR :

Under the fact and circumstances stated above ,the applicants pray for the following reliefs :

a) A direction to the respondents to grant the applicants higher scale of pay from the dates they obtained the B.Ed. Degree which is the requisite for grant of higher scale of pay as they have already granted the higher scale of pay to the teachers of Assam Rifles who have the requisite qualification of B.Ed/ B.T .Degree and therefore ,the applicants are entitled to the same benefits being enjoyed by the similarly situated teachers of Assam Rifles.

b) To grant them any other reliefs as the Hon'ble Tribunal ~~deem~~ fit and proper.

c) The cost of the proceeding.

9) INTERIM RELIEF, IF ANY :

Under the fact and circumstances the applicants pray that the Hon'ble Tribunal may be pleased to pass an interim order directing the respondents to pay the ~~pa~~ applicants salary at higher scale of pay to which they are entitled from the current month onwards.

10)

11) Particulars of ~~RR~~ I.P.O :-

a) I.P.O. NO :- 6G 771051

b) Date of issue :- 29-11-2000

c) Payable at :- *Guwahati*

12. List of enclosures :-

As stated in the Index.

Girishankar

VERIFICATION

I, Shri Gyan Chand Prakash, son of Shri Chhabilchand Lal, aged about 36 years, 14 Assam Rifles Middle School, C/O 99 A.P.O. one of the applicants in the instant application do hereby verify on my own behalf and on behalf of the other applicant who has authorised me to do so, that the statements made in this application from paragraphs 1 to 7 above are true to the best of my knowledge and belief and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification this the 18th day of January, 2001 at Guwahati.

Place- Guwahati

Date - 18-1-2001

Gyanchand Prakash

Signature of Applicant.

Rele No.PABA 23510/230

A/VII-PS/T/86/64

List 'A'

List 'B'

Mahanir deshalaya Assam Rifles
Directorate General Assam Rifles
Shillong 793011

30 July, '87

PAY

IMPLEMENTATION OF THE REVISED/SCALES
IN RESPECT OF TEACHING STAFF: ASSAM RIFLES.

1. The question of granting higher pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/- to the trained graduate Hindi teacher in terms of G of I Notification dated 13.9.86 under item V of 1st Schedule part 'B' attached to the said Notification has been under consideration.
2. It is now decided that higher pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/- may be admitted to Hindi teachers of Assam Rifles who have acquired the requisite qualification of graduation and diploma in teaching such as B.Ed.B.T., etc.
3. It may be noted that higher pay scale as stated above is not admitted to any Hindi teacher who does not fulfil qualification requirement mentioned above.
4. Para 9 of this Dte letter No.A/vii-PS/T/86 dated 11 May 87 may be amended accordingly.
5. This will be given with effect from 1.1.86.

Sd/- V S Kuppa,

Copy to:-

Col
Assistant Director (A)

1. Addl Accountant General,
(Central and Arunachal Pradesh)
Lachalette Building
Shillong -1.
2. Pay and Accounts Office,
Assam Rifles,
Near Laitumkhrah Market,
Shillong- 3,
3. Est Branch, DGAR.

Attested by

R. Rong
Advocate
18/12/2001

Tele No. PAB A230222/5550
A/VII-PS/T/86/Part
List 'A', 'B' and 'D'

Mahanideshalaya, Assam Rifles,
Directorate General, Assam Rifles
Shillong - 793011

16 April '93.

**GRANT OF HIGHER PAY SCALE TO TEACHING STAFF OF
ASSAM RIFLES.**

1. Unit has been raising the point for grant of higher scales of pay to the teaching staff as prescribed in para V of Part 'B' of first schedule of CCS revised pay scales, 1986.
2. The case has been thoroughly examined with the relevant Govt. orders on the subject. Our analysis revealed that application of part 'B' is contingent upon acquiring academic and professional qualification, so that our teachers can be classified as primary school teachers. Most of our teaching staff do not possess the requisite qualifications to become eligible for grant of higher pay scales. No provision exists for relaxation of requisite qualification unless a teacher is classified as primary teacher.
3. In view of above, the following is recommended.
 - (a) Teachers not having the requisite qualification as recommended by the 4th Central Pay Commission will not be entitled for grant of higher pay scales.
 - (b) All the unqualified teachers may be motivated to acquire the requisite qualification to get the benefit of higher pay scales.
4. Individual cases those teachers who have acquired the qualification and not yet admitted the applicable scales may please be referred to the Directorate.

Sd/- Rakesh Sharma,
Lt Col,
Assistant Director (A)

...

Attested by
A. K. Ray
Advocate
16/1/2001

DIRECTOR GENERAL ASSAM RIFLES: SHILLONG - 793011

A/I-A/T/PS-93

Dated Shillong the 30 Sept. '93.

ORDER

1. Consequent to the acquiring of B.Ed. and Hindi Parangat Examination the following Hindi teachers of Assam Rifles Units are hereby granted the trained graduate pay scales of Rs.1400-40-1600-50-1650-EB-50-1950-EB-50-2250-EB-50-2350-EB-60-2600 PM.

- (a) Shri R. Ch. Chaubey - 30 AR w.e.f.30.3.92
- (b) Shri DPS Dhaka - 31 AR w.e.f.26.11.92
- (c) Shri Rishimuni Singh -24 AR w.e.f.09-3-92.

Auth: Part 'B' of Govt. of India Ministry of Finance Notification No.P-15(I)-IC-86 dtd.13 Sept 86 and Govt. of India Ministry of Education letter No.F-24-6/64-M.X dated 12.4.1967.

2. The higher pay and allowances will be made applicable to the above individuals subject to production of original degree and B.Ed/Parangat Certidate and after publication of necessary BRO II orders only.

Sd/- Rakesh Sharma,
Lt Col
Assistant Director (A)
for DGAR

...

A Hosted by
OKay
Astro car
18/1/2001

From: No.0068H/T
G C Prakash
Hindi Teacher
31 Assam Rifles
C/O 99 APO

-: 13 :-

ANNEXURE D.

11 Feb. '98.

To: The Directorate General Assam Rifles,
Shillong -11.
(through proper channel)

Sub: Request for grant of higher pay scale.

Sir,

I have the honour to state the following few lines for your kind consideration and sympathetic action please.

1. That Sir, I Mr G C Prakash Hindi teacher serving in 31 Assam Rifles Public School, have passed B.Ed Examination from Rohtak University in March, 1997. At present my pay scale has been fixed in the scale of pay Rs.4000-100-6000/- while as per the letters of DGAR I am eligible to get B.Ed.(T.G.T) scale Part 'B' of Govt. of India Ministry of Finance Notification No.P-15(i)-XC-86 dated 13 Sep 86 and Govt.of India Ministry of Education letter No.P-24-6/64-M.X dated 12.04.1987.

2. According to letter most of the Hindi teachers of Assam Rifles has been treated as trained Graduate Teachers (T.G.T) and vide DGAR letter No.A/VII-P/T/1986 dated 11 May 1987 and Part 'B' of Govt. of India Ministry of Finance Notification No.P-15(I)-IC-86 dated 13 Sept. 86. Most of the Hindi teachers who have obtained the B.Ed. Degree are given the higher scale of pay which is clear from the letter of the service confirmation.

3. According to the DGAR letter No.A/V-A/89-90 dt.3 June 92 DGAR had advised Govt. teachers of Assam Rifles to improve their educational and professional qualifications.

4. DGAR letter No.A/VII-PS/T/86 part dated 16 April 1993 states that the individual who will obtain B.Ed Degree will be given the benefit of higher pay scale (TGT). It is clear from the above letter in Para 3(b) letter attached.

5. On this basis of this recommendation the Hindi teachers who had acquired B.Ed as well as Parangat Degree given the benefit of higher pay scale vide DGAR letter No.A/I-A/T/PS-93 dated 30 Sept 1993 attached.

Attacted by.

G C Prakash
Hindi Teacher
(11/2/2001)

... 2.

6. Being a teacher of this force I was encouraged by the Department to gain the B.Ed Degree for higher pay scale and then I obtained it from distant Education Rohtak University in March 1997 with my hard labour and determination.

7. On the basis of 4th Pay Commission DGAR recommended for higher pay scale in the 5th Pay Commission and higher pay scale (TGT) were implemented for the Hindi teachers/Sr.teachers of Assam Rifles. Most of the Hindi teachers are getting TGT scale while according to the letters stated above, I am also eligible to get the TGT scale.

That Sir, I have been deprived in getting the higher pay scale.

I, therefore, request your kind honour to be kind enough to consider my case to avoid any mental tension and may please be given T.G.T. scale as it is given to most of Assam Rifles teachers.

And for this act of kindness I shall remain ever grateful to you, Sir.

Thanking you, Sir.

Yours faithfully,
Sd/- G.C. Prakash,
Hindi Teacher.

...

Attested by
A Ray
Advocate
18/1/2001