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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 321/2001

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ORDER SHEET

Sign Application No. 321 OF 2001

APPLICANT (s) S. K. Sambayona Gons

RESPONDENT (s) W.O. I Gons

ADVOCATE FOR APPLICANT(s) J. L. Sankar, Mrs. S. Delca, A. Chakrabarty

ADVOCATE FOR RESPONDENT(s) Case

Notes of the Registry	dated	Order of the Tribunal
Regd. application is in form B1 P.C. 16/6/2001 M.C. 16/6/2001 P.O. 769 548679 Dated 16/8/2001 By Registrer	21.8.01	Heard counsel for the parties. The application is admitted. Call for the records. Pendency of this application shall not be a bar on the respondents for consideratio of the representation of 16-6-2001 of the applicant. List on 20/9/01 for further order.
Notice prepared and sent to D/S for both the Respondents No 1 to 3 by Regd A/D via DINo 3219 W321 dated 24/8/01 23/8/01	22 22/8/01 20.9.01	I C Usha Member Vice-Chairman List on 18/10/01 to enable the respon dents to file written statement.
① Service report are still awaited 2 19.9.01	18.10.01 bb	Vice-Chairman List on 29.11.2001 enabling the respondents to file written statement.
No written statement has been filed 28.11.01		I C Usha Member

29.11.01 List on 1.1.02 to enable the respondents to file written statement.

I C Usha
Member

Vice-Chairman

mb

1.1.2002

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

No written statement has been filed.

By
30.1.02

I C Usha
Member

Vice-Chairman

mb

31.1.2002

List the case on 28.2.2002 enabling the respondents to file written statement.

I C Usha
Member

Vice-Chairman

25.2.2002

W/S submitted

28.2.02

by the Respondents

P.D.

Written statement has been filed by the Respondents. The case may now be listed for hearing on 2.4.2002. The applicant may file rejoinder, if any, within three weeks from today.

I C Usha
Member

Vice-Chairman

mb

29.4.2002

The case is adjourned to 30.4.2002 as learned Addl. C.G.S.C. did not appear today.

By
A.B.C.
29.4.2002

Respondent submitted
the applicant in reply
to the W/S.

P.D.

30.4.02

Prayer has been made on behalf of Mr.B.C.Pathak, learned Addl.C.G.S.C. for adjournment of the case. Prayer is allowed. List on 21.5.02 for hearing.

I C Usha
Member

Vice-Chairman

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Notes of the Registry	Date	Order of the Tribunal
	21.5.02	Adjourned on the prayer of Mr. J.L. Sarkar, learned counsel for the Applicant. List on 11.6.2002 for hearing. I C U Shahn Member
	11.6.02	Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the Respondent No.1 prays for some time to file reply to the rejoinder. List again on 1.7.2002 for hearing. It has been stated at the Bar that O.A. No. 472/2001 is also analogous with this matter and that matter also be taken up together alongwith this matter. I C U Shahn Member
<i>The case is ready for hearing.</i> <i>My 28.6.02</i>	1.7.02	A prayer has been made by Mr B.C. Pathak, learned Addl.C.G.S.C for little accommodation so that he can obtain full instruction on the matter. The case is accordingly adjourned to 28.7.02 for hearing I C U Shahn Member
<u>9.7.2002</u> Reply to the Rejoinder 23.7. submitted by the Respondents.	pg	Division Bench did not sit today. The case is adjourned to 31.7.2002. B.M. A.K.Jay
<i>PD</i>	31.7.	Heard Mr. J.L. Sarkar, learned Counsel for the Applicant & Mr. B.C. Pathak, Addl. C.G.S.C. for the Respondent. Hearing Concluded, Judgment Reserved. A.K.Jay 31.7.

Notes of the Registry	Date	Order of the Tribunal
Judgment add 79/8/02 Communicated to the Parties Comt and the Athlcopt 	19.8.02  mb	Judgment delivered in open Court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.  Member  Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 321 of 2001 of and 472 of 2001

DATE OF DECISION. 19/8/2002

1) (In O.A. No. 321 of 01) Mr. S.K. Sarba Jana & Ors.
2) (In O.A. No. 472 of 01) Mr. R.K. Goswami and Ors.

APPLICANT(S)

Mr. J.L. Sarkar (in O.A. No. 321 of 01)

Mr. P.K. Tiwari (in O.A. No. 472 of 01) ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors. RESPONDENT(S)

Mr. B.C. Pathak, Addl. C.G.S.C. in O.A. 321 of 01

Mr. A. Deb Roy, Sr. C.G.S.C. in O.A. No. 472 of 01 ADVOCATE FOR THE RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N. CHOUDHURY, VICE-CHAIRMAN

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble

ADMINISTRATIVE MEMBER

[Signature]

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. O.A.No.321 od 2001 & O.A.No.472 of 2001

Date of Order: This the 19th Day of August 2002.

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

O.A.No.321 of 2001

1. Shri Swapna Kumar Sarbajna, Assistant & 318 others.

..... Applicants.

(All the applicants are working in different capacities (Assistants, UDC, Supdt. respectively) under the Director General of Assam Rifles, Shillong and posted at HQs, office Shillong.

By Advocate Mr.J.L.Sarkar, Mrs.S.eka, Mr.A.Chakraborty.

-Vs-

1. Union of India (represented through the Secretary, Govt of India, Ministry of Home Affairs, North Block, New Delhi-110001.

2. Director General, Assam Rifles Shillong-793011

3. Joint Secretary(Police) to the Govt of India Ministry of Home Affairs New Delhi-110001.

..... Respondents.

By Advocate Mr.B.C.Pathak, Addl.C.G.S.C.

O.A.No.472 of 2001

1. Ram Krishna Goswami, Assistant, North East Police Academy, Umsaw, Umiam, District Ri-bhoi, Meghalaya, PIN-793123

2. Pradip Kumar Bhattacharjee, Assistant, North East Police Academy, Umsaw, Umiam, District- Ribhoi, Meghalaya, PIN-793123.

3. Field Back Lyngdoh Tron, Assistant, North East Police Academy, Umsaw, Umiam, District Ri-bjoi, Meghalaya, PIN-793123.

... Applicants.

By Advocate Mr.P.K.Tiwari, Mr.U.K.Goswami.

U. K. Sharm

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-Vs-

1. Union of India through the Secretary to the Government of India Ministry of Home Affairs, North Block, New Delhi.
2. The Director, North East Police Academy, Ministry of Home Affairs, Government of India, Umsaw, Umiam Meghalaya.
3. The North Eastern Council, through the Secretary, North Eastern Council Secretariat, Shillong-1 ... Respondents.

By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

C R D E R.

MR.K.K.SHARMA MEMBER(ADMN):

These two application are taken up together as the issue involved is similar. The arguments advanced in one application were also relied on in other application. The applications ^{re U} we also heard together.

2. In O.A.No.321 of 2001 the reliefs sought are:-
 - i) Parity of pay scale for the civil posts in HQ of Assam Rifles with their counterparts.
 - ii) The pay scale of Assistants be revised to Rs. 1640-2900/- notionally ^U effect from 1.1.1986 and effectively with effect from 1.5.91 as in the case of Assistants in HQ Directorate General, a BSF. The relief sought in O.A.No.472 of 2001 is for revision of pay scale of Assistants in North East Police Academy(NEPA) to Rs. 5500-9000/- and/or in the alternative Rs. 5000-8000/-.

O.A.No.321 of 2001

There are 319 applicants who have joined together to pursue the same cause. Their request for a common application

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has been accepted under the provision of Rule sub-rule (1) 4(5)(a) of C.A.T. Procedure Rules 1987. All the applicants are civilian employees working in different capacities under the Director General of Assam Rifles at Shillong. It is stated that the Civilian employees in Assam Rifles is a dying cadre. The Assam Rifles is a Central Police Organisation under the Government of India, Ministry of Home Affairs. There are glaring disparities in the matter of grant of pay scale to the applicants. There is discrimination amongst similarly placed employees which has caused financial loss to the applicants. The Assistants of Assam Rifles on implementation of the 3rd Pay Commission were granted the pay scale of Rs. 425-700/- and consequent to the 4th Pay Commission the Assistants were granted the pay scale of Rs. 1400-2300/- with effect from 1.1.1986. In some other Central Police Organisation the pay scale of Assistant was revised to Rs. 1640-2900/- after the 4th Central Pay Commission and the Ministry of Home Affairs vide D.O. letter No.13011/11(ii)/92-Fin II dated 02 Jun 92 had directed and the Director General, Assam Rifles to grant the pay scale of Rs. 1400-2600/- to the Assistants which was higher than the scale of Rs. 1400-2300/- recommended by 4th Central Pay Commission but less than Rs. 1640-2900/- granted to other Central Police Organisation. It is stated that the scale of pay sanctioned for the Assistants of Non-Secretariat Organisations as per Part 'B' of First Schedule of the Central Civil Services(Revised) pay Rules, 1997 is Rs. 5000-8000/-, whereas the Assam Rifles being a Non-Secretariat Organisation has adopted the scale of Rs. 4500 - 7000/-. There are two categories of

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Ministerial staff employed viz., Civilian and Combatant. Both the categories were given equal scale of pay till revision of pay by the 5th Central Pay Commission. The two categories of posts are as under :-

Civilian

Superintendent
Assistant
UDC
LDC

Combatant.

Subedar Clerk
Nb/Sub Clerk
Warrant Officer
Havildar Clerk

The 5th Central Pay Commission recommended pay scale of Ministerial staff of HQ DGAR Establishment were as under :-

Group 'B' Officer	Rs. 6500 - 10500/-
Supdt.	Rs. 5500 - 9000/-
Asst/Overseer/Nazir/ Draughtsman	Rs. 4500 - 7000/-

The pay of the Combatant Ministerial staff were revised as under:-

Subader Clerk	Rs. 6500- 10,500/-
Nb/Sub Clerk	Rs. 5500 - 9000/-

The Civilian ministerial staff were being given the lower scale although both the categories are performing identical duties and are placed similarly. It is stated that there is a discrimination in the matter of granting the pay scale to the applicants. The combatant staff of HQ, DGAR, Assam Rifles and vis-a-vis other Central Police Organisation, namely, BSF the applicants are similarly placed. The Assistants of HQ Directorate General, BSF had been given the pay scale of Rs. 1640-2900/- on the basis of relief granted by Central Administrative Tribunal. The Assam Rifles Civilian employees Association represented against the disparity and the matter was referred by Respondent No.2 to the Ministry of Home Affairs by letter dated 17.9.99. Again by a letter dated

02 Feb. 2001 the respondents No.2 again requested to grant the following scale to the Civilian employees of DGAR :-

- (a) Group 'B' Officers - Rs. 7450-11500/-
- (b) Superintendents - Rs. 6500-10500/-
- (c) Assistants - Rs. 5500-9000/-

The Employees Association made another representation dated 06th Jun. 2001 to the Respondents No.2 which has been replied to vide Respondents No.2 dated 26th Jun., 2001 denying the analogous pay scale to the applicants.

O.A. No. 472 of 2001.

There are three applicants in this O.A.. The applicants are presently serving as Assistant in Northeastern Police Academy (NEPA). Permission has been granted to them to pursue the cause by a common application in terms of Rule, Sub-Rule 4(5)(a) of CAT Procedure Rules 1987.

3. NEPA is under the control of Ministry of Home Affairs. The Assistants in NEPA are in the revised pay scale of Rs. 4500-7000/-, whereas the Assistants working under attached or subordinate offices of the Department of Ministry of Home Affairs are getting two different pay scales of Rs. 5500-9000/- and Rs. 5000-8000/- . It is stated that the Assistants are holding Supervisory level post. The Recruitment is made as per Northeastern Police Academy Group 'C' and 'D' posts Recruitment Rules 1983. The recruitment to the post of Assistant is made by the method of promotion from the feeder cadre of UDC or through transfer on deputation. All the applicants joined NEPA as LDCs and were promoted to the post of Assistant. The 4th Pay Commission recommended the pay scale of Assistants in NEPA at Rs. 425-700/-.

In many other Organisation the Assistants were given the pay scale of Rs. 425-800/-. The 4th Pay Commission recommended 3 standared levels of Supervisory posts in the scale of Rs. as under :-

1. Rs. 1400 - 2300/-
2. Rs. 1540 - 2900/-
3. Rs. 2000 - 3200/-

The pay scale of Assistants in Central Secretariat were revised with effect from 1.1.1986 to Rs. 1400 - 2600/- whereas the pay scale of Assistants in NEPA were revised to Rs. 1400-2300/-. With effect from 30.7.90 the pay scale of Assistants in other departments under the Ministry of Home Affairs were revised to Rs. 1640 to 2900/- from pre-revised scale of Rs. 1400-2600/- on the basis of the order of CAT, Principal Bench in O.A.No.548 of 94 dated 19.1.96. The Assistants working in various department were given the pay scale of Rs. 1640-2900 by the Principal Bench of CAT on the ground that no discrimination can be made in regard to the pay scale of Rs. 425 -800/- or Rs. 425-700/- if the nature of the duties were same. The SLP against the decision of Principal Bench was dismissed. Similar issue again came up before the Principal Bench, New Delhi, in the case of All India ESI Corporation Employees Federation, -Vs- Director General, ESI and Anr., in O.A.No.981 of 94. The Delhi High Court also allowed revised pay scale of Rs. 140-2900/- to the Assistants of National Book Trust. Thus employees of the ESI and many other Organisations were given the pay scale of Rs. 1640-2900/- on the basis of decisions rendered in their cases. In pursuance to the pronouncement of various Benches of C.A.T, the pay scale was allowed to the Assistant in various subordinate officers of the Government of India. The matter was also put up before the JCM. The Joint

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Consultative Machinery vide reply dated 11.7.95 informed that the matter has been remitted to the 5th Pay Commission for consideration. The applicants also took their grievances before the authorities and the Ministry of Home Affairs vide their letter No.6/26/27-NE-II dated 17.12.97 informed that in their view the order was not applicable to Assistants in O.M.No.2/1/90-in O.M.No.2/1/90-in NEPA and they may be given normal replacement scale of pay with effect from 1.1.96 and that the grant of higher pay scale involves up-gradation of the post.

4. The matter has been heard at length. Mr.J.L.Sarkar appeared for the applicants in O.A.No.321 of 2001 and Mr.P.K. Tiwari appeared for the applicants in O.A.No.472 of 2001. Mr.B.C.Pathak, learned Addl.C.G.S.C. appeared for the Respondents in O.A.No.321 of 2001 and Mr.A.Deb Roy Sr.C.G.S.C. appeared for Respondents in O.A.No.472 of 2001. Mr.Sarkar argued that the works done by civilian employees as well as combatants are identical. Their duties are equal. The office structure is as below:-

Superintendent	Rs. 5500-9000/-
Assistant	Rs. 4500-7000/- Naib Subedar
	Rs. 5500-9000/-
Upper Division	Rs. 4000-6000/-
Clerk /	Warrant Officer
	Rs. 4000-6000/-

The 5th Pay Commission recommended identical scale of pay Rs. 4500-7000/- to Assistant/Naib Subedars. The Naib Subedars were given higher pay scale of Rs. 5000-8000/- in 1998 with retrospective effect from 1.1.96. The scale was again revised for Naib Subedar with effect from 10.10.97 to Rs.5500-9000/-. Similar was the in the case of UDCs and Warrant Officers in which case identical scale were recommended.

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Officers were given higher scale with effect from 10.10.97.

Mr. Sarkar also argued that up to 5th Pay Commission the pay scale as combatant and non-combatant posts were same. Subsequently the combatant post were given the higher pay scale.

5. Mr. P.K. Tiwari learned counsel for the applicants submitted that the matter has not been considered in the proper perspective. The 5th Pay Commission in its report dealt with the organisational set up of NEPA but remained silent about the pay scale of the Assistants of NEPA. The matter was referred to anomaly Committee. The anomaly committee was never set up at NEPA. In the Ministry of Environment, Department of Forests, the Assistants in the Regional Offices of the Ministry of Environment were given the revised pay scale of Rs. 5500-9000/-. The post of Assistant in NEPA is also a promotional post. The Assistants in the office of Registrar General, Census under the Ministry of Home Affairs were given the revised pay scale of Rs. 5000-8000/-. The Assistants of North Eastern Council which exercised budgetary and financial control in NEPA are in the pay scale of Rs. 5000-8000/-. The Assistants in Central Secretariat were given the pay scale of Rs. 5500-9000/- and other subordinate officers of the Ministry of Home Affairs are also getting the pay scale of Rs. 5500-9000/-. The Assistants working in subordinate Officers of Government of India like Ministry of Home Affairs and North Eastern council are in the pay scale of Rs. 5000-8000/-. But the Assistants of NEPA were given the revised pay scale of Rs. 4500-7000/-. On implementation of the recommendation of the 5th Central Pay Commission the pay scales of the applicants were initially revised to Rs. 5000-8000/- with effect from 1.1.96, for a

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period of two months and thereafter the pay scale was reduced to Rs. 45.00-7000/-. It was submitted by Mr.P.K.Tiwari that the Assistants working in NEPA should be treated equally in the matter of pay scale to Assistants in the different department of Government of India. No discrimination can be made between the Assistants on the ground of difference in their source of recruitment.

6. Mr.Pathak disputed the submission made on behalf of the applicants that 5th Pay Commission had recommended similar pay scale for combatants/non-combatants.

On behalf of the applicants reliance was placed on the case of Mr.V.R.Panchal,-Vs-Union of India,1996(2), CAT All India Services Law Journal, 682 and 2000(1) SLJ-139 while on behalf of the respondents reliance was placed on Union of India,-Vs-P.V.Hariharan, 1997, SCC,L&S,838. The State of U.P. and others,-Vs- Ramashyraya Yadav and another, 1996, SCC, L&S,714. All India Services Law Journal, 2001(2) 865 Vol.6 Union of India -Vs- Pradip Kumar Dey.

7. We have carefully considered the submissions on behalf of the parties and have perused the record. The matter of parity of pay scale has been subject matter of litigation and certain principles have been laid down on the basis of these decisions. The learned counsel for the applicant had argued that the Assistants of Assam Rifles and Nepa are performing same type of jobs as the Assistants of Central Secretariat and other departments of the Central Government or the Assistants working in other Central Police Organisation. Therefore, there cannot be any discrimination in the pay scale of Assistants. The Assistants working in Assam Rifles and in NEPA are entitled to the same pay scale as Assistants in

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other Organisation. Similarly as combatants and non-combatants are performing the same type of job there cannot be any discrimination, in payment of salaries. The respondents have contested the claims made on behalf of the applicants and have also filed their written statement. It is the case of the respondents that the comparison made by the Assistants with the combatants is not legally tenable. Article 14 of the Constitution does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position, as the varying need of different classes of persons often require separate treatment. Different treatment does not constitute violation of Article 14. The applicants being civilian employees as such cannot be compared with the combatant staff of HQ DGAR., Assam Rifles as there is reasonable basis for differentiation. This Tribunal in C.A.No.136 of 1999 dated 20.1.2001 in JC Paul Choudhury, Vs. U.O.I has examined the issue of the disparity of pay scale between Civilian and combatant Stenographers and has held there is no question of discrimination between combatant Stenographers and Civilian Stenographers. The combatants are different and a separate class. The applicants cannot compare themselves with combatants. It is stated that certain CPO's had revised pay scale of Assistant to Rs. 1640-2900/- with effect from 1.1.1986, without consultation with the Ministry of Home Affairs or M.O.F on the analogy of Assistants of CCS cadre. This was found irregular and it was desired to restore the pay scale of Rs. 1400-2600/-. However, BSF, ITBP had given revised pay scale of Rs. 1640-2900/- their Assistants. The 5th Pay Commission has recommended separate pay scales

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as admissible to the civilian staff in the non-secretariat organisations including the CPOs. It is stated that these civilian posts and are dying posts in Assam Rifles and have been provided normal replacement scales. The combatants constitute a different class in themselves and thus are easily distinguishable with the civilian staff. There is no equality of work. In order to explain the difference between combatants and Civilian staff. The Respondents have given the comparative chart as under :-

S/No	Combatants	CIVILIAN STAFF
(a) Acts applicable	AR Act, 1941. The aspects of discipline is controlled by AR Act 1941 and AA 1950 while serving under op control of Army. Under Army Act trial is by Court Martial for any offence and delinquent can be punished by death sentence. Under the AR Act 1941 also maximum penalty is death	CCS Rules
(b) Conditions of Service	Combatants may be posted anywhere in the NE region and anywhere in India. The Assam Rifles Units have taken active part in Indian Peace Keeping Force in Sri Lanka and also have been deployed in J&K to combat militancy. The Combatant clerks have also moved with the unit to serve in such areas. In North-East the combatants have effectively controlled the insurgency	They are posted only DGAR at Shillong.
(c) Restriction on Fundamental Rights	According to Article 33 of the Constitution of India the Fundamental Rights of the combatants are restricted as they are Armed Forces of Union as described in Scheduled VII List Entry 2.	NO RESTRICTION
(d) Medical Fitness	The combatants are required to be medically fit and in case of any ailment due to which they can not cope up with stress and strain continue. of service then they are invalided out.	Even persons in low medical category can
(e) Charter of Duties	Alongwith normal charter of duties of a clerk a combatant is also has an Additional task to go out on operational Duties such as patrolling, ambush in counter insurgency prone areas.	Only office job

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The applicants cannot plead equality with combatants as the petitioner were given option of combatisation in 1989. However, claim this is denied on behalf of the applicants in the rejoinder. The combatant staff are also expected to perform the duty which is expected of a soldier in time of war and in normal circumstances they are combating insurgency and guarding of borders. The revision of pay scales by BSF was without any authority and is therefore, irregular and cannot be a ground for revision for the applicants. It is stated that the Rules applicable in the case of Assam Rifles and BSF are different; allowances/benefits are different.

In the Assam Rifles, before revision, Assistants were sanctioned pay scale lower than in BSF. There is no disparity/anomaly in the scale when considered in the light of nature of duties being performed by combatants and civilian employees. The Fifth Central Pay Commission after due deliberation and consideration of the various factors such as the duties being performed by the combatants gave them higher pay scale than the civilian employees. The difference in pay scale is thus based on reasonable classification. The recommendations of expert body such as Pay Commission cannot be termed to be arbitrary or violative of Article 14. In regard to the Assistants in NEPA it is stated that the post is not supervisory. It is not designation that solely is determinative of the pay scale and there are many factors for determining the pay scale like eligibility, minimum educational qualifications, nature of duties and responsibilities, work load, professional skill proficiency and method of recruitment. As the Assistants in NEPA did not enjoy the pay scale of pay Rs. 1640-2900/- but worked in the pay scale of Rs. 1400-2300/-, they are entitled to normal replacement scale of Rs. 4500-7000/-.

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As the Assistants in Northeastern council, Shillong were given in the pay scale of Rs. 1400-2600/- therefore, they were given the pay scale of Rs. 5000-8000/- being the replacement scale. In order in O.A.No.144 of 93 decided on 19.1.96 in the case of V.R. Pranchal,-Vs- Union of India & Ors All India Services Law Journal Vol.6, 1996(2) C.A.T. 682. The Principal Bench discussing the Supreme Court Judgment in case of Hariharans up held the view that courts should not interfere with the recommendation of expert like Central Pay Commission in the matter of pay scale excepting in certain situations as under :-

- (i) The Pay Commission committed to consider the pay scale of someposts of any particular service, or
- (ii) the pay Commission recommended certain scale based on no classification or irrational classification, or
- (iii) after recommendation of the Pay-Commission is accepted by the Govt.,there is unjust treatment by subsequent arbitrary State action/or in action. In other words the subsequent State action/in action results in favourable treatment to some and unfair treatment to others."

8. We have given careful consideration to the submission made before us. It has been held by Supreme Court in the cases referred above/that the Expert bodies like Central Pay Commission have the final say in the matter of fixation of pay. The 5th Pay Commission dealt with the question of parity of pay scale in para 46.7 with regard to parity in Secretariat pay scale, para 46.9 dealt with the case of Assistants. The paras are extracted below:-

"46.7. Parity with Secretariat pay scales and cadre structure - Complete parity has been demanded between the pay scales of clerical staff in the Central Secretariat and subordinate offices. In some cases, it has been asserted that field jobs entail more rigorous working conditions, whereas Secretariat staff enjoy better amenities without any accountability

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and thus a claim for higher pay scales in the subordinate offices has been made. A number of administrative ministries have recommended parity on the ground of responsibilities, transfer liability and interaction with public. In case of Assistants of organisations like Enforcement Directorate, CBI, Central Passport Organisation etc. various Benches of Central Administrative Tribunal have given judgments granting parity with the pay scale of Assistants in CCS.

46.9. In the case of Assistants in the Secretariat, the position is entirely different. Assistants in the Secretariat have always been given a special status as they have been holders of Group 'B' posts. They have always had a higher pay scale as compared to Assistants in Non-Secretariat Organisations, even though the difference was limited to a higher maximum. There has been a significant element (50%) of direct recruitment with the higher educational qualification of graduation in the case of Assistants in the Secretariat, as compared to their counterparts in subordinate offices, who are promoted from the post of UDCs for which the prescribed minimum qualification is matric only. Assistants in Secretariat perform more complex duties in as much as they are involved in analysing issues which have policy implications in comparison to their counterparts in subordinate offices, where the nature of works is confined to routine matters related to establishment personnel and general administration only. Assistants in the Secretariat also submit cases directly to the decision making level of Under Secretary/Deputy Secretary under the scheme of level jumping. Taking all these factors into consideration, we are of the definite view that the pay scale of Assistants in the Non-Secretariat Organisations should slightly be lower as compared to the pay scale of Assistants in the Secretariat. Assistants in subordinate offices may therefore, be placed in the pay scale of Rs. 1600-2,660. "

The Pay Commission also considered in case of North Eastern Police Academy para 70.113 and gave its recommendation in Para 70.116 for analogous scales.

Both the paras are reproduced below:-

70.113. The North Eastern Police Academy (NEPA) training is a Police Training Institute under the Ministry of Home Affairs imparting to police personnel of the 7 North Eastern States. It is situated 22 Kms away from Shillong in Meghalaya. It is headed by a Director in the pay scale of Rs. 5100-6150 who is assisted by a Joint Director, a Dy Director, Asstt. Director and other staff. The total staff strength is 237.

CC Ushan

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70.116. The replacement scales for analogous posts recommended in the relevant chapters will be given to the posts in the organisations. "

There is no dispute that the Assistant in "Assam Rifles and in NEPA have been given analogous scale. They have not been given the scale more than those recommended by the Pay Commission. It has been observed by Supreme Court in *Ashutosh Gupta, -Vs- State of Rajasthan and others, 2002 Supreme Court cases (L&S), 465* with regard to principle of equality as under :-

"The concept of equality before law does not involve the idea of absolute equality amongst all, which may be a physical impossibility. All that Article 14 guarantees is the similarity of treatment and not identical treatment. The protection of equal laws does not mean that all laws must be uniform. Equality before the law means that among equals the law should be equal and should be equal and should be equally administered and that the likes should be treated alike. Equality before the law does not mean that things which are different shall be treated as though they were the same. It is true that Article 14 enjoins that the people similarly situated should be treated similarly but what amount of dissimilarity would make the people disentitled to be treated equally, is rather a vexed question. A legislature, which has to deal with diverse problems arising out of an infinite variety of human relations must of necessity, have the power of making special laws, to attain particular objects; and for that purpose it must have large powers of selection or classification of persons and things upon which such laws are to operate. Mere differentiation or inequality of treatment does not "per se" amount to discrimination within the inhibition of the equal protection clause. The State has always the power to make classification on a basis of rational distinctions relevant to the particular subject to be dealt with."

The matter of discrimination with regard to pay scale of combatants staff came for consideration of this Bench of this Tribunal in O.A.No.136 of 1999 and gave findings as under :-

" The combatant Stenographers, in addition to the duties they discharge as Stenographers also discharge the duties as combatants as per their ranks and they perform arduous nature of work in operationally sensitive areas. Mr. Sarkar is right in his submission that non-combatant Stenographers

lc (Ushan)

are also posted in hard and sensitive areas, but that by itself cannot equate them with the combatised personnel, though posted in the sensitive and operational areas, for which they may be entitled for some admissible allowance like ration allowance, etc. like that of combatants. However, that by itself would not make them equal with the combatants. The terms and service conditions are totally different. As mentioned earlier, the combatised personnel are covered by the Assam Rifles Act as well as the Army Act and the Army Act and Rules are more stringent than the rules applicable to the non-combatised staff covered by the Civilian Law. The question regarding the entitlement of pay scales was already examined by the Pay Commission and on evaluation of the nature of duties and responsibilities of the posts, the Pay Commission made the recommendations which were accepted by the concerned authorities. The Court of the Tribunal would loathe to intervene in such matters unless it appears that it was made for extraneous consideration. The non-combatant Stenographers were given the option to join in the combatised force and those who opted were accordingly enrolled as combatants. In the circumstances the ground of discrimination is not sustainable. "

The Supreme Court has held in the decision read with Union (L&S) 838 of India, -Vs- P.V. Hariharan, para 5 of 1997 SCC/ as below:-

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint

U.U. Shrivastava

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in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e. matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairman of State Administrative Tribunals shall consider issuing appropriate instructions in the matter."

9. The subject of pay scale of Assistants of Assam Rifles and NEPA has came for consideration before the Pay Commission including the 5th Pay Commission and they have given different pay scale to the Assistants. Keeping in view of the pronouncement of Supreme Court in the cases cited above, we are of the view that after the decision of the Supreme Court, the Central Administrative Tribunal is not competent to interfere with the pay scales and the matter of parity is to be decided by Govt. and Pay Commission. The matter has been considered by the Govt. and Pay Commission as well and they have not accepted the claim. The applicants have represented their case before the 5th Pay Commission and they claimed parity with the pay scale of Assistants of other Organisations. The Pay Commission as an expert body dealt with the subject matter including pay scale of different organisation and had a huge ~~xxx~~ Data/information at their disposal and had also given opportunity for representation to the applicants and with all Data at the disposal did not feel it prudent to give higher pay scale to the applicants. With the material placed before us we are of the view that this Tribunal has no scope for interference in the pay scale given to the applicants. The applicants have been given analogous replacement scale.

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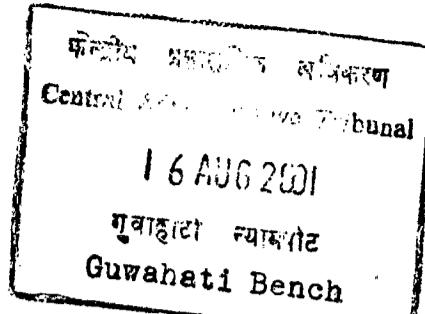
10. We do not find any justification to accept the claim of the applicants. The application is accordingly, dismissed. There shall however be no order as to costs.

K. K. Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Choudhury
(D. N. CHOUDHURY)
VICE-CHAIRMAN

LM

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 321 of 2001.

Title of the Suit : Shri Swapan Kumar Sarbajna & Ors.

-Vs-
Union of India & Anr.

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Filed by :

Prabir Baruah
Advocate
14/8/2001

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Case No. 14/8/2001

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No. 321 of 2001.

BETWEEN

1. Swapan Kumar Sarbajna, Asstt
2. M Bhattacharjee, Asstt
3. Pranesh Ranjan Bhattacharjee, Asstt
4. Sunil Dey, AO
5. Sibapada Choudhury, Asstt
6. Haladhar Sharma, Asstt
7. Wantula langrai, Asstt
8. Bibha Bhattacharjee, Supdt
9. Ranajit Choudhury, Asstt
10. Sweety Jala, Supdt
11. Jnanendra Kr Dey, Supdt
12. Joyasree Choudhury, Asstt
13. Bina Kumari Pradhan, Asst
14. Maya Gurung, Asstt
15. J B Sunar, Asstt
16. Bipul Kumar Chatterjee, UDC
17. Suranjan Bhowmick, UDC
18. R.S.S. Umwi, Supdt
19. Tushar Kanti Deb, UDC
20. K Nongrum, Asstt
21. P N Pathak, UDC
22. J A Ahmed, UDC
23. Md.Majnu Ali, UDC
24. Adhindra Chandra Deb, UDC
25. R.K. Dhar, UDC
26. Arabinda Rakshit, UDC
27. Anil Chandra Deb, UDC
28. P.B. Choudhury, UDC
29. Babli Dhar, UDC
30. Ram Jatan Roy, Asstt
31. B N Pathak, UDC
32. Labanya Kr Sarma, UDC
33. Nandita Dev, UDC
34. Golap Babu Sinha, Asstt
35. Pankaj Kumar Pal, UDC
36. Pinak Pani Hore, Asstt
37. B C Das Gupta, Supdt
38. Bhola Pradhan, Asstt
39. Sujata Sarkar, UDC
40. Amarendra Das, UDC
41. Diama Sushil Goswami, Supdt
42. Sipra Dutta, Asstt
43. Supriti Das Gupta, Asstt
44. Pannalal Chakraborty, Asstt
45. N. Khongmalai, Asstt
46. T. Warjri, UDC
47. Rathindra Chakraborty, Supdt
48. Mani Lal Deb, Supdt
49. K K Sharma, UDC
50. Vivekananda Choudhury, Asstt
51. Jajneswar Bhattacharjee, Supdt

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57. Gouri Sankar Paul, UDC
58. Radha Gobinda Basak, Asstt
59. Prashanta Kumar Das, UDC
60. K.M. John, UDC
61. Saroj Kumar Roy, Supdt
62. Pramatha Ranjan Dutta, UDC
63. Swapna Dutta Choudhury, Asstt
64. Purna Goswami, Asstt
65. Sipra Dutta Purkayastha, Asstt
66. Aniruddha Sarma, Supdt
67. U C Talukdar, UDC
68. Ashok Bijoy Chakraborty, Asstt
69. S N Bayan, Supdt
70. Sailendra Chandra Deb, UDC
71. Krishan Lal Verma, UDC
72. Sucharita Adhikary, UDC
73. Anjali Choudhury, Supdt
74. G N Gogoi, UDC
75. M Langstieh, UDC
76. H Ranee, Supdt
77. K Chetia, Supdt
78. K R Dey, UDC
79. Samiran Ch De, Asstt
80. B M Choudhury, UDC
81. Jogendra Nath Das, UDC
82. Kushi Ranjan Bhattacharjee, UDC
83. K C Goswami, Asstt
84. Jayanta Kumar Das, UDC
85. Vivekananda Biswas, Asstt
86. Manik Chandra Dey, UDC
87. Bhola Nath Paul, Asstt
88. Durgar Singh Kunjwal, UDC
89. Kalpa Kumar Dutta, Asstt
90. Rameswar Bhuyan, Asstt
91. Niranjan Bhattacharjee, Asstt
92. B Syngai, Asstt
93. Rita Gurung, UDC
94. Dharitri Bhattacharjee, Asstt
95. Debashish Choudhury, Supdt
96. Debjani Deb, Asstt
97. B.K. Goswami, Supdt
98. Swapna Dey, UDC
99. Bithika Das Asstt
100. Ashima Deb, Asstt
101. D N Boruah, Asstt
102. B G Lartang, Asstt
103. D K Suklabaidya, RO
104. S D Ram, RO
105. S R Das, UDC
106. A Sohtun, Asstt
107. N Dkhar, Asstt
108. D Wallang, Asstt
109. M J Marbaniang, Asstt
110. P Kharnoir, Asstt
111. Krishna Chakraborty, UDC
112. Dipti Deb Roy, Asstt
113. Sashanka Sekhar Bhattacharjee, UDC

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114. P R Buragohain, UDC
115. S R Sen, UDC
116. Abani Kr Khatoniar, Supdt
117. E Lyngdoh, Supdt
118. S P Choudhury, UDC
119. Sabinoy Ch Dey, UDC
120. Sarat Ch Sarma, UDC
121. Dulal Chandra Das, UDC
122. L D Gurung, Asstt
123. Nilima Deb, Asst
124. Paresh Chandra Dey, Supdt
125. Parul Dey, Supdt
126. Aparna Chakraborty, LDC
127. Narakasur Das, UDC
128. Nilaja Kanta Arjun Kanungoe, Asstt
129. S Bhattacharjee, Supdt
130. Anima Purkayastha, UDC
131. R Kharmaophlang, Supdt
132. Truman Sing Wanwar, Asstt
133. P R Ryngnga, Asstt
134. R Bhattacharjee, Asst
135. Kabita Mitra, Asstt
136. Mihir Kumar Dutta, UDC
137. Santosh Kr Paul, UDC
138. N V Aravindakshan, Asstt
139. S C Dutta Choudhury, UDC
140. Ardhendu Shekar Bhattacharjee, UDC
141. B Fancon, UDC
142. Basanta Kr Sarma, UDC
143. Indra Mohan Sarma, Asstt
144. Debika Bhattacharjee, UDC
145. P K Mandal, UDC
146. Abhijit Mitra, Supdt
147. Sanjay Gurung, UDC
148. A K Sharma, UDC
149. Kalyani Choudhury, UDC
150. Sipra Paul, UDC
151. R C Purkayastha, UDC
152. S M Chhetri, Asstt
153. Ranabir Dey, UDC
154. Dwijendra Nath Das, Asstt
155. Hemanta Kumar Das, UDC
156. Ganesh Prasad Singh, UDC
157. J R Khataniar, UDC
158. Panna Purkayastha, UDC
159. Kalyani N E, Asstt
160. Janet Jyrwa, Supdt
161. Prasanna Kumar Das, UDC
162. Susendra Nath Sarma, UDC
163. Rabindra Prasad Singh, UDC
164. Dilip Kr Paul, UDC
165. Jyotirmoy Chakraborty, UDC
166. Jitendra Kumar Bhattacharjee, Asstt
167. T T Bhattacharjee, Supdt
168. S N Shukla, Asstt
169. Kailash Chandra Das, UDC
170. S M Tariang, Asstt
171. P B sarki, Asstt
172. B R Upadhyay, Asstt
173. Radheshyam Bhattacharjee, UDC
174. Anjali Chakraborty, UDC
175. Ranangshu Chakraborty, UDC

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176. D P Pradhan, Asstt
177. K Kharbithai, Asstt
178. Hemendra Nath Sharma, UDC
179. Nagendra Ch Deb, UDC
180. B R Mylliemngap, UDC
181. K D Chakrabarty, Supdt
182. Debika Chakravarty, Asstt
183. T D Diengdoh, Supdt
184. B Borkotoky, Asstt
185. Partha Pratim Dutta, UDC
186. Sontosh Kr Choudhury, Supdt
187. Sailendra Kumar Chakraborty, UDC
188. Shubhrangshu Kumar Dey, Supdt
189. A Dutta, Asstt
190. K Chakraborty, Asstt
191. Bir Bahadur Thapa, UDC
192. S R Bhattacharjee, UDC
193. Idrina Lyngwa, Asstt
194. Uma Devi Pradhan, Supdt
195. Purabi Shreshta, Asstt
196. Lakshmi Arjun Kanungoe, Supdt
197. Arwin Sohklet, UDC
198. Wanphur Mawrie, LDC
199. Binapani Gupta, Asstt
200. R S Tron, Asstt
201. S S Marbaniang, LDC
202. L K Sharma, Asstt
203. T G Padmanabhan Achari, UDC
204. D W Nongkhaw, Supdt
205. B Warjri, Asstt
206. A Diengdoh, Asstt
207. B M War, Asstt
208. Dev Raj Thapa, UDC
209. P N Dutta, Asstt
210. B K Bhowmick, UDC
211. Minati Dey, Asstt
212. Kanak Chandra Bezbaruah, UDC
213. Amiendu Choudhury, Supdt
214. Santanu Deb, UDC
215. C N Pathak, UDC
216. P K Deka, UDC
217. Anjali Dey, UDC
218. Samaresh Ch Dhar, Supdt
219. K K Chakraborty, Asstt
220. Mita Pyal, UDC
221. Usha Kumari Sadasivan, UDC
222. Md Ali Ansari, UDC
223. Jayamma Mathew, Asstt
224. Pranab Kumar Nag, Asstt
225. T Giri, Supdt
226. B K Dympep, Asstt
227. Bharat Prasad Roy, UDC
228. Hare Krishna Goswami, UDC
229. Bharat Chandra Das, UDC
230. Arun Ch Dutta, Asstt
231. Rajat Chakraborty, Supdt
232. Pijush Kanti Das Gupta, AO
233. Sumit Kumar Kar, Asstt
234. Joymadhab Pramanik, Asstt
235. Santanu Bhattacharjee, UDC
236. Prasanna Kumar Sarmah, Supdt
237. Mihir Uday Chakraborty, UDC

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Calcutta

- 238. Subimal Dey, Asstt
- 239. Jagat Moy Das, Supdt
- 240. Monica Rynjah, Supdt
- 241. Danmati Gurung, Asstt
- 242. Ananta Ram Chhetri, Asstt
- 243. Sukriti Dhar, Asstt
- 244. Sukumar Chanda, RO
- 245. Amarendra Kr Chakraborty, Asstt
- 246. Sted Mary Basaiawmoit, Asstt
- 247. Subhasish Bhattacharjee, UDC
- 248. Chandan Ghosh, RO
- 249. A R Lakiang, LDC
- 250. Utpal Purkayastha, Asstt
- 251. Ajit Kumar Dhar, Supdt
- 252. Sitansu Kumar Dey, Asstt
- 253. Harold Shabong, Asstt
- 254. S K Purkayastha, Supdt
- 255. S R Paul, CGO
- 256. M Kharkongor, Asstt
- 257. Achintya Kr Dutta Choudhury, Supdt
- 258. Jalesh Kumar, UDC
- 259. K S Bhattacharjee, UDC
- 260. Shyamalendu Roy, UDC
- 261. Himangshu Sekhar Das, Asstt
- 262. Maya Dey, Asstt
- 263. Dipak Kr Dutta, UDC
- 264. Surajit Paul Choudhury, UDC
- 265. Meera Thapa, LDC
- 266. Leena Chakraborty, UDC
- 267. Ram Krishna Dutta, UDC
- 268. Binoy Bhusan Deb Roy, UDC
- 269. Surajit Kr Home Choudhury, Asstt
- 270. Santanu Nandy, UDC
- 271. Ganesh Kr Jasu, UDC
- 272. Nikhilesh Dutta, Supdt
- 273. Jagat Jyoti Dey, Asstt
- 274. Swaraj Kr Das, UDC
- 275. Dhanu Maya Gurung, Asstt
- 276. Nidhu Bhusan Chakraborty, UDC
- 277. Akhil Kr Borah, UDC
- 278. H B Chanda, UDC
- 279. I F Lynrah, UDC
- 280. Ranadhir Das Choudhury, Asstt
- 281. B B Dey, AAO
- 282. Ratul Kar, Overseer
- 283. NaVIN Kumar Sharma, Overseer
- 284. R Dhar, UDC
- 285. S R Purkayastha, Asstt
- 286. Tulsi Deb, UDC
- 287. Leela Das Gupta, UDC
- 288. S B Dey, UDC
- 289. Kalyan Ranjan Bhattacharjee, Supdt
- 290. Biman Kumar Bhattacharjee, UDC
- 291. T K Deb, Asstt
- 292. T R Dey, UDC
- 293. Ardhendu Bhusan Nath, Asstt
- 294. Narayan Sarkar, Asstt
- 295. Satyajyoti Chowdhury, Asstt
- 296. Gopal Pradhan, Asstt
- 297. N K Nag, Asstt
- 298. Premananda Borah, UDC
- 299. A C Saha, Asstt

3,
Chakraborty

- 300. Projnanda Dowerah, Supdt
- 301. Lamphrang Kharkongor, Asstt
- 302. Dharendra Kumar Deb, UDC
- 303. Dayal Chandra Das, UDC
- 304. Biresh Rn Nath, UDC
- 305. Md Anowar Hussain, udc
- 306. Gouri Kar, Supdt
- 307. Bijoy Bahadur Chhetry, Asstt
- 308. Anjana Kar, Asstt
- 309. P P Mohorlieh, Asstt
- 310. Champak Choudhury, Asstt
- 311. Sushil Kr Chakraborty, Asstt
- 312. Kanak Jyoti Dey, Asstt
- 313. Rabendra Nath Roy, UDC
- 314. Sukomal Dey, Asstt
- 315. Biplab Gupta, UDC
- 316. N K Baisya, Supdt
- 317. S K Das Gupta, Asstt
- 318. R C Sen Choudhury, UDC
- 319. Bikash Roy Choudhury, UDC

.....**Applicants**

All the Applicants are working in different capacities under the Director General of Assam Rifles, Shillong and posted at HQs. Office, Shillong.

AND

- 1. Union of India (represented through
The Secretary, Govt of India,
Ministry of Home Affairs, North Block,
New Delhi – 110 001.
- 2. Director General
Assam Rifles
Shillong – 793 011.
- 3. Joint Secretary (Police) to the
Govt of India
Ministry of Home Affairs
New Delhi – 110 001.

.....**Respondents**

**Particulars of the Order against which the application
is made :**

The application is made for pay scales of the Civilian employees of Directorate General Assam Rifles, Shillong.

Jurisdiction of the Tribunal :

2. The applicants declare that the subject matter of the orders against which they want redressal is within the jurisdiction of the Tribunal.

Limitation:

3. The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

Facts of the Case.

4.1. That the applicants are citizen of India and as such are entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicants are working as civilian employees in different capacities under the Director General of Assam Rifles at Shillong.

4.3. That the cause of action of the applicant's is same and they have common interest in the nature of relief prayed for in this application. The applicants therefore prays for permission of the Hon'ble Bench to join together in this application under the provision of Rule 4 Sub-rule (5) (a) of Central Administrative Tribunal (Procedure) Rules, 1987.

4.4. That the Assam Rifles is a Central Police Organisation under the Govt of India, Ministry of Home Affairs and the Central Govt pay scales are applicable to the employees of Assam Rifles.

4.5. That there have been glaring disparities in the matter of grant of pay scale to the applicants which has resulted discrimination amongst similarly placed employees and also has caused financial loss to the applicants.

4.6. That in order to appreciate the anomaly and disparity in the right perspective, the background of the case are submitted in the succeeding paragraphs.

4.7. That, the Organization of Assam Rifles root its origin in the Cachar Levy raised in 1835 under the Assam Administration and was functioning as Armed Constabulary of the State of Assam. Subsequently, the Force was named as Assam Rifles. The Assam Rifles was taken over by the Govt of India, Ministry of External Affairs and placed under Inspector General of Assam Rifles with effect from 01 Oct 1947. Secretariat cover for this Force was provided by North East Frontier Agency Administration until 1972. With the creation of the Union Territory of Arunachal Pradesh covering the areas under the NEFA, the Assam Rifles started functioning directly under Ministry of Home Affairs.

4.8. That, prior to 1973, the pay scales, staffing pattern, recruitment rules, promotion policy etc for the civilian ministerial staff of Assam Rifles, both at HQ DGAR and Unit level, were similar to those prevalent in the erstwhile NEFA Administration who had the administrative control over the Assam Rifles as an Agency of the Ministry of External Affairs till 1965. In fact, the NEFA Administration at that time had adopted the pay scales of the Govt of Assam and, therefore, these were called the "Assam type" of pay scales.

4.9. That, the administrative control of Assam Rifles was shifted from the Ministry of External Affairs to Ministry of Home Affairs in 1965 and consequent to the shifting of Secretariat cover from NEFA Administration to directly under the Ministry of Home Affairs, contemplation of bringing the Civilian Ministerial Staff of Assam Rifles under Central Govt Pay structure was afoot. Accordingly, the entire civilian establishment of Assam Rifles had switched over from Assam type of pay pattern to the Central Govt pay pattern and the pay scales recommended by the Third Central Pay Commission were implemented with effect from 01 January, 1973 under the approval of Ministry of Home Affairs, Govt of India vide No. 4/12/73.Imp dated 20 Mar 1975.

4.10. That, the Govt of India while allowing the central pay scales for Assam Rifles Civilian employees, had noted the existence of two categories of employees in Assam Rifles, i.e. (1) the staff employed in the HQ office of the then Inspector General (now Director General) with higher pay scale and (2) the staff employed in Range/Units of Assam Rifles with lower pay scales. As a corollary, nomenclature of certain post in the HQ set up had to be Changed to match with the nomenclature obtainable in the central service structure. For example, erstwhile Assam type designation of UDA and LDA of the establishment where redesignated as Assistant and UDC respectively with the approval of the Ministry of Home Affairs, Govt of India vide no. 2/5/76.FP.IV dated 07 May 76.

4.11. That, the status of the HQ establishment of the Force was duly determined as Head of the Department declared under the Delegation of Financial Power Rules. It is also evident from the duties and responsibilities attached to the post of the HQ establishment that it has been performing the duties of attached office. In the Secretariat Manual of the Central Govt under para 7(2) of Chapter II, it is stated that –

“Attached offices are responsible for providing executive direction required in the implementation of the policies laid down for the department to which it is attached. They also serve as repository of technical information and advise the department on technical aspect of question dealt with by them. While subordinate offices generally function as field establishment or as agencies responsible for the detailed execution of the policies of the Govt. They function under the direction of the attached office.”

In view of the above position, it is clear that the HQ establishment has been virtually functioning as attached office, while the Ranges/Units' offices have been functioning as Subordinate offices.

4.12. That, on implementation of the 3rd Central Pay Commission's scale of pay, the Assistants of this Directorate were granted the scale of pay of Rs. 425-15-500-EB-15-560-20-700/- Consequent to the 4th Central Pay Commission, the Assistants were granted the scale of pay of Rs.1400-2300/- with effect from 1.1.1986.

4.13. That, it may be mentioned in this context that some CPOs had revised the scale of pay of Assistant to Rs. 1640-60-2600-EB-75-2900/- after the 4th Central Pay Commission and the Ministry of Home Affairs vide DO letter No. 13011/11(ii)/92-Fin.II dated 02 Jun 92 had directed the then Director General Assam Rifles to restore the

scale of pay for the Assistant to Rs. 1400-40-1600-50-2300-EB-60-2600/- instead of Rs. 1640-60-2600-EB-75-2900/- The scale of Rs.1400-2600/- is a higher scale than the scale of Rs. 1400-2300/- which has been drawing by the Assistants of this Directorate.

4.14. That, it would also be pertinent to mention here that a reference was made to HQ Directorate General BSF to intimate the pay scale of Assistants serving with the BSF and HQ DG BSF vide their letter No. 60011/1/96-Staff/BSF dated 11 May 99 intimated that "**Pay Scale of Assistant in BSF prior to 1.1.86 was Rs. 425-800/- which was revised to Rs. 1400-2600/- consequent upon implementation of the 4th Pay Commission Report.** The above pay scale however further revised to Rs. 1640-2900/- notionally with effect from 1.1.1986 and effectively with effect from 1.5.91 vide Ministry of Home Affairs letter No. 26016/7/90-Staff/BSF/PF.II dated 17.9.1993 on the basis of relief granted by the Hon'ble Central Administrative Tribunal."

4.15. That, It may also be pertinent to point out that the scale of pay sanctioned for the Assistants of the Non-Secretariat Organisations as per Part 'B' of First Schedule of the Central Civil Services (Revised Pay) Rules, 1997 is Rs. 5000-8000/-, whereas the Assam Rifles being a Non-Secretariat Organisation has adopted the scale of Rs. 4500-7000/- for its Assistant cadre which is a lower scale meant for lower organisations.

4.16. That, it may not be out of place to point out in this context that at present there are two categories of Ministerial staff employed in this Directorate viz., Civilian and Combatant. Both the categories were given equal scale of pay till revision of pay by the 5th Central Pay Commission as the posts in Civilian and Combatant were equated as under :-

<u>Civilian</u>	<u>Combatant</u>
Superintendent	Subedar Clerk
Assistant	Nb/Sub Clerk
UDC	Warrant Officer
LDC	Havildar Clerk

4.17. That, the scale of pay sanctioned by the Govt of India with effect from 1.1.86 for these two categories after the 4th Central Pay Commission were as under :-

Superintendent -	Rs. 1640-2900/-	Sub/Clik -	1640-2900/-
Ass'tant/Nb/Sub Clik -	Rs. 1400-2300/-	Nb/Sub Clik -	1400-2300/-
UDC -	Rs. 1200-2040/-		
LDC -	Rs. 950-1500/-		

4.18. That, while combatising the posts in HQ DGAR establishment, the Govt of India vide letter No. I.27011/44/88-FP.I dated 19 Sep 89 has equated the civil posts vis-à-vis combatant posts based on nature of duty, scale of pay etc., wherein the post of Supdt has been equated with Subedar Clerk and Assistant has been equated with Nb/Sub Clerk. The post of UDC could not be equated to the combatant post as there was no analogous post available in the existing combatant category. However, subsequently, a

proposal was taken up with the Govt of India and post of Warrant Officer was sanctioned to equate the civil post of UDC. In this connection, a revised PE circulated vide HQ DGAR letter No. II.11011/219/91-G(PE) dated 20 Oct 1994 has been relied upon.

4.19. That, after the 5th Pay Commission, the scale of pay granted to the Ministerial staff of HQ DGAR establishment were as under as per circular No. I.11023/5/97-Est/57 dated 21 Oct 97 issued by the Respondent No. 2:-

Gp 'B' Officer	Rs. 6500-10500/-
Supdt	Rs. 5500-9000/-
Asst/Overseer/Nazir/	Rs. 4500-7000/-
Draughtsman	

However, subsequently the Respondent No. 2 by its letter No. A/A-II/5th CPC/APS/98 dated 26 March 98 had taken up the case with the Respondent No. 1 pointing out the anomalies in the matter of grant of scale to civilian staff with a comparative statement showing the civil post and equivalent combatised post and the differences in the scale, wherein it was highlighted inter-alia that the pay drawn by civil staff of the same equivalent rank of combatant is much lower. It was also pointed out in that letter that **"person in the same rank and performing the same job are paid differently. Combatant are paid much higher as has been brought out.....It is therefore requested that civil staff should be granted the same pay as their equivalent counterparts in the combatised cadre".**

A copy of the aforesaid letter No. I.11023/5/97-Est/57 dated 21 Oct 97 and letter No. A/A-II/5th CPC/APS/98 dated 26 Mar 98 are annexed as Annexure I and II respectively.

4.20. The scale of combatant ministerial staff was again revised as under on 10 Oct 97, in order to rationalise the rank structure and pay scale of CPOs vide Govt of India, Ministry of Home Affairs letter No. 27012/1/97 PC Cell/PE.I dated 10 Oct 97:-

Sub Clk	Rs. 6500-10,500/-
Nb/Sub Clk	Rs. 5500-9000/-

4.21. That, it would thus be seen that the civilian ministerial staff are being given the lower scale although both the categories are performing identical work and are placed similarly. There is therefore, a clear discrimination and disparity in the matter of granting scale of pay to the applicants.

4.22. That, from the facts enumerated in the preceding paragraphs, it transpires that the applicants have been discriminated in the matter of pay scale on the one hand vis-à-vis combatant staff of HQ DGAR establishment and on the other hand vis-à-vis other CPOs viz., BSF when in both case, the applicants are similarly placed.

4.23. That, it would be worth mentioning in this context that similar matter was adjudicated by the Principal Bench of the Central Administrative Tribunal, New Delhi, on 3.12.99 in OA No. 572 of 96, wherein it was held that "**Equality is the first principle of justice when a particular benefit is granted to employees of one department of the Govt of India, the same cannot be denied to other similarly placed employees of other department under the same Government. It would otherwise violative of Article 14 and 16 of the Constitution and will be against the spirit of justice".**

4.24. That, since the Assistant of HQ Directorate General BSF have been given the scale of pay of Rs. 1640-2900/- on the basis of relief granted by Hon'ble Central Administrative Tribunal as mentioned in paragraph 4.14 above, this scale should have been extended to the Assistants of HQ DGAR as both are CPO under same Ministry and both are similarly placed. In this context, it may be mentioned that the Hon'ble Tribunal of Ahmedabad Bench in a similar case has held on 01.1.99 in OA No. 602/97 that "**It is unfortunate that the Respondents being a model employer is driving its employees to file such application in different Benches of the Tribunals though the matter has been finally decided by the various Benches of the Tribunal. At this juncture, it is worthwhile to refer to the observations of the Supreme Court in the case of Indrapar Yadav versus Union of India (reported in 1995(2) SLR 248), regarding the question of others who could not come to the Court seeking the same relief –**

Those who could not come to Court need not be at a Comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by any one else, at the hands of this Court.

This observation of the Supreme Court apply with full force to the facts of instant case."

4.25. That, it has also been held by the Central Administrative Tribunal of Jaipur Bench on 25.11.99 in OA No. 357 of 1995 that "**A democratic state with justice and equality as goals enshrined in the Constitution, does not force people, especially the employees of the State, to approach the Court/Tribunal to get what their brethren have got as a consequence of knocking the doors of Courts/Tribunals. We hope that the Respondents will take serious note of our aforesaid observations."**

4.26. The disparity in the scale of pay as explained in the preceding paragraphs has resulted discrimination, financial loss and demoralisation for the applicants and thereby caused resentment amongst the members of the staff.

4.27. That the Assam Rifles (Civil) Employees Association, of which all the applicants are members, have been representing against this disparity, ever since these anomalies were surfaced. But the Respondents have been lingering the decision on different pretext. It may be mentioned in this context that the Respondent No. 2 by its letter No. A/I-A/227-86/32 dated 17 Sep 99 addressed to the Vice-President of the Association had intimated that "**the matter has been forwarded by the Ministry of Home Affairs to the Ministry of Finance favourably. The case is now under consideration of the Ministry of Finance".**

A copy of the aforesaid letter dated 17.9.99 is annexed as Annexure III.

4.28. That, a considerable long period of time have already elapsed in this process and a final decision in this regard is yet to be taken by the Respondents. The Respondent No. 2 however, by its letter No. A/I-A/277-86/492 dated 02 Feb 2001 has requested the Respondent No. 1 to grant the scales as under to civilian employees of DGAR establishment :-

- (a) Gp 'B' Officers - Rs. 7450-11500/-
- (b) Superintendents - Rs. 6500-10500/-
- (c) Assistants - Rs. 5500-9000/-

But even after a lapse of almost five months, the decision did not come.

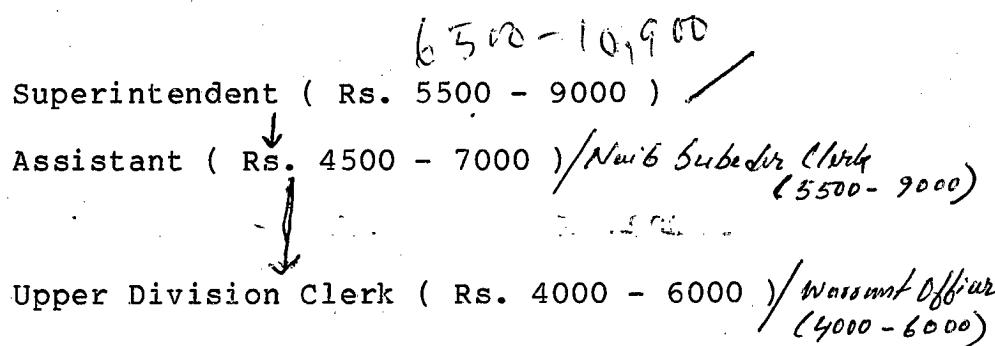
4.29. That, due to dilly dallying tactics of the Respondents, a large number of civilian employees have retired from service with lower scale thereby with lesser pension and also another large number of the applicants are due for retirement by next couple of months. Keeping in view this compelling situation, the Assam Rifles (Civilian) Employees Association submitted a representation No. AR(C)EA/Pay dated 06 Jun 2001 to the Respondent No. 2 explaining the entire circumstances under which the anomaly surfaced as also how the applicants have been treated differently in relation to pay scale of their counterpart in the same department and in relation to their counterpart in BSF which they are similarly placed. A copy of aforesaid representation is annexed as Annexure No. IV.

4.30. That, the Respondent No. 2 in reply to the aforesaid representation has buried all the hopes and aspirations of the applicants by indicating that, on the basis of decision of Respondent No. 1, they are not entitled to the scales other than the scales already granted to them. There was no reason for the Respondent to discriminate the similarly situated employees. This attitude of the Respondents is clearly unjust, arbitrary and discriminatory. It would be worth mentioning in this context that the Hon'ble Tribunal while disposing the RA No. 15 of 1998 in OA No. 151 of 1991 on 25th Feb 2000 had upheld the principles of equal pay for equal work where all relevant considerations are the same. But it is unfortunate that the Respondent is driving its employees to redress against discrimination and for seeking direction for grant of scale which have been extended to similarly situated employees. It is however, mentioned in the aforesaid communication that the MHA has decided that the Assistant and Supdt shall be placed in scale of Rs. 5500-9000/- and Rs. 6500-10500/- . But finalisation of this decision would take another couple of years and would ultimately be closed as has been experienced in the past.

A copy of letter No. A/I-A/277-86/Pt/218 dated 26 Jun 2001 denying the analogous pay scales to the applicants is annexed as Annexure V.

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4.32. That the applicants beg to state that works in office are done by the employees called Superintendent, Assistants, Naib subedar, Clerk, Upper Division Clerk (U.D.C), Warrant Officer. The Assistant and Naib Subedar Clerks discharge the same table work, and their work is interchangeable. The works done by Assistants are entrusted to Naib Subedar Clerk. Their work and duties are equal. Similar is the position of U.D.C. viz-a-viz Warrant Officer. The works of Assistant and Naib Subedar Clerk and Supervised by Superintendents. In other words the Assistant and Naib Subedar Clerk work under Superintendent. The U.D.C. and Warrant Officer do same work and are below Assistants and Naib Subedar. In other words Warrant Officer work under Assistant or Naib Subedar Clerk. Warrant Officer on promotion become Naib Subedar Clerk and does the works of Assistant. U.D.C. also on promotion become Assistant. The Office structure is described below with the bollowing diagram, with the respective payscals shown against each category (designation). The scatch is from top to down wards.



From the above table it would be seen that there is no rationale in the shouldering of job and payscals and the promotional scales are irrational

Discrimination is writ large in the above factual position. The Scheme is patently whimsical and arbitrary.

4.32 That it is stated that by the 4th Pay Commission the Assistant and Naib Subedar Clerks considering the works the scale of Rs. 1400 - 2300 was given. The 5th Pay Commission also considered all this aspects of conditions of service and nature of work and gave equal scale of Rs. 4500 - 7000/- to both the categories. This scale was given effect to from 1.1.1996. It is stated that the Assam Rifles is top heavy with Armed personels i.e. non-civilian. The case of the Naib Subedars was taken up by the department in 1998 for higher scale and they got in scale of Rs. 5000 - 8000/- with retrospective effect from 1.1.1996. The case of the Assistants remain unconsidered. Againg with effect from 10.10.1997 the scale of Rs. 5500 - 9000/- was given to the Naib Subedar Clerks without considering the case of the Civilian Assistant.

4.33. That as already explained the works of Upper Division Clerk is squarely same as the works of Warrant Officer. Same is the position with Assistant vis-a-vis Naib Subedar Clerk and the Superentendent vis-a-vis the Subedar Clerk. The uniform personnel (Combatant)

for their status as such i.e. as combatants get extra benefits which the civilians do not get. But the applicants humbly states that this can not be reason of discrimination of pay scale and denial of the higher pay scales to the applicants only because they are civilians. In this connection it is stated that the 5th Pay Commission also considered all the aspects and awarded same and identical scales of pay for ministerial work employees, both civilian and combatants, Upper Division Clerk and Warrant Officer, Assistant and Naib Subedar Clerk, Superintendent and Subedar Clerk. The department with effect from 10.10.1997 gave higher scale to Naib Subedar Clerk on the nature of Office Job (in addition to change over to higher scale of Rs. 5000 - 8000/- the Naib Subedar Clerk in 1998 giving effect from 01.01.1996), but the cases of the Assistant and Superintendent have been left unconsidered and the case is now sought to be rejected on extrameous grounds of conversion of scales taking earlier scales and converted new scales. It is reiterated that the 5th Pay Commission gave the same and equal converted scales . The respondents while upgraded scales of the one set of employees left the cases of the applicants unconsidered on the basis and nature of office job.

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Calabash

Grounds for relief with legal provisions :

5.1 That, there have been glaring disparity in the matter of grant of pay scales to the applicants by the Respondents which has resulted in discrimination amongst similarly placed employees, thereby, there has been violation of Article 14 of the Constitution which enjoins the State not to deny any person equality before the law.

5.2. That, the scale of pay of the applicants and their counterpart in combatant post under the Respondents were same upto the implementation of 5th CPC Report. But, subsequently the scale of pay of the combatant posts were enhanced leaving the scale of civilian posts unchanged although the Respondent No. 2 maintains that anomalies have been occurred between the pay of civil and equivalent combatant posts after grant of scales following 5th CPC as both are performing the same job. (Please refer to the letter with statement attached in letter dated 26 Mar 98 issued by the Respondent No. 2).

5.3 That the Respondent No. 1 has equated the civil posts vis-à-vis the combatant posts in HQ DGAR as under based on nature of duty, scale of pay etc vide letter No. I.27011/44/88-FP.I dated 19 Sep 89 :-

	<u>Civil Posts</u>	<u>Combatant Posts</u>
(a)	Superintendent	Subedar
(b)	Steno Grade I	Subedar
(c)	Steno Grade II	Naib Subedar
(d)	Assistant	Naib Subedar
(e)	Nazir	Naib Subedar
(f)	Overseer	Naib Subedar
(g)	Hindi Translator Grade II	Naib Subedar
(h)	Lower Division Clerk-cum-Typist	Havildar Clerk

But the scale of pay granted to the civil posts vis-à-vis the combatant post are as under :-

Designation of Existing post	Scale of pay wef 1-1-96	Equivalent Combatised rank	Scale of pay wef 1-1-96 to 9-10-97	Scale of pay wef 10-10-97 (for Combatised rank only)
Superintendent	5500-175-9000/-	Subedar (Superintendent)	5500-175-9000/-	6500-200-10500/-
Assistant	4500-125-7000/-	Naib Subedar (Assistant)	5000-150-8000/-	5500-175-9000/-
Nazir	4500-125-7000/-	Naib Subedar (Nazir)	5000-150-8000/-	5500-175-9000/-
Overseer	4500-125-7000/-	Naib Subedar (Overseer)	5000-150-8000/-	5500-175-9000/-
LDC-cum-Typist	3050-75-3950-80-4590/-	Havildar (Clerk)	3200-85-4900/-	3200-85-4900/-

5.4. That, a Nb/Sub and a Supdt now gets equal pay when the duties of Supdt entails higher responsibility and the duties of a Nb/Sub entails lower responsibility under same working condition and under same Respondent in the same Directorate.

5.5. That, the Respondent No. 1 had directed the Respondent No. 2 to restore the scale of Rs. 1400-2600/- for the post of Assistant with effect from 01.1.86 as some CPOs have revised the scale of Assistant to Rs. 1640-2900/- after 4th CPC. But, the Respondent No. 2 inspite of this specific direction continued to give the scale of Rs. 1400-2300/- to the Assistants. (Refer to MHA DO letter dated 02 Jun 92).

5.6. That, the Assistants of HQ Directorate General BSF were granted the scale of Rs. 1640-2900/- with effect from 01.1.86 whereas Assistants of the HQ Directorate General Assam Rifles were granted the scale of Rs. 1400-2300/- when both the organisations are Central Police Organisations under the same Ministry, i.e., the Ministry of Home Affairs. (Refer to HQ Directorate General BSF letter dated 11 May 99).

5.7. That, the scale of pay sanctioned for the Assistants of the Non-Secretariat Organisations as per Part 'B' of First Schedule of the Central Civil Services (Revised Pay) Rules, 1997 is Rs. 5000-8000/-, whereas the Assam Rifles being a Non-Secretariat Organisation has adopted the scale of Rs. 4500-7000/- for the Assistants which is meant for lower Organisations.

5.8. That, in view of the principle laid down by the Hon'ble Principal Bench in judgement dated 3.12.99 in OA No. 572 of 1996 that "**Equality is the first principle of justice when a particular benefit is granted to employees of one department of the Govt of India, the same cannot be denied to other similarly placed employees of other department under same Govt**" the applicants are entitled to the equal scale of their counterparts in combatant post as also in BSF.

5.9 That, this Hon'ble Bench while deciding a similar case of discrimination in the matter of grant of pay scale on 25 Feb 2000 in RA No. 15 of 1998 had relied upon the principle outlined in the Apex Court decisions especially in Randhir Singh Vs Union of India and others (1982-15CC-618) wherein it has been held that "**the true equation of posts and equal pay are matters primarily for the Executive Govt and expert bodies like Pay Commission and not for Courts, but where all things are equal that is where all relevant considerations are same, persons holding identical posts may not be treated differently in the matter of their pay merely because they belong to different department**". This principle is applicable in the case of the present applicants more so when the Respondent No. 2, under whom the applicants are working, has accepted that both the civilian and combatant posts in HQ Directorate General Assam Rifles establishment are similarly placed, performing same job and therefore major anomalies have occurred. It may be mentioned that the Respondent No. 2 is the best judge to evaluate the position with regard to similarity or dis-similarity of duties, responsibilities, work load etc., of employees working under him.

5.10. That the Respondent No. 2 in its latest communication to the Respondent No. 1 on 02 Feb 2001 vide its letter No. A/I-A/277-86/492 has again emphasised the need to remove the anomaly in the grant of pay scale to the applicants and recommended the analogous scales which the applicants have been praying for ever since the anomalies surfaced when it has been decided by Respondent No. 1 to grant uniform pay scale to all CPOs as communicated vide Annexure V, and therefore following the principles laid down by the Hon'ble Apex Court, decisions of the Hon'ble Principal Bench and the most important recent decision by this Hon'ble Bench of Guwahati, the applicants should not be denied the analogous pay scales of their counterparts.

Details of the remedies exhausted :

6. The applicants declare that they have availed of all the remedies available to them under the relevant service rules. It may be mentioned herein that all the applicants are members of the Assam Rifles (Civil) Employees Association and the matter was represented by their Association. In this connection, reply to the Association by the Respondent No. 2 vide No. A/I-A/277-86/32 dated 17 Sep 99 is annexed as Annexure III may please be referred to. However, the matter was also represented by applicants individually subsequently and lately, the Association vide letter No. AR(C)EA/Pay dated 06 June 2001 annexed as Annexure IV again prayed for early decision but were of no avail.

Matters not previously filed or pending with any other Courts.

7. The applicants further declares that they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal, nor any such application, writ petition or suit is pending before any of them.

Relief Sought.

8. In view of the facts mentioned in para 6 above, the applicants prays for the following reliefs :-

(a) That the scale of pay as under for the civil posts in HQ DGAR may be granted to bring them at par with their counterparts with effect from 10 Oct 1997.

(i) AO/AAO/RO/CGO - Rs. 7450-11500/-
(ii) Superintendents - Rs. 6500-10500/-
(iii) Assistant/Nazir/ - Rs. 5500-9000/-
Overseer

*Concurred
part 5*

Others (P.O.)
(b) That the scale of pay of Assistant of HQ DGAR be revised to Rs. 1640-2900/- notionally with effect from 01.1.86 effectively with effect from 1.5.91 on the analogy of the revision effected in the case of Assistants in HQ Directorate General, BSF, and as a follow up, all scales of promotional posts in hierarchy be revised accordingly.

*Civil Board of
Commissioners*
(c) Any other order(s) as the Hon'ble Tribunal may deem fit and proper.

Interim order, if any, prayed for:

9. That the Hon'ble Tribunal be pleased to make an observation that the pendency of the application shall not be a bar for the Respondents to extend the relief prayed for to the applicants in this application and the applicants further pray for expeditious disposal of this application.

10. The application is filed through advocate.

11. Particulars of the documents :-

As per index.

12. Particulars of Postal Order:

Postal Order No. : 76548679
Date of issue : 16.8.2001
Issued From : Gauhati
Payable At : Gauhati

VERIFICATION

I, Swapan Kumar Sarbajna, son of Late Srimanta Kumar Sarbajna, resident of Pohkseh, Shillong, aged about 55 years say that I have also been authorised by the other applicants to verify the statements of this application. Accordingly, I hereby verify that the statements in paragraphs 1,4 and 9 to 11 are true to my knowledge, and those made in paragraphs 2,3 and 5 are true as per legal advice. I have not suppressed any material facts.

Shillong 10th Aug 2001

Swapan Kumar Sarbajna

Signature

SWAPAN KUMAR SARBAJNA

Ass'tt

ESTY

Dated 21 Oct '97

RECOMMENDATION OF FIFTH CENTRAL PAY
COMMISSION- IMPLEMENTATION OF

1. With reference to Govt of India, Min of Fin (Dept of Exprdr) Notification dt 30 Sep 97, the forms of option and undertaking and forwarded herewith. The Offrs/staff of Group 'A', 'B', 'C' & 'D' may please be asked to submit same in duplicate duly filled in on or before 27 Oct 97 positively for preparation of IPS. If the option is not received on due date the incumbent will continue to draw the existing scales (Pre-revised).
2. Branches are requested to forward the above forms duly filled in by due date to enable fixation of pay and drawal of pay in revised scale for Nov 97.
3. Revised scales for posts, carrying present scales in Group 'A', 'B', 'C' & 'D' are shown in Appendix 'A' to this ION.

List 'D' and 'G'

Surjit Kumar
 (Surjit Kumar)
 Dy Comdt
 Establishment Officer

* Forms of option and undertaking may please be collected from Service Book Section by Branch Representative.

*Affected
Rukhba &
Abu*

COMPARATIVE STATEMENT OF EXISTING AND REVISED PAY SCALES FOR
GROUP 'A', 'B', 'C' AND 'D' STAFF OF HQ DGAR

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Appendix 'A' to this Branch
IOM NO. I. 11023/5/97-EST/57
Dated 21 Oct '97.

S. No.	Name of the Post	Existing scales	Revised Scales
1.	CAO/SAO	Rs. 2200-75-2800-EB-100-4000/-	Rs. 8000-275-13,500/- S-15
2.	CGC/AO/AAO/PS to DGAR/RO/Hindi Offr	Rs. 2000-60-2300-EB-75-3200-100-3500/-	Rs. 6500-200-10,500 S-12
3.	Supdt/Steno-I	Rs. 1640-60-2600-EB-75-2900/-	Rs. 5500-175-9,000/- S-10
4.	Asst/Nazir/Overseer/ Draughtsman-I/Hindi translator.	Rs. 1400-40-1800-EB-50-2300/-	Rs. 4500-125-7,000/- S-8
5.	Steno-II	Rs. 1400-40-1600-EB-50-2300-60-2600/-	Rs. 5000-150-8,000/- S-9
6.	Draughtsman-II/UDC/ Steno-III	Rs. 1200-30-1560-EB-40-2040/-	Rs. 4000-100-6,000/- S-7
7.	LDC-Gum Typist	Rs. 950-20-1150-EB-25-1500/-	Rs. 3050-75-3950-80-4590/- S-5
8.	Record Keeper	Rs. 950-20-1150-EB-25-1400/-	Rs. 3050-75-3950-80-4590/- S-5
9.	Duftry/Barber/Cook	Rs. 775-12-871-14-955-15-1030-20-1150/-	No corresponding scale shown in the revised scale. However it is proposed that correspondent scale of pay S-2 (i.e. Rs. 2610- 55-3300-70-4000/- Revised against the scale of existing scale of pay Rs. 775-12- 871-14-20-1025) may be allowed to draw by the serving Duftry, Mali, Cook time being and a case will be taken up with A Branch to obtain MHA's sanction for appropriate scale of pay against existing scale of pay
10.	Peon/Mali/Sweeper/ Washerman/Water Carrier.	Rs. 750-12-870-EB-14-940/-	Rs. 2550-55-2660-60-3200/- S-1

(S) *MS* *MS*
Annexure-II

A/A-II/5th CPC/APB/98

26 Mar 98

Govt of India
Ministry of Home Affairs
(P.F.I)
New Delhi
110001

ANOMALIES IN THE PAY SCALE OF
CIVILIAN POSTS AND EQUIVALENT
RANK OF COMBATISED POSTS

Sir,

1. I am directed to state that as per Ministry's letter No 27011/44/88-FP-I dated 19 Sep 89, the following civil posts held in the Force are equivalent in rank to the combatised posts as mentioned against each :-

<u>Designation of Civil Post</u>	<u>Equivalent Combatised Rank</u>
(a) Junior Accountant Officer	Subedar (Junior Accountant Officer)
(b) Superintendent	Subedar (Superintendent)
(c) Senior Accountant	Subedar (Accountant)
(d) Stenographer Gde-II	Naib Subedar (Stenographer)
(e) Head Assistant	Naib Subedar (Head Assistant)
(f) Assistant	Naib Subedar (Assistant)
(g) Peon	Naib Subedar (Peon)
(h) Overseer	Naib Subedar (Overseer)
(i) Hindi Translator Gde-II	Naib Subedar (Hindi Translator)
(k) LDC-Clerk Typist	Havildar (Clerk)
(l) Lower Division Assistant	Havildar (Assistant)
(m) Record Keeper	Havildar (Record Keeper)

2. The equivalence of certain civil trades have not been given by the Ministry as yet. The details of these posts and the recommended equivalence drawn from the pay scales are as under :-

(a) Stenographer Gde-I Pay scale 6500-1750- 9000/-	Subedar (Stenographer Gde-I) Pay scale 6500-200-10500/-
(b) Stenographer Gde-II Pay scale 4000-100- 6000/-	Naib Subedar (Stenographer Gde-II) Pay scale 4000-100-6000/-

*Aftered
Bharat Sankar*

Contd... 2...

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4/8

3. It is seen that major anomalies have occurred between the pay of civil and the equivalent combatised ranks after Fifth Pay Commission. The pay drawn by civil personnel of the same equivalent rank is much lower. A comparative table showing difference in pay for the civil posts and their equivalent combatised ranks is as at Appendix 'A' attached.

4. It is observed that personnel in the same rank and performing the same job are paid differently. Combatised ranks are too much higher as has been brought out. This disparity is adversely affecting the functioning of the civil staff in this Force. It is therefore requested that civil staff should be granted the same pay as their equivalent counterparts in the combatised cadre.

5. In view of the above, Ministry is requested to accord necessary approval for implementation of same Pay scale for the civilian staff as their equivalent counterparts in the combatised cadre.

Yours faithfully,

Abdullah

(R. S.ullah)
Col
Deputy Director (A)
for Director General Assam Rifles

N.O.O.

Abdullah

Copy to :-

Liaison Officer Assam Rifles - letter addressed to
Room No - 171
Ministry of Home Affairs
New Delhi
110001
Ministry is enclosed
for handing over to the
concerned section please.

A

6

STATEMENT SHOWING THE ANOMALIES IN PAY SCALE OF CIVILIAN
POSTS AND EQUIVALENT RANK OF COMBATISED POSTS

Ser No	Designation of existing post	Scale of pay wef 01-01-96	Equivalent combatised rank	Scale of pay wef 01-1-96 to 09-10-97	Scale of pay wef 10.10.97	Difference in basic Pay	Remarks
1.	Junior Accounts Officer ✓	Rs. 5500-175-9000/-	Subedar (Junior Accounts Officer)	Rs.5500-175-9000/-	Rs. 6500- 200-10500/-	Rs. 1000/-	
2.	Superintendant ✓	-do-	Subedar (Superintendant)	-do-	-do-	Rs. 1000/-	
3.	Stenographer Gde-I	-do-	Subedar (Stenographer Grade-I)	-do-	-do-	Rs. 1000/-	
4.	Senior Accountant	Rs. 5000-150-8000/-	Subedar (Accountant)	-do-	-do-	Rs. 1500/-	
5.	Stenographer Gde-II	Rs. 5000-150-8000/-	Naib Subedar (Stenographer Grade-II)	Rs.5000-150-8000/-	Rs. 5500- 175-9000/-	Rs. 500/-	
6.	Head Assistant	Rs. 4500-125-7000/-	Naib Subedar (Head Assistant)	Rs. -do-	-do-	Rs. 1000/-	
7.	Assistant ✓	-do-	Naib Subedar (Assistant)	-do-	-do-	Rs. 1000/-	
8.	Nazir	-do-	Naib Subedar (Nazir)	-do-	-do-	Rs. 1000/-	
9.	Overseer	-do-	Naib Subedar (Overseer)	-do-	-do-	Rs. 1000/-	
10.	Hindi Translator Gde-II ✓	-do-	Naib Subedar (Hindi Translator Gde-II)	-do-	-do-	Rs. 1000/-	
11.	LDC-Cum-Typist	Rs. 3050-75-3950- 80-4590/-	Havildar (Clerk)	Rs. 3200-85-4900/-	Rs. 3200- 85-4900/-	Rs. 150/-	
12.	Lower Division Assistant	-do-	Havildar (Assistant)	-do-	-do-	Rs. 150/-	
13.	Record Keeper	-do-	Havildar(Record Keeper)	-do-	-do-	Rs. 150/-	

(143)

80

Annexure - II

Tele No. 705075

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793011

A/1-A/277-86/32

17 Sep 99

Vice President
Assam Rifles(Civil)
Employees Association
Shillong

PAY SCALE FOR THE POST OF ASSISTANT CADRE
IN THE DIRECTORATE GENERAL ASSAM RIFLES
SHILLONG

1. Ref your letter No AR(C)/EA/99 dated 07 Sep 99 addressed to ~~SM~~ Lt Gen Gurpreet Singh, DGAR.

2. The concerned Desk Officer, has verbally intimated that the case has been fwd by the MHA to Min of Fin favourably. The case is now under consideration in the Min of Fin.

3. Constant monitoring of the case is being done by A Branch. Decision will be communicated immediately on receipt of the same.

W.J.B. Sturgeon
(W.J.B. Sturgeon)
Col
Deputy Director(A)

27/9/99

Attested
Mukul B.
Bhattachary

— 21 —

9

ASSAM RIFLES (CIV) EMPLOYEES ASSOCIATION

No. AR(C)/EA/PAY

Dated 6/6 Jun 2001

To

The Director General
 Assam Rifles
 Shillong – 793 011

(Through Dir (Adm))

DISPARITY IN THE SCALE OF PAY OF CIVILIAN
 MINISTERIAL STAFF OF HQ DGAR ESTABLISHMENT

Sir,

1. I would like to bring to your kind notice the glaring disparity in the matter of grant of pay scale to the Assistants and Supdts of HQ DGAR establishment which has resulted discrimination amongst similarly placed employees and has caused extreme financial loss. In order to understand the anomaly and disparity in the right perspective, it is imperative to go through the root of the problem and as such the facts and background of the case are narrated in the succeeding paragraphs.
2. The Organization of Assam Rifles root its origin in the Cachar Levy raised in 1835 under the Assam Administration and was functioning as Armed Constabulary of the State of Assam. Subsequently, the Force was named as Assam Rifles. The Assam Rifles was taken over by the Govt of India, Ministry of External Affairs and placed under Inspector General of Assam Rifles with effect from 01 Oct 1947. Secretariat cover for this Force was provided by North-East Frontier Agency Administration until 1972. With the creation of the Union Territory of Arunachal Pradesh covering the areas under the NEFA, the Assam Rifles started functioning directly under Ministry of Home Affairs.
3. Prior to 1973, the pay scales, staffing pattern, recruitment rules, promotion policy etc for the civilian ministerial staff of Assam Rifles, both at HQ DGAR and Unit level, were similar to those prevalent in the erstwhile NEFA Administration who had the administrative control over the Assam Rifles as an Agency of the Ministry of External Affairs till 1965. In fact, the NEFA Administration at that time had adopted the pay scales of the Govt of Assam and, therefore, these were called the "Assam type" of pay scales.
4. The administrative control of Assam Rifles was shifted from the Ministry of External Affairs to Ministry of Home Affairs in 1965 and consequent to the shifting of Secretariat cover from NEFA Administration to directly under the Ministry of Home Affairs, contemplation of bringing the Civilian Ministerial Staff of Assam Rifles under Central Govt Pay structure was afoot. Accordingly, the entire civilian establishment of Assam Rifles had switched over from Assam type of pay pattern to the Central Govt pay pattern and the pay scales recommended by the Third Central Pay Commission were implemented with effect from 01 January, 1973 under the approval of Ministry of Home Affairs, Govt of India vide No. 4/12/73.Imp dated 20 Mar 1975.

Contd ...2/-

Abdul Kader
 Md. Abdul Kader
 P.D. certi

5. The Govt of India while allowing the central pay scales for Assam Rifles Civilian employees, had noted the existence of two categories of employees in Assam Rifles, i.e. (1) the staff employed in the HQ office of the then Inspector General (now Director General) with higher pay scale and (2) the staff employed in Range/Units of Assam Rifles with lower pay scales. As a corollary, nomenclature of certain post in the HQ set up had to be Changed to match with the nomenclature obtainable in the central service structure. For example, erstwhile Assam type designation of UDA and LDA of the establishment where redesignated as Assistant and UDC respectively with the approval of the Minister of Home Affairs, Govt of India vide no. 2/5/76.FP.IV dated 07 May 76.

6. The status of the HQ establishment of the Force was duly determined as Head of the Department declared under the Delegation of Financial Power Rules. It is also evident from the duties and responsibilities attached to the post of the HQ establishment that it has been performing the duties of attached office. In the Secretariat Manual of the Central Govt under para 7(2) of Chapter II, it is stated that –

"Attached offices are responsible for providing executive direction required in the implementation of the policies laid down for the department to which it is attached. They also serve as repository of technical information and advise the department on technical aspect of question dealt with by them. While subordinate offices generally function as field establishment or as agencies responsible for the detailed execution of the policies of the Govt. They function under the direction of the attached office."

In view of the above position, it is clear that the HQ establishment has been virtually functioning as attached office, while the Ranges/Units' offices have been functioning as Subordinate offices.

7. On implementation of the 3rd Central Pay Commission's scale of pay, the Assistants of this Directorate were granted the scale of pay of Rs. 425-15-500-EB-15-560-20-700/- Consequent to the 4th Central Pay Commission, the Assistants were granted the scale of pay of Rs.1400-2300/- with effect from 1.1.1986.

8. It may be mentioned in this context that some CPOs had revised the scale of pay of Assistant to Rs. 1640-60-2600-EB-75-2900/- after the 4th Central Pay Commission and the Ministry of Home Affairs vide DO letter No. 13011/11(ii)/92-Fin.II dated 03 Jun 92 had directed the then Director General Assam Rifles to restore the scale of pay for the Assistant to Rs. 1400-40-1600-50-2300-EB-60-2600/- instead of Rs. 1640-60-2600-EB-75-2900/-. The scale pf Rs. 1400-2600/- is a higher scale than the scale of Rs. 1400-2300/- which has been drawing by the Assistants of this Directorate.

9. It would also be pertinent to mention here that a reference was made to HQ Directorate General BSF to intimate the pay scale of Assistants serving with the BSF and HQ DG BSF vide their letter No. 60011/1/96-Staff/BSF dated 11 May 99 intimated that "Pay Scale of Assistant in BSF prior to 1.1.86 was Rs. 425-800/- which was revised to Rs. 1400-2600/- consequent upon implementation of the 4th Pay Commission Report. The above pay scale however further revised to Rs. 1640-2900/- notionally with effect from 1.1.1986 and effectively with effect from 1.5.91 vide Ministry of Home Affairs letter No. 26016/7/90-Staff/BSF/Pr II dated 17.9.1993 on the basis of relief granted by the Hon'ble Central Administrative Tribunal."

10. It may also be pertinent to point out that the scale of pay sanctioned for the Assistants of the Non-Secretariat Organisations as per Part 'B' of First Schedule of the Central Civil Services (Revised Pay) Rules, 1997 is Rs. 5000-8000/-, whereas the Assam Rifles being a Non-Secretariat Organisation has adopted the scale of Rs. 4500-7000/- for its Assistant cadre which is a lower scale meant for lower organisations.

11. It may not be out of place to point out in this context that at present there are two categories of Ministerial staff employed in this Directorate viz., Civilian and Combatant. Both the categories were given equal scale of pay till revision of pay by the 5th Central Pay Commission as the posts in Civilian and Combatant were equated as under :-

<u>Civilian</u>	<u>Combatant</u>
Superintendent	Subedar Clerk
Assistant	Nb/Sub Clerk
UDC	Warrant Officer
LDC	Havildar Clerk

The scale of pay sanctioned by the Govt of India with effect from 1.1.86 for these two categories after the 4th Central Pay Commission were as under :-

Superintendent	- Rs. 1640-2900/-	Sub/Clk	- 1640-2900/-
<i>Asst</i> Assistant	- Rs. 1400-2300/-	Nb/Sub Clk	- 1400-2300/-
UDC	- Rs. 1200-2040/-		
LDC	- Rs. 950-1500/-		

12. While combatising the posts in HQ DGAR establishment, the Govt of India vide letter No. I.27011/44/88-FP.I dated 19 Sep 89 has equated the civil posts vis-à-vis combatant posts based on nature of duty, scale of pay etc., wherein the post of Supdt has been equated with Subedar Clerk and Assistant has been equated with Nb/Sub Clerk. The post of UDC could not be equated to the combatant post as there was no analogous post available in the existing combatant category. However, subsequently, a proposal was taken up with the Govt of India and post of Warrant Officer was sanctioned to equate the civil post of UDC. In this connection, the revised PE circulated vide HQ DGAR letter No. II.11011/219/91-G(PE) dated 20 Oct 1994 may please be referred to.

13. After the 5th Pay Commission, the scale of pay granted to the Ministerial staff of HQ DGAR establishment were as under :-

Supdt/Sub Clk	Rs. 5500-9000/-
Asst/Nb Sub Clk	Rs. 4500-7000/-

However, subsequently the scale of combatant ministerial staff was revised as under on 10 Oct 97, when the scales were revised for the entire Force on CPO analogy

Sub Clk	Rs. 6500-10,500/-
Nb/Sub Clk	Rs. 5500-9000/-

14. It would thus be seen that the civilian ministerial staff are being given the lower scale although both the categories are performing identical work and are placed similarly. There is therefore, a clear discrimination and disparity in the matter of granting scale of pay to Supdt and Assistant of HQ DGAR establishment.

15. From the facts enumerated in the preceding paragraphs, it transpires that the Assistants and Supdts category of HQ DGAR establishment have been discriminated in the matter of pay scale on the one hand vis-à-vis combatant staff of HQ DGAR establishment and on the other hand vis-à-vis other CPOs viz., BSF when in both case, they are similarly placed.

16. It would be worth mentioning in this context that similar matter was adjudicated by the Principal Bench of the Central Administrative Tribunal, New Delhi, which is the apex Forum in respect of service matters of the Central Govt employees, wherein it has held that "Equality is the first principle of justice when a particular benefit is granted to employees of one department of the Govt of India, the same cannot be denied to other similarly placed employees of other department under the same Government. It would otherwise violative of Article 14 and 16 of the Constitution and will be against the spirit of justice".

17. That since the Assistant of HQ Directorate General BSF have been given the scale of pay of Rs. 1640-2900/- on the basis of relief granted by Hon'ble Central Administrative Tribunal as mentioned in paragraph 9 above, the scale should have been extended to the Assistants of HQ DGAR as both are CPO under same Ministry and both are similarly placed. In this context, it may be mentioned that the Hon'ble Tribunal in a similar case has held that "It is unfortunate that the Respondents being a model employer is driving its employees to file such application in different Benches of the Tribunals though the matter has been finally decided by the various Benches of the Tribunal. At this juncture, it is worthwhile to refer to the observations of the Supreme Court in the case of Indrapar Yadav versus Union of India (reported in 1995(2) SLR 248), regarding the question of others who could not come to the Court seeking the same relief –

Those who could not come to Court need not be at a Comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled To similar treatment, if not by any one else, at the hands of this Court.

This observation of the Supreme Court apply with full force to the facts of instant case."

18. It has also been held by the Central Administrative Tribunal that "A democratic state with justice and equality as goals enshrined in the Constitution, does not force people, especially the employees of the State, to approach the Court/Tribunal to get what their brethren have got as a consequence of knocking the doors of Courts/Tribunals. We hope that the Respondents will take serious note of our aforesaid observations."

19. The disparity in the scale of pay as explained in the preceding paragraphs has resulted discrimination, financial loss and demoralisation for the Assistants and Supdts of HQ DGAR and thereby caused resentment amongst the members of the staff. While the Association appreciate the endeavour of the DGAR Administration to get the anomaly removed and aware of the latest reference to Ministry in this regard on 02 Feb 2001, but dilly dallying of the matter at the Govt level have been mounting pressure on the Association to redress before judicial forum. The Association also noted with shock that a large number of staff members have already retired from service in the meantime with lesser pay and thereby lesser pension has been fixed for them and another large number will follow the suit in next 2/3 years with lesser pension.

20. In the backdrop of the facts, background, judicial pronouncements, Association's stand in the matter, the members of the staff desires that personal intervention of the DGAR could expedite the issue and therefore, it is requested that necessary orders as may be deemed fit and proper may please be passed by your goodself to save the staff from deprivation of their legitimate scale of pay.

Yours faithfully,

Sarbajna
(S K Sarbajna)
General Secretary
Assam Rifles(Civ) Employees Association
HQ DGAR, Shillong-793 011

Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong- 793011

A/1-A/277-86/Pt/ 2/8

26 Jun 2001

✓ General Secretary
Assam Rifles (Civ) Employee Association
HQ DGAR,
Shillong - 793011

**DISPARITY IN THE SCALE OF PAY OF CIVILIAN
MINISTERIAL STAFF OF HQ DGAR ESTABLISHMENT**

1. Ref your letter No. AR(c)/EA/Pay dated 06 Jun 2001 addressed to DGAR.

2. The main issue of your above quoted letter are following :-

- (a) Grant of higher pay scale to Asst and Supdt of HQ DGAR.
- (b) Grant of equal pay to civ employee vis-à-vis combatant rank.

3. **Grant of Higher pay scale to Asst, Supdt and AO/AAO/RO/CGO of
HQ DGAR**

(a) Assts of this Dte were in the pre-revised scale of Rs 425-700 (3rd CPC) wef 01 Jan 1973 which were revised as Rs 1400-2300/- (4th CPC) wef 01 Jan 1986 and Rs 4500-7000/- (5th CPC) wef 01 Jan 1996 as per Part of 'A' of First Schedule of CCS(RP) Rules 1986 and 1997 respectively.

(b) Initially a case was taken up with MHA in Feb 98 for implementation of upgraded revised scale of Rs 5000-8000/- wef 01 Jan 1996 to the Assts of this Dte as per Part 'B' of the First Schedule of CCS(RP) Rules 1997 which is applicable to Assts working in org outside the Sect.

(c) Before receiving any decision from MHA on the above case, a separate case was taken up with MHA in Jun 1999 based on Ministry's DO letter of 03 Jun 1992 to clarify the applicability of the scale of Rs 1400-2600/- wef 01 Jan 1986 in place of Rs 1400-2300/-.

(d) If the scale of Rs 1400-2600/- wef 01 Jan 1986 is agreed to by MHA, the revised scale would automatically come to Rs 5000-8000/- wef 01 Jan 1996 as per replacement scale vide part 'A' of First Schedule of CCS(RP) Rules 1997.

(e) It was ascertained from BSF that the scale of Asst in BSF prior to 01 Jan 1986 was Rs 425-800/- which was revised as 1400-2600/- wef 01 Jan 1986. This was further revised as Rs 1640-2900/- notionally wef 01 Jan 1986 and effectively wef 01 May 1991 on the basis of relief granted by Hon'ble CAT. This, therefore, shows that Asst in BSF are getting scale of Rs 5500-9000/- wef 01 Jan 1996 which is the replacement scale for Rs 1640-2900/-.

*Pls. see
Annexure
Pt. 2/8*

(f) Proposals for upgradation of pay scales of Supdt of this Dte from 5500-9000/- to 6500-10500/- and AO/AAO/RO/CGO of this Dte from 6500-10500/- to 7450-11500/- were also taken up with MHA separately. However, the same were turned down.

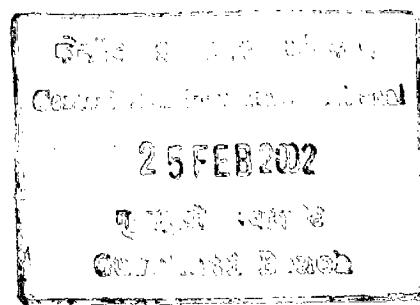
(g) The above cases were discussed by FA(AR) personally in the Ministry and as suggested a consolidated proposal for upgradation of pay scale of Asst, Supdt and AO/AAO/RO/CGO of this Dte was submitted to MHA on 02 Feb 2001.

(h) The case was also discussed by DD(A) during his visit to MHA in Jun 2001.

(j) **Present Position** - LOAR vide their Sig No A 2201 dt 15 Feb 2001, intimated that the pay scales of Assistant and Supdt of Assam Rifles will be uniform in all CPO's as decided by MHA and they shall be placed in the pay scales of Rs 5500-9000/- and 6500-10500/- respectively. Subsequently MHA asked for the pay scale of Supdt and AO/AAO/RO/CGO, during 3rd, 4th & 5th CPC, RRs and other info from all the CPOs. Required info pertaining to this Dte was fwd to MHA on 11 May 2001. Further progress of the case is awaited.

4. **Grant of Equal Pay to Civ Employees vis-à-vis Combatant Clerks.** This Dte had also taken up a proposal with MHA that civ staff should be granted the same pay as their equivalent counterparts in the combatised cadre but the Ministry has not agreed to our proposal stating that it is not possible to allow the same pay scale to civ posts which are given to equivalent rks in combatised posts.

(Satendra Kumar)
Colonel
Deputy Director (A)
For DG Assam Rifles



File No. 187/202
B. C. Pithak
(B. C. Pithak)
Addl. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A NO 321 OF 2001

Shri SK Sarbajna

Vs
Union of India and Others

Written Statement submitted by the Respondents.

The respondents beg to submit the Written Statement as follows: -

1. That with reference to statement made in Para 1 of the petition the deponent begs to submit that the Petitioners through this O.A have sought pay parity with the combatant staff by invoking Art 14 of the Constitution of India, which is not legally tenable. Art 14 of the Constitution though provides equality before law but it has its own limitations. That this does not mean that the every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position, as the varying need of different classes of persons often require separate treatment. Every classification in some degree likely to produce inequality and mere production is enough. Different treatment does not per se constitute violation of Art 14. The thrust of Art 14 is that it denies equal protection when there is reasonable basis for differentiation. The Petitioners being civilian employees as such cannot compare with the combatant staff of HQ DGAR, as there is a reasonable basis for differentiation. The classification is founded on an intelligible differentia and the differentia has a rational relation to the object sought to be achieved by the rules in question. Therefore, the difference in pay scale as such is

not open to challenge. Moreover, this bench of Hon'ble CAT in OA No 136/1999 in JC Paul Choudhury Vs UOI has examined the issue of the disparity of Pay scale between civilian and combatant Stenographers and has held there are no questions of discrimination in combatant Stenographers and civilian stenographers.

2. That with reference to averments made in Paras 2 & 3 of the O.A the deponent begs to offer no comments as the matter stated therein are within the personal knowledge of the Petitioners. These averments should be put to strictest of proofs.

3. That with reference to averments made in Paras 4.1 to 4.4, the respondents beg to offer no comments being matters of record and in personal knowledge of the Petitioners. However, it may be put to strictest of proof.

4. That with reference to averments made in Para 4.5, are denied being false and misleading. There has been no discrimination among the similarly placed employees. However, the Petitioners being civilian employees hence are subject to different set of conditions as such cannot compare themselves with combatants. The combatants are a different and distinct class and hence no comparison between the two can be drawn. No financial loss has been caused to the Petitioners as the Petitioners are being paid in accordance with the terms and conditions of the service.

5. That with reference to averments made in Para 4.6, the deponent denies the same being incorrect and misleading. There has been no disparity or anomaly among the similarly placed employees. As submitted earlier the Petitioners cannot compare themselves with combatants because there is a mark distinction between the two streams and comparison is always drawn among equals.

6. That with reference to averments made in Paras 4.7 to 4.10 the deponent begs to state that these are the matters, which relate to history of the Force. However, it is submitted that the civilians of the

Force are divided in two types of cadre i.e Unit Cadre and DGAR cadre. The unit cadre employees are posted in various units and cannot be posted to HQ DGAR. HQ DGAR is having appointments of LDC, UDC, Assistant, Supdt, AO, RO, AAO, SAO while units have appointments of LDA, UDA, HA, SA, JAO, AO and SAO. The unit cadre employees have filed a case in this Hon'ble CAT for seeking pay parity with the DGAR cadre. The Hon'ble CAT has held that no comparison can be drawn in the two cadres. Thus the position is that when strict similarity established between two streams of civilian employees, no comparison can be made between civilian and combatant employees. This issue has been again discussed and settled by this Hon'ble CAT vide their judgement in TA No 102/1986 GR Chaudhury Vs UOI on the direction of the Hon'ble Supreme Court.

A true copy of the Judgement and order in TA No 102/1986 Shri GR Chaudhury Vs UOI is attached as Annexure I.

7. That with reference to averments made in Para 4.11, the deponent begs to submit that the contention of the Petitioners is not correct. That the HQ DGAR has been performing duties but it is recognized as subordinate office as there is no Govt order declaring HQ DGAR as attached office of the Min of Home Affairs. It is further submitted that the HQ DGAR is a subordinate office of MHA and works under direct supervision of MHA with regards to matters concerning administration. The MHA has clarified the same vide their letter No II.2011/8/88-FP-III(AR)/Pers III dt 29 Apr 1988.

A true copy of MHA letter dated 29 Apr 1988 is attached as Annexure - II

8. That with reference to averments made in Para 4.12, the respondents admit the same being matter of record.

9. That with reference to averments made in Para 4.13, the respondents beg to submit that vide MHA letter No 13011/11(ii)/92-Fin.II dated 03 Jun 1992, it was intimated that a few CPOs have revised

the pay scales of the post of Assistant to Rs. 1640-2900 wef 01 Jan 1986 without consulting either IFD/MHA or MOF on the analogy of Assistant of CSS cadre. This was found irregular and it was desired to restore the pay scale of Rs. 1400-2600 to Assistant of this organization. However, BSF, ITBP given the revised pay scale of Rs. 1640-2900 to their Assistants. The 5th CPC vide Para 46.7 to 46.13 have made specific mention of the CPOs and have recommended pay scales to be admissible to the civilian office staff in the non secretariat organisations including the CPOs. This has been accepted by the Govt.

A true copy of MHA letter dt 03 Jun 1992 is attached as Annexure III.

A true copy of 5th CPC Para 46.7 to 46.13 is attached as Annexure IV.

10. That with reference to averments made in Para 4.14, the deponent begs to submit that matter stated therein are matters of records hence no comments being offered.

11. That with reference to averments made in Para 4.15, the deponent begs to submit that the Govt have examined matter in detail. It is observed that these civilian posts are dying posts and have been provided normal replacement scales. Therefore, it may not be desirable to upgrade the pay scales.

12. That with reference to averments made in Para 4.16 and Para 4.17, the deponent begs to submit that statement made in said para is factual. It is further submitted that Govt's orders No I.27011/44/88-FP.I dated 19 Sep 89 is meant only for combatisation posts having regard to the functional requirement of the Force and not for sanctioning scales of pay to civilian posts. It was also stated that on combatisation incumbents of the posts shall be governed by Assam Rifles Act 1941.

A true copy of GOI, MHA letter No 27011/44/88-FP-I dated 19 Sep 89 is attached as Annexure V to this written statement.

13. That with reference to averments made in Para 4.17 the deponent begs to submit that statement made therein are admitted being matters of record.

14. That with reference to averments made in Para 4.18 the deponent begs to submit that the post of UDC in revised pay scale of Rs. 4000 - 6000/- was made equivalent to Warrant Officer in the revised pay scale of Rs. 4000-6000/- vide MHA letter No 27011/144/88-PF-I dt 29 Dec 97.

A true copy of this Directorate letter dated 29 Dec 97 92 is attached as Annexure V to this written statement.

15. That with reference to averments made in Para 4.19 the deponent begs to submit that Respondent No 2 has no powers to decide scale of pay of post and his letter was a mere proposal and cannot be quoted as an authority.

16. That with reference to averments made in Para 4.20, the deponent begs to submit that matters state therein are admitted.

17. That with reference to averments made in Paras 4.21 & 4.22, it is submitted that comparison drawn by the Petitioners is highly improper and as such cannot be accepted. There is subtle difference between duties and responsibilities and condition of service of the two categories and as such, no parallel can be drawn. Therefore, the question of discrimination/disparity does not arise. The Principle of Equal Pay for Equal Work also cannot be invoked or applied to every kind of service and certainly, when the attendant conditions are different. The combatants constitute a different class in themselves and thus are easily distinguishable with the civilian staff. Moreover, the conditions of the service for both the streams i.e combatants and civilians are different. The contention that when the work being done is similar the Petitioners are entitled to equal pay is not tenable because the conditions of service lay down major differences between the categories in the work they perform. Thus, there is no equality of work in order to understand the difference between both the streams a comparative chart is given as under: -

S/No	Combatants	Civ staff
(a) Acts Applicable	AR Act, 1941. The aspects of discipline is controlled by AR Act 1941 and AA 1950 while serving under op control of Army. Under Army Act trial is by Court Martial for any offence and delinquent can be punished by death sentence. Under the AR Act 1941 also maximum penalty is death.	CCS Rules
(b) Conditions of Service	Combatants may be posted anywhere in the NE region and anywhere in India. The Assam Rifles units have taken active part in Indian Peace Keeping Force in Sri Lanka and also have been deployed in J & K to combat militancy. The Combatant clerks have also moved with the unit to serve in such areas. In North-East the combatants have effectively controlled the insurgency.	They are posted only DGAR at Shillong.
(c) Restriction on Fundamental Rights	According to Article 33 of the Constitution of India the Fundamental Rights of the combatants are restricted as they are Armed Forces of Union as described in Scheduled VII List I Entry 2.	NO RESTRICTION.
(d) Medical Fitness	The combatants are required to be medically fit and in case of any ailment due to which they cannot cope up with stress and strain of service then they are invalided out.	Even persons in low medical category can continue.
(e) Charter of Duties	Alongwith normal charter of duties of a clerk a combatant is also has an Additional task to go out on operational Duties such as patrolling, ambush in counter insurgency prone areas.	Only office job

The above chart brings out in detail the areas of reasonable classification. The combatants and civilians clerks belong to well defined classes. It is further submitted that the classification is founded on intelligible differentia and these differentia have a rational relation to the object sought to be achieved. It is further submitted that the Petitioners cannot plead inequality or demand equal pay for equal work because all the Petitioners were given an option of combatisation in 1989 and it was brought out very clearly vide Para 2 of GOI letter No 27011/44/88-FP.I dated 19 Sep 1989 (Annexure IV Refers) that those civilians who do not opt for combatisation shall continue in civilian post until superanuation under

the existing conditions of service which will be deemed to continue as personal to them. It is therefore manifestedly apparent that the comparison sought to be drawn between combatants and civilian employees is without any reasonable basis and as such, no parallel can be drawn between the two streams. The contention of Petitioners with regard to discrimination in pay scale as applicable to other CPOs, deponent can offer no comments because the other CPOs though working under MHA but have their own separate conditions of service and service Rules. A comprehensive chart of the posts as under shows that even the posts are not identical hence drawing any comparison will not be legally tenable.

18. That with reference to averments made in Para 4.23 the deponent begs to submit that the case quoted by the Petitioners is distinguishable and not applicable to the case of the Petitioners. The difference in pay scales of the Petitioners when compared with the combatants of DGAR is based on reasonable classification as the combatants, apart from their normal office duties, also perform the duties which are expected out of a soldier in time of war and in normal circumstances they are combating insurgency and guarding of borders. A combatant clerk posted to unit is also deployed on forward posts with troops and help them in carrying out various operational duties also. There have been instances when the combatants have to take their personal weapons to provide safety and security to posts, Unit HQs, patrols etc and perform other duties which are specific to the combatants only. The civilian staffs do not perform these. Thus, the combatants are being paid in accordance with the work being performed by them. Thus, there is no difference in pay scales.

19. That with reference to averments made in Para 4.24, the deponent begs to submit that as per Govt's order on combatisation vide MHA letter dated 19 Sep 1989, civilian staff were given option for combatisation within three months. Those who did not opt for combatant posts were to continue serving as per existing terms and conditions till superanuation which will be deemed to continue as personal to them. The civilian posts in Assam Rifles

have been accorded the regular replacement scales based on the recommendation of successive pay commission.

20. That with reference to averments made in Para 4.25 and 4.26, the deponent begs to submit that demand for equality being made by the Petitioners is not applicable because they are distinct and cannot be compared with the combatants of HQ DGAR. As regard the pay scale of BSF, it is submitted that as submitted at Para 9 above revision of pay scale of post of Assistant in any such CPOs held to be without any authority and is, therefore, irregular. Moreover, in Assam Rifles even before, revision Assistants were sanctioned pay scale lower than those sanctioned in BSF.

21. That with reference to averments made in Para 4.27, the deponent begs to submit that there is no disparity/anomalies in the pay scale when considered in the light of nature of duties being performed by combatants and civilian employees. Therefore, question of equal pay for equal work does not arise. However, the respondent has never delayed any decision on any representation submitted by employees. Various representations received from the Petitioners have been forwarded to competent authority for necessary action. It is further submitted that the pay scale of the Govt employees are decided by the Government based on recommendations of expert bodies like Pay Commission and hence it cannot be challenged until it is shown that there is a grave irregularity. The Fifth Central Pay Commission after due deliberation and considering the various factors such as the duties being performed by the combatants gave them higher pay scale than the civilian employees. This difference in pay scale is thus based on reasonable classification recommendations of expert body and as such cannot be termed to be arbitrary or violation of Article 14. The Annexure III which has been attached by the Petitioners is a communication given to the Petitioners regarding determination of scale of pay of employees. The Hon'ble Supreme Court of India vide their order dated 16 Mar 1994 in CA No 1741/1994(State of West Bengal Vs Harinarayan Bhowal) have held as under:-

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“The principle of “equal pay for equal work” can be enforced only after the persons claiming satisfy the court that not only the nature of work is identical but in all other respects they belong to the same class and there is no apparent reasons to treat equals as unequals. Unless a very clear case is made out and the court is satisfied that the scale provided to a group of persons on the basis of the material produced before it amounts to discrimination without there being any justification, the court should not take upon itself the responsibility of fixation of scales of pay, especially when the different scales of pay have been fixed by Pay Commission of Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material. It need not be emphasized that in the process undertaken by the court, an anomaly in different services may be introduced, of which the court may not be conscious, in the absence of all the relevant materials being before it. Till the claimants satisfy on material produced, that they have not been treated as equals within the parameters of Article 14, courts should be reluctant to issue any writ or direction to treat them equal, particularly when a body of experts has found them not to be equal.”

Further vide order dated 02 Mar 1997 in CA No 7127/1993 (UOI Vs P Hariharan) Hon'ble Supreme Court held as under:-

“Quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realize that interfering with the prescribed pay scales is a

serious matter. The Pay commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. Sometimes orders have been passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member."

22. That with reference to averments made in 4.28, the deponent begs to submit that the case for granting of higher pay scale was considered in detail by the Govt and could not be agreed to in view of the position that the civilian incumbents were given option for combatisation within stipulated period. Those who did not opt for combatisation were to continue in civil posts until superanuation under existing conditions of service which are deemed to continue as personal to them. In the circumstances since these civilian posts are dying posts and have been provided normal replacement scales

23. That with reference to averments made in Para 4.29 and 4.30 the deponent begs to state that the position has been clarified at Para 22 above.

24. That with reference to averments made in Para 4.31 the deponent begs to state that the comparison drawn by the Petitioners with combatants is not in conformity with the ground reality. The combatants apart from their normal office duties also perform the additional. As submitted earlier the combatant are having a different set of conditions of service and are subject to more rigorous rules and regulations. Thus the higher pay being

given to the combatants commensurate with the nature and the job being performed by them. The contention of the Petitioners that the pay scales are irrational and there is discrimination is false, and misconceived. The combatants are soldiers who apart from the normal office duty have to be ready for various other duties such as Sentry Duty on posts, Duty Clerk, Patrolling in sensitive insurgency prone areas and if necessity so arises they may go out to provide protection to HQ and Units.

25. That with reference to averments made in Para 4.32, the deponent begs to submit that no separate case was taken up with MHA for up gradation of pay scale of Naib Subedar. Naib Subedar got the pay scale of Rs 5000-8000 wef 1.1.96 as per 'Part C' of CCS (RP) Rules 1997 and rationalise of pay scale of Rs. 5500-9000 wef 10 Oct 1997 as per Govt of India's order vide MHA letter No 27012/1/97.PC Cell/PF.I dated 10 Oct 1997.

A true copy of MHA letter dated 10 Oct 1997 is attached as Annexure VII to this written statement.

26. That with reference to averments made in Para 4.33, the deponent begs to submit once again that the comparison being drawn by the Petitioners is misleading. As submitted earlier the combatants have been sanctioned pay scales having regard to their distinct duties, responsibilities and conditions of service. The contention of the Petitioners that the combatants get extra benefits which civilians do not get is misconceived and misleading. By special arrangements civilians have been extended the CSD facilities, facility of MI Room and Assam Rifles Hospital. Thus the civilians have been extended almost all benefits which are available to combatants. Further the combatants being soldiers on their enrollment take an oath which is reproduced as under.

" I _____ do swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty bound, honestly and faithfully serve in the Assam Rifles, and go wherever ordered by air, land or sea and that I will observe

and obey command of the President of Union of India and commands of any officer set over me even to the peril of my life"

This affirmation binds the combatants whether a clerk, general duty soldier or of other categories to comply with any of the order given to him even at the cost of his life. Thus any requisite treatment given to combatant is justified. The combatants who are recruited as clerks undergo the mandatory training at Assam Rifles Training Centre and School. Every combatants Clerk every year is required to carry out Range Classification Firing practice have to pass Battle Proficiency and Efficiency Test and have to be medically fit. Thus distinguishable treatment being given to the combatants cannot be challenged and is neither open to draw any parallel. The applicants/Petitioners being civilian employee have been given the pay and allowances to which they are entitled.

REPLY TO GROUNDS FOR RELIEF

27. That with reference to averments made in Para 5.1, the deponent begs to submit that there is no disparity in matter of grant of pay scale to the applicants. The contention of the applicants is that they have been discriminated and thus there has been violation of Art 14 is misleading and misconceived. The applicants have failed to establish any violation of Art 14. Violation can only be shown if it is proved that the civilian employees and combatants are similarly placed employees. It is further submitted that as brought out in preceding paras combatants are a different class and as such drawing any parallel will be improper.

28. That with regard to Para 5.2, the deponent begs to submit that there is no comparison between the combatants and the civilian employees. The Fifth Pay Commission, after evaluating the nature of duties being performed by the combatants recommended separate pay scale. It has been held by this Hon'ble CAT in O.A 136/1999 JC Paul Choudhury Vs UOI as under:-

"We have given our anxious consideration in the matter. The combatant stenographers, in addition to the duties

they discharge as Stenographers also discharge the duties as combatants as per their ranks and they perform arduous nature of work in operationally sensitive areas. Mr Sarkar is right in his submission that non-combatant stenographers are also posted in hard and sensitive area, but that by itself cannot equate them with the combatised personnel, though posted in the sensitive and operational areas, which they may be entitled for some admissible allowance like ration allowance, etc like that of the. However, that by itself would not make them equal with the combatants. The terms and service conditions are very different. As mentioned earlier, the combatised personnel are covered by the Assam Rifles Act as well as Army Act and Rules are more stringent than the rules applicable to the non-combatised staff covered by the Civilian Law. The question regarding the entitlement of pay scales was already examined by the pay commission and on evaluation of nature of duties and responsibilities of the posts, the Pay Commission made the recommendations which were accepted by the concerned authorities. The court or the Tribunal would loathe to intervene in such matters unless it appears that it was made for extraneous consideration. The non combatant stenographers were given the option to join in the combatised force and those who opted were accordingly enrolled as combatants. In the circumstances the ground of discriminations is not sustainable"

Thus there is no merit in the arguments forwarded by the Petitioners.

A true copy of the judgement in OA No 136/1999 J C Paul

Chaudhary Vs UOI is attached as Annexure VIII.

29. That with reference to Para 5.3 it is submitted that the letter quoted by the Petitioners is the same letter which has been attached as **Annexure V** of the written statement. The Ministry of Home Affairs has laid down guidelines for conversion of civilian employees to combatant stream. But the Petitioners did not opt into combatant stream in the stipulated period

and continued as civilian employees. The comparative scales of pay which have been enumerated in the O.A are the one which have been laid down by 5th Pay Commission and as such the employees cannot term it as irregular because the pay commission constituted by the Govt is a specialised body and any interference can only be done if the recommendations are found unreasonable. No grounds have been mentioned by the Petitioners to show that the recommendations of 5th Pay Commission are unreasonable or arbitrary. The 5th Pay Commission before forwarding these recommendations has taken into account the various types of duties being performed by the combatants as well as civilians.

30. That with reference to ground mentioned in Para 5.4, the deponent begs to submit that the comparison drawn by the Petitioners is not proper and logical. The Petitioners were given an option to convert into combatant stream however, they did not accept the proposal. The pay being given to the combatants is in conformity with the duties performed by them.

31. That with regard to Para 5.5 & 5.6, the respondents beg to submit that vide Govt of India vide MHA DO letter No 13011/11/(ii)/92-Fin.II dated 03 Jun 1992 conveyed that a few CPOs have revised the pay scales of the post of Assistant to Rs. 1640-2900/- wef 01 Jan 1986 without consulting either IFD, MHA or DOP&T/MOF on the analogy of Assistant of CSS cadre which is irregular and desired to restore the pay scale of Rs. 1400-2600 to Assistant of this organisation. It is however submitted that Assistant in were all along in lower pay scales vis a vis BSF etc and have been sanctioned the pay scale of Rs. 1400-2300 wef 01 Jan 1986 as per provision of Revised Pay Rules 1986 and Rs. 4500-7000 in terms of Revised Pay Rules 1997 which are based on recommendations of experts bodies viz 4th CPC and 5th CPC respectively.

32. That with regard to Para 5.7, the deponent begs to state that the case for granting of higher pay scale was considered in detail by the Govt and could not be agreed to in view of the position that the civilian incumbents were given option for combatisation within stipulated period.

Those who did not opt for combatisation were to continue in civil posts until superanuation under existing conditions of service which are deemed to continue as personal to them. In the circumstances since these civilian posts are dying posts and have been provided normal replacement scales

33. That with regard to Para 5.8, the deponent begs to submit that the Hon'ble CAT in judgement in O.A No 136/ 1999 JC Paul Chaudhury Vs UOI dated 28 Feb 2001 has held as that there is not ground of discrimination between the combatant and civilian employee.

34. That with regard to Para 5.9, the deponent begs to submit that the judgement quoted by the Petitioners is not applicable in instant case and is distinguishable. Therefore any reference of the judgement quoted by the Petitioners is misleading. Kind attention of the Hon'ble Tribunal is drawn to the Principles enunciated by the Apex Court as quoted at Para 21 above.

35. That with regard to Para 5.10, the deponent begs to submit that there is no anomaly in the grant of pay scale. That there is reasonable classification of the combatants and civilian employees and as such no parallel can be drawn.

36. That with regard to Para 6, the respondents beg to state that a reply to the representation submitted by the Petitioners was given as Annexure V of the O.A.

37. That with regard to Para 7, the respondents beg to offer no comments as the matter are within the personal knowledge of the Petitioners.

38. That with regard to Para 8, the respondents beg to state that the relief claimed by the Petitioners is not in conformity with the recommendations of the 5th Pay Commission and as such should not be entertained. As the matter has already been examined by the 5th Pay Commission which has gone in minutest details and as such cannot be challenged until some unreasonableness is shown.

39. That with regard to Para 9 to 11, the respondents beg to offer no comments.

40. That in view of the fact stated above, it is respectfully prayed that the petition being devoid of any merit may be dismissed.

VERIFICATION

I Major Sandeep Kumar, age 34 years, Son of Shri JP Sharma, working as Joint Assistant Director (Legal) in the Office of the Directorate General Assam Rifles being authorised to hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this verification on this 15 day of February 2002.


Deponent

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Transfer Application No.102 of 1980

Date of decision: This the 18th day of May, 1995.

Shri Gopika Ranjan Choudhury
HQ, DGAR
Arbuthnott Road, Shillong. Applicant

-versus-

1. The Union of India
Represented by the Secretary, Home Deptt.
New Delhi.
2. The Director General of Assam Rifles,
Shillong
3. The Deputy Secretary (Home)
Government of India,
New Delhi.
4. Assam Rifles (Civi)Employees Association,
Shillong. Respondents

For the applicant : Shri A.M. Mazumdar, Advocate

For the respondent Nos. 1, : Shri K.T.S. Tulsi, Addl.
2 and 3 Solicitor General of India, with
Shri S. Ali, Sr. C.G.S.C.

For the respondent No.4 : Shri J.L. Sarkar with Shri M. Chanda.

CORAM: THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN
AND

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (ADMINISTRATIVE).

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JUDGMENT / ORDER

CHAUDHARI.J. V.C.

This application was originally filed by Gopika Ranjan Choudhury as the sole applicant as a writ petition in the Hon'ble Gauhati High Court on 10.8.1983 being Civil Rule No.905 of 1983. It was transferred to this Tribunal after the advent of the Administrative Tribunals'



Act 1985. (For the sake of convenience we shall refer to the application as petition and the applicant/s as petitioner/s).

2. The petition was finally heard by the earlier Bench and by order dated 11.8.1986 it was dismissed. The petitioner preferred an appeal against the said order in the Hon'ble Supreme Court being Civil Appeal No.3288 of 1988. The Supreme Court by its judgment and order dated 25.10.1989, has been pleased to allow the appeal and to remand the petition for fresh disposal according to law in the light of the judgment and directions contained therein. The parties thereafter have filed further documents and fresh arguments have been heard by us.

3. The petitioner has impugned in the civil Rule, the orders dated 15.7.1975, 17.1.1976 and 21.1.1983 respectively passed by the respondents. He has in essence prayed for following relief:

- i) the impugned orders be quashed and/or the respondents be restrained from giving effect to the same
- ii) direct the respondents to arrange for the parity in pay scales of the petitioner and his colleagues with those of the similarly placed staff of the officers of the CRD and UPAO under the Assam Rifles, Shillong.

4. Although the petition was filed individually by the petitioner, it appears that in the appeal in the Supreme Court he sought leave to amend the title of the appeal so as to make it a representative appeal. The title was sought to be amended thus:

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"Gopika Ranjan Choudhury
 General Secretary of Union
 of Assam Rifles Non-Gazetted
 Employees North Eastern
 Region."

We are not shown the copy of that application so as to understand the precise nature of the amendment that was proposed to be made. The original petition which is before us has never been amended consistently with the amendment allowed by the Supreme Court. No steps have also been taken to publish the notice of the petition so that other interested employees could appear or intervene. In fact respondent No.4, another Association, namely Assam Rifles (Civil) Employees Association, Shillong, has intervened on getting the knowledge of the petition and is represented by Mr J.L. Sarker. Petitioner has also not placed a list of its members on record. The petitioner after having amended the appeal in Supreme Court should have amended the petition. He has failed to do so. This is a serious defect in the petition. It is not merely procedural but is of substance. The petitioner wants to bind others by seeking a decision in this petition on the grounds urged by him alone. Moreover, by this time the petitioner has also retired from service. We find considerable substance in the objection raised by Mr Sarker, learned counsel for respondent No.4, that the petitioner no longer has locus to prosecute the petition. He points out that the petitioner individually has no grievance to make as he had been transferred to the Headquarters in the middle of 1979. At the time of filing the petition, the petitioner was working as UDC (earlier UDA) at the Headquarter at Shillong. Yet he seems to have taken up the cudgels on behalf of the staff at battalion level. It is doubtful as to whether the

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could do so when he was not an aggrieved person nor any UDA or LDA from battalion had joined with him in filing the petition nor the petition had been filed in a representative capacity on behalf of the battalion level staff. The petition would have been liable to be dismissed on this ground alone. However, that question is no longer open for us to be examined in view of the directions of the Supreme Court particularly for the following reasons:

- i) From the copy of the notice issued by the Supreme Court it is seen that leave to amend the SLP was granted on 27.10.1987.
- ii) Pursuant to the leave granted it appears that the title of the SLP was amended to describe the petitioner as General Secretary of the Employees' Union.
- iii) The Hon'ble Supreme Court has proceeded on the basis that the petitioner was acting in a representative capacity. In para 4 of the judgment dated 25.10.1989. Their Lordships have observed:

"The appellant in his capacity as the General Secretary of the Union of Assam Rifles, Non-gazetted employees, North East region made representation against this on the allegation of discrimination."
- iv) By reason of long pendency of the petition of the employees concerned appear to have become or are likely to be aware of the pendency of the petition and could have appeared. Moreover no other employee has filed an application in this Tribunal relating to the same subject matter so far making any grievance to the contrary, and

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v) Another Association, i.e. Respondent No.4 has already intervened.

We have therefore proceeded to hear the petition as being filed by the Employees Union. It is stated that the petitioner continues to be the Secretary of the Union though he has retired, and can prosecute the petition. It was however essential for him to have placed on record a resolution of the Managing Committee of the Union authorising him to do so. Though we are constrained to overlook the defect in the petition arising due to inaction on the part of the petitioner to take necessary steps to make it truly representative in character we rejected the objection raised by Mr Sarkar albeit reluctantly for the reasons stated above.

5. The genesis of the grievance of the petitioner is relateable to the following factual backdrop.

- a) The Assam Rifles was created by the then Assam Government as a para-military force under the Assam Rifles Act, 1950. It was taken over by the Government of India, Ministry of External Affairs under its direct control in October 1947. The Government of India appointed an Inspector General as administrative Head of the Force. The Force was under the control of North Eastern Frontier Agency (NEFA). It had 25 Battalions/Units and each battalion consisted of about 1400 personnel which also included some civilian staff. (Erstwhile NEFA is now the State of Arunachal Pradesh).
- b) In the year 1962 the Force underwent restructuring of its organisation on account of the then exigencies. As a result thereof a separate Unit

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known as Central Record and Pay Accounts Office (C.R. and U.P.A.O.) was created at the Headquarters. Each battalion/Unit was placed under an obligation to send its detailed note on the pay and service record to that office.

c) The Third Central Pay Commission (1973) recommended two different scales of pay in respect of ministerial staff of the Force. That staff included Upper Division Assistants (UDAs) and Lower Division Assistants (LDAs) (as then designated). One scale was prescribed for those attached to the Headquarters and another for the staff attached to the Battalions/Units. The new scales came into force with effect from 1.1.1973 by order issued by the Ministry of Home Affairs, Government of India, in March 1975.

6. The C.R. and PAO wing which was established in 1962 was treated by the respondents 1 to 3 (hereafter respondents) as part of the Headquarters under Inspector General at Shillong. Hence the new scale prescribed for Headquarters was applied to the UDAs and LDAs posted with CR and UPAO. The scale of UDAs and LDAs at the Headquarters and at CR and UPAO thus became common whereas the other scale which was lower applied to the UDAs and LDAs at Battalion/Unit level.

7. The applicant has stated that aggrieved by the unwarranted discrimination in the scale of pay between the staff at CR & UPAO and at Battalion/Units he on his own submitted a representation on 27.5.1975 to the President of India praying for uniformity in the pay scale. Further representation was filed in September 1975 in continuation

of the earlier one. That was rejected by the respondents. On 20.8.1982 he submitted a detailed representation praying for removal of the anomalies in the pay scales. That was filed in his capacity as the Secretary of the Non-gazetted Employees Union. That was replied by the respondents negativing the request on 21.1.1983. The petitioner thereafter filed the Civil Rule on 10.8.1983.

8. It is pertinent to note that in para 24 of the petition it is stated that the Assam Rifles Non Gazetted Employees' North-Eastern Region came into being in 1980 and had sought recognition in 1981. It has not however been stated as to whether and when the Union had been given the recognition. It was on 20.8.1982 that the petitioner had purported to file a representation as the General Secretary of the Union relating to the scales that were made applicable from 1973. And inspite of his thus having purported to represent the Union he filed the petition in his individual capacity. There is therefore considerable room to take the view that the dispute is the creation of petitioner's own mind and it is not a general grievance of the employees.

9. Be that as it may, it is also interesting to note as to what action of the respondents has been impugned. The petitioner has prayed for quashing what he describes as orders, dated 15.7.1975 (Annexure-III), dated 17.1.1976 (Annexure-IV) and dated 21.1.1963 (Annexure-VII).

10. Annexure-III dated 15.7.1975 is however not any order but is a copy of para-wise comments offered by the Lt. Col. for Inspector General of Assam Rifles to the Headquarter Mizoram Range in respect of representation submitted to the President of India. Copy of the letter was forwarded to the applicant for information. By itself the

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letter did not afford any cause of action to the applicant.

11. Annexure-IV is a letter forwarding a copy of the letter dated 17.4.1976 from the Deputy Secretary, Government of India, to the Inspector General of Assam Rifles, Shillong to the applicant. By that communication applicant was informed that his representation could not be agreed to. Despite the rejection of the representation thus on 17.1.1976 the applicant has challenged it in 1983.

12. Annexure-VII dated 21.1.1983 is a letter addressed to the Secretary, Union of A.R.N.G. Employees by the Director General of Assam Rifles informing him that the various issues including status of CR and UPAO have been referred to the Ministry and their decision was awaited. That also did not afford any cause of action by itself.

13. The averments made in the petition may be summarised thus:

(a) The Assam Rifles organisation had been divided for better and efficient management into various parts such as Range headquarter, Battalions etc. each part headed by responsible officers all of whom work together in the organisation as a single unit. (The petitioner has referred to 'Range Headquarter' and not principal Headquarter at Shillong). Although uniformity of scale was sanctioned in respect of other staff according to status and nature and responsibility of work as far as ministerial staff is concerned that was not followed and that staff was discriminated. The ministerial staff serving with the Ranges/battalions were granted much lower scale of pay than that of the ministerial staff serving under the CR and UPAO although the degree of responsibility and nature of work

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in all the offices is the same. Owing to increase in work the CR and UPAO wings were created reducing the strength of existing ministerial staff of the Battalions and Ranges and transferring certain works such as records and accounts for centralised management.

(b) The Headquarter of the IGAR (now DGAR) was treated as the Head of the department while all other units were treated as district offices for the purpose of pay scales for which the Central Pay Commission had suggested parity in respect of works of similar nature. The work transferred from the units to the CR and PAO could be implied to be lesser in importance than work at units. However, the status and nature of work in the offices of the CR & UPAO and other units of the Force was similar in nature. The respondents for reasons not known to the petitioner, even so have given higher scale of pay to the staff in the CR and PAO similar to the scale at Headquarters of Assam Rifles when the pay scales were revised in 1973. The anomaly has not been removed and the representations have been wrongly rejected. The staff at CR and UPAO and the battalions is distinct and separate from the Headquarters even though CR and UPAO may have been situated within the Headquarters. The respondents have been wrongly treating the CR and UPAO as an integral part of the 'Headquarters'. The CR and UPAO was established under and not as part and parcel of the Headquarter office for the purpose of centralising the accounts and records in respect of all the employees mainly with a view to enable the staff of the Battalions and Ranges to devote to more important works in the field.

(c) Thus the respondents have breached the principle of 'equal pay for equal work'. They have failed to remove apparent anomalies in the pay scales. They are treating



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staff at Battalion/Ranges level with discrimination vis-a-vis their counter parts in CR and UPAO. The respondents' action is thus illegal. Their further attempt and action to redesignate and upgrade the posts of LDAs and UDAs in the offices of CR and UPAO smacks of malice in law and bias.

(d) In these premises the petitioner has prayed for parity in pay scales for the Battalion/Ranges staff with the staff at CR and UPAO.

14. At the hearing the learned counsel for the petitioner on the instructions of the petitioner who was present, stated that the parity was claimed mainly in respect of UDAs and LDAs and that aspect thus alone falls for consideration.

15. The respondents (No.1 to 3) in their affidavit-in-opposition to the Civil Rule after giving historical background of the formation of the Force inter alia contended as follows:

(a) In order to coordinate functioning of the units, there are Range Headquarters as intermediary Headquarters and the Headquarter DGAR is responsible for implementation of directives of the Government of India. The Force performs operational roles under the control of the Indian Army. After the report of the Third Central Pay Commission the Government of India while allowing the Central Pay Scales for Assam Rifles civilian employees had noted the existence of two categories namely those who were employed at Headquarter office of the Inspector General with higher pay scales compared to the second category of corresponding posts in the Battalion and Range Offices of the Assam Rifles.

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The Range/Battalion offices work under the administrative control of the Headquarter and are subordinate offices.

(4) The establishment of CR and UPAO Assam Rifles as a separate unit was necessitated for centralised documentation and accounting system for the entire force. Having regard to the functions to be carried out by CR and UPAO offices such as providing necessary directions, instructions to different units in relation to documentation and accounting of the force it was considered essential to accord it status of head of the department and was treated as part and parcel of the Headquarter IGAR. The staffing pattern and scale of pay was prescribed on the lines of head of the Departments as basically these offices were to act as the controlling office for the purpose of accounts and organisation of all Battalions. For that reason these offices were to be stationed at Shillong.

(5) The respondents contend that the principle of equal pay for equal work is not attracted in the background of the reasons for establishment of these offices and the nature of duties that are enjoined on them. The CR and UPAO stand on a different footing than the Battalion/Range offices. The two are not comparable offices.

(6) According to the respondents the two tier system of administration and the pre-revised scales was the basis of revised pay scales (from 1.1.1973).

(7) The respondents maintain that the staff employed in the CR and PAO had been under the establishment of Headquarter IGAR for all purposes and also the same pay scales, qualifications and other terms of conditions of service were applicable to them. Therefore the Central Scales granted against the particular pre-revised pay scale was automatically applicable to the staff of these offices.

(b) The respondents deny that they have acted malafide or illegally or have treated the staff at the Battalion/Range level or any segment of its staff with discrimination and submit that the petition is liable to be rejected.

16. The position that arose from the original pleadings of the parties was thus that whereas petitioner contended that the staff of CR and UPAO offices and the staff at Battalion/Range offices stood on equal footing and therefore the disparity in their respective pay scales was unwarranted, the stand of the respondents was that the staff of CR and UPAO was placed on equal footing with the staff at Headquarter IGAR Shillong and thus was eligible for the same pay scale as that of the staff of Headquarter and as the staff at offices at Battalion level could not be equated with Headquarter staff the scales at Headquarter and at Battalion level were different. According to them the CR and UPAO being given the scale of Headquarter staff was fully justified and there was no differential treatment given to the staff of the Battalion offices resulting in any discrimination.

17. The respondent No.4 opposes the petition. As already stated the locus standi of the petitioner to agitate the question raised in the petition on behalf of all the staff of Battalion/Range offices is seriously disputed.

18. Several further affidavits and counter affidavits with voluminous records have been filed by the parties. We shall refer to the relevant material while dealing with the three points directed by Their Lordships of the Supreme Court to be examined. Before we proceed to deal with those

points....

list

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points it must be mentioned at this stage that a new dimension has entered into that controversy in view of a finding recorded in one of the opinions recorded by the earlier Bench and affirmed by the Supreme Court.

19. In para 10 of the judgment of the Supreme Court Their Lordships have observed thus:

"While therefore, the finding given by the Tribunal that CR and PAO at the Headquarters is a different unit and not part of the establishment of the Headquarters is not disturbed by us....."

Point No.1 on which finding is directed to be recorded in the light of that observation reads:

"Whether the qualifications for appointment at the two establishments viz CRO and UPAO at the Headquarters and at the Units are different."

With respect, the direction read with the observation would require us to deal with the above stated point by comparing scales of pay of staff at:

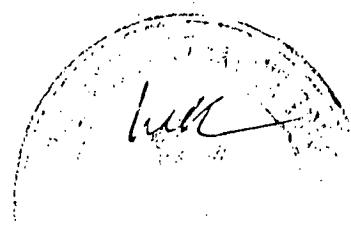
1) Headquarter and CRO and UPAO and

2) CRO and UPAO and Battalion/Range office,

and then resolve the question of alleged disparity.

20. Mr J.L. Sarker, learned counsel appearing for respondent No.4 sought to urge that the finding recorded in the order of this Tribunal rendered by Mr Justice Pathak, Vice-Chairman, being that "these two units (i.e. CRO and UPAO) were quite distinct from the Range Headquarter/ Battalions" the words 'at the Headquarters' occurring in the observation of the Supreme Court in para 10 (Supra) should be understood as referring to 'Range Headquarter'. We think that it would neither be open to do so nor proper. Hence we proceed without referring to the

finding....



finding recorded in the earlier order and would be solely guided by the terms in which that finding is summarised by Their Lordships.

21. We shall also address ourselves to the task of answering the core issue of parity of pay scales that is involved bearing in mind the observation of their Lordships in para 8 reading thus:

"The Tribunal has thus obviously missed the substance of the grievance of the appellant, namely, that if as is alleged by the appellant and contrary to the contention of Union of Indie, the CRO and UPAO, at the Headquarters is a different unit and not a part of the Headquarters, then the staff attached to the office at the Headquarters is not entitled to emoluments higher than those drawn by the staff of the Units/Battalions. The payment of higher emoluments to the said staff merely on the ground that the establishment is at the place where the Headquarters is situated, is discriminatory as against the staff at the Units/Battalions since it is in no way different from the other Units."

Thus treating CRO and UPAO as a different unit and not part of the establishment of the Headquarters the controversy lies in a narrow compass namely, whether staff of CRO and UPAO and staff at Battalion/Units offices is on par. It must be borne in mind that the grievance of the petitioner centres around the disparity in the scales of staff at Battalion/Units level vis-a-vis CRO and UPAO and not vis-a-vis the Headquarters proper.

22. The Hon'ble Supreme Court has directed this Tribunal to record findings on following points:

- 1) Whether the qualifications for appointment at the two establishments viz. CRO and UPAO at the Headquarters and at the Units are different.
- 2) Whether the nature of the duties and responsibilities of the UDA's and LDA's at the Headquarters is of a higher order than that of those at the Units/Battalions....

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Battalions, and

3) Whether the transfer of the staff from the Units/ Battalions to the Headquarters was done arbitrarily and without applying any test.

We are directed to decide after giving our findings on the aforesaid points whether on that account the difference in the emoluments of the two is justified. With respect, we wish to submit that since Their Lordships have in the end directed this Tribunal to dispose of the matter according to law in the light of what is stated in the judgment it is open to us to correlate the findings on above mentioned points to the extent the grievance as regards disparity travels according to the petition during the long span of time from 1962 to 1995 after taking due cognisance of subsequent developments that arose after filing of the petition. Our task has become somewhat difficult as the petitioner has not cared to amend the original petition dealing with subsequent developments and correlating it with the basis of his petition by amending the petition. That exercise has to be done by reading further affidavits, counter affidavits and rejoinders and several records submitted from time to time. We however record that as directed by the Hon'ble Supreme Court we have given full opportunity to all the parties to place relevant material on record.

23. For a proper appreciation of the controversy in issue in the light of the twin factors required to be considered as directed by the Hon'ble Supreme Court it will be necessary to briefly trace the history of Assam Rifles and of creation of CRD and UPAO as revealed from the record.

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24. Initially the Assam Rifles functioned as armed constabulary under the Government of Assam. It was taken over by the Government of India, Ministry of External Affairs, and placed under the Inspector General with effect from 1.10.1947. In 1965 it was placed under Home Ministry but the Secretarial cover was provided by the erstwhile NEFA Administration till 1972. It was placed under the Home Ministry during the period it was Union Territory of Arunachal Pradesh comprising the areas under former NEFA. Thus the Assam Rifles has been under the administrative cover of the Central Government since 1947. However the earlier administrative set up of the Government of Assam was followed.

25. Under the administrative set up followed by the Government of Assam there was a three tier administration, i.e. Secretariate, Heads of Department and District offices. The status of office determined the duties and responsibilities of different categories of posts sanctioned in the respective offices. The pay scales and other terms and conditions of service in the three offices were different. Following this hierarchical pattern a two tier set up viz. Head of Department and District (subordinate) offices is followed in Assam Rifles.

26. In the year 1962 a need was felt by the Government to have a Central organisation for implementation of a uniform policy regarding pay, promotions, posting, transfer, pension, discharge etc. in respect of Assam Rifles (AR). That was because a considerable part of time of the few available officers in the Battalion/Range office was required to be spent in looking after the above matters leaving them little time to attend to the more important work of Training and operational commitments. The Force

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then consisted 17 battalions, a training centre and other ancillary units. Hence in order to improve overall efficiency in the work pertaining to the Assam Rifles (AR) the Ministry of External Affairs, Government of India, decided to establish a Central Record and Unit Pay Accounts Office for the AR and the proposal made by the Financial Adviser, NEFA, for making the CR and UPAO as part and parcel of the Headquarter IGAR (now DGAR) and the scale and staffing pattern to be prescribed on the lines of the Head of the Department was accepted. The creation of CR and UPAO was sanctioned by the Government of India on 27.4.1962.

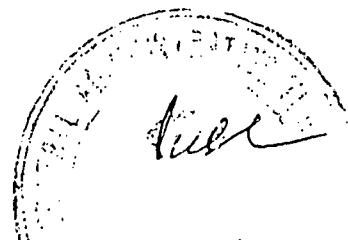
27. The important proposals that had been made by the Financial Adviser on 8.9.1959 were as follows:

"(a) Although SF has suggested the District scale for the proposed Records Office, we are inclined to agree that since the Record and Pay Accounts Office is rather a part and parcel of the HQ. IGAR and to be stationed in Shillong, the scale and staffing pattern may be on the lines of the Heads of the Department. In recommending this, we have kept in view the quality of work to be performed by the proposed organisation which will act more or less as a Controlling Office for the purpose of accounts and organisation of all the Battalions.

(b) We agree with SF that the ratio of Upper Division Assistant and Lower Division Assistant should be 1:4.

(c) The strength and competition of the Records Office as suggested by the SF may be agreed to except that non-effective documentation group may not immediately require 3 LDAs since this group will expand by and large with the roll of days.

(d) We do not agree for the post of 2 Accounts Officer in the Pay & Accounts Office. In facts review group should be placed under the same Accounts Officer who is in-charge of the Ledger-Section and the miscellaneous work group does not connote any special work which are not covered by HQ. Establishment of Records and Pay under the Record Officer. This will eliminate the necessity of an additional Accounts Officer.



(e) "It will, therefore, sound more reasonable if the proposed 4 posts of Accountants i.e. 3 for Ledger section 1 for review group are created on the scale of Senior Accountant Rs.100-355/- . These posts should be manned by those senior auditors who are experienced in the IRLA accounts and who will be replaced gradually after suitable candidates will be available from the ranks of UDA's."

28. While setting up the CR and UPAO Army pattern of documentation and accounting was adopted on the advics of the Comptroller and Auditor General of India. These offices were placed under the Inspector General of AR. Defence system of accounting was to be introduced. The Ministry of Defence had also examined the scheme. The role that was intended to be performed by the CR and UPAO is illustrated from the following remarks contained in Memorandum issued by the External Affairs Ministry dated 31.3.1962 (Annexure-11 to the affidavit of Mr Dey, dated 27.5.1991).

"(g) The Records and Pay Accounts Office will be a new feature in the Assam Rifles. Its introduction will involve fundamental changes in the system of accounting. This organisation will be responsible for maintaining correct records of service and pay accounts of the entire force. The importance of this Organisation needs no emphasis and unless it is established on a sound footing it cannot function efficiently. As such, it is necessary to have the services of some experienced and trained people from the establishment of the CG of Defence Accounts as well as the Army Records on deputation initially for three years."

29. It is the case of the respondents as stated in this affidavit that from the very begining the CR and UPAO have been distinct from Range Headquarter/Battalion offices and higher in status from these offices.

30. In the affidavit in rejoinder dated 11.12.1991 while dealing with the affidavit of the respondents (dated 27.5.1991) the petitioner has not disputed the background in which the CR and UPAO were established or

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the reasons that had persuaded the Government of India to create those offices.

31. It does however appear that at the inception itself the Finance Secretary to NEFA had stated in his Note dated 8.6.1959 as follows:

" One important aspect which seems to have been lost sight of in the preparation of the statement of case by the HQ. IGAR is that the proposed Records and Pay Accounts Office will be a separate unit of Assam Rifles and will not be an integral part of the HQ AR. As such, the scales of pay and the standard for staffing pattern should be that for "Unit" instead of that for HQ IGAR."

That is in essence ^{is} the case of the petitioner. That takes us to the two aspects that are required to be considered as per the direction of the Hon'ble Supreme Court.

32. Point No.1. (Educational Qualifications)

(a) In the affidavit of Shri Dey dated 27.5.1991 it is stated in Para 7 that civilian staff working in the Range/Battalion offices fulfilling the eligibility criteria were selected for absorption against the sanctioned posts in CR and UPAO. The minimum qualification prescribed for LDA was intermediate passed. Such staff was to rank in seniority immediately below the juniormost LDA serving in the Headquarter on the date of their joining. (See Annexure IV to the affidavit which reflects that position).

(b) In 1975 it was administratively decided to absorb persons working in Range/Battalion offices to CR and UPAO (as well as at Headquarter establishment) against vacancies of UDC and LDC-cum-typists through selection by a Board of officers in relaxation of educational qualification from amongst those who applied and volunteered for such appointment. (See annexure V to the affidavit).

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(c) The affidavit sets out following particulars on this point:

The educational qualifications prescribed for appointment at the two levels (i.e. CR and UPAO and Battalion/Range offices) were and are different. Intermediate qualification is prescribed for LDA and Matriculation - PU - for typist at CR and UPAO (Annexure VII to the affidavit).

The educational qualification for LDA/typist at entry point in Units/Range is Matriculation.

(x) In 1980 in partial relaxation of recruitment policy the staff from the Ranges/Units who applied and volunteered was absorbed in CR and UPAO by relaxing the educational qualification but, by selection by a Board of officers.

(c) The applicant on the other hand contends in the rejoinder (dated 11.12.1991) that the minimum educational qualification prescribed at the two levels is not different. According to him the minimum qualification prescribed by order dated 19.8.1962 of NEFA was matriculation. He also contends that matriculates have been appointed as LDAs at CR and UPAO between 1963 and 1965 and in 1971, 1976 as well as well as 1977. The appointments in 1971, 1976 and 1977 however were made by direct recruitment.

(f) Between these two rival versions we are inclined to prefer the version of the respondents that the minimum qualification at the two levels is different. It is intermediate for CR and UPAO and matriculation for LDAs at Battalion/Range level. We have already adverted to the affidavit of the respondents from which it is clear that in 1975 and 1980 staff from Battalion level was absorbed

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in CR and UPAO but that would not mean that the prescribed qualification of intermediate was removed. That absorption was made in the exigencies at the time by relaxing the educational qualification only in respect of those persons who had applied and volunteered, had gone through the selection process and had agreed to accept the bottom seniority in the new post. Similarly, simply because some direct recruits appointed in CR and UPAO were only matriculates that does not by itself mean that the minimum prescribed qualification was changed. Assuming that some appointments made were irregular that also would not mean that the prescribed qualification was changed.

(g) Even according to the applicant the minimum qualification prescribed for entry at Battalion level is matriculation. In the absence of recruitment rules having been framed for CR and UPAO we see no reason to discard Annexure IV to the affidavit in reply which shows that vide Memo A/VII-A/68-50/95 -February 15/ dated 24.8.1962 it was stipulated that the necessary qualification for EST Record and PAO AR was intermediate pass and above. Thus ever since the creation of CR and UPAO in 1962, intermediate has been the qualification. It is not shown from any record by the petitioner that this qualification had been lowered at any stage.

(h) It is a different matter for the petitioner to believe that since according to him some matriculates were also recruited on few occasions and relaxation in educational qualification had also been given in the post that the persons from Battalions who though may not possess the prescribed qualification of intermediate are capable of performing duties at CR and UPAO but legally that cannot be accepted as a factor to render the Battalion staff eligible

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for appointment to CR and UPAO with lesser qualification so as to justify their grievance of disparity in the pay scale.

(L) No other qualification has been debated.

(J) We thus hold that the qualifications for appointment at the two establishments viz. CRO and UPAO at the Headquarters (and even assuming it to be a distinct unit from the main Headquarters of DG (IG earlier) and at the units are different.

33. Point No.2. (Nature of duties and responsibilities of the UDAOs and LDAOs at the two levels)

(L) While it is contended by the petitioner that these are similar, the respondents contend to the contrary. The respondents maintain (in their affidavit dated 17.9.1991) that the work involved in CR and UPAO being on the basis of the new system introduced on Army Lines the nature of duties and responsibilities is different from those performed at Battalion/Units level. These are different both in reference to the status of office and type of work performed as right from the inception the duties and functions of the CR and UPAO was assessed to be of controlling nature, requiring it to issue necessary instructions to different units relating to documentation and accounting of the force. The duties enjoined therefore involve higher responsibilities of controlling nature. Reliance is placed upon the note of the Financial Adviser NEFA, Memorandum of Finance Committee, Information supplied to the Central Government in connection with the implementation of the report of the 3rd Central Pay Commission and correspondence with the Government of India. The duties generally discharged by the LDAOs and UDAOs at Range/Unit

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• offices are detailed in Annexure-III to the affidavit.

(ii) The petitioner on the other hand disputes (in his affidavit dated 11.12.1991) the correctness of the duties of staff at Range/Unit level enumerated by the respondents in the charts annexed to their affidavit on the ground that these are not authoritative duty charts. He denies that the UDAs and LDAs at CR and UPKO supervise the work at Units or shoulder higher responsibility. On the contrary he contends that in as much as the UDAs of Units are required to do file work independently their duties and responsibilities are of a higher nature. He relies on certain annexures to his earlier affidavit dated 24.5.1991.

(iii) A comparative study on the basis of material relied upon by the two sides on the point will be useful at this stage.

Duties and responsibilities of LDAs and UDAs at Unit level.

(1) LDAs - At Unit level

According to the petitioner

Duties and responsibilities of the Unit

1. Matters connected with discipline amongst combatants
2. Deployment/movement of combatant personnel
3. Training
4. Supply of Arms
5. Procurement of supply of ration
6. Acquisition of land and construction of buildings
7. All administrative and financial orders regarding individual entitlements and service matters.

According to the respondents

At Unit level

Duties of normal routine nature such as diary, despatch, typing work and less important file work

AT CRO level HQ

Documentation

- i) Maintenance of service documents of entire staff of all battalions annually
- ii) Maintenance of Pension record of the staff of battalions

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(See para 6.8.2 of
Affidavit dated 24.5.91.
Break up of work under
above heads given in
annexures 8, 9, 9A & 9B
need not be set out here
as these relate to above
items)

(According to the applicant
CR and PAO has no role to
play in following duties
which are performed by the
Units apart from general
duties at the Units, enumerated
above):

1. Opening and Maintenance of service documents of newly appointed combatants.
- ii. allotment of personnel numbers to recruits
- iii. maintenance of service documents and Battalion routine orders, particulars of individuals and service particulars of JCO & other IRLA, maintenance of acquittance role, maintenance of IRLA at CR & PAO and Pay books at units, Scrutiny/preparation viz. (i) documents for DPC, (ii) processing of promotion cases, (iii) of cases of compulsory/voluntary retiring personnel, Pension and discharge and final settlement of accounts.

(see para 6.8.2 of affidavit.
Break up at Annexures- 8, 9,
9A and 9B).

iii) Administrative work including:

- a) Preparation of Policy instructions
- b) Preparation of promotion cases of personnel
- c) Maintenance of ACRs
- d) Preparation of inter-unit transfers

(Emphasis supplied to highlight the important nature of the work)

At UPAO:

- i) Maintenance of various records including
 - a) sorting out date and despatch
 - b) sorting out actionable claims and sending them to respective groups for action
 - c) maintenance of stock register and distribution of office equipments to various Groups.
 - d) issue of pay books
 - e) maintaining index register for NE personnel and Log book
 - f) correspondence from NE - IRLAs to be attended
- g) Control Section:
 - a) Control and Coordination in various items of work done in the group.
 - b) Maintenance of Central Index Registers of all the effective in respect of Assam Rifles personnel
 - c) Furnishing statistics and information based on the IRLAs which are required by the higher authorities,
 - d) Maintenance of daily, weekly annual progress report
 - e) issue of instructions regarding pay, DA and other allowance in respect of Assam Rifles personnel
 - f) other.

(b) Imprest Group. (Including maintenance of GPF registers)

(I) FS Group

a) Scrutiny of the entire IRLA (ie ledger) and Fund Account in respect of the personnel proceeding on discharge from service.

(J) IR and REV Group

Generally involving checking work of IRLA

(K) Ledger group

Generally involving work relating to IRLA and accounts including preparation of QSA's and annual GPF statements and sending of IRLAs and other connected documents to FS Cell for finalisation of accounts.

(Emphasis supplied).

II UDAs

1. Branch incharge
2. Maintenance of service and other particulars of individuals
3. Preparation of battalion routine orders
4. Scrutiny/verification of consolidated monthly demand
5. Maintenance of imprest cash book
6. Maintenance of Sub units disbursement of imprest money, and scrutiny of monthly imprest
7. maintenance of duplicate copy of monthly paid Acquittance Roll
8. Supervision/audit of quarterly statement of individual account
9. Processing of court enquiry
10. Verification of compiled statements of outstanding individual dues
11. Scrutiny, checking of eligibility conditions for advance/withdrawal from GPF

1. They are entrusted with the duties and responsibilities of dealing Assistants
2. They are required to deal independently with file work, initiation of schemes/proposals with reference to the respective range/Battalion
3. They must have thorough knowledge of rules and regulations
4. They are required to have knowledge of budgetary work concerning their office
5. They must have knowledge of accountancy/preparation of bills and establishment work.

(Emphasis supplied)

12. Eligibility for medical reimbursement
13. Documentation of service documents of JCOs and other ranks of Assam Rifles
14. Scrutiny/preparation of
primary medical examination, entrance test, disposal of selected/rejected candidates checking of enrolment documents
15. Supervision on opening of service documents and its maintenance by LDAs
16. Allied work relating to new appointments of combatants such as identity cards, scrutinies and processing of papers, applications, etc.
17. Attestation of recruits
18. Disposal of service documents.
19. Supervision on maintenance of service documents
20. Scrutiny/verifications of eligibility conditions for attending promotion orders and maintenance of promotion record
21. Matters connected with maintenance of discipline in the combatant personnel
22. Processing MURs
23. Promotion of combatant personnel
24. Administration
monthly sainik sammelan
25. Budget
estimate, preparation and submission

According to the applicant apart from aforesaid duties performed by units and by LDAs and UDAs at Units in other items of work performed by the LDAs and UDAs at CR and UPAO as shown by the respondents, the LDAs and UDAs at units also discharge these functions in common with their counterparts at CR and PAO.

From a comparison of the main duties and responsibilities of the LDAs and UDAs at the two sets of

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offices respectively following picture emerges:

1. Certain duties are exclusively assigned to the Battalion offices relating to combatant personnel. CR and UPAO staff does not perform these duties.
2. Certain duties are performed exclusively by LDAs and UDAs at Battalion level.
3. Certain duties are performed by the LDAs and UDAs at both levels in common as shown by the applicant.

There cannot be any comparison between Battalion offices and CR and UPAO as regards duties at serial No.1 above. As far as the duties falling under item at serial No.2 above, what is seen is that the duties carried out and the responsibilities incurred by the staff at Battalion levels are of ministerial nature confined to each unit whereas the staff at CR and UPAO is connected with work of supervisory and controlling nature over the functioning of all the Battalions of Assam Rifles. They are connected with policy matters, promotions of personnel at the battalions, transfers, maintenance of centralised record and general ledger account, initiation of schemes with reference to respective units, etc. A distinction has to be made where the staff is concerned in dealing with policy formulation, central control over all the important components relating to Assam Rifles including documentation, budget and accounts promotions etc and the staff dealing with day to day matters and carrying out spade work at the level of each single unit. While the first kind of work is entrusted to the CR and UPAO, the latter kind of work is performed at the Battalion level. mere nomenclature or designation as LDA or UDA even though it may be the same that does not make their duties and responsibilities similar in nature.

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(v) The duties performed under the same description by the staff at both the levels falling under item at serial No.3 above since differ in content materially, these cannot be described similar.

(vi) The fundamental difference in the two sets lies in that whereas the work of the LDAs and UDAs at ~~LR~~ and UPAC embraces a larger field of control and extent related to policy matters and involving supervision relating to the entire Assam Rifles; the nature of work performed by the staff of same description at battalion level is confined to each unit and is only of a day to day nature ~~shown~~ of basic element of control and supervision beyond the unit and that too of a limited extent. That places the CRO and UPAC on a higher pedestal than offices at battalion/range level. With that the duties and responsibilities of LDAs and UDAs at CR and UPAC level become more onerous than at ~~line~~ ^{line} level of battalions in respect of the functions assigned to CR and UPAC.

(vii) It is not however to say that the duties and responsibilities of the staff at battalion level particularly in respect of combatant personnel is of lesser importance. It would be a different matter if one were to say that looking to the overall role the battalion plays it should be placed on a different or higher pedestal. Such is not the question involved here and we do not find that the nature of work of the two sets of LDAs and UDAs can be measured in the same scale or on comparison it can be described as 'equal'. That is the only question we have to decide here. We are convinced from the comparison of

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the duties and responsibilities of the LDAs and UDAs at the two establishments that the CR and UPAO can be compared with the Headquarter establishment of the Assam Rifles and not with the establishment at battalion level.

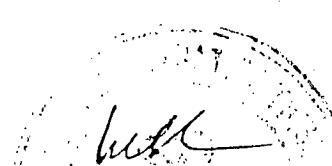
(vii) As stated earlier the petitioner has no quarrel with the Headquarter staff including LDAs and UDAs thereat being treated distinctly from the staff at the Battalion/unit level. It is also seen that the respondents have been treating the CR and UPAO as part of the Headquarter.

There is no difference in the pay scales of LDAs and UDAs at Headquarter establishment ^{and} CR and UPAO establishments.

A common gradation list is also maintained. The staff between the two establishments is regarded as interchangeable. The staff from Unit level is absorbed after selection and only when applied for and volunteered. More significantly it has to accept seniority at the bottom in CR and UPAO together with Headquarter staff. The petitioner himself has so accepted it. Thus even though CR and UPAO may no longer be treated as part of the Headquarter yet as a distinct unit it stands on par with the Headquarter and not the battalion/unit. The question of discrimination owing to difference between the pay scales of CR and UPAO staff ^{and} Battalion staff (relating to UDAs and LDAs) thus does not arise.

(viii) The scales of pay of the UDAs and LDAs at Battalion/Unit level and in CR and UPAO establishment have to be understood in the context of the nature of the duties and responsibilities of that staff at the two levels as noted above. Following comparative table will show the

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position in that respect:

Comparative Table

	<u>HQ (DG) and CR & UPAO</u>	<u>Battalions/Unit</u>
1) <u>UDAs</u>		
Pre 1973	275 - 425	200 - 300
From 1973 (1.1.1973)	425 - 700	330 - 560
From 1986 (1.1.1986) Now Assistant (Earlier UDC)	1200 - 2040	1200 - 2040
2) <u>LDAs</u>		
Pre 1973	140 - 275	125 - 200
From 1973 (1.1.1973)	330 - 560	260 - 400
From 1986 (1.1.1986) Now LDA-cum- typist (Earlier UDC)	950 - 1500	950 - 1500
3) <u>Typist</u>		
Pre 1973	125 - 200	125 - 200
From 1973 (1.1.1973)	260 - 400	260 - 400
From 1986 (1.1.1986) Now LDA-cum- typist	950 - 1500	950 - 1500 Now LDA typist

Note. After 1986 LDAs at Units level are at an advantage over their counterpart at Headquarter due to redesignation of posts as LDA-cum-Typist at Headquarter and LDA - typist at Unit level.

(~) The above table reflects the position as has prevailed in three phases viz. between 1962-72, from 1.1.1973 to 31.12.1985 and from 1.1.1986 onwards. The phase between 1973-85 saw revised scales in accordance with 3rd Central Pay Commissions' report. The scales since 1.1.1986

are....



are in tune with the recommendations of the 4th Central Pay Commission.

(v) Since the petition was filed on 4.8.1983 and orders dated 15.7.1975, 17.1.1976 and 21.1.1983 have been impugned we do not think that any grievance as regards the position that prevailed prior to 1.1.1973 is open to be canvassed. ~~convened~~ on the frame of the petition. If anything it rather would show that ever since 1962 there was no parity of scales at the two establishments, i.e. Headquarter/CR and UPAD and the Battalions/Units. Any grievance in respect thereof could not be entertained in 1983. Moreover the 3rd Central Pay Commission had examined the question. The grievance of the petitioner thus can be relatable to the difference in the pay scales as revised from 1.1.1973.

(vi) The contention of the petitioner being that in prescribing different scales in respect of similarly placed LDAs and UDAs the respondents have made discrimination and therefore the LDAs and UDAs at Battalion level are entitled to be treated equally with their counterpart at the Headquarters and to claim parity of scale of pay with them, it was necessary for him to have been more specific in his averments in the petition about the date from which parity was being claimed but he has not done so. He has tried to develop the case from time to time by filing further affidavits with voluminous annexures to them. His precise case thus is required to be gathered from the record as it came to be produced from time to time. On the frame of the petition it is clear that the petitioner had proceeded on the assumption that CR and UPAD was part of the Headquarter and not a (3rd) distinct entity.

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(xiii) Then, that the scales have been further revised from 1.1.1986 leaving no anomaly thereafter also appears clear from the scales noted above in the table as are effective from that date. That is the contention of the respondents and on an earlier occasion the learned Addl. Solicitor General had also made similar statement. The respondents have produced as directed earlier by us:

- i) Certified copy of Pay Bill for the month of May 1993, in respect of civilian officers and staff posted in the establishment of Headquarter DG AR which included staff in the CR and UPAO
- ii) Certified copy of Pay Bill for the month of May 1993 in respect of civilian ministerial staff posted in the 5th Battalion of AR (by way of illustrative record).

On the basis of these pay bills the respondents contend that there is no difference in the pay scales of UDC and LDC-cum-typist working in the CR and UPAO in the Headquarter and of UDA and LDA working in Ranges/Battalions/Units after 1.1.1986. They also contend that on the basis of these pay bills that after 1.1.1986 there is no post of LDA/UDA in CR and PAO in the pay roll of Headquarter and that LDAs and UDAs at Battalion/Range/Unit are equal to LDC-cum-typist and UDC of CR and UPAO in the Headquarter in the matter of scale of pay.

(xiv) The petitioner however disagrees with the aforesaid position. A detailed note has been submitted by the learned counsel for the petitioner on 2.9.1994 in respect of the various points involved.



A comparative table is annexed thereto. It shows that the scales between 1973 and 1986 in the respective establishments were as below:

<u>Headquarter</u>	<u>CR and PAO</u>	<u>UNITS/BATTALIONS</u>
UDA : 425 - 700	UDA: 425 - 700	UDA: 330 - 560
LDA : 330 - 560	LDA: 330 - 560	LDA: 260 - 400
Typist: 260 - 400	Typist: 260 - 400	Typist: 260 - 400

Revised after 1.1.1986

<u>Headquarter</u>	<u>CR and PAO</u>	<u>UNITS/BATTALIONS</u>
Asstt.: <u>425 - 700</u> (UDA) <u>1400 - 2300</u> redesignated	UDA*: <u>425 - 700</u> <u>1400 - 2300 (RS)</u>	UDAs <u>330 - 560</u> <u>1200 - 2040</u>
UDC : <u>330 - 560</u> (LDA) <u>1200 - 2040</u>	LDA*: <u>330 - 560</u> <u>1200 - 2040 (RS)</u>	LDA: <u>260 - 400</u> <u>950 - 1500</u>
Typist: <u>260 - 400</u> <u>950 - 1500</u>	Typist*: <u>260 - 400</u> <u>950 - 1500</u>	Typist: <u>260 - 400</u> <u>950 - 1500</u>
Asstt. : <u>425 - 700</u> (Newly <u>1400 - 2300</u> created)		
UDC* : <u>330 - 560</u> (Newly <u>1200 - 2040</u> created)		
LDC-cum- <u>260 - 400</u> Typist* <u>950 - 1500</u> (Newly created)		

It will be noticed that the scales of pay of LDA, UDA and Typists at CR and PAO have all along been equal to those at Headquarter. The scale in the Battalion has always been one step lower till 1.1.1986. On that basis the scale of UDA of Battalion/Unit is equated with LDA at CR and PAO. Scale of LDA is equated with typist as also LDC-cum-typist. The newly created post of Assistant is in the same scale as UDA. UDC is in same scale of LDA.

(xv) According to the affidavit of the respondents dated 16.7.1993 after 1.1.1986 the posts of UDA, LDA and

Typists...

[Signature]

Typists no longer exist at LR and UPAO and now the posts are Assistant, UDC and LDC-cum-typist. The comparison on that basis shows:

<u>CR and PAO</u>	<u>Battalions</u>
Assistant 1400 - 2300	No equal post
UDC 1200 - 2040	UDA 1200 - 2040
LDC-cum- Typist) 950 - 1500	LDA / Typist 950 - 1500

Thus erstwhile UDA in Battalions is equated with UDC with uniform scale of pay and erstwhile LDA of units is equated with LDC-cum-Typist, with same pay scale. In that sense the scales have been equalised. The earlier post of UDA with one step of higher scale (i.e. Rs. 425 - 700) at CR and UPAO has been equated with Assistant in same scale of 425 - 700, i.e. now 1400 - 2300.

(xvi) It appears to be the contention of the petitioner that scale of UDA at battalion level should have been equated with Assistant at LR and UPAO, that of LDA with UDC (i.e. 1200 - 2040) and the restructuring and redesignation is not rational and cannot be maintained. Now posts of what status or designation should be created in an organisation is a matter for the authorities concerned to decide. That would depend upon several factors such as administrative exigencies, volume of work etc. That would be purely an administrative exercise. That task does not lie within the province of the Tribunal which essentially performs judicial function. The task involves balancing of the work done in different offices and then establishing an equation in them. Where the staff concerned feel - like the petitioner, that there is no material difference between the work in two offices with varying scales of pay the more appropriate

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forum for agitating the matter would be specialised bodies like pay commissions which can properly examine all the aspects. In the instant case even if such is the grievance of the petitioner yet we do not think that what the concerned authorities who have acted in consultation with the Comptroller and Auditor General of India have done can be described as an act of gross and patent discrimination to require our interference.

(xvi) Thus with the equivalence of the posts and the scales of pay having been brought about since 1.1.1986 and as the question as to how the equivalence is to be brought about not being open for scrutiny, the grievance of the petitioner can survive only relating to the period between 1.1.1973 and 31.12.1985.

Consistently with the conclusion we have reached earlier we hold that no case for parity of pay scales as is sought to be canvassed by the petitioner has been established. The respondents therefore cannot be held guilty of practising discrimination with respect to LDAs and UDAs working at Battalion/Unit/Range level vis-a-vis LDAs and UDAs working at CR and UP AO.

(xvii) The learned Additional Solicitor General of India, Shri Tulsi, appearing for the respondents submitted that the Memorandum dated 31.3.1962 sets out exhaustive reasons that needed the creation of CR and UP AO and as to the duties of the staff at these establishment. The learned Solicitor General also pointed out that the staff is to be drawn from various units involving option, selection and undertaking to accept bottom seniority and that the posts are not interchangeable, and the staff once brought over to CR and UP AO.....

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UPAO cannot go back to Battalion. The learned Addl. Solicitor General further submitted that the functions of the two establishments, i.e. CR and UPAO and Battalions differ materially. Nature of functions of CR and UPAO is that of a controlling office. The horizon and quality of an LDA working at CR and UPAO has to be wider, his vision has to be broader. He has to have perception of entire area of Assam Rifles. His awareness and efficiency has to be of higher quality. Likewise the functions of UDA at CR and UPAO performed at Headquarter are of a vital and critical nature for the combatant force. The Gradation list is therefore maintained in common for Headquarter and CR and UPAO. Thus submits the learned Addl. Solicitor General that there exists a rational basis for the difference in respect of the pay scales at the two establishments. We have already dealt with these aspects and are in complete agreement with these submissions of the learned Addl. Solicitor General.

The learned Addl. Solicitor General next submitted that the respondents have ample justification for prescribing the separate scales of pay. There exists a valid basis for the same. In this respect he relied upon the following decisions of the Hon'ble Supreme Court:

- 1) Delhi Veterinary Association -vs- Union of India, AIR 1984 SC 1221 and
- 2) Shyam Babu Verma and Others -vs- Union of India and others (1994) 2 SCJ 57.

In Delhi Veterinary Association case it was observed that the degree of skill, strain of work, experience

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involved, training required, responsibilities undertaken, mental and physical requirements, disagreeableness of the task, hazard attendant on work and fatigue involved are, according to the Third Pay Commission, some of the relevant factors which should be taken into consideration in fixing pay scales.

In Shyam Babu Verma's case, (which is latest on the point) the Supreme Court has held as follows:

"..... The nature of work may be more or less same, but scale of pay may vary based on academic qualification or experience which justifies classification. The principle of 'equal pay for equal work' should not be applied in a mechanical or casual manner. Classification made by a body of experts after full study and analysis of the work, should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups, excludes applicability of the principle of 'equal pay for equal work' to them. The principle of 'equal pay for equal work' has been examined in State of Madhya Pradesh -vs- Pramod Bhartiya, (1993)1 SCC 539, by this Court. Before any direction is issued by the Court, the claimants have to establish that there was no reasonable basis to treat them separately in matters of payment of wages or salary. Then only it can be held that there has been a discrimination, within the meaning of Article 14 of the Constitution."

(>>) The learned Addl. Solicitor General submitted that for attracting the doctrine of equality it is essential that all things must be equal and that not being the case here the principle of equal pay for equal work is not applicable in the instant case and thus there is no merit in the petition. The above submissions merit acceptance and we accept them.

(>>) Shri S. Ali, Sr. C.G.S.C., who assisted the

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learned Addl. Solicitor General and Shri J.L. Sarker appearing for Respondent No.4, Association, adopted the submissions of the learned Addl. Solicitor General.

(xxii) Shri A.Mazumdar, the learned counsel appearing for the petitioner submitted that as demonstrated by the petitioner in his various affidavits and by reference to the history of creation of CR and UPAO and the voluminous records produced, that the duties and responsibilities of LDAs and UDAs working at CR and UPAO and Battalion offices are equal in all respects and therefore there is no justification in prescribing different scales for them and that is discriminatory. The learned counsel submitted that the principle of equal pay for equal work is thus violated. We have examined all the relevant aspects in the course of our foregoing discussion and we find it difficult to agree with the above submissions of Shri Mazumdar.

34. Point No.3. (Transfer of staff - whether arbitrary).

(i) The grievance of the petitioner in this respect started from 1962 and is not confined to transfers - absorption of staff within a reasonable proximity of 1983 when the petition was filed. On a closer scrutiny it turns out to be an ingenious way of trying to go back upon something he had himself accepted and would be otherwise estopped from doing so.

(ii) It is alleged by the petitioner that the staff from Battalions was transferred to the Headquarters without applying either the criteria of seniority or subjecting the staff to any selection process with the result those who were juniors and less experienced and/or less qualified were transferred to the Headquarter arbitrarily and had been

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receiving emoluments higher than the more deserving ones on account of their seniority, and qualifications on merit. This was the grievance made before the Supreme Court. Their Lordships have emphasised two aspects in this respect, namely, seniority and selection.

The respondents however deny that the staff was transferred arbitrarily or without applying any reasonable criteria.

(iv) In the memorandum of Expenditure Finance Committee (Annexure-II to 1st counter affidavit) it was stated thus:

"(g) The Records and Pay Accounts Officer will be a new feature in the Assam Rifles. Its introduction will involve fundamental changes in the system of accounting. This organisation will be responsible for maintaining correct records of service and pay accounts of the entire force. The importance of this Organisation needs no emphasis and unless it is established on a sound footing it cannot function efficiently. As such, it is necessary to have the service of some experienced and trained people from the establishment of the C.G. of Defence Accounts as well as the Army Records on deputation initially for three years."

That was a provision made at the initial stages.

By order dated 27.10.1965 five persons i.e. S.M. Chakravarty, H.R. Choudhury, S.C. Day, H.K. Gupta and A.K. Barthakur were transferred from the unit offices to the CR and UPAO.

By order dated 10.7.1980 issued by the Ministry of Home Affairs dated 10.7.1980 following posts were created with the sanction accorded by the President of India.

<u>Record Office</u>	<u>Unit Pay and Accounts Office</u>
a) Chief Record Officer - 1	a) Senior Accounts Officer - 1
b) Asstt. Record Officer - 2 (Lt Capt. SL)	b) Accounts Officer - 2
c) Record Officer (LIV) - 1	c) Supdts. - 11
d) Supdts. - 3	d) Asstt. - 5

Record Office

e) Asstt.	- 7
f) UDC	- 8
g) Steno III	- 1
h) LDC-cum-Typist	- 3
j) Daftry	- 2
j) Messenger (peon)	- 1

Unit Pay and Accounts Office

e) UDC	- 37
f) Steno II	- 1
g) Daftry	- 1
h) Messenger (peon)	- 7

(v) The petitioner has been alleging in general terms that the transfers were done arbitrarily and that it was just a matter of pick and choose. This is denied by the respondents.

(vi) The respondents have explained in the affidavit dated 27.5.1991 that the staff serving in the Ranges/Units who applied and volunteered for absorption in Headquarter establishments from time to time was selected by a Board of Officers after applying test/interview on different occasions. They rely on Annexures XVI and XVIII to the said affidavit.

(vii) At Annexure XVI is a copy of proceedings of the Board of Officers for selection of typists for appointment at Headquarter. (It is to be remembered that all along the respondents had been treating LR and UPAJ as integral part of the Headquarter). 12 candidates were considered. 6 were found suitable and 6 were not found suitable. The proceedings show that all the candidates were from different units. The proceedings were held on 6.2.1976. From the sheets annexed thereto it is seen that a selection of candidates was made. 25 marks were assigned to Interview and 25 marks for written test. Maximum for each was 10 and total minimum for passing was 25 marks. The Result of test was announced on 13.9.1976.



The....

The test was held for absorption of AR units staff in Headquarter IGR. A tabular statement is also produced showing following details:

Name

Unit

UDA/LDA

Educational Qualification

Grade: 'very good' 'good' 'Average'

Fit/Unfit

19 candidates were tested on this occasion.

A list of 46 candidates with their result as 'passed' or 'failed' at the test held in October 1976 is produced.

At annexure XVIII is list of 33 candidates put up for consideration for absorption in Headquarter in January 1976. The candidates were drawn from Units. These were LDAs/UDAs.

Then there is produced a bunch of 25 applications out of which 22 were given in December 1975 and 3 were given in 1976 on different dates. All these belonged to the different units of AR. Out of them 10 were graduates (BA/B.Com) - 5 had appeared for 1st year of graduation. Thus they were intermediates. 3 were intermediates and 7 were Pre University Certificate (PUC) pass. None was thus below the prescribed qualification for absorption at CR and UPAO (Headquarter). All these persons who were from Units had applied and volunteered for absorption.

From the above material it can be fairly gathered that the respondents have followed the norms prescribed for absorption of staff from Units to Headquarter (CR and UPAO).

(viii) The respondents have produced a copy of a wireless message....

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message issued by Headquarter IGR dated 22.12.1975 laying down policy for absorption in Headquarter establishment. Consistently therewith according to them applicants were listed and by batches test and interviews were carried out and those selected were absorbed at Headquarter establishment. Annexures XVIII and the applications that had been made as mentioned above bear out the statement.

(iv) In 1980 the position was reviewed by a high power committee at a meeting held on 11.6.1980 and policy decisions were taken as reflected from the Minutes produced at Annexure V to the affidavit of respondents dated 27.5.1991. These are set out below:

"2. Maintenance of Seniority :- In the past, UDA's from the Ranges and Units, when absorbed as UDC's were absorbed as junior most UDC. Their previous service was counted towards pension purposes only. It was decided that the same system will continue in future so as not to unsettle settled matters. This also applies for the LDAs who were absorbed as typist in this HQ."

The vital features of these decisions related to seniority, selection, undertaking and promotion. These have to be understood in the context of the material already noted in regard to the object behind the establishment of CR and UPAO in 1962. It is assertively stated by the respondents in the affidavit (dated 27.5.1991) that the staff selected for absorption furnished undertaking to the effect that they will take their seniority immediately below the staff of Headquarter in that grade on the date of their joining. In fact petitioner himself has given such an undertaking.

(v) The story of the petitioner as set out in the affidavit dated 11.12.1991 is that the CR and UPAO and units being offices other than Head of Department the minimum qualification for appointment as LDA at both the establishments

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was matriculation. It is on that premise that the allegation of arbitrary absorption appears to be based. In para 4.1 while making submissions on point No.3 formulated by the Hon'ble Supreme Court (which is presently under discussion) the petitioner has made an allegation in very general terms without pointing out any specific instance of that nature. He has stated:

"many of the ministerial staff/who were transferred from Units/Battalions to the Headquarters were, in fact, transferred arbitrarily without either taking into consideration their seniority or subjecting them to the proper process of selection."

Thus it is a case of 'either' and 'or' true to the formula 'I allege as I want, you may disapprove it'.

(xi) He then refers to policy decision of NEFA dated 18.11.1963 prescribing certain proportion for filling up vacancies of LDAs at Headquarters by transfer from Units from a combined panel (of promotees and transferees etc) based on seniority (list) and appointments to be made in same order; and alleges that this policy was "initially followed without due adherence of any established procedure thereby practising discrimination and in fact, the decision whereof was subsequently suppressed deliberately." Here again is a bald allegation of discrimination without elucidating it by reference to any specific cases or point of time and that too based on an annexure to one of the affidavits of the respondents and not on the basis of his own knowledge.

(xii) The applicant alleges that in 1964 a select list was prepared but the appointments were not made according to the list "as the list was not published/circulated" and that proves the arbitrary and illegal action in the matter.....

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matter of absorption at Headquarter office. What is important however is that the applicant admits that a select list was prepared but has left the allegation only in general terms that it was not followed without specifying even one instance of arbitrary supersession of a senior person by junior in that process.

(xii) The petitioner has tried to overcome the above referred material by saying as follows:

- i. The minutes of 11.6.1980 are irrelevant being administrative decisions
- ii. That the DG AR had accepted in principle for introduction of unified scales.
- iii. The obtaining of undertaking (as regards seniority) is unwarranted and inconsistent with the policy of Government of India, it violates quota-rota system, results in discrimination and deprivation of valuable service rights and is inoperative.. It has deprived opportunity of promotion and is an arbitrary policy adopted by AR Administration.

(xiii) Now as regards the undertaking the grievance of the applicant appears to us more as his individual grievance rather than a representative grievance and which seems to have led to the filing of the petition.

(xiv) After stating that he and his colleagues were temporarily appointed in Headquarter DGAR as UDC from 15.6.1980 vide order dated 19.12.1981 the petitioner indicates by stating into brackets thus (to a lower post - UDC) and adds 'instead of the UDA (Assistant)'. That however is not made the subject matter of the challenge. Then he alleges that he and his colleagues were made to furnish

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the undertaking many months after their joining the Headquarter and that too under prior assurance of the Department that readjustment will be made on having the decision of Government of India on the legality of obtaining the undertaking. He contends that the undertaking obtained from him is inconsistent with the policy of the Government of India and violates the quota-rota system and it is inoperative and its obtaining was arbitrary. In this context he has referred to the reply given by DGAR to his representation (para 4.14 of the affidavit). The reply is dated 23.8.1985 and is at Annexure-23 to the affidavit. That reply merely states that since the petitioner has filed the writ petition (present case) in the High Court regarding various issues including those mentioned in the representation no action will be taken on it till the finalisation of the case. A copy of the representation however has not been annexed. In the context of averments in para 4.14 it appears to relate to promotion. It cannot therefore be assumed that the validity of the undertaking was challenged. In that context it is alleged that the petitioner and his colleagues are victims of serious discrimination and deprivation of valuable service rights. In the next para (4.15) also the grievance made is that he and his colleagues were left without opportunity for promotion for about 26 years due to the arbitrary policy adopted by the AR.

(xv) It will be of advantage in this context to look at the original case set out in the petition. The thrust of the petition is on the disparity in the pay scales and the relief sought is also for parity in pay scales. There is not even a whisper about the undertaking or deprivation of promotion. There is no mention of the same in his representation to the President of India dated 27.5.1975.

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(xvii) Since the applicant was absorbed at the Headquarter in 1980 a grievance on above points at least would have found place in the subsequent representations. It is not found made in representation to Government of India dated 30.8.1982 or dated 28.12.1982. His grievance at that stage was as regards the inequality in the pay scale on the ground that CR and UPAO was on same level as that of Battalion/ Range offices and could not be paid higher scale.

(xviii) He has produced alongwith the petition an order dated 27.10.1965 whereunder 5 persons from Units were appointed at CR and PAO. What is however pertinent is that three of them (S.M. Chakravarty, H.R. Gupta and S.C. Dey) were temporary Head Clerks at the units' and two others (H.K. Gupta and A.K. Barthakur) were temporary accountants. They were only temporarily until further orders appointed in CR and UPAO. This order had become stale in 1983 (after nearly 18 years) yet in para 30 of the petition it is relied upon in support of the contention that the offices of CRO and UPAO were never considered as part of the Headquarter.

(xix) It is in this background the allegation of arbitrary transfers has to be examined. The elaborate discussion in the earlier judgments delivered on 11.8.1986 separately by the two learned Members of the earlier Bench do not show that such a grievance was at all made even though exhaustive arguments were advanced. The two principal grounds canvassed were that CR and UPAO was separate from Headquarter and the disparity of pay scales of staff at CR and UPAO and Units was unjustified. It is clear from para 15 of the judgment of Shri S.P. Hazarika that it was the learned Member himself who had got the position as regards initial drawal of the staff

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clarified. It was stated thus:

" During the hearing it was particularly enquired from the Bench as to whether there was any dispute with regard to initial drawal of staff from the units and range offices to the new CRO and PAO with higher scales. The learned counsel for the applicant generally submitted that this was done arbitrarily. It was just a matter of pick and choose. This is however denied by the respondents. At paragraph 14 of the comments of the D.G. on the representation dated 13.6.1975 a copy of which has been filed by the applicant as annexure III that a team of Civil staff from the units submitted their recommendation which was duly considered. In any case there could be no grievance on this score after the long lapse of a quarter century."

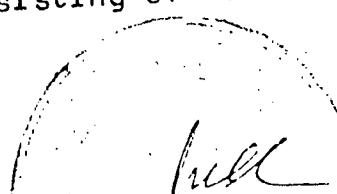
That seems to have been used as a spring board by the petitioner to develop the contention of arbitrary transfers at later stages and canvass that point before the Hon'ble Supreme Court. It is very unfortunate indeed that the judgment of Shri Hazarika was not produced before the Hon'ble Supreme Court. The learned Addl. Solicitor General fairly submitted that it was also the duty of the respondents to have drawn the attention of the Hon'ble Supreme Court to that judgment and there was a lapse on their part. Thus the Hon'ble Supreme Court did not have the advantage of knowing the reasoning of the Tribunal in negativing this ground at the earlier stage. However since the earlier order was set aside and we have been directed to decide the question afresh we have independently examined the same and have referred to the earlier judgment only for the limited purpose to highlight as to how the case has been subsequently improved.

(xix) This case is an illustration of a party trying to build up a new case from time to time during the long pendency of the case. What appears to have been done is to file an affidavit stating several new details and new allegations....

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allegations not made in the original petition, thereby put the respondents on the defensive and elicit from them more details and in rejoinder add further details and this process has gone on endlessly. The result is that almost a fishing inquiry into the establishment of Assam Rifles and its working ever since 1962, the policy decisions taken from time to time and what transpired in its day to day administration for more than two decades is set into motion for the sake of claiming parity of pay scales.

(xx) The grievance of the applicant as regards arbitrary transfers and seniority indeed has no nexus with the relief sought in the petition. It is de-hors the tenor of the petition. It in fact could be said to introduce plurality of causes of action. The question could not be decided on the basis of self-same material as relevant to decide the issue raised by the petition which is relating to parity of scales of pay. It has no nexus with the question of minimum educational qualification prescribed or nature and responsibilities attached to the staff of CR and PAO and the units for the purpose of determining whether the respondents have as alleged by the petitioner violated the principle of 'equal pay for equal work' or case for removal of any disparity in pay scales. There is also no claim for seniority made on behalf of any individual transferred member of the staff. The petitioner also has not prayed for any such relief. We take liberty to record that the original petition together with annexures and inclusive of the written statement and rejoinder with annexures consisted of about 138 pages but we had to consider the brief now bloated to more than 794 pages - all the additional material consisting of affidavits, counter affidavits and.....



and copies of records produced by the parties. The petitioner thus has found it convenient to develop new grounds alien to the original grievance. However we have tried to deal with this point in all its aspects on the basis of the entire record - reference is made to such material as appeared to us material to be indicated in the judgment and bearing in mind the direction of the Hon'ble Supreme Court to decide the issues formulated after giving full opportunity to the parties to place the relevant material before us. We have examined the further material produced by the parties.

35. Thus we find that there has been no arbitrariness in the transfer of the staff from Units to CR and UPAO. We prefer the material produced on behalf of the respondents to that relied upon by the petitioner which we have dealt with in the course of our discussion on this point. We hold accordingly in answer to the point No. III formulated by the Hon'ble Supreme Court on which we have to record our finding.

36. In sum our findings on the three points directed by the Hon'ble Supreme Court to be decided are as follows :

a) Point No. 1.

(Answer) - The qualifications for appointment at the two establishments viz. CR and UPAO at the Headquarter and at the Units are different.

b) Point No. 2.

(Answer) - The nature of the duties and responsibilities of the UDA's and LDA's at the Headquarters is of a higher order than that of those at the Units/Battalions.

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c) Point No.3

(Answer) - It is not established that the transfer of the staff from the Units/Battalions to the Headquarters was done arbitrarily or without applying any test.

37. Final conclusion:

In the light of the foregoing discussion and upon a comprehensive consideration of the matter we hold that the difference in emoluments of the LDAs and UDAs at CR and UPAO establishment and at the Battalion/Range/Unit offices is justified and there is no violation of the principle of equal pay for equal work. We also hold that no difference survives after 1.1.1986. We further hold that the LDAs and UDAs at Battalion/Unit level have not been treated with discrimination by prescribing different pay scales. We hold that no case of arbitrary transfer of the staff is established. Consequently the petition is liable to be dismissed. Hence following order:

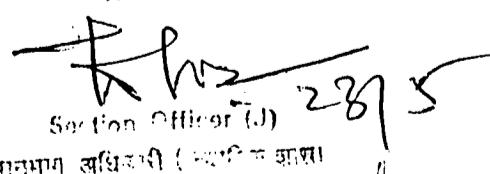
The application is dismissed. There will be no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

TRUE COPY

प्रतिलिपि


 Section Officer (J) 2875
 आनुपातिक अधिकारी (प्राधिक शास्त्र)
 Central Administrative Tribunal
 दोस्तीय प्राधिकारी (प्राधिक शास्त्र)
 Government of India, New Delhi-5
 नवाकाटी : यायदीठ, न्यू दिल्ली-5

NO:II.2011/8/88-FP.III(AR)/PERSII
 Government of India
 Ministry of Home Affairs

New Delhi-1, the April, 1988

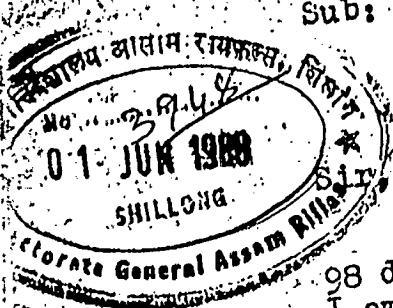
29 APR 1988

To

The Director General,
 Assam Rifles,
Shillong.

Sub:

Declaration of Directorate General Assam Rifles
 as an attached office under the Ministry of Home
 Affairs.



With reference to your memo No.II.11011/138/83-G(PE)/
 I am directed to say that the copies of the subject noted above,
 have been declared as attached offices of the Ministry of Home Affairs. This Ministry has checked up the position with reference to available records and it is noticed that the information conveyed to you in this Ministry's letter of even number dated the 19th June, 1985 is correct. In the circumstances, there appears to be no discrimination with Assam Rifles HQs. by not declaring them as attached Offices.

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Yours faithfully,

(Agarwal)

(M.K. AGARWAL)
 DEPUTY SECRETARY TO THE GOVT. OF INDIA

Please discuss with
 my audience under ref
 9
 6/6

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BR

P-50 (Ring 'A')
 P-97 (Flag 'B')
 P-98 (Flag 'C')
 P-99 & 100 (Remainder)

Definition of "attached" at P. 40
 "Subordinate" at P. 40

9/1/88
 09/6/88



G. GANESH
संयुक्त सचिव
JOINT SECRETARY

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51, N2 2
& FINANCIAL ADVISER (HOME)

ANNEXURE - III
D.O. No. 13011/11(11)/4/-12611

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

New Delhi, the 2nd June, 1992

5-3 JUN 1992

Dear Shri

It has come to our notice that a few Central Police Organisations have revised the pay scale of the post of Assistant to Rs.1640-2900 w.e.f. 1st January, 1986 without consulting either IFD, MHA or DOP&T/Ministry of Finance on the analogy of Assistants of CSS cadre. I would like to make it clear that CSS Assistants had been given the revised scale of pay of Rs.1640-2900 on the basis of an award of Board of Arbitration and it cannot be extended to Assistants in CPOs. As such the revision of pay scale of the post of Assistant in any CPO is without any authority and is, therefore, irregular.

2. In view of this, it is desirable that the matter is looked into and the pay scale of Rs. 1400-2600 is restored to Assistants in your organisation. Overpayments made to them so far may be recovered and responsibility for this lapse is fixed. Remedial measures may also please be taken to avoid audit objections in this regard.

3. I shall be grateful if you kindly look into the matter and arrange to send a compliance report so that the same is submitted to DOP&T/Ministry of Finance.

With regards,

Yours sincerely,

(G. GANESH)

AS PER LIST ATTACHED

from amongst Head Clerks/Assistants with 5 years of regular service in the grade. These are supervisory posts at the lowest level in subordinate offices and they supervise the work of Clerks and Assistants working under them. An equally large number of Superintendents are also in the pay scales of Rs. 2,000-3,200 (3126 posts), Rs. 2,000-3,500/Rs. 2,375-3,500 (4850 posts). Superintendents can, therefore, be divided into two broad categories — one in the pay scales of Rs. 1,600-2,660/Rs. 1,640-2,900 and other in the pay scales of Rs. 2,000-3,200 and Rs. 2,000-3,500/Rs. 2,375-3,500. Superintendents in the latter category are promotion posts for the superintendents in the former category. Some offices have ministerial posts in both the scales of Rs. 2,000-3,200 and Rs. 2,000-3,500. Superintendents in some organizations are also designated as Assistant Accounts Officer and Accounts Officer.

46.6 Administrative Officers.—There is a lot of variation in designations and pay scales of Administrative Officers in non-secretariat organizations and majority of them (5917) are in the scale of Rs. 2,200-4,000, while their number in the pay scale of Rs. 2,000-3,500/Rs. 2,375-3,500 and Rs. 2,000-3,200 is 698 and 273 respectively. Different departments have adopted different designations of Superintendent, Assistant Administrative Officer, and Administrative Officer for these posts and sometimes a different designation is used for the same pay scale in different departments. Some departments also have the posts of Senior Administrative Officer and Chief Administrative Officer in the pay scales of Rs. 3,000-4,500 and Rs. 3,700-5,000 respectively. In some organizations, designations of Deputy Director, Director (Admn.) and Personnel Officer, etc., are also used. These posts are generally filled on deputation basis due to non-availability of eligible personnel from the feeder categories in the organization.

ISSUES RELATING TO PAY SCALES

46.7 Parity with Secretariat pay scales and cadre structure.— Complete parity has been demanded between the pay scales of clerical staff in the Central Secretariat and subordinate offices. In some cases, it has been asserted that field jobs entail more rigorous working conditions, whereas Secretariat staff enjoy better amenities without any accountability, and thus a claim for higher pay scales in the subordinate offices has been made. A number of administrative ministries have recommended parity on the ground of responsibilities, transfer liability and interaction with public. In case of assistants of organizations like Enforcement Directorate, CBI, Central Passport Organization etc., various Benches of Central Administrative Tribunal have given judgments granting parity with the pay scale of Assistants in CSS.

46.8 There is already a complete parity in the scales of pay of LDCs and UDCs in the Secretariat and Non-Secretariat Organizations. The reason for this parity is understandable as the nature of the job of these two categories of posts is similar in both the set-ups. They are required to perform routine duties of a clerical nature, including typing.

46.9 In the case of Assistants in the Secretariat, the position is entirely different. Assistants in the Secretariat have always been given a special status as they have been holders of Group 'B' posts. They have always had a higher pay scale as compared to Assistants in Non-Secretariat Organizations, even though the difference was limited to a higher maximum. There has been a significant element (50%) of direct recruitment with the higher educational qualification of graduation in the case of Assistants in the Secretariat, as compared to their counterparts in subordinate-offices, who are promoted from the post of UDCs for which the prescribed minimum qualification is matric only. Assistants in Secretariat perform more complex duties inasmuch as they are involved in analyzing issues which have policy implications in comparison to their counterparts in subordinate offices, where the nature of work is confined to routine matters related to establishment, personnel and general administration only. Assistants in the Secretariat also submit cases directly to the decision-making level of Under Secretary/Deputy Secretary, under the scheme of level jumping. Taking all these factors into consideration, we are of the definite view that the pay scale of Assistants in the Non-Secretariat Organizations should slightly be lower as compared to the pay scale of Assistants in the Secretariat. Assistants in subordinate offices may, therefore, be placed in the pay scale of Rs.1,600-2,660.

46.10 Head Clerk/Supervisor.—The posts of Head Clerk (Rs. 1,400-2,300) and Office Superintendent, Level II (Rs. 1,400-2,300/Rs. 1,400-2,600) also exist in all the Non-Secretariat Organizations. It is felt that none of these posts has any supervisory functions with the name. It will be appropriate if the two grades are merged with the cadre of Assistants. Their pay scales and designations will also be modified accordingly.

46.11 The posts of Office Superintendent, Level I (Rs. 1,600-2,660) or Office Superintendent in the pay scale of Rs. 1,600-2,660/Rs. 1,640-2,900 are supervisory posts in the real sense. The incumbents of these posts supervise the work of Assistants, Head Clerks and other clerical staff in the Offices. They should therefore, be designated uniformly as Office Superintendent and placed in the pay scale of Rs. 1,640-2,900.

46.12 Cadre of ministerial posts.—To sum the discussion so far, the cadre of ministerial posts in Non-Secretariat Organizations should be organized in the following manner:—

LDC	...	...	...	Rs. 950-1,500
UDC	...	...	...	Rs. 1,200-2,040
Assistant	...	...	...	Rs. 1,600-2,660
Office Superintendent	...	...	...	Rs. 1,640-2,900

46.13 Administrative Officer.—The hierarchy above the level of Office Superintendents comprises Assistant Administrative Officers and Administrative Officers. A small number of them are in the pay scale of Rs. 2,000-3,200, but the majority are in the pay scales of Rs. 2,000-3,500/

Rs. 2,375-3,500 and Rs. 2,200-4,000. A good number of Superintendents are also in the pay scale of Rs. 2,000-3,200. Due to the general decision to merge the pay scale of Rs. 2,000-3,200 with the pay scale of Rs. 2,000-3,500, the Office Superintendents in the pay scale of Rs. 2,000-3,200 and Assistant Administrative Officers in the same pay scale or in the higher pay scale of Rs. 2,000-3,500 will need to be treated equally. The post of Administrative Officers in these organizations may, therefore, be reorganized/redesignated in the following manner:—

Sl. No.	Present designation/ pay scale	Revised designation/ pay scale
1.	Superintendent/ Assistant Administrative Officer (Rs. 2,000-3,200) (Rs. 2,000-3,500)	Administrative Officer Grade III (Rs. 2,000-3,500)
2.	Administrative Officer (Rs. 2,375-3,500)	Administrative Officer Grade II (Rs. 2,500-4,000)
3.	Administrative Officer (Rs. 2,200-4,000)	Administrative Officer Grade I (Rs. 2,200-4,000)
4.	Senior Administrative Officer (Rs. 3,000-4,500)	Senior Administrative Officer (Rs. 3,000-4,500)

In Offices having posts in both the pay scales of Rs. 2,000-3,500 and Rs. 2,000-3,200, the former being promotion grade for the latter, the pay scale of higher post shall be revised to Rs. 2,500-4,000, if the functional considerations so dictate. Otherwise, both the grades can be merged in the pay scale of Rs. 2,000-3,500.

ISSUES OTHER THAN PAY SCALES

46.14 Parity in method of recruitment.—In spite of complete parity in the pay scales of LDCs/UDCs, variations exist in the methods of recruitment at the level of UDC. Demands have been made for introducing a fast track of promotion. In a number of organizations, departmental examinations are held for promotion from LDC to UDC grade. In order to bring uniformity in different organizations and parity with CSCS, a limited departmental competitive examination for promotion to UDCs needs to be introduced. The examination should be based on the pattern of the examination conducted by Staff Selection Commission for CSCS.

46.15 At the level of Assistant in the CSS, 50% of the posts are filled by direct recruitment and the remaining by promotion. In the case of Non-Secretariat organizations, similar component of direct recruitment cannot be introduced as in a large number of small organizations, there are no senior level posts beyond the scale of Rs. 2,000-3,500. Direct recruitment at Assistant level without having enough promotion opportunities will be detrimental to the cause of efficiency and will become a major cause of

frustration. As such, all the posts of Assistants should continue to be filled by promotion in Non-Secretariat Organizations. However, with a view to improving efficiency, at least 25% of the posts of Assistant may be filled through a Limited Departmental Competitive Examination and all graduate UDCs with 5 years' regular service should be eligible to appear in this examination, leaving 75% of the posts of Assistants to be filled on seniority-cum-fitness basis.

46.16 Entry qualification for LDC.—A demand has been made to raise the entry qualification for appointment to the post of LDC and to debar those overqualified for appointment as LDC. The matric system of education has since been replaced by Secondary (10th standard) and Senior Secondary (10 + 2 standard) throughout the country. A secondary pass is considered to be equivalent to matric. In the context of improving the productivity of Government Organizations, it is recommended that initial recruitment at the level of LDCs should be made with a Senior Secondary (10 + 2) qualification. The existing incumbents of posts of LDC may possess only matric qualification. They should, however, not suffer any disadvantage in their promotion to higher grades.

46.17 Special pay to UDCs.—In subordinate offices having no clerical grade above the level of UDCs, special pay is granted to 10% of the UDCs at the rate of Rs. 70 p.m. A demand has been made to enhance this amount and to remove the anomaly caused in fixation of pay, when a junior UDC in receipt of special pay is promoted and his pay is fixed at a higher stage than a senior. We have separately recommended, as a general policy, that special pay should not be given unless these are absolutely essential. In the present case, since 10% of the UDCs are involved in complex duties, it is recommended that 10% posts of UDC in such organizations be upgraded to the level of Assistant. This will also remove the anomaly that arises in fixation of pay.

46.18 Ratio between LDC and UDC.—The ratio between UDC and LDC has been fixed as 1:1 in case of Central Secretariat Clerical Service. No such ratio has been fixed in case of subordinate offices. We have been informed that generally the ratio between UDC and LDC in case of subordinate offices is 4:6. We feel that fixation of a ratio between posts of LDC and UDC in subordinate offices may not be feasible on functional grounds. However, in order to relieve stagnation in the cadre of LDCs to some extent in offices having a large number of clerks, the administrative ministries may take action to upgrade some posts of LDCs to UDCs based on functional requirements. Stagnation shall be partly taken care of under the Assured Career Progression Scheme.

46.19 Promotion to EDP posts.—A demand has been made for promotion of UDCs and LDCs to Electronic Data Processing (EDP) posts. Computerization is the call of the day as part of modernization and automation. The existing ministerial staff at different levels should be trained in computers. LDCs trained in computer can therefore, be

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No. 27011/44/B8-FP.I
Government of India
Ministry of Home Affairs

New Delhi-110001, the 19th

September, 1989.

To

The Director General,
Assam Rifles,
Shillong.

Sub: Combatisation of ministerial and other civilian posts in the Assam Rifles (H.Qrs. Headquarters and Units).

S.H.R.

I am directed to convey the sanction of the President to the combatisation by conversion of the civilian posts in Assam Rifles (Headquarters and Units) under the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 with immediate effect subject to the following terms and conditions:-

(a) The equivalence of the ranks and pay scales for the combatised posts shall be as indicated in the Annexure. This is in supersession of the existing orders regarding equivalence of ministerial posts.

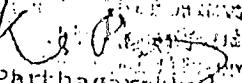
(b) On combatisation, the incumbents of the posts who opt for such combatisation will be governed by the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 as amended from time to time for all purposes and the posts concerned on the civil side shall be deemed to have been abolished.

(c) All future appointments/recruitment against the vacancies in various categories of posts combatised by this sanction shall be in the combatised ranks as per the recruitment rules.

(d) The existing incumbents of the posts mentioned in para 1 in Annexure will be given option to opt for combatisation within a period of 3 months from the date of issue of this sanction. Those who do not opt for combatisation will continue in the civilian posts until superannuation under the existing conditions of service which will be deemed to continue as personal to them.

(e) The expenditure involved shall be met from within the budget grants of the Assam Rifles for the year 1989-90 and subsequent years.

This Issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. 5/33/E-III/89 dated 19.7.89 and the Integrated Finance Bill of this Ministry vide their U.O. No. 2605/89-Fin. III (D) dated 19.8.89.

Yours faithfully,

 (K. S. Parthasarathy)
 Under Secretary to the Govt. of India

No. 27011/44/89-FP.I. Dated the 19th September, 1989.

Copy forwarded to:-

(1) Ministry of Finance, Deptt. of Expenditure, E-III
 Branch, New Delhi.

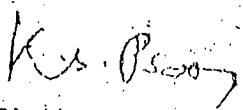
(2) Pay & Accounts Officer, Assam Rifles, Shillong.

(3) Fin. III Desk, MHA.

(4) FP. IV Desk, MHA.

(5) Pers. I/Pers. II Desk, MHA.

(6) Budget I/Section, MHA.


 (K. S. Parthasarathy)
 Under Secretary to the Govt. of India

Contra

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ANNEXURE-12
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No. 27011/44/88-PF.I

Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, Dated 29 December 1997

TO

The Director General
Assam Rifles
Shillong-793011Subject: Combatisation of Ministerial Staff-Filling slot
of JDC in Combatised Post.

Sir,

I am directed to refer to your DO letter No. A/5th-Pay/27 dated 23 October, 1997 and to convey the sanction of the President to the combatisation of the civilian post of UDC with the equivalent rank of Warrant Officer on combatisation in the pay scale of Rs. 1200-2040, pre-revised and now revised to Rs. 4000-190-6000 which had inadvertently been left out in the annexure to MHA letter No. 27011/44/88-PF.I dated 19 September, 1989. This may be treated as added in the said Annexure.

2. This issues with the concurrence of Integrated Finance Division of MHA vide their Dy No. 2917/IFA(H)/9 dated 29 Dec 97.

Yours faithfully,

Sd/- xxxx
(J K Khanna)
Director (CPO-II)

No. 27011/44/88-PF.I

Dated December, 1997

Copy forwarded to :-

1. Pay and Accounts Officer, Assam Rifles, Shillong.

2. IFF, Fin. IV, MHA.

3. Pers. I/Pers. II Desk, MHA

4. Budget Section, MHA

5. D.A. New Delhi

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Wm

No. 27012/1/97 PC Cell/PF.I
Government of India
Ministry of Home Affairs

New Delhi, the 10th October, 1997

O D D E R

In pursuance of para 7 of Ministry of Finance, Department of expenditure, Resolution No.50(1)/IC/97 dated 30 Sept 1997 the President is pleased to rationalise the rank structure and pay scales of non-gazetted cadre of Central Police Organisations. As a result of this exercise the rank of Lance Naiks & Naiks in the Central Police Organisations will be merged with the rank of Constables and Head Constables respectively. Accordingly, the rank structure in the Central Police Organisations will be as indicated below :-

1. Constable/Security Assistant
2. Head Constable
3. Asstt. Sub- Inspector
4. Sub-Inspector/ACIO-II
5. Inspector/ACIO-I
6. Subedar Major

2. The President is also pleased to rationalise the pre-revised pay scales and replacement pay scales in respect of the above cadres as indicated below :-

S.No.	Rank Structure	Nationalised pre-revised pay scales	Replacement Pay scales
1.	Constables Security Assistant	Rs. 950-1400	Rs. 3050-70-4500
2.	Head Constables	Rs. 975-1660	Rs. 3200-85-4900
3.	Asst Sub-Inspector	Rs. 1320-2040	Rs. 4000-100-6000
4.	Sub-Inspector/ACIO-II	Rs. 1640-2900	Rs. 5500-175-9000
5.	Inspector/ACIO-I	Rs. 2000-3200	Rs. 6500-200-10500
6.	Subedar Major	Rs. 2000-3500	Rs. 6500-200-10500

3. The existing Lance Naiks and Head Constables in these Organisations will be allowed a Special Pay/ Appointment pay of Rs.30/- and Rs. 50/- per month respectively. These personnel will continue to draw this special pay/ Appointment pay till they are promoted to the next higher grade or till they vacate the post on attrition.

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4. It has also been decided to allow an appointment
Rs. 200/- per month to the Subedar Majors in the
Central Police Organisations.

5. The above orders will be effective from the date
of issue. For the period from 01.01.96 till the issue of this
order, the pay in the revised scale will be regulated in
accordance with the provisions of the Central Civil Service
(Revised) Pay Rules, 1997.

6. This issues with the concurrence of Department
Expenditure vide their U.O. No. 2130/Director(P)/97
dated 9th October, 1997 and Integrated Finance Division of
vide their Dy. No. 1670/Fin.III/97 dated 10-10-97,

Sd/- x x x
(O.P. Arya)
Joint Secretary
to the Govt of India

27012/1/97-PC.Cell/PF.I

Dated 10th Oct 1997

to :-

DsG, BSF/CRPF/ITBP/CISF/Assam Rifles/NSG
Director, Intelligence Bureau
PS to HM/MoS(IS)/HS/SS(ISP)/JS(P)
Ministry of Finance, Deptt. of Expenditure.
Fin.II/Fin.III/PF.II/III/IV/V/Pers.I/Pers.II
Pers.III Desks, MHA
Guard File

Sd/- x x x
(J.K. Khanna)
Director(CPO-II)

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ANNEXURE

Statement indicating the existing posts in Assam Rifles Headquarters (Headquarters and Units) and the equivalent rank on combatisation

Designation of existing post (Scale of pay)		Equivalent rank on combatisation (Scale of pay)	
		(1)	(2)
1. Accounts Officer	X	Subedar Major (Accts. Officer)	X
2. Addl. Accts. Officer	X	Subedar Major (Addl. Accts. Officer)	X
3. Record Officer	X	-do- (Records Officer)	X
✓4. Hindi Officer	Rs. 2000-3500	-do- (Hindi Officer)	Rs. 2000-3200
5. Civilian Gazetted Officer	X	-do- (C.G.O.)	X
6. Deputy Asstt. Director (Legal)	X	-do- (Legal)	X
7. Stenographer Gr. I	Rs. 2000-3200	(1) -do- (dSteno)	Rs. 2000-3200
8. Jr. Accts. Officer	Rs. 1640-2900	Subedar (Jr. Accts. Officer)	X
9. Superintendents	Rs. 1640-2900	Subedar (Supdt.)	X
10. Senior Accountants	Rs. 1600-2650	Subedar (Accountant)	X
11. Head Assistant	X	Naib Subedar (Head Asstt.)	X
12. Assistant	X	Naib Subedar (Asstt.)	X
13. Nazir	Rs. 1400-2300	Naib Subedar (Nazir)	X
14. Overseer	X	Naib Subedar (Overseer)	X
15. Stenographer (Gr. II)	X	Naib Subedar (Steno)	X
✓16. Hindi Translator (Gr. III)	X	Naib Subedar (Hindi Translator)	X

K. S. Parthasarathy
(K. S. Parthasarathy
Under Secretary.

P.T.O.

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17. Lower Division Clerk

18. Lower Division Assistant.

✓ 19. Typist

20. Record Keeper

21. Peon

22. Messenger

23. Baffry

Rs. 950-1500

Rs. 950-1400

Rs. 750-940

Rs. 775-1025

Havildar (Clerk)

Havildar (Assistant)

Havildar (Typist)

Havildar (Record Keeper)

Follower

Follower

Follower

Rs. 975-1660

Rs. 750-940

Rs. 775-1025

K.S. Parthasarathy
(K.S. Parthasarathy)
Under Secretary.

1. UDCI UPA

2. Star Grapher

3. SAO

4. GAO

5. GAO

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.136 of 1999

Date of decision: This the 20th day of February 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

1. Shri J.C. Paul Choudhury
2. Shri Subrata Das
3. Shri B.K. Sarkar
4. Shri P.K. Chakraborty

.....Applicants

The applicants are working as Stenographer Grade I under the Director General of Assam Rifles, Shillong. By Advocates Mr J.L. Sarkar, Mr M. Chanda, Mrs S. Deka and Mr S. Mukherjee.

- versus -

1. The Union of India,
Through the Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Director General of Assam Rifles,
Shillong.
3. The Secretary,
Ministry of Home Affairs,
New Delhi.

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

ORDERCHOWDHURY J. (V.C.)

The question involved in this application pertains to pay parity between civilian Stenographers vis-a-vis Combatant Stenographers in the Assam Rifles.

2. The applicants, four in number, are working as civilians in the Assam Rifles or working there as Stenographer Grade I, drawing the revised scale of pay of Rs.5500-9000 after implementation of the 5th Central Pay Commission Report. In the Assm Rifles there is another class of Stenographers who are in the Combatant Roll and not civilian. According to the applicants since combatant Stenographers also discharge identical

nature of duty of Stenographers like the civilians, the incumbents and duties are interchangeable. There is one common gradation list for the civilians and combatants for the purpose of pay, promotion and posting. The civilian as well as combatant Stenographers are posted in hard, insurgent places as well as soft areas where Assam Rifles formations exist in the entire North Eastern Region and are equally responsible to execute the same nature of work. All the Stenographers of Assam Rifles, including combatant Stenographers were provided the same scale of pay with effect from 1.1.1996, after implementation of the recommendations of the 5th Central Pay Commission Report. However, with effect from 10.10.1997, the combatant Stenographers were granted the scale of pay of Rs.6,500-10,500, i.e. one step higher scale of pay than that of the civilian Stenographers working under the Ministry of Home Affairs. The scale of pay of combatant Stenographers were raised on the analogy of pay scale of the cadre of Central Police Organisation vide Notification dated 10.10.1997. The applicants felt aggrieved by the decision of the respondents in not giving them the higher scale of pay of Rs.6500-10500 as was granted to their counterparts Subedar Stenographer (PA). Realising the anomaly, the Directorate of Assam Rifles took up the matter with the Ministry of Home Affairs and requested the Ministry to accord necessary approval for implementation of same scale of pay for civilian Stenographers as was granted to their counterparts in the combatised cadre. The Government of India, Ministry of Home Affairs did not accede to the proposal of the Directorate. The applicants thereafter also represented before the authority for redressal of their grievances by providing them equal pay with that of the combatised cadre. Failing to get the remedy the four applicants moved this Bench assailing the action of the respondents as arbitrary, discriminatory and violative of Article 14.

3. The respondents submitted their written statement and denied and disputed the claim of the applicant. The respondents pleaded that the combatant Stenographers, though render services of Stenographer they are also engaged in operational and administrative tasks, besides their official works. The Government of India decided to combatise posts including posts of Stenographers in the Assam Rifles vide order No.27011/

44/88.FP.I dated 19.9.1989. In the order it was stipulated that all future appointments/recruitments against the vacancies in various categories of posts combatised by the sanction would be in the combatised ranks as per the recruitment rules. The existing incumbents of the posts were given an option to opt for combatisation within a period of three months from the date of issue of the Ministry of Home Affairs order dated 19.7.1989. Those who did not opt for combatisation were to continue in the civilian posts until superannuation under the existing conditions of service which were deemed to continue as personal to them. The conditions of service of combatants and civilians are different, and therefore, both were not comparable. The respondents did not dispute that the civilian Stenographers like the combatant Stenographers are likely to serve in insurgent and hard areas, but the nature of duties of combatant Stenographers are not similar since they are liable to perform operational duty like patrolling, ambush, raid etc., whereas the civilian Stenographers are not susceptible to such onerous duties. The service conditions of combatant Stenographers are different and the combatised Stenographers, thus, cannot be equated with the civilian Stenographers.

4. Mr J.L. Sarkar, learned counsel for the applicants submitted that for all purposes the civilian Stenographers as well as the combatant Stenographers render the same and similar nature of job, discharge the same and/or similar responsibilities and, therefore, there should be equal pay for equal work in conformity with the policy laid down in Article 39(1) of the Constitution as well as in conformity with the equality clause enshrined in Article 14. Mr Sarkar, in course of his argument, referred to the inter se seniority and submitted that as per the seniority list, the combatant Stenographers are junior to the civilian Stenographers. Some of the combatant Stenographers were not borne in the cadre when the applicants were appointed as Stenographers. The learned counsel referred to the communication dated 26.3.1998 sent from the Directorate to the Government of India, wherein anomalies were pointed out. The competent authority pointed out that the Stenographers, combatant and non-combatants are of the same rank and perform the same job, though combatised ranks were....



were paid much higher. The learned counsel submitted that the recruitment qualification of combatant and non-combatant Stenographers are the same and their pay scales were all along the same even after 5th Central Pay Commission Report. The pay scale of combatant Stenographers were raised and/or revised from Rs.5500-9000 to Rs.6500-10500 by Notification dated 10.10.1997 and in a most arbitrary fashion same and similar benefits were denied to the civilian Stenographers in violation of Article 14 of the Constitution. The learned counsel, in support of his contention also referred to amongst others, the decision of the Supreme Court in Union of India and others vs. Debasish Kar and others, reported in 1995 Supp (3) SCC 528. The learned counsel in support of his contention further referred to the pleadings in O.A.No.41 of 1999, which was filed by the applicant No.2, Shri Subrata Das, assailing the order of his transfer. The learned counsel pointedly referred to paragraphs 4 and 7 of the written statement wherein the respondents admitted that for all practical purposes the combatant and civilian Stenographers are one and the same.

5. Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents submitted that the combatant and civilian Stenographers are two distinct classes. The combatant Stenographers by virtue of being combatant are required to discharge additional responsibilities of a soldier as they are enrolled under the Assam Rifles Act, 1941. Apart from office work they are liable for additional responsibilities of carrying out duty pertaining to military operation whenever called upon to do so round the clock as provided under the Act and Rules. The Army Act is made applicable to the combatant Stenographers and, therefore, they are guided by the rigors of the Army Act. The pay scale of the combatant Stenographers was fixed by the 5th Central Pay Commission and the same was given in accordance with the rank and structure. The 5th Central Pay Commission also recommended the pay scale of the civilian Stenographers and they are being paid as per the recommendations of the Pay Commission. Mr Pathak submitted that since there is a qualitative distinction between the civilian Stenographers vis-a-vis combatant Stenographers, therefore the question of equal pay for equal work did not arise.

: 5 :

6. There is no dispute on the principle awarding equal pay for equal work. Article 39(d) as a doctrine, though not enforceable, the principle is required to be adhered to on the presumption of discrimination. The essential consideration for pay parity is the nature of duties and responsibilities, qualifications, etc. A classification can be said to be a reasonable classification when a distinction can be drawn inter se between the two classes. As alluded, the nature and character of the job/responsibilities, the area and sphere of work, the working hours/duration those relatable to the performance of duties are some of the conditions. The principle of equal pay for equal work is a known and accepted principle, but in awarding equal pay for equal work it would depend on numerous circumstances that can only be decided on indepth scrutiny.

7. The applicants as well as the combatant Stenographers, no doubt, serve under the Assam Rules, but they do not belong to the same class. The combatant Stenographers are enrolled under Section 4 of the Act and their ranks are determined as per Section 5. As mentioned, the combatants are enrolled under the Act by following the procedure prescribed in Rule 12 of the Rules. They are to undergo training for the operational work under the Commandant. The combatant Stenographers are covered under the Assam Rules Act and subjected to the Army Act, 1950 and the rules framed thereunder, whereas the civilian Stenographers are covered by the CCS(CCA) Rules. As per Notification No.S.R.O. 117 dated 28.3.1960 and S.R.O. 318 dated 6.12.1962, the provision of the Army Act is made applicable to the combatants. The combatants are subject to the Army Act and the fundamental rights of such class are restricted and abrogated under Section 22 of the Army Act read with Rules 19, 20 and 21 of the Army Rules as per Article 33 of the Constitution of India.

8. We have given our anxious consideration in the matter. The combatant Stenographers, in addition to the duties they discharge as Stenographers also discharge the duties as combatants as per their ranks and they perform arduous nature of work in operationally sensitive areas. Mr Sarkar is right in his submission that non-combatant Stenographers are also posted in hard and sensitive areas, but that by itself cannot

equate.....

[equate them with the combatised personnel, though posted in the sensitive and operational areas, for which they may be entitled (or some admissible) allowance like ration allowance, etc like that of the combatants. However, that by itself would not make them equal with the combatants. The terms and service conditions are totally different. As mentioned earlier, the combatised personnel are covered by the Assam Rules Act as well as the Army Act and the Army Act and Rules are more stringent than the Rules applicable to the non-combatised staff covered by the Civilian Law. The question regarding the entitlement of pay scales was already examined by the Pay Commission and on evaluation of the nature of duties and responsibilities of the posts, the Pay Commission made the recommendations which were accepted by the concerned authorities. The Court or the Tribunal would loathe to intervene in such matters unless it appears that it was made for extraneous consideration. The non-combatant Stenographers were given the option to join in the combatised force and those who opted were accordingly enrolled as combatants. In the circumstances the ground of discrimination is not sustainable.

9. For the reasons stated above, we do not find any merit in this application and accordingly the application stands dismissed. There shall, however, be no order as to costs.

Sd/VICE CHAIRMAN

Sd/MEMBER (A)

TRUE COPY

প্রতিবিম্বিত

23/2/61

Section Officer (S)

অসমীয়া অধিনায়ী ন্যায়িক শাস্তি
Central Administrative Tribunal

কেন্দ্ৰীয় ন্যায়িক অধিনায়ী
Guwahati Bench, Guwahati-8

গুৱাহাটী ন্যায়পুত্ৰ, প্ৰাচাৰণ

23/2/61

nkm

A/1-A/277-B6/94

30 Jun 92

1. Please refer to your Demo Official letter No. 13011/11(ii)/92-Fin.II dated 03 Jun 92.

2. The matter regarding revision of the pay scale of the post of the Assistant to Rs.1640-2900/- wef 1st January, 1986 has been verified and found that the aforesaid scale on the analogy of Assistant of CSS Cadre has not been granted to the post of Assistant of this Organisation. The Assistants of this Organisation receiving the pay scale of Rs.1400-2300/- wef 1st January, 1986 as per revision of pay Rules 1986.

Shri G Ganesh
Joint Secretary & Financial Adviser (Home)
Govt of India
Ministry of Home Affairs
New Delhi

22/7/01
(43)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI:

O. A. NO. 321 of 2001

Shri S.K. Sarbajna & Ors.

- Versus -

U.O.I & Ors.

IN THE MATTER OF :

Rejoinder in reply to the Written Statement filed by the Respondents.

The applicant most respectfully beg to state that they have gone through the Written Statement filed by the respondents and understood the contents thereof and beg to state as under :-

1. That with reference to statement made in para 1 of the Written Statement the petitioners beg to state that the statements made in this para are misrepresentation and misleading. The petitioners have no sought pay parity with the combatant staff alone. The petitioners have clearly given the full facts and background of pay parity of both the civilian and combatant staff prior to present disparity as also disparity with similarly placed staff in other CPOs particularly BSF. Therefore invocation of Art 14 of the Constitution of India is legally tenable and justified.

Filed by the Petitioners
through D. Chhatralal
29/11/2001

The Judgment quoted by the Respondents is not applicable in this case and therefore any reference of the judgment quoted by the Respondents is not correct.

2. That with reference to the statement made in para 4 and 5 of the written statements, the petitioners beg to state that they have not compared civilian staff with combatant staff. The petitioners have only sought to remove the disparity with similarly placed civilian employees of other CPOs. There has been financial loss to the petitioners as would be evident from the Respondents admission of fact in para 11 of the written statement. The statement made in this para is unfounded.

3. That with reference to the statement made in para 6 of the written statement, the petitioners begs to state that the history of the force vis-a-vis status of its employees are quite relevant to understand the background in order to do justice. Therefore history cannot be sidetracked to adjudicate the cause of action of the civilian employees of HQ DGAR who have been part and parcel of this elite force and have been rendering their service since the inception of this HQ of the Force which is the oldest para-military of the country. The cause of action and the judgment in TA 102/86 has no relevency in the present case. However, it may be mentioned in this context that the Apex Court had held that the staff of HQ establishment having higher qualification and performing the duties of higher

responsibility and therefore higher scale is justified to them. The present applicants are the staff of HQ establishment.

4. That with reference to the statement made in para 7 of the written statement, the petitioners beg to state that the statement made in this para gives the impression that HQ DGRA is functioning as attached office though not declared.

5. That with reference to the statement made in para 9 of the written statement the petitioners beg to state that the Respondents have admitted that the MHA had desired to restore the scale of Rs. 1400-2600/- to the Assistants of this Organisation in place of Rs 1400-2300/- after 4th CPC. But even after the lapse of almost ten years this has not been restored and as a result, the petitioners have been made to suffer huge financial loss, for which the petitioners have been compelled to approach this Hon'ble Tribunal for justice. Also the scales recommended by the 5th CPC and accepted by the Govt. as per part B of First Schedule of CCS (RP) Rules 1997 has not been extended to the Assistant of this Organisation.

6. That with reference to the statement made in para 11 of the written statement, the petitioners beg to submit that the statements made in this para is

emphatically denied being unfounded and illogical. The fact is that all the posts in HQ DGAR establishment are civil post and therefor question of replacement scale does not arise. This fact supported by the Recruitment Rules of the posts of HQ DGAR which are Statutory Rules. As such, the statement made in para 4.15 of the application could that be denied by drawing hypothetical and non-related points.

7. That with reference to the statement made in para 12 of the written statement the petitioners begs to state that the statement supports the fact that all the civilian post of HQ DGAR were equated with the respective post of combatants. It is further added that the pay scale of equated posts were same. For example, the post of Assistant in civilian staff were equated with Nb/Sub and the scale of pay of Assistant and Nb/Sub were equal. The reference Govt. of India letter dated 19 Sep. 89 in this para is irrelevant to the context of para 4.16 and 4.17 of the application.

8. That with reference to the statement made in para 17 of the written statement, the petitioners beg to submit that the statements made in this para are denied being unfounded and contradicting and after-thought. The fact remains that both the civilian and combatant were equated and scale of pay were equal as admitted by the REspondents in para 12 and 13 of the written statement. Besides, the Central Govt. after all

the Pay Commission which is the expert body and after taking into account all the relevant factors have granted scale of pay which were equal for both the civilian and combatant staff. This position continued till 10th Oct, 1997 when there arose difference in scale of pay. The Respondents No. 2, i.e., the DGAR, who is the head of the Force and under whom, the petitioners are working, recommended to the Govt. to allow the analogous scale to the civilian counterparts as otherwise it would amount to discrimination because both the categories are performing the same duties and are similarly placed. Therefore there is discrimination and discrimination and disparity and principle of "Equal Pay of Equal Work" can be invoked. The contention of the Respondents with regard to condition of service and comparative chart etc. cannot over rule the position established over the years because all the conditions mentioned in the charts were prevalent all these years and those were taken into account while granting scale and equating status by the expert bodies and the Central Government.

9. That with reference to the statement on exercising option of combatisation in 1989 as pointed out in this para, the petitioners, beg to state the brief background in chronological sequence of event for exercising the option to understand the issue in right perspective.

(a) On receipt of the letter dated 19 Sept. 1989, a circular was issued asking civilian staff to exercise option for combatisation.

(b) Subsequently, the then DGAR called for a meeting of all the civilian employees. The meeting was chaired by the then DGAR himself and some other staff officers were present to assist the DGAR. In this meeting the DGAR explained the advantages of exercising option in favour of combatisation. After his deliberation he invited opinion from the civilian employees. Then in course of discussion many legal flaws surfaced on the contents of the letter dated 19 Sept. 1989. Some of these flaws as discussed were as under.

(i) Condition of service of the civilian employees of Assam Rifles are governed by the Central Civil Services Regulations which were framed under Article 309 of the Constitution of India and therefore these conditions of service of the civilian employees can only be altered or amended by statute or Statutory Rules. The administrative Order dated 19 Sept. 1989 suffers legal sanctity and is void ab initio.

(ii) The Order dated 19 Sept. 1989 sought to change the condition of service of the civilian employees of Assam Rifles under the provision of Assam Rifles Act, 1941 and Assam Rifles Rules, 1985. Since the Assam Rifles Act, 1941 only regulate the

discipline of the Assam Rifles personnel enrolled under this Act and since the Act ibid have no Rule making power to change the condition of service of employees governed by the Central Civil Services Regulations and therefore invocation of the Assam Rifles Act and Rules is illegal and is void ab initio.

(iii) Any person holding civil post has been guaranteed equal opportunity in the matter of employment and therefore to restrict the career progression of the non-optees tends to unconstitutional and ultra vires.

(iv) Certain Gp 'B' civilian Gazetted Officers Viz AO, AAO, RO, CGO, Hindi Officers etc sought to be converted to non-gazetted combatant post with lower pay scale. This amounts to reduction to lower rank which is contrary to the provision of Art 311(2) of the Constitution of India.

(c) Thereafter, it was decided that the DGAR would sought clarification in the legal flaws from the Ministry. Accordingly, the legal flaws were referred to the Ministry and the Ministry in reply asked comments from the DGAR if in view of legal flaws the combatisation is to be scrapped or otherwise.

(d) No option thereafter asked for and even when some of the civil staff who volunteered for combatisation were rejected.

(e) All the posts of Ministerial Cadre in HQ DGAR are civil post till now and there is no change in this position, which would be evident from the Recruitment Rules for the posts in HQ DGAR.

10. That with reference to the statement made in para 18 of the Written Statement, the petitioners beg to submit that the statement in this para is not sustainable in view of what have been stated in para 8 above and the fact that the Central Govt. in addition to pay also provides free ration, free clothing, free passage to home station on leave with journey DA amongst other perks to combatant staff in consideration of their nature of duties which when added would be very substantial amount and these have been duly considered by the Central Govt. when granted equal pay for equated post.

11. That with reference to the statement made in para 19 of the Written Statement, the petitioners beg to submit that the statement made in this para is denied in view of what have been stated in para 9 of this rejoinder and also in view of the fact till to date all the posts in HQ DGAR establishment are civil post and there is question of treating these posts as personal post as stated in this para. The statement made in para 4.24 of the application therefore stands admitted by Respondents.

12. That the statement made in para 20 of the written statement is denied in view of what have been stated in the preceding paragraphs and in the application.

13. That with reference to the statement made in para 21 of the Written Statement, the petitioners beg to submit that in view of the facts stated in para 8, 10 and 11 of this rejoinder the contention of this paragraph is not correct. It is further submitted that the principle enunciated by the Hon'ble Apex Court in CA No. 1741/1994 as quoted in this has been fulfilled in the case of this application beyond doubt. The applicants applications are victims of discrimination which would be evident from the statement made in para 4.19 wherein the Respondents under whom the applicants have been working have admitted the fact of discrimination in the scale of pay. Also, the admission of the fact that both the civilian and combatant have been given the equal scale vide para 13 and 14 of the Written Statement further speaks of discrimination. Besides, the direction of the MHA to DGAR to implement the scale of Rs. 1400-2600/- which is yet be implemented as stated in para 4.13 of the application and admitted by the Respondents in para 9 of the Written Statement are good grounds showing discrimination. It is further submitted that the Judgment of the Hon'ble Supreme Court in CA No. 7127/1993 as quoted in this para is quite irrelevant in the present. The cause of action of the

applicants are not against the recommendations of the Pay Commission. The cause of action against the administrative action and against the delay in implementing the direction as also for early removal of anomaly. The Hon'ble Tribunal is therefore quite competent to adjudicate this matter and issue direction.

14. That the statement made in para 22 and 23 of the Written Statement are repetition of evades reply to the statement made in para 4.28, 4.29 and 4.30 of the application. The fact remains that the Respondent No. 2 had taken up the matter with the Respondent NO. 1 (MHA) and the MHA has forwarded its recommendations to the Ministry of Finance, Govt of India. The matter is now pending with the Ministry of Finance.

15. That the statement made in para 24 of the Written Statement is only repetition of statement made in para 18 and 21 of this Written Statement and as such the petitioners reiterates what have been stated in para 10 and 11 of this rejoinder.

16. That with reference to the statement made in para 26 of the Written statement the petitioners beg to reiterate that the scale of pay for Civilian staff were equal to their counterpart in the combatant and the equation was rightly and justly done by the Central Govt after considering all the relevant factors. Also,

this equation continued till 10 Oct 1997 and the Respondents initiated proposal for removal of disparity in scale after it surfaced on 10 Oct 1997 order. With regard to extending facilities of MI Room and Assam Rifles Hospital, the record whuld show that very small member of civilian staff and their families avails these facilities as the civilian staff are entitled to medical reimbursement facilities under the provision of Central Civil Services (Medical Attendance) Rules. As such, it is immaterial to mention these facilities in the context of pay scale.

17. That with regard to taking of oath by the combatant as mentioned in this para, it would be pertinent to mention here that all Central Govt. Employees are bound for 24 hours duty as provided in FR 11 and also that Assam Rifles Civilian employees are made liable to serve anywhere in India as per terms and condition of service. The Respondents therefore mislead the Hon'ble Tribunal by quoting "Preferential treatment" being given to combatant. The petitioners never and nowhere mentioned that the combatants are given preferential treatment. Both the combatants and civilian are part and parcel of the Assam Rifles Organisation and have been serving in close and cordial relation which is history in itself. The petitioners in their application have prayed for direction to grant of analogous scale of their counterparts in combatant in Assam Rifles as also civilian staff in other CPOS particularly in BSF who are similarly placed. The

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anomaly in the scale was appreciated by the Respondent No. 2 who is the Head of the Force and sought to removal by taking up proposal with the Respondent No. 1 who also has considered and agreed to grant the scale, which facts are evident from the statement made by the Respondents in para 22 and 23 of the Written Statement.

18. The Training and task performed by the combatant as referred to in this para are the condition of service attached to job which a person has to accept if he accepts the job. Every job in every profession have some condition of service and those conditions may sound arduous for some people and simple and interesting for others. Besides, certain jobs attaches very rapid advancement while in others there are very slow advancement. It may not be out of place to mention in this context that there are instances of civilian staff going on retirement in the rank of Upper Division Clerk (UDC) which is the lowest grade in the clerical cadre after Typist, whereas a person appointed in combatant reaches to the rank of Assistant Commandant (A Group 'A' post of Central Govt) at the age of 40 years. Therefore, this golden side of career in combatant is need to be reflected while discussing condition of service. Further, it is humbly submitted in this context that even if the scale of pay prayed for in the application is allowed, there would be a benefit of only one increment to the staff of respective grade as most of the civilian staff are on

the verge of retirement within next few years. Besides, there would not be much recurring expenditure on this Court as the civilian staff are on the verge of extinction as a large number have been retiring every year and there is no new extinction as a large number have been reitring every year and there is no new intake. As a result, the benefit when allowed would be availed by a skeleton staff.

19. That with regard to the statement made in para 27 of the Written Statement the petitioners beg to submit that the statement made in para is not correct in view of the Respondent's own admission of disparity and projecting case for analogous scale now pending with Ministry of Finance (para 9, 10, 11, 22 and 23 of the Written Statement). The violation of Article 14 has been well established by the admission of Respondent as above and by the fact that the pay scales those were applicable prior to present disparity when all other conditions remain same.

20. That the statement made in para 28 of the Written Statement is denied being factually incorrect. The 5th Pay Commission after evaluating the nature of duties has granted the scale as under:-

(a) Supdt - Rs.5500-9000/-
Subedar - Rs.5500-9000/-

(b) Assistant- Rs.4500-7000/- (Which should have been Rs.5000-8000/- as per Part 'B' of 1st Schedule)

Naib Subedar- Rs.5000-8000/-

It is also humbly submitted that the Judgment quoted in this para is not applicable in the instant case in view of what have been stated in para 20 to 22 of this rejoinder particularly the fact that the Respondents have admitted that there have been anomaly in the scale and it has been decided by the Ministry that the pay scale of Assistant and Supdt. shall be placed in the scale of Rs. 5500-9000/- and Rs. 6500-10,500/- respectively (para 23 of the Written Statement).

21. That the statements made in para 29 of the Written Statement are misleading and not correct in view of the fact stated in para 8 and 9 of this rejoinder petition, more particularly the fact that till to date all the posts of ministerial cadre in HQ DGAR are civil posts. The recruitment Rules for the posts in ministerial cadre of HQ DGAR in force will reveal this fact. since the guidelines for conversion to combatant suffered legal flaws, this was not persuaded. It is emphatically denied that the petitioners have termed the 5th Pay Commission as irregular. The Respondents have misconceived the statement made in para 5.3 of the application.

22. That the statements made in para 30 of the Written Statement are unfounded in view of the fact stated in the preceding para of this rejoinder.

23. That with reference to the statement made in para 31 of the Written Statement the petitioner submits that from the statement it would reveal that the Ministry of Home Affairs vide DO letter dated 03 Jan 1992 directed the Respondent No. 2 to restore the scale of Rs. 1400-2600/- to the Assistants of HQ DGAR, which was the scale sanctioned following 4th CPC Recommendation, but the petitioners have been deprived of this scale since 1992 for no fault. This admission of the Respondent supports the cause of action of this OA.

24. That the statement made in para 32 of the Written Statement are not correct and are concocted and unfounded as there is nothing on record that the scale of pay sanctioned for the Assistant of the Non-Secretarial Organisation as per Part 'B' of First Schedule of the CCS (Revised Pay) Rules 1997 could not be granted to the Assistant of Assam Rifles in view of combatisation whereas the fact is that the recommendations in favour of the applicants has been forwarded by the Respondent No. 1 and 2 to the Finance Ministry where the matter is now pending.

25. That with reference to the statement made in para 33 of the written statement the petitioner submits that the Judgment of J.C. Paul Chowdhury -Vs- UOI is not relevant in this Case in view of the statement made in para 20 of this rejoinder particularly because of

Respondents have admitted the anomalies and sent the proposal to Ministry of Finance.

26. That with reference to the statement made in para 34 of the Written Statement the petitioners beg to submit that the principle enunciated by the Hon'ble Supreme Court in Ranbir Singh -Vs- Union of India which ways "The true equation of posts and equal pay are matter primarily for the Executive Government and expert bodies like Pay Commission and not for Courts, but where all things are equal, that is where all relevant considerations are same, persons holding identical posts may not be treated differently in the matter of their pay " is quite relevant in the present case as the Respondent under whom the applicants are working has accepted that both the civilian and combatant posts in HQ DGA~~Restablishment~~ are similarly placed, performing same job, and he is the best judge to evaluate the position with regard to similarity or dis-similarity of duties, responsibilities, work-load etc., of employees working under him. As such taking into account this evaluation and the fact that applicants are also denied th scale been made applicable to the Assistants of BSF who are also similarly placed with the Assistant of HQ DGAR establishment, the principle enunciated in judgment quoted by the respondents in para 21 of the Written Statement also fulfilled for grant of equal pay.

27. That the Statement made in para 35 of the Written Statement is emphatically denied and it is submitted that the existence of anomalies in the scale of pay have been appreciated by the Respondent No. 2 who took up the matter with Respondent No. 1 and the matter is now pending with Ministry of Finance. This fact has been admitted in the Written Statement vide para 11, 19, 22 and 23 amongst others.

28. That in reply to the statements in para 38 of the Written Statement it is stated that the applicant deserve to be granted the salary of Pay in the fact and circumstances of the case as narrated in O.A. and this rejoinder.

V E R I F I C A T I O N

I, Sri S.K. Sarbajna, do hereby verify that the statements made in this rejoinder are ~~true~~ ^{true} to my knowledge.

And I sign this Verification on this 14th day of April, 2002.

S.K. Sarbajna
S I G N A T U R E
(S. K. SARBAJNA)

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File No. 81702
P.C. Pathak
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL**

GUWAHATI BENCH: GUWAHATI

O.A NO 321 OF 2001

Shri SK Sarbajna

Vs

Union of India and Others

Reply to Rejoinder submitted by the Respondents.

The respondents beg to submit following written Statement in reply to Rejoinder filed by the Applicants follows:-

1. That with reference to averments made in Para 1, 2 & 3 of the Rejoinder in Reply, the deponent herein begs to submit that the Applicants/Petitioners in the original Application in their submission have vehemently raised the issue of pay parity with combatant staff. The denial being done here is incorrect and misleading. In this regard deponent, begs to draw the attention of Hon'ble CAT on Para 4.21 and Para 5.1 to 5.4 of the OA . Thus the Applicants have raised the issue of pay disparity between the civilians and combatant streams of employees. That if the Applicants have thus made contradictory statements, on this ground alone the original application should be dismissed. The judgement in TA 102/86

produced as Annexure I of Written Statement in very much applicable in the instant case. The principle laid down by the Hon'ble CAT was that the whether the employees of unit cadre and that HQ DGAR are at par, as the main grievance of the Petitioners in TA 102/86 centered around the disparity of pay scales between civilian staff at Battalion level and the pay scales of civilian staff at HQ DGAR level. This Hon'ble CAT finally decided that the difference in pay scales between the unit staff and that between HQ DGAR staff is justified and there is no violation of principles of equal work equal pay. Thus when this Hon'ble CAT has held in no uncertain terms that the two streams of civilian employees in Assam Rifles having two different pay scales cannot complain of the violation of equal work and equal pay, similarly the Applicants cannot compare themselves with the combatants or with other CPO. There is a vast difference in the service conditions, recruitment and work being performed by civilian and combatant. The judgement in TA 102/1986 is thus very much relevant in the instant case.

3. That with reference to averments made in Para 4 of the Rejoinder in Reply the deponent herein begs to submit that HQ DGAR is recognized as a subordinate office. There is no Govt order, which declares HQ DGAR as attached office of Ministry of Home Affairs. Ministry of Home Affairs has clarified the same in their letter dated 29 Apr 1988 (**produced as Annexure II of the Written Statement.**) The contention of Applicants that the contents give an impression that HQ DGAR is attached office is incorrect. The respondents have clarified the same by producing the letters of MHA.

4. That with reference to averments made in Para 5, of the Rejoinder in Reply, deponent herein begs to submit that a case was already taken up with MHA to clarify the applicability of pay scale of Rs. 1400-2600/- wef 01 Jan 1986 to the Assistants in Assam Rifles as per Ministry's DO letter No 13011/11(ii)/92-Fin-II dated 03 Jun 1992 vide our letter No A/1-A/277-80/70 dated 25 Jun 1999.

A true copy of the letter dated 25 Jun 1999 is attached as Annexure I.

That a consolidated proposal has also been submitted to MHA for up gradation of pay scales of Assistants of this DGAR at par with BSF vide our letter No A/1-A/277-86/492 dated 02 Feb 2001.

A true copy of letter dated 02 Feb 2001 is attached as Annexure II.

5. That with reference to averments made in Para 6 & 7 of the Rejoinder in Reply the deponent herein begs to submit that the civilian post were equated with the combatants in order to ensure a smooth transition of the civilian employees to the combatant stream. This was laid down for this limited purpose only. The respondent have clarified the same that the Govt order produced as **Annexure IV of Written Statement** is not for sanctioning of pay scale but was for the limited purpose as stated above. It is correct that the IV pay commission have laid down similar pay scale for Subedar/Clerk and Superintendent. This was done because in 1986 the combatant who were earlier getting the pay scale that of Army were brought at par with other CPOs. That the Vth pay commission after taking into consideration the hardships of combatants have enhanced the pay scales.

6. That with reference to averments made in Para 8 of the Rejoinder in Reply the deponent herein begs to submit that the contention of the Applicants/Petitioners is contradictory to the stand taken by them in Para 1 and 2 of the Rejoinder in Reply. It is respectfully submitted that there is no discrimination between combatants and civilian employees. The comparison made by the Petitioners is based upon a erroneous assumption of equal work and equal pay. The work being done by combatants cannot be compared with civilian. Comparison is to be made among equals. The Vth pay commission which is an expert body after going through the various aspects of service have laid down the pay scales for combatants thus the question of disparity does not arise at all.

7. That with reference to averments made in Para 9 of the Rejoinder in Reply the deponent herein begs to submit that need for combatisation of the ministerial staff of this force was felt since 1982. However a proposal for the same was forwarded in 1985. Thus the proposal of combatisation was a deliberate decision which was given into shape by the Govt order in 1989.

A true copy of the proposal for combatisation of the Ministerial staff dated 04 Jun 1985 is attached as Annexure III.

That on receipt of order of combatisation of the Ministerial staff, the then DGAR directed that Head of Branches to send a feed back on combatisation. All the civilian employees stated that their association would raise the observations if any. Respondent No 2 thus took up a case and all the doubts/apprehension of civilian staff were referred to the Ministry.

**A true copy of the letter dated 25 Oct 1989 is
attached as Annexure IV.**

That thereafter there was an exchange of correspondence with the Ministry on issues which have been raised contemplating the implementation of scheme in order to settle the observations on the scheme for combatisation. It would be apparent from the entire correspondence that the Govt of India after detailed and deliberate discussion directed once again in 19 Aug 1993 to implement the scheme.

**True copies of the letters of the Ministry as well as
of this DGAR on the issue of combatisation to settle the
apprehension are attached herewith as Annexure V (a),
V(b), V(c), V(d), V(e), V(f), V(g) & V(h), V(i) & V(j).**

That it is further submitted the flaws which have been highlighted in Para 9 (b) of Rejoinder in Reply are unfounded and baseless. The conditions of service were being changed only when the employees had exercised the option of getting converted into combatants or they had given their willingness, which they never did. That the Petitioners/Applicants even after their doubts/apprehension being clarified did not opt for the combatisation. This was done deliberately because they never wanted to be subject to more rigorous and disciplined life. Thus when the Petitioner who failed to exercise the option for combatisation cannot plead to be treated at par with combatants. However, they shall remain entitled to the rights & privileges, which have been provided to them.

**A true copy of HQ DGAR letter dated 19 Aug
1993 is attached as Annexure – VI.**

That the contention of the Petitioner/Applicants that no option thereafter was called for is false and misleading. All the employees were informed, however, they chose to ignore the said scheme.

That the other contention that ministerial cadre in HQ DGAR are all civil post is false. It has been directed that all future appointments/recruitment against the vacancies in various categories of the post will be done in the combatised ranks.

A true copy of the MHA letter dated 21 Nov 2000 is attached as Annexure VII.

8. That with reference to averments made in Para 10 the deponent begs to submit that the perks stated available to combatant are because of the condition of service as they have to perform the duties at the peril of their life and thus the facilities have been provided to them.

9. That with reference to averments made in Para 11 the contention of the Petitioner is false. It has been clearly laid down that all future appointment/recruitment is being done in combatant ranks. Thus question of admitting contents of Para 4.24 of the OA does not arise at all.

10. That with reference to averments made in Para 12,13,& 14 of the Rejoinder in Reply the deponent begs to submit that the order of Hon'ble Supreme Court in CA 7127/1993, UOI Vs PV Hariharan is very much applicable to the case. The Applicants cannot claim to be victim of discrimination. They were given option to opt for combatants stream which was refused by them on flimsy and hypothetical grounds. The other contention of the Applicant that the DGAR has not

implemented the directions of MHA issued vide DO letter dated 03 Jun 1992 (**Annexure III of Written Statement**) is incorrect because on receipt of said DO a letter was written in reply dated 30 Jun 1992 stating that the Assistants in Assam Rifles are getting a pay scale of Rs. 1400-2300 and not a pay scale of 1400-2600/-.

A true copy of the DO letter dated 30 Jun 92 is attached as Annexure VIII.

That thereafter a case was taken up with the Ministry requesting to clarify the applicability of pay scale of Rs. 1400-2600/- wef 1.1.86 to the Assistants in Assam Rifles. Thereafter the Ministry asked about the recommendation of the 3rd, 4th and 5th Pay Commission with regard to the pay and allowances to Assistants and Superintendents of Assam Rifles.

A true copy of the MHA letter dated 10 Aug 2000 is attached as Annexure IX.

A true copy of HQ DGAR letter A/1-A/277/86/346 dated 28 Aug 2000 is attached as Annexure X.

That the consolidated proposal for up-gradation of pay scale of Assistants/Superintendents was taken up with MHA vide DGAR letter No A/1-A/277/86/499 dated 02 Feb 2001 (**Annexure-II**). That it has now been intimated by the Ministry the issue regarding grant of pay scale to the Assistants is resting with the Ministry of Finance. **Thus from the above, it is very much apparent that the respondent has never violated the orders of Ministry and acted in a bonafide and legal manner. The contention of the applicants the order of the ministry was not implemented is false and incorrect.**

11. That with reference to averments made in Para 15 & 16 the deponent begs to submit that the civilian employees apart from extending the medical back up are also being extended the CSD facilities which is exclusive to civilian of Assam Rifles.

ver

Thus all benefits and facilities which can be given by respondent No 2 are being provided to the Applicants.

12. That with reference to averments made in Para 17 of the Rejoinder in Reply the deponent herein begs to submit that the civilian employees say they are on 24 hours service, however, whenever, they are required to work after officer hours they have been claiming overtime. The Petitioners have claimed equivalent pay scale to combatant counterparts whereas in Para 1 & 2 of the rejoinder the contention of the Applicants appears to be vogue as the relief claimed in the OA also differs materially.

13. That with reference to averments made in Para 18 & 19 the deponent herein begs to submit that the civilian employees had the option of becoming combatant employees. Since they did not exercised the option hence now it is not open for them to raise the issue of discrimination. That the respondents have referred the case to MHA for granting pay scales admissible to the employees, but such reference should not be construed as admission of the fact that civilian employees in Assistant & Superintendent are entitled to higher pay scales. The Ministry of Finance after examining various issues in its entirety has to give the decision. The recommendation should not be construed that civilians are entitled to higher pay scales

14. That with reference to averments made in Para 20 of the Rejoinder in Reply, the deponent herein begs to submit that the contention of the Petitioner is incorrect and misleading. The judgement quoted is very much applicable to the facts of the case, as the civilian employees have sought pay parity with combatants. That in Para 22 & 23 of the WS it has been clarified why the case for granting higher pay scale was not considered by the Govt.

15. That with reference to averments made in Para 21 of the Rejoinder in Reply the deponent herein begs to submit that there were no legal flaws in the policy of combatisation and all the issues raised were addressed and it was thus decided to implement the said policy. The Applicants did not opt for the same hence benefit available to combatants cannot be extended to them.

16. That with reference to averments made in Para 22,23,24,25,26 & 27, the deponent submits that the adequate reply has been give in the preceding Paras and Written Statement. The pay scales being approved by the Govt are very much according to the work performed by the employees. Even the Vth Pay Commission has laid down the same. Thus when the issue has been deliberated by an expert body, inequality or discrimination as such cannot be pleaded.

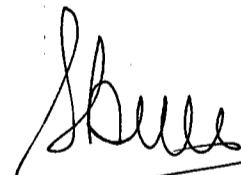
17. That the OA is devoid of any substantial issue, which do not needs any interference by Hon'ble CAT and should be dismissed in favour of UOI.

VERIFICATION

I Major Sandeep Kumar, age 35 years, Son of Shri JP Sharma, working as Joist Assistant Director (Legal) in the Office of the Directorate General Assam Rifles being authorised to hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this verification on this 20th day of

July 2002.



Deponent

(Sandeep Kumar)
Major
JAD (Legal)
H&R D GAR

ANNEXURE

Tele No. 705075

Bharat Sarkar
Govt of India
Grih Mantralaya

Ministry of Home Affairs
Mahanideshalays Assam Rifles
Assam Rifles Directorate General Assam Rifles
Shillong-793011 Assam Rifles
Assam Rifles at par with other corps

A/1-A/277-86/70

25 Jun 99

Director(Finance)

Ministry of Home Affairs
(Fin-II)
Govt of India
North Block
New Delhi-110001

**PAY SCALE FOR THE POST OF ASSISTANT
IN DIRECTORATE GENERAL ASSAM RIFLES,
SHILLONG**

Sir, — To —

18. I am directed to refer to the Ministry's DO letter No 13011/11(ii)/92-Fin, II dated 03 Jun 92 and this Directorate DO letter No A/1-A/277-86/04 dated 30 Jun 92 (photo copies enclosed) and to state that scale of pay of civilian Ministerial staff were switched over to central scale of pay with effect from 01 Jan 73 as per recommendation of Third CPC. On implementation of Third CPC's scale of pay, Assistant of this Directorate were allowed to draw the scale of pay Rs 425-15-500-EB-15-560-20-700/-.. While preparing draft recruitment rule for the post of Assistant, this Directorate had shown above scale of pay and Ministry had approved the same vide Notification No I. 12016/7/84-DO/(Pers-II) dated 04 Aug 86 (Copy enclosed). As per Part A of First Schedule of CCS(RP) Rules 1986 (Fourth CPC) this Directorate had revised scale of pay for the post of Assistant to Rs 1400-40-1800-EB-50-2300/-.

2. In the absence of specific order from Ministry some CPOs had revised the existing scale of pay of Assistant to Rs 1640-60-2600-EB-75-2900/- wef 01 Jan 86. The Ministry vide DO letter No 13011/11(ii)/92-Fin.II dated 03 Jun 92 had directed the then Director General Assam Rifles to restore scale of pay for the post of Assistant to Rs 1400-40-1600-50-2300-EB-60-2600/- instead of Rs 1640-60-2600-EB-75-2900/-. At this stage, Assam Rifles was giving pay scale of Rs 1400-2300/- to the Assistant which was lower then the scale specified as the correct scale (Rs 1400-2600) by the Ministry in its DO letter dated 03 Jun 92. It was informed to the Ministry that the pay scale of Rs 1640-2900/- was not being given. Assam Rifles continued to give Rs 1400-2300/-, a scale lower then the specified correct scale. Accordingly, after Fifth CPC the corresponding scale of pay of Rs 4500-7000/- was granted wef 01-1-96.

3. We have now received representation from the staff at Directorate General Assam Rifles that at the time of receipt of above DO letter correct pay scale mentioned was Rs 1400-2600/- and that should have been made applicable wef 01-1-86 and corresponding pay scale of Rs 5000-8000/- wef 01-1-96 (Fifth CPC).

4. It is also brought to the notice of the Ministry, that Assistants in other CPOs are drawing pay scale of Rs 1640-2900/- (Fourth CPC). In this connection a photo copy of DG, BSF letter No 60011/1/96-Staff/BSF/5543 dated 11 May 99 is enclosed.

~~FR 35~~

1

...2/-

5. The Ministry is therefore requested to please clarify the applicability of pay scale of Rs 1400-2600/- wef 01-1-86 to the Assistant in Assam Rifles as stated in Ministry's DO letter and also consider bringing pay scale of Assistant in Assam Rifles at par with other CPOs.

Yours faithfully,

R.S. Dhull

(R S Dhull)
Col
Deputy Director(A)
for Director General
Assam Rifles

812576

N.O.O.

Copy to :-

1. Liaison Officer
Det Assam Rifles
Room No 171
North Block
Ministry of Home Affairs
New Delhi
2. Estt Branch (Service Book - for info
Sec) (Internal)
3. Fin Branch (Internal) - -do-

Tele No : 70 5075

Bharat Sarkar
 Govt of India
 Grih Mantralaya
 Ministry of Home Affairs
 Mahanideshalaya Assam Rifles
 Directorate General Assam Rifles
 Shillong – 793 011

A/1-A/277-86/492

G 2 - Feb 2001

The Govt of India
 Ministry of Home Affairs
 (PF.I/ PF. V)
 New Delhi – 110 001

UPGRADATION OF PAY SCALES OF ASSISTANT/
SUPERINTENDANT / GROUP 'B' OFFICERS IN
DIRECTORATE GENERAL ASSAM RIFLES- SHILLONG

Sir,

1. I am directed to state that proposal for upgradation of pay scales in respect of the posts of Assistant, superintendent and Group 'B' officers (AO/AAO/RO/CGO) of this Directorate were submitted to Ministry separately as per details given below and the present position is indicated against each :-

Sr. No	Name of the post	Existing scale wef 01-01-96	Proposed upgraded scale	Present position
(i)	Group B officers in DGAR (AO/AAO/RO/CGO)	Rs 6500-10,500/-	Rs 7450-11500/-	Not agreed vide MHA letter No.II.27013/22/2000-PF.IV dated 22 Nov 2000
(2)	Superintendent in DGAR	Rs 5500-9000/-	6500-10,500/-	Not agreed vide MHA letter No.27012/18/98-PF.I/296 dt 26 Jun 2000.
(3)	Assistant in DGAR	Rs 4500-7000/-	Rs 1400-2600/- wef 01-01-86 and corresponding revised scale of Rs 5000-8000/- wef 01-01-96	Decision from MHA is awaited.

2. The above cases were discussed by Financial Adviser (AR) personally in the Ministry and suggested to submit an integrated case for upgradation/replacement of pay scales for all categories of posts with financial implication and comparing the posts/pay scales of similar cadres that are available in other CPO's

3. It has been ascertained that the pay scale of Assistant in BSF prior to 1-1-86 was Rs 425-800/- which was revised as Rs 1400-2600/- on implementation of 4th CPC (1-1-86). The above pay scale was further revised as Rs 1640-2900/- notionally wef 1-1-86 and effectively wef 1-5-91. In this connection a copy of Directorate General BSF letter No. 60011/1/96-Staff/BSF/5543 dated 11 May 99 is enclosed for perusal. Therefore the replacement scales of Assistant in BSF comes to Rs 5500-9000/- wef 1-1-96 (5th CPC).

AR/BS
1/125

4. On the above analogy, the pay scale of Assistant of this Directorate should be Rs 5500-9000/- wef 1-1-96 at par with other CPO and consequently the pay scales of other higher posts in the line of promotion should be upgraded. If the pay scales of Assistant of this directorate at par with BSF is agreed to, the proposed upgradation would be as under :-

Sr No	Name of post	Proposed upgradation
(1)	Assistant in DGAR	(a) Rs 1400-2600/- in place of Rs 1400-2300/- wef 1-1-86 (b) Rs 1640-2900/- wef 1-1-86 notionally and effectively wef 1-5-91 (c) Rs 5500-9000/- wef 1-1-96
(2)	Superintendent in DGAR	Rs 6500-10,500/- in place of Rs 5500-9000/- wef 1-1-96 being next promotional post.
(3)	Group B officers (AO/AAO/RO/CGO) in DGAR	Rs 7450-11500 in place of Rs 6500-10,500/- wef 1-1-96 being next promotional post.
5.	The approx. financial implication due to the proposed upgradation of pay scale of above category of staff is furnished at Appendix A attached. The amount involved would be met out of the sanctioned budget grant of Assam Rifles.	
6.	It is submitted that the staff of this Directorate are pressing hard for approval of the Ministry for granting upgraded pay scales as most of them are on the verge of their retirement.	
7.	In view of the above Ministry is requested to accord approval for upgradation of pay scale to the category of staff mentioned above at the earliest.	

Yours faithfully,

(Satendra Kumar)
Colonel
Deputy Director (A)
for Director General Assam Rifles

Copy to :-

NOO

1. Liaison Officer Assam Rifles
Room No 171, North Block
Ministry of Home Affairs
New Delhi - Letter addressed to MHA is enclosed herewith for handing over to the concerned section. Please liaise with the Ministry for early approval.
2. Fin Br (Internal) - for info please. This refers to FA(AR) Minute dated 22 Dec 2000.

Tele : 26191 (Civ)
 213 (Mil)
 23510 - 230
 (AR PABX)

Mahanidesha~~l~~aya Assam Rifles
 Directorate General Assam Rifles
 Shillong-793011

6 June
 May 85

A/I-85/II

The Secretary to the
 Government of India,
 Ministry of Home Affairs (CPOs)
 New Delhi - 110001

PROPOSAL FOR COMBATISATION OF THE
 MINISTERIAL STAFF IN THE ASSAM RIFLES

Sir,

1. I am directed to submit the proposals for combatisation of the ministerial staff in the Assam Rifles which are contained in the succeeding paragraphs :-

Background

2. The ministerial staff of the Assam Rifles serving in HQ DGAR, Central Records and Unit Pay & Accounts Offices, Range Headquarters, Battalions and other ancillary units consist of two categories of personnel viz. combatants and the civilian ministerial staff. Though there are two different categories of staff, their duties and responsibilities are almost identical. As it is well known, the organisation of the Assam Rifles roots its origin in the 'Cachar Levy' raised in 1835, under the Government of Assam. Since it was created as a part of the administration of Assam Government, the pay scales and other privileges allowed to the employees of the Assam Rifles followed the Assam Government pattern. After independence, the administration and control of the Force was transferred to the then North East Frontier Agency (now Arunachal Pradesh) Administration under the overall control of the Ministry of External Affairs acting through the Governor of Assam. Later, the control was transferred to the Ministry of Home Affairs.

3. The then NEFA Administration also followed the payscale for the Assam Rifles on the pattern of Assam Government scales of pay. The Government of Assam followed three tier system of staff with sliding pay scales as Secretariat scales, Head of Department scales and District scales. Accordingly, the then HQ Inspector General Assam Rifles (now Directorate General) was treated as equivalent to Head of Department and the Range HQs and Units as District offices and the pay scales were granted on the same analogy at a sliding scale.

4. Third Central Pay Commission. The Assam Rifles was not included for consideration by the Third Central Pay Commission as evident from the Commission's Report - 1973, Vol I, Chapter 3, asterisk to para 17. However, the central pay scales were introduced viz. one for the staff of the then HQ IGAR (now DGAR) and other for Ranges/Units.

5. Recruitment Rules. There were no recruitment rules or any administrative notification in the Force to regulate the service conditions of the ministerial staff prior to 1973. In the year 1977, the draft recruitment rules were submitted to the Ministry but the same could not be finalised mainly due to the following:

(L8) (a) Absorption of Range/Unit staff in the Central Records and Unit Pay & Accounts Office (CR & UPAO) at Shillong and fixation of their inter-se-seniority. In this connection please refer to the last correspondence resting with the Ministry's letter No I. I.12016/2/84-DO (Pers II) dated 9 Apr 85.)

(L9) (b) Bifurcation of the common gradation list of Combatant and Civilian clerks of the Ranges/Units for removal of stagnation of combatant staff. In this connection, please refer to the last correspondence resting with the Ministry's letter No I-45025/2/84-DO (PERS.II) dated 15 Dec 84 and this Directorate letter No A/F-A/84 dated 01 Jan 85.)

(Legal) 6. The problems enumerated in para 4 above have come in the way of finalisation of the recruitment rules for the various ministerial posts in the Force. The staff of Ranges and Units are agitated over the issue and have filed a writ petition (GR Choudhury vs. Union of India and others) in the Gauhati High Court. In this connection Ministry's attention is drawn to their letters No 27012/7-84 FP-IV dated Feb 85 and No I.45025/13/85-DO (Pers.II) dated 2 Apr 85. The petitioner among other things have raised the question of status of the Central Records and Unit Pay & Accounts Office of the Assam Rifles (CR & UPAO) vis-a-vis Directorate General Office and the loss of seniority of the Ranges and Unit Staff on their absorption in the CR & UPAO of the Assam Rifles.

(A.2) 7. However, the recruitment rules for the post of LDC in the Directorate General office have since been finalised vide Ministry's Notification No I.12016/1/84-DO(Pers.II) dated 18 Sep 84. The draft recruitment rules for the post of UDC in the Directorate General Office and LDC in the CR & UPAO offices have already been submitted and the same are under active consideration of the Ministry. The recruitment rules already finalised are shown under Column (j) of the Appendix 'B'.

(L7) 8. In order to improve the operational efficiency of the Force and also to resolve the issues discussed in paras 5 to 7 above, the Director General recommends that the ministerial staff of the Force should be combatised to which the Ministry have already agreed in principle. In this connection, Ministry's attention also invited to their letter No I-45020/2/84-DO (Pers.II) dated 21 Jan 84.)

Proposal

9. The present proposal is projected for the combatisation of the ministerial staff of the Assam Rifles with a view to improve the career prospects of the ministerial staff and the efficiency of the Force in consideration of the functional needs.

Necessity for Combatisation

10. The various considerations for which combatisation of ministerial staff is essential are spelt out below :-

(a) The Assam Rifles unlike other para-military forces viz, BSF, CRPF, ITBP have the admixture of civilian and combatant staff. Out of a total of 1483 ministerial staff, 988 are civilian employees including 129 female staff serving in this Force.

✓ (b) The primary role of the Force is to guard the International Border with China & Burma and to carry out counter-insurgency operations in the North Eastern States of Manipur, Mizoram, Nagaland and Tripura. These missions can only be accomplished successfully if the entire rank and file is combatised.

✓ (b) The bulk of the Force is placed under the operational control of the Army since 1962. The units are deployed in far flung sensitive areas of the North East and having ministerial staff in the Force does not go well with the pattern of working. Though the units are authorised cent percent combatant clerks, approx 40 per cent of the ministerial staff are still held in the units in lieu of the combatants causing great hardship to the latter due to early stagnation having shorter span of pay scales.

✓ (d) In the matter of discipline also combatisation of the ministerial staff will prove a cementing factor in that both the general duty staff and the ministerial staff would be governed by the same set of disciplinary code viz. Army Act & rules for the Ranges and Units operating under the Army's control and CCS (CCA) Rules 1965/Assam Rifles Act 1941 for the remaining members of the Force serving in the Headquarters, Training Centre and units not placed under the operational control of the Army. However, the multiplicity of the application of various disciplinary code will be resolved as and when the revised Assam Rifles Act is enacted which is self contained and comprehensive. The draft Assam Rifles bill prepared on the lines of the Army Act and BSF Act is pending with the Ministry since 1981. In this connection please refer to Ministry's DO No VI-23Q11/1/82-GPA III dated 4 Aug 1984. The acts of indiscipline amongst the ministerial staff can be more effectively dealt with if they are combatised and governed by the provision of the revised AR Act & Rules as it is always expedient to have one set of rules for the persons working in the same organisation and placed similarly.

✓ (e) The majority of the combatant clerks and a few civilian ministerial staff of the Force are, at present, serving in the Battalions and Ranges located in remote border/sensitive insurgency prone areas of the North-East Region. Conversely, the majority of the ministerial staff serve in the Directorate General and remain at Shillong where all modern amenities are available. This creates a feeling of frustration and of being discriminated against among the combatant staff and the few civilian ministerial staff in Ranges and Units. Combatisation of the ministerial staff would enable transfer of the Directorate General staff to the Battalions and Ranges and vice-versa and would go a long way in the integration of the entire staff of the Force and instilling in them a greater sense of esprit-de-corp.

✓ (f) Once combatised, the ministerial staff will have to be imparted elementary training. This will not only enable them to defend themselves and others in times of emergency, but also add to the strength of the trained man power in the Force.

✓ (g) From the point of view of the ministerial staff also combatisation will reap certain benefits. This will do away with the existing anomalies between the general duty and the ministerial staff in the matters of various service conditions and concessions. Combatisation will open avenues for the ministerial staff for promotion and create a healthy competition for meritorious works and their due recognition. When combatised, the ministerial staff will also be eligible for promotion in the general duty cadre if they acquire the rank qualifications laid down in the rules. Thus more promotional avenues will be created for the ministerial cadre.

Execution

11. Equation with Combatants. The combatisation of the ministerial staff is proposed to be made without any alteration in the existing pay scales of various ministerial posts. For this purpose, the existing pay scales will be treated as special scales for remustered of the ministerial staff in the combatised rank. The following ministerial posts are proposed to be equated with the combatant ranks as shown against each :-

(a) Asst Director (Finance)	- Commandant (Selection Grade) (Ministerial)
(b) Chief Accounts Officer Senior Accounts Officer	- Deputy Commandant (Ministerial)
(c) Accounts Officer Addl Accounts Officer Record Officer Hindi Officer Civilian Gazetted Officer Deputy Asst Director (Legal)	- Assistant Commandant (Ministerial)
(d) Stenographer (Grade I) Junior Accounts Officer (Gazetted) Superintendents (Non-Gazetted)	- Subedar Major Clerk
(e) Senior Accountant	- Subedar Clerk
(f) Head Assistant Assistant Nazir Overseer Stenographer (Grade II) Hindi Translator (Grade II)	- Subedar Clerk/Naib Subedar Clerk (50%)
(g) Upper Division Clerk Upper Division Assistant Draughtsman Stenographer (Grade III)	- Havildar Clerk
(h) Lower Division Clerk Lower Division Assistant Typist Record Keeper	- Naik Clerk
(j) Peon Messenger Duterry	- Rifleman (General duty)

12. At present the equivalent status of the ministerial staff with the combatants as sanctioned by the Government of India, Ministry of External Affairs letter No F.14(7)-NEFA/56 dated 6 Sep 1961 in the Peace Establishment of the standard battalion is as under :-

(a) Senior Accountant	- Subedar Clerk
(b) Head Assistant	- Naib Subedar Clerk
(c) Upper Division Assistant	- Havildar Clerk
(d) Lower Division Assistant	- Naik Clerk

13. Option. The existing incumbents will be given an option to opt for combatisation within a period of three months or such period as the DGAR may specify. The option once exercised will be final. Those who do not opt for combatisation will be continued in the civilian posts until superannuation under the existing rules applicable to them, which will be deemed to continue as personal to them. The female staff will also be eligible for making option but will be exempted from undergoing elementary training and wearing of articles of uniform as a one time measure. The arms and ammunition to the staff will be issued on as required basis.

14. Articles of Uniform. The list of articles of uniform to be issued to the ministerial staff upto the rank of Subedar Major Clerk is shown at Appendix 'A'. As regards group 'A' officers, the outfit allowance as applicable from time to time will be admissible to them.

Financial Implication

15. The details of number of posts, proposed equation and pay scale etc are shown in Appendix 'B' to the proposal. The financial implication of the proposal including that of the new raisings sanctioned vide Government of India, Ministry of Home Affairs letter No. Pt 16/4/85-T(FP-IV) dated 26 Mar 1985 are given as under :-

- (a) Uniform and Outfit allowance - Appendix 'C'
- (b) Ration Allowance - Appendix 'D'

16. The element of pay protection and its financial effects cannot be worked out realistically as it will differ depending on the number of persons who opt for the scheme and the same would vary from individual to individual.

17. The DGAR feels that for deciding such a vital issue financial consideration should not be the sole criterion. A Force entrusted with the sacred duty of maintaining continued vigilance across the International Border and combating insurgency in the most inhospitable areas of the North East, if handicapped administratively, can hardly bring out its best if its organisation is not well knit and compact.

Conclusion

18. It is therefore, requested that Ministry may kindly keep this paramount consideration in view and agree to our proposal and issue orders for the combatisation of the ministerial staff to solve the lingering problems of the Force. The ministerial staff of BSF, CRPF and ITBP have already been combatised.


(D K Kapoor)
Lt Col
Assistant Director (Administration)
for Director General Assam Rifles

Encl : Appendices
'A', 'B',
'C' and 'D'.

Copy to :-


The Liaison Officer Assam Rifles - for information.
C-521, Defence Colony
New Delhi - 110024

RAG

Appendix 'A'
(Refer to para 14)

SCALE OF UNIFORM ARTICLES FOR THE
COMBATISED MINISTERIAL STAFF OF THE
ASSAM RIFLES UPTO THE RANK OF SUBEDAR
MAJOR CLERK

Ser No.	Name of articles	Quantity authori- sed	Period of service- ability in months	Present value	Total amount		
						(c)	(d)
(a)	(b)					Rs. P.	Rs. P.
1.	Badges cap	One	48	1.00	1.00		
2.	Badges Shoulder	Two pairs	48	1.90	3.80		
3.	Bag Kit Universal	One	60	36.00	36.00		
4.	Belt Waist web	One	48	14.00	14.00		
5.	Beret cap (Pagri 2 for Sikhs only)	one	12	6.65	6.65		
6.	Boot ankle	one pair	15	49.50	49.50		
7.	Boot Jungle	One pair	6	38.25	38.25		
8.	Blankets Barrack	Two	48	85.60	171.20		
9.	Cap Field Service	One	6	16.00	16.00		
10.	Cape Waterproof	One	12	115.00	115.00		
11.	Drawer Cotton	Two	3	3.65	7.30		
12.	Formation Sign Assam Rif	Two	12	0.25	0.50		
13.	Groundsheet	One	24	57.50	57.50		
14.	Jersey Pullover	One	18	36.80	36.80		
15.	Kit Box Steel	One	120	97.75	97.75		
16.	Laces leather (spare)	One pair	2	1.00	1.00		
17.	Line bedding	One	12	1.30	1.30		
18.	Net Mosquito Universal	One	36	104.40	104.40		
19.	Shirt terrycot silver grey	One	24	82.10	82.10		
20.	Shirt Cotton olive green	One	6	24.00	24.00		
21.	Shorts drill olive green	Two	6	6.80	13.60		
22.	Shoes Canvas	One pair	3	16.05	16.05		
23.	Shocks worsted	Two pairs	3	8.35	16.70		
24.	Towel hand	Two	6	7.85	15.70		
25.	Trouser drill olive green	One	6	31.00	31.00		
26.	Trouser terrycot olive green	one	24	63.00	63.00		
27.	Vest cotton	Two	3	4.40	8.80		
<hr/>				Total	1028.90		
<hr/>				Say	Rs.1030.00		

Note : Rates are subject to change.

CONTINUATION

Appendix 'E'
(Refers to para 15 of DG.R letter
No. A/1-85/II dated 24/6/65.)
64 JUN

STATEMENT SHOWING DESIGNATION OF POSTS, BY SCALES AND AVERAGE EMOLUMENTS
ETC. OF THE MINISTERIAL AND COMBATANT STAFF OF THE ASSAM RIFLES

Ser	Designation of posts	Total (No of posts incl female staff in br- ackets (a))	Existing pay scales (Averagd Ministerial staff pay & allow- ances (b))	Proposed equi- valen- tial combatant rank (c))	Existing pay scale of combatant rank (d))	Average allowa- nces of Coln (g)	If recruitment rules notified by Ministry of Home Affairs, their Notification No. and date (h))	Remarks (i))
1	Asst Director (Finance)	1	Rs.1500 - 2000/-	Rs.3300/-	Commandant (Selection Grade) (Ministerial)	Rs.1800 - fixed plus Rs.100/- special pay	Rs.3430/-	-
-2	(a) Chief Accts Officer	1	Rs.900 - 1400/-	Rs.2617/-	Deputy Comma- ndant (Ministerial)	Rs.1100 - 1600	Rs.2855/-	-
	(b) Senior Accts Officer	1	- do -	- do -	- do -	- do -	- do -	-
3	(a) Accts Officer	5	Rs.650 - 1200/-	Rs.2098/-	Assistant Commandant (Ministerial)	Rs.700 - 1300/-	Rs.2320/-	-
	(b) Adml Accts Officer	2 (1)	- do -	- do -	- do -	- do -	- do -	-
	(c) Record Officer	2	- do -	- do -	- do -	- do -	- do -	-
	(d) Civilian Gazetted Officer	1	- do -	- do -	- do -	- do -	- do -	-
	(e) Deputy Asstt Director (Legal)	1	- do -	- do -	- do -	- do -	- do -	I.12010/7/62-DO(Pers II) dated 10 Apr 64
	(f) Hindi Officer	1	- do -	- do -	- do -	- do -	- do -	I.12010/10/63-DO(Pers II dated 26 Jun 64)
4	(a) Stenographer (Grade I)	1	Rs.650 - Rs.960/-	Rs.2045/-	Subedar Major Clerk	Rs.650-25- 750/-	Rs.1805/-	-
	(b) Junior Accts Officer (Gazetted)	5	Rs.550 - 900/-	Rs.1860/-	- do -	- do -	- do -	-
	(c) Superintendents (Non-Gazetted)	54 (10)	- do -	- do -	- do -	- do -	- do -	-
5.	Senior Accountant	21	Rs.550 - 800/-	Rs.1743/-	Subedar Clerk	Rs.485-20- 605/-	Rs.1439/-	-
6.	(a) Head Asstt	30	Rs.425 - 700/-	Rs.1519/-	Subedar/Naib Subedar Clerk (50% each)	Rs.385-15- 475/-	Rs.1228/-	-

(b) Asstt	115 (20)	- do -	- do -	- do -	- do -	- do -	- do -	-
(c) Mazir	1	- do -	- do -	- do -	- do -	- do -	- do -	-
(d) Overseer	2	- do -	- do -	- do -	- do -	- do -	- do -	-
(e) Stenographer (Gde III)	8	- do -	- do -	- do -	- do -	- do -	- do -	I.12016/1/77-Pers II dated 14 Feb 81
(f) Hindi Translator (Grade II)	1	- do -	- do -	- do -	- do -	- do -	- do -	I.12016/1/77-Pers II dated 7 Feb 81
7 (a) LDC	304 (66) Rs.220 - 560/-	Rs.1243/-	Rs.1243/-	Clerk Rs.270-3-350	Rs.975/-			I.12016/1/83-Do (Pers II) of 21.4.84
7 (b) LDC cum Typist	151 (21) - do -	- do -	- do -	- do -	- do -	- do -	-	dated 14 Feb 81
7 (c) Stenographer (Grade III)	6 - do -	- do -	- do -	- do -	- do -	- do -	-	I.12016/1/84-Do (Pers II) dated 7 Feb 81
8 (a) LDC	140 (10) Rs.260 - 400/-	Rs.1017/-	Rs.1017/-	Link Clerk	Rs.230-6/8- Rs.306/-	Rs.367/-		
8 (b) Record Keeper	34 (7) - do -	- do -	- do -	- do -	- do -	- do -	-	I.12016/1/84-Do (Pers II) dated 18 Sep 84 HQ DCAR only.
9 (a) Daf�ari	1 Rs.225 - 350/-	Rs.910/-	Rs.910/-	- do -	- do -	- do -	-	
9 (b) Peon/Messenger	13 Rs.200 - 250/-	Rs.743/-	Rs.743/-	Riflman (General Duty)	Rs.195-5-255/-	Rs.709/-	I.12016/1/77-Pers II dated 9 Feb 81	I.12016/1/77-Pers II dated 9 Feb 81
Total	988 (129)	Rs.712/-	Rs.712/-	- do -	- do -	- do -		

Notes : Colns (e) & (f) - Average pay and allowances as shown against columns (e) & (f) above include average Pay, DA, ADA and Interim Relief. Other allowances like City/Hill Commensatory Allowance, Winter allowance, House rent allowance, Medical Reimbursement, Leave Travel Concession and Children Education Allowance are not taken into account since these are also applicable to the Combatants of the Asstt titles.

122.

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Appendix 'B'
 (Refers to para 15 of DGAR letter
 No A/I-85/11 dated 4 May 85)

FINANCIAL IMPLICATION PER ANNUM ON RATION ALLOWANCE

S/o No.	Category	PRESENT STRENGTH			NEW RAISINGS						Grand Total (e) + (n)	Remarks		
		Strength	Rate per day	Amount	1985-86	1986-87	1987-88	Total	Strength	Rate				
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)
1	Officers	15	Rs.7.15	-	3	-	-	-	3	-	-	-	-	Not applicable.
2	Others	988	Rs.6.90	24,50,500	43	1,08,295.50	69	173776.50	-	112	282072.00	27,32,572.50		
		973		.50										
	Total	988	-	2450500.50	46	1,08,295.50	69	173776.50	-	115	282072.00	27,32,572.50		

For present strength - Rs.24.50 lacs
 For New Raisings - Rs. 2.82 lacs @ Rs.6.90 per day (Lower rates)

Note : The present rate of Ration money for the persons below officer rank is as under:-

- (a) Lower Rates - Rs.6.90
- (b) Higher Rates - Rs.7.45
- (c) Special Rates - Rs.7.60

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Appendix 'C'
 (Refers to para 15 of DGAR letter No.
 A/I-A/DS/11 dated 11 May 85).

FINANCIAL IMPLICATION ON THE UNIFORM/
OUTFIT ALLOWANCE

Ser No.	Category	PRESENT STRENGTH					NEW RAISINGS									Grand Total	Remarks				
		Strength	No. of Females	Balance	Rate	Amount	1985-86	1986-87	1987-88	Total	Strength	Amount	Strength	Amount	Strength	Amount	(e)+(o)	(g)+(p)	(q)	(r)	(s)
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	
1	Officers	15	1	14	1200	16,800	3	3,600	-	-	-	-	3	3,600	17	20,400					
2	Others	973	128	845	1030	8,70,350	43	44,290	69	71,070	-	-	112	1,15,360	958	9,85,710					
	Total	988	129	859	-	8,87,150	46	47,890	69	71,070	-	-	115	1,18,860	1015	10,06,110					

For present strength - Rs. 8.87 lacs

For New Raisings - Rs. 1.19 lacs

Note :- 1. Outfit allowance for officers is worked out as Rs.1,200/- initially and Rs.1,000/- after completion of seven years of service as per Government of India, Ministry of Home Affairs letter No 6/2/74-Org/BSF-Pers II dated 22 Dec 75.
 2. Cost of articles of uniform for others have been worked out as Rs.1,030/-. The basis of calculation is shown at Appendix 'A' to this proposal. Next replacement of article will depend on its life as shown against each item.

Appendix 'B'

DIRECTORATE GENERAL C.R.P.F. R.K PURAM, NEW DELHI-110022
(Ministry of Home Affairs/Grish Mantralaya)

No. O. IV-1/G1-Adm-3

Dated, the 19 Nov 1981.

To

The Directorate General
Assam Rifles
Shillong-793011

Subject :- STAFFING PATTERN.

Sir,

Please refer to your office memo No.A/1-4/84-81/Vol.II/185
dated the 26th Oct 1981.

2. The required information in respect of this Directorate General including Pay & Accounts office is given as under :-

Designation	No. of posts	Pay scale.
Joint Assistant Director(A/Cs)	3	Rs. 840-1200
A.O/S.O	9	Rs. 650-1200
Subedar Major(Office Audit)	11	Rs. 550-750
Subedar Major(Assistant)	30	Rs. 425-800
Inspector (Head Clerk)	27	Rs. 425-700
Sub-Inspector (UCC)	67	Rs. 330-560
Asstt Sub Inspector (ADC)	74	Rs. 260-400
Subedar Major (Senior Steno)	1	Rs. 550-900
Subedar Major(Steno Gr.II Senior Scale)	10	Rs. 425-800
Sub-Inspector(Steno Gr.III)	0	Rs. 330-560
Inspector (Hindi Translator Gr.III)	1	Rs. 425-700

Yours faithfully,

sd/-

(R Agarwal)

for Deputy Director (Adm)

19.11.81

AI 46/75 Status in Field Area - Civilians

Civilian personnel paid from Defence Services Estimates when serving in operational area, where they are authorised field service concessions like free rations, free accommodation, free clothing etc. as for combatant personnel, will be equated with combatant personnel as follows :-

Civilian category	Corresponding combatant category
1. All civilian Gazetted Officers	Commissioned Officers
2. All other personnel not being gazetted officers whose current monthly basic pay (excluding allowances) is more than ₹ 900/-	-do-
3. All nongazetted personnel whose current monthly basic pay (excluding all allowances) is not more than ₹ 900/- and not less than ₹ 425/-.	Junior Commissioned Officers
4. All personnel whose current monthly basic pay (excluding all allowances) is more than ₹ 425/- but not less than ₹ 260/-.	Non Commissioned Officers
5. All others	Other ranks

L not

2. The provisions of this Army Instructions take effect from 1.1.1973.

3. AI 84/64 is hereby cancelled.

* * * * *

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TYPICAL PATTERN OF EMOLUMENTS OF COMBATANT AND CIVILIAN CLERKS ON COMMON GRADATION LIST

YEAR IN SERVICE	B A S I C			P A Y			
	C O M B A T A N T C L E R K S			C I V I L I A N C L E R K S			
	H A V	N B	S U B	U D A	H A	S A	J A O
1	270 (587.30)			Min 330 (698) 428			
2	278			12	440		
3	286				452		
4	294				464		
5	302				476		
6	310				488		
7	318				500		
8	326				15	515	
9	334					530	
10	342					545	Min 425 (845.60)
11	350 (730)					560	(1050)
12		385 (786)				580	
13		15				20	
14		400				600	
15		415				620	
16		430				640	
17		445				660	
18		460				680	
19		475 (890.70)	Min 485 (909.40)			700	Min 550 (1312.50)
20			505			725	
21			20			25	
22			525			750	
23			545			775	
24			565			800	
25			585			(1500)	
26			605				840
27			(1134.70)				870
28							900
29							(1675.00)
30							

General Staff Branch
Army Headquarters
New Delhi - 110011

5892/TS/DDSD(FP)

17 Sep 79

To

Lt Gen Sushil Kumar, PVSM
Director General
Assam Rifles
Shillong
(Assam)

PER CAPITA RATES

Per capita rates (initial as well as recurring) in respect of officers, JCOS and ORs as intimated by Ministry of Finance (Defence) are enclosed in duplicate. Details of the expenditure covered under each are also indicated therein.

Sd/- (Tripat Singh)
Brig
Staff Duty Upnideshak (Vit Yojna)/
DDSD (FP)
Krite Up Thal Senadhyaksh/
for Deputy Chief of the Army Staff

Encl : As above

(copy)

PER CAPITA RATES AS INTIMATED BY MINISTRY OF
FINANCE (DEFENCE)

	<u>Initial</u>	<u>Recurring</u>
Officers	-	Rs. 31,750
JCOs	-	Rs. 15,470
ORs	-	Rs. 9,460

Detailed breakdown of items taken into account to work out the above cost.

Officers

	<u>Initial</u>	<u>Recurring</u>
Outfit Allowance	Rs. 1,400	P & A
Weapon & Ammunition	Rs. 1,020	Weapon & Ammunition
		Rs. 66
		Transport
		Rs. 4,419
		Accommodation including water & electricity
		Rs. 2,332
	<u>Rs. 2,420</u>	<u>Rs. 31,745</u>

JCOs

Clothing	Rs. 623	P & A	Rs. 9,750
PET	Rs. 235	Clothing	Rs. 408
Per Weapons	Rs. 1,020	Ration	Rs. 1,665
		PET	Rs. 117
		Per Weapon	Rs. 66
		Transport	Rs. 1,986
		Hospitalisation	Rs. 21
		Conservancy & Hot weather	Rs. 84
		Accommodation including water & electricity	Rs. 965
		Practice ammunition	Rs. 410
	<u>Rs. 1,878</u>		<u>Rs. 15,472</u>
(Say Rs. 1,880)			

....2

-2-

ORs

	<u>Initial</u>		<u>Recurring</u>
Clothing	Rs. 623	P & A	Rs. 5,751
PET	Rs. 235	Clothing	Rs. 1408
Personal Weapon	Rs. 1,130	Rations	Rs. 1,665
		PET	Rs. 117
		Personal Weapons	Rs. 102
		Transport	Rs. 261
		Hospitalisation	Rs. 21
		Conservancy & Hot Weather	Rs. 84
		Accommodation including Water & Electricity	Rs. 638
		Practice ammunition	Rs. 410
	<u>Rs. 1,938</u>		<u>Rs. 9,457</u>

(Say Rs. 1,990)

Tele : 23510/230
23566
Mil 213

Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

A/I-A/164-89/

25 Oct 89

Government of India
Ministry of Home Affairs (FP. I)
New Delhi - 110001

COMBATISATION OF MINISTERIAL AND OTHER
CIVILIAN POSTS IN THE ASSAM RIFLES
HEADQUARTERS (HEADQUARTERS AND UNITS)

Sir,

Page - 1

1. Please refer to the subject cited above in your letter No. 27011/44/88-FP.I dated 19 September 1989 and this Directorate Wireless message No A 2401 dated 12 October 89.

Page - 4

2. The combatisation of Ministerial Staff has been received with apprehension due to certain anomalies and ambiguities in your letter of 19 September '89. The matters which require rectification and are discussed in the succeeding paragraphs.

3. Lowering of Status. AO/AAO/RO/HO/CGO/Stenographer Grade I and DAD(Legal) were in the pay scale of Rs 2,000-3,500/- The same have been equated with Subedar Major which is in the pay scale of Rs 2,000-3,200/-. Thus they are being brought down into lower bracket of pay scales. And even if their pay is protected the status of these civilian officers which were equated with that of Gazetted Class II is now being brought down to the non-Gazetted officer on combatisation. A JCO in Assam Rifles is a non-Gazetted entity.

*****2/

4. Anomalous Equation of Rank Structure. JAO/Supdt and SA are equated with Subedar. JAO and Supdt are in a higher pay scale i.e., Rs 1640-2,900/- as compared to SA i.e., Rs 1,600-2,660/-. Also JAO is a Gazetted Class II post whereas Supdt is a non-Gazetted post. The JAO is being brought down from a Gazetted Class II post to a non-Gazetted rank i.e., of Subedar.

5. Rank Equation for UDA/UDC. The UDA and UDC form major part of the Ministerial Staff of this Force. They are, however, not equated with any rank on combatisation leading to an obvious anomaly which necessitates rectification before the order is implemented. This omission is probably because of the fact that the rank of Assistant Sub Inspector does not exist in the Assam Rifles which is prevalent in other CPOs. This may be equated with the rank of Assistant Sub Inspector/Warrant Officer as proposed vide this Directorate letter No A/1-A/245-89/2 dated 17 October 1989.

6. The following posts/appointments were also to be combatised and the same were recommended in the original proposal forwarded vide our letter No. A/1-A/164-83 dated 28 May 1987 (Photostat copy attached) :-

	<u>Present post/ appointment</u>	<u>Recommended Combatised post/ appointment</u>
(a)	Assistant Director - (Finance)	Commandant (Selection Grade) (Ministerial).
(b)	Chief Accounts Officer/- Senior Accounts Officer	Deputy Commandant (Ministerial).
(c)	Stenographer(Grade.III)/- Draughtsman	Havildar Clerk
(d)	Peon/Messenger/Duftery -	Rifleman (General Duty)

7. Paragraph 2 of the letter of Ministry under reference states that the civilian posts will be deemed to be continued as 'personal to the individual'. It gives the impression that anyone who does not opt for combatisation will not get any further promotion till the date of superannuation. Such a concept, if put

through may have legal ramifications in addition to the general discontentment amongst the non-optees.

8. It is requested that the above anomalies may be clarified at the earliest so that the combatisation order can be implemented in a smooth manner. It is recommended that :-

(a) Status of AO/AAO/RO/HO/CGO/Stenographer Grade-I(PS) and DAD(Legal) is protected and they are granted the existing status of Grade-II Gazetted officers.

(b) Status of JAO as Class-II Gazetted officer is also protected.

(c) Equivalent rank on combatisation for UDA and UDC is given. They may be equated with Warrant Officer as proposed by this Directorate letter No. A/1-A/245-89/2 dated 17 October 1989.

(d) Equivalent ranks of the following which have not been covered may also be approved :-

<u>Present post/ appointment</u>	<u>Recommended Combatised post/ appointment</u>
(i) Assistant Director (Finance)	Commandant(Selection Grade) (Ministerial).
(ii) Chief Accounts Officer/Senior Accounts Officer	Deputy Commandant (Ministerial).
(iii) Stenographer (Grade, III)/ Draughtsman	Havildar Clerk
(iv) Peon/Messenger/ - Dufty	Rifleman (General Duty)
(e) It may be clarified whether the non-optees will be eligible for any further promotion or not.	

9. You are requested to accord priority to this subject and clarify the above mentioned points. It is submitted that till the above points are clarified this proposal cannot be put through in Assam Rifles, within the stipulated time frame.

Yours faithfully,


(M N Kuttaya)
Brig
Director(Adm)
for Director General Assam Rifles

Enclosures : Five

N.O.O

Copy to :-

Shri H R Sharma, Comdt(SG)
Assistant Director(Liason)
Detachment Assam Rifles
A-282 Meera Bagh
Paschim Vihar
New Delhi - 110 041

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~~ANNEXURE~~ 194

Tele No : PARX 23510
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Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

A/I-A/164-83

28 Jun 87

The Secretary to the
Government of India
Ministry of Home Affairs (FP.IV)
New Delhi - 110 001

PROPOSAL FOR COMBATISATION
OF THE MINISTERIAL STAFF IN
THE ASSAM RIFLES

Sir,

1. I am directed to refer to your Office letter No.II.27012/31/85-FP.IV dated 28 Apr 87 on the subject noted above and to submit the proposals in the succeeding paragraphs.

2. Vide our letter No.A/I-85/11 dated 04 Jun 85 (also quoted in your letter under reference) we have already forwarded to you the background of the Force and the necessity for combatisation of the clerical staff. The proposal has since been accepted vide your above letter.

Changeover to CPOs Pay Scales

3. However, consequent to the Fourth Central Pay Commission report, certain changes in the proposals forwarded to you vide our above quoted letter have become necessary. These are set out in the subsequent paragraphs.

4. Equation with Combatants. The Fourth Central Pay Commission has recommended that Assam Rifles personnel will be brought at par with CPOs Scales of pay. The restructure and the rank equation will be as given below:-

- (a) Asst Director (Finance) - Commandant (Selection Grade) (Ministerial).
- (b) Chief Accounts Officer/ - Deputy Commandant Senior Accounts Officer (Ministerial).
- (c) Accounts Officer/ - Assistant Commandant Addl Accounts Officer/ (Ministerial)
Record Officer/
Hindi Officer/
Civilian Gazetted Officer/
Deputy Asst Director (Legal)

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- 2 -

(d) Stenographer(Grade-I)/ - Subedar Major Clerk
Junior Accounts Officer
(Gazetted)
Superintendents
(Non-Gazetted)

(e) Senior Accountant - Subedar Clerk.

(f) Head Assistant/Assistnat/- Naib Subedar Clerk.
Nazir/Overseer/
Stenographer(Grade.II)/
Hindi Translator(Grade.II)

(g) Upper Division Clerk/ - Havildar Clerk
Upper Division Assistant/
Draughtsman/
Stenographer(Grade.III)

(h) Lower Division Clerk/ - Naik Clerk
Lower Division Assistant/
Typist/Record Keeper

(j) Peon/ - Rifleman (General Duty)
Messenger/Duty

5. Financial Effect. There would also be changes in the financial implication because of the change over to the CPO pay scales. A very accurate estimate of the financial implication cannot be furnished at this stage because of the fact that number of optees for combatisation will not be known at this stage and decision of the Government is still awaited on grant of certain allowances. Approximate financial effect is given as under :-

(a) Pay - Appendix 'A'

(b) Uniform and outfit allowance - Appendix 'B'

(c) Ration - Appendix 'C'

(d) Since the extra expenditure involved in combatisation will in any case be met from within the annual budget of the Assam Rifles, this will not entail any additional burden on the exchequer.

(e) Extra expenditure on combatisation will be neutralised by exercising stringency in financial management within the Force.

Consideration of some Additional Proposals

6. Some additional proposals that may be included by you while issuing the sanction for the combatisation are given in succeeding paragraphs.

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- 3 -

7. Option. Option may be exercised any time, but once given this would be irrevocable. No conditional option may be accepted.

8. Promotions. The non-optees will be kept on a common gradation list with the combatants for purpose of promotion as is done with the field staff at present.

9. Creation of New Posts. New posts created subsequent to the issue of Government Orders will be that of combatants only.

10. Group B, C and D Posts. All direct recruitment to such posts will, after the issue of Government notification, be combatised.

11. Certain Exception for Ladies and Handicapped Persons. Permission to exempt ladies and handicapped personnel from wearing uniform and other combat duties/exercises be left to the discretion of DGAR.

Conclusion:

12. We have perused the cases projected by the CRPF and the BSF for combatisation which have since been sanctioned by the Government. It is submitted that the rationale given of BSF and CRPF for the acceptance of their proposal is not only applicable to us, but in some cases it is more pressing and demanding.

13. An early sanction of our proposal is requested.

Yours faithfully,

(VS Kuppa)
Col 28/7/74
Assistant Director (A)
for Director General Assam Rifles

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FINANCIAL IMPLICATIONS ON PAY IN CASE OF COMBINATION OF CIVILIAN
(MINISTERIAL) STAFF OF HQ DGAR, RANGE HCS AND BATTALIONS

Ser No	Present posts with scales of pay						Equivalent posts with scales of pay						Financial implications (Difference of Coln(f) and (l))	Remarks
	Designation of posts	Scale of pay	Average pay	Number of posts	Total amount	Designation of posts	Scale of pay	Average pay	Number of posts	Total amount				
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(k)	(l)	(m)	(n)		
<u>DGAR</u>														
1. Asst Director(Finance)	3700-125-4700 -150-5000	4350/-	1	4350/-	Commandant (SG)	4500-150-5700	5100/-	1	5100/-	750.00				
2. Chief Accounts Officer/2200-75-2800- Senior Accounts Officer EB-100-4000	3100/-	4	12400/-	Deputy Commandant	3000-400-3500- 125-4500	3750/-	4	15000/-	2600.00					
3. Accounts Officer/ Addl Accounts Officer/ Record Officer/ Civilian Gazetted Officer/ Deputy Asst Director (Legal)/ Hindi Officer	2000-60-2300- EB-75-3200- 100-3500	2750/-	11	30250/-	Asst Commandant	2200-75-2800- EB-100-4000	3100/-	11	34100/-	3850.00				
4. Stenographer(Grade I)	2000-60-2300- 2600-EB-75- 3200	2600	1	2600/-	Subedar Major	2000-60-2300- EB-75-3200	2600/-	1	2600/-	-				
5. Superintendents	1640-60-2600- EB-75-2900	2270	50	113500/-	Subedar Major Clerk	2000-60-2300- EB-75-3200	2600	50	130,000/-	16500.00				
6. Assistant/ Jr	1400-40-1800- EB-50-2300	1850	110	2,03,500/-	Subedar	1400-40-1800- EB-50-2300	1850	110	2,03,500/-	-				
7. Upper Division Clerks	1200-30-1560- EB-40-2040	1620	291	4,71,420/-	Havildar Clerk	975-25-1150- EB-30-1660	1317.50	291	3,83,592.50	(-) 88,1,27.50				
8. Stenographer (Grade. II)	1400-40-1800- EB-50-2300	1850	3	5,550	Naib Subedar Clerk	1400-40-1800- EB-50-2300	1850.00	3	5,550.00	-				
9. Stenographer (Grade. III)	1200-30-1560- EB-40-2040	1620	6	9,720	Havildar Clerk	975-25-1150- EB-30-1660	1317.50	6	7,905	(-) 1,815.00				
10. Overseer	1400-40-1800- EB-50-2300	1850	2	3,700	Nb/Subedar	1400-40-1800- EB-50-2300	1850.00	2	3,700	-				
11. Draughtsman	1400-40-1800- EB-50-2300	1850	7	12,950	Naib Subedar	1400-40-1800- EB-50-2300	1850	7	12,950	(-)				
12. Lower Division Clerk cum Typist	950-20-1150- EB-25-1500	1225	37	45,325	Naik Clerk	950-20-1150- EB-25-1400	1175	37	43,475	(-) 1,850.00				
13. Hindi Translator	1400-40-1800- EB-50-2300	1850	1	1,850	Nb/Subedar	1400-40-1800- EB-50-2300	1850	1	1,850	-				
14. Record Keeper	825-15-900- EB-20-1200	1010	1	1,010	Naik Clerk	950-20-1150- EB-25-1400	1175	1	1,175	165.00				
15. Peon/Messenger	750-12-870- EB-14-940	845	59	49,855	Rifleman	825-15-900- EB-20-1200	1012.50	59	59,737.50	9,882.50				
16. Dufry	775-12-955- EB-14-1025	900	10	9,000	Rifleman	825-15-900- EB-20-1200	1012.50	10	10,125.00	1,125.00				
<u>RANGES/BATTALIONS</u>														
17. Accounts Officer	2000-60-2300- EB-75-3200-100- 3500	2750	2	5,500	Assistant Commandant	2200-75-2600- EB-100-4000	3100.00	2	6,200.00	700.00				
18. Junior Accounts Officer	1640-60-2600- EB-75-2900	2270	7	15,890	Subedar Major Clerk	2000-60-2300- EB-75-3200	2600.00	7	16,200.00	2,310.00				
19. Senior Accountant	1600-50-2300- EB-60-2600	2130	29	61,770	Subedar Clerk	1640-60-2600- EB-75-2900	2270.00	29	61,830.00	4,060.00				
20. Head Assistant	1400-40-1600- EB-50-2300	1650	38	70,300	Naib Subedar Clerk	1400-40-1800- EB-50-2300	1850.00	38	70,300.00	-				
21. Upper Division Assistant	1200-30-1560- EB-40-2040	1620	225	3,64,500	Havildar Clerk	975-25-1150- EB-30-1660	1317.50	225	2,96,437.50	(-) 66,062.50				
22. Lower Division Assistant	950-20-1150- EB-25-1500	1225	10	12,250	Nk Clerk	950-20-1150- EB-25-1400	1175	10	11,750.00	500.00				
Total				905					Yearly financial implication		(-)Rs.1,17,412.50x12			
											▪ (-)Rs.14,08,950.00			

29

CONFIDENTIALAppendix 'B'

(Refers to Para 5 of DGAR letter
No. A/I-A/1-64/83/ dt 26/87)

FINANCIAL IMPLICATION ON THE UNIPCR/OUTFIT ALLOWANCE

Ser No	Number of posts with category	Less number of Females	Balance Strength	Rate Rs.	Total Amount Rs.	Remarks
1. Officers	- 18	1	17	1297	1297	
				1200	$1200 \times 17 = 20,400/-$	
2. Others	- 887	128	759	1030	$1030 \times 759 = 7,81,770/-$	7782
	724		734			756020/-
Total	905	129	77674	2230	8,02,170/-	763802/-

CONFIDENTIAL

40

CONFIDENTIAL

Appendix 'C'

(Refers to Para 5 of DGAR letter
No A/I-A/164-83/ dt ~~Ann. 87~~)
28/7/83

FINANCIAL IMPLICATION PER ANNUM ON RATION ALLOWANCE

Ser No	Category	Strength	Rate Rs	Financial Implication	Remarks
1.	Officers	618	12.85	12.85 8.87 per day	3395484/- Not applicable
2.	Others	887	8.87	8.87x8.15x30x12= Rs.26,02,458.00	
	Total	734		Rs.26,02,458.00	3395484/-

CONFIDENTIAL

ANNEXURE

DRAFT APPROVAL

26

No. 27011/44/BS-PP-I
 GOVT. OF INDIA,
 MINISTRY OF HOME AFFAIRS,

New Delhi 11-1-90.

200

VIA

OFFICE MEMORANDUM

Sub:- Combatisation of Ministerial and other posts
 in BSF/ITBP/CISF/Assam Rifles.

7. filing "A"

The undersigned is directed to refer to this Ministry's O.M. of even number dated 19.9.1989 on the above subject and to say that all the OPs concerned namely BSF, ITBP, CRPF, CISF and Assam Rifles have suggested a review of the combatisation scheme outlined in the said O.M. on the following main grounds;

(1) The present equation of the combatised post with the executive rank which is one rank lower than the rank attached to similar posts combatised prior to 1.1.1986 is discriminatory. It has also resulted in lowering of status (from gazetted to non-gazetted status or from Group 'B' to Group 'C' status) in some cases.

(2) Non-optees, as per the present scheme, have to remain in the existing Grade till the age of superannuation. The scheme may be amended to ensure promotional avenues for non-optees as before.

(3) Administrative problems regarding seniority etc.

2. (i) Since the revised pay scales of executive ranks are improved scales and adoption of pre-1986 rank equation policy would result in upgradation of pay scales of the ministerial and other posts on combatisation, it would not be possible for the Govt. to agree to adopt the pre-1986 rank-equation policy.

(ii) The proposed amendment to the scheme to provide for promotional avenues for non-optees is not possible, because of the underlying basic decision to fill all future vacancies by combatised ranks.

(iii) It is felt that the problem of discipline and control is not so acute as to warrant combatisation.

3. Considering the above facts and since the response to the present combatisation scheme from the existing incumbents in ITBP, CRPF & CISF (who have circulated the scheme) is very poor, it is felt that it would be better to scrap the scheme. It is accordingly requested that the

*** 2/-

VIA

BSS/ITBP/CISF/Assam Rifles may kindly indicate by
- 20th January 1990 whether they agrees to the scrapping
- of the scheme.

A Assam Rifles letter no. A/T-A/164-88
dated 25-10-88 refers in this
connection.

✓ A. J. Rao
(A. J. Rao)
Director (PF)

To

- (1) The Director General, BSF, New Delhi.
- (2) The Director General, ITBP, New Delhi.
- (3) The Director General, CISF, New Delhi.
- (4) The Director General, CISF, New Delhi.
- (5) The Director General, Assam Rifles, Shillong.

43
J(15) ANNEXURE (B)
F.No.27011/44/88/FP-I
Government of India,
Ministry of Home Affairs

New Delhi, the 10th April, 1990.

OFFICE MEMORANDUM

Subject: Combatisation of ministerial civil posts.

Ref.:

Assam Rifles letter No. A.V-A/Combat.89 dated 13.1.90.

The undersigned is directed to say that in view of the fact that it would not be possible to make any changes in the rank equation and the consequent pay scale revision in respect of the civil posts combatised in terms of this Ministry's letter of even number dated 19.9.89 and also taking into account the administrative difficulties that have been brought to the notice of the Govt. in implementing the combatisation scheme, the only way out is to scrap the scheme. Before a decision is taken to scrap the scheme, the following points may please be got examined in the Legal Cell of the Assam Rifles and their advice made available to this Ministry at the earliest and at any rate by 30.4.90:-

- (1) Whether the issue of MHA's letter of even number dated 19.9.89 has created any vested rights and if so, how they have been created? The nature of vested rights created to be indicated.
- (2) Whether the scrapping of the combatisation scheme will affect those vested rights? if so how?
- (3) What should be the modality for the scrapping of the scheme?
- (4) Whether in the case of those who have opted for combatisation and who have been formally appointed to the combatised posts on the basis of such option, the scrapping of the scheme can be applied and they may be decombatised and restored to their pre-combatisation civilian status. What should be safeguards to be taken in respect of any financial benefits that have been extended to them as a result of combatisation, in the event of scrapping of the scheme? Number of incumbents of the posts (categorywise) combatised, the number of incumbents who have opted for combatisation and the number of such incumbents who have been formally appointed against such combatised posts may be indicated.
- (5) In the case of those who have been directly recruited in combatised ranks against the combatised posts in terms of para 2 of the MHA letter of 19.9.89, similar advice as requested in item (4) above is required. The number of combatised posts (categorywise) filled by direct recruitment or promotion in combatised ranks may be indicated.

APR 1990

.....2/-

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:2:

(6) Is there any court case filed by any employee against the combatisation scheme outlined in MHA letter of 19.9.89? What is the nature of the case? What is its stage in the Court? Has the Court passed any orders? Can the scheme be scrapped when the case is before the Tribunal Court?

K.S. Parthasarathy

(K.S. Parthasarathy)
Under Secretary to the Govt. of India.

To

The Director General,
Assam Rifles,
Shillong

45
File No. 23510/231

REGISTERED
Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

204
ANNEXURE
Sect
51
10.

A/V-A/Combt-90/31

08 May 90
Y.C.

Government of India
Ministry of Home Affairs (FP-I)
New Delhi - 110 001

COMBATISATION OF MINISTERIAL AND
OTHER POSTS IN ASSAM RIFLES

Sir,

1. Please refer to your letter No. F.No. 27011/55/88/
FP-I dated 20th April 1990.

2. Parawise comments/information is given as under :-

(a) Ref Para 1. There are no vested rights
created for any employee of Assam Rifles by issue
of letter on combatisation by the MHA.

(b) Ref Para 2. Scrapping of combatisation
scheme will also not create any vested rights.

(c) Ref Para 3. Since we do not subscribe to
the proposal for scrapping the scheme, no comments
can be offered on the modality for scrapping the
scheme.

(d) Ref Para 4. Since the combatisation scheme
has not been put through in the Assam Rifles, the
details asked for in Para 4 of your letter cannot
be furnished.

(e) Ref Para 5. No information can be given,
for the same reasons mentioned in Para 2(d) above.

(f) Ref Para 6. There are no Court cases filed
by any employee of Assam Rifles against the
combatisation scheme.

3. Our views on the subject have already been expressed
vide this Directorate letter No A/V-A/Combt-89/ dated
18 January 90. It is once again strongly recommended that
the combatisation must be put through as sanctioned by
the Government.

Yours faithfully,

JS
(J S Dhillon)
Lt Col

N.O.O

Copy to :-

Liaison Officer Army Assistant Director (A)
A-282 Meera Bagh for Director General Assam Rifles
Paschim Vihar
New Delhi - 110 041

46
ANNEXURE

IMMEDIATE

No. 27011/44/88-FP, I
Government of India
Ministry of Home Affairs

New Delhi-110001, the

18th June, 90.

OFFICE MEMORANDUM

WAC

Subject: Combatisation of civil/ministerial posts
in CPOs.

1st Floor, North
Block).

The scheme of combatisation of civil/ministerial posts notified in MHA letter of even number dated 19.9.89 is under review. It is proposed to discuss the matter at 3.00 P.M. on Tuesday, the 3rd July, 1990, in the room of Shri Arun Kumar, JS (P) (Room No. 194). First

2. The following points will be considered:-

- (1) It is not possible to grant a higher rank equation than what has been given under the scheme already notified on 19.9.89. This aspect has to be kept in view while considering any alternative to the withdrawal of the scheme in respect of all the posts covered by the MHA letter of 19.9.89.
- (2) It may be considered whether the present combatisation scheme could be retained (without any repercussions) in respect of any group of posts having its own hierarchy or certain isolated posts. If so, what are those posts or group of posts (indicating their particulars, pay scales, equated ranks etc.).
- (3) Any other alternative to complete withdrawal of the scheme.

If a note on the above points is sent to this Ministry by 29th June, 1990, it would be helpful to clinch the issue at the meeting to be held on 3rd July, 1990.

3. You are requested to attend the meeting, despite an officer familiar with the subject.

K. S. Parthasarathy
K. S. Parthasarathy
Under Secretary to the Govt. of India

To

1. Shri H. Rao,
I.G. (Mors), BSF,
New Delhi.
2. Shri A. V. Liddle,
I.G. (Mors), ITBP,
New Delhi.
3. Shri The Director Genl,
Assam Rifles,
Shillong.

15/7/26
28/6/90

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ANNEXURE - (b)
TE

A/1-A/62 (Part)

20 Dec 90

1. I am writing this DO letter in connection with the combatisation of ministerial and other civilian posts in the Assam Rifles. I would like to draw your kind attention to the following correspondence resting with the Ministry :-

- (a) MHA letter No 27011/44/88-PP.I dated 19 Sep 89 (copy attached).
- (b) MHA letter No 27011/44/88-PP.I dated 11 Jan 90 (copy attached).
- (c) MHA letter No 27011/44/88-PP.I dated 20 Apr 90 (copy attached).
- (d) MHA letter No 27011/44/88-PP.I dated 18 Jun 90 (copy attached).

2. Govt had accorded the sanction for the combatisation of civilian posts in Sep 89. Your letter mentioned at para 1(a) above refers. However, certain anomalies like lowering of status, equation of rank structure and corresponding rank for UDC/UDA were noticed and the same were requested to be clarified from the Ministry. Our letter mentioned at para 1(b) above refers.

3. Ministry however did not agree to our point of rectifying the anomalies and communicated its decision to repeal the scheme due to poor response. However, all CPOs were asked to submit views on scrapping of the scheme.

4. We in our reply have reiterated our stand and have once again recommended that the scheme be put through as sanctioned by the Govt.

5. In Jul 90, a meeting of all representatives of the CPOs was held in New Delhi. It was agreed in the meeting to combatise only the lowest rank of each trade on fresh recruitment/entitlement. Formal orders to this effect are still awaited from the Ministry.

6. Once again, I strongly recommend that the orders of combatisation be put through at the earliest as sanctioned by the Govt.

Recd

Shri N K Singh
Joint Secretary (Police)
Government of India
Ministry of Home Affairs
New Delhi - 110 001

NOO

Comdt (SG) H R Sharma
LOAR
Room No 171
North Block
Ministry of Home Affairs

48

ANNEXURE

A/1-A/64-89/

15 Apr 91

1. Please ref to Para 22 of Minutes of the meeting held in the room of JS (P) on 01 Feb 91 and our discussion on 10 Apr 91.
2. I am very grateful to you for concurring in the implementations of the combatisation of the ministerial staff of the Assam Rifles.
3. May I, therefore, request you to kindly have the proposal formally sanctioned at the earliest.

Trax

Shri K M Lal
Financial Adviser (Home)
Government of India
New Delhi - 110 001

Copy to :-

Shri N K Singh
Joint Secretary (Police)
Ministry of Home Affairs
Government of India
New Delhi - 110 001

- Please refer to our discussions on 10 Apr 91.

49
ANNEXURE

No. 27011/44/89/R.P.I
Government of India/ Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 20 May, 1992

To

Director General, BSF, New Delhi
Director General, CRPF, New Delhi.
Director General, ITBP, New Delhi
Director General, CISF, New Delhi.
Director General, Assam Rifles, Shillong.

20 May 1992

Sub:-

Combatisation of Ministerial and other civilian posts.

Sir,

I am directed to refer to this Ministry's letter of even number dated the 19th September, 1989, on the above subjects whereby certain civilian posts in your organisation were combatised and the existing employees were given option to opt for the combatised posts within the specified period. But the response to the scheme was not encouraging. Accordingly, this matter was discussed with your officers as well as those of Integrated Finance Division. In view of the fact that the scheme did not get adequate response from the existing employees it appears the same may have to be dropped. You may consider whether the scheme of combatisation introduced on 19-9-1989 may be dropped altogether or some alternative scheme may be introduced in its place. Your views may be sent to this Ministry at the earliest.

2. During the course of discussion held in the Ministry it was suggested by some CPOs that the existing combatisation scheme may be modified and introduced at the lowest level in each grade where direct recruitment is made. This Ministry is, accordingly, considering a proposal on these lines. For this purpose, it is requested that a self-contained proposal concerning your organisation may be sent to this Ministry at the earliest. While preparing the proposal, it should be kept in view that this Ministry of Finance do not agree granting higher pay increments to the posts in the name of combatisation. The proposal should inter-alia contain the following information :-

- i) Nomenclature of the existing post.
- ii) Pay-scale of the existing post.
- iii) Equivalent combatised rank.
- iv) Pay-scale of the proposed combatised rank.
- v) Promotional post available for the posts to be combatised.
- vi) When the above promotional posts are likely to become available for being filled up by the incumbents of the proposed ranks (i.e. when the existing civilian employees will vacate their claims due to retirement, promotion, etc.).
- vii) Whether the above promotional posts should be combatised simultaneously, or the proposal should be processed as and when these promotional posts become available for the proposed combatised ranks.
- viii) Financial implications involved, if any.
- ix) Any other point which the organisation considers relevant.

Yours faithfully,

(R.K. KANWAL)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

BJGAR

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ANNEXURE

No. 27011/44/88-FP.I
Ministry of Home Affairs

New Delhi, the 31 July, 1992

To

31 JUL 1992

Brig. Surendra Shah,
Director(Admn.),
Director General,
Assam Rifles,
Shillong.

Subject: Combatisation of ministerial and other civilian posts in the Assam Rifles Headquarters & units.

Sir,

I am directed to refer to your letter No. A/V-A/Comb-89/47 dated 16th July, 1992 on the above subject. In para 3 of your above referred letter, it is stated that the scheme is being implemented at the intake stage in accordance with the instructions issued by this Ministry dated 19th September, 1989. In this connection, the comments on the following points may please be furnished immediately:-

(i) Whether the part implementation of the existing combatisation scheme at the intake stage only would not affect the promotional and other interests of the existing civilian employees as well as others being recruited against the combatised posts.

(ii) It has earlier been mentioned by Assam Rifles that pay-scales of the combatised posts should be raised. Whether the implementation of the scheme in part would not adversely affect the case for raising the pay-scales of these ranks.

(iii) Whether recruitment rules has been formally amended to provide for appointment against combatised post.

(iv) Whether there is any violation of the existing instructions issued by this Ministry.

1. On file
2. On priority

DDG(A)-107/10/8

Yours faithfully,

W.R.

51
Tele No : PABX 27510
Extn 5511

REGISTERED

ANNEXURE 200
B(0) 51
0.

Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanidheshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

A/V-A/Comb-89/49

14 Aug 92

Deputy Secretary (PF)
to the Govt of India
Ministry of Home Affairs
New Delhi - 110001

COMBATISATION OF MINISTERIAL AND OTHER
CIVILIAN POSTS IN THE ASSAM RIFLES HEAD-
QUARTERS & UNITS

Sir,

1. I am directed to refer to Ministry's letter No 27011/44/88-FP.I dated 31 Jul 92 and to furnish the required information in succeeding paragraphs.
2. Implementation of the existing Combatisation scheme at intake stage would not affect the promotional and other interests of the existing civilian employees.
3. Pay scales of the combatised post are not required to be raised in terms of Para 2 of Ministry's letter No 27011/44/88-FP.I dated 11 Jan 90. The pay of the present civilians on combatisation, will be protected under existing Govt orders.
4. Amendment to recruitment rules for appointment against combatised post is not required, since, the posts will be filled up by combatant staff as per scheme. Equivalent combatised post of UDC is Havildar Clerk and for LDA/LDC/ Typist is Naik Clerk as approved by the Govt of India vide MEA letter No F.14(7)-NEFA/56 dated 06 Sep 1961 (copy attached alongwith concerned appendix of standard Battalion PE).
5. There is no violation of the existing instructions issued by the Ministry on implementation of the scheme.
6. The combatisation of the posts, not covered under Ministry's letter No 27011/44/88-FP.I dated 19 Sep 89, may please also be approved as reflected at Appendix 1A to this Office letter No A/V-A/Comb-89/47 dated 16 Jul 92.
7. This has the approval of DGAR.

Yours faithfully,

DDGAR - Shoorf


(Surendra Shah)
Brig
Director (Adm)
for Director General Assam Rifles

DDGAR - Scan by DGAR on 14/8.

52

Ministry of Home Affairs

Background note for the meeting to be held in the room of SS(ISP) on 30.4.93 at 10 A.M.

Subject: Combatisation of ministerial and other civilian posts in para-military forces.

....

In September 1989, with the approval of IFD/ Ministry of Finance, a scheme for combatisation of Ministerial and other civilian posts was introduced in Assam Rifles, CRPF, BSF and IGP. The salient features of the scheme, were as follows:-

- a) The equivalence of the ranks and pay scales for the combatised posts was laid down. While doing so combatised Ministerial posts were equated with the ranks corresponding to their pay scales and where corresponding ranks did not tally, a lower rank was given. It was then thought that since after combatisation, the ministerial employees would become eligible for ration money, free uniform, rent free accommodation, washing allowance, etc. a marginally lower rank would do;
- b) On combatisation the incumbents of the posts opting for combatisation were to be governed by the Act and Rules of the respective force;
- c) All future appointments/recruitment against the vacancies in various categories of combatised posts were to be in a combatised posts as per recruitment rules.

2. The existing incumbents of the combatised posts were given the option to opt for combatisation within a period of three months. Those who did not opt for combatisation were to continue in the civilian posts until superannuation under the existing conditions of service which were to be deemed to continue as personal to them.

Contd...../2

3. Since the scheme was optional in respect of existing employees, its success depended entirely on the acceptability of the scheme among them. But this scheme received very poor response from the employees as indicated below:

CPO	No. of categories of posts	No. of incumbents in combatised	No. of incumbents in these posts who opted for combatisation
CRPF	27	1031	200
ITBP	10	182	1
CISF	7	78	-
BSF	39	Not available since the scheme was not circulated by BSF and Assam Rifles.	
Assam Rifles			

The main reason of poor response was that Ministry of Finance did not allow higher rank/pay scale to the civilian employees after their combatisation while these employees were hopeful of getting a higher pay scale/rank through combatisation.

4. In view of the poor response from the employees on the one hand and the reservations expressed by PMFs on the other, it was felt that the scheme should not be forced on the PMFs which were reluctant to implement the same. At the same time a thought was given to scrap the scheme.

5. Accordingly, all the PMFs were asked whether they would be agreeable to scrapping the scheme. After considering the views of the PMFs and their options available in this regard, it was felt that it would be desirable to scrap the scheme. Accordingly, the matter was referred to Integrated Finance Division who opined that before taking any decision in the matter, the views of Ministry of Law may be obtained. The Ministry of Law was, therefore, requested to advise whether scrapping of the scheme would have any legal implication. That Ministry expressed the view that the administrative ministry were empowered to change their policy of combatisation, but the rights/benefits already accrued to the employees concerned may not be taken away. The Ministry of Law further advised to give the optees in the CRPF, another option as to whether they would like to continue with their earlier option or to revert to their civilian posts held earlier.

6. The matter was further examined in the Ministry in consultation with the Integrated Finance Division. It was felt that continuation of the scheme in any other

Contd..../3

form or with modifications, apart from creating various administrative complications, would attract considerable financial liability. It was, therefore, proposed

- (i) To withdraw the circulars issued in respect of Assam Rifles and BSF as they did not circulate the same.
- (ii) To withdraw the circular issued in respect of CISF as no employees opted for combatisation.
- (iii) To withdraw the circular in respect of ITBP where the present situation is that only one person appointed to the combatised post has already given an undertaking that he would have no objection to the appointment to the corresponding civilian post in the event of scrapping of the Scheme.
- (iv) To withdraw the circular in respect of CRPF for future with the specific provision that the employees who had already opted for combatisation under this scheme would continue to be governed by the provisions of this circular in future also.

7. The matter was placed before MOS (IS) for favour of approval. MOS (IS) has observed that the objective of the scheme for having a Uniform Combatised force including its civilian employees has not been disputed and therefore rather than scrapping the scheme, endeavour should be made to make it more acceptable among the employees by incorporating attractive features.

8. It is proposed to discuss various aspects of the issue in the meeting to be held in the room of SS (ISP) on 30.4.93 at 10.30 A.M.

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ANNEXURE
TELE NO. PABX 230222/5550

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793011

A/V-A/combat-89

19 Aug 93

List 'A'
List 'B'
List 'C'
List 'E'
List 'F'

COMBATISATION OF MINISTERIAL AND OTHER CIVILIAN
POSTS IN THE ASSAM RIFLES HQRS. (HEADQUARTERS AND
UNITS).

1. Reference A/V-A/combat-89 dated 30 Sep 89.
2. The letter mentioned in para 1 may please be treated as cancelled. Provisions of the Govt of India, Ministry of Home Affairs letter No. 27011/44/88-FP.I dated 19 Sep 89 may please be intimated to all concerned and implemented forthwith if not already done.

Copy to :-

(Rakesh Sharma)
Lt Col
Assistant Director (A)

List 'D'

kc/-

- 56 DD (A)

ANNEXURE

16
VII 25

No. I-14022/1/2000-Estt.B/PF.III
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi-110 001.
Dated: 21.11.2000.

To

DG, BSF, CGO Complex, New Delhi.
DG, CRPF, CGO Complex, New Delhi.
DG, CISF, CGO Complex, New Delhi.
DG, ITBP, CGO Complex, New Delhi.
DG, Assam Rifles, Shillong, Meghalaya.

Subject: Combatisation of ministerial and other civilian posts.

Sir,

I am directed to refer to this Ministry's letter No. 27011/44/88-FP.I dated 19.9.1989 vide which the orders for combatisation of ministerial and other civilian posts in your organisation were issued. In para.1(c) of the said letter it was clearly stated that all future appointments/recruitment against the vacancies in the various categories of posts combatised by this sanction shall be in the combatised ranks as per the recruitment rules.

2. However, it has been noticed that the above instructions are not being strictly followed and some posts have been filled in the civilian stream after 1989. This has been viewed seriously in the Ministry.

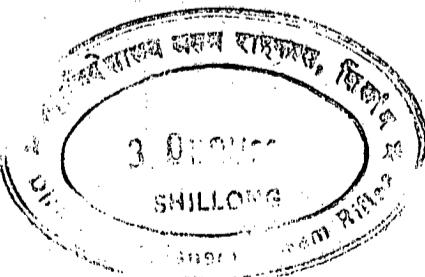
3. It is therefore, advised that in future, all the civilian posts falling vacant may be filled in as per the combatisation orders of 1989.

Yours faithfully,

Kalania
21.11.2000
(M.S. Kalania)
Under Secretary

Copy to:-

1. Director (Pers), MHA.
2. Director (PF), MHA.
3. PPS to HS.
4. PPS to JS(P).
5. Pers.I/II/III, MHA.
6. PF.I/II/III/IV, MHA.



ST
U6
ANNEXURE

VIII

A/1-A/277-86/04

30 Jun 92

AR

1. Please refer to your Demi Official letter No. 13011/11(ii)/92-Fin.II dated 03 Jun 92.

2. The matter regarding revision of the pay scale of the post of Assistant to B 1640-2900/- wef 1st January, 1986 has been verified and found that the aforesaid scale on the analogy of Assistants of CSS Cadre has not been granted to the post of Assistant of this Organisation. The Assistants of this Organisation are receiving the pay scale of B 1400-2300/- wef 1st January, 1986 as per revision of pay Rules 1986.

Shri G Ganesh
Joint Secretary & Financial Adviser (Home)
Govt of India
Ministry of Home Affairs
New Delhi

58

0315

By Raja

ANNEXURE X

No. 27012/9/98-PF. I/PF. V
 Government of India/Bharat Sanskar
 Ministry of Home Affairs/Grah Mantralaya

New Delhi, the 10th Aug 2000.

OFFICE MEMORANDUM

Sub:- Pay Scale for the post of Assistant in CPMFs

A proposal from Assam Rifles regarding upgradation of pay scale from Rs.1400-2300/- to Rs.1400-2600/- is under consideration of the Ministry. It is requested to send the following informations in respect of Assistant in your organisation urgently:-

- i) Pay scales as recommended by IIIrd Central Pay Commission, IVth CPC and Vth CPC.
- ii) Education qualification.
- iii) Recruitment Rules.
- iv) Whether Assistants are combatised or civilians.

Dev
 (10/8/2000)
 (Nirmala Dev)
 Desk Officer

To

1. DIG (Admin.), BSF.
2. DIG (Admin.), CRPF.
3. DIG (Admin.), ITBP.
4. DIG (Admin.), CISF.

*oc**3/10/2000*

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1. Fax to DB(A) for info.
2. Collect reqd info from CRPF/BSF/ITBP/CISF.

Raja

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Tele No : 705076

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ANNEXURE - 5
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Bharat Sharker
Govt of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Difectorate General Assam Rifles
Shillong - 793011

A/1-A/277/86/ 346

28 Aug 2000

Desk Officer
Govt of India
Ministry of Home Affairs
(PF.V)
New Delhi.

PAY SCALE FOR THE POST OF ASSISTANT IN CPMFS.

1. Ref MHA letter No. 27012/9/98-PF.I/PF.V dated 10 Aug 2000 addressed to BSF / CRPF / ITBP and CISF.

2. The required information in respect of Assistant of this organisation are as under :-

(a) Pay Scale

(i) IIIrd CPC - Rs 425-15-500-EB-15-560-20-700

(ii) IVth CPC - Rs 1400-40-1800-EB-50-2300

(iii) Vth CPC - Rs 4500-125-7000

(b) Educational Qualification is not applicable as the post of Assistant is promotional from the post of UDC working in DGAR.

(c) Copy of Recruitment Rules for the post Assistant is enclosed.

(d) Assistants in DGAR are civilians.

Yours Faithfully,


(RS Rawat)
Lieutenant Colonel
Assistant Director(A)
for Director General
Assam Rifles

NOO

Liaison Officer
Det Assam Rifles
Room No - 171
North Block
Ministry of Home Affairs
New Delhi.

- Letter addressed to MHA is also enclosed for handing over to the concerned section please.



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