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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. 74/02.....

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16. Counter Reply.....

SECTION OFFICER (Judl.)

24. Opening of CGHS facility at Silchar and recognition of private specialized hospital as referral hospital. It has been decided after discussion that the matter will have to be pursued with Ministry of Health and Family Welfare, Govt. of India either directly by SE, Meghna Circle, Silchar or through the staff association of N.E. Region.
25. Issue of Permanent Imprest to Site-in-charge W/C staff. Discussed at Item No.3.
- Divisional Secretary, WCEA, NEID-II, Aizawl**
26. Transfer policy/rotational transfer of W/C staff as regular establishment. Discussed at Item No.17.
27. DPC for promotion for all categories of W/C post. Discussed at Item No.8
28. Filling up of vacant posts of W/C under NEIC. It has been decided after discussion that the SE, NEIC should prepare a Roster and get it approved from CWC (HQ) and start the process of recruitment of Work charged staff (DR posts). Prior to it, issue of excess staff at any location it may be resolved.
29. Granting of Investigation Allowances to all Investigation Division/site. Discussed and it has been decided that if Govt. of India issue any Circular/guidelines for payment of such allowance, CWC shall follow it.
30. Regularization of W/C staff from their date of initial (Ad-hoc) appointment. Beyond the jurisdiction of RCM.
31. Deployment of staff as per present sanctioned strength and number of sites in the Division. It is already under practice.
32. Seniority List of all categories should be made in Planning Circle, CWC, Faridabad. Beyond the jurisdiction of RCM
33. The Grade Pay of Work Sarkar Gr.II should be same as Observer Gr.II. Beyond the jurisdiction of RCM.
34. Compassionate appointment still pending for (1) Late Mangat Singh Rai, Ex-Machine Operator (2) Late Parsuram Rai, Ex-Carpenter and (3) Late Ashitava Kar. Discussed and it has been decided that the compassionate appointment will be taken up as per existing rules and guidelines. However, in view of pending compassionate appointment, Circle(s) may review and action taken under intimation to this office.

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 74/2002
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant(s) J. C. Bhattacharyal

Respondent(s) H. O. I. G. Oms

Advocate for Applicant(s) Mr. J. L. Sarker
M. Chandra, Mrs. N. D. Goswami
S. N. Chakraborty

Advocate for Respondent(s) Case.

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

This is application in form
C. F. for Rs. 50/- deposited

7.3.02

Heard Mr. J.L.Sarker, learned
counsel for the applicant.

7.3.02

The application is admitted. Call
for the records.

Dated ... 2...3...24.02...

Pendency of this application shall
not create any bar on the Respondents to
consider the case of the applicant for
upgrading the pay.

List on 8.4.2002 for order.

Dy. Registrar

Member

Vice-Chairman

mb

8.4.2002

List on 10.5.2002 to enable the respon-
dents to file written statement.

Member

Vice-Chairman

bb

D/No 889/15891

Dtd 22/3/02

No. written statement
has been filed.

24/9.5.02

Steps taken
with every
money order

Notice prepared and sent
to SAs for issuing the
respondent No. 1.53
By Regd. A/D.

②

O.A. 74/2002

=====

No. written statement
has been filed.

20
7.6.02.

10.5.02 List on 10.6.2002 to enable
the Respondents to file written
statement.

IC Ushan
Member

Vice-Chairman

mb

No. written statement
has been filed.

20
5.7.02

10.6.02 List on 8.7.2002 to enable
the respondents to file written state-
ment.

IC Ushan
Member

Vice-Chairman

mb

No. W/S has been
filed.

20
5.8.02

8.7.02 Mr. A. Deb Roy, learned Sr. C.G.
S.C. appearing on behalf of the
respondents prays for ~~xxx~~ four weeks
time to file written statement.
Prayer is allowed. List again on
6.8.2002 for orders.

IC Ushan
Member

Vice-Chairman

mb

6.8.02 List on 3.9.2002 to enable the
Respondents to file written statement
as prayed by Mr. A. Deb Roy, learned Sr.
C.G.S.C. for the Respondents.

IC Ushan
Member

Vice-Chairman

mb

3.9.02 Written statement has been filed.
The case may now be listed for hearing
on 1.10.2002. The applicant may file
rejoinder, if any, within two weeks from
today.

IC Ushan
Member

Vice-Chairman

mb

2.9.2002
N/S submitted
by the Respondent.

26.9.02
Rejoinder submitted
by the applicant in reply
to W/S.

2/10
OA 74/2002

3

Notes of the Registry

Date

Order of the Tribunal

1/10/2002

Heard Mr. M. Chanda, learned
counsel for the appellant &
Mr. A. Reilly, Sr. C.G.S.C. for the
respondent.

Hearing concluded.

Judgment reserved.

Mho.
A. Reilly
01/10

28.10.2002

11.10.2002

Judgment pronounced in open court,
kept in separate sheets. The application
is dismissed in terms of the order. No
costs.

Member

Vice-Chairman

bb

Copy of the judgment
has been sent to the
office for issuing
the same to the
applicant as well as
to the Sr. C.G.S.C.
for the Respondent.

4

Notes of the Registry	Date	Order of the Tribunal
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6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No...74 of 2002..of

DATE OF DECISION. 11.10.2002.....

J.C.Bhattacharjee

APPLICANT(S)

Mr.J.L.Sarkar, Mr.M.Chanda, Mr.G.N.Chakraborty.

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Orgs.

RESPONDENT(S)

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

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 **K.K.SHARMA.**

K.K.Sharma

2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.74 of 2002.

Date of Order: This the 11th Day of October 2002.

MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

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

1. Shri J.C.Bhattacharjee
Head Assistant
2. Sri B.Dutta Purkayastha
Senior Accountant
3. Shri M.K.Chakraborty
Senior Accountant
4. Sri S.K.Dhar
Head Assistant
5. Sri Maden Lal Jabru
Senior Accountant
6. Sri Arun Chandra Chanda
Senior Accountant
7. Sri Pijush Kanti Sirkar
Senior Accountant
8. Shri Mohit Ranjan Chakraborty
Head Assistant
9. Sri J.K.Chakraborty
Senior Accountant.
10. Shri Nikhi Chandra Dutta
Head Assistant
11. Sri Jagmeswar Sarma Bordoloi
Senior Accountant.
12. Sri Subhendu Bhattacharjee
Head Assistant
13. Sri G.B.Damai
Head Assistant
14. Sri Dilip Chakraborty
Head Assistant
15. Sri Shasi Mohan Sharma
Senior Accountant
16. Sri Nareswar Das
Senior Accountant
17. Sri KN.Sreedharan Pillai
Head Assistant.

10/10/02

contd/-

18. Shri Niranjan Dey
Senior Accountant
19. Sri Nataraj Bhattacharjee
Head Assistant
20. Sri Dulal Chandra Dey
Head Assistant
21. Smti Hema Prava Changmi
Head Assistant
22. Sri P.N.Deb
Head Assistant.
23. Sri B.C.Bhattacharjee ... Applicants

(All the applicants are working in different in the capacity of Head Assistant/ Senior Accountant under the Director General of Assam Rifles, Shillong and posted at Ranges/Unit Officers/Field offices in North Eastern Region.)

By Advocate Mr.J.L.Sarkar, Mr.M.Chanda, Mr.G.N.Chakraborty

-Vs-

1. Union of India
Represented by the Secretary to the
Government of India
Ministry of Home Affairs, North Block,
New Delhi-110001.
2. The Director General,
Assam Rifles,
Shillong-793011
3. Joint Secretary(Police) to the
Government of India
Ministry of Home Affairs.
New Delhi-110001. Respondents.

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

O R D E R.

K.K.SHARMA, MEMBER(ADMN):

There are 23 applicants in this application.
They have been allowed to pursue their grievances by a
common application under the provision of Rule 4(5)(a) of
the Central Administrative Tribunal(Procedure) Rules
contd/-

10/11/84

1987.

2. The applicants have claimed parity of pay scales with their counter parts holding the posts of Naib Subedar Clerk and Subedar Clerk. The applicants are Civilian Employees in the capacity of Head Assistant/ Senior Accountant under the Director General of Assam Rifles working in Range Unit Offices/Field Offices in North Eastern Region. There are glaring disparities in the matter of pay scale of the applicants. Prior to 1973, the pay scale, staffing pattern, recruitment rules, promotion policy for the Civilian Ministerial staff of Assam Rifles, and of combatant and non-combatant were similar. It is stated that the post of Senior Accountant and Head Clerk on the non-combatant side carried similar functions and responsibilities like the Naib Subedar Clerk and Subedar Clerk on combatant side. The pay scales of Senior Accountant and Head Assistant as well as the Naib Subedar clerk and Subedar clerk under the 3rd, 4th and 5th Central Pay Commissions are as follows:-

Subedar(Clerk)(Combatant side)	Senior Accountant(Non combatant side)
3rd CPC Rs. 460 - 580	3rd CPC Rs. 550-800
4th CPC Rs. 1640-2900	4th CPC Rs. 1600-2660
5th CPC Rs. 5500 - 9000	5th CPC Rs. 5000 - 8000
Note: Again granted scale of Rs. 6500-10500 w.e.f. 1.10.1997	
Naib Subedar(clerk)	Head Clerk
3rd CPC Rs. 350 - 440	3rd CPC Rs. 425 - 700
4th CPC Rs. 1400 - 2300	4th CPC Rs. 1400-2300
5th CPC Rs. 4500-7000	5th CPC Rs. 4500-7000
Note: Again revised to Rs. 5500-9000 w.e.f. 1.10.1997.	
Naib Subedar Clerk	Head Clerk

Due to the revision of pay scale of Naib Subedar Clerk/ Subedar Clerk with effect from 7.11.97 they are given higher

pay scale than their counter parts on Civilian side. The Civilian employees are working under the same environment with equal duties and responsibilities as combatant staff. The higher scales given to Naib Subedar and Subedar have created disparity with their counterparts as Head Assistant and Senior Accountants. The Naib Subedar Clerk and Subedar Clerk in the combatant side who were similar in rank and status with the Head Assistant and Senior Accountant in the Civilian side are still discharging similar duties and responsibilities. The Naib Subedar, Subedar, Head Assistant and Senior Accountant have a common seniority list. Surprisingly the pay scale of Naib Subedar and Subedar have been up-graded which is discriminatory and violative of Article 14 of the Constitution. All the employees working in the same categories are performing duties in the same environment with the same advantages and disadvantages and are also entitled to the benefit of upgradation of pay scale which have been granted to their counter parts with effect from 7.11.1997. The applicants are also entitled to revised pay scale of Rs. 5500-9000/- for Head Assistants and pay scale of Rs. 6500-10500 for Senior Accountant. The post of Naib Subedar/Subedar were all along treated by the Government of India, Ministry of Home Affairs lower in the rank and status than the cadre of Head Assistant/Senior Accountant. It is stated that the applicants who are working in the non-combatant side have been ignored. Up to the 3rd Pay Commission the Director General of Assam Rifles maintained pay parity for both the posts of Head Assistant and Senior Accountant with the Naib Subedar Clerk and Subedar Subedar Clerk. As such there is no justification to deny the upgraded pay scale to the applicants. The Naib Subedar Clerk and Subedar Clerk are also being provided other allowances and facilities like

contd/-

free ration/Ration Allowance free clothing and leave allowances. These are also denied to the applicants. The D.G.A.R. took up the case of the applicants with the Ministry of Home Affairs for removal of the anomalies by making a reference to the Ministry of Home Affairs. The applicants also submitted representation which was considered by the Ministry of Home Affairs and finally rejected vide DGAR letter No.A/4A/277-86/Pt.218 dated 26.6.2001. There have been glaring disparity in the matter of grant of pay scales to the applicants which has resulted in discrimination and as such violative of Article 14 of the Constitution.

3. We have heard Mr.M.Chanda learned counsel appearing on behalf of the applicants. The Respondents have submitted their written statement and were represented by Mr.A.Deb Roy, Sr.C.G.S.C. In the written statement it is stated that the case is covered by the order of this Tribunal in O.A.No.321 of 2001 dated 19.8.2002 and O.A.No.472 of 2001.

4. Mr.M.Chanda learned counsel for the applicants submitted that the order in O.A.No.321 of 2001 is not applicable in this case on the ground that the present applicants were working in the Range/Unit alongwith the combatant personnel in border areas. ~~The~~ O.A. 321 of 2001 related to staff working in the headquarters of Assam Rifles.

5. We have given our anxious consideration to the submissions made by the learned counsel for the applicants and also perused of the records. We are not convinced by the submission made by Mr.M.Chanda, learned counsel that

16/6/2002
contd/-

the case of the applicants is not similar to the one considered in O.A.No.321 of 2001. In para 4.21 and para 5.4. of the O.A. the applicants submitted that their case is similar to the Assistants and Sr.Accountants in Headquarters. These two paras are reproduced below :-

"4.21 That it is stated that the post of Head Assistant is all along treated as equivalent to the cadre of Assistant in the DGAR Headquarter and the post of Senior Accountant all along being treated at par with the cadre of Superintendent of the Headquarter office DGAR."

"5.3. Again Head Assistant and Senior Accountant of the Range/Unit/Field officers are being all along treated at par with the posts of Assistants and Superintendent respectively with the Headquarter, DGAR Establishment. "

As the Head Assistants and Senior Accountant are discharging the same functions as their counter parts in the Headquarters, the findings given in O.A.No.321 of 2001 are applicable to the applicants also. In O.A.No.321 of 2001 the Assistants in Assam Rifles claimed parity of pay scale with their counter parts holding the similar posts as combatant. On consideration of the facts, rules, regulations and case law on the subject, we came into the decision that the claim of the applicants mentioned in O.A.No.321 of 2001 for pay parity with combatants was not acceptable. Following one finding in O.A.No.321 of 2001 the claim for pay parity is not accepted.

6. Regarding the claim for Free Ration/Ration Allowance it is seen that the claim has been made for the first time in this application. In the circumstances it would be unfair

contd/-

K. U. Sharma

on our part to give direction to the Respondents on the point. The applicants are directed to make a claim for this benefit before the Respondents.

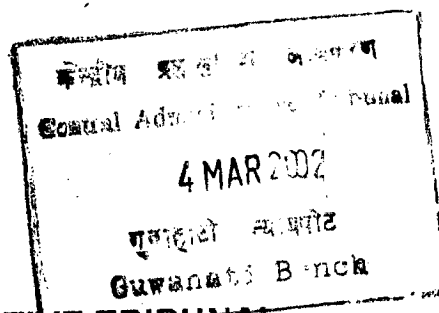
/ The application is according^U dismissed.
There shall however, no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWHDURY)
VICE-CHAIRMAN

LM

subject to



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 74/2002

Sri J.C. Bhattacharjee: Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Date

Advocate

Jagadish ch. Bhattacharjee

Filed by the applicant
Through advocate Sri
G. N. Chatterjee, Advocate

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

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

O.A. No. 74 /2002

BETWEEN

1. Sri J.C. Bhattacharjee
Head Assistant
2. Sri B. Dutta Purkayastha
Senior Accountant
3. Sri M.K.Chakraborty
Senior Accountant
4. Sri S.K.Dhar
Head Assistant
5. Sri Madan Lal Jabru
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Senior Accountant
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Jagadish ch. Bhattacharjee

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Head Assistant
22. Sri P.N. Deb
Head Assistant
23. Sri B.C. Bhattacharjee

Jagadish Ch. Bhattacharjee

(All the applicants are working in different in the capacity of Head Assistant/Senior Accountant under the Director General of Assam Rifles, Shillong and posted at Ranges/Unit Offices/Field offices in North Eastern Region).

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Home Affairs, North Block,
New Delhi-110001.
2. The Director General,
Assam Rifles,
Shillong-793011.
3. Joint Secretary (Police) to the
Government of India,
Ministry of Home Affairs,
New Delhi-110 001

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.
This application is made for parity of pay scales of the applicants(Head Assistant, Senior Accountant) with their counter parts namely Naib Subedar Clerland Subedar Clerk working in Ranges/Unit Offices/Field Offices and also against the impugned letter bearing No. A/1-A/277-86/Pt./218 dated 26.6.2001.
2. Jurisdiction of the Tribunal.
The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.
3. Limitation.

Jagadish Ch. Bhattacharjee

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The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

- 4.1 That the applicants are citizens of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicants are working as civilian employees in the capacity of Head Assistant/Senior Accountant under the Director General of Assam Rifles in Ranges/Unit Offices/Field Offices in North Eastern Region and wherever Units all moving.
- 4.3 That the cause of action of the applicants is same as they have common interest in the nature of relief prayed for in this application. The applicants therefore pray for permission of the Hon'ble Tribunal to move this application jointly in a single application under the provision of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.
- 4.4 - That the Assam Rifles is a Central Police Organisation under the Government 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.

Jagadish Ch. Bhattacharya

- 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 Organisation of Assam Rifles root 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 of combatant and non combatant 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 Staff of Assam Rifles under Central Govt. Pay structure was afoot. Accordingly, the entire civilian

Jagadish Ch. Bhattacharya

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, are combatant and non combatant. As a corollary, nomenclature of certain post in the Assam Rifles had to be changed to match with the nomenclature Comparable in the Central Service structure.

4.11 That on implementation of the report of the IIIrd IVth and Vth Central Pay Commissions scale of pay Subedar(Clerk), Senior Accountant Naib/Subedar (Clerk), Head Assistant, Havildar (Clerk) Warrant Officer=UDA were granted the following corresponding revised scale of pay. The details particulars of the scales of comparable grades are furnished below :

Subedar (Clerk) (Combatant Side)	Senior Accountant(Non Combatant side)
3rd CPC Rs. 460-580	3rd CPC Rs. 550-800
4th CPC Rs.1640-2900	4th CPC Rs.1600-2660
5th CPC Rs.5500-9000	5th CPC Rs.5000-8000
Note : Again granted scale of Rs. 6500-10500 w.e.f. 1.10.1997	-Nil-
Naib Subedar (Clk)	Head Assistant
3rd CPC Rs. 350-440	3rd CPC Rs. 425-700
4th CPC Rs.1400-2300	4th CPC Rs.1400-2300
5th CPC Rs.4500-7000	5th CPC Rs.4500-7000
Note : Again revised to Rs. 5500-9000 w.e.f. 1.10.1997	-Nil-
Havildar Clerk	U.D.A.

3rd CPC Rs. 245-325	3rd CPC Rs. 330-560
4th CPC Rs. 975-1660	4th CPC Rs. 1200-2040
5th CPC Rs. 4000-100-6000	5th CPC Rs. 4000-100-6000
Note : Havildar Clk Post is upgraded to the grade of Warrant Officer to bring the pay scale at par with UDA w.e.f. 10.10.97	
Naik Clerk	L.D.A.
3rd CPC Rs. 210-280	3rd CPC Rs. 260-366
4th CPC Rs. 950-1400	4th CPC Rs. 950-1500
5th CPC Rs. 3200-4900	5th CPC Rs. 3050-4590
Note : Post of Naik Clerk, is upgraded to the post of Havildar clerk w.e.f. 10.10.1997	

- (a) It is stated that (1) the Post of Hav (Clk) was upgraded to warrant officer (Clerk) Wef 10 Oct'97 to bring the pay scale at par with UDA.
- (b) Post of of Naik (Clk) was up-graded to Havildar (Clk) wef 10 Oct 97 in other words, the post of Naib was merged to Havildar (Clk) also with effect from 10 October 1997,
- (c) Approval letter of 4th Pay Commission - Min. of Fin. Deptt.

of

Exp order No. F.15(1)/IC/86 dated 22.9.81 and No. F.15(1)-IC/ 84 dated 13.9.96 forwarded vide DGAR letter No. A/1 A/299-86/dated 17.11.86.

It would further be evident from the following table that pay scales of Havildar/clk and LDA as well as Warrant Officer (CLK) and UDA were almost identical and there was no disparity after the implementation of the Ivth Central Pay Commission's report. Particulars of the scales are given below :

HAV/CLK	LDA
3200-85-4900	3050-75-3950-4590
WO (CLK)	UDA
4000-100-6000	4000-100-6000

Jagadish ch. Bhattacharya

But most surprisingly, when the incumbent holding the post of Warrant Officer (Clk) is promoted to the post of Naib/Sub (Clk), the post which is equivalent to the post of Head Assistant (in the civilian side) or when the incumbent holding the post of Subedar Clerk which is equivalent to the post of Senior Accountant disparity starts immediately thereafter. Due to recent revision of pay scale of Naib Subedar Clerk and Subedar Clerk by the Govt. of India, vide Home Ministry's letter dated ~~10.10.1997~~ ^{7.11.1997}. As a result of up gradation of pay scale of Naib Subedar and Subedar w.e.f. 10 October 1997 without considering the case of their counterpart such as Head Assistant and Senior Accountants and Upper Division Assistant. In the instant case we are concerned with the disparity of pay scale of Head Assistant, Senior Accountant, with their counterpart namely, Naib Subedar (Clerk) and Subedar (Clerk).

The above anomalies resulted due to non consideration of pay scales of the counterparts working in the civilian sides in Ranges/Unit Offices/Field Offices in the same environment with equal duties and responsibilities.

It is pertinent to mention here that the disparity in pay scale started in respect of the applicants with their counterparts after implementation of the Vth Central Pay Commission's report with effect from 1.1.1996 and more particularly due to fact that the pay scales of Naib Subedar and Subedar were up graded by the Govt. of India with effect from 10 October, 1997 vide letter bearing No. A/Pers/5th -Pay/97/21 dated 7.11.1997 and letter bearing No. A-Pers/5th CPC/Vol.-II /98 dated 24 August, 1998. After extending the benefit of the up graded pay scale to the Naib Subedar and Subedar the applicants in fact now working in a lower pay scale of Rs. ~~4500-7000~~ ^{4500-7000/-} (Head Assistant), Rs. 5000-8000 (Senior Accountant). Due to rationalisation of rank structure and pay scales with effect from 10 October, 1997 with other CPO, only Lans Nayak and Nayak have recently been merged with the rank of Havildar (Clerk) and Havildar (Clerk)

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redesignated as Warrant Officer and authorised to draw the pay scale of Rs. 3200-4900 and Rs. 4000-6000 respectively in addition to all other benefits as admissible in all trades in Assam Rifles but on the other hand, the civilian staff who are working in the post earlier carrying similar pay scale rank and status in the same insurgency environment neither given any kind of incentive nor given the benefit of up graded scale of pay with their counterparts in the combatant cadre.

The decision of the respondents in upgrading the pay scale only to the counterparts of the applicants who were in fact working in a much lower pay scale since III Central Pay Commission is highly discriminatory, arbitrary and unfair and as a result the applicants are meted with hostile discrimination.

4.12 That your applicants further beg to state that the higher revised pay scale were granted to the counterparts of the applicants who are working in the Combatant side by the Government of India, Director General of Assam Rifles, vide letter bearing No. A/Pers/Vth Pay/97/21 dated 7.11.1997. The relevant portion of the letter dated 7.11.1997 are quoted below :

"Sub : RATIONALISED RANK STRUCTURE AND PAY SCALES OF NON-GAZETTED CADRE OF ASSAM RIFLES.

1. Reference your Sig No. A 2499 dated 10 Oct 97 and letter No. A/Pers/5th-pay/97 dated 17 Oct 97.
2. Orders for implementation of rationalised rank/pay structure in respect of nongazetted cadre of Assam Rifles is given in succeeding paragraphs.
3. Nomenclature of Rank structure. Nomenclature of rank structure is varied from CPO to CPO. Existing rank structure of Assam Rifles will continue with rationalised pay scale as under w.e.f. 10 Oct 97.

a.	Rifleman	-	Rs. 3050-75-3750-80-4590
b.	Havildar	-	Rs. 3200-85-4500
c.	Nb/Sub	-	Rs. 5500-175-9000
d.	Subedar	-	Rs. 6500-200-10500

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- e. Subedar Major - 6500-200-10500 with appt pay of Rs. 200 p.m.
4. Merger of existing Lnks and Nks. The rank of Lnk and Naik pertaining to all categories in the Assam Rifles will be merged with the rank of Rifleman and Havildar respectively wef 10 Oct 97. The existing Lnk after merger with Rifleman is entitled to Rs. 30/- pm as Special Pay. Permission is accorded exclusively for Lnks to wear the rank of Lnk till their promotion to Havildar (Where ever applicable) Personnel already borne on the strength of Havildar are entitled for Rs. 50/- pm as appt pay till they are promoted to next higher rank.
- Nks merged/promoted on 10 Oct 97 and thereafter are not entitled for appointment pay.
5. Pay scale Applicable wef 10 Jan 96 to 09 Oct 97. For revision of pay scale under revised rule 1997 wef 01 Jan 96 to 09 Oct 97, the common pay scale given in part 'A' at First schedule of Ministry of Finance Notification dated 30 Sep 1997 forwarded vide this Directorate letter No. A/Pers/5th pay/97/11 dated 23 Oct 97, will be taken into account.
6. Pay scale of Tradesman and Followers. No rationalised pay scale has been given for tradesman and followers wef 10 Oct 97. The revised pay scale as per part 'A' at first schedule of Ministry of Finance Notification dated 30 Sep 97, fwd vide this Directorate letter No. A/Pers/5th-pay/97/11 dated 23 Oct 97 will be applicable for them. However, the tradesmen/followers after picking up the rank of Havildar and above will be entitled for rationalised pay scales wef 10 Oct 97.
7. Introduction of the Rank of Warrant Officer. Introduction of Warrant Officer rank equivalent to Asstt. Sub Inspector to entitled categories, like

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Clerks and other tech trades, is under active consideration by the Govt. Instructions for implementation of the same will be issued separately on receipt of Govt. orders on the subject.

8. All concerned are requested to implement the orders/instructions contained in para 3 to 6 above, immediately.
9. Please ack.

Sd/- Illelgible
(S.S.Patil)
AD(A)
For D.G.Assam Rifles."

It would be evident from above that the upgraded pay scale has been granted to the Rifleman, Havildar, Nb/Subedar, Subedar, and Subedar Major. The upgraded scale which were granted to the Warrant Officer, Naik Subedar, Subedar, Subedar Major vide letter No. a/Pers-5th CPC/Vo.-II/98 dated 24 Aug. 1998 also quoted below for perusal of the Hon'ble Tribunal.

REVISED PAY SCALES ASSAM RIFLES PERS

Ranks	Pre revised scale of pay	Pay scales applicable wef 10 Jan 96 to 09 Oct 97	Rationalised scale of pay wef 10 Oct 97	Remarks
Rifleman	Rs.825-1200 (Initial pay to be fixed at Rs. 855)	Rs.2750-4400	Rs.3050-4590	
Lnk	Rs.825-1200 Plus Special Pay of Rs. 15	Rs.2750-4400 with special pay of Rs. 15/- p.m.	Rank of Lnk merged with Rfn and granted Rs.30/- pm as spl.pay till promotion to Havildar	
Nk	Rs.950-1400	Rs.3050-4590	Rank of Nk merged with Hav.	
Hav	Rs. 975-1660	Rs.3200-4900	Rs.3200-4900 with appt pay of Rs.50/- for existing Hav (Rs.50 not applicable for Nk merged with Hav).	
Warrant Officer	-	Rs.4000-6000	Rs.4000-6000	
Nb Sub	Rs.1400-2300	Rs.4500-7000	Rs.5500-9000	
Subedar	Rs.1640-2900	Rs.5500-9000	Rs.6500-10500	
Sub Maj	Rs.2000-3200	Rs.6500-10500	Rs.6500-10500 Plus Rs. 200/- as appt pay	

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Therefore it is quite clear that the Naib Subedar(Clk) Subedar (Clk) in the combatant side who were similar in rank and status with the Head Assistant and Senior Accountant in the civilian side and still discharging similar duties and responsibilities and nature of job are also similar and interestingly all the categories namely, Naib Subedar, Subedar, Head Assistant and Senior accountant belong to common seniority list. But surprisingly the respondents have upgraded the pay scale of Naib Subedar and Subedar ignoring the cases of the applicants who are similarly circumstanced as such the same is highly discriminatory and the said decision is violative of Article 14 of the Constitution of India. More particularly in view of the fact that all the employees working in the aforesaid categories are performing duties in the same environment i.e. in the Ranges/Unit/ and Field Offices with the same advantages and disadvantages. As such, applicants are also entitled to the benefit of upgradation of pay scale which have been granted to their counter part with effect from 10.10.1997 vide letter dated 7.11.1997 and also vide letter dated 24.8.1998 by the Government of India, Director General of Assam Rifles, Shillong.

It is categorically submitted that since the applicants are discharging similar nature of duties and responsibilities as such, they are entitled to higher revised pay scale of Rs. 5500-175-9000 for Head Assistants and pay scale of Rs. 6500-200-10500 for Senior Accountant.

A copy of letter dated 7.11.97 and Extract of Appendix dated 24.8.98 are enclosed as **Annexure- 1&2** respectively.

- 4.13 That it is stated that a mere perusal of the comparative statement of pay scales given below, it would be evident that the post of Naib Subedar/Subedar were all along treated by the Government of India, Ministry of Home Affairs lower in the rank and status than the cadre of Head Assistant/Senior Accountant respectively. It is relevant to mention here that the pay scale of Naib Subedar and

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Subedar in the combatant side were placed in the lower pay scale in the combatant side than the post of Head Assistant and Senior Accountant by the Government of India, considering their nature of job, duties and responsibilities and status and rank, even before adoption of pay scale recommended by the 3rd CPC, by the Assam Rifles. A detailed statement of comparative pay scale right from the 3rd CPC for the post of Naib Subedar, Subedar, Head Assistant and Senior Accountant are furnished hereunder for perusal of the Hon'ble Tribunal.

Naib Subedar	Other allowances and facilities	Civilian counterpart
3rd CPC <u>350-15-440</u>	1. Free Ration/ ration Allowances 2. Free clothing 3. Leave Ration Allonances 4. Boot Polish and Soap Toilet 5. CILQ 6. 60 days Earned Leave	Nil Nil Nil Nil 30 days Earned Leave
4th CPC <u>1400-2300</u>		
5th CPC <u>4500-7000</u> Note : Again revised to Rs. 5500-9000 w.e.f. 10.10. 1997		
Head Assistant		
3rd CPC Rs. 425-700 ✓		Nil
4th CPC Rs. 1400-2300 ✓		Nil
5th CPC Rs. <u>4500-7000</u>		30 days earned leave
Subedar (Clerk) (Combatant Side) 3rd CPC Rs. 460-580		Allowances same as Naib Subedar

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4th CPC Rs.1640-2900		Allowances same as Naib Subedar
5th CPC Rs.5500-9000 Note : Again granted scale of Rs. 6500-10500 w.e.f. 1.10.1997		Allowances same as Naib Subedar
Senior Accountant(Non Combatant side)		Nil
3rd CPC Rs. 550-800		Nil
4th CPC Rs.1600-2660		Nil
5th CPC Rs.5000-8000		30 days earned leave

It is quite clear from the above comparative chart of pay scale that the post of Naib Subedar (Clk) and Subedar (Clk) were in fact much lower in the rank and status in the past, Government of India considering their nature of job, duties and responsibilities placed them in the lower pay scale than the incumbent holding the post of Head Assistant and Senior Accountants in the Field Offices.

It is categorically stated that the duties and responsibilities and nature of job of the incumbents, holding the post of Naib Subedar and Subedar never increased in any point of time rather till date they are shouldering the same duties and responsibilities as done in the past but the pay scale of the Naib Subedar (Clerk) and Subedar (Clerk) have been upgraded by the Government of India vide letter dated 7.11.1997 and also vide DGAR letter dated 24.8.1998 with effect from 10th October 1997.

It is relevant to mention here that in para 5 of the letter dated 7.11.1997 it is stated that the pay scale applicable to Naib Subedar and Subedar with effect from 1st January 1996 to 9th October 1997 as per pay scale given in part "A" at first schedule of Ministry of Finance Notification dated 30th September 1997.

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It is appeared from above that the Govt. of India, upgraded and granted higher pay scale to the counterparts of the applicant who are working in Combatant side ignoring the claims of the applicants as because they are working in the civilian but in the same ranges/Units /Field Offices in the same environment with the same advantages and disadvantages. In this connection it may also be stated that these applicants are always attached with combatant staff and they required to move always along with the troops but the claims of parity of the applicants have been deliberately ignored, as such the decision of the respondents only to upgrade the pay scale of Naib Subedar (Clk) and Subedar (Clk) is highly arbitrary, unfair, illegal and the same is violative of article 14 of the Constitution.

- 4.14 That the scale of combatant Ministerial staff although further revised with effect from October, 1997, in order to rationalise the rank structure and pay scale of CPDS vide Govt. of India, Ministry of Home Affairs letter No. 27012/1/97 PC Cell/PE.I dated 10.10.1997.

Sub Clerk - Rs.6500-10,500/-

Nb/Sub Clk - Rs. 5500-9000/-

- 4.15 That it would thus be seen that the civilian employees, like Head assistant, Senior accountant are now being placed in the lower scale although both the categories are performing identical work and placed similarly. There is, therefore, a clear discrimination and disparity in the matter of granting scale of pay to the applicants.

- 4.16 That from the facts enumerated in the preceding paragraphs it transpires that the applicants have been discriminated in the matter of pay scale vis a vis combatant staff of ranges/field offices/unit establishments, on the other hand when in both cases the applicants are similarly placed, moreover they are working in the same environment in the insurgency prone areas of field

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offices. As such they cannot be discriminated in the matter of pay and allowances.

- 4.17 That since the higher revised scale of Rs. 6500-10,500 and scale of Rs. 5500-9000 have been granted to the similarly situated counterparts of the applicants namely Subedar Clerk/Naib Subedar Clerk respectively when both the categories are performing the identical works and discharging similar duties and responsibilities as such denial of the similar higher revised pay scales to the applicants are violative of the Articles 14 and 16 of the Constitution.
- 4.18 That it would be worth mentioning in a similar context, the Principal Bench of the Central Administrative Tribunal, New Delhi, on 3.12.1999 in O.A. No. 572 of 1996, 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."
- 4.19 That since the Director General of Assam Rifles maintained pay parity right from 3rd C.P.C. for both the posts of Head Assistant and Senior Accountant (Civilian side) with that of Naib Subedar (Clk) and Subdear Clerk (Combatant Side). It is relevant to mention here that since parity maintained all along by the Government itself considering the duties and responsibilities there is no justification to deny the upgraded pay scale to the applicants at par with their counterparts working in combatant side in the same equivalent rank and when discharging equal work and responsibilities in the same field offices situated in insurgent prone areas, equality is the first principles of justice when a particular benefit is granted to a section of employees of the Govt. of India as such, the same cannot be denied to other similarly placed employees of the same department under

the same Government, it would otherwise violative of Article 14 and 16 of the Constitution of India.

- 4.20 It is relevant to mention here that the counterparts of the applicants namely Naib Subedar (Clk) and Subedar clerk are also being granted other allowances and facilities such as benefit of free ration/Ration Allowances, free clothing and leave allowances when the same is denied to the applicants who are similarly circumstanced and working in the same environment in the ranges/unit offices/ field offices and also in the same insurgency prone areas. It is pertinent to mention here that the civilian employees working in field areas in the department of SSB, Government of India under the same Home Ministry have also been granted free ration/ration allowances. As such the applicants, who are working in field offices ought to have been granted free ration/ration allowance/leave allowances as granted to Naib Subedar Clerk and Subedar Clerk. So far the entitlement of Ration Allowance/Free Ration to the civilian employees of SSB working in the field areas under the same Home Ministry came up for consideration before this Hon'ble Tribunal in a series of cases filed by the civilian employees of the SSB and this Hon'ble Bench after detail scrutiny of the entitlement was ^{pleased} ~~used~~ to declare that the Civilian employees also entitled to the benefit of Free Ration/Ration Allowances. Therefore Hon'ble Tribunal be pleased to declare that the present applicants are also entitled to the benefit of Free Ration/Ration Allowances and amount of Leave Allowances equal to the their counterparts. The relevant circulars relating to Ration Allowance and judgments of the Hon'ble Tribunal are enclosed for perusal of the Hon'ble Tribunal.

Copy of Memorandum dated 8.2.2001, Order dated 13.8.2001, granting ration allowances to the non executive personnel of SSB and judgment and order dated 14.6.1996 in O.A. 245 of 1995 are annexed as **Annexures-3 series.**

- 4.21 That it is stated that the post of Head Assistant is all along treated as equivalent to the cadre of Assistant in the DGAR

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Headquarter and the post of Senior Accountant all along being treated at par with the cadre of Superintendent of the Headquarter office DGAR.

It is relevant to mention here that the respondent No.2 vide letter No.A/I-A/277-86/492 dated 2.2.2001 has requested the respondent No.1 to ^{grant following scale} civilian employees of DGAR establishment.

- a) Group B officers Rs. 7450-11500
- b) Superintendent Rs. 6500-10500
- c) Assistants Rs. 5500-9000

If the above proposed revision of pay is accepted by the Government and if the same is extended to the applicants in that case the grievances of the applicants will be redressed.

But already a considerable long period of time have elapsed in this process and a final decision is yet to be taken by the respondents. That due to dily 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 a couple of month

- 4.22 That it is stated that the **charter of duties** in respect of Senior Accountant and Head assistant have been clearly spelt out in Assam Rifles in Routine order. A mere perusal of charger of duties as stated above it would be evident that the applicants are discharging similar duties and responsibilities in the Field Offices, since the functional capacities of the incumbents falls within the ambit the charter of duties and their performances are guided by the same set of rules, Nature of works, of both combatant and non-combatant are same.

So far **Conditions of service** are concerned for both combatant and non-combatant are same in the interest of public service. Whenever and wherever the applicants are ordered to go on transfer they require to comply with it and there is no option. So, service conditions are also similar with the counterparts of the applicants.

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So far **Retirement age** is concerned, retiring age on superannuation is 60 year for both combatant and non-combatant and both are guided by the same CCS Pension Rules, 1972. Retiring age in respect of combatant staff has been enhanced by the Headquarter, DGAR vide letter No. 1.31019/Policy/99/Adm-III dated 28.7.1999. ✓

So far **seniority** are concerned for the applicants and their counter parts, common seniority list are being maintained for the purpose of promotion.

So far **Educational Qualifications** are concerned in the entry grade for both combatant and non-combatant in the clerical job are also same.

As per Rule, the post of Senior Accountant and Head Assistant can be filled up either by combatant or by a non combatant staff according to the seniority. Any one can be promoted to the aforesaid posts and as such both and non combatants can held the same post and the rank and status in the aforesaid cadre both in the combatant side and non combatant are same.

So far **Head of department and Head of Office** are concerned for both combatant and noncombatant staff are working under the same Head of department or Head of Offices. Therefore Government servants so far their loyalty is concerned both can be ranked equal in the same platform.

So far **Ministry** is concerned, Assam Rifles is under the Ministry of Home Affairs and is governed by the same set of Rules as is applicable to CPOs, so both combatant and non combatant are the employees of the same organisation and working in the same table and circumstances.

So far **Working Hours/Casual Leave** are concerned, 15 days casual leave is applicable for both the combatant and non combatant as there is no fixed office timings. In this regard copy of Headquarter DGAR Signal No. A 2488 dated 8.6.1999 is enclosed for perusal of the Hon'ble Tribunal.

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So far punishment is concerned combatant and non-combatant are guided under CCS (CCA) Rules, but while unit are placing under Army for operational purpose, combatant person are dealt with Army Rule whereas non-combatants are dealt with under CCS (CCA) Rules in the same operational environment.

So far equation of **Status and Rank** of both combatant and non-combatant are concerned and as per approved PE is as under :

Lower Division Assistant =	Havilder Clerk
Upper Division Assistant =	Warrant Officer
Head Assistant	= Naib Subedar Clerk
Senior Accountant	= Subedar Clerk

So other **Relevant Aspects** are concerned, besides above, it is further mentioned that personnel of different categories/Trades are being enrolled in Assam Rifles viz. Signal, Radio Mechanic, Medical, Clerks, General Duty, Washer man etc. and candidates for each trade are required to fulfill specific requirement policy letter No. I.12016/11/2001Adm-11/06 dated 28.1.2001 is enclosed for perusal of the Hon'ble Tribunal. Similarly, their duties are also clearly spelt out in Assam Rifles Routine Order and other Departmental Rule. Obviously, clerks are also having their specific charter of duties and they are never sent on ROP (Road Opening Petrol), Petrolling, Sentry Duty Quarter Guard duty, Daily Duty JCO, Guard Duty, etc. It is stated that they are never detailed for the duties other than clerical duties. For this reason, if the record of Gallantry Award Recipients of Assam Rifles is consulted, nowhere the name of a clerk will be found since raising of this organisation. Of course for clerical duties, irrespective of combatant and non combatant, they are being sent to company/posts wherever their services are felt necessary. Moreover, even beyond normal office hours, whenever the services of any staff, irrespective of combatant and non combatant, is required by the authority and is called for, he is liable to turn up and do so.

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So far **Pay Anomalies** are concerned, (1) pay scale of Havilder(Clerk) and LDA as well as Warrant Officer (Clerk) and UDA are identical and there is apparently no such disparity. The scales are furnished below :

Havilder Clerk	LDA
Rs. 3200-85-4900/-	Rs. 3050-75-3950-
4590	

Warrant Clerk	UDA
Rs. 4000-100-6000	Rs. 4000-100-6000

(2) But as soon as Warrant Officer (Clerk) is promoted to Naib Subedar (Clk) equivalent to the post of Head Assistant or Subedar Clerk equivalent to the post of Senior Accountant disparity starts immediately thereafter. The scales are furnished below :

Nb/Sub(Clk)	Head Assistant
Rs. 5500-175-9000	4500-124-7000
Sub(Clk)	Senior Accountant
Rs. 6500-200-10,500	5000-8000

It is relevant to mention here that in the preceding paragraph the details of approved relevant pay scales of 3rd CPC, 4th CPC and 5th CPC in respect of above categories both combatant and non combatant including other allowances has already indicated therein.

In the instant case, applicants are concerned herewith the disparity of pay scales now resulted in the equivalent grade of Naib Subedar Clerk, Subedar Clerk with Head Assistant and Senior Accountant respectively due to up gradation of scale of pay only to the combatant side by the respondents, ignoring and without considering the cases for said up gradation of pay scales to the applicants who are working in the post of Head Assistant and Senior Accountant in the non-combatant side. Therefore decision of the respondents in upgrading the pay scales only to the cadre of Naib Subedar Clerk, Subedar clerk vide impugned orders dated 7.11.1997 and 24.8.1998 and denial of the said benefit of up gradation of pay scales to the applicants are highly

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discriminatory, illegal, unfair and arbitrary and the same is violative of Article 14 and 16 of the Constitution of India.

Copy of the charter of duties of Ministerial staff, enhancement of retirement age of Assam Rifles JCOs vide letter dated 28.7.1999, gradation list published under letter dated 19.3.2001 in respect of A.O./J.O/Sub(Clk)/SA and Naib Subedar(Clk) and Head Assistant, casual leave entitlement both for combatant and non combatant, letter dated 28.6.2001 pertaining to recruitment selection board of Assam Rifles personnel are enclosed as **Annexure-4 Series.**

- 4.23 That it is stated that, considering the facts stated above the Head of the Department i.e. DGAR, also realised the monetary loss which is being suffered by the applicants took up a case with the Ministry of Home Affairs for removal of the said paid anomalies vide Headquarter DGAR letter No. A/AII/5-CPC/APS/98/1 dated 19.6.1998. In the meanwhile Assam Rifles Civilian Employees Association, Headquarter, DGAR, Shillong also raised various demands including the demand of pay parity between the combatant and non-combatant employees of DGAR, Assam Rifles. It is also relevant to mention here that the applicants also repeatedly approached the competent authority though they are not the members of the aforesaid association and submitted representations for extending the said benefit of up gradation of pay scale with their counterparts working in the combatant side. As for example applicant while working as UDA also submitted representation on 16.11.2000 addressed to the Deputy Director(A), office of the DGAR, Shillong praying inter alia for pay parity with his counterpart. In the said representation it was also brought to the notice of the authority that Head Assistant and Senior Accountant are getting lesser pay than the counterpart working in the combatant side namely, Naib Subedar (Clk) and Subedar (clk). However, the said representation was turned down on the plea that the same was submitted directly ignoring the

appropriate channel of correspondence as mentioned in the communication dated 24.11.2000 issued by the DGAR, Shillong. However, the entire matter of pay parity is once again considered by the Ministry of Home Affairs, DGAR Shillong and the claim of the applicants appears to have been rejected finally vide DGAR, Shillong letter bearing No. A/4A/277-86/Pt/218 dated 26.6.2001 without application of mind, and that too by a nonspeaking order. No reason is assigned while rejecting the proposal for grant of pay parity with the Ministry of Home Affairs that Civilian staff should be granted similar pay with their equivalent counterpart in the combatised cadre. It is further stated that the Ministry of Home Affairs has not agreed to the aforesaid proposal, to allow the same pay scale to civilian posts which are given to equivalent ranks in combatised posts. It appears from a mere reading of the impugned letter dated 26.6.2001 that the Ministry of Home Affairs also admitted the fact that counterparts of the applicants who are working in the equivalent ranks in the combatised posts has been granted higher revised pay scale but the proposal of the DGAR for extending the said benefit to the non-combatant staff has been arbitrarily rejected. As such paragraph 4 of the impugned letter dated 26.6.2001 is liable to be set aside and quashed and the Hon'ble Court be pleased to direct the respondents to extend the benefit of the higher revised scale of Rs. 5500-9000 and Rs. 6500-10500 to the applicants i.e in the cadre of Head Assistant and Senior Accountant respectively in the non-combatant side in the light of the order dated 7.11.1997 and 24.8.1998 after necessary modification of the aforesaid orders.

A copy of the letter dated 19.6.98 and impugned letter dated 26.6.2001 is annexed herewith as **Annexure-5 and 6 respectively.**

- 4.24 That your applicants beg to state that due to non-payment of appropriate pay scale to the applicants as stated above, the applicants are suffering irreparable recurring financial loss in each and every month, particularly when their counterparts are receiving the benefits of higher revised pay scale in each and

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every month, therefore cause of action arises in each and every month till the disparity is removed.

4.25 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For 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 For that the scale of pay of the applicants and their counterpart in combatant post under the Respondents were almost same up to the implementation of 4th 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 civilian and equivalent combatant posts after grant of scales following 5th CPC as both are performing the same job.

5.3 For that the Respondent No.1 has equated the civil posts vis-a-vis the combatant posts in HQ DGAR as under based on nature of duty, scale of pay etc vide letter No. 1.27011/44/88-FP.I dated 19 Sept.89.

Civil Posts	Combatant Posts
Superintendent	Subedar
Steno Grade I	Subedar
Steno Grade II	Naib Subedar
Assistant	Naib Subedar
Nazir	Naib Subedar
Overseer	Naib Subedar

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Hindi Translator Grade II	Naib Subedar
Lower Division clerk-cum-Typist	Havildar Clerk

Again Head Assistant and Senior Accountant of the Range/Unit/Field Offices are being all along treated at par with the posts of Assistant and Superintendent respectively with the Headquarter, DGAR establishment.

- 5.4 For that the incumbents/appliants holding the post of Naib Subedar Clerk and Subedar Clerk are discharging the similar duties and responsibilities and performing the same Job in the same Range/Unit/Field offices and also in the same insurgency prone environment.
- 5.5 For that the post of Naib Subedar Clerk and Subedar Clerk were placed rather in a lower scale of pay in comparison to the post of Head Assistant and Senior Accountant prior to implementation of 3rd Central Pay Commission Report by the Government of India, Ministry of Home Affairs. Therefore the rank and status of the post of Naib Subedar Clerk and Subedar Clerk are in fact lower than the post of Head Assistant and Senior Accountant of Assam Rifles in the Range/Unit/Field Offices. As such, denial of upgraded scale only to the applicants when the same was granted to the so called counterparts namely, Naib Subedar Clerk, Subedar Clerk vide letter dated 7.11.97 and 24.8.1998 areighly arbitrary, unfair, illegal and the same is violative of Article of 14 of the Constitution of India.
- 5.6 For that the Naib Subedar/Subedar now drawing higher pay than Head Assistant and Senior Accountant entails higher responsibility under same working condition under the same respondents in the same Directorate of Director General, Assam Rifles.
- 5.7 For that the incumbents holding the post of Naib Subedar(Clerks)/Subedar(Clerks) in the combatant side has been granted high revised scale of pay of Rs. 5500-9000 and

Jagadish ch. Bhattacharya

Rs. 6500-10500 respectively vide letter dated 7.11.97 and 24.8.98 whereas the same is arbitrarily denied to the present applicants without assigning any valid reason vide impugned letter dated 26.6.2001.

- 5.8 For that the proposal of the DGAR for granting equivalent pay to the civilian counterpart working in the same Range/Unit /Field Offices has been mechanically rejected by the Ministry of Home Affairs by a non-speaking order.
- 5.9 For that this Hon'ble Bench, while deciding a similar case of discrimination in the matter of grant of pay scale on 25.2.2000 in R.A. No. 15 of 1998 had relied upon the principle outlined in the Apex Court decisions especially in Ranadhir Singh Vs. Union of India and Others (1982-15 CC-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 Court, 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 Respondents No.2, under whom the applicants are working, has accepted that both the civilian and combatant posts are in Range/Unit/Field Offices of the Directorate General, Assam Rifles are similarly placed, performing same job and responsibilities, therefore major anomalies have occurred. It may be mentioned here that the Respondent No.2 is the best judge to evaluate the position with regard to similarity or dis-similarity of duties, responsibilities, workload etc., of employees working under him.
- 5.10 For that the Respondent No.2 in its latest communication as appeared from the impugned order dated 26.6.2001 submitted a detail proposal for grant of equivalent pay scale to the

applicants with their counterparts working in the combatant side in the Range/Unit/Field offices has again emphasized the need to remove the anomaly in the grant of pay scale to the applicants and recommended the analogous scales which the applicant have been praying for ever since the anomaly surfaced and therefore following the principles laid down by the Apex Court the applicants should not be denied the analogous pay scales of their counterparts.

6. Details of remedies exhausted.

That the applicant states that they have no other alternative and other efficacious remedy than to file this application. The applicants represented the matter before the competent authority but the same has been rejected by the Respondents.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he 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.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

Jagadish Ch: Bhattacharya

8.1 That the scale of pay as under for the civil posts in HQ DGAR may be granted to bring ^{the applicants} ~~them~~ at par with their counterparts namely, Naib Subedar (Clerk) and Subedar (Clerk) with effect from 10.10.1997.

(i) Head Assistant - Rs. 5500-175-9000

(ii) Senior Accountant - Rs. 6500-200-10500

8.2 To direct the respondents to grant similar facilities and allowances including Ration Allowances/Free Ration to the applicants as granted to their counterparts namely, Naib Subedar Clerk, Subedar Clerk/Subedar.

8.3 Costs of the application.

8.4. Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief :-

9.1 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 the applicants in this application and the applicants further pray for expeditious disposal of this application.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No.

: 76 547761

ii) Date of issue

2-3-2002

Jagadish Ch. Bhattacharya

iii) Issued from : G.P.O., Guwahati.

iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

VERIFICATION

I, Shri J.C. Bhattacharjee S/o ^{Late Jyotindra K. Bhattacharjee} ~~Shri~~, aged about 51 years, working as Head Assistant, Office of the Director General of Assam Rifles, Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice as I have duly authorised by the other applicants to sign this verification on behalf of them and I have not suppressed any material fact.

And I sign this verification on this the 4th day of March ~~February~~, 2002.

Jagdish K. Bhattacharjee
SIGNATURE

Annexure-1

Tele No. PABX 230222
Extn 5551

BHARAT Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahavidyalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793001

No. A/Pers/5th Pay/97-21

07 Nov 97

List "A"
List "B"
List "C"
List "D"
List "E"
List "F"

"Sub : RATIONALISED RANK STRUCTURE AND PAY SCALES OF NON-GAZETTED CADRE OF ASSAM RIFLES.

1. Reference your Sig No. A 2499 dated 10 Oct 97 and letter No. A/Pers/5th-pay/97 dated 17 Oct 97.
2. Orders for implementation of rationalised rank/pay structure in respect of non-gazetted cadre of Assam Rifles is given in succeeding paragraphs.
3. Nomenclature of Rank structure. Nomenclature of rank structure is varied from CPO to CPO. Existing rank structure of Assam Rifles will continue with rationalised pay scale as under w.e.f. 10 Oct 97.

a. Rifleman	-	Rs. 3050-75-3750-80-4590
b. Havildar	-	Rs. 3200-85-4500
c. Nb/Sub	-	Rs. 5500-175-9000
d. Subedar	-	Rs. 6500-200-10500
e. Subedar Major	-	6500-200-10500 with appt pay of Rs. 200 p.m.
4. Merger of existing Lnks and Nks. The rank of Lnk and Naik pertaining to all categories in the Assam Rifles will be merged with the rank of Rifleman and Havildar respectively wef 10 Oct 97. The existing Lnk after merger with Rifleman is entitled to Rs. 30/- pm as Special Pay. Permission is accorded exclusively for Lnks to wear the rank of Lnk till their promotion to Havildar (Where ever applicable) Personnel already borne on the strength of Havildar are entitled for Rs. 50/- pm as appt pay till they are promoted to next higher rank.

Attested
for
Advocate
18

Jaya Lish ch: Bhattacharjee

- Nks merged/promoted on 10 Oct 97 and thereafter are not entitled for appointment pay.
5. Pay scale Applicable wef 10 Jan 96 to 09 Oct 97. For revision of pay scale under revised rule 1997 wef 01 Jan 96 to 09 Oct 97, the common pay scale given in part 'A' at First schedule of Ministry of Finance Notification dated 30 Sep 1997 forwarded vide this Directorate letter No. A/Pers/5th pay/97/11 dated 23 Oct 97, will be taken into account.
 6. Pay scale of Tradesman and Followers No rationalised pay scale has been given for tradesman and followers wef 10 Oct 97. The revised pay scale as per part 'A' at first schedule of Ministry of Finance Notification dated 30 Sep 97, fwd vide this Directorate letter No. A/Pers/5th-pay/97/11 dated 23 Oct 97 will be applicable for them. However, the tradesmen/followers after picking up the rank of Havildar and above will be entitled for rationalised pay scales wef 10 Oct 97.
 7. Introduction of the Rank of Warrant Officer. Introduction of Warrant Officer rank equivalent to Asstt. Sub Inspector to entitled categories, like Clerks and other tech trades, is under active consideration by the Govt. Instructions for implementation of the same will be issued separately on receipt of Govt. orders on the subject.
 8. All concerned are requested to implement the orders/instructions contained in para 3 to 6 above, immediately.
 9. Please ack.

Sd/- Illelgible
(S.S.Patil)
AD(A)
For D.G.Assam Rifles.

Copy to

1. List G - for information please
2. DGAR (A-II Ministerial Sec) - You are requested to take necy action in respect of centrally controlled categories.
3. DGAR (Rec-Co Ord) - -do-
4. DGAP(GS Branch) -for necessary action please.

*Attested
Signature
Advocate*

Jagadish Ch: Bhattacharya

-33-

Apox
(Ref para 3 of DGAR letter No. A/Pers/
5th CPC/Vol-II/98/ dt. 24 Aug 98)

REVISED PAY SCALES ASSAM RIFLES PERS

Ranks	Pre-revised scale of pay	Pay scales applicable wef 01 Jan 96 to 09 Oct 97	Nationalised scale of pay wef 10 Oct 97	Remarks
Rifleman	Rs. 825-15-900-EB-20-1200/- (Initial pay to be fixed at Rs. 355/-)	Rs. 2750-70-3800-75-4400/-	Rs. 3050-75-3950-80-4590/-	
Lnk	Rs. 825-15-900-EB-20-1200/- Plus special pay of Rs. 15/- pm.	Rs. 2750-70-3800-75-4400/- with special pay of Rs. 15/- pm.		Rank of Lnk merged with Rfn and granted Rs. 30/- pm as spl. pay till pro- motion to Havildar.
Nk	Rs. 950-20-1150-EB-25-1400/-	Rs. 3050-75-3950-80-4590/-		Rank of Nk merged with Hav.
Hav	Rs. 975-25-1150-EB-30-1660/-	Rs. 3200-85-4900/-		Rs. 3200-85-4900/- with appt pay of Rs. 50/- for existing Hav (Rs. 50/- not applicable for Nk merged with Hav).
Warrant Officer	-	Rs. 4000-100-6000/-		Rs. 4000-100-6000/-
Nb Sub	Rs. 1400-40-1800-EB-50-2300/-	Rs. 4500-125-7000/-		Rs. 5500-175-9000/-
Subedar	Rs. 1540-50-2600-EB-75-2900/-	Rs. 5500-175-9000/-		Rs. 6500-200-10500/-
Sub Maj	Rs. 2000-60-2300-EB-75-3200/-	Rs. 6500-200-10500/-		Rs. 6500-200-10500/- Plus Rs. 200/- as appt pay.

Pls look
for
approval

47

-34-

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR, SSB
EAST BLOCK - V, R.K. PURAM
NEW DELHI - 110066.

DATED THE, 08/02/2001

MEMORANDUM

Subject:- Grant of Ration Money allowance to the Non-Executive personnel including ministerial personnel of SSB.

Cabinet Secretariat vide their order No.A-49011/2/2000-DO-I (Vol.II)-99 dated 30/01/2001 have sanctioned Ration Money Allowance to the non-executive personnel including ministerial personnel of SSB posted to category 'B' and 'C' stations. A copy of the Cabinet Secretariat order dated 30/01/2001 refer to above is enclosed.

2. All non-executive personnel including ministerial personnel holding non-gazetted posts and posted to category 'B' and 'C' stations declared vide this Directorate order No.30/SSB/A-2/97(17) dated 01/11/2000 are entitled to draw ration allowance w.e.f. 30/01/2001.

Encls: As above.

(S.S. BORA)
JOINT DEPUTY DIRECTOR (EA)

To

1. D.O. : HP/UP/J&K/R&G/SB/ND/AP/NA/Shillong/M&N Division.
2. DisG : FA Gwaldam/TC Sarahan/Haflong/Jammu/Salonibari/Kumargain.
3. Commandant, CSD 'W' Bhopal/TC Faridabad.
4. Accounts Officer, SSB.
5. AI/A4/E1/E2 branches.
6. Order File.

OFFICE OF THE DIVISIONAL ORGANISER: SSB: A.P. DIVN., ITANAGAR
No. NGE/F-9(C)/96-2001/35

Copy to:-

1. The AOs: SSB: Bomdila/Ziro/Along/- for information and necessary action please.
2. The Comdts: SSB: GC: Dirang/Basar/Tezu -do-
3. The Comdt., WATS, SSB, Itanagar. -do-
4. The Accounts Officer, Div. HQ, A.P. Itanagar -do-

SECTION OFFICER
DIV. HQ: SSB: ITANAGAR

Attested
Jen
Advocate

No.A.49011/2/2000-DO-I(Vol.II).

Government of India
Cabinet Secretariat
Bikaner House AnnexureShahjahan Road
New Delhi, theORDER

[30/01/2001]

Sanction of the President is hereby accorded to the extension of the Ration Money Allowance at the specified rates to the non-executive personnel, including the Ministerial personnel of Special Service Bureau, Aviation Research Centre (Directorate General of Security) posted at 'B' & 'C' Stations on par with the position prevailing in R&AW and in terms of para 2(ii) of the Ministry of Finance OM No.50(4)/97-IC dated 11/01/2000.

2. Special Service Bureau/Aviation Research Centre is requested to comply with the above orders of the Government. The Ration Allowance will consequently be admissible only prospectively based on the review undertaken for the purpose. The revised orders relating to the classification of stations should also be issued simultaneously along with the orders relating to the Ration Allowance.

3. No additional Budgetary provisions will be agreed to on account of liberalization.

4. This issues with the approval of Ministry of Finance (Department of Expenditure) vide their UO No 50(4)/97-IC dated 30/01/2001.

(Mukul Chatterjee)
Deputy Secretary to the Government of India

Copy to:-

1. Director, SSB.

2. Director, ARC. [ARC may critically review the justification and necessity for the continued categorization of the stations as 'B' & 'C' as has already been done by R&AW/SSB in consultation to this Secretariat.]

3. Director of Accounts, Cabinet Secretariat.

4. Director(F/S).

5. US(SR)

6. SO/EA-II.

7. Guard file.

Plotted
Jen
Adro cati

CENTRAL ADMINISTRATIVE TRIBUNAL, GUAN TI MENCH
Original Application No. 245 of 1995.

Date of order : This the 14th Day of June, 1996.

Hon'ble Shri G.L. Sanglyino, Member (A)
Hon'ble Shri D.C. Verma, Member (J)

1. Sri Bishnu Prasad Salkia
Military Inspector,
Aviation Research Centre,
Doomdooma.

2. Sri Nipak Handi,
Radio Mistri,
ARC, Doomdooma.

... Applicants.

By Advocate S/Shri G.K. Bhattacharyya
with G.N. Das.

-versus-

1. Union of India
represented by Cabinet Secretary,
Department Cabinet Affairs,
New Delhi.
2. Directorate General of Security Block
V (East), R.K. Puram,
New Delhi - 110066.
3. Director, Aviation Research Centre,
Block-V (East), R.K. Puram,
New Delhi.
4. Deputy Director,
Aviation Research Centre,
Doomdooma.

... Respondents.

By Advocate Shri S. Ali, Sr. C.G.S.C.

ORDER

G.L. SANGLYINO, MEMBER (A)

The applicants are employees of the Aviation
Research Centre, Doomdooma (ARC for short). Applicant

contd...

*Attested
Secy
Advocate*

2.

No.1 is a Sanitary Inspector a post which is equivalent to Deputy Field Officer and is below Field Officer. The applicant No. 2 is a Radio Mistri. The post of Mistri falls under the category of Senior Field Assistant. This is also below Field Officer. The competent authority of ARC has classified Duma as a category B station with effect from 22.2.94.

2. Annexure -IV to this O.A., namely No.A.27011/4/86-BA-IE (A) dated 6.12.1987 conveyed the sanction of the president to the grant of additional concessions mentioned in the Annexure thereto to the various categories of the staff of ARC except those on deputation from the Indian Air Force. According to the Annexure Ration Allowance at the rate admissible in the BSR in peace areas is admissible upto the rank of P.O. and below in category B areas of ARC. The applicant had requested the authorities concerned to allow them the Ration Allowance but this was declined by the authorities. Hence this Original Application under Section 19 of Administrative Tribunals Act, 1985.

3. Mr. G.K. Bhattacharyya, learned counsel for the applicants submitted that the applicants are entitled to the Ration Allowance with effect from 22.2.1994. This allowance was denied to them because of wrong interpretation of the order dated 6.12.1987 by which payment of the allowance was sanctioned. Relying on the written statement Mr. S. Ali, Sr. C.G.S.C., submitted that the applicants have made the claim on a wrong notion that government had equated various non-executive posts with different executive cadres for all concessions. The fact however remains that the

contd...

Attested
Learned
Advocate

3.

Equation of posts vide order No.A-11016/6/86 -DOI dated 23.10.1986 (Annexure-III) is for the purpose of House Rent allowance only. Further, the concession of Ration Allowance has been extended to the employees of junior executive cadre only upto the rank of field officer on the analogy of the Junior Executive staff, of R & AW and the applicants who do not fall in this category cannot get the benefit of Ration Allowance. Mr. O.K.Bhattacharyya submitted that this ground taken by the respondents is not tenable as in the case of intelligence Bureau the Ration Allowance was allowed to the non-executive staff also and when the allowance was stopped to be paid applications were submitted before the central Administrative Tribunal and the payment Ration Allowance was restored. In this connection he has referred to the orders in the O.A. of 163 of 1991 and No.199/91 of this bench.

4. We have perused the records and heard the counsel of the parties in this O.A. Letter No.A-49011/8/86-DO .1 (B) dated 10.5.1986 shows that the president is pleased to sanction 8 (eight) concessions to the various categories of staff of ARC. one of the concessions is House Rent allowance and it has been stated that House Rent Allowance admissible to the Executive Cadre will be admissible to the personnel of other cadres also of corresponding levels. Consequently equation of posts was ordered by the order No.A-11016/6/86-DOI dated 23.10.1986 exclusively for the purpose of payment of House Rent Allowance. Under this order the applicants were entitled to draw House rent allowance. Under letter No.A-27011/4/86-BA-11(A) dated 6.12.1987 Additional concessions were

contd...

*Placed
in
Advo cell*

4.

granted and one of them was Ration Allowance to the various categories of the staff of ARC. The claim of the respondents is that since there is no equation of posts in respect of Ration Allowance this allowance cannot be granted to the applicants who are non-executive staff. We are not impressed by such stand of the respondents. Until in the case of granting House Rent Allowance for the purpose of granting Ration Allowance such equation of posts is not required by the authorising letters. This position is clear from the following :-

Sl. No.	Nature of the concession	Extent of (granted) the concession	Remarks
1	2	3	4

(A) Ration Allowance

Ration allowance upto the rank of F.O. and below at the following rates :-

Location

Rates

(1) Category B stations .

As admissible from time to time in the Border Security Force in peace areas .

(B) House Rent Allowance.

House Rent Allowance facilities admissible to the Executive cadre will be admissible to the personnel of other cadres also of corresponding levels .

Separate orders will be issued about corresponding levels".

contd..

*Attested
Signature
Secretary*

5.

The respondents cannot bring in what is not there or what is not intended to be there by the letter No.A 27011/4/86-ER-11 (A) dated 6.12.1987 as indicated above. This letter simply clearly states that the allowance is admissible to the various categories of the staff of ARC by placing a limit upto the rank of PO and below. IN O.A. 163/91 and O.A. 179/9 of this Bench on the strength of the recommendations of the same one man committee referred to in this O.A. Ration Allowance was paid to the non-executive staff of the Intelligence Bureau but the payment was stopped in 1991. This Tribunal, in the order dated 17.12.1993 (to which one of us was party) after discussion and relying on the order dated 27. .93 of the Central Administrative Tribunal, Chandigarh Bench, Circuit at Jammu in O.A. No. 391/JK/92 had held that Ration Allowance was admissible to the applicants in those two O.A.s. the facts in those two O.A.s and of the present O.A. insofar as they relate to Ration Allowance and House Rent Allowance are almost identical. The conditions in those two O.A.s is in respect of Ration Allowance that the personnel posted in category B locations will be entitled to Ration Allowance at nonqualifying area rate for DEF. For house rent allowance it is stipulated that House Rent Allowance would be applicable to all other cadres of the IB under the same terms applicable to the executive cadres of corresponding levels. In view of the facts mentioned above we hold that Ration Allowance is admissible to the applicants in this O.A. The respondents are directed to pay Ration Allowance to the applicants at the rate applicable to them with effect from the due date 22.2.94. The arrear amount shall be paid within 31.10.1996.

The application is allowed, No order as to costs.

Sd/- Member (A)

Sd/- Member (J)

*Attended
Law
Shrotri*

- 41 -

~~CONFIDENTIAL~~

IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL APPELLATE JURISDICTION

248256

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 1706 OF 97.

(Petition under Article 136 of the Constitution of India
for special leave to appeal from the judgment and order
dated 14th June, 1996 of the Central Administrative
Tribunal, Gauhati Bench of Gauhati in Original Application
No. 245 of 1995).

WITH

INTERLOCUTORY APPLICATION NO. 2.

(Application for stay after notice).

Union of India & ors.

...petitioners...

-VERSUS-

Sri Bishnu Prasad Saikia and Ors.

...respondents...

(FOR FULL CAUSE TITLE PLEASE SEE SCHEDULE 'A'
ATTACHED HEREWITH).

16th MARCH, 1998.

CORAM:

HON'BLE MR. JUSTICE S.C. AGARWAL

HON'BLE MR. JUSTICE S. SAOHIR AGRAWAL

HON'BLE MR. JUSTICE H. SRINIVASAN

Contd....P/2

*Pls read
last
page*

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Tele No: 230222
 E'en : 5118

Mahanideshalaya Assam Rifles
 Directorate General Assam Rifles
 Shillong - 796011

Rec(Adm-IV)/Gdn List 001/123 11 Mar 2001

List 'A'

List 'B'

List 'C'

ARSU, Bhaup

ARASU, Happy Valley

No. 1 CCAR, Happy Valley

1/2/3 MGAR, C/o 99 APO

1/2/3 WKSP AR, C/o 99 APO

ARGIS Dte, Shillong

LOAR, New Delhi

GRADATION LIST IN RESPECT OF AO/JAO/SUB(CLK)/
SA AND NB SUB(CLK)/HAF FWD OF

1. The gradation list showing the position as on 01 Mar 2001 in respect of the following staff of Assam Rifles are with:-

- (a) Accounts Officer
- (b) Junior Accounts Officer
- (c) Sub(ClK)/Senior Accountant
- (d) Nb/Sub(ClK)/Head Assistant

2. The particulars incorporated against each individuals in gradation list have been verified and scrutinised from the available documents.

3. Number of rectification on seniority have been made in present gradation list. Further obsn if any may be fwd in letter and NOT by sig alongwith proper docu in support duly scrutinised/verified by Head of Office from service/FS docu of indl for examination and further action.

4. Obsn, if any, should reach this Dte before 31 May 2001.

5. Gradation list in respect of AO(ClK), Hav(ClK) and Lnk/Rfn Wtrs are under preparation. The same will be fwd on completion. Reminder for the same is not required.

6. Please ack.

Encl : A above

Copy to :-

Self Branch (Internal)

*Attested
 Secy
 Advocate*

(KV Jayaraman)
 Maj (ec)
 For DD(Rec)

For info alongwith copy of above gradation list

43-

GRADUATION LIST : SUB (CLK) / SA

NAME	SA	DATE	REMARKS
SHRI K C CHOUDHURY	SA	02/02/1943	
MATRIC	UDA	08/09/1962	
	UDA-NLRIS)	31/07/1978	
		05/07/1984	
	NETHER	15/05/1989	
		01/05/1994	

Reduction upto 55 yrs age approved vide A1-A9/Fatv02 dt 02 Jul 94.

DATE	DESCRIPTION	AMOUNT	CHECK NO.	BANK	MEMO
01/02/1972	RK CLK				
14/08/1987	HAV CLK				
01/04/1984	NB SUB CLK				
15/05/1989	SUB CLK				
04/12/1994					

JAN 2000
MSB REC/ADM-IV/KRMW/139 CI 17

10/07/1989
01/12/1994

NAME	DATE	REMARKS
SA	3/12/1994	SWELP C BROWNLICK
MA	3/12/1994	MATRIC
DA	12/10/1992	UDA-20 AB
NE	12/10/1992	NEITHER
SA	01/12/1994	Retention until 58 yrs age approved

6 JC-C690650 SUB CLK	M D BHATT	MATRIC	24/12/1944	NK CLK	25/11/1952	HAV CLK-3 AR	NEITHER	Relation beyond 55 yrs age	approved vide
				HAV CLK	01/02/1980	06/07/1984			

*Rick
Lynn
Orr*

SECTION 36
MINISTERIAL STAFF

General

146 Each Assam Rifles Battalion has the following ministerial staff

- (a) Senior Accountant ... 1
- (b) Head Assistant ... 1
- (c) Accountants ... 3
- (d) Upper Division Assistants ... 5
- (e) Lower Division Assistants ... 21

147 The following will be the distribution within the Battalion. It may however be changed depending on the exigency of the service but only with the concurrence of the Commandant--

- (a) A Branch (incl. Record Sec)--
 - (i) Head Assistant ... 1
 - (ii) Upper Division Assistant ... 1
 - (iii) Lower Division Assistant ... 4
- (b) Q/ORD Branch--
 - (i) Upper Division Assistant ... 1
 - (ii) Lower Division Assistant ... 4
- (c) Finance Branch--
 - (i) Senior Accountant ... 1
 - (ii) Accountant ... 1
 - (iii) Lower Division Assistant ... 2
- (d) G. Branch--
 - (i) Lower Division Assistant ... 1
- (e) Service Wings--
 - (i) Upper Division Assistant ... 1 (each)
 - (ii) Lower Division Assistant ... 2 (each)
- (f) Adm Wing--
 - (i) Accountant ... 1
 - (ii) Lower Division Assistant ... 2
- (g) Medical--
 - (i) Accountant ... 1
 - (ii) Lower Division Assistant ... 2

SECTION 37

SENIOR ACCOUNTANT

148 He is the financial adviser to the Commandant and will be responsible for the following--

- (a) Correct interpretation of rules/regulations so far as financial transactions/implications are concerned so that there are no irregularities or losses to the state.
- (b) Scrutiny of TA/DA bills of all personnel including officers of the Battalion before they are put up to the Commandant.
- (c) Correct and timely submission of DCC bills against AG bills drawn by the Battalion.
- (d) Scrutiny of all bills of departmental constructions and ensuring that correct procedure is adopted before departmental constructions are undertaken.

*Noted
for
signature*

- (e) Submission of pension cases without undue delay and for keeping a proper record of all pension cases which have been initiated, indicating those finalised and those which are still in progress.
- (f) Advising and assisting the Commandant in the Quarterly Audit of Regimental and Private Funds.
- (g) Advising the Commandant on the control of expenditure against budget provisions.
- (h) The quarterly verification of Cash Book and contingent registers.
- (j) Timely recoveries and disbursement of pay, amenity bills, advances, payment issues of clothing and rations and the depositing of cash in the treasury.
- (k) Assisting the audit parties detailed by the Accountant General and assisting in the regularisation of audit objections with least possible delay and in the implementation of suggestions/recommendations of the Audit parties as advised by the Commandant.
- (l) The balancing and reconciliation of accounts every month.
- (m) Efficient functioning of the Accounts Branch of the Battalion and training ministerial or combatant staff placed under him.
- (n) Carrying out other duties entrusted to him by the Commandant in respect of accounts and financial matters of the Battalion.

SECTION 38

HEAD ASSISTANT

149 The primary duty of Head Assistant is the supervision of the work of the office. He must see that the work is properly distributed and the time of the other assistants is fully occupied and that they devote their full attention to their work. He will generally be responsible for the smooth running of every branch of the Battalion offices and will bring to the notice of the Commandant any malpractices among the Ministerial staff which he may become aware of. He will be responsible for the following—

- (a) Maintaining a central dak register in which all incoming dak will be entered and issued to various department after the same has been perused by the Commandant.
- (b) Efficient working of A and G Branches.
- (c) Generally be the cashier of the unit for all public funds.

*Plotted
has
P. S. K. K.*

RESTRICTED

Tele : 705107

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

I.31019/Policy/99/Adm-III/ 28 Jul 99

IGAR(North)

DIG, All Ranges/ARTC & S

CO, All Units/MGARa/WkspAR/DUS
ARSU/1CCAR/AMTORETIREMENT AGE OF AR JCOs : SUPERANNUATION PENSION

1. Reference this Dte letter No. A/pers/5th-pay/98/dated 21 May 98, Sig No A 5462 dated 26 May 98 and letter No. I. 31019/SM/98/Adm-III/95 dated 01 Jul 98.

2. Considering all the aspects and in consultation with all the relevant rules, it has now been decided to enhance the age of retirement of Assam Rifles JCOs to 60 years including Sub Majors instead of existing 57 years of age and 4/6 years tenure as Sub Majors. This is done with a view to streamline the procedural gap between the NCO/OR and the JCOs. To avoid ambiguity on the subject, henceforth all the Assam Rifles JCOs who are on the posted strength of Assam Rifles as on 01 Aug 99, will now retire on superannuation pension on completion of 60 years of age. The JCOs who are willing to serve upto the age of 60 years, their cases will be reviewed in this Dte before completion of 30 years of qualifying service and 55 years of age as heither-to-fore for issuing orders of retention or retirement notices as the case may be.

3. All the instructions issued earlier on the subject be treated as cancelled.

Sd/- XX XX XX
(B D Singha)
Colonel
Dy Dir(Records)
for DG Assam Rifles

Copy to :-

Internal

1. A Branch/Estt Branch/D & V Branch/Legal Branch
2. Record Branch(co-ord/Adm-I/IV)/UPAO

RESTRICTED

*Alleged
Law
Advocate*

Copy/

Annex-4 (Series)

From : DGAR (A Branch)

DTG :

To : List 'A'

Unclas

List 'B'

List 'C'

A 2488

List 'F' (Less ROAR)

List 'EE' - By originator

Reduction casual leave entitlement (.)

firstly (.) treat our A 2464 May 12 and A 2411 May 15 as cancelled (.)

Secondly (.) fresh order on casual leave entitlement after obtaining clarification from MHA as under (.)

alfa (.) AR cadre offers comma AR pers and civ staff posted to Dte Gen Assam Rifles where five days working week sys in vogue comma entitled to eight days casual leave in a year (.)

bravo (.) AR cadre offers comma AR pers and civ staff posted to AR fmn/units other than DGAR where no specific working hours in a day or week are prescribed comma entitled to 15 repeat 15 days casual leave in a year (.)

charlie (.) above order to be implemented wef 01 (01) Jan 98 (.)

thirdly (.) auth for above order is MHA letter 27012/6/98-PF. I dt 04 Mar 98 and even No dt 27 May 98 (.)

.....2.....

*Attested
Jm
Advocate*

To : All lists

A 2488

- fourthly (.) sundays and holidays falling during a period of casual leave are not counted as part of casual leave (.) in this connection ref appx three of FR/SR part three leave rules (.)
- fifthly (.) as regards regularisation of excess casual leave gtd prior receipt of Govt order comma separate orders will follow (.)
- sixthly (.) ack -

Brig Mandhata Singh, YSM, Dir(Adm) 'A' Branch Dated 08 Jun 98.

Sd/- XX XX
Lt Col
Torel

Copy to :-

INTERNAL

List 'D'

List 'E' - for information please.

REC BRANCH - You are requested to amend ROI for entitlement casual leave accordingly.

A-II SEC - You are requested to issue amend-ment to casual leave rule as given in Assam Rifles Manual (New Edition) 1994 vide your letter No. A/A-Pub/1-94/(13) dated 22 Feb 94.

*Attested
for
Adm. cell*

69

REGISTERED -

Tele No : 70-5107

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

I.12016/11/2001-Adm-II/06 28 Jun 2001

The Chief Secretary
Govt of Kerala
Thiruvananthapuram
KeralaRECRUITMENT SELECTION BOARD- ASSAM RIFLES

Sir,

1. A recruitment rally for recruitment of male youths (Indian Citizens) into Assam Rifles for the following category will be held at Thiruvananthapuram with effect from 01 Oct 2001 to 07 Oct 2001. You are, therefore, requested to direct the concerned administration to render all possible help/assistance to our recruiting team.

- (a) Havildar (Clerk) - 100
(SC-10, ST-10, OBC-20, Gen-60)
- (b) Havildar (Pharmacist - 50
(SC-5, ST-3, OBC-10, Gen-32)
- (c) Warrant Officer (Personal Assistance/
Steno) - 02 (Gen-2)

2. Physical Standard

- (a) Height - 170 Cms, Hill areas-165 Cms and
Tribals - 162.5 Cms.
- (b) Chest - 80 Cms, Hill areas- 78 Cms and
Tribals - 76 Cms.
- (c) Weight - Proportionate to height and age
as per medical standard.

3. Educational qualification, age limit and pay scale
The educational qualification, age limit and pay scales applicable are given below :-

<u>Categories</u>	<u>Educational qualification</u>	<u>Age limit</u>	<u>Pay Scale</u>
(a) Havildar (Clerk)	(i) 10+2 or equivalent. Matric to be passed with English and Maths. (ii) Typing speed 30 words per minute in English or 25 words per minute in Hindi.	18 to 23 Years	Rs. 3200-85-4900/-

Attended
for
Advocate

.....2/-

- (b) Havildar Matric and 2 years 18 to 23 Rs. 3200-85-
(Pharmacist) Diploma in Pharmacy Years 4900/-
from a recognised Institution.
- (c) Warrant Offr 10+2 or equivalent -do- Rs-4000-100-
(Personal from a recognised 6000/-
Assistance/ Board or University
Steno) with short hand speed
80 words per minute and
type writing speed 40
words per minute.

4. Relaxation in age - SC/ST candidates will be eligible for 5 years and OBC for 3 years relaxation in upper age limit.

5. Promotion Avenue

- (a) Entry level Havildar
(b) Chance of promotion upto rank of Commandant (Colonel).
(c) If not selected for Officer cadres, promotion upto Subedar etc.

6. Eligible and willing candidates are required to attend on 01 Oct 2001 at 0800 hrs at the rally site. CANDIDATES ARE REQUIRED TO BRING WITH THEM APPLICATION FORM (Specimen enclosed) duly filled in all respect and the following certificate/testimonials in original to be produced before the board on the date given above:-

- (a) Educational qualification and date of birth certificates.
(b) SC/ST/OBC certificates (if applicable).
(c) Domicile/PRC certificate as applicable.
(d) Character certificate (latest).
(e) Two copies pass-port size photographs. One pasted on application form duly attested by a Gazetted officer.

7. Rally site and Police protection at the rally site from 01 Oct 2001 to 07 Oct 2001. Deputy Commissioner/ Superintendent of Police, Thiruvananthapuram may kindly be directed to provide adequate Police protection at the rally site for the above period.

.....3/-

*Attested
for
Advocate*

8. Selected candidates will be required to undergo training at Assam Rifles Trg Centre and School, Dimapur (Nagaland).

9. Please acknowledge.

Yours faithfully,

B D Singha

(B D Singha)
Colonel
Dy Dir(Records)
for DDG Assam Rifles

Copy to :-

1. The Deputy Commissioner Thiruvananthapuram (Kerala) - for wide publicity.
2. The Superintendent of Police, Thiruvananthapuram (Kerala) - Please provide adequate Police protection at the rally site for above period.
3. Public Relation Officer Govt of Kerala Thiruvananthapuram Kerala
4. The Director of Employment Govt of Kerala Thiruvananthapuram - You are requested to give wide publicity in the local/leading Newspaper of the State.
5. Zila Sainik Board Thiruvananthapuram
6. HQ ICAR(N)/ARTC&S/All Rgs/Ens- for wide circulation .
7. 'A' Branch - Please detail a board of Offrs as per SOP on the subject.
8. Vig Branch - for detailment of vig pers.
9. DDG's Sectt - for info please
10. Dir(Adm) through PA - -do-
11. Station Headquarters Thiruvananthapuram (Kerala) - -do-
12. HQ Southern Command Col 'A' Pune
13. Branch Recruiting Office Thiruvananthapuram (Kerala) - for wide publicity.

*Pls Fed
Jen
Pls at*

Annexure-5

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793001

Tele No. 795076

No. A/A-II/5 CPC/APS/98/1

19 Jun 98

List 'A'
List 'B'
List 'C'
List 'D'
List 'E'
List 'F'

REVISED PAY SCALE-CIVIL STAFF

1. The following proposals have already been taken up with MHA for consideration and implementation in Assam Rifles by this Directorate.
 - (a) Implementation of same pay scale for the civilian staff as per their equivalent counterpart in the combatised cadre.
 - (b) Upgradation of scales of VFAs.
 - (c) Upgradation of posts of Stenographers.
 - (d) Revision of rates of various allowances admissible to the nursing pers of Assam Rifles.
 - (e) Combatisation of civilian cadre in the CPMFs - Recommendation for combatised rank structure vis-a-vis civilian rank structure.
2. Decision as and when received from MHA will be intimated to all concerned.
3. HQ Tripura Range only - This disposes your letter No. 150100/98/364 dated 05 May 98.

Sd/-R.S.Rawat
Lt. Col.
Assistant Director(A)
For Director General
Assam Rifles.

Copy to :

Pers Section

*Pls find
Jen
Sd/- R.S. Rawat*

Jagadish ch: Bhattacharjee

No: 705075

53 -
Blarat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahavidyalaya Assam Rifles
Directorate General Assam Rifles
Shillong- 793011

Annexure 6

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A/1-A/277-86/PI/ 2/18

2. 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/- (1st 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/-.

Attested
Jan
Advocate

68

(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.

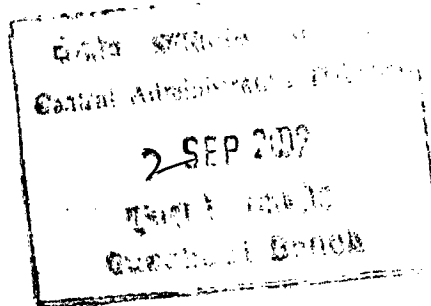
(h) The case was also discussed by DD(A) during his visit to MHA in Jun 2001.

(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

Placed
for
signature



Filed by

29/02/02

(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL**

GUWAHATI BENCH: GUWAHATI

O.A NO 74 OF 2002

Shri JC Bhattacharjee

.....Applicants

Vs

Union of India and Others

.....Respondents

**Reply to Original Application submitted by the
Respondents.**

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

1. That the OA may please be disposed off in the light of
judgement and order dated 19 Aug 2002 in OA No 321/2001
Shri SK Sarbajna and Others Vs UOI and Others passed by
Hon'ble CAT.

**A true Copy of Judgement passed by Hon'ble CAT
dated 19 Aug 2002 is attached as Annexure I.**

VERIFICATION

I Major KS George, age 35 years, Son of Shri Late Mr KM George, 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 believe and I have not suppressed any material fact.

And I sign this verification on this 28 day of August 2002.


Deponent

सं. सहायक निदेशक (बिधि)
Joint Asst Director (Legal)
महानिदेशालय असम राईफल्स
Directorate General Assam Rifles
शिलांग - ७६३०११
Shillong - 793011

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X1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. O.A.No.321 of 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 Swapan Kumar Sarbajna, Assistant & 318 others.

..... Applicants.

(All the applicants are working in different cities
(Assistants, UDC, Supdt. respectively) under Director
General of Assam Rifles, Shillong and post HQrs, office
Shillong.

By Advocate Mr.J.L.Sarkar, Mrs.S. Ueka, 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. Pathy 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-bhoi, Meghalaya,
PIN-793123.

... Applicants.

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

contd/-

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.

O R D E R.

MR.K.K.SHARMA, MEMBER(ADMIN):

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 we ^{ne} 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. 1600-2900/- notionally effect from 1.1.1986 and ^ueffectively with effect from 1.5.91 as in the case of Assistants in HQ Directorate General, 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

10/11/2001

contd/-

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. 1400-2300/- 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

contd/-4

6

74

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 :-

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

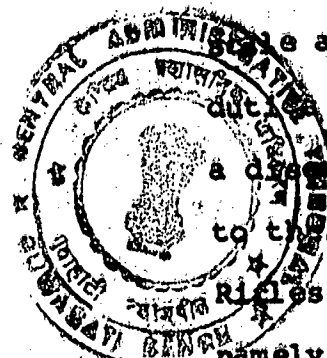
The 5th Central Pay Commission recommended pay scale of Ministerial staff of HQ DGAR Establishment were as under :-

Group 'B' Officer	Rs. 6500 - 10500/-
Sndt.	Rs. 5500 - 9000/-
/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



100/5000

contd/-5

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/-, where as 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/-.

contd/-6

In many other Organisation the Assistants were given the pay scale of Rs. 425-800/-. The 4th Pay Commission recommended 3 standardised 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. 1400-2900 by the Principal Bench of CAT on the ground that no discrimination should 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. 1400-2900/- 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



12/1/96

contd/-

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.

contd/-8

Warrant

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 posts 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



confd/-

10/11/97

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 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) 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 Organisations. 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

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 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 as there is reasonable basis for differentiation. The Tribunal in O.A.No.136 of 1999 dated 20.1.2001 in 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 questions of discrimination between combatant Stenographers and Civilian Stenographers. The contents 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 MOF 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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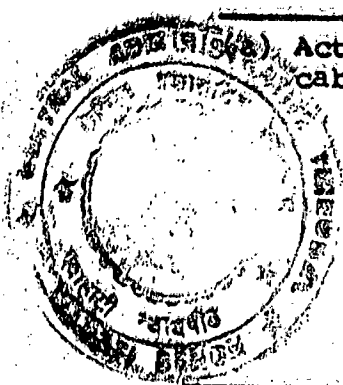
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as admissible to the civilian staff in the non-secretariat organisations including the CPOs. It is stated that these civilian posts and are dying posts in Assam Rifles and have been provided normal replacement scales. The combatants constitute a different 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 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 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

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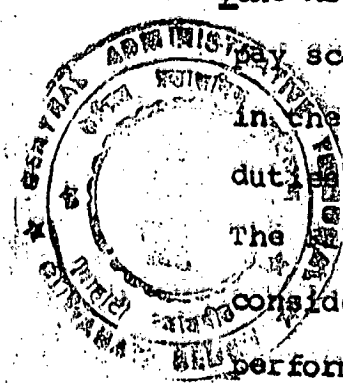
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The applicants cannot plead equality with combatants as the petitioner were given option of combatisation in 1989. However, claim this is denied on behalf of the applicants in the rejoinder. The combatant staff are also expected to perform the duty 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/-.



C. U. Sharma

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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/- by 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 omitted to consider the pay scale of someposts of any particular service, or
- (ii) the 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 by the learned counsel for the respondents 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 and 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

contd /-14

C. U. Sharma

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 Organization etc. various Benches of Central Administrative Tribunal have given judgments granting parity with the pay scale of Assistants in CCS.

6.9. In the case of Assistants in the Secretariat, the position of 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/Dy. Secretary under the scheme of level jumping. Taking all these factors into consideration, it is 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. 5100-150 who is assisted by a Joint Director, a Dy Director, Asstt. Director and other staff. The total staff strength is 237.

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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 possibility. All that Article 14 guarantees is 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

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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, 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 of India vs. P. Hariharan, para 5 of 1997 SCC (L&S) 838 as below:-

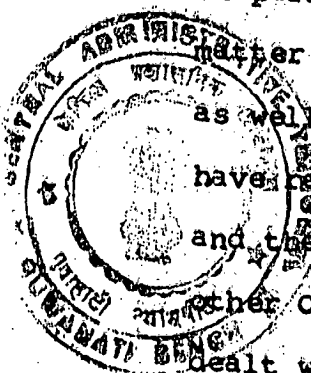
"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper 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

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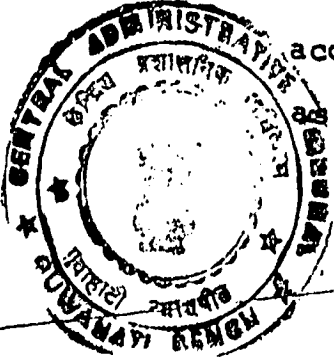
in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious 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 come 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 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.



contd/-18.

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.



Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

LM

Certified to be true Copy

প্রমাণিত প্রতিলিপি

Section Officer (J)

আনুমান্য অধিকারী (সহকারী সচিব)
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক অধিকারণ
Guwahati Bench, Guwahati-৪
গুৱাহাটী ব্যাংকপীঠ, গুৱাহাটী-৪

22/8/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A. No. 74 of 2002

Shri J.C. Bhattacharjee & Ors.

-vs-

Union of India & Ors.

-And-

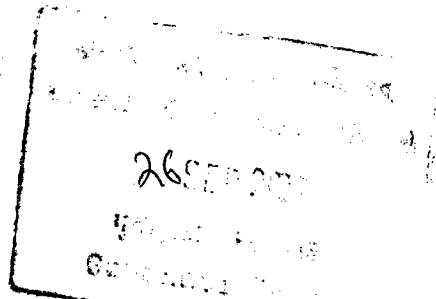
In the matter of

Rejoinder submitted by the
applicant in reply to the written
statement submitted by the
Respondents.

The applicant above named most humbly and respectfully begs
to state as under :

1. That your applicant has gone through the contents made
in the written statement and understood the meaning
thereof.
2. That with reference to the statement made in para 1 in
the written statement the applicant begs to state that
the same are misrepresentation of facts and
misleading.

The judgment quoted by the respondents i.e. O.A.
No. 321/2001 is not applicable in this case and



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*Filed by the applicant
through Sri C. N. Chakravarty
Advocate on 15-9-02.*

therefore any reference of the said judgment is not relevant. IT is specifically submitted that the case of the present applicants stand on a different footing.

The present applicants are working in the Field/Unit/Range Offices along with the combatant personnel in border areas risking their lives to support the work of the combatant personnel. As such they are entitled to the parity of pay scales with their counterparts namely Naib Subedar Clerk and Subedar working in the Ranges/Unit Offices/Field Offices. This Hon'ble Tribunal while adjudicating the case of Stenographers of Assam Rifles in O.A. No. 136/99 also held that although the civilian personnel are posted in sensitive and operational areas they are at least entitled to allowances and facilities like Ration Allowance etc. even the present applicants of the instant case also being deprived the allowances and facilities granted to their counterparts in the sensitive and operational areas. There is a specific prayer in the instant case for grant of similar facilities and allowances including Ration Allowances and free Rations as granted to their counterparts namely, Naib Subedar clerk, Subedar Clerk. apart from the prayer of pay parity, as such the instant case is totally stands on different footing than the decision rendered in O.A. No. 321/2001 by this Hon'ble Tribunal.

It is further submitted that the applicants in O.A. No. 321/2001 are working in the Headquarter

Office, DGAR, Shillong, as such they are static staff, whereas the present applicants are working in Ranges/Unit and Field Offices and they are liable to be moved along with the movement with the troops and most of the applicants are posted in the extremist prone border areas risking their lives to support the combatant personnel. It is pertinent to mention here that even the civilian employees who are posted in the field areas were also moved to Sri Lanka along with the troops namely,

1. Sri S.K. Paul (Civilian)
2. Sri H.B.Chanda (Field Staff)
3. Sri Sisirbindu Dutta Purkayastha
4. Sri Debraj Konwar

The following staff also were posted to Jammu and Kashmir along with the Troops.

1. Sri P.N.Deb
2. Sri B.N. Borpujari
3. Sri N.K.Purkayastha
4. Sri Devraj Konwar
5. Sri Soren Singh
6. Sri P.Biswas,
7. Sri L.Bijou Singh
8. Sri B.K.Nag

The above mentioned civilian entered to Operation Pawan Area with effect from 12.11.1988 and leave OP

Pawan Area on 15.12.1988 along with the troops. As such these applicants who are working in civilian side in Assam Rifles in the Field and Ranges entitled to parity of pay with their counter parts of combatant side in Assam Rifles.

The Hon'ble Superme Court in the case of Union of India & Or. Vs. B. Prasad, BSO and Others held that the civilian employees deployed at the Border area for support of operational requirements, they face the imminent hostilities supporting the army personnel deployed there. Necessarily they alone require the double payment of Special Duty Allowance as ordered by the Government but they cannot be deprived of the same since they are facing imminent hostilities in hilly areas risking their lives in the same areas. The present applicant also entitled to parity of pay scales along with their counterparts of combatant staff. It is relevant to mention here that disciplinary proceeding are being initiated both in the case of civilian and combatant by adopting the procedures of CCS (CCA) Rules, 1965. So far the plea raised by the respondents in their correspondences that the combatant staff are guided by the Army Act 1950 but so far service conditions are concerned, the combatant staff simply required to attend P.T and Training, this is the only exception so far combatant staff are concerned. Therefore parity of pay cannot be denied to the present applicants.

2. That it is stated that vide letter bearing No. A/1-A/5th-Pay/97-98/73 dated 27.2.98 whereby the Cadre of Havildar Clerk was re-designated to the rank of Warrant officer who were on the common gradation list of Upper Division Asstt and placed in the scale of Rs. 4000-100-6000 with effect from 12.2.1998. Therefore it is quite clear that the post of Havildar Clerk is upgraded by way of re-designation to bring to the level of UDA and with the intention to grant higher pay scale to maintain parity with the civilian post of UDA. These Warrant Officers further given to the benefit of next higher post of NIAB SUBEDAR CLERK further raising the scale of pay of Rs. 5500-9000 which scale is higher than the scale of pay of Head Asstt. These Havildar Clerk were earlier granted lesser pay scale than the UDA. Moreover Subedar Clerk pay is also raised from 5500-9000 to 6500-10500 whereas Havildar Clerk, Naib Subedar, Subedar were all along treated by the respondents Union of India, lower in the rank and status than the cadre of UDA, Head Asstt. and senior Accountant respectively by all the pay Commissions but after 4th and 5th Pay Commission - the pay scale of aforesaid cadres made higher in the combatant side than their counterparts working in the civilian side. As a result, the present applicants felt aggrieved for non-consideration of their cases for grant of higher pay scale. The applicants urged to refer the letter bearing No. 27011/14/98-PF.1 dated 29.12.97.

Copy of the letter dated 27.2.1998 and 29.12.97 are annexed as **Annexure 7 and 8** respectively.

3. That the applicants beg to state that the terms and conditions of services of both civilian and combatant clerical staff are similar. Both the categories are guided under CCS Rules for all purposes like leave, pension, T.A., D.A. service terms and conditions. Therefore applicants are entitled to parity of pay scales.

In the facts and circumstances stated above the Original Application deserves to be allowed with costs.

VERIFICATION

I, Shri J.C.Bhattacharjee S/o Sri , aged about ...years, working as Head Assistant, Office of the Director General of Assam Rifles, Shillong, do hereby verify that the statements made in Paragraph 1 to 3 of this rejoinder are true to my knowledge and I have duly authorised by the other applicants to sign this verification on behalf of them and I have not suppressed any material fact.

And I sign this verification on this the 25th day of September, 2002.

Jagadish Ch. Bhattacharjee
SIGNATURE

ef 96
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 11

AI-A/5th-Pay/97-98/73

27 Feb 98

**REDESIGNATION TO THE RANK OF WO ON R/O OF HAV CLERKS WHO ARE ON THE
COMMON GRADATION LIST OF UDAs**

1. Further to this Dte letter No A/Pers/5th-Pay/98/26 dated 07 Jan 98.
2. The rank of present cadre of Hav clks (nominal roll att) as per common gradation list with Upper Division Assistants has been re-designated as WO on the pay scales of Rs. 4000-100-6000 wef 12 Feb 98.
3. The Inter-re-seniority of Upper Division Assistant & Hav Clerk now re-designated as WO wef 12 Feb 98 will be mentioned as hitherto-fare on common seniority for further promotion.
4. All concerned are requested to implement redesignate of the rank of affected personnel and take necessary action to publish the part II order as enumerated above.
5. Please ack.

Encl : 8 (Eight) Sheets

Copy to : Ord Branch

- internal

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(R S Dhull)

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Dy Dir (A)

Attended
for
Advocate

No 27011/14/98-PF.I
Govt of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, Dated 29 December 1997

To,

The Director General
Assam Rifles
Shillong - 793 011

**SUB: COMBATISATION OF MINISTERIAL STAFF-FILLING SLOT OF UDC IN
COMBATISED POST.**

Sir,

1. I am directed to refer to your DO letter No. A/5th-Pay/97 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. 4000-100-6000 which had inadvertently been left out in the annexure to MHA letter No. 27011/44/88-FP.I dated 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/AFA(H)/9 dated 29 Dec 97.

Yours faithfully,

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

No. 27011/44/88-FP.I

Dated ____ December 1997

Copy forwarded to :-

1. Pay and Accounts Officer, Assam Rifles, Shillong.
2. IFD, Fin.IV.MHA.
3. Pers.I/Pers.II Desk, MHA.
4. Budget - I Section, MHA.
5. LOAR, New Delhi.