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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*[Signature]*  
01/07/17

FORM No. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 60/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicants: K.K. Mandal & ors.

Respondents: M. D. I & ors.

Advocates for the Applicant: M. Chanda, A.N. Chakraborty

Advocates of the Respondents: S. Nath, Addl. Case U. K. Choudhury

Notes of the Registry

Date

Order of the Tribunal

Application is in form  
of C. F. for Rs. 100/-  
deposited vide IPO No. 2062-11-6079  
Dated 18/02/05

01.03.2005

Present : The Hon'ble Mr. K.V.  
Prahlanan, Member (A).

Heard Mr. S. Nath, learned  
counsel for the applicant and also  
Mr. A.K. Chaudhuri, learned Addl.  
C.G.S.C. for the respondents.

Issue notice to show cause  
as to why the application shall  
not be admitted, returnable within  
four weeks.

List on 07.04.2005 for  
admission.

K.V. Prahlanan  
Member (A)

mb

07.04.2005

At the request made by learned  
counsel for the applicant the case  
is adjourned to 8.4.2005.

V. V. V.  
Vice-Chairman

bb

Notice & order sent  
to D/Section for  
issuing to resp.  
Nos. 1, 2, 3, 5 & 6 by  
regd. A/D post and  
resp. No. 4 received  
by Handl. ca

15/3/05

08.04.2005 Present : The Hon'ble Mr. Justice  
G. Sivarajan, Vice-Chairman.

Heard Mr. M. Chanda, learned  
counsel for the applicant and also Mr.  
A.K. Chaudhuri, learned Addl. C.G.S.C.  
for the respondents.

The application is admitted and  
the respondents are directed to file  
written statement within four weeks.

Pendency of this application shall  
not be a bar for consideration of the  
case of the applicant for grant of pay  
scale, if the respondents so desire.

The counsel for the applicant  
submits that one of the applicant, the  
Respondent No. 5 ~~has died~~ has died. His  
legal representative may be impleaded in  
the meantime.

Post on 09.05.2005.

*[Signature]*  
Vice-Chairman

Mr.M.Chanda learned counsel for the  
applicant submits that he has received the  
written statement to-day and that the  
wants to file rejoinder. Heard Mr.A.K.  
Choudhury, Addl.C.G.S.C. Post the matter  
on 1.6.05. Rejoinder if, any in the mean-  
time.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

01.06.2005 Mr. A.K. Chaudhuri, learned Addl.  
C.G.S.C. for the respondents submits  
that written statement has already been  
filed. Mr. M. Chanda, learned counsel  
for the ~~respondents~~ applicant submits  
that this can be posted for hearing and  
that in the meantime rejoinder will file  
Hence, the case is posed for hearing on  
4.7.2005.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

Notice duly served  
on resp. No - 2, 4.

Notice duly  
Served on  
resp. Nos - 2, 4, 3 & 6.

Notice duly served  
on R. No. 2, 3, 4 & 6

① R. 1 & 5 awarded

② No. reply filed 9.5.05.

9.5.05

W/s filed by  
the respondent Nos. 1 to 6.

*[Signature]*

31-5-05

No. Rejoinder has been  
filed.

No. Rejoinder has been  
filed.

4.7.05

③  
O.A. 60/2005

4.7.2005 Mr. S. Nath, learned counsel for the applicant submits that the applicant wants to file rejoinder. Post on 8.8.2005.

*[Signature]*  
Vice-Chairman

bb

8.8.2005 Mr. M. Chanda, learned counsel for the applicant submits that the 5th applicant ~~is sick~~ has died and his legal representative shall brought on record. Post on 12.9.2005.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

12.9.2005 No Division Bench is available. Post before the next Division Bench.

*[Signature]*  
Vice-Chairman

bb

8.3.2006 Due to personal difficulty Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. is not present. Hence adjourned for two weeks.

*[Signature]*  
Vice-Chairman(J)

*[Signature]*  
Vice-Chairman(A)

bb

7.8.2006 Mr. M.U. Ahmed, learned Addl. C.G.S.C. submits that he is appearing in the matter in stead of late A.K. Chaudhuri, and he wants to study and submits the case and hence he seeks for some time. Let it be done.

Post before the next Division Bench.

*[Signature]*  
Member (A)

*[Signature]*  
Vice-Chairman

bb

① wls has been filed.

② No. rejoinder has been filed.

*[Signature]*  
5.8.05

No Rejoinder has been filed.

*[Signature]*  
9.9.05

7-3-06

No Rejoinder has been filed.

*[Signature]*

7-3-06

Rejoinder filed on behalf of the applicants.

*[Signature]*

The case is ready for hearing.

*[Signature]*  
27.2.07



-4- 8A-60/05  
28.2.07

Let the case be posted on 16.3.07.

The case is ready  
for hearing.

ce  
Member

Vice-Chairman

24  
15.3.07.

pg  
16.3.2007

post on 2.4.2007.

D

Member

L

Vice-Chairman

bb

30.3.07

2.4.2007

post before the next Division  
Bench.

The case is  
ready for hearing.

L

Vice-Chairman

bb

05.05.2008

This matter stands adjourned to  
21.05.2008 for hearing.

The case is ready  
for hearing.

27  
19.5.08

g  
(Khushiram)  
Member (A)

/bb/

P TO

O.A. No 60/2005-5-

21.05.2008 Mrs U. Dutta, learned Advocate, makes a prayer on behalf of the Counsel for the Applicants seeking adjournment of the hearing of this case.

Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, undertakes to file his appearance memo for the Respondents in the course of the day.

In the premises, hearing of this case is fixed to 27.06.2008.

Send copies of this order to each of the Applicant and to all the Respondents in the addresses given in the O.A. Free copies of this order be also handed over to the learned Counsel for the parties.

(Khushiram) (M.R. Mohanty)  
Member (A) Vice-Chairman

nkm

order dt. 21/5/08  
send to D/Section  
for issuing to applicant  
and respondents by  
post and free copies  
of this order handed  
over to learned  
counsel for the  
parties.

(copy) D/No-2669 to  
2/6/08. Dt. 26/5  
4/6/08.

The case is ready  
for hearing.

M  
26.6.08

27.06.2008 On the prayer of learned counsel appearing for both parties, call this matter on 07.08.08 for hearing.

lm

(M.R. Mohanty)  
Vice-Chairman

07.08.2008 Mrs U. Dutta, Advocate is present representing the Applicant. Mr M.U. Ahmed, learned Addl. Standing counsel is present representing the Respondents.

Call this matter on 12.09.2008.

(M.R. Mohanty)  
Vice-Chairman

0.A.60/05. - 6-

12.09.2008

On the prayer of Mr. M. Chanda, learned counsel appearing for the Applicant (made in presence of Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents) this case stands adjourned to be taken up on 06.11.2008 for hearing.

She case is ready for hearing.

lm

(Khushiram)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

01.12..2008

Mr.M.Chanda, learned counsel appearing

5.11.08.

06. 11.2008.

for the Applicant and Mr.M.U.Ahmed, learned Addl.Standing Counsel appearing for the appearing for both the parties, call this Union of India are present.

Call this matter on 16.12.2008 for hearing

She case is ready for hearing.

28.11.08.

lm

lm

(S.N.Shukla)  
Member(A)

(M.R.Mohanaty)  
Vice-Chairman  
(M.R.Mohanty)  
Vice-Chairman

01.12..2008

Mr.M.Chanda, learned counsel appearing

She case is ready for hearing.

15.12.08.

for the Applicant and Mr.M.U.Ahmed, learned Addl.Standing Counsel appearing for the Union of India are present.

Call this matter on 16.12.2008 for hearing

lm

(M.R.Mohanty)  
Vice-Chairman

16.12.2008

Call this matter on 5<sup>th</sup> January, 2009.

(S.N.Shukla)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

She case is ready for hearing.

2.1.09.

lm

7  
O.A.60 of 05

05.01.2009

Mrs. U. Dutta is present on behalf of the Applicant. Mr. M. U. Ahmed, learned Addl. Standing Counsel is also present on behalf of the Respondents.

Call this matter on 09.02.2009 for hearing.


  
(M.R. Mohanty)  
Vice-Chairman

lm

09.02.2009

Call this matter on 24.03.2009 for

hearing.

  
(M.R. Mohanty)  
Vice-Chairman

The case is ready  
for hearing.

6.2.09.

nkm

24.03.2009

Court work suspended due to sad demise of Hon'ble Justice Guman Mal Lodha (former Chief Justice of Gauhati High Court) and, accordingly, call this matter on 30.04.2009 for hearing.

The case is ready  
for hearing.

29.4.09.

By Order

  
Court Officer

/pb/

30.04.2009

Call this matter on 12.06.2009.

  
(M.R. Mohanty)  
Vice-Chairman

/bb/

15-5-09

Prepared on request  
of the both counsel.

du  
--

18.05.2009

Heard Mr M.Chanda, learned counsel for the Applicant Mr M.U.Ahmed, learned Addl. Standing counsel for the Union of India.

Hearing concluded. Order reserved.

(N.D.Dayal)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

pg

12.6.09

order dt. 28.5.09  
in O.A 60/05, send  
to the D/S for issuing  
the same to the Respondents.  
and also to the Applicant.  
D/No. 3478 to 3489  
dtd 23/6/09

*[Signature]*  
12/6/09

28.05.2009

Judgment pronounced in open court, kept in separate sheets.

O.A. is disposed of in terms of the order passed separately.

(N.D.Dayal)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

/bb/

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

.....

Original Application No. 60 of 2005.

DATE OF DECISION: 28<sup>th</sup> -05-2009.

Sri K. K. Mandal & 4 others.

.....Applicant/s

Mr M. Chanda

.....Advocate for the  
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr M.U.Ahmed, Addl. C.G.S.C


.....Advocate for the  
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR N.D. DAYAL, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.

  
Vice-Chairman/Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 60/2005.

Date of Order : This the 28<sup>th</sup> Day of May, 2009.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR N. D. DAYAL, ADMINISTRATIVE MEMBER

1. Shri K.K.Mandal  
Accountant
  2. Shri D. Mazumdar,  
Accountant
  3. Shri A.K.Deka  
Accountant
  4. Shri H.S.Thakur  
Accountant
  5. Shri Biman Behari Das  
Assistant Accounts Officer
- .....Applicants

Applicant No.1 to 4 are working as Accountant and the applicant No.5 is working as Assistant Accounts Officer in the Canteen Stores Department, Govt. of India, Ministry of Defence, Narengi, Guwahati-27.

By Advocate Mr M. Chanda

-Versus -

1. The Union of India  
represented by the Secretary to the  
Government of India  
Ministry of Defence,  
New Delhi-110001.
  2. The Chairman  
Canteen Stores Department  
"Adelphi"  
113 Maharshi Karve Road,  
Mumbari-400 020.
  3. General Manager,  
Canteen Stores Department  
"Adelphi"  
113 Maharshi Karve Road,  
Mumbari-400 020.
  4. The Regional Manager,  
Canteen Stores Department,
- 7

Narengi, Guwahati-27.

5. The Secretary,  
Govt. of India  
Ministry of Finance,  
Department of Expenditure,  
New Delhi-110001.

6. Deputy General Manager (F&A)  
Canteen Stores Department,  
"Adelphi"  
113 Maharshi Karve Road,  
Mumbai-400 020.

..... Respondents

By Mr M.U.Ahmed, Addl. C.G.S.C.

### ORDER

N.D.DAYAL (MEMBER-A)

The five Applicants in the O.A are seeking the following reliefs :-

- (i) That the Hon'ble Tribunal be pleased to declare that applicants are entitled to benefits of the upgraded pay scale contained in the office memorandum dated 28.02.2003 provided by the Govt. of India, Ministry of Finance to the employees belonging to the cadre of Accountant and Assistant Accounts Officer also applicable to the applicants working in the cadre of Accountant and Assistant Accounts Officer respectively in the CSD with all consequential benefit.
- (ii) That the Hon'ble Tribunal be pleased to declare that the impugned order dated 19.08.2003 and 19.04.2004 are void ab initio.



(iii) That the Hon'ble Tribunal be pleased to direct the respondents to pay the scale of Rs.6500-10500/- to the applicants serving in the cadre of Accountant and further be pleased to pay the scale of Rs.7450-11500/- to the applicants serving in the cadre of Assistant Accounts Officer in the Canteen Store Department by fixing the pay in terms of the direction contained in the memorandum dated 28.2.2003.

2. The Respondents have opposed the claim of the Applicants by their written statement to which a rejoinder has been filed by the applicants.

3. We have heard Mr M.Chanda, learned counsel appearing for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents and perused the pleadings. At the outset it has been clarified that Applicant no.5 has since ~~been~~ expired which is also noted by the Tribunal as per order sheet dated 8./4.2005. However, the record does not reveal that legal representative were impleaded subsequently nor does there appear to be any correction in the cause title. Thus the O.A stands abated against applicant No.5 who was the only Assistant Accounts Officer.

4. The learned counsel for the Applicants 1 to 4, who are Accountants in the CSD Narengi, Guwahati, has drawn attention to the statutory recruitment rules issued by the Ministry of Defence on 3.3.1979 and placed at Annexure-1. It is seen that Accountants are in the pay scale of Rs.5500-9000/- and posts are filled up by promotion

from those holding ministerial posts in the scale of Rs.330-560/- with 3 years regular service subject to passing a departmental test, failing which by transfer on deputation of SAS Accountants or SAS passed clerks from any of the organized Accounts departments of the Govt. mentioned in the rules. Accountants are also feeder cadre for promotion as Assistant Accounts Officer in the pay scale of Rs.6500-10500/-. It is pointed out that the qualifications prescribed are equivalent to those for appointment/promotion of SO/Jr.AO/SAS Accountants as Assistant Accounts Officers of the organized accounts cadre normally controlled by the AG, CGA and CGDA etc.

5. By reference to Annexure A2 it is stated that by this O.M dated 28.2.03 the Govt. approval for grant of higher pay scale for the Accounts staff of the Railways on notional basis from 1.1.96 was extended to the corresponding posts in all the organized accounts cadres. Accordingly pay scales were upgraded as under :-

Designation	Pay scale prior to 1.1.96	Existing pay scale	Pay scale to be extended notionally w.e.f. 1.1.1996 with actual payments being made prospectively (Rs.)
Auditor Accountant	1200-30-1560-40-2040	4000-100-6000	4500-125-7000
Sr.Auditor/Sr. Accountant	1400-40-1600-50-2300-60-2600	5000-150-8000	5500-175-9000
Section Officer	1640-60-2600-75-2900	5500-175-9000/-	6500-200-10500/-
Asstt.Audit Officer/Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500	7450-225-11500

Thus the existing pay scale of Rs.5500-9000/- of Section Officer was raised to Rs.6500-10500/-. The learned counsel for the Applicants submits that although the applicants are Accountants in the CSD they are in fact drawing the pay scale of Rs.5500-9000/- equivalent to Section Officers. This is justified by pointing to the recruitment rules which provide for the ministerial officials in the pay scale of Rs.330-560/- (UDC) to be promoted as Accountants but subject to passing a departmental test which sets apart the post of Accountant in the CSD as of a higher level.

6. It is submitted that the applicants preferred a representation for being accorded higher pay scale of Rs.6500-10500/- contending also that no distinction should be made between similar staff so as to deny the benefit to them. Our attention is drawn to the CSD letter of 19.8.2003 wherein it was communicated in terms of clarification from Board of Canteen Stores, that the higher pay scale appeared to be applicable only to organized accounts services, that the Accounts cadre of CSD does <sup>not</sup> appear to be similar to them and the pay scale of the Accountant is only Rs.4500-7000/- there, whereas in the CSD the pay scale was already Rs.5500-9000/-. Thus, if the O.M dated 28.2.03 is to be applied to CSD it would result in reduction in the pay scale of Accountants. It is further brought to our notice that by a letter dated 4.3.03 the CGA while circulating the above O.M mentioned that the post of Junior Accounts Officer in Central Govt. Civil Accounts Service is equivalent to Section Officer. Again, by C&AG letter of 28.4.04 the pay scale of Divisional Accountants/Divisional Accounts Officer were also raised in

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the Indian Audit and Accounts Department notionally from 1.1.96 as per O.M. dated 28.4.04 (Annexure-9). The learned counsel for the Applicants submits that the applicants are equivalent to the Divisional Accounts Officer Grade-II whose pay scale has been raised to 6500-10500/-. It is argued that such communication would indicate that designations in the Accounts cadre vary from department to department and the Accountants in CSD have to be considered at the higher level and entitled to the pay scale of Rs.6500-10500/-. No letter of 19.04.2004 is traceable on record.

7. It is asserted that Annexure-11 is particularly significant as it carries O.M. dated 8.8.03 whereby the pay scales of Asstt. Accountants and Assistant Accounts Officers in the department of Atomic Energy and its constituent units have been raised notionally from 1.1.96 in tune with O.M. dated 28.4.03, even though it is not an organized accounts cadre. It is seen from Annexure-10 that on 27.6.03 the Board of Canteen Service pointed out to the CSD that they needed to re-examine the inapplicability of the higher pay scales to CSD personnel and send statement for taking up the matter for implementation in consultation with the Ministry of Defence. The Ministry of Defence drew up a draft memo for obtaining concurrence from the CDA(CSD) supporting the case of the applicants on various grounds. Noticeably the negative opinion of the BOCS was disagreed with therein and it was pointed out that in the department of Atomic Energy and department of Agriculture higher pay scales had been implemented for the Accounts staff. It was also noticed that the pay scale recommended

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by the successive Central Pay Commissions had been adopted in the CSD and therefore, Government decision on further improvement of the same should not be denied to the CSD in the above situation.

8. The Respondents by their written statement have disputed the applicants' claim and pointed out that there is no organized accounts cadre in the CSD and the recruitment rules cannot be said to be the same as those of the other departments. The O.M dated 28.2.03 was relevant to the CGDA, CGA, IA&AD, P&T and Railways and has not been extended to other accounts posts outside the organized accounts cadres. They have placed a comparative chart of posts in the organized accounts cadres and CSD which shows that the accountants in CSD had not only a higher pay scale than those in the organized accounts cadre prior to 1.1.96 but even as per existing pay scale it is emphasized that the accountant is a promotional post in the CSD and cannot be compared with those in the accounts cadre of the railways. The CSD follows an external accounting system whereas the Railways follow departmental accounting system.

9. In the rejoinder filed by the applicant it is pointed out that the CSD has a different hierarchy of posts such as Accountant, Assistant Accounts Officer, Assistant General Manager(Accounts), Deputy General Manager (F&A) etc. like that of an organized cadre. The SAS Accountants or SAS Clerk take up appointment as Accountant in the CSD as per the recruitment rules and are therefore inter changeable. Since the Accountants in CSD have to pass a departmental test they are a cut above the Accountants in other departments and hence their

existing pay scales are higher and similar to Section Officer. The applicants have relied upon a judgment of the Principal Bench of this Tribunal in O.A.208/91 dated 24.2.2004 in which the facts were similar to some extent and which was upheld by the Hon'ble High Court of Delhi on 21.5.2005 and the apex Court on 29.7.2005 dismissed SLP No.6923-6925/2005. The paragraphs 3 and 4 of the judgment of the High Court throw light in the matter and it would be useful to reproduce the same :-

"Similarly, on 7<sup>th</sup> December, 1995, the BSF Pay and Accounts Division also taking into consideration the rejection by the Ministry of Finance disposed of the application of the respondent that it cannot be treated as an organized accounts service. On the basis of the aforesaid, it was contended before that the finding of the learned Tribunal in the impugned order is not as per the report of the Pay Commission and BSF and there was no cadre of the Accounts Officer in the BSF and the anomaly has come up in view of the re-structuring of the cadre. In our view the reliance by the petitioner on the letter dated 6<sup>th</sup> September, 1995 (supra) is misplaced. The point raised by the learned counsel for the petitioner was considered in depth by the Tribunal and on the basis of the material before the Tribunal, the Tribunal gave the opinion that if certain scales were missing that will not take away the trail of the organized cadre. It was also considered that the method and manner of promotion has nothing to do with a cadre being organized or not. If it has other trails that it is a cadre comprising of reasonable number of persons, they have specific rules in this regard and there is no other factor which prompts one to conclude that it is an unorganized cadre. Relying upon the judgment of this Court in T.N.Natarajan and Ors. V. Union of India and Ors. in CWP 176/1979 decided on 3<sup>rd</sup> September, 1980 which also dealt with a similar controversy. It was held by the Tribunal by a reasoned order that the cadre of the respondent was an organized cadre.

We find no infirmity with the impugned order. No other point has been urged before us. We find no merit in the petition. Dismissed."

10. The learned counsel for the applicant has further taken us through a judgment passed by the Hon'ble Supreme Court on 6.5.04 in the case of State of Mizoram and another vs. Mizoram Engineering Service Association and another, (2004) 6 SCC 218 and pointed out the relevant portion contained in para 6 thereof which is reproduced below

"Great stress was laid on the fact that Engineering Service in the State was not an organized service and therefore, it did not have categorization by way of entrance-level and senior-level posts and for that reason the higher scale of Rs.5900-6700/- which was admissible for senior-level posts could not be given in the Engineering Service. The main reason for dubbing Engineering service as an unorganized service in the State is absence of recruitment rules for the service. Who is responsible for not framing the recruitment rules ? Are the members of the Engineering service responsible for it ? The answer is clearly "No". For failure of the State Government to frame recruitment rules and bring Engineering Service within the framework of organized service, the engineers cannot be made to suffer. Apart from the reason of absence of recruitment rules for the Engineering Service, we see hardly any difference in organized and unorganized service so far as Government service is concerned. In Government service such a distinction does not appear to have any relevance. Civil Service is not trade unionism. We fail to appreciate what is sought to be conveyed by use of the words "organized service" and "unorganized service". Nothing has been pointed out in this behalf. The argument is wholly misconceived.

It is therefore contended that the Accounts cadre in the CSD is in fact to be treated as an organized accounts cadre and the respondents have taken a contrary stand without complying with the pending proposal to make out a case to be decided in consultation with Ministry of Defence.

11. The learned counsel for the Respondents on the other hand has cited judgments of the Apex Court in the case of Union of India vs.

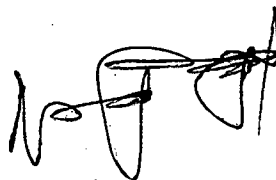
Dineshan K.K., (2008) 1 SCC 586 and the judgment in the case of Union of India & Ors. Vs. Hiranmoy Sen & others, (2008) 1 SCC 630 to contend that fixation of pay scales is an executive function and increase in pay scale of some posts would not by itself justify corresponding increase in favour of the petitioner. Accordingly the Court should not ordinarily intervene in such matters which lie in the domain of expert bodies with requisite specialized knowledge. We may also note that in terms of the judgments of the Apex Court in the case of Chief Administrator cum Joint Secretary to the Govt. of India & another vs. Dipak Chandra Das, (1999) 9 SCC 53 and in the case of Union of India and another vs. P.V. Hariharan & another, 1997 SCC (L&S) 838, it has been laid down that fixation of pay scales is not a matter which falls within the jurisdiction of the Tribunal.

12. The case of the applicants herein rests primarily upon the Accountants getting higher pay scale similar to Section Officers and their posts being comparable to the SAS Accounts, JAO and Divisional Accountant II they should not be discriminated against in the matter of grant of higher pay scale merely because they are stated to be not part of an organized accounts cadre particularly since the higher scale has been given to similar staff of the department of Atomic energy, who also do not belong to an organized accounts cadre. This issue regarding organized and un-organized service has already been the subject matter of judgment referred to by the applicants which appear to have upheld the case of the petitioners therein for higher pay scales on par with organized services on the basis of specific observations contained

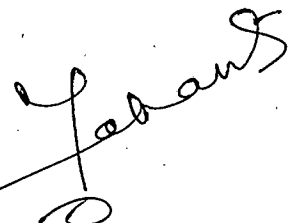
7



therein. However, we do find that Accountants in organized cadre get less pay and the status of Accountants in CSD is higher, their being qualified by way of passing an examination as well. As such their similarity has been projected against higher posts than Accountants in the organized cadre in terms of the various comparisons highlighted in the O.A. In fact, the respondents had initiated reconsideration of the applicants' case and the matter appears to be still not closed. In our considered view the prayers of the applicants in this O.A merits serious consideration on the part of the respondents keeping the above observations and the line of arguments initiated by them already, in view. It is ordered accordingly. Let a decision be taken and appropriate reasoned orders passed by the respondents in accordance with law within four months. No costs.



(N.D.DAYAL)  
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)  
VICE CHAIRMAN

vide order dt.  
8.4.05

Applicant no-5 died

- heirs to be deeded

no heirs of Applicant no-5 deeded

o APL is abated against applicant no-5

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para 4(12), 4(13) & 4(14)

NO representation  
~~for~~ proffered against  
extension of benefit  
of upgraded pay  
scale considered

by OM dt. 28.2.03 of 409

Extended to accounts  
employee particularly  
in the cadre of APLs/ARs  
of the original cadre,  
the benefit initially provided  
to Rly. APLs employee by int 1 c  
index

Synopsis

P.36 - Sd/- 13

CAT has no fund. to fix pay

1999 (9) sec 53

Chief Am. & D.C. San

1997 sec (CES) 838

U.O. India & P.V. Hantharayan

22 7

Filed by the applicant  
through U. Datta, advocate  
on 18.05.09

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

In the matter of: -

O. A. No. 60 of 2005

Shri K.K. Mondal & Ors.

..... Applicants.

-Vs-

Union of India and Others.

... Respondents.

-AND-

In the matter of: -

Submission of documents by the  
applicants.

The humble applicants above named most humbly and respectfully beg to submit  
following documents: -

1. O.M dated 28.02.2003 issued by the Govt. of India, Ministry of Finance.
2. Judgment and order dated 06.05.2004 passed by the Hon'ble Supreme Court in Civil Appeal No. 793 of 1998 (State of Mizoram -Vs- Mizoram Engineering Service Association & Ors.)

*A. G. Mondal  
Advocate.*

expenditure for a maximum of four consultation at an interval of 10 days and to restrict the total duration to forty days at O.P.D. level. The referral to the hospitals can be done by the A.M.A. after this duration only.

[42]

Copy of O.M. No. 6/82/E.III(B)/91, dated 28.2.2003, Government of India, Ministry of Finance & C.A.

**Subject:** Pay scales for the staff in the Organized Accounts Departments.

The undersigned is directed to say that the Government had approved grant of higher scales for the Accounts staff of Railways on notional basis with effect from 1.1.1996 with actual payments being made prospectively. Keeping in view the fact that pay scales of corresponding categories in various organized Accounts cadres have traditionally been on par, it has been decided that the dispensation approved in case of the Accounts staff of Railways may be extended to the corresponding categories in all the organized Accounts cadres.

2. Pay scales of the following posts and their equivalent posts in the organized Accounts cadres existing in various Ministries/Departments of the Government of India may accordingly be upgraded on notional basis with effect from 1.1.1996 with actual payments being made from 19.2.2003—the date on which this decision was approved by the Government—as under :—

Designation	Pay scale prior to 1.1.1996	Existing pay scale	Pay scale to be extended notionally with effect from 1.1.1996 with actual payments being made prospectively
	Rs.	Rs.	Rs.
Auditor/Accountant	1,200-30-1,560-40-2,040	4,000-100-6,000	4,500-125-7,000
Senior Auditor/Senior Accountant	1,400-40-1,600-50-2,300-60-2,600	5,000-150-8,000	5,500-175-9,000
Section Officer	1,640-60-2,600-75-2,900	5,500-175-9,000	6,500-200-10,500
Assistant Audit Officer/Assistant Accounts Officer	2,000-60-2,300-75-3,200-80-3,500	6,500-200-10,500	7,450-225-11,500

3. Insofar as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the C & AG of India.

[43]

Copy of Notification No. 4/61/99-P&PW(D), dated 28.12.2002, Government of India, (Department of P. & P.W.).

**Subject:** Amendment to Rule 37-A of CCS (Pension) Rules, 1972.

S.O. 4000—In exercise of the powers conferred by the proviso to Article 309 and Clause (July—24)

Attended  
Mutha  
Adm

(5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor-General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely :—

1. (1) These rules may be called the *Central Civil Services (Pension) Amendment Rules, 2002*.
- (2) They shall come into force on the date of their publication in the Official Gazette. (Published on 28.12.2002).

2. In the Central Civil Services (Pension) Rules, 1972, in Rule 37-A.

- (a) after sub-rule (8), the following explanation shall be *inserted*, namely :—  
EXPLANATION.—The amount of pension/family pension of the absorbed employee on superannuation from Public Sector Undertaking/Autonomous Body shall be calculated in the same way as would be the case with a Central Government servant, retiring on superannuation, on the same day”;

- (b) after sub-rule (11), the following shall be *inserted*, namely :—

“(11-A) A permanent Government servant absorbed in a Public Sector Undertaking/Autonomous Body or a temporary/quasi-permanent Government servant who has been confirmed in the Public Sector Undertaking/Autonomous Body subsequent to his absorption therein, shall be eligible to seek Voluntary Retirement after completing 10 years of qualifying service with the Government and the Autonomous Body/Public Sector Undertaking taken together, and he/she shall be eligible *pro rata* pensionary benefits on the basis of combined qualifying service”;

- (c) In sub-rule (24) in Clause (c), for the word “review” the word “confirmation” shall be *substituted*.

[44]

Copy of O.M. No. 4/36/2002-P&PW (D), dated 31.1.2003, Government of India (Department of P. & P.W.).

**Subject:** Clarification regarding date of admissibility for grant of retirement benefits to Government employees permanent absorption in Public Sector Undertakings.

The undersigned is directed to refer to Ministry of Finance (Department of Expenditure) Office Memorandum No. F. 24 (12)-EV/66, dated 16.6.1967 regarding grant of retirement benefits to Government servants seeking permanent absorption in Public Sector Undertakings, etc., on or after 16.6.1967. In pursuance of the Supreme Court Judgment in *T.S. Thiruvengadam v. UOI*, benefits of the O.M. dated 16.6.1967 were also extended to pre-16.6.1967 PSUs, etc., absorbees vide this Department's O.M. No. 4(6)/85-P&PW (D), dated 3.1.1995.

2. As per the original order issued vide O.M., dated 16.6.1967, *pro rata* pension, etc., payable in respect of service rendered under Government was disbursable only from the date the Government servant would have normally superannuated had he continued in Government service. Subsequently, Government modified these orders vide BPE (now DPE) O.Ms., dated 26.2.1969, 26.4.1969 and 3.1.1970 and Ministry of Finance, Department of Expenditure O.M., dated 19.6.1972.

(2004) 6 Supreme Court Cases 218

(BEFORE BRIJESH KUMAR AND ARUN KUMAR, JJ.)

STATE OF MIZORAM AND ANOTHER

Appellants;

Versus

MIZORAM ENGINEERING SERVICE ASSOCIATION  
AND ANOTHER

Respondents.

Civil Appeal No. 793 of 1998†, decided on May 6, 2004

**A. Service Law — Pay — Revision — Base year for determining — Mizoram Engineering Service — Revision of pay scales of Chief Engineer and Addl. Chief Engineer — Recommendations of Fourth Central Pay Commission, accepted by State of Mizoram, taking 1983 as the base year — Central Civil Services (Revised Pay) Rules, 1986 and Amendment Rules, 1987, made applicable to Mizoram, also taking 1983 as the base year — Further, the State Govt. itself linking pay revision of one Chief Engineer with the date of revision of pay scales as per recommendation of the Fourth Central Pay Commission — Held on facts, base year for the purpose of revision would be 1983** (Para 4)

**B. Service Law — Pay — Revision — Discrimination — Mizoram Engineering Service — Revision of pay scale of Chief Engineer — Revised pay scale allowed to one Chief Engineer in tune with Fourth Central Pay Commission held would show Govt.'s acceptance of recommendations of the Commission — Thereafter discrimination between that individual Chief Engineer and his successors impermissible — Though sometimes special pay may be granted to an individual for special reasons such as special merit, expertise etc. which may not be a precedent for others but in absence thereof, held on facts, there was no justification for confining the higher scale to a particular individual and denying the same to others — Constitution of India, Arts. 16 & 14** (Para 5)

**C. Service Law — Pay — Parity — Chief Engineer/Addl. Chief Engineer of Mizoram Engineering Service — Pay scale allowed by Govt. of India for senior-level posts in corresponding cadres cannot be denied to Chief Engineer/Addl. Chief Engineers of the State Engineering Service on ground that Engineering Service in the State was not an organised service merely because of absence of recruitment rules for the Service — Members of the Service being not responsible for not framing the rules, they cannot be made to suffer for failure of the State to frame the rules — Constitution of India, Art. 309** (Para 6)

**D. Service Law — Government service — Absence of recruitment rules — Effect — Service cannot be termed as unorganised merely because of absence of recruitment rules for the Service when apart from that there is no other difference between the organised and unorganised service so far as govt. service is concerned — In govt. service such distinction does not have any relevance — Civil service is not trade unionism — Constitution of India, Art. 309** (Para 6)

† From the Judgment and Order dated 28-2-1997 of the Gauhati High Court at Assam in WA No. 347 of 1996

**E. Service Law — Pay — Revision — Financial burden on State — Contention regarding, has no relevance when claim for revised pay is found to be fully justified** (Para 7)

R-P-M/ATZ/30092/CL

Appeal dismissed

Advocates who appeared in this case :

L. Nageswara Rao, Additional Solicitor General (Ms Hemantika Wahi, Ms Sumita Hazarika and Ms Archana Palkar Khopde, Advocates, with him) for the Appellants; Harish N. Salve and Kailash Vasdev, Senior Advocates (P.C. Prushi, S.K. Shandilya, Prateek Kumar and Ms V.D. Khanna, Advocates, with them) for the Respondents; K.N. Madhusoodhana and R. Sathish, Advocates, for the Intervenor.

The Judgment of the Court was delivered by

**ARUN KUMAR, J.**— This appeal is directed against the judgment dated 28-2-1997 passed by a Division Bench of the Gauhati High Court. By the impugned judgment the Division Bench dismissed the appeal against the judgment dated 17-5-1996 passed by the learned Single Judge. The learned Single Judge had allowed a writ petition filed by the respondent herein challenging Notification No. G.12011/3/87F.Est dated 3-2-1989 whereby certain categories of engineers in the State Engineering Service had been excluded for purposes of revision of pay scales accepted by the State vide Notification No. G.12011/3/87F.Est dated 19-1-1989. The Mizoram Engineering Service Association (respondent) has been demanding higher pay scales for its members. The background is that prior to 1971 what is now known as the State of Mizoram was a district called Lushai Hills District within the State of Assam. From 1971 to 1986 Mizoram was a Union Territory under the North-Eastern Areas Reorganisation Act, 1971. It attained full Statehood on 20-2-1987. In 1974 when the State was a Union Territory, the Government of India constituted a Departmental Pay Committee to suggest scales of pay and allowances for employees of Mizoram on the pattern of Central Government employees vide Ministry of Home Affairs Letter No. 1.3.1973.MP dated 4-11-1974. On the recommendation of the said Departmental Pay Committee, the Government of India revised the scales of pay and allowances for the employees of the State of Mizoram w.e.f. 1-1-1973. On a demand made by Superintending and Executive Engineers of the respondent Association for equalising their respective scales of pay with their counterparts in the Central Public Works Department, the Government of India vide letter dated 16-10-1983 intimated to the Secretary to the Mizoram Administration, Public Works Department conveying the sanction of the President of India for revision of pay scales of the engineers (Group 'A' posts) in tune with the pay scales enjoyed by the engineers in CPWD.

2. The Government of India accepted the Fourth Central Pay Commission Report regarding revision of pay scales for Group A, B, C, D and E posts in the Central Civil Services w.e.f. 1-1-1986. The recommendations of the Fourth Central Pay Commission accepted by the Government of India became applicable for the civil services in Mizoram also. The Central Civil Services (Revised Pay) Rules, 1986 came into force w.e.f. 1-1-1986 and they were made applicable to the employees forming part

of the civil services in Mizoram. Certain representations were made on behalf of employees for removal of anomalies resulting from the Fourth Central Pay Commission Report. In 1987 an Anomalies Committee was appointed to look into the alleged anomalies and make suitable recommendations. The recommendations of the Anomalies Committee created further anomalies rather than resolving them. On 7-11-1988 another Anomalies Committee was appointed. The report of the Anomalies Committee was accepted by the Government of the State of Mizoram. Notification No. G.12011/3/87F.Est dated 19-1-1989, accepting the recommendations was issued. Soon thereafter the State Government issued another notification dated 3-2-1989 (the impugned notification) to the effect that the scales of pay for Group 'A' officers as mentioned in para 28 of Schedule A and Schedule B did not include pay scales for MCS officers/MPS officers whose pay scales were governed by their respective service rules. The notification further excluded engineering officers of the rank of Executive Engineer and Superintending Engineer from the benefits of the notification dated 19-1-1989. This notification was challenged by the respondent Association by filing a writ petition in the Gauhati High Court. In the writ petition the first prayer was with regard to quashing the notification dated 3-2-1989 which excluded the Executive Engineers and the Superintending Engineers from getting the benefit of revised pay scales under the notification of the State Government dated 19-1-1989. The second prayer was with respect to the Chief Engineers and Additional Chief Engineers seeking directions that they should get the conversion scales of pay of Rs 5900-6700 and Rs 4500-5700 respectively instead of the revised scales of pay prescribed for them by the State Government. The scale of Rs 5900-6700 for the Chief Engineer and Rs 4500-5700 for Additional Chief Engineer demanded by the respondent Association was as per the recommendations of the Fourth Central Pay Commission and was the same as was being allowed to incumbents holding equivalent posts in the Central Public Works Department. The learned Single Judge allowed the writ petition granting both the prayers of the writ petitioner. The appeal against the judgment of the learned Single Judge was dismissed by the Division Bench. The present appeal is directed against the said judgment of the Division Bench.

3. We have heard the learned counsel for the parties at length. At the outset we may note that the learned counsel for the appellant has not seriously challenged the impugned judgment so far as it grants relief to the Executive Engineers and Superintending Engineers by quashing the notification dated 3-2-1989. The challenge in the appeal is mainly directed against the scales of pay granted to the Chief Engineers and Additional Chief Engineers i.e. Rs 5900-6700 and Rs 4500-5700 respectively. In this connection the following points have been raised:

1. The base year for purposes of revision of pay scales of Chief Engineer and Additional Chief Engineer should be taken as 1973 and not 1983 even though the revision was being taken into consideration w.e.f.

1-1-1986 as per the Fourth Central Pay Commission Report which had been accepted by the State Government.

2. In respect of Chief Engineer, the recommendation of the Pay Anomalies Committee which was accepted vide notification dated 19-1-1989 was to the effect that only the existing incumbent would get the scale of Rs 5900-6700 and future entrants would be entitled to pay scale of Rs 4500-5700 only. This scale is the scale for all heads of departments in the State of Mizoram while the scale of Rs 5900-6700 was for the next higher post.

It was not disputed that the then incumbent of the post of Chief Engineer, namely, Mr Robula was given the scale of Rs 5900-6700. It was submitted that the said scale was specially allowed to him since he was holding the post on 1-1-1986 i.e. the date from which the Fourth Central Pay Commission recommendations were made applicable. Subsequent entrants to the service were not to be given that scale. (Per letter dated 13-1-1989 from Secretary, PWD to Director, Accounts and Treasury, Mizoram.)

3. It was vehemently argued that scale of Rs 5900-6700 was being allowed by the Government of India for senior-level posts in the corresponding cadres. Engineering Service in the State of Mizoram was not an organised service. There were no recruitment rules for the service. Therefore, there were no senior-level posts which would entitle the incumbents to get the grade of Rs 5900-6700.

4. So far as the question as to which base year should be taken into consideration for purposes of revision of pay i.e. 1973 or 1983, we may recall that Mizoram became a Union Territory in the year 1973. The Government of India had accepted the fact that the persons employed in Engineering Services within the State of Mizoram should get pay scale at par with those working in the Central Public Works Department. This decision was also implemented. The scales of pay for engineers working in Mizoram State were revised w.e.f. 1973. The next crucial event in this connection is the recommendations of the Fourth Central Pay Commission which were accepted by the State of Mizoram as well. These recommendations take 1983 as the base year for the purpose of revision of pay scales. Apart from this the Central Civil Services (Revised Pay) Amendment Rules, 1987 also take the year 1983 as the base year. These Rules came into force on 1-1-1986. At that time Mizoram was a Union Territory. The Government of India accepted the Rules. They were made applicable in Mizoram as well. The Schedule annexed to the Rules refers to present scales and revised scales of pay. The present scales mean the scales which were in force at that time. For the relevant category of posts the existing scale given in the Schedule is Rs 2250-125/2-2750 and the revised pay scale is Rs 5900-200-6700. In this background there does not appear to be any good reason for taking 1973 as the base year for the purposes of pay revision in Mizoram. No reason is forthcoming. Mr L. Nageswara Rao, the learned Additional Solicitor General

appearing for the appellant relied on a notification dated 1-2-1989 to submit that it was the decision of the State Government to treat the year 1973 as the base year for the purpose of pay revision and that has to be accepted. We are unable to accept this submission made on behalf of the appellants in view of the fact that recommendations of the Fourth Central Pay Commission have been duly accepted by the State Government. Additional factor which impels us to take this view is that the State Government itself accepted the scale of Rs 5900-6700 and allowed the same to the then incumbent Mr Robula w.e.f. 1-1-1986. The State linked up revision of pay scale of Mr Robula with the date of revision of pay scales as per recommendations of the Fourth Central Pay Commission. A different reasoning cannot be applied in case of other officers in the service. In this connection it is also worth noting that in para 4 of the counter-affidavit filed on behalf of the State Government before the learned Single Judge in response to the writ petition, it is admitted that the existing pay scale for the post of Chief Engineer was Rs 2250-2500 prior to enforcement of recommendations of the Fourth Central Pay Commission. This is also admitted that the conversion scales for the scale of Rs 2250-2500 are Rs 5100-5700 and 5900-6700 as per the Fourth Pay Commission Report. However, it is submitted that grade of Rs 5900-6700 was applicable only in respect of organised medical, engineering and other Central services as per specific recommendations of the Fourth Central Pay Commission. In view of this stand of the State Government it is difficult to accept that the Chief Engineers will not be allowed the grade of Rs 5900-6700.

5. Coming to the argument that the scale of pay of Rs 5900-6700 was confined to only the then Chief Engineer Mr Robula and was not to be allowed to future entrants in the service, we find no justification for this. The fact that the revised pay scale was being allowed to Mr Robula in tune with the recommendations of the Fourth Central Pay Commission, shows that the State Government had duly accepted the recommendations of the Fourth Central Pay Commission. Having done so, it cannot be permitted to discriminate between individuals and not allow the same to the rest. In this context the learned counsel for the appellant submitted that it is not unusual that sometimes special pay is granted to an individual and the same does not become a precedent for others. As a proposition it may not be disputed. But there has to be special reason for this. In the facts of the present case we do not find any justification for confining the higher scale to a particular individual and deny the same to others. There may be special reasons, for instance, special merit, expertise or the like, for giving special pay to a particular individual. In the present case no such reason is forthcoming. On the other hand the reason given is that since he was holding the post on 1-1-1986, the date from which the Fourth Central Pay Commission recommendations were given effect to, he was being allowed the higher pay scale. This reason rather supports the case of the respondent. It shows an admission on the part of the appellant that the revised pay scales for the post of Chief Engineer as per the recommendations of the Fourth Central Pay

Commission was Rs 5900-6700 and was allowed to a Chief Engineer. The State Government cannot be permitted to discriminate between similarly placed individuals in this behalf between those holding the post at the time of revision of pay scales and future incumbents of the post. The argument has no merit.

6. Great stress was laid on the fact that Engineering Service in the State was not an organised service and therefore, it did not have categorisation by way of entrance-level and senior-level posts and for that reason the higher scale of Rs 5900-6700 which was admissible for senior-level posts could not be given in the Engineering Service. The main reason for dubbing Engineering Service as an unorganised service in the State is absence of recruitment rules for the service. Who is responsible for not framing the recruitment rules? Are the members of the Engineering Service responsible for it? The answer is clearly "No". For failure of the State Government to frame recruitment rules and bring Engineering Service within the framework of organised service, the engineers cannot be made to suffer. Apart from the reason of absence of recruitment rules for the Engineering Service, we see hardly any difference in organised and unorganised service so far as government service is concerned. In government service such a distinction does not appear to have any relevance. Civil service is not trade unionism. We fail to appreciate what is sought to be conveyed by use of the words "organised service" and "unorganised service". Nothing has been pointed out in this behalf. The argument is wholly misconceived.

7. The learned counsel for the appellant also argued that if the scale of Rs 5900-6700 is to be allowed to the Chief Engineers, the State Government will have to allow the same scale to other heads of departments in the service of the State Government which will be a heavy burden on the financial resources of the State Government and for that reason we should restrict the scale for post of Chief Engineer and Additional Chief Engineer to Rs 4500-5700 and Rs 4100-5300 respectively. In our view this is hardly any ground to interfere with the decision of the High Court. It has been found that the claim of the respondents is fully justified by the facts on record. The Central Government as well as the State Government accepted the recommendations of the Fourth Central Pay Commission and the scales being allowed to the members of the respondent Association are based on those recommendations.

8. Thus we do not find any merit in the present appeal. The impugned judgment does not call for interference. The appeal is dismissed leaving the parties to bear their respective costs.

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Filed by the applicant  
through U. Datta, advocate  
on 18.05.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A. No. 60 /2005

Sri K.K. Mandal and Others.

-Vs-

Union of India & Ors.

LIST OF DATES

A

Applicant No. 1 to 4 are working in the cadre of Accountant in the pay scale of Rs. 5,500-175-9,000/- and the applicant No. 5 is working as Assistant Accounts Officer in the pay scale of Rs. 6500-200-10,500/- in the Canteen Store Department (for short CSD), Narangi, Guwahati. (Para- 4.3, page- 3 of O.A)

03.03.1979- Govt. of India, Ministry of Defence published "Canteen Store Department recruitment rule, 1979" prescribing recruitment qualification for Accountant and Asstt. Accounts Officer.  
(Annexure- 1, page- 18)

29.09.1986- General Manager, Canteen Store Department issued service order No. 59/86 adopting recommendation of 4<sup>th</sup> Central Pay Commission. Similarly CSD also adopted the recommendation of the benefit of the 5<sup>th</sup> central pay Commission for its employees.  
(Annexure-12, page- 31)

28.02.2003- Govt. of India, Ministry of Finance issued Office Memorandum, extending benefit of upgradation of pay-scale of accounts employees, particularly in the cadre of Accountant/AAO of the organised cadre.

In terms of the said O.M scale of pay of Accountant was revised from Rs. 5500-9000 to Rs.6500-10500 and the scale of pay of AAO was revised from Rs. 6500-10500 to Rs. 7450-11500.

Aforesaid upgradation was effected on notional basis w.e.f. 01.01.1996 with actual payment being made w.c.f. 19.02.2003.

(Annexure- 2, page- 20)

04.03.2003- Asstt. Controller General of Accounts forwarded Ministry of Finance O.M dated 28.02.03 to all the Ministries/departments.

(Annexure- 8, page- 27)

07.04.2003- Deputy General Manager (F&A) strongly recommended for extending upgradation of pay scales of Accountant/AAO of the CSD in terms of Ministry of Finance O.M dated 28.02.2003.

(Annexure- 4, page- 22)

27.06.2003- Secretary, Board of Control Canteen Services (for short BOCCS), New Delhi intimated that pay scales as provided vide Ministry of



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Finance O.M dated 28.02.03 appears to be applicable to the Organised Accounts Services. As such he requested CSD Head Office to examine the case in detail and forward the case to the Secretariat.  
(Annexure- 10, page-29)

08.08.2003- Department of Atomic Energy extended upgradation of pay scales to the Assistant Accountant, Assistant Accounts Officer in terms of the Ministry of Finances' O.M dated 28.02.2003.

(Annexure- 11, page- 30)

19.08.2003- General Manager, CSD inviting a reference of the letter dated 07.04.03, it is informed that pay scales mentioned in the O.M dated 28.02.2003 is applicable to the Organised Accounts Services like Railway Board Accounts Service, Postal Accounts Service etc.

(Annexure- 7, page- 26)

16.01.2004- Respondent No. 6 after receipt of the communication dated 19.08.03 strongly recommended the case of the applicants for grant of benefit of the upgraded pay scale contained in the O.M dated 28.02.03 for the Accounts employees of the CSD.

(Annexure- 13, page- 35)

24.02.2004- Principal Bench of this Hon'ble Tribunal in it's judgment and order dated 24.02.2004 in O.A. No. 208/1997 (Shri J.R. Chobdar -Vs- Union of India & Ors.) has elaborately dealt in regarding the parameters of "Organised Accounts cadre" and has held that the Accounts department in the Border Security Force is an "Organised Accounts cadre".

(Annexure- A, page- 7 of the rejoinder)

26.03.2004- Applicant No. 5 submitted a representation addressed to the respondent No. 3 for extension of upgradation of pay scales in terms of the O.M dated 28.02.2003. (Annexure- 3, page- 21)

28.04.2004- Comptroller and Auditor General issued office memorandum, extending benefit of upgradation of pay scales of Ministry of Finance O.M dated 28.02.03 to the Divisional Accountants/ Divisional Accounts Officers. (Annexure- 9, page- 28)

30.04.2004- Regional Manager, CSD, Guwahati forwarded representation dated 26.03.04 of the applicant No. 5 to the DGM (P&A), CSD, Mumbai. (Annexure- 5, page- 23)

10.09.2004- DGM (F&A), CSD, Mumbai intimated that no intimation has been received regarding representation submitted by the employees of the CSD, for providing benefit of O.M dated 28.02.2003.

(Annexure- 6, page- 25)

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15.09.2004- Respondent No. 3 vide his letter dated 15.09.2004 informed that upgradation of pay scales of Asstt. Accounts Officer and Accounts Officer in terms of Ministry of Finance O.M dated 28.02.03 is applicable to the organized Accounts Cadres only and CSD does not have organized cadre. As such Ministry of Finance O.M dated 28.02.03 is not applicable to the CSD.

(Annexure- B of W.S)

25.01.2005- Hon'ble Delhi High Court vide it's judgment and order dated 25.01.2005 in W.P (C) No. 20065-67/2004 upheld the judgment and order dated 24.02.2004 in O.A. No. 208/1997, which supports claim and contention raised by the applicants.

(Annexure- B, page- 25 of the rejoinder)

29.07.2005- Hon'ble Apex Court vide it's order dated 29.07.2005 in SLP No. 6923-6925/2005 further upheld the judgment dated 25.01.05 of the Hon'ble Delhi High Court in W.P (C) No. 20065-67.

(Annexure- C, page- 31 of the rejoinder)

The Accounts Department in the Central Stores Department is similarly situated and on the same analogy it is undoubtedly an "Organised Accounts Cadre".

Applicants rely on the decision rendered by the Hon'ble Supreme Court in the case of State of Mizoram and another - Vs- Mizoram Engineering Services Association. Reported in (2004) 6 SCC 218.

2008(1) SCC 586  


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 2008(1) SCC 630

and the amount of the loan is \$100,000. The loan is to be repaid in 10 equal installments of \$10,000 each, starting on the first day of the month of January, 1961. The first installment is due on January 1, 1961. The interest rate is 6% per annum, compounded annually. The loan is to be repaid in 10 equal installments of \$10,000 each, starting on the first day of the month of January, 1961. The first installment is due on January 1, 1961. The interest rate is 6% per annum, compounded annually.

(Continued on page 2)

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(Continued on page 2)

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(Continued on page 2)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

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File in Court on 15/07/09  
Court Officer.

MEMORANDUM

It is prayed that the following matters may be permitted to be listed before the Division Bench to be held w.e.f. 18.05.2009 to 29.05.2009.

- ✓ ① Shri Pulak Kr. Biswas - Vs - U.O.I & or. → O.A.No. 01/2004 - 20.5
- ✓ ② Shri K.K. Mandal & ors. - Vs - U.O.I & or. → O.A.No. 60/2005 - 18.5
- ✓ ③ Shri M.K. Srivastava - Vs - U.O.I & ors. → O.A.No. 284/2005 - 21.5
- ✓ ④ Shri B.K. Khound - Vs - U.O.I & ors → O.A.No. 06/2006 } 19.5
- ✓ ⑤ Smti D. Devi - Vs - - - - - → O.A.No. 11/2006 }
- ✓ ⑥ Shri M.L. Goswami - Vs - U.O.I & ors → O.A.No. 220/2006 } 29.5
- ✓ ⑦ Shri Subimal Roy - Vs - - - - - → O.A.No. 90/2007 }
- ✓ ⑧ Shri Siddheswar Das - Vs - - - - - → O.A.No. 56/2007 - 20.5
- ✓ ⑨ Shri M.P. Singh - Vs - U.O.I & ors. → O.A.No. 140/2007 - 18.5
- ✓ ⑩ Smti Indrani Das - Vs - U.O.I & ors. → O.A.No. 150/2008 } 28.5
- ✓ ⑪ Smti Indrani Das - Vs - - - - - → O.A.No. 197/2008 }
- ✓ ⑫ Shri Anjan Dutta - Vs - - - - - → O.A.No. 32/2007 - 16.6

consent given by the  
counsel of the opposite party.

① M.K. Choudhury

② Gauram Prinsly  
14.05.09 Enclosure

③

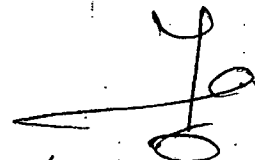
④ J.R. John

M. Dutta  
15.05.09

✓ OA/CP/RA/ME No. 60 /2005

Order dated 25.3.2008

Call the matter for hearing  
on 5-5-08.

  
( M.R. MOHANTY )  
Vice-Chairman

It is prayed that following  
matter may be permitted to  
move as for admission

C. A. No. (208)

R. B. M. A. vs U. V. I. Co.

Allowed

10/1/3

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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ORIGINAL APPLICATION k.k. Mandal

1. a) Name of the Applicant:- B. B. Das  
b) Respondents :- Union of India & Ors  
c) No. Of applicant:- 4 Others
2. Is the application in the proper form :- Yes/No.
3. Whether name & Description and address of all the papers been furnished in cause title:- YES/NO.
4. Has the application been duly signed and verified: YES/NO.
5. Have the copies duly signed :- YES/NO.
6. Have sufficient number of copies of the application been filed:- YES/NO.
7. Whether all the annexures parties are impleaded:- YES/NO.
8. Whether English translation of documents in the Language:- YES/NO.
9. Is the application is in time :- YES/NO.
10. Has the Vakalatname/MEMO of Appearance/Authorisation filed:- YES/NO.
11. Is the application by IPO/BD/FOR Rs. 50/-: 2002-116079 dt. 18/2/05.
12. Has the application is maintainable :- YES/NO.
13. Has the impugned order original duly attested been filed:- YES/NO.
14. Has the legible copies of the annexures duly attested filed:- YES/NO.
15. Has the Index of documents been filed all available:- YES/NO.
16. Has the required number of enveloped bearing full address of the respondents been filed :- YES/NO.
17. Has the declaration as required by item 17 of the form:- YES/NO.
18. Whether the relief sought for arises out of the Single:- YES/NO.
19. Whether the interim relief is prayed for :- YES/NO.
20. In case of condonation of delay is filed is it supported:- YES/NO.
21. Whether this case can be heard by SINGLE BENCH/DIVISION BENCH:
22. Any other points :-
23. Result of the scrutiny with initial of the Scrutiny Clerk:- ✓

IN OFFICER

DEPUTY REGISTRAR

15/5/05

13.05

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In the Central Administrative Tribunal,  
Guwahati.

OA 60/05

In the matter of :  
O.A.No. 60 Of 200

*B. B. Datta* or  
Applicant

Vs.

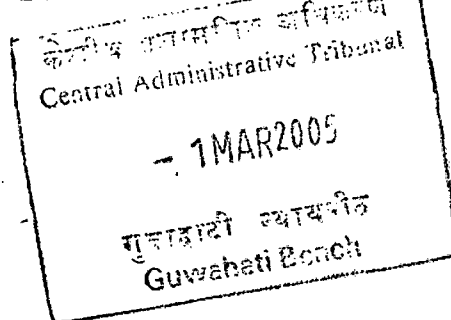
Union of India & ors.  
Respondents

I, A. K. Chaudhuri, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 2, 3, 4, & 5 in the above case.

Given under my hand & seal on this the 4<sup>th</sup> day of April 2005.

*A.K. Chaudhuri*  
(A.K. Chaudhuri)  
Addl. C.G.S.C.





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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A. No. /2004

K.K. Mandal  
Sri B.B. Das and Others.

vs.-

Union of India & Ors.

Canteen Store  
dept.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

✓ 3.3.1979 Statutory order issued by the Govt. of India prescribed, similar recruitment qualification for the post of accountant and AAO, in the CSD like the accounts employees of original accounts cadre, also having similar scale of pay.

28.02.2003 Govt. of India, Ministry of Finance, vide O.M dated 28.02.2003 extended the benefit of upgradation of pay-scale of accounts employees, particularly in the cadre of Accountant/ AAO of the original cadre, in the manner, the benefit initially provided to railway accounts employees, by the Govt. of India.

7.04.2003, 19.08.2003, 27.06.2003 Applicants working in CSD approached for extension of benefit of upgraded pay scale considered in OM dated 28.02.2003. but General manager, vide letter dated 19.08.2003 informed that classification have been revised, from BOCCS through letter dated 27.06.2003, wherein it is stated that benefit of upgraded pay scale contained in OM dated 28.02.2003, exclusively meant for accounts employees of organized accounts cadre, although post accounts set up of CSD are equivalent to the cadre of organized accounts cadre.

15.09.2004

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Impugned order dated 15.09.2004 issued by GM addressed to AGM denying the benefit of upgraded scale of pay to the applicants on interpretation of the OM dated 28.02.2003, holding that the OM exclusively meant for organized accounts care. However liberty is given to DGM to refer the matter to CDA (CSD) if so desire.

8.8.2003

Govt. of India, also extended the benefit of upgraded pay scale continued in OM dated 28.02.2003 to the accounts employees of the department and of atomic energy i.e to a non organized accounts cadre who are similarly situated like the applicants.

no. Ref. No. 10

### PRAYER

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted 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 relief(s):

1. That the Hon'ble Tribunal be pleased to declare that applicants are entitled to benefits of the upgraded pay scale contained in the office memorandum dated 28.02.2003 provided by the Govt. of India, Ministry of Finance to the employees belonging to the cadre of Accountant and Assistant Accounts Officer, also applicable to the applicants working in the cadre of Accountant and Assistant Accounts Officer respectively in the CSD with all consequential benefit.
2. That the Hon'ble Tribunal be pleased to declare that the impugned order dated 19.08.2003 and 19.04.2004 are void ab initio.

- 36 20
3. That the Hon'ble Tribunal be pleased to direct the respondents to pay the scale of Rs. 6500-10500 to the applicants serving in the cadre of Accountant and further be pleased to pay the scale of Rs. 7450-11500 to the applicants serving in the cadre of Assistant Accounts officer in the Canteen Store Department by fixing the pay in terms of the direction contained in the memorandum dated 28.02.2003.
  4. Costs of the application.
  5. Any other relief(s) to which the applicant is entitled 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: -

1. That the Hon'ble Tribunal be pleased to observe that the pendency of this Original Application shall not be a bar to grant the relief to the applicants as prayed above.

35  
Filed by me applic  
through: Subroto  
Advocate  
1/3/15

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

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

Title of the case : O. A. No \_\_\_\_\_/2005

Shri K.K. Mandal & Ors. : Applicant  
- Versus -

Union of India & Others. : Respondents.

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04.	2	Copy of order dated 28.02.03.	-21-
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11.	9	Copy of the circular dated 28.04.04.	-29-
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Filed by

Date

Advocate

Priman Bihari Das.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O. A. No. \_\_\_\_\_/2005

BETWEEN:

1. Shri K.K. Mandal  
Accountant.
2. Shri D. Mazumdar,  
Accountant.
3. Shri A.K. Deka,  
Accountant.
4. Shri H.S. Thakur.  
Accountant.
5. Shri Biman Behari Das,  
Assistant Accounts Officer.

...Applicants.

Applicant No. 1 to 4 are working as Accountant and the applicant No. 5 is working as Assistant Accounts Officer in the Canteen Stores Department, Govt. of India, Ministry of Defence, Narangi, Guwahati-27.

-AND-

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Defence,  
New Delhi- 110001.
2. The Chairman,  
Canteen Stores Department,  
"Adelphi",  
113 Maharshi Karve Road,  
Mumbai- 400 020.
3. General Manager,  
Canteen Stores Department  
"Adelphi"  
Maharshi Karve Road.  
Mumbai- 400 020.
4. The Regional Manager,

*Biman Behari Das*

- Canteen Stores Department,  
Narengi, Guwahati-27.
5. The Secretary  
Govt. of India,  
Ministry of Finance,  
Department of Expenditure,  
New Delhi- 110001.
6. Deputy General Manager (F& A)  
Canteen Stores Department,  
"Adelphi",  
119 Maharshi Karve Road,  
Mumbai- 400 020.

... Respondents.

### DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made

This application is made against the impugned letter dated 19.08.2003 as well as impugned letter dated 15<sup>th</sup> September 2004 issued by the General Manager Canteen Store Department, Mumbai and further praying for extension of the benefit of higher pay scales to the applicants in terms of Ministry of Finance O.M. dated 28.02.2003 with immediate effect.

2. Jurisdiction of the Tribunal

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicants further declare 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 they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are

*Priman Bihari Das*

common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.3 That the applicant No. 1 to 4 are working in the cadre of Accountant in the pay scale of Rs. 5,500-175-9,000/- and the applicant No. 5 is working as Assistant Accounts Officer in the pay scale of Rs. 6500-200-10,500/- in the Canteen Store Department, Narangi, Guwahati at present.

4.4 That it is stated that the post of Accountant is treated as General Central Service Group B (Non-gazetted) cadre and the post of Assistant Accounts Officer treated as General Central Service Group B cadre (Gazetted). As per notification issued by the Gazette of India on 3<sup>rd</sup> March, 1979 under Part-II, Section 4 in the name and style of "Statutory Rules and Order issued by the Ministry of Defence", wherein the requisite qualification has been prescribed for promotion to the cadre of Assistant Accounts Officer as follows:-

Accountant with 5 years service rendered after appointment that too on a regular basis".

It is relevant to mention here that the cadres of Assistant Accounts Officer are being filled up only by way of promotion from the cadre of Accountant.

Whereas requisite qualification for appointment/promotion to the cadre of Accountant are being shown as follows: -

"Person working in the Canteen Stores Department holding Ministerial posts in the scale of Rs. 330-560/- with 3 years regular service in the respective grades and in higher posts subject to passing of a departmental tests. Be it stated that departmental tests consists of 6 papers exclusively

*Pr. Anan B. B. Das.*

on the Accounts matters which is comparable to Subordinate Accounts Service Examination.

It is pertinent to mention here that for recruitment to the posts of Accountant there are two methods, prescribed in the aforesaid statutory rule one by way of promotion and alternatively by transfer on deputation. For transfer on deputation the following condition of eligibility has been laid down in the statutory rule.

"SAS Accountant or SAS passed Clerks from any of the organized Account department e.g. Indian Audits and Accounts Department, Indian Railway Accounts Department, Indian Defence Accounts Department, Indian Posts and Telegraphs, Finance and Accounts Department and Indian Civil Accounts department".

Therefore it appears that the qualification prescribed either for recruitment of Accountant or for the purpose of promotion to the cadre of Assistant Accounts Officer in the Canteen Stores Department, Govt. of India, Ministry of Defence are equivalent to the qualification laid down for appointment/promotion of Section Officer/Junior Accounts Officer/SAS Accountant and Assistant Accounts Officer of the organized Account cadre which are normally under the administrative control of Accountant General of the respective state of the Indian Accounts and Audit Department, Controller General of Accounts (under the Ministry of Finance) and Controller General of Defence Accounts (under the Ministry of Defence), P&T and Railway Accounts set up.

Copy of extract of recruitment qualification of the Accountant and Asst. Accounts Officer of the Canteen Stores Department is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-1.

*Biswan Bihari Das*



4.5 That the Govt. of India, Ministry of Finance, Department of Expenditure vide Office Memorandum issued under letter No. E.6/82/E.III (B)/91 dated 28.02.2003 whereby pay scales for the staffs, belonging to the organized Accounts department have been upgraded on notional basis w.e.f. 01.01.96 with actual payments to be made from 19.02.2003 i.e. on which this decision was approved by the government. In the said O.M it is stated that the government have approved grant of higher scale for the accounts staff of Railways on notional basis w.e.f. 01.01.96 with actual payment be made respectively, keeping in view the fact that pay scales of corresponding categories in various organized cadres in the case of the Accounts staff have traditionally been on par, therefore it has been decided that the dispensation approved in case of the Accounts staff of Railways, may be extended to the corresponding categories in all the organized Accounts cadre. It is further stated that pay scales of the post of Auditor/Accountant, Senior Auditor/Sr.Accountant, Section Officer and Asstt. Accounts Officer and their equivalent posts in the organized Account cadre existing in various Ministries/ Departments of the Govt. of India may accordingly be upgraded on notional basis w.e.f 01.01.96 with actual payments be made from 19.02.03 in terms of the aforesaid memorandum. In terms of the memorandum dated 28.02.2003 the existing scale of Rs.5500-9000, have been upgraded to the scale of Rs. 6500-10,5000 for the cadre of Accountant and the existing scale of Rs. 6500-10500 have been upgraded to the Rs. 7450-11500 for the offices holding the post of Assistant Accounts Officer.

It is quite clear on a mere reading of the O.M dated 28.02.03 issued by the Govt. of India, Ministry of Finance that the upgraded pay scales in fact initially approved by the Govt. of India for the Accounts Staff of Railways, thereafter on a

Bhimani Pr. Hari Das

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further consideration of the matter by the Govt. of India decided to extend the benefit of upgraded pay scales to the equivalent posts of the Accounts set up in the organized Accounts cadre under the Govt. of India. Therefore it appears that the Govt. of India initially approved the higher/upgraded pay scales to the Accounts staffs of Railways and thereafter the same was extended to the equivalent posts of organized Accounts cadre.

A copy of the order dated 28.02.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-2.

- 4.6 That your applicants/some of the similarly situated employees of CSD submitted representation for extension of the benefit of the higher revised pay scales/upgraded pay scales in terms of the direction contained in the O.M dated 28.02.03, addressed to General Manager, Board of Administration, CSD, Mumbai on 16.03.2004, which was forwarded to P&A Branch through DGM (F&A) vide letter No. 6/F&A/Co-ord/ACS-CDS/289 dated 29.03.2004, again another representation was submitted on 26.03.2004 for extension of the benefit of upgraded pay scales notionally w.e.f. 01.01.96. Subsequently reminder was submitted on 10.09.2004 but to no result.

As for example copy of the representation dated 26.03.04 and the forwarding letter dated 07.04.03 and 30.04.04 as well as reminder dated 10.09.04 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-3, 4, 5 and 6 respectively.

- 4.7 That it is stated the General Manager, Canteen Stores Department, Mumbai wrote a letter to DGM (F&A) bearing No. 3/Pers/A-2 (PFC)/3476 dated 19<sup>th</sup> August 2003, inviting a reference of the letter dated 07.04.03, it is informed that clarification have been received from BOCCS vide letter dated 27.06.03 with

*Priman Pradhan Das*

regard to applicability of pay scales mentioned in the O.M dated 28.02.03 to CSD personnel, the relevant portion of the clarification are quoted hereunder: -

- a) It appears, it is applicable to Organised Accounts Service like Railway Board Accounts Service, Postal Accounts Service etc only which have cadres similar to that of mentioned in the OM.
- b) The Accounts cadre of CSD (not specified in the CSD letter under reference) but does not appear to be similar to that of the other accounts services mentioned above.
- c) The pay scale of Accountant in respect of other accounts service is Rs. 4500/- 7000/- (after revision) whereas it is already Rs. 5500-9000/- in CSD. As it is unlikely the OM is made applicable partially, implementation of OM in CSD to result in reduction in pay scale of Accountants."

It is quite clear from the clarification as stated above that the respondents have wrongly interpreted the contents of the O.M dated 28.02.03 issued by the Govt. of India, Ministry of Finance. On a mere reading of the O.M dated 28.02.03 it appears that Govt. of India initially approved the upgraded the pay scales for Accounts staffs of Railways and on a reconsideration the Govt. of India further agreed to extend the upgraded pay scales to the equivalent posts in the organized Accounts cadre, therefore the said memorandum does not mean to say that the benefit of O.M dated 28.02.03 is absolutely confined to the similar posts of Accounts cadre only in the organized Accounts cadre, it is abundantly clear that on a reconsideration of the matter, the Govt. of India has agreed to extend the benefit of upgraded scale to the equivalent posts of organized Accounts cadre, the posts of Accountant as well as the posts of Assistant Accounts Officer of the Canteen Stores Department are also equivalent and at par in all respect with the posts of Accounts setup of the Railways as well as of the organized Accounts

*Pranab Kumar Das.*

cadre of the Govt. of India, as such denial of the said benefit of upgraded pay scales on the grounds contained in para (a) and (b) of the letter dated 19.08.2003 are contrary to the letter and spirit of the O.M dated 28.02.2003.

It is further submitted that the contentions of the respondents stated in para (c) of the letter dated 19.08.03 is also appears to the contrary to the factual position as well as contrary to the order dated 28.02.03, it is categorically submitted that the posts of Accountant of the Canteen Stores Department is equivalent to the posts of Section Officer of the organized Accounts cadre and also equivalent to the post of Junior Accounts Officer of the organized Accounts cadre, although the designation Junior Accounts Officer of the organized Accounts cadre has not been specifically mentioned in the O.M dated 28.02.03. However it would be evident from the Office Memorandum issued by the Controller General of Accounts, Ministry of Finance bearing letter No. A-60015/1/ 98/MF-CGA (A)/NGE/FTC/240 dated 4<sup>th</sup> March 2003, whereby the benefit of the upgraded pay scales also extended to the Junior Accounts Officer in Central Civil Accounts Service following a declaration that the posts of Junior Accounts Officer is equivalent to the posts of Section Officer. In the Canteen Stores Department the post of Accountant is equivalent to the posts of Section Officer as well as of Junior Accounts Officer of the organized Accounts cadre and recruitment qualification of the post of Accountant are similar to the posts of Section Officer, hence the present applicants who are serving as Accountant/Assistant Accounts Officer are also entitled to the benefit of the upgraded pay scales, contained in the O.M dated 28.02.03. It is relevant to mention here that post of AAO of CSD are equivalent to the post of AAO in any organized Accounts Cadre.

*Biman Bilari Dens*

Copy of the letter dated 19.08.03 and O.M dated 04.03.03 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7 and 8 respectively.

- 4.8 That it is stated that even the recruitment qualification of the posts of Accountant as well as Assistant Accounts Officer of the Canteen Stores Department are similar to that of Accounts cadre in Railways as well as with the Section Officer/Junior Accounts of the organized Accounts cadre, therefore denial of the benefit of upgraded pay scale to the applicants is highly arbitrary, unfair and illegal.
- 4.9 That it is stated that the aforesaid benefit of higher upgraded pay scale was further extended to the Divisional Accountants and Divisional Accounts Officer working under the administrative control of Indian Audit and Accounts department vide C & AG, [circular No. 26/NGE/2004] No. 341-NGE (App)/36-2003, dated 28.04.2004, therefore it appears that the benefit of the upgraded pay scales which was initially granted to the staff of the Accounts set up of the Railways was further extended to the equivalent cadre in the organized Accounts cadre where posts are in the comparable grades, rank and status hence the contention of the respondents that the upgraded scale is absolutely confined to the staff of organized Accounts cadre are totally wrong rather the aforesaid benefit of the upgraded pay scale were extended to the organized Accounts cadre by the Govt. of India, in view of the fact that the upgraded scale was initially granted to the staff of the Railway Accounts cadre. Therefore denial of the upgraded pay scale to the present applicants in terms of O.M dated 28.02.2003 is highly discriminatory and the such. action of the respondents in violation of Article 14 of the Constitution of India.

*Bhiman Bishari Das*

Copy of the circular dated 28.04.2004 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-8.

- 4.10 That it is stated that the Govt. of India, Ministry of Defence, all along extended the benefit of revised pay scale to the Canteen Stores employees in terms of the recommendation of the Pay Commissions constituted by the Govt. of India at par with the relevant pay scales granted to the other Central Govt. organization following the recommendation of Central Pay Commission. It would be evident from the service order dated 29<sup>th</sup> September '1986 that the Additional Secretary, Govt. of India, Ministry of Defence sanctioned relevant pay scales to the employees of the Canteen Stores Department in terms of the recommendation of the 4<sup>th</sup> Central Pay Commission and parity of pay scales are always being maintained with the equivalent cadres with the other central Govt. establishments. In the said order dated 29.09.1986 in paragraph 14 it says that if any question arises relating to the interpretation with any of the provisions of these Rules, it shall be referred to the Central Govt. for decision, similar clause also incorporated while pay scale of the Canteen Stores employees were revised by the Govt. of India pursuant to the recommendation of the 5<sup>th</sup> Central Pay Commission. The relevant portion of Clause 14 of the order dated 29.09.86 are quoted below:

"14. Interpretation. - If any question arises relating to the interpretation of any of the provisions of these rules, it shall be referred to the Central Government for decision."

It is quite clear from the above that if any confusion arises regarding extension of a particular pay scale or upgraded pay scales in any particular cadre in the Canteen Store Department the same ought to have been decided in consultation with the Central Government, therefore BOCCS cannot be authority

*Bhiman Bihari Das*

to determine or to take any decision regarding extension of a particular upgraded pay scale to a cadre like Accountant and Assistant Accounts Officer working in the Canteen Stores Department.

~~A copy of the service order dated 29.09.1986 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure 9.6~~

- 4.11 That it is stated that by the letter bearing No. 95014/Q/BOCCS dated 27.06.2003, Secretary of BOCCS (Secretariat Board of Control Canteen Services) informed the Canteen Stores Department that the O.M dated 28.02.2003 is not applicable to the Accountant cadre of CSD but the same is applicable to the Organized Accounts services like Railway Board Accounts Service, Postal Accounts Service etc. only which have cadres similar to that of mentioned in the OM. It is further stated that Accounts cadre of CSD does appears to be similar to that of the other Accounts Services. It is further stated in the letter dated 27.06.2003 that if the aforesaid O.M dated 28.02.03 is made applicable in that event there is a possibility of reduction in pay scales in the cadre of Accountants. However it is stated that the matter would be taken up with Ministry of Defence for knowing its applicability/seeking implementation by weighing the pros and cones of the OM under reference.

On a mere reading of the letter dated 27.06.2003 it appears that BOCCS perhaps not aware of the existing pay scales of the cadre of Accountant or Assistant Accounts Officer working in the Canteen Stores Department under the Ministry of Defence, therefore BOCCS has said that if the O.M dated 28.02.03 is made applicable to the Accounts cadre of the CSD inthat event it may result in the reduction of pay scales as regard Accountants hence BOCCS is not inclined to extend the benefit of upgraded pay scales to the Accounts cadre in the CSD. It is

Bimam Bihari Das

pertinent to mention here that under any circumstances the upgraded pay scales contained in the O.M dated 28.02.03 if made applicable to the CSD employees that will never result any reduction of pay scales rather both the cadre of Accountant as well Assistant Accounts Officer will be benefited as because the existing scales of the Accountant as well as Assistant Accounts are as follows:

SN	POST	PAY SCALE PRIOR TO 1/1/96 (Rs.)	EXISTING SCALE (Rs.)	PAY SCALE TO BE EXTENDED NATIONALLY WEF 1/1/96 WITH ACTUAL PAYMENT BEING MADE W.E.F 19/2/03
1	Accountant	1640-60-2600-75-2900	5500-175-9000	6500-200-10500
2	Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500	7450-225-11500

Therefore it appears that BOCCS has never examined the circular dated 28.02.03 issued by the Govt. of India, Ministry of Finance for extending the benefits of the same to their Accounts employees and surprisingly this matter was never taken up by the BOCCS with the Ministry of Defence as stated in the letter dated 27.06.2003.

A copy of the letter-dated 27.06.03 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-10.

- 4.12 That it is stated that the applicants came to learn from reliable source that the General Manager CSD vide is letter under reference no. 3/Pers/A-2(PFC)/122 dated 15.09.2004 addressed to DGM (F & A) inform that the benefit of OM dated 28.02.2003 may not be extended to the accounts staff not belonging to any organized accounts cadre in future since CSD accounts staff does not belongs to organized accounts cadre. However liberty is given to DGM to refer the matter to CDA (CSD) for further clarification if so desired. However the applicant could not obtain a copy of the impugned letter dated 15.9.04 inspite of their best effort.

Biman Bihari Das,



It is categorically submitted that the upgradation of pay scale granted by OM dated 28.02.2003 in fact never meant for accounts staff of the organized accounts cadre. This is totally a wrong interpretation of the circular and this ground itself the impugned letter dated 15.9.2004 is liable to be set aside and quashed. The hon'ble Tribunal be pleased to direct the respondents to produce the impugned letter dated 15.09.2004 for perusal of the Hon'ble Court.

- 4.13 That it is state that in the similar facts and circumstances stated above the benefit of the upgraded pay scale have been granted to the Assistant Accountant and Assistant Accounts Officer working in the Department of the Atomic Energy and its constituent units vide office memorandum no. 1/2/2003-SCS/442 dated 8.8.2003. Be it stated that the accounts staff of atomic energy does not belongs to organized accounts cadre but even then benefit was rightly extended to similarly situated accounts staff of atomic energy.

A copy of the memorandum dated 8.8.2003 enclosed as Annexure-11.

- 4.14 That it is stated that CSD always adopted the scale of pay of Govt. of India recommended from time to time by the Central pay commission, it would be evident from the service order no. 59/86 that the Dept. of CSD have adopted the scale of pay recommended by the 4<sup>th</sup> CPC, similarly CSD also adopted the recommendation of the benefit of the 5<sup>th</sup> central pay Commission for its employees. Therefore there is no justification to deny the upgraded scale of pay to its accounts staff when the same was extended to other similarly situated accounts staff in other Central Govt. organization following the memorandum dated 28.02.2003. Non payment of due pay scale, arising irreparable loss to the applicants each and every month as such cause of action arises each and every month.

A Copy of the service order no 59/86 is enclosed herewith as Annexure-12.

- 4.15 That it is stated that Respondent No. 6 after receipt of the communication dated 19.08.03 (Annexure-7) wrote a letter bearing No. 6/F&A/Co.ord/RPS/ACS-

*Biman Bihari Das*

CSD/54 dated 16.01.2004 addressed to DGM (P&A), whereby the said respondent No. 6 strongly recommended the case of the applicants for grant of benefit of the upgraded pay scale contained in the O.M dated 28.02.03 for the Accounts employees of the CSD. In paragraph 2 of the letter dated 16.01.04, it is categorically stated that the pay scales of corresponding categories of CSD Accounts staff are traditionally on par with the Accounts staff with other Ministries department, the said statement is made by the Respondent No. 6 against the contention raised by the General Manager in Para 2 (a), (b) & (c) of the letter dated 19.8.03. The respondent No. 6 specifically cited the O.M dated 04.3.03 of the Ministry of Finance as well as Circular dated 03.04.03 of the department of Agriculture and O.M dated 08.08.03 of the Atomic Energy. It is specifically stated that the Accountant of CSD drawing the same scale of Section Officer. The respondent No. 6 while recommending the upgraded pay scale for CSD Accounts staff also prepared a draft memorandum but till date no final decision is taken rather the respondents have issued impugned letter dated 15.09.04 so far the applicant came to learn denying the benefit of upgraded pay scale.

A copy of the letter dated 16.01.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-13.

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

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

5.1 For that, denial of the benefit of ~~upgradation of pay~~ scale contained in the Ministry of Finance OM dated 28.02.2003 to the similarly situated accounts

*Bhiman Bihari Sa*

- 5.1 For that, denial of the benefit of upgradation of pay scale contained in the Ministry of Finance OM dated 28.02.2003 to the similarly situated accounts employees of the Central Govt. department having similar recruitment qualification hits article 14 of the constitution of India.
- 5.2 For that, the contention of the respondents Department that the circular dated 28.02.2003 is exclusively meant for accounts staffs belongs to organized accounts cadre is vague and misleading and a wrong interpretation of the said circular.
- 5.3 For that, the benefit of the upgraded pay scale have been extended to the accounts employees serving in several Central Govt. Department like Railways, P & T, Atomic Energy etc. and the original circular was meant for only railway accounts employees and thereafter the benefit of the upgraded pay scale have been extended to the employees of the organized accounts cadre of the Central Govt. Department as such applicants being similarly situated having similar recruitment qualification, entitle to the benefit of the upgraded pay scale contained in the memorandum dated 28.02.2003.
- 5.4 For that, the pay scale of the Accounts employees of the CSD department all along granted at par with the accounts employees of the organized Accounts cadre and the qualification for the post of Accountant and Assistant Accounts Officer are similar like that of accounts employees of organized accounts cadre, therefore denial of benefit of upgraded pay scale is highly arbitrary and unfair.
- 5.5 For that, the decision of the respondents that in the event of extension of pay scale contained in the OM dated 28.02.2003 would result in reduction of pay is false and misleading and contrary to the records and factual position.

5.6 For that the canteen store department have all along adopted the scale of pay of Govt. of India for its employees as such denial of the benefit of the pay scale to accounts employees when the same is upgraded, particularly for accounts employees it would result hostile discrimination among the similarly situated employees

6. Details of remedies exhausted.

That the applicants state that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that they did not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted 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 relief(s):

8.1 That the Hon'ble Tribunal be pleased to declare that applicants are entitled to benefits of the upgraded pay scale contained in the office memorandum dated 28.02.2003 provided by the Govt. of India, Ministry of Finance to the employees belonging to the cadre of Accountant and Assistant Accounts Officer, also applicable

*Prithvi Prithvi*

to the applicants working in the cadre of Accountant and Assistant Accounts Officer respectively in the CSD with all consequential benefit.

8.2 That the Hon'ble Tribunal be pleased to declare that the impugned order dated 19.08.2003 and 19.04.2004 are void ab initio.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to pay the scale of Rs. 6500-10500 to the applicants serving in the cadre of Accountant and further be pleased to pay the scale of Rs. 7450-11500 to the applicants serving in the cadre of Assistant Accounts officer in the Canteen Store Department by fixing the pay in terms of the direction contained in the memorandum dated 28.02.2003.

8.4 Costs of the application.

8.5 Any other relief(s) to which the applicant is entitled 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 observe that the pendency of this Original Application shall not be a bar to grant the relief to the applicants as prayed above.

10. ....  
This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No.
- ii) Date of Issue
- iii) Issued from
- iv) Payable at

: 204 JJ 6079 .  
: 18.2.05  
: C. P. O

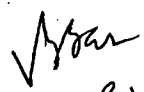
12. List of enclosures.

As given in the index.

VERIFICATION

I, Shri B.B.Das, S/o Shri B.B.Das, aged about 54 years, working in the CSD department one of the petitioner in the instant petition, duly authorized by the others to verify this affidavit, 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 and I have not suppressed any material fact.

And I sign this verification on this the 21 day of Mar, 2005.

  
Biman Bihari Das



# भारत का राजपत्र

## The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं० 9]  
No. 9]

नई दिल्ली, शनिवार, मार्च 3, 1979/फाल्गुन 12, 1900  
NEW DELHI, SATURDAY, MARCH 3, 1979/PHALGUNA 12, 1900

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग प्रिंटिंग के रूप में रखा जा सके  
Separate paging is given to this Part in order that it may be printed as a separate compilation

### भाग II—खण्ड 4 PART II—Section 4

रक्षा मंत्रालय द्वारा जारी किए गए सांविधिक विनियम और आदेश  
Statutory Rules and Orders issued by the Ministry of Defence

रक्षा मंत्रालय

अधिसूचना

नई दिल्ली, 15 फरवरी, 1979

का० नि० आ० 64.—राष्ट्रपति संविधान के अनुच्छेद 109 के अंतर्गत द्वारा प्रस्तावित कि प्रयोग करते हुए रक्षा मंत्रालय के कैडेट स्टोर्स डिपार्टमेंट में समूह "क" और समूह "ख" के पदों पर भर्ती की प्रक्रिया को विनियमित करने वाले निम्नलिखित नियम बनाते हैं, अर्थात्:—

संक्षिप्त नाम और प्रारंभ:—(1) इन नियमों का नाम कैडेट स्टोर्स डिपार्टमेंट, रक्षा मंत्रालय (समूह "क" और समूह "ख" पद) भर्ती नियम, 1979

(2) ये नियम 1 अप्रैल, 1977 से लागू हुए माने जाएंगे।

2. लागू होना:—ये नियम हमारे उपान्त अधिसूची के स्तंभ 2 में विनिर्दिष्ट पदों को लागू होंगे।

3. (1) प्रारंभिक संरचना:—(i) 1 अप्रैल, 1977 को कैडेट स्टोर्स डिपार्टमेंट में काम कर रहे समूह "क" और समूह "ख" के सभी अधिकारियों के रिक्तियों की जांच एक चयन समिति द्वारा की जाएगी, जिसकी अध्यक्षता संघ लोक सेवा आयोग के अध्यक्ष या सदस्य द्वारा की जाएगी और इस समिति में कम से कम दो प्रतिनिधि रक्षा मंत्रालय के होंगे। वे अधिकारी जो चयन समिति द्वारा उपयुक्त पाए जाएंगे उक्त प्रारंभिक संरचना की तारीख को कैडेट स्टोर्स डिपार्टमेंट के उक्त पदों पर नियुक्त किए जाएंगे जिन पदों पर वे मौलिक आधार पर काम कर रहे थे।

(ii) उपयुक्त उप-नियम (1) में उल्लिखित वे व्यक्ति, जो 1 अप्रैल, 1977 को जिन मौलिक पदों पर काम कर रहे थे, उन पदों के लिए उपयुक्त न पाए जाने पर उक्त पदों पर काम करते रहेंगे जिन पर वे मौलिक आधार पर नियुक्त किए गये थे और इस प्रयोजन के लिए ये पद अधिसूची में दिये गये संबंधित श्रेणियों से भर्तन रखे गये तब तक समझे जाएंगे जब तक उन्हें इन पदों के लिए उपयुक्त नहीं पाया जाता है। उक्त संबंधित पदों पर नियुक्ति के लिए ऊपर उप-नियम (1) में उल्लिखित चयन समिति द्वारा समय-समय पर और एक वर्ष में कम से कम एक बार, ऐसे व्यक्तियों के रिक्तियों की जांच की जाएगी और उन्हें उक्त पदों पर नियुक्ति के लिए उपयुक्त पाए जाने पर इन पदों में उनकी संबंधित श्रेणियों, चुने जाने पर संघ लोक सेवा आयोग से परामर्श करके भर्तन की जाएगी।

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1	2	3	4	5	6	7	8
14. Assistant Accounts Officer	7	General Central Service, Group 'B' Gazetted.	Rs. 650-30-740-30-810-EB-35-880-40-1000-EB-40-1200.	Selection	Not applicable	Not applicable.	
15. Accountant	21	General Central Service, Group 'B' Non-Gazetted.	Rs. 500-20-700-EB-25-900.	Selection	Not applicable	Not applicable.	

9	10	11	12	13	14
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Not applicable 2 years By promotion

Promotion:

Accountants with 5 years' service in the grade rendered after appointment thereto on a regular basis.

Group 'B' DPC consisting of the following:—  
Chairman:

Joint Secy.(o), Min. of Def.

Members:

General Manager and Chairman/Deputy General Manager (Adm.) and Vice Chairman, Board of Adm.

Rep Army

Rep Navy

Rep Air Force

DFA(Q)

Secretary, Board of control, Canteen Services.

Consultation with the Union Public Service Commission not necessary unless it is intended to relax at any time provisions of the recruitment rules.

Not applicable 2 years By promotion, failing which by transfer on deputation.

Promotion:

Persons working in the canteen Stores Department holding ministerial posts in the scale of Rs. 330-560 with 5 years' regular service in the respective grade and in higher posts subject to passing a departmental test.

Group 'B' DPC consisting of the following:—  
Chairman:

Joint Secy.(o) Min. of Def.

Members:

General Manager and Chairman/Deputy General Manager (Adm.) and Vice Chairman, Board of Adm.

Rep Army

Rep Navy

Rep Air Force

DFA(Q)

Secretary, Board of Control Canteen Services.

Consultation with the Union Public Service Commission not necessary unless it is intended to relax at any time provisions of the recruitment rules.

Transfer or deputation:

SAS Accountant or SAS passed clerks from any of the organised Accounts Department, Indian Audit and Accounts Department, Indian Railway Accounts Department, Indian Defence Accounts Department, Indian Posts and Telegraphs Finance and Accounts Department and Indian Civil Accounts Department.

(Period of deputation shall ordinarily not exceed 3 years).

[No. BOCCS/00589/RR/Q/Can./344/D(Mov.)  
D.C. GANGULY, Under Secy.]

73

1.1.86

1.1.96

1.1.06



P.No.6/82/E.III(B)/91  
Ministry of Finance & Company Affairs  
Department of Expenditure  
(E.III-B Branch)

New Delhi, the 28th February, 2003

## OFFICE MEMORANDUM

Subject: Pay scales for the staff belonging to the Organised Accounts Departments.

The undersigned is directed to say that the Government had approved grant of higher scales for the Accounts staff of Railways on notional basis w.e.f. 1.1.1996 with actual payments being made prospectively. Keeping in view the fact that pay scales of corresponding categories in various organized Accounts cadres have traditionally been on par, it has been decided that the dispensation approved in case of the Accounts staff of Railways may be extended to the corresponding categories in all the organized Accounts cadres.

2. Pay scales of the following posts and their equivalent posts in the organized Accounts cadres existing in various ministries/departments of the Government of India may accordingly be upgraded on notional basis w.e.f. 1.1.1996 with actual payments being made from 12.2.2003 - the date on which this decision was approved by the Government - as under:-

Designation	Pay scale prior to 1.1.96 (Rs.)	Existing pay scale (Rs.)	Pay scale to be extended notionally w.e.f. 1.1.1996 with actual payments being made prospectively. (Rs.)
Auditor/ Accountant ✓	1200-30-1560-40-2040	4000-100-6000	4500-125-7000
Sr. Auditor/ Sr. Accountant	1400-40-1600-50-2300-60-2600	5000-150-8000	5500-175-9000
Section Officer	1640-60-2600-75-2900	5500-175-9000	6500-200-10500
Asstt. Audit Officer/Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500	7450-225-11500

To: Asst. Secy.

Accountant

A.C.O.

To: Secy.  
Advocate

51

To  
The General Manager  
Board of Administration  
Canteen Stores Department  
"ADELPHI" 119, M.K. Road  
MUMBAI - 400 020

(THROUGH PROPER CHANEL)

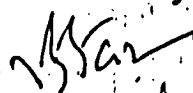
Sub: PAY SCALE FOR STAFF  
BELONGING TO ACCOUNTS  
CADRE TO OUR DEPARTMENT

Reference OM No. F.No. 6/82/F.III(B)/91 dt. 28 Feb'2003 issued by Ministry of Finance and Company Affairs, Department of Expenditure (copy enclosed for ready reference).

2. Our departmental post of Accountant/Asstt Accounts officer are at par with staff working in CDA/RAC/A.G's office and others Central Government Departments, my pay please be fixed as per ibid OM w.e.f. 1-1-96.

Thanking you,

Yours faithfully

  
SHRI B.B. DAS, AAO  
(PN-1651)  
R.M(E) OFFICE,  
CSD, NARANGI

Date: 26 Mar'04

*Tone copy  
Sent  
Advocate*

SA/Coord/AAO/

April 7, 2003

SUB: Pay Scale for Staff belonging to Organized  
Accounts Department.

The following individuals have submitted application for enhancement of PAY to be fixed as per OM FNo6/82/E-III(B)/91 dated 28/02/2003 issued by Ministry of Finance & Company Affairs, Dept of Expenditure (EIII B Branch), New Delhi.

2. It may be noted that the Canteen Stores Department is part of the Ministry of Defence. Hence the amended pay scale are IPSO FACTO applicable to the employees of CSD.

PN	Name	Desgn.
0940	Shri PR Ravindranathan	AAO
1278	Shri R K Khetpal	AAO
1388	Shri N Chakrapani	AAO
1412	Shri P V Nair	AAO
1432	Shri A K Joseph	AAO
1496	Shri PK Dutta	AAO
1644	Shri Narayan M Koderi	AAO
1712	Shri D B Kadam	AAO
1917	Shri NR Khobragade	AAO
1666	Shri Dinesh Idya	Acctt.
1795	Shri H B Parab	Acctt.
1807	Shri AC Sood	Acctt.
1806	Shri Janardhan Idya	Acctt.
2025	Smt M V Mahajan	Acctt.
2064	Shri N R Arya	Acctt.

3. It is strongly recommended that their pay may be fixed as per OM at the earliest.

(K U K Reddy)  
Wg. Cdr.  
DGM(F & A)

To

DGM(P&amp;A)

True Copy  
for  
advocate

Office Of the  
Regional Manager (East)  
Eastern Stores Department  
Govt of India Ministry of Defence  
G.S.D. Depot Complex  
Guwahati-781027

Annexure - 5

61

Regional Manager (East)  
Narangi, Guwahati

DGM(P&A)  
CSD HO Mumbai

RME/PN-1651/EST/ 186

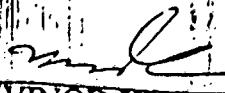
30 Apr'04

Department  
112, P.E. Road  
100 020

Sub: **PAY SCALE FOR STAFF  
BELONGING TO ACCOUNTS  
CADRE TO OUR DEPARTMENT**

An application dated 26<sup>th</sup> March 2004 submitted by  
PN-1651, Shri B.B. Das, AAO of this office is forwarded herewith  
alongwith office memorandum of Ministry of Finance & Company  
Affairs bearing No. F.No. 6/82/F-III(B)/91 dated 28<sup>th</sup> Feb'2003 for  
your necessary action.

Encl: As above

  
(VINOD KUMAR)  
REGIONAL MANAGER(EAST)

S. Roy.

True copy  
for  
advocate

-25-

52

To  
The General Manager  
Board of Administration  
Canteen Stores Department  
"ADELPHI" 119, M.K. Road  
MUMBAI - 400 020

(THROUGH PROPER CHANEL)

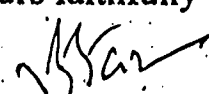
Sub: PAY SCALE FOR STAFF  
BELONGING TO ACCOUNTS  
CADRE TO OUR DEPARTMENT

Reference OM No. F.No. 6/82/F.III(B)/91 dt. 28 Feb'2003 issued by Ministry of Finance and Company Affairs, Department of Expenditure (copy enclosed for ready reference).

2. Our departmental post of Accountant/Asstt Accounts officer are at par with staff working in CDA/RAC/A.G's office and others Central Government Departments, my pay please be fixed as per ibid OM w.e.f. 1-1-96.

Thanking you,

Yours faithfully

  
SHRI B.B. DAS, AAO  
(PN-1651)  
R.M(E) OFFICE,  
CSD, NARANGI

Date: 26 Mar'04

*For copy  
sent  
Advocate*

**CANTEEN STORES DEPARTMENT**  
**'ADELPHI' 119 M K ROAD**  
**MUMBAI - 400 020.**

b3

Ref. No. 6/F&amp;A/Co-ord/RPS/ACS-CSD/77)

Date: 10 Sept'2004.  
REMINDER II

**Sub : APPLICABILITY OF REVISED PAY SCALES NOTIONALLY**  
**W.E.F. 1/1/96 TO THE POST OF ACCOUNTANTS & ASSTT.**  
**ACCTTS. OFFICERS OF CANTEEN STORES DEPTT.**

Reference is made to our letter No. 6/F&A/Co-ord/RPS/ACS-CSD/54 dt. 16 Jan'04 & subsequent reminder No. 6/F&A/Co-ord/RPS/ACS-CSD/289 dt. 29/3/04.

2. No intimation has been received regarding action taken on the subject so far. Reminders to this effect have been received from the following officers, which are forwarded herewith :-

<u>Sr.No.</u>	<u>PN No.</u>	<u>Name</u>	<u>Designation</u>
1.	1712	Shri D B Kadam	AGM(Accts)
2.	1278	Shri R K Khetpal	AAO
3.	1388	Shri N Chakrapani	"
4.	1432	Shri A K Joseph	"
5.	1911	Smt. T Leelamma	"
6.	1917	Shri N R Khobragade	"
7.	1455	Shri P Y Dhole	"
8.	1644	Shri N M Kode ti	"
9.	1666	Shri Dinesh Idya	"
10.	1795	Shri M B PARAB	Acctt.
11.	1807	Shri A C Sud	"
12.	2064	Shri N R Arya	"
13.	2084	Smt. Asha Kanna	"
14.	2025	Smt. M Y Mahajan	"
15.	1957	Shri H S Thakur	"

3. Decision taken may please be intimated on Top Priority.

Encls : 15

(K U K REDDY)  
 WG CDR  
 DGM(F&A)

To

DGM (P&amp;A)

True copy  
 sent  
 Advocate

-24- ~~9/10~~ -  
GOVERNMENT OF INDIA  
MINISTRY OF DEFENCE  
CANTEEN STORES DEPARTMENT  
ADELPHI 119 M K ROAD  
MUMBAI 400 020

Annexure - 7/ (3)  
19 Aug 2003

3/Pers/A-2(PFC)/3476

PAY SCALES FOR THE STAFF BELONGING TO THE  
ORGANISED ACCOUNTS DEPARTMENT CLARIFICATION  
REGARDING APPLICABILITY IN CSD

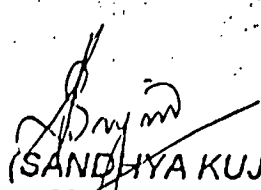
Reference your letter No. 6A/CoordfAAO dtd. 07/04/2003 forwarding therewith the representation submitted by the Officers of F&A Branch as per list attached.

2. ~~Annex~~ Please be informed that clarification received from BOCCS vide letter dated 27/06/03, with regard to applicability of pay scales mentioned in the ibld OM No. 6/82/E, III (B) 91 dtd. 28/02/03 to CSD Personnel is reproduced below:

- Amx2
- a) It appears, it is applicable to Organised Accounts Services like Railway Board Accounts Service, Postal Accounts Service etc only which have cadres similar to that of mentioned in the OM.
  - b) The Accounts cadre of CSD (not specified in the CSD letter under reference) but does not appear to be similar to that of the other accounts services mentioned above.
  - c) The pay scale of Accountant in respect of other accounts service is Rs. 4500/- 7000/- (after revision) whereas it is already Rs. 5500/- 9000/- in CSD. As it is unlikely the OM is made applicable partially, implementation of OM in CSD to result in reduction in pay scale of Accountants

3. In view of the above, the pay scales mentioned in the ibld OM is applicable to Organised Accounts Service like Railway Board Accounts service, Postal Accounts Service etc which have cadres similar to that of cadre mentioned in the OM.

Encl : a/a

  
(SANDHYA KUJUR)  
MANAGER(P)  
FOR GENERAL MANAGER

To,

DGM(F&A)

cc : All AAOs & Accountants  
as per list attached

cc : Office of RM(W).

cc : The Manager  
CSD Depot  
Delhi

cc : The Manager  
CSD Depot  
Secunderabad

For information

Reference letter No. RMW/214/70 dtd. 08/05/03 forwarding representation submitted by PN-1245 Shri SK Suri, AAO

Reference your letter No. DHD/EST/PN-2052/227 dtd. 08/05/2003 forwarding representation submitted by PN-2052 Shri Pravin Safian, Acctt

Reference representation dtd. 15/07/03 submitted by PN 1312, Shri SK Srivastava, Ex-Accountant

*mil 6/7/03  
for Advocate*

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Annexure - 8

No. A-60015/1/93/MF-CGA(A)/NGE/FTC/240  
Government of India,  
Ministry of Finance & Company Affairs,  
Department of Expenditure,  
Controller General of Accounts,  
(NGE Section)

New Delhi, 4<sup>th</sup>, March, 2003.

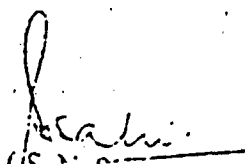
OFFICE MEMORANDUM

Subj.- Pay scales for the staff belonging to the Organised Accounts Departments.

The undersigned is directed to forward herewith a copy of Ministry of Finance & Company Affairs, Department of Expenditure's Office Memorandum No. 6/82/E. II (B)/91 dated 28<sup>th</sup> February, 2003 regarding grant of higher pay scales to the Accountants Sr. Accountants, Junior Accounts Officers and Assistant Accounts Officers for information and necessary action at your end

The post of Junior Accounts Officer in Central Civil Accounts Service is equivalent to Section Officer and therefore, the pay scale mentioned at serial number 3 is applicable to Junior Accounts Officers in Central Civil Accounts Service.

Encl.- As above.

  
(S. N. Sami)  
Asstt Controller General of Accounts.

To.

- (i) All Pr. CCAs/CCAs/Dy.CAs  
All Ministries/Departments.  
New Delhi.
- (ii) Director, INCAF, New Delhi.
- (iii) Jt. CGA. (Admin.) CGA Office (HQ)

True copy  
for  
achieve



C.&A.G., [Cir. No. 26/NGE/2004] No. 341-NGE (App.)/36-2003, dated 28-4-2004

**Upgradation of pay scales of Divisional  
Accountants/Divisional Accounts Officers**

Consequent on upgradation of pay scales of various grades and their equivalent posts in the organized accounts cadres existing in various Ministries/Departments of Government of India vide Ministry of Finance and Company Affairs (Department of Expenditure) O.M. No. 6/82/E.III (B)/91, dated 28-2-2003 (Sl. No. 72 of Swamy's Annual, 2003), the Ministry of Finance (Department of Expenditure) in its D.O Letter No. 6 (82)-E.III (B)/91, dated 19-4-2004 has extended the provisions of the O.M, dated 28-2-2003 to the cadre of Divisional Accounts under the administrative control of Indian Audit and Accounts Department notionally with effect from 1-1-1996.

2. Accordingly, the pay scales of Divisional Accountants/Division Accounts Officers (except Senior Divisional Accounts Officers) working under the cadre control of various Accountants General (A&E) of this department are upgraded as below notionally with effect from 1-1-1996 with actual financial benefits being admissible from the date of issue of this order:-

Designation	Percentage strength of cadre	Pay scale prior to 1-1-1996	Existing pay scale	Pay scale to be extended notionally with effect from 1-1-1996 with actual payment to be made prospectively
Divisional Accountant (Ordinary Grade)	35%	Rs. 1400-40-1600-50- 2300-60-2,600	Rs. 5,000-150- 8,000	Rs. — 5,500-175-9,000
Divisional Accounts Officer Grade II	25%	1,640-60-2,600-75- 2,900	5,500-175- 9,000	6,500-200-10,500
Divisional Accounts Officer Grade I	25%	2,000-60-2,300-75- 3,200	6,500-200- 10,500	7,450-225-11,500

3. Even after upgradation of pay scales, there will not be any change in the existing Group classification in the Divisional Accountant's cadre.

4. The notional pay fixation in the upgraded pay scales with effect from 1-1-1996 shall be made under the provision of CCS (Revised Pay) Rules

G.I., M.F., O.M. No. 1 (I)-E.I. (I) 2004, dated 1-4-2004

Revision of pay scales of the Accounts Staff not belonging to the Organized Accounts cadres

The undersigned is directed to say that the pay scale of Senior Auditors and equivalent posts in the Organized Accounts Cadres was upgraded on notional basis with effect from 1-1-1996 with actual payments being made from 19-2-2003 vide this Department's O.M. dated 28-2-2003 (Sl. No. 72 of Swamy's Annual, 2003). This dispensation was, however, limited to the posts in the Organized Accounts Cadres i.e., CGDA, CGA, IA & AD, P&T and Railways and has not been extended to any accounts post not belonging to one of the Organized Accounts cadres. It has come to the notice that the upgraded pay scales have been allowed to the accounts personnel in some institutes like the LRS Institute of Tuberculosis and Allied Diseases, CPWD and BSNL without the approval of Ministry of Finance.

While necessary action to rectify the situation in these Departments/Organizations is being initiated separately, the following directions are being reiterated so as to prevent recurrence of wrong extension of higher pay scales to the accounts staff in any other Ministry/Department/Organization of Government of India.

- Grant of higher pay scales on notional basis from 1-1-1996 with actual payment being made prospectively from 19-2-2003 to the accounts staff was limited to the posts in the Organized Accounts Cadres and similar dispensation has not been extended to any Accounts post not belonging to one of the Organized Accounts cadres.
- The benefit of this Department's O.M., dated 28-2-2003 may not be extended to the accounts staff not belonging to any Organized Accounts cadres in future.

All FAs are requested to bring this to the notice of Administrative Ministries/Departments concerned for compliance.

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C. & A.G., [ Cir. No. 26/NGE/2004 ] No. 341-NGE (App.)/36-2003, dated 28-4-2004

Upgradation of pay scales of Divisional Accountants/Divisional Accounts Officers

Consequent on upgradation of pay scales of various grades and their equivalent posts in the organized accounts cadres existing in various Ministries/Departments of Government of India vide Ministry of Finance and Company Affairs (Department of Expenditure) O.M. No. 6/82/E. III

(B) 91, dated 28-2-2003 (Sl. No. 72 of Swamy's Annual, 2003), the Ministry of Finance (Department of Expenditure) in its D.O. Letter No. 6 (32)-E. III (B) 91, dated 19-4-2004 has extended the provisions of the O.M., dated 28-2-2003 to the cadre of Divisional Accountants under the administrative control of Indian Audit and Accounts Department notionally with effect from 1-1-1996.

2. Accordingly, the pay scales of Divisional Accountants Divisional Accounts Officers (except Senior Divisional Accounts Officers) working under the cadre control of various Accountants General (A&E) of this department are upgraded as below notionally with effect from 1-1-1996 with actual financial benefits being admissible from the date of issue of this order:—

Designation	Percentage strength of cadre	Pay scale prior to 1-1-1996	Existing pay scale	Pay scale to be extended notionally with effect from 1-1-1996 with actual payments to be made prospectively
		Rs.	Rs.	Rs.
Divisional Accountant (Ordinary Grade)	35%	1,400-40-1,600-50-2,300-60-2,600	5,000-150-8,000	5,500-175-9,000
Divisional Accounts Officer (Grade II)		1,400-40-2,000	5,000-150-8,000	5,500-175-9,000
Divisional Accounts Officer (Grade I)		1,400-40-2,000	5,000-150-8,000	5,500-175-9,000

3. Even after upgradation of pay scales, there will not be any change in the existing Group classification in the Divisional Accountant's cadre.

4. The notional pay fixation in the upgraded pay scales with effect from 1-1-1996 shall be made under the provisions of CCS (Revised Pay) Rules, 1997.

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G.I., Dept. of Per. & Trg., O.M. No. 2/8/97-Estt. (Pay. II), dated 28-4-2004

Revision of rules relating to payment of Central Secretariat (Deputation on Tenure) Allowance (CDTA) to officers of Group 'A' Services on their appointment as Director in the Central Secretariat under the Central Staffing Scheme

The undersigned is directed to say that earlier the ceiling of Rs. 18,300 on pay plus CDTA had existed in respect of AIS as well as

67

Secretariat  
Board of Control  
Canteen Services  
L-1 Block Room No.16  
New Delhi-110 001

95014/Q/BOCCS

Canteen Stores Department  
'Adelphi' 119 MK Road  
Mumbai-400 020.

27 June 2003

PAY SCALES FOR THE STAFF BELONGING TO THE  
ORGANISED ACCOUNTS DEPARTMENT CLARIFICATION  
REGARDING APPLICABILITY IN CSD

1. Reference CSD Head Office letter No. 3/Pers/A2(PFC)/BOCCS/2305 dated 03 June 2003.

2. It appears CSD HO have not examined Department of Expenditure/Ministry of Finance OM No. E.No.6/82/E-III(B)/91 dated 28 Feb 2003 properly/in totality as

- It appears it is applicable to Organised Accounts Services like Railway Board Accounts Service, Postal Accounts service etc only which have cadres similar to that of mentioned in the OM.
- The Accounts cadre of CSD (not specified in the CSD letter under reference) not appear to be similar to that of the other accounts services mentioned above.
- The pay scale of Accountant in respect of other accounts service is Rs. 4500/- 7000/- (after revision) whereas it is already Rs. 5500/- 9000/- in CSD. As it is unlikely the OM is made applicable partially implementation of OM in CSD to result in reduction in pay scale of Accountants.

3. CSD HO are, therefore, requested to examine the case in detail and forward the case to this Sectt along with a statement of case for taking up the same with MOD for knowing its applicability/ seeking implementation by weighing the pros and cons of the OM under reference.

In action pl

(PSR Narasimham)  
Section Officer  
For Secy BOCCS

DG (Pers)

7/7

Amup d

True Copy  
for Advocate

No: 1/2/2003-SCS/1412

August 8, 2003

OFFICE MEMORANDUM

Subject:

Revision of pay scales in respect of Assistant Accountants and Assistant Accounts Officers in the Department of Atomic Energy and its Constituent Units

-000-

The undersigned is directed to refer to Ministry of Finance, Department of Expenditure O.M. No.6/02/E.II(D)/91 dated 20.2.2003 read with Controller General of Accounts O.M. No.A-60015/1/90/11F-CGA(A)/NGE/FTC/240 dated 4.3.2003 and to state that the issue regarding revision of pay scales of the posts of Assistant Accountants and Assistant Accounts Officers in the Department of Atomic Energy and its Constituent Units at par with the Section Officers/Junior Accounts Officers and Assistant Audit Officers/Assistant Accounts Officers respectively in the Indian Audit & Accounts Department/Central Civil Accounts Service was under consideration in this Department. It has now been decided with the concurrence of Member for Finance, Atomic Energy Commission (Reference Note No JS(F)/DAE/220/23/20 dated 22.7.2003) to upgrade the scales of pay of the posts of Assistant Accountants and Assistant Accounts Officers in the Department of Atomic Energy and its Constituent Units, as follows on notional basis w.e.f. 1.1.1996 with actual payments being made from 19.2.2003:

S.No.	Post	Pay Scale prior to 1.1.1996 (Rs.)	Existing pay scale (Rs.)	Pay scale to be extended notional-ly w.e.f. 1.1.1996 with actual payments being made prospectively (Rs.)
1.	Assistant Accountant	16-10-60-2600-75-2900	5500-175-9000 (S-10)	6500-200-10500 (S-12)
2.	Assistant Accounts Officer	2000-60-2300-75-3200	6500-200-10500 (S-12)	7450-225-11500 (S-13)

2. It is clarified that the post of Assistant Accountants in the revised scale of Rs. 6500-10500 shall continue to be classified as non-Gazetted.

(H. Padmanabhan)  
Officer on Special Duty (SCS)

1. Heads of all Constituent Units of DAE.
2. Chief Controller of Accounts, DAE.
3. Deputy Secretary (Adm.), DAE.
4. Deputy Secretary (Cadre), DAE.

OSI Faxed

Time for  
for  
Advocate

32

Annexure-12

90

Government of India  
Ministry of Defence  
Canteen Stores Department  
119 Maharshi Karve Road, Bombay 400 020

Number  
59/86

Service Order

Service Regulations - Canteen Stores  
Department Employees

59/86

Fourth Central Pay Commission - Payment of  
arrears of pay as a result of implementation  
of recommendations of

Govt. of India, Ministry of Finance Department  
of Expenditure, New Delhi OM No.15(1)/IC/86 dated  
13th September 86 containing instructions with regard  
to the implementation of the revised pay scales of  
the Fourth Central Pay Commission as well as Notifica-  
tion published vide the Gazette of India Extraordinary  
No.428 Part II Section 3 on the same subject are  
reproduced below as Annexures 'A' & 'B' to this Service  
Order.

Place: Bombay

Date: 29th Sep 86

(3/B-7/2803

R. Chandan  
(G. Ramachandran)  
for General Manager  
Canteen Stores Department

Distribution

1. The Secy. BOCCS, N Delhi
2. JGM
3. ALL DGMS
4. All RMS
5. All AGMs
6. All Depot Managers
7. All Mgrs in HO
8. HO MS Branch
9. HO Accounts Branch
10. CDA(CSD)
11. LAO
12. CSD Employees' Union
13. CSD Workers Association

( 5 copies)  
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Annexure 'A' to Service Order No. 59/86 Dated 29 Sep 86

Copy of Govt. of India, Min. of Fin. Deptt. of Expdr. OM  
No.15(1)/IC/86 dated 13th Sep 86

Sub:- Fourth Central Pay Commission - Payment of arrears  
of pay as a result of implementation of  
recommendations of

The undersigned is directed to refer to the Central  
Civil Services (Revised Pay) Rules 1986, published vide

Contd..2

True copy  
for  
Advocate

(b) "relevant period" means the period commencing on the 1st day of January, 1986 and ending with the 30th day of September, 1986.

12. Overriding effect of Rules.- The provisions of the Fundamental Rules, the Central Civil Services (Revision of Pay) Rules 1947, the Central Civil Services (Revised Pay) Rules, 1960, and Central Civil Services (Revised Pay) Rules, 1973 shall not, save as otherwise provided in these rules, apply to cases where pay is regulated under these rules, to the extent they are inconsistent with these rules.

13. Power to relax.- Where the President is satisfied that the operation of all or any of the provisions of these rules causes undue hardship in any particular case, he may, by order, dispense with or relax the requirements of that rule to such extent and subject to such conditions he may consider necessary for dealing with the case in a just and equitable manner.

14. Interpretation.- If any question arises relating to the interpretation of any of the provisions of these rules, it shall be referred to the Central Government for decision

THE FIRST SCHEDULE

( See Rules 3 & 1)

PART - A

Revised scales for posts carrying present scales in Groups 'D', 'C' & 'B' except posts for which different revised scales are notified separately.

S.No.	Posts	Present Scale	Revised Scale
(1)	(2)	(3)	(4) Rs.
1	All posts carrying present scales specified in Column 3	(a) 160-2-170	GROUP 'D' 750/- (Fixed)

- (b) 180/- (Fixed)
- (c) 195-3-220-EB-3-232
- (d) 200-3-212-4-232-EB-4-240 (Selection Grade)

Until the employees concerned are brought over on the regular scale after attaining the prescribed age of recruitment  
-750-12-870-EB-14-940

2 All posts carrying present scales specified in column 3.

- (a) 200-3-206-4-234-EB-4-250
- (b) 200-3-212-4-232-EB-4-240-5-250
- (c) 210-4-226-EB-4-250
- (d) 200-3-212-4-EB-4-240

750-12-955-EB-14-1025



3-34

2

(1)	(2)	(3)	(4)
14	All posts carrying present scales specified in column 3	(a) 425-15-560-EB 20-640 (b) 425-15-500-EB- 15-560-20-700 (c) 455-15-560-EB- 20-700	1400-40-1800-EB-50- 2300
15	-do-	(a) 425-15-500-EB- 15-560-20-700- EB-25-800 (b) 425-15-500-EB-15 560-20-640-EB- 20-700-25-750 (c) 440-15-515-EB- 15-560-20-700- EB-25-750 (d) 470-15-530-EB-20- 650-EB-25-750 (e) 440-20-500-EB-25- 700-EB-25-750	1400-40-1600-50-2300- EB-60-2600 1400-40-1600-50-2300- EB-60-2600
16	-do-	(a) 550-20-650-25- 800 (b) 550-20-650-25- 750 (c) 550-20-650-25- 700 (d) 550-25-750	1600-50-2300-EB-60- 2600
17	-do-	(a) 500-20-700-EB- 25-900 (b) 500-25-750-30- 900 (c) 550-20-650-25- 750-EB-30-900 (d) 550-25-900 (e) 550-25-750-EB- 30-900	1640-60-2600-EB-75 2900
18	-do-	(a) 650-30-740-35- 880-EB-40-960 (b) 700-30-750-35- 900 (c) 650-30-740-35- 800-EB-40-1040 (d) 775-35-800-40- 1000	2060-60-2800-EB-75 2200
19	-do-	650-30-710	2000-60-2120
20	-do-	(a) 650-30-740-35- 880-EB-40-960 40-1200 (b) 650-45-1010-EB- 45-1100-50-1200 (c) 775-35-880-40- 1000-EB-40-1200	3000-60-2300-EB-75 3200-100-3500
21	-do-	(a) 840-40-1000-EB- 40-1200 (b) 840-40-1040	2375-75-3200-EB-100- 3500

35 47

12

Rule 7(2) - This follows the provisions of FR 31(2). It should be noted that the benefit of this rule is not admissible in cases where a Government servant has elected the revised scale in respect of his substantive post, but has retained the existing scale in respect of an officiating post.

Rule 8 - This rule prescribes the manner in which the next increment in the new scale should be regulated. The provisos to this rule are intended to eliminate the anomalies of junior Government servant drawing more pay than their senior by the operation of the substantive part of this rule and also taking care of the Government servants who have been drawing pay at the maximum of the existing scale for more than one year as on 1.1.1986 and also those Government servants who have been stagnating at the maximum of the existing scale and are actually in receipt of stagnation increment on ad hoc basis.

Rule 9 to 14 - These rules are self-explanatory.

Explanatory Memorandum :

The Central Civil Services (Revised Pay) Rules, 1986 have been made to implement the recommendations made by the Fourth Pay Commission with respect to the pay scales of Group 'B', Gp 'C' and Gp 'D' employees of the Government. Even though the Commission has suggested the revision of pay scales from 1st April, 1986, the Government has decided to give effect to such recommendations from 1st January, 1986 in order to provide greater benefit to the Government servants in general. Accordingly, the rules are being given retrospective effect from 1st January 1986. It is certified that the retrospective effect being given to these rules will not affect adversely any employee to whom these rules apply.

Sd/-A RANGICHARI,  
Addl. Secy.

PMN/-



-36 -  
GOVERNMENT OF INDIA  
MINISTRY OF DEFENCE  
CANTEEN STORES DEPARTMENT  
'ADELPHI' 119 M K ROAD  
MUMBAI - 400 020.

(17)  
Annexure - 13

6/F&A/Co. Ord/RPS/ACS-CSD/54

Date: 6 Jan'2004.

**Sub : APPLICABILITY OF REVISED PAY SCALES  
NOTIONALLY W.E.F. 1.1.96 TO THE POST OF  
ACCOUNTANT AND ASST ACCOUNTS OFFICERS  
OF CANTEEN STORES DEPTT.**

Reference your letter No 3/Pers/A-2/PFC/3476 dt. 9.8.03.

2. In this connection the following comments with regard to Para 2 (a), (b) & (c) of your letter under reference are offered as under:-

- a) The contention of letter quoted at para 2(a) of BOCCS, New Delhi cannot be agreed to as the pay scale of corresponding categories of CSD Accounts Staff are traditionally on par with the accounts staff of other Ministries/Departments.
- b) The views of BOCCS, New Delhi that the Accounts Cadre of CSD does not appear to be similar to that others Accounts Services i.e. Rly and Postal Accounts etc. is not correct. In this connection please refer OM of Min of Finance & Company Affairs dt. 4.3.03, Deptt of Agriculture Cir dt. 3.4.03 and Deptt of Atomic Energy Office Memorandum dt. 8.8.03 in which the action for upgradation of revised pay scales have been taken by their Departments on the concurrences obtained from their Members of Finance only.
- c) The pay scale of Accountant in CSD was applicable right from the implementations of Third Pay Commission onwards at par with the other Ministies/Departments. As such the opinion of BOCCS, New Delhi in this aspect is also not agreed to. It is further emphasized that the pay scale quoted Rs 4500-7000 is applicable to the post of SGC in this department.

Further as per the contention of Para (2) of OM No. A-60015/98/MF-CGA(A)/NGE/FTC/240 dt. 4.3.03(copy enclosed) issued by the Ministry of Finance & Company Affairs, Deptt of Expenditure, New Delhi, the post of Jr. Accounts Officer in the scale of Rs. 5500-9000 has been equally treated as Section Officer in the said scale. Likewise the Department of Atomic Energy has also treated the post of their Asstt. Accountant equivalent with the Section officer drawing the same scale

contd..... 2/-

their Deptt. Accordingly the post of ACCOUNTANT DRAWING THE SAME SCALE IN THIS DEPARTMENT NEEDS TO BE TREATED EQUIVALENT TO THE POST OF SECTION OFFR.

The contents of OM bearing no. A/60015/1/98/MF-CGA(A)/NGE/FTC/240 dt. 4<sup>th</sup> March 2003 issued by ACGA, Govt. of India, Min. of Finance & Company Affairs are also very clear on the subject. This OM was issued to all the Ministries/ Departments for their needful action. Based on the directive given in it the following Departments have already upgraded the revised pay scale of their Accounts staff i.e. Asstt. Accountant/Accountant/Jr. Accounts Officer and Asst. Audit Officer/Asstt. Accts. Officers;-


- a) Department of Atomic Energy  
(their Office Memorandum No. 1/2/2003-SCS/442 dt. 8.8.03 is enclosed)
- b) Department of Agriculture  
(their Circular No. Pr/AO/Co.Ord/Misc/Corsp/2001-2002/34/43 dt. 3.4.03 enclosed)

Since the upgradation of payscale of Accountants and AAO have already been implemented in the above Departments after obtaining concurrence of their Members of Finance, the direction given by the Finance Ministry in their OM referred to above simultaneously requires to be followed by this Department also, taking into consideration the pay scale of their Accounts staff (Accountant & AAOS) are equivalent & at par with the pay scale of corresponding categories in the other Departments. As such the revised pay scale of these categories should also be implemented in this Deptt. by obtaining the due concurrence of IFA/CDA(CSD).

In view of the clear direction contained in Min. of Finance & Company Affairs OM dt. 4.3.2003 circulated to all Ministries/Departments including our Department also, the action regarding grant of higher pay scales to Accountants & Asst. Accounts Officers of CSD should be implemented by obtaining concurrence of IFA/CDA (CSD) (i.e. Member of Finance as far as CSD is concerned), as has been implemented by other Departments mentioned above, and as such referring this matter to BOCCS, New Delhi is not required.

Accordingly Draft Memorandum for obtaining concurrence from CDA (CSD) is enclosed herewith for immediate implimentation.

Encls:a/a

  
(K U K REDDY)  
WG. CDR.  
DGM (F&A)

TO

1 (P&A)

DRAFT MEMORANDUM

3/Adm/B-

**REVISION OF PAY SCALES IN RESPECT OF  
ACCOUNTANTS AND ASSTT. ACCOUNTS OFFICER  
IN THE DEPARTMENT OF  
CANTEEN STORES DEPARTMENT(MOD)**

The undersigned in exercise of power to refer to Ministry of Finance, Department of Expenditure's OM No. 6/82/E-11(B)/91 dt. 28/2/03 read with Controller General of Accounts OM NO. A-60015/1/98/MF-CGA(A)/NGE/FTC/240 dt. 4/3/2003 and to state that the issue regarding revision of Pay Scales of the post of Accountants and Asstt. Accounts Officer in the Dept of Canteen Stores Department at par with the Section Officers / Junior Accounts Officers and Asstt Audit Officers/ Asstt. Accounts Officers respectively was under examine in the Department. It has now been decided with the concurrence of Member for Finance i.e. IFA/CDA(CSD) under Note No. .... to upgrade the scales of pay of the posts of Accountants and Asstt. Accounts Officers in this Deptt as follows on national basis w.e.f. 1/1/96 with actual payments being made from 19/2/03.

SN	POST	PAY SCALE PRIORR TO 1/1/96(Rs)	EXISTING SCALE (Rs.)	PAY SCALE TO BE EXTENDED NATIONALLY WEF 1/1/96 WITH ACTUAL PAYMENT BEING MADE W.E.F. 19/2/03
1	Accountant	1640-60-2600-75-2900	5500-175-9000	6500-200-10500
2	Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500	7450-225-11500

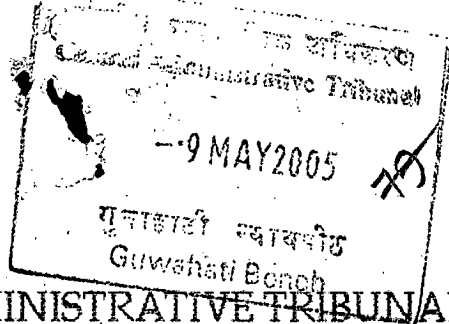
2 - It is clarified that the post of Accountants in the revised scale of Rs. 6500-10500 shall continue to be classified as Non-Gazatted.

DGM (P&amp;A)

Distribution:

1. AGM (Personnel)
2. AGM (Admin)
3. DGM (P&A)
4. Canteen Stores

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

- Original Application No. 60/2005

Sri K.K. Mandal & Ors.

... Applicants

- Versus -

The Union of India & Ors.

... Respondents.

IN THE MATTER OF:

Written statement on behalf of the  
Respondents No. 1 to 6.

I, Shri D.S. Sharma, Regional Manager (East), Canteen Store Department,  
Narengi, Guwahati - 27, do hereby solemnly affirm and state as follows: -

1. That I am the Regional Manager (East, Canteen Store Department,  
Narengi, Guwahati - 27 and as such I am fully acquainted and well conversant  
with the facts and circumstances of the case. I have gone through a copy of the  
application and have understood the contents thereof. Save and except whatever  
is specifically admitted in this written statement and the other contentions and  
statements may be deemed to have been denied. I am duly authorized to swear  
this written statement on behalf of all the respondents.

2. That with regard to the statements made in paragraphs 1 to 4.3 of the  
application, the respondents have no comments to offer.

3. That with regard to the statements made in paragraph 4.4 of the  
application, the respondents state that in Canteen Stores Department,

Union of India & Ors.  
Respondents  
through:-  
Shri K.K. Mandal & Ors.  
Applicants  
C.A.T.  
9.5.05  
Guwahati



Accountant Group 'B' - Non-Gazetted and is a promotional post from UDC having 3 years experience and qualifying the Departmental test and there is no direct recruitment for the post of Accountant exists in respondent Department. Also no "Organised Accounts Cadres" exists in Canteen Store Department nor any authorization exists for the same. Whereas, whenever "Organised Accounts Cadres" exist, Accountants are directly recruited/promoted. Hence, qualifying prescribed for appointment/promotion of Section Officer/Junior Accounts Officer/SAS Accountant and Assistant Accounts Officer for the Organised Accounts Cadres cannot be compared with that of incumbents of Canteen Store Department. Whenever they are promoted, it is done after qualifying through SAS examination or CA/ICWA examination.

4. That with regard to the statements made in paragraph 4.5 of the application the respondents state that Office Memorandum of Ministry of Finance & Company Affairs (Govt. of India) Department of Expenditure (E-III-B Branch) F. No. 6/82/E-III(B)/9 dated 28.02.2003 as quoted by the applicant is not applicable to the Canteen Store Department because Canteen Store Department does not have "Organised Accounts Cadre". The dispensation of Office Memorandum dated 28.02.2003 was limited to the posts in the "Organised Accounts Cadre" i.e. CGDA, CGA, IA&AD, P&T and Railways and has not been extended to any accounts post not belonging to one of the "Organised Accounts Cadres". As Canteen Store Department does not have "Organised Accounts Cadres" hence pay scale in respect of AAOs/Accountants of CSD cannot be upgraded as per above mentioned Office Memorandum. Respondents further beg to state that the Hon'ble Tribunal, Mumbai Bench in the case of CSD Employees Union Vs. UOI (CSD) ruled that the Applicant has not



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made out any case for judicial interference in the matter of upgradation of pay scale.

5. That with regard to the statements made in paragraph 4.6 of the application, the Respondents state that the representation received from AAOs/Accountants through DGM(F&A) was replied vide out letter No. 3/Pers/A-2(PFC)/122 dated 15<sup>th</sup> September, 2004 clarifying the position (copy enclosed). In this connection Controller of Defence Accounts (CSD)'s letter No. AT/6/Misc. dated 16.06.2004 is also relevant.

A copy of the letter dated 16.6.04 + 15.9.04 annexed herewith and marked as ANNEXURE - A & B

6. That with regard to the statements made in paragraph 4.7 of the application, the respondent state that the dispensation of the above Office Memorandum was limited to the post in the "Organised Accounts Cadre" only. However, further clarification is again sought by Govt. of India vide Ministry of Finance O.M. No. 8(1)-EII(B)/2004 dated 01.04.2004 clearly stating that the dispensation is limited to the post in the "Organised Accounts Cadres" i.e., CGDA, CGA, IA&AD, P&T and Railways only. Hence, the same is not applicable to CSD.

A copy of the <sup>O.M.</sup> dated 01.04.2004 is annexed herewith and marked as ANNEXURE - C.

7. That with regard to the statements made in paragraph 4.8 of the application the Respondents state that in the Canteen Store Department the post of Accountant is a promotional post and cannot be compared with Accounts



Cadre in Railways. In Canteen Store Department we follow only commercial accounting system while Railways follow departmental accounting system like stores accounts, workshop accounts, Divisional accounts etc. while in CDA they have CDA(navy), Air force), (Factory), (CSD) and (DRDO) etc. In Railways, CDA & other organized cadre departments the Section Officer/JAO has to pass SAS Examination which is conducted by a common body whereas in the case of applicants they have to pass only departmental examination to know the basic accounting.

8. That with regard to the statements made in paragraph 4.9 of the application, the Respondents state that upgradation of pay scale was limited to Cadres of Divisional Accountants under the administrative control of Indian Audit and Accounts Department as per Circular No. C&AG (Cir. No. 26/NGE/2004) No. 341-NGE(App) 36-2003 dated 28.04.2004. Canteen Store Department does not have similar Accounts Cadres, hence the revision of pay scale cannot be made applicable to the Accountants and AAOs of Canteen Store Department.

9. That with regard to the statements made in paragraph 4.10 of the application, the Respondents state that the Government of India, Ministry of Finance Office Memorandum No. 8(1)-E-III(B)/2004 dated 01.04.2004 is relevant on the subject. Organised Accounts Cadre does not exist in Canteen Store Department, hence, the case was not pursued further by the department. Paragraph 2(b) of above Office Memorandum dated 28.02.2003 may not be extended to the accounts post not belonging to Organised Accounts Cadres.

10. That with regard to the statements made in paragraph 4.11 of the application, the Respondents have no comments to offer.



11. That with regard to the statements made in paragraph 4.12 of the application, the Respondents state that the clarification was issued vide Office Memorandum dated 01.04.2004 in which it is clearly stated that grant of higher pay scales was limited to the posts on "Organised Accounts Cadres" and similar dispensation has not been extended to any accounts post not belonging to one of the "Organised Accounts Cadres."

12. That with regard to the statements made in paragraph 4.13 of the application, the respondent state that the post of Assistant Accountants does not exist in Canteen Store Department. In the absence of recruitment rules, the Respondent are not in a position to offer any comments on the issue of Assistant Accounts Officer who have been given the benefit in the Department of Atomic Energy.

13. That with regard to the statements made in paragraph 4.14 of the application, the Respondents state that the Canteen Store Department does not have "Organised Accounts Cadres" and dispensation of Office Memorandum dated 28.03.2003 was limited to the Accounts Staff of Railways and the various Organised Accounts Cadres who have been traditionally at par as the Railways.

14. That with regard to the statements made in paragraph 4.15 of the application, the respondents state that it is true that the Respondents have received the communication as stated in Annexure - 7 of the application and reply for the same was also given vide our letter No. 3/Pers/A-2(PFC)/122 dated 15<sup>th</sup> September, 2004 (Annexure - D) clearly clarifying the Ministry of Finance Office Memorandum No. 8(I)E-III(B)/2004 dated 01.04.2004, wherein it is clearly stated that benefit of upgraded pay scale has been wrongly extended by some departments without the approval of Ministry of Finance and decisions





have been reiterated so as to prevent recurrence of wrong extension of higher pay scale to the accounts staff in any other Ministry/Department/Organization of Government of India. AIIFAS were requested to bring this to the notice of Administrative Ministries/Departments for compliance.

15. That with regard to the statements made in paragraph 4.16 of the application, the Respondents have no comments to offer.

16. That with regard to the statements made in paragraph 5.1 of the application, the Respondents state that all the Government employees are recruited with similar qualifications but it is the department in which they furtherance of their promotional etc. depends. Since Canteen Store Department does not have the "Organised Accounts Cadres", it cannot be compared with the other Organizations having "Organised Accounts Cadres".

17. That with regard to the statements made in paragraph 5.2 of the application, the Respondents have no comments to offer.

18. That with regard to the statements made in paragraph 5.3 of the application the Respondents state that even though recruitment qualification to any Central Government Department for Group 'C' post is common i.e. passing minimum Matric or SSC, but furtherance of promotions etc to each Department/Ministry depending upon the concerned Department's Recruitment Rules. As such, in Canteen Store Department do not have "Organised Accounts Cadres" right from the entry.

19. That with regard to the statements made in paragraph 5.4 of the application, the Respondent have stated that in the "Organised Accounts Cadres" entry to the post of Accountant is through Subordinate Accounts Service



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Examination conducted by the concerned Ministry through a common examination for all the Department in the Ministry. Whereas in Canteen Store Department, Accountant is a promotional post, conducts only Departmental Test to know the basics of accounting. As regards Assistant Accounts Officer is concerned the same is a promotional post.

20. That with regard to the statements made in paragraph 5.5 of the application, the Respondents state that the comparative chart is enclosed in this regard, which is self explanatory.

21. That with regard to the statements made in paragraphs 5.6 to 6 to 9 of the application, the Respondents have no comments to offer.

22. That in the facts stated above the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.



VERIFICATION

I, Shri D.S. Sharma, presently serving as Regional Manager, Canteen Store Department, Narengi, Guwahati - 27 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph ..... 1, 2 + 21 ..... of the written statement are true to the best of my knowledge and belief, those made in paragraphs ..... 3 - 20 ..... being matters of record are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 7<sup>th</sup> day of <sup>May</sup> ~~April~~, 2005.

*D. S. Sharma*

(D. S. SHARMA)  
Regional Manager (East)  
DEPONENT

47 Annexure A  
02/05/2003 12:27 FAX 91-22-22094282  
CONTROLLER OF DEFENCE ACCOUNTS (CDA)  
"Adelphi", 119, Maharshi Karve Road, Mumbai - 400 020.



CSD AGM (HRD&L)

१११ राखी मयत्रक (क. म. म.)

"अडेलफी" ११९, महर्षि कर्वे मार्ग, मुंबई - ४०० ०२०

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Annex - 1

NO.AT/6/MISC.

DT. 16.6.04

REFER NOTE ANTE

Comments of CDA(CSD) are as under:

As per OM DT.28.2.2003 the Govt. has approved grant of higher scales for the Accounts staff of Railways and the various organised Accounts cadre who have been traditionally at par with Railways. The dispensation was limited to the post in the Organised Accounts Cadre only. However further clarification is again sought by Govt. Of India vide M.F.OM NO.8(1)-E-III(B)/2004 DTD.1.4.2004 (copy enclosed) clearly stating that the dispensation is limited to the post in the Organised Accounts Cadres i.e. CGDA, CGA, IA & AD, P&T and Railways only.

It is also stated that the OM DT.28.2.2003 cannot be made applicable partially i.e. to a particular category only. As the orders on the subject matter are clear this office is of the view that the representation of the AAOs/Accountants for applicability for Revision of Pay Scales at par with officials of Accounts personnel of other Departments is not acceded to as the post does not dispend to any of the Organised Accounts Cadres mentioned above. It is suggested that the matter regarding adoption of OM No.6/82/E-III(B)/91 DT.20.2.2003 to upgrade the Scales of various categories may be taken up with Min. Of Defence through BOCCS.

ACCOUNTS OFFICER

Office of the CDA(CSD)



भारत सरकार  
GOVERNMENT OF INDIA  
रक्षा मंत्रालय  
MINISTRY OF DEFENCE

कॉन्टीन स्टोअर्स विभाग

## CANTEEN STORES DEPARTMENT

Telegram : CANSIND  
Telex : 011-82781/011-85503 CASD IN  
Telephones : 2203 7120/40/42/80

"ADELPHI"  
119 MAHARSHI KARVE ROAD,  
MUMBAI - 400 020

Ref.No : 3/Pers/A-2(PFC)/122

15<sup>th</sup> Sept, 2004

/CONFIDENTIAL/

**APPLICABILITY OF REVISED PAY SCALES NOTIONALLY  
W.E.F. 1/1/96 TO THE POST OF ACCOUNTANTS & ASSTT.  
ACCOUNTANTS OFFICERS OF CANTEEN STORES DEPARTMENT**

Kindly refer to the copies of representations in respect of AAOs/Accts. forwarded vide your letter No. 6/F&A/Co-Ord/RPS/Acs-CSD/771 dated 10<sup>th</sup> Sept 2004.

2. Assistant Accounts Officers and Accountants of CSD are asking to upgrade their pay scale as per Ministry of Finance & Company Affairs, Department of Expenditure OM No.6/82/E-11(B)/91 dated 28/2/03 (Copy enclosed). Clarification was sought from BOCCS, New Delhi on the above subject. BOCCS vide letter dated 27/06/03, have stated that the Ibid OM is applicable to 'Organised Accounts Cadres only and as such Canteen Stores Department does not have 'Organised Accounts Cadres', hence the same is not applicable. The same has already been conveyed to you.

3. In this connection, Ministry of Finance OM No. 8(i)-E-III(B)/2004 dated 1.4.2004 (copy enclosed) on revision of pay scales of the Accounts staff not belonging to the 'Organised Accounts Cadres' is relevant. The extract of the said OM is reproduced below:-

"The undersigned is directed to say that the pay scale of Senior Auditors and equivalent posts in the 'Organised Accounts Cadres' was upgraded on notional basis with effect from 1.1.1996 with actual payments being made from 19.02.2003 vide this Department's OM dated 28.02.2003. This dispensation was, however, limited to the posts in the 'Organised Accounts Cadres' i.e. CGDA, CGA, IA&AD, P&T and Railways & has not been extended to any accounts post not belonging to one of the Organised Accounts Cadres. It has

Contd... 2/-

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(11)

come to the notice that the upgraded pay scales have been allowed to the accounts personnel in some institutes like the LPS Institute of Tuberculosis and Allied Diseases, CPWD and BSNL without the approval of Ministry of Finance".

4. While necessary action to rectify the situation in these Departments/ Organisations is being initiated. Following decisions are being reiterated so as to prevent recurrence of wrong extension of higher pay scales to the accounts staff in any other Ministry/Department/Organisation of Govt. of India:-

"(a) Grant of higher pay scales on notional basis from 1.1.1996 with actual payment being made prospectively from 19.2.2003 to the accounts staff was limited to the posts in the Organised Accounts Cadres and similar dispensation has not been extended to any Accounts post not belonging to one of the Organised Accounts Cadres.

(b) The benefit of this Department's OM dated 28/2/2003 may not be extended to the accounts staff not belonging to any Organised Accounts Cadres in future.

"All FAs are requested to bring this to the notice of Administrative Ministries/Departments for compliance".

5. In view of the position explained in Ministry of Finance OM No.8(I)-E-III/2004 dated 1.4.2004, as enumerated above, the dispensation of OM dated 28/2/2003 was limited to the posts in the 'Organised Accounts Cadres' i.e. CGDA, CGA, IA&AD, P&T and Railways and has not been extended to any accounts post not belonging to one of the 'Organised Accounts Cadres'. As CSD does not have 'Organised Accounts Cadres', hence ther pay scale in respect of AAOs/Accountants of CSD can not be upgraded.

6 Kindly refer to your letter No. 6/F&A/Co-Ord/RPS/ACS-CSD/54 dated 16<sup>th</sup> Jan'2004 which is self explanatory and contradictory to the above facts. You may if so desired refer the matter to the CDA(CSD) and clear the position to the concerned officials who have represented, with intimation to this branch.

ACD  
Addl. C.G.S.O.

(S V DEVDHAR)  
ASST. GENERAL MANAGER (P)  
FOR GENERAL MANAGER

Encl : As above

To,  
Wg.Cdr.KUK Reddy  
DGM(F&A).

DGM (PRA) may kindly  
see before issue.

Seen  
15/9

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ANNEX C

G.I., M.F., O.M. No. 8 (1)-E.III (B)/2004, dated 1-4-2004

### Revision of pay scales of the Accounts Staff not belonging to the Organized Accounts cadres

The undersigned is directed to say that the pay scale of Senior Auditors and equivalent posts in the Organized Accounts Cadres was upgraded on notional basis with effect from 1-1-1996 with actual payments being made from 19-2-2003 *vide* this Department's O.M. dated 28-2-2003 (Sl. No. 72 of *Swamy's Annual*, 2003). This dispensation was, however, limited to the posts in the Organized Accounts Cadres i.e., CGDA, CGA, IA & AD, P&T and Railways and has not been extended to any accounts post not belonging to one of the Organized Accounts cadres. It has come to the notice that the upgraded pay scales have been allowed to the accounts personnel in some institutes like the LRS Institute of Tuberculosis and Allied Diseases, CPWD and BSNL without the approval of Ministry of Finance.

While necessary action to rectify the situation in these Departments/Organizations is being initiated separately, the following decisions are being reiterated so as to prevent recurrence of wrong extension of higher pay scales to the accounts staff in any other Ministry/Department/Organization of Government of India.

- (a) Grant of higher pay scales on notional basis from 1-1-1996 with actual payment being made prospectively from 19-2-2003 to the accounts staff was limited to the posts in the Organized Accounts Cadres and similar dispensation has not been extended to any Accounts post not belonging to one of the Organized Accounts cadres.
- (b) The benefit of this Department's O.M., dated 28-2-2003 may not be extended to the accounts staff not belonging to any Organized Accounts cadres in future.

All FAs are requested to bring this to the notice of Administrative Ministries/Departments concerned for compliance.

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C. & A.G., [ Cir. No. 26/NGE/2004 ] No. 341-NGE (App.)/36-2003, dated 28-4-2004

### Upgradation of pay scales of Divisional Accountants/Divisional Accounts Officers

Consequent on upgradation of pay scales of various grades and their equivalent posts in the organized accounts cadres existing in various Ministries/Departments of Government of India *vide* Ministry of Finance and Company Affairs (Department of Expenditure) O.M. No. 6/82/E. III

(BY)91, dated 28-2-2003 (Sl. No. 72 of *Swamy's Annual*, 2003), the Ministry of Finance (Department of Expenditure) in its D.O. Letter No. 6 (82)-E. III (BY)91, dated 19-4-2004 has extended the provisions of the O.M., dated 28-2-2003 to the cadre of Divisional Accountants under the administrative control of Indian Audit and Accounts Department notionally with effect from 1-1-1996.

2. Accordingly, the pay scales of Divisional Accountants/Divisional Accounts Officers (except Senior Divisional Accounts Officers) working under the cadre control of various Accountants General (A&E) of this department are upgraded as below notionally with effect from 1-1-1996 with actual financial benefits being admissible from the date of issue of this order:—

Designation	Percentage strength of cadre	Pay scale prior to 1-1-1996	Existing pay scale	Pay scale to be extended notionally with effect from 1-1-1996 with actual payments to be made prospectively
		Rs.	Rs.	Rs.
Divisional Accountant (Ordinary Grade)	35%	1,400-40-1,600-50-2,300-60-2,600	5,000-150-8,000	5,500-175-9,000
Divisional Accounts Officer Grade II	25%	1,640-60-2,600-75-2,900	5,500-175-9,000	6,500-200-10,500
Divisional Accounts Officer Grade I	25%	2,000-60-2,300-75-3,200	6,500-200-10,500	7,450-225-11,500

3. Even after upgradation of pay scales, there will not be any change in the existing Group classification in the Divisional Accountant's cadre.

4. The notional pay fixation in the upgraded pay scales with effect from 1-1-1996 shall be made under the provisions of CCS (Revised Pay) Rules, 1997.

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G.I., Dept. of Per. & Trg., O.M. No. 2/8/97-Estt. (Pay. II), dated 28-4-2004

### Revision of rules relating to payment of Central Secretariat (Deputation on Tenure) Allowance (CDTA) to officers of Group 'A' Services on their appointment as Director in the Central Secretariat under the Central Staffing Scheme

The undersigned is directed to say that earlier the ceiling of Rs. 18,300 on pay *plus* CDTA had existed in respect of AIS as well as

**COMPARATIVE CHART OF POSTS AVAILABLE IN 'ORGANISED  
ACCOUNTS CADRE' AND CANTEEN STORES DEPARTMENT**

*Annexure D*

Designation	Pay scale prior to 01.01.96	Existing pay scale (Rs.)	Pay scale to be extended notionally w.e.f. 01.01.1996 with actual payments being made prospectively (Rs.)	Posts in CSD (Rs.)	Pay scale prior to 01.01.96	Existing pay scale
Auditor/ Accountant	1200-30-1560-40-2040	4000-100-6000	4500-125-7000	Accountant	1640-60-2600-75-2900	5500-175-9000
Sr. Auditor/ Sr. Accountant	1400-40-1600-50-2300-60-2600	5000-150-8000	5500-150-8000	No post available in CSD		
Section officer	1640-60-2600-75-2900	5500-175-9000	6500-200-10500	No post available in CSD		
Asst. Audit Officer/ Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500	7450-225-11500	Asstt. Accounts Officer	2000-60-2300-75-3200	6500-200-10500

*Attested*  
*[Signature]*  
Sd/- C. G. S. G.



Anup Kumar Chaudhuri  
Addl. Central Govt. Standing Counsel.  
Central Administrative Tribunal,  
Guwahati



☎ : 2481489  
74, K. R. Chaudhuri Road  
Bharalumukh,  
Guwahati - 781009

Dated the 9.5.05

Mr. M. Chanda,  
C.A.T. Advocates  
Guwahati

Re: OA 60/05

Sir,

Please find herewith a copy of  
the W.S. filed on behalf of the  
respondents.

Received copy  
Jant.  
Advocate

Yours Off  
W. Chaudhuri 9/5/05  
Addl. Central Govt. Standing Counsel  
C.A.T.  
Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

Filed by the applicants  
Through Subrata Nath -  
Advocate  
07.03.2006

In the matter of: -

O. A. No. 60 of 2004.

Shri K.K. Mandal & Ors.

..... Applicants.

-Vs-

Union of India and Others.

... Respondents.

-AND-

In the matter of: -

Rejoinder submitted by the applicants  
in reply to the written statements  
submitted by the Respondents.

The humble applicants above named most humbly and respectfully  
state as under, -

1. That the applicants categorically deny the statements made in paragraphs 3, 7, 8, 11, 13, 16, 18 and 19 of the written statement and beg to state that no "Organized Accounts Cadres" exists in the Canteen Stores Department is misleading and misrepresentation of facts. The Accounts set-up in the Canteen Stores Department (CSD) has got well-defined hierarchy of posts in the sequence of Accountant, Asstt. Accounts Officer, Asstt. General Manager (Accounts), Dy. General Manager (F&A) etc. like any other organized Accounts cadres in other departments and maintaining all established/

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conventional Accounting procedures independently in respect of its daily transactions in terms of crores of rupees. This apart, the requisite qualifications prescribed for transfer on deputation to the post of Accountant in the Ministry of Defence as notified in the Central Gazette dated 03.03.1979 (Annexure- I to the O.A) is SAS Accountant or SAS passed clerks from any organized Accounts Department. Even for departmental promotion to the post of Accountant in the Ministry of Defence, the incumbents have to undergo a detailed and rigorous departmental competitive examination which consists of (i) Fundamental Book-keeping and Accounting, Banking, Taxation, (ii) Departmental functional input which covers all the rules and regulations of CCS (CCA) Conduct Rules 1965, GFR, FR & SR, (iii) Accounting of Stores & its inventory holdings, (iv) Business management/office management and marketing skill with its cost infrastructure. It is therefore evident that such departmental examination is purely comparable with and identical to the SAS examination. Similarly, for the promotion to the post of Asstt. Accounts Officer, the prescribed qualification is-

**"Accountant with 5 years service on a regular basis".**

As such there is no doubt that the applicants are in no way inferior to the SAS passed incumbents, if not more and the Accounts set-up in the CSD is purely an "organized Accounts cadre" like that in other departments.

It is relevant to mention here that the Principal Bench of this Hon'ble Tribunal in its judgment and order dated 24.02.2004 in O.A. No. 208/1997 (Shri J.R. Chobedar -Vs- Union of India & Ors.) has elaborately dealt in regarding the parameters of "Organised Accounts

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cadre" and has held that the Accounts department in the Border Security Force is an "Organised Accounts cadre". This decision of the Tribunal being challenged against has been upheld by the Hon'ble Delhi High Court vide it's judgment and order dated 25.01.2005 in W.P (C) No. 20065-67/2004 and further upheld by the Hon'ble Apex Court vide it's order dated 29.07.2005 in SLP No. 6923-6925/2005. The Accounts Department in the Central Stores Department is similarly situated and on the same analogy it is undoubtedly an "Organised Accounts Cadre".

(Copy of the judgments and order dated 24.02.04, 25.01.05 and 29.07.05 are annexed hereto as Annexure- A, B and C respectively.)

2. That the applicants categorically deny the statements made in para 4, 5, 6 and 9 of the written statement and beg to submit that the Accounts cadre in the Canteen Stores Department is purely an "Organised Accounts Cadre" and as such the principles laid down in the O.M No. F. No. 6/82/E-III (B)/9 dated 28.02.03 of the Govt. of India is applicable in case of the employees of Canteen Stores Department and the applicants are legitimately entitled to the benefit of the enhancement of their pay scale in terms of the said O.M. It is more relevant when the Ministry of Defence has been extending the pay scales etc. to the employees of CSD in terms of the recommendations of the Central Pay Commission which is similar and at par with the pay scales of their counterparts in other Central Govt. departments. This apart it is relevant to mention here that the Armed/ Navy/Air Force do not have any separate Accounts cadre or Recruitment Rules as such but have been following the rules of

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Organised Accounts Cadres of other similar departments. Even the Departments of Agriculture, Atomic Energy, National Council of Educational Research & Training have also upgraded the pay scales of their Assistant Accounts Officer/Accountants in terms of the O.M dated 28.02.03. As such there is no impediments whatsoever in extending the benefit to the applicants and the contentions of the respondents otherwise are not at all sustainable both in law as well as in facts. By denying the benefit of upgradation of pay scales to the applicants, the respondents have also acted against the letter No. 95014/Q/BOCCS dated 27.06.2003 of Secretariat, Board of Control, Canteen Services, New Delhi wherein, the respondents were directed to forward the statement of case regarding implementation of revised scale for the Accountant and Assistant Accounts Officers for onward transmission to the MOD (Finance). Similar letter was also issued by the Controller of Defence Accounts vide No. AT/6/MISC dated 16.06.2004 wherein it was suggested to take up the issue with the MOD (Fin). But the respondents instead of taking any action as stated above and further violating the procedures, have arbitrarily and illegally denied the benefits to the applicants.

3. That with regard to the statements made in paragraphs 12 and 14 of the written statement, the applicants beg to state that the respondents have fairly admitted that they are not in a position to offer any comments regarding the benefits extended in the department of Atomic Energy in absence of recruitment rules. The reference of letter dated 01.04.04 of the Ministry of Finance as referred to in the written statement by the Respondents is not relevant here since it is not relating to the facts and situation of the case involved in this particular application.

4. That with regard to the statements made in paragraph 20 of the written statement the applicants beg to submit that the post of Accountant in the CSD is equivalent to the post of Section Officer and Junior Accounts Officer of the organized Accounts cadre and having similar recruitment qualifications. The pay scale of Section Officer prior to the upgradation, as shown in the Annexure- 'D' to the written statement, was that of Assistant Accounts Officer Rs. 6500-10,500/- Pursuant to the O.M dated 28.02.03 the scales of Section Officer and Assistant Accounts Officers have been upgraded to Rs. 6,500-10,500/- and Rs. 7,450-11,500/- respectively. Similarly the present pay scales of Accountant (who are equivalent to Section Officer) and that of Assistant Accounts Officer in the CSD who are the applicants herein are Rs. 5,500-9,000/- and Rs. 6,500-10,500/- respectively which ought to have been upgraded to the scale of Rs. 6,500-10,500/- (for the Accountants) and Rs. 7,450-11,500/- (for the Assistant Accounts Officer) respectively pursuant to the O.M dated 28.02.03 in the similar manner as have been done in case of other organized Accounts cadre who are similarly situated. In the event of such upgradation there will be an enhancement in the pay scale of the applicants which is evident from the comparative chart itself annexed as Annexure- D to the written statement by the Respondents. As such the contention of the respondents that in the event of extension of pay scale in terms of O.M dated 28.02.03 it would result in reduction of pay of the applicants is misconstrued, misleading and contrary to the factual position.
5. That in the facts and circumstances stated above, the applicants are fully entitled to the reliefs prayed for and the Original Application deserves to be allowed with costs.

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**VERIFICATION**

I, Shri Kalyan Kumar Mandal, S/o- Late Kali Kinkar Mandal, aged about 50 years, working as Accountant, in the office of the Canteen Store Department, Narangi, Guwahati, one of the applicant in the instant Original Application, duly authorized by the others, do hereby verify that the statements made in paragraph 1 to 5 my knowledge and records and I have not suppressed any material fact.

And I sign this verification on this the \_\_\_ day of March 2006.

*Kalyan Kumar Mandal*

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 208/1997

New Delhi, this the 24<sup>th</sup> day of February, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Shri J.R. Chobedar  
s/o late Shri Mohan Lal  
r/o 67/12, Sector-1  
Pushpa Vihar  
New Delhi - 110 017.

... Applicant

(By Advocate: Sh. G.D. Gupta, Senior Counsel with Sh.  
S.K. Gupta)

Versus

1. Union of India through  
The Secretary to the Government of India  
Ministry of Home Affairs  
North Block  
New Delhi - 110 001.

2. The Director General  
Border Security Force  
Block No. 3, C.G.O. Complex  
Lodi Road  
New Delhi - 110 003.

3. Deputy Director (Accounts)  
Pay & Accounts Division  
Directorate General, BSF  
Pushpa Bhawan  
Madangir  
New Delhi - 110 062.

... Respondents

(By Advocate: Sh. K.C.D. Gangwani)

ORDER

Justice V.S. Aggarwal:-

Fundamental Rule 9(4) explains what is meant by a cadre: it means in effect the strength of an establishment or service (later amended to include a part of a service) sanctioned as a separate unit.

2. Some of the relevant facts are that appellant is working as a Joint Assistant Director (redesignated as Accounts Officer) in the Border Security Force) in the pay scale of Rs. 2375-3500. The

ORIGINAL ATTACHED

Shri J.R. Chobedar  
s/o late Shri Mohan Lal  
r/o 67/12, Sector-1  
Pushpa Vihar  
New Delhi - 110 017.





Border Security Force is a paramilitary force. It is a statutory body established by the Border Security Force Act, 1968. They have framed Border Security Force Rules, 1969. Applicant is holding the post of Joint Assistant Director (Accounts Officer) and is a civilian employee holding a civil post. By the present O.A., he has challenged the inaction on the part of the respondents in not prescribing the scale of pay for various posts like that of Senior Accountant, Junior Accounts Officer and Accounts Officer of Pay and Accounts Division of the Border Security Force (for short the PAD of BSF) at par with the scales of pay attached to the corresponding posts of other Audit and Accounts Departments of the Government of India. He has further complained of inaction on the part of the respondents in not creating 80% of posts in the PAD of BSF for being granted the higher pay scale on the same lines as has been done for the corresponding posts in various other Pay & Accounts Departments of the Government of India.

3. It has been pointed out that the Border Security Force was established with effect from 1.12.1965 in order to safeguard the borders of the country. The payments to the Officers of the Force were at that time made by the Comptroller & Auditor General of India/Accountant Generals of various States. As far as payment to non-gazetted officers and payments like the contingent payments were concerned, the same were drawn from the Central Treasuries by presenting bills. Due to the nature of the work, it was felt that this system was

Joint Assistant Director  
Accounts, Federal Board  
of Revenue  
Central Administrative Tribunal  
New Delhi

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because of the mobility of the Border Security Force. Drawal of money from the treasury in such a situation took a lot of time which adversely affected the mobility of the force. In order to overcome this situation, separate PAD of BSF was established w.e.f. 1.7.1967. A copy of the order passed by the Ministry of Home Affairs on 17.5.1967 establishing a centralised Payment and Accounting Procedure in the Border Security Force is annexed at Annexure-A-1. Aforesaid order, it is pointed out, was issued in consultation with the Comptroller and Auditor General of India and the Ministry of Finance.

4. The newly created PAD of BSF was initially manned by the officers and staff of the Comptroller and Auditor General of India as also various other

accounts staff. In the year 1974, the Border Security Force promulgated its own recruitment rules styled as Directorate General Border Security Force Recruitment Rules, 1974. The same were issued under proviso to Article 309 of the Constitution of India and a copy thereof is annexed at Annexure A-2.

5. Applicant has placed reliance on para 11.38 of the recommendations of the Fourth Central Pay Commission at Annexure A-5 which has inter alia, recommended as under:

"11.38. We have considered the matter. There has all along been parity between the staff in the IA & AD and accounts staff of other departments, which has been disturbed by restructuring IA & AD into two separate cadres viz

1. Chief, Border Force  
2. Chief, Border Force  
3. Chief, Border Force  
4. Chief, Border Force  
5. Chief, Border Force  
6. Chief, Border Force  
7. Chief, Border Force  
8. Chief, Border Force  
9. Chief, Border Force  
10. Chief, Border Force

18/9



audit cadre and establishment cadre and giving them pay scales to a major portion of staff on the audit side. The audit and accounts functions are complementary to each other and are generally performed in many government offices in an integrated manner which is necessary for their effective functioning. The staff in these offices perform functions of internal check and audit which are equally important. There is direct recruitment in the scale of Rs. 350-550 in all the audit and accounts cadres through Staff Selection Commission/Railway Recruitment Boards - from amongst university graduates. We are therefore of the view that there should be broad parity in the pay scales of the staff in IA&AO and other accounts organisations. Accordingly, we recommend that the posts in the pay scale of Rs. 425-700 in the organised accounts cadres may be given the scale of Rs. 1400-2600. In the Railways, this will apply in the posts of sub-head in both the ordinary and selection grades. We also recommend that this should be treated in future as a functional grade requiring promotion as per normal procedure. The proposed scale of Rs. 2000-3200 of Section Officer may also be treated as a functional grade. With the proposed scales, there will be no selection grades for any of the posts. As regards the number of posts in the functional scales of Rs. 1400-2600 and Rs. 2000-3200, we note that about 53 per cent of the total posts of junior/senior auditor and 66 per cent of the total posts of ordinary and selection grade of Section Officer in IA&AO are in the respective higher scales. Government may decide the number of posts to be placed in the scales of (i) Rs. 1400-2600 and (ii) Rs. 2000-3200 in the other organised accounts cadres taking this factor into consideration. All other accounts posts may be given the scales recommended in chapter 8."

Based on the aforesaid recommendations of the Fourth Central Pay Commission, the pay scales of the PAD of BSF and other organised accounts departments were revised as under:-

*Ag*



SECRETARY/ADDITIONAL SECRETARY

Headquarters, Ministry of Railways

2nd Floor, 1st Wing

Central Administrative Tribunal

10, 11, 12, 13, 14

15, 16, 17, 18, 19, 20

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**STATEMENT SHOWING COMPARATIVE PAY SCALES OF  
PAD BSF AND OF OTHER ORGANISED ACCOUNTS OFFICERS**

PAY SCALES V.E.F.		PAY SCALES V.E.F.	
(A)	(B)	(C)	(D)
PAD BSF	OTHER ORGANISED PAD BSF	OTHER ORGANISED	DEPTT.
CLERK	Rs. 950-20-1150- EB-25-1500	Rs. 950-20-1150-EB- 25-1500	SAME AS COLUMN 'A'
JR. ACCOUNTANT	Rs. 1200-30-1550- EB-40-2040	Rs. 1200-30-1550-EB- 40-2040	SAME AS COLUMN 'A'
SR. ACCOUNTANT	Rs. 1400-40-1800 EB-50-2300	Rs. 1400-40-1800-EB- 50-2300	SAME AS COLUMN 'A'
JR. ACCTS OFFICER	Rs. 1600-60-2000- EB-75-2900	Rs. 1600-60-2000-EB- 75-2900	SAME AS COLUMN 'A'
ACCOUNTS OFFICER	Rs. 2375-75-3100- EB-100-3500	Rs. 2375-75-3100-EB- 100-3500	SAME AS COLUMN 'A'
			Rs. 1200-30-1550-EB- 40-2040 FOR 20% POSTS
			Rs. 1400-40-1800- 50-2300-EB-60- 2400 FOR 40% POSTS
			Rs. 1600-60-2000- EB-75-2900 FOR 20% POSTS
			Rs. 2000-80-2300- EB-75-3100 FOR 20% POSTS IN ADD. GRADE
			Rs. 2375-75-3100- EB-100-3500 FOR 20% POSTS IN ADD. GRADE

**PAY SCALES V.E.F. 01-01-75**

1. CLERK	Rs. 3050-75-3950-EB-4530	Rs. 3050-75-3950-EB-4530
2. JR. ACCOUNTANT	Rs. 4000-100-6000	Rs. 4000-100-6000 FOR 20% POSTS
3. SR. ACCOUNTANT	Rs. 4500-125-7000	Rs. 4500-125-7000 FOR 20% POSTS
4. JR. ACCOUNTS OFFICER	Rs. 5500-175-9000	Rs. 5500-175-9000 FOR 20% POSTS IN ADD. GRADE
5. ACCOUNTS OFFICER	Rs. 7050-225-11500	Rs. 7050-225-11500 FOR 20% POSTS IN SR. ADD. GRADE

- 6 -

The grievance of the applicant is that pertaining to the upgradation of 80% posts of Junior Assistant Directors (Accounts)/Accounts Officer in the PAD of BSF. A representation on that behalf was submitted by the applicant to the Ministry on 24.8.1995.

*[Signature]*  
 Director, Industrial Branch  
 Central Administration  
 Ministry of Defence  
 New Delhi

*[Signature]*



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was rejected on 30.8.1995 vide Annexure A-13. Since the memorandum did not contain any reasons & further representation had been made. It was rejected on 6.9.1995. The rejection had been supported by the following reasons:

With reference to his application dated 30.8.1995, Shri J.R.Chobdar, JAD (Accounts) is informed that, Ministry of Finance did not agree to our proposal as they hold that BSF Accounts Cadre is not an organised Accounts service. VVP

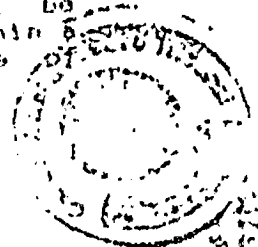
7. On earlier occasion, when this matter came up before this Tribunal on 6.12.2000, the present application was allowed. It was directed:

If one has regard to the aforesaid decisions cited by Shri Gupta, we find that the applicant has made good his claim contained in the OA. In the circumstances, the impugned Memorandum of 30.8.1995 at Annexure A-13, Memorandum of 6.9.1995 at Annexure A-15 as also Memorandum of 7.12.1995 at Annexure A-17 are quashed and set aside. We further hold that the pay scales of the various posts in the PAD of BSF are liable to be revised and brought on par with the scales of other organised Audit and Accounts services under the Government of India. Respondents are accordingly directed to upgrade 80% posts in PAD of BSF on lines with the Controller General of Defence Accounts (CGDA) cadre etc. YJP

15. Based on the aforesaid directions, respondents will consider the claim of the applicant for grant of higher pay scale to 80% of the posts in the PAD of BSF provided he is found eligible. In case he is found eligible for being placed in the 80% of the posts, he will be entitled to all consequential benefits with effect from 1.4.1987.

16. Present OA in the circumstances is allowed in the aforesaid terms. Aforesaid directions shall be complied with by the respondents within a period of six months from the date of service of this order. 18/12/01

Director, JAD (Accounts)  
Ministry of Finance  
New Delhi  
18/12/01





8. Against the said order, the Union of India and Others preferred Civil Writ Petition No. 5599/2001. The Delhi High Court had set aside the order of this Tribunal and the matter was remanded holding:

"17. In a vital issue of this nature, the learned Tribunal was obligated to take into consideration the materials brought on record of the parties to the lis but also arrive at a definite finding as to whether the Pay and Accounts Division of BSF is an organized cadre or even under CAG or CGDA. This court in exercise of its jurisdiction under Article 226 of the Constitution of India only exercises the power of judicial review. All contentions relating to the service dispute must necessarily be addressed by the Tribunal itself at the first instance. Only in some rare cases where a grave injustice may be caused and in some cases having regard to the interest of justice, this court may determine such questions at the first instance. Furthermore, as notice hereinbefore, before us, the learned counsel for the parties referred to various documents which the learned Tribunal had no occasion to consider at all. We have purposely not referred thereto so that it may not be considered to be a conscious decision on our part either way.

18. In this view of the matter, we are of the opinion that the matter should be considered afresh by the learned Tribunal."

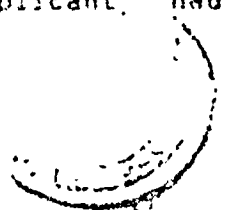
9. It is in this backdrop that the whole controversy has been re-argued basically on the question as to whether Pay and Accounts Division of the Border Security Force is an organized cadre or even under CAG or CGDA.

10. On behalf of the respondents, plea was raised that the claim of the applicant is barred by time. We have already in the preceding paragraphs

referred to the facts that the applicant had

11. The learned Tribunal has not considered the materials brought on record of the parties to the lis but also arrive at a definite finding as to whether the Pay and Accounts Division of BSF is an organized cadre or even under CAG or CGDA. This court in exercise of its jurisdiction under Article 226 of the Constitution of India only exercises the power of judicial review. All contentions relating to the service dispute must necessarily be addressed by the Tribunal itself at the first instance. Only in some rare cases where a grave injustice may be caused and in some cases having regard to the interest of justice, this court may determine such questions at the first instance. Furthermore, as notice hereinbefore, before us, the learned counsel for the parties referred to various documents which the learned Tribunal had no occasion to consider at all. We have purposely not referred thereto so that it may not be considered to be a conscious decision on our part either way.

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represented. The representation has been rejected vide Memorandum of 30.8.1995 followed by another Memorandum of 6.9.1995. The present application has been filed on 6.12.1996. But the question of limitation will not arise because drawing of salary is a continuous cause. Even if a little more than one year expired from the rejection of the representation, the arrears if any can be given for a period of one year before filing of the application. In this regard, we are supported by the decision in the case of M.R. Gupta v. Union of India & Others, 1995(5) SCC 628

11. Reverting back to the controversy before us, at this stage, it is relevant to mention that respondents in the counter pleaded that in the audit stream of India Audit and Accounts Department, the posts have been placed in the following grades, namely:

"In audit stream of India Audit and Accounts Department, the posts have been placed in the following grades vide their No.A/2014/2/92/MELGA/MEB/357 dated 31.3.1993.

Pay and Accounts Officer  
(functional promotional) grade

- |                             |                     |     |
|-----------------------------|---------------------|-----|
| 1. Pay and Accounts Officer | Rs. 2250-75-2800-EB |     |
| (functional promotional)    | -100-4000           | 80% |
| 2. Pay and Accounts Officer | Rs. 2315-75-3200-EB |     |
|                             | -100-3500           | 20% |
| 3. Asstt. Accounts Officer  | Rs. 2000-5700       | 80% |
| 4. Section Officer          | Rs. 1600-1900       | 20% |
| 5. Sr. Auditor              | Rs. 1400-2600       | 80% |
| 6. Auditor                  | Rs. 1200-2040       |     |

G. M. / A. T. / 104

Chief, Audit Section  
Comptroller, Federal Board  
of Revenue  
Central Administrative Tribunal  
New Delhi

18/11/97



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Whereas in Pay and Accounts Division Border Security Force,  
We have following posts:-

- |                             |               |
|-----------------------------|---------------|
| 1. JAO now Accounts Officer | Rs. 2200-3500 |
| 2. JAO                      | Rs. 1640-1900 |
| 3. Sr. Accountant           | Rs. 1400-2300 |
| 4. Jr. Accountant           | Rs. 1200-2040 |

5. It would thus be seen from the above that in Pay and Accounts Division of Border Security Force the grade of Pay and Accounts Officer (Functional Promotional grade) in the pay scale of Rs. 2200-4000 is not available. The post of AAO in the pay scale of Rs. 2000-3200 is not available. It is also added that the pay scale of Sr. Acctt. is of Rs. 1400-2300, which is comparatively a lower scale than that of Sr. Auditor prevalent in Audit & Account of Constituted service which run from Rs. 1400-2600. Promotion in the grade of Section Officer/JAO in the organised Accounts Cadre are being made after passing Subordinate Accounts Service examination, whereas in Pay and Accounts Division Border Security Force it does not exist, which is a major qualification for qualified Accountants in Organised Accounts Cadre. In Pay and Accounts Division Border Security Force it is made by Selection cum fitness."

12. Though Fundamental Rules as already referred to above defines 'cadre' but during the course of submissions neither of the counsel had brought to our notice any specific or precise definitions as to what is meant by 'organised cadre'.

In the additional affidavit filed on behalf of the respondents, the respondents plead that 'organised cadre' has the following attributes:

- a. The service has all the standard grades of pay, viz., Rs. 8000-13500, Rs. 10000-15200 and Rs. 12000-16500 etc.
- b. 50% of the officers are through direct recruitments.
- c. All posts upto the pay scale of Rs. 18400-22400 are filled through promotion from within the cadre.
- d. The highest post in cadre is above the pay scale of Rs. 12400-22400."

सुबोधन/अधिवक्ता  
अधीक्षक, न्यायिक सेवा  
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अधीक्षक, न्यायिक सेवा





13. It appears, these attributes are being mentioned and taken from the cadre management of Group 'A' Central Service issued by the Government of India, Ministry of Personnel, Public Grievance and Pension, and under the heading, it has been mentioned:

"The expression 'Organized Group 'A' Civil Cadre' means a cadre which has all the following attributes, namely:-  
 (i) the highest cadre post is not below the level of Rs.5900-6700 (ii) it has all the standard grades, namely, Rs.2200-4000, Rs.3000-4500, Rs.3700-5000/ Rs.4500-5700 and Rs.5900-6700 (iii) at least 50% of the vacancies in the Junior Time Scale (Rs.2200-4000) are required to be filled by direct recruitment and (iv) all vacancies above the Junior Time Scale and upto the Senior Administrative Grade (Rs.5900-6700) are filled by promotion from the next lower grade."

14. It is abundantly clear from the aforesaid that the said attribute pertains to Group 'A' Service/Cadre. The applicant does not belong to Group 'A' Service/Cadre and, therefore, the respondents cannot take advantage of the same.

15. Otherwise also, on behalf of respondents though stress was laid pertaining to certain scales which are not available in PAD of the BSF, in our opinion will not tantamount to hold that in the absence of the same it was deemed to be an organized cadre. If certain scales are missing that will not take the trait of the organized cadre, and therefore, this particular plea has simply to be stated to be rejected.

*As Ag*

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 11/11/2011  
 Director  
 Central Government  
 Ministry of Personnel, Public Grievance and Pension

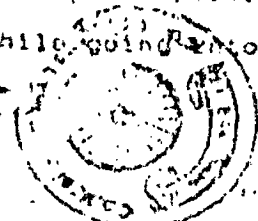


16. On behalf of the respondents, it was further urged that passing of the Subordinate Accounts Service (SAS) examination is necessary in an organised cadre. In the present case, it is by way of promotion. We have no hesitation in rejecting the said plea because the question to be considered is if it is an organised cadre or not. The manner and method of promotion has nothing to do with a cadre being organised or not. If it has other traits that it is a cadre comprising of reasonable number of persons, they have specific rules in this regard and there is no other factor which prompts one to conclude that it is an unorganised cadre. We must hold that it is an organised cadre.

17. As regards the contention about the percentage of deputation post in the post of Accounts Officer, we were informed that the same has been reduced from 66.67% to 33.33%. The deputation in respect of the post of Junior Accounts Officer and Senior Accountant has been kept as only as an alternative method, i.e., the method of deputation is to be resorted when the post cannot be filled by promotion. More than 50% posts in the entry grade are filled through direct recruitment. This shows that there is a regular hierarchy starting from lowest post of Clerk to Financial Adviser in PAD of BSF.

18. Similar question had been gone into by the Delhi High Court in the case of T.N. Natarajan & Ors. v. Union of India & Ors. in C.W.P. No. 176/1979 dated 3.9.1980. The Delhi High Court while going into

Office, Ministry of  
Defence, Judicial Bench  
High Court of India  
Central Administrative Tribunal  
(Civil Bench, 1st Floor)  
New Delhi



the said controversy, when a similar argument had been advanced, held it to be an organised cadre and the findings read:

Mr. A.B. Sahaya, the learned counsel for the petitioners, took great pains in going through the report of the Third Pay Commission as contained in Chapter 8. The only reason contained in the impugned orders for the non admissibility of the special pay to the petitioners is that they do not belong to "organised service" Group A. The counsel urges that there is no warrant for the respondents to so construe the recommendations of the Third Pay Commission as also the orders of the Government contained in the resolution dated May 1, 1974 and the sanction of the President contained in the memorandum dated August 20, 1975. The contention is that there is no basis to restrict the grant of the special pay only to those officers belonging to the Military Engineering Services comprising of three branches namely: Engineering Cadre, Surveyor of Work Cadre and Architects Cadre.

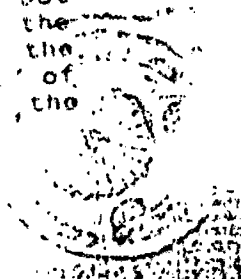
The first question for determination is whether the service to which the petitioners belong has been regularly constituted as Class I Service. By notification dated November 21, 1969, published in the Official Gazette on December 6, 1969, the President in exercise of the powers conferred by the proviso to Art. 309 of the Constitution, made rules regulating the methods of recruitment to Class I and Class II posts in the Military Engineering Services. The rules are called the Military Engineering Service (Administrative Cadre) Recruitment Rules, 1969.....

Article 309 provides for the enactment of rules and regulations relating to the recruitment and conditions of Govt. Servants. In regard to the Central Services, the authority is given to the Central Legislature. Under the proviso rules can be made by the President with regard to the Central Services. It is not obligatory to make rules of recruitment before a service is constituted and the posts filled. But the framing of the rules does suggest the constitution of a service and the creation of a cadre. The channel of promotion from the lower grade to the

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Mr. C. S. Ag  
Secretary, Judicial Branch  
The Law Officers  
Central Administrative Tribunal  
New Delhi

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higher grade provided in the Recruitment Rules is a weighty circumstance in favour of holding the regular constitution of a cadre. Cadre means the strength of the service or part of service sanctioned as a separate unit."

19. In the absence of any other decision to the controversy in the hierarchy as it is in force after the decision of the Supreme Court in the case of Chandra Kumar v. Union of India & Ors., 1997 SCC (L&S) 577, we must follow the said Judgement. Therefore, it must be held that the applicant belongs to an organised cadre.

20. The only other controversy thereafter is as to whether the applicant is entitled to equal pay on the principle of 'equal pay for equal work'?

21. This question had been decided by this Tribunal. The said findings have not been set aside by the Delhi High Court. We deem it unnecessary to go into the same again because of the above said facts. For purposes of continuation of the matter, we take opportunity to reproduce the some of the precedents quoted in the earlier order. In the case of Randhir Singh v. Union of India and Others, 1982(1) SLR 756, the Supreme Court held:

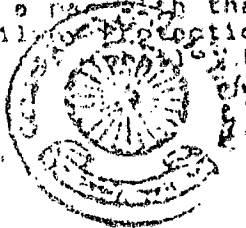
"6. The counter-affidavit does not explain how the case of the drivers in the police force is different from that of the drivers in other departments and what special factors weighed in fixing a lower scale of pay for them. Apparently, in the view of the respondents, the circumstances that persons belong to different departments of the Government is itself a sufficient circumstance to justify different scales of pay irrespective of the identity of their powers, duties and

U. A.



responsibilities. We cannot adopt this view. If this view is to be stretched to its logical conclusion, the scales of pay of officers of the same rank in the Government of India may vary from department to department notwithstanding that their powers, duties and responsibilities are identical. We concede that equation of posts and equation of pay are matters primarily for the Executive Government, and expert bodies like the Pay Commission and not for Courts but we must hasten to say that where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments. Of course, if officers of the same rank perform dissimilar functions and the powers, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same."

9. There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If any thing, by reason of their investiture with the powers, functions and privileges of a police officer, their duties and responsibilities are more arduous. In answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver-constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of equal pay for equal work is not a principle which the Courts may recognise and act upon. We have shown that the answer is unsound. The clarification is irrational. We, therefore, allow the Writ Petition and direct the respondents to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police Force at least on a par with that of the drivers of the Rail Protection Force. The scale of



effective from 1st January, 1973, the date from which the recommendations of the Pay Commission were given effect."

22. It goes without saying that the officers working in PAD of BSF are doing equal work as that of officers of other Account Departments. Therefore, the cited decision is very much applicable.

23. Similarly in the case of Bhagwan Dass and Others v. State of Haryana and Others, AIR 1987 SC 2049, the Supreme Court held:

"11. With regard to the next contention viz. that the mode of recruitment of the petitioners is different from the mode of recruitment of respondents 2 to 6, we are afraid it is altogether without substance. The contention has been raised in the following terms (para 4(d) of the Counter-affidavit dated 6.1.1986 filed on behalf of respondents 1 to 13):-

"It is absolutely incorrect that the petitioners are similarly placed as the employees under the Social Education Scheme as alleged. The latter are whole-time employees selected by the subordinate services Selection Board after competing with candidates from any part of the country. In the case of petitioners, normally the selection at best is limited to the candidates from the cluster of a few villages only. The contention made by the Petitioners has no justifiable basis." (Emphasis added).

We need not enter into the merits of the respective modes of selection. Assuming that the selection of the petitioners has been limited to the cluster of a few villages, whereas respondents 2 to 6 were selected by another mode wherein they had faced competition from candidates from all over the country, we need not examine the merits of these modes for the very good reason that once the nature and functions and the work are not shown to be dissimilar the fact that the recruitment was made in one way or the other would hardly be relevant from the point of view of "equal pay for equal work" doctrine. It was open to the State to resort to a

*Sd/- Ag*

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selection process whereat candidates from all over the country might have competed if they so desired. If however they deliberately chose to limit the selection of the candidates from a cluster of a few villages it will not absolve the State from treating such candidates in a discriminatory manner to the disadvantage of the selectees once they are appointed, provided the work done by the candidates so selected is similar in nature. It was perhaps considered advantageous to make recruitment from the cluster of a few villages for the purposes of the Adult Education Scheme because the Supervisors appointed from that area would know the people of that area more intimately and would be in a better position to persuade them to take advantage of the Adult Education Scheme in order to make it a success. So also it was perhaps considered desirable to take recourse to this mode of recruitment of candidates because candidates from other parts of the country would have found it inconvenient and onerous to seek employment in such a Scheme where they would have to work amongst total strangers and it would have made it difficult for them to discharge their functions of persuading the villagers to avail of the Adult Education Scheme on account of that factor. So also they might not have been tempted to compete for these posts in view of the fact that the Scheme itself was for an uncertain duration and could have been discontinued at any time. Be that as it may, so long as the petitioners are doing work which is similar to the work performed by respondents 2 to 6 from the standpoint of equal work for equal pay doctrine, the petitioners cannot be discriminated against in regard to pay scales. Whether equal work is put in by a candidate selected by a process whereat candidates from all parts of the country could have competed or whether they are selected by a process where candidates from only a cluster of a few villages could have completed (competed) is altogether irrelevant and immaterial for the purposes of the applicability of equal work for equal pay doctrine. A typist doing similar work as another typist cannot be denied equal pay on the ground that the process of selection was different inasmuch as ultimately the work done is similar and there is no rational ground to refuse equal pay for equal work. It is quite possible that if he had to compete with candidates from all over the country, he might or might not

B. A. G.







raised before us in the backdrop of facts of the present case. On the other dimensions of the doctrine we remain silent as there is no need or occasion to speak."

24 These decisions clearly show that principle of 'equal pay for equal work' is very much applicable in the facts of the present case.

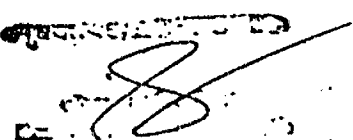
25. Resultantly, we allow the present application. Holding that pay scales of various posts in the Accounts Cadre of the PAD of BSF are liable to be revised. Respondents should consider the upgradation of posts and for grant of higher pay scale of 80% of the posts, subject to eligibility, with consequential benefits. It is directed that the decision may be implemented preferably within six months from the date of receipt of a certified copy of this order. No costs.

Member (A)

/NSN/

Dr. Agastya  
(Chairman)



  
Dr. Agastya  
Central Administrative Tribunal  
First Floor, 1st Floor  
Gandhi Bhawan, New Delhi

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ANNEXURE - 'B'

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
(Extra Ordinary Original Civil Jurisdiction)

WRIT PETITION (CIVIL) NO. 72061 OF 2004

Memo of Parties

In the matter of

BY Private

Minister Judicial Department  
High Court of Delhi

1. Union of India,  
Through Its Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi-110001
2. The Director General Border Security Force,  
Block No. 10, C.G.O. Complex,  
Lodhi Road,  
New Delhi-110003
3. The Deputy Director (Accounts),  
Pay & Accounts Division,  
Directorate General  
Border Security Force,  
Pushpa Bhawan,  
Madangir,  
New Delhi

VERSUS

Petitioners

Shri J. R. Chobedar  
Son of Late Mohan Lal  
Resident of 87/12,  
Sector-1, Pushp Vihar  
New Delhi-110062

Respondent

Delhi dated: October 6, 2004

Certified to be True Copy

Department  
Through Delhi  
ion V

Petitioners

Signature  
Advocate

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IN THE HIGH COURT OF DELHI  
AT NEW DELHI

Private Bill  
Foreign Judicial Department  
Court of Delhi

Date of decision : January 25, 2005

W.P.(C) No. 20065-67/2004

Union of India and Others

..... Petitioner  
through : Mr. Sanjeev Sachdeva with Ms. Priya  
Puri, Mr. Vibhav Srivastava and Mr. Rohit  
Nagpal, Advocates

Vs.

S. Shri R. Chobedar

through : In person. .... Respondent.

CORAM :-

HON'BLE MR JUSTICE VUENDER JAIN  
HON'BLE MR JUSTICE J. P. SINGH

1. Whether reporters of Local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the Digest?

Vuender Jain, J. (Oral)

1. This writ petition has been preferred impugning the order passed by the Central Administrative Tribunal. The respondent is working as Joint Assistant Director re-designated

W.P.(C) No. 20065-67/2004

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Accounts Officer in the Border Security Force (for short 'BSF') in the pay scale of Rs. 2375-3500. This case has a chequered history. When the first O.A. was allowed, the appellant before us challenged the finding of the Central Administrative Tribunal and filed a W.P.(C) 5599/2001. The Delhi High Court set aside the order of the Tribunal and the matter was remanded holding:-

17. In a vital issue of this nature, the learned Tribunal was obligated to take into consideration the materials brought on record of the parties to the lis but also arrive at a definite finding as to whether the Pay and Accounts Division of BSF is an organized cadre or even under CAG or CGDA. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India only exercises the power of judicial review. All contentions relating to the service dispute must necessarily be addressed by the Tribunal itself at the first instance. Only in some rare cases where a grave injustice may be caused and in some cases having regard to the interest of justice, this Court may determine such questions at the first instance. Furthermore, as notice herein before, before us, the learned counsel for the parties referred to various documents which the learned Tribunal had no occasion to consider at all. We have purposely not referred thereto so that it may not be considered to be a conscious decision on our part either way.

18. It is in this backdrop that the whole controversy has been re-argued basteedly on

W.P.(C) No. 20065-67/2004

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ATTESTED

Lawyer Judicial Department  
West of Delhi



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the question was to whether Pay and Accounts Division of the Border Security Force is an organized cadre or even under CAG or CGDA.

2. Therefore, case was made for determination as to whether there was an organized cadre. Learned counsel appearing for the petitioner has contended that in terms of the report of the Pay Commission at page 48 paragraph 11.36 of the paper book, similar question was raised which the Commission has answered in terms of its finding at p.51 of the paper book. According to the learned counsel for the petitioner, based on that finding the case was examined by the Ministry of Finance and the same was rejected vide its order dated 6<sup>th</sup> September, 1995 to the following effect:-

With reference to his application dated 30.08.95 Shri J R Chobdar, JAD(Accounts) is informed that, Ministry of Finance did not agree to our proposal as they held that BSF Accounts Cadre is not an organized Accounts service."

3. Similarly, on 7<sup>th</sup> December, 1995, the BSF, Pay and Accounts Division also taking into consideration the rejection by the Ministry of Finance, disposed of the application of the respondent that it cannot be treated as an organized accounts service. On the basis of the aforesaid, it was contended before

W.P.(C) No 20065-67/2004

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ATTESTED

Executive Judicial Department  
Ministry of Defense

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3 119

that the finding of the learned Tribunal in the impugned order is not as per the report of the Pay Commission and BSF and there was no cadre of the Accounts Officer in the BSF and the anomaly has come up in view of the re-structuring of the cadre. In our view the reliance by the petitioner on the letter dated 6<sup>th</sup> September, 1995 (supra) is misplaced. The point raised by the learned counsel for the petitioner was considered in depth by the Tribunal and on the basis of the material before the Tribunal, the Tribunal gave the opinion that if certain scales were missing that will not take away the trait of the organised cadre. It was also considered that the method and manner of promotion has nothing to do with a cadre being organised or not. If it has other traits that it is a cadre comprising of reasonable number of persons, they have specific rules in this regard and there is no other factor which prompts one to conclude that it is an unorganised cadre. Relying upon the judgment of this Court in T.N. Natarajan and Ors v. Union of India and Ors in CWP 176/1979 decided on 3<sup>rd</sup> September, 1980 which also dealt with a similar controversy, it was held by the Tribunal by a reasoned order that the cadre of the respondent was an organised cadre.

W.P.(C) No. 20065-67/2004

ATTESTED

Joint Deputy Registrar  
11/10/2004

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4. We find no infirmity with the impugned order. No other point has been urged before us. We find no merit in the petition. Dismissed.

Scft.  
Vijender Jai...

January 25, 2005

S. H.  
J.P.S. Singh

EX-100

to be True Copy

✓  
Dated  
at

W.P.(C) No. 20005-67/2004



SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petitioner(s) for Special Leave to Appeal (Civil) Nos. 6923-6925/2005

From the Judgment and Order dated 01/04/1980 in LMT Nos. 20065/2004, 20066/2004 & 20067/2004 of the HIGH COURT OF DELHI AT N. DELHI

UNION OF INDIA & ORS

Petitioner(s)

VERSUS

MR. CHODHARY

Respondent(s)

With application for c/delay in filing s.p.

Date: 29/07/2005 These Petitions were called on for hearing today.

HON'BLE MR. JUSTICE Y.K. SABHARNAL

HON'BLE MR. JUSTICE ARUN KHUR

Petitioner(s)

Mr. A. Sharan, A.S.G.

Mrs. Indra Sawhney, Adv.

Ms. Sushma Suri, Adv.

For Respondent(s) Mr. Mukul Rohtagi, Sr. Adv.

<http://court.nic.in/supremecourt/temp/pc6923-692505p.txt>

8/1/2005

Deem



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UPON hearing counsel the Court made the following

**O R D E R**

Delay condoned.

The special leave petitions are dismissed.

On request of learned Additional Solicitor General, the petition

is allowed further but final time for three months to comply with the order.

(H. Annapurna)

Court Master

V.P. Tyagi

Court Master