

50/100
125

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 60/2005.....

R.A/C.P No.....

E.P/M.A No. 136/2009.....

1. Orders Sheet..... Pg. 01..... to. 08.....

2. Judgment/Order dtd. 28/5/2009 Pg. 01..... to. 11.....

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... Pg. 01..... to. 38.....
Petition Pg. 1 to 38

5. E.P/M.P. Order sheet Pg. 01 to NIL Pg. 01..... to. 11.....

6. R.A/C.P..... Pg..... to.....

7. W.S..... Pg. 01..... to. 14.....

8. Rejoinder..... Pg. 01..... to. 38.....

9. Reply..... Pg..... to.....

10. Any other Papers..... Pg. 01..... to. 06.....

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

10/10/17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

60/05

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

K. K. Mandal & Ors.

Applicants:

Respondents

Advocates for the Applicant

Advocates of the Respondents

M. Chanda, A.N. Chakraborty

S. Nath

M. K. Chaudhury

Notes of the Registry

Date

Order of the Tribunal

01.03.2005

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

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 Hand. (a)

15/3/05

mb

07.04.2005

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

bb

2-9
Vice-Chairman

6-4-05

4/2 - wanted

ab

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

8/4/05

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

6/5

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

① R. 1 & 5 wanted

③ No. reply filed 9.5.05

law

9.5.05
W.S. filed by
the respondent Nos. 1 to 6. 1m

31-5-05

No. Rejoinder - 1a. Sec. 21ed.

No. Rejoinder has been
filed.My
9.7.05

08.05.2005 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 ~~xxxxxx~~ has died. His
legal representative may be impleaded in
the meantime.

Post on 09.05.2005.

Dated

Vice-Chairman

Mr. M. Chanda learned counsel for the
applicant submits that he has received the
written statement to-day and that he
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.

16/5/05
Member

Dated

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 ~~xxxxxx~~ 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.

16/5/05
MemberDated
Vice-Chairman

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.

① No rejoinder has been filed.
② No rejoinder has been filed.

3p
5.8.05

E. Jagaraj
Vice-Chairman

bb

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

No Rejoinder has been filed.

2p
9.9.05

K. P. Bhattacharya
Member

E. Jagaraj
Vice-Chairman

bb

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

7-3-06

bb

No Rejoinder has been filed.

2p

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.

7-3-06

bb

Rejoinder filed
on behalf of the
applicants.

2p

Vice-Chairman (J)

R. Bhattacharya
Vice-Chairman (A)

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.

The case is ready
for hearing.

NS
27.2.07

DR
Member (A)

E. Jagaraj
Vice-Chairman

bb

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.

16.3.2007

post on 24.4.2007.

D
Member

Vice-Chairman

30.3.07

The case is
ready for hearing.

bb

2.4.2007

post before the next Division

Bench.

Vice-Chairman

bb

05.05.2008

The case is ready
for hearing.

This matter stands adjourned to
21.05.2008 for hearing.

29.5.08

/bb/

Khushiram
Member (A)

PTO

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)
Member (A)

(M.R. Mohanty)
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.

21/5/08. D/No-2669 to
Dt. 26/7/08
1/6/08.

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

M
26.6.08

lm

(M.R. Mohanty)
Vice-Chairman

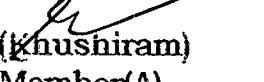
07.08.2008 Mrs U.Dutta, Advocate is present representing the Applicant. Mr M.U.Ahmed, learned Addl. Standing counsel is present representing the Respondents.

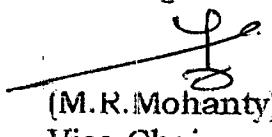
Call this matter on 12.09.2008.

(M.R. Mohanty)
Vice-Chairman

0.A.60/08. 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.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

*The case is ready
for hearing.*

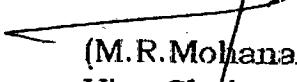

5.11.08.

lm

01.12.2008 Mr. M. Chanda, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for both the parties, call this Union of India are present. matter on 1st December, 2008 for hearing.

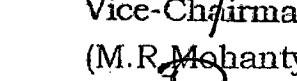
Call this matter on 16.12.2008 for


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman


28.11.08.

lm lm


(M.R. Mohanty)
Vice-Chairman

01.12.2008 Mr. M. Chanda, learned counsel appearing 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

*The case is ready
for hearing.*

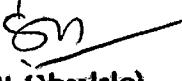

15.12.08.

lm


(M.R. Mohanty)
Vice-Chairman

16.12.2008

Call this matter on 5th January, 2009.


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

*The case is ready
for hearing.*


2.1.09.

7
X
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

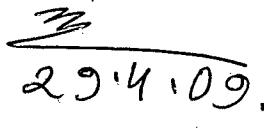
09.02.2009 Call this matter on 24.03.2009 for hearing.
The case is ready for hearing.

~~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.


By Order


Court Officer

/pb/

15-5-09

Prepared on request
of the both counsel.

DR

30.04.2009

Call this matter on 12.06.2009.


(M.R. Mohanty)
Vice-Chairman

/bb/

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.

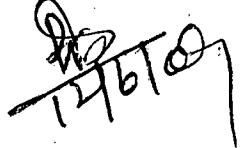
Hearing concluded. Order reserved.


(N.D.Dayal)
Member(A)


(M.R.Mohanty)
Vice-Chairman

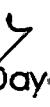
pg

12.6.09

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


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)
/bb/


(M.R.Mohanty)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 60 of 2005.

DATE OF DECISION: 28th -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)

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 60/2005.

Date of Order : This the 28th 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 OfficerApplicants

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,
Mumbai-400 020.
3. General Manager,
Canteen Stores Department
"Adelphi"
113 Maharshi Karve Road,
Mumbai-400 020.
4. The Regional Manager,
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"
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 ^{nor} does 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

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

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 interchangeable. 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 7th 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 6th 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 3rd 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.

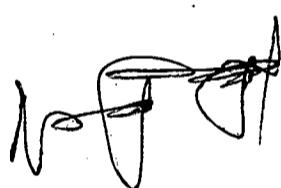
11. The learned counsel for the Respondents on the other hand has cited judgments of the Apex Court in the case of Union of India vs.

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 functions and increase in pay scale of some posts would not by itself justifying 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

20

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

//pg//

Vide order sl.
8.4.05

Attlicant no-5 died

- heirs to be distributed

No heirs of Attlicant no-5 distributed

o Application is abated against attlicant no-5

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

NO representation
~~not~~ preferred against
extension of benefit
of upgraded pay
scale considered
by OM dt. 28.2.03 (40)
Extended to accounts
employee particularly
in the cadre of A/cs/ABOs
of the original cadre,
the benefit initially provided
to Rly. A/cs employee by govt 1st
Andhra

Synopsis

P. 36 (sdgs, para 13)

CAT has no fund to fix pay
1999 (9) SCC 6653

Chief Admin. & D.C. vars

1997 SCC (LES) 838

V.O. Andhra P. V. Harikaran

22

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

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.)

For Grounds of Appeal

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 notional 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	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)

(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) 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.
 - 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”;
 - after sub-rule (11), the following shall be *inserted*, namely :—
“(II-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”;
 - 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.

(1) 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. Thiruvenkadam 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.

*After the 1st
Amendment
Act*

(2004) 6 Supreme Court Cases 218

(BEFORE BRIJESH KUMAR AND ARUN KUMAR, JJ.)

STATE OF MIZORAM AND ANOTHER

Versus

MIZORAM ENGINEERING SERVICE ASSOCIATION

AND ANOTHER

Appellants;

a

Respondents.

b

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

c

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

d

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 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

e

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

f

g

h

STATE OF MIZORAM v. MIZORAM ENGG. SERVICE ASSN. (Arun Kumar, J.) 219

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 Intervenors.

b

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

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

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. *a*

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. *b*

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.) *c*

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. *d*

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 *e*

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 *g*

h

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.

b 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.

d 7. 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.

e 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.

22

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

A
Sri K.K. Mandal and Others.

-Vs-

Union of India & Ors.

LIST OF DATES

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 4th Central Pay Commission. Similarly CSD also adopted the recommendation of the benefit of the 5th 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

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)

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
 2008(1) SEC 630

1976-1977 AGGREGATE

U.S. Air Force bases throughout the state of Texas. High altitude flights were recorded at the start of 1902 (TO RAMP) and again in 1903 (TO RAMP) and again in 1904 (TO RAMP). The first flight in 1904 (TO RAMP) was the

总第2112期 2016年1月20日星期五

and the *gut* and *bladder* in *Leucosoma* appear to be
no infestation of *R. equinus* could only be taken. But this
is not a *Leucosoma* infestation.

9. 1980-1981: *Levée de fonds pour la construction d'un centre de formation et de recherche en sciences et techniques agricoles et forestières à l'Université de l'Ontario, à Orillia, Ontario* (1981)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

50

File in C. on 15/5/09
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. & ors. → O.A. NO. 01/2004- 20/5
- ✓ ② Shri K.K. Mandal & ors. - Vs. U.O.I. & ors. → O.A. NO. 60/2005- 18/5
- ✓ ③ Shri A.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 Shri D. Duni - Vs. - - - - → O.A. NO. 11/2006) 19/5
- ✓ ⑥ Shri M. L. Goswami - Vs. U.O.I. & ors → O.A. NO. 220/2006) 27/5
- ✓ ⑦ Shri Subimal Roy - Vs. - - - - → O.A. NO. 90/2007)
- ✓ ⑧ Shri Sisheshwar 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 Sondi Indrani Das - Vs. U.O.I. & ors. → O.A. NO. 150/2008) 28/5
- ✓ ⑪ Sondi Indrani Das - Vs. - - - - → O.A. NO. 197/2008)
- ✓ ⑫ Shri Anjan Datta - Vs. - - - - → O.A. NO. 32/2007, 16/6

consent given by the
counsel of the opposite party.

① M. K. Chetry

② Gourabam Prinay
19.05.09 amcuse

③

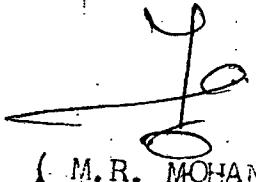
④ T. R. John

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. 1100 (208)

R. B. Mark's U. V. I. 403

Alvarez
10/13

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION

K.K. Mandal

32
B.B.Bs 88
4 Other

1. a) Name of the Applicant:-
b) Respondents :- Union of India & Ors
c) No. Of applicant:-
2. Is the application in the proper form :- Yes/No.
3. Whether name & Desxription 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 impleades:- YES/NO.
8. Whether Enflish 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/- 20⁰⁰ 116079 4.18/2/05
12. Has the application is maitanable :- 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 dely 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:-

1. N. OFFICER

1/5/03

✓ DEPUTY REGISTRAR

305
1/5/03

37

In the Central Administrative Tribunal,
Guwahati.

OA 60/05

In the matter of :

O.A.No. 60 Of 200

B. B. Datta

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 4th day of April 2005.

A.K. Chaudhuri
4/4/05

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

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 Slave
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 equilavalent to the cadre of organized accounts cadre.

15.09.2004

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.

Mo. Reb. hands

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.

32

filed by the applic
Lokong: Subroto N
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.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Application	1-17
02.	----	Verification	-18-
03.	1	Copy of extract of recruitment qualification.	19-20
04.	2	Copy of order dated 28.02.03.	-21-
05.	3	Copy of representation dated 26.03.04.	-22-
06.	4	Copy of forwarding letter dated 07.04.03.	-23-
07.	5	Copy of forwarding letter dated 30.04.04.	24-25
08.	6	Copy of reminder dated 10.09.04.	-26-
09.	7	Copy of letter dated 19.08.03.	-27-
10.	8	Copy of O.M. dated 04.03.03.	-28-
11.	9	Copy of the circular dated 28.04.04.	-29-
12.	10	Copy of letter dated 27.06.03.	-30-
13.	11	Copy of O.M dated 08.08.2003.	-31-
14.	12	Copy of service order No. 59/86.	32-35
15.	13	Copy of letter dated 16.01.04.	36-38

Filed by

Date

Advocate

Bijan Bhattacharya

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.

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,

Briman Bihari 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 Maharsi 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 15th 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 3rd 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

Sri Amarnath Baruwa

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 Asstt. Accounts Officer of the Canteen Stores Department is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-1.

Bijan 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 Astt. 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

3

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 19th 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

Bijan Bihari 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

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 4th 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 Bikari Dass

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.

Bijan Bihari 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 29th 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 4th 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 5th 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

Bijanu Bihari Dass

WB

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.

M.

~~A copy of the service order dated 29.09.1986 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure 96~~

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 in that 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

Bijan Bishari 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.

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 stated 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 4th CPC, similarly CSD also adopted the recommendation of the benefit of the 5th 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 Pathari 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

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 extention 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

Biswanath Choudhury

14

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.	: 204 JJ 6079
ii)	Date of Issue	: 18.2.05
iii)	Issued from	: C. P. O
iv)	Payable at	

12. List of enclosures.

As given in the index.

Bijanu Bihari Das

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.

*Attn
Biman Bihari Das*



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकार्तित
PUBLISHED BY AUTHORITY

No. 9]

मई विल्सी, 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 भ्राता भूतन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be used as a separate compilation

भाग II—खण्ड 4 PART II—Section 4

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

रक्षा मंत्रालय

प्रधिगृहन

नई विमली, 15 फरवरी, 1979

कां० निं० आ० 04.—गान्धारी संविधान के अनुच्छेद 3(१) के पारंपर्य द्वारा प्रदत्त नियमों का प्रयोग करते हुए रक्षा मंत्रालय के कैटीन स्टोर्स लिमिटेड में गम्भीर "क" और समृद्ध "ख" के पार्टी पर भर्ती की पदवियां वर्तमान वाले नियमों का नियम बनाते हैं, अवधि:—

संविधान नाम और प्रारंभ:—(1) इन नियमों का नाम कैटीन स्टोर्स लिमिटेड, रक्षा नं० ०१५ (गम्भीर "क" और समृद्ध "ख" पर) भर्ती नियम, 1979

(2) ये नियम 1 फ्रेवल, 1977 में लागू हुए जाएंगे।

2. नाम होना:—ये नियम, हांगे उत्तरद अनुग्रही के संतंग 2 में विविध पर्दों को लागू होंगे।

3. (1) प्रारंभिक संरचना:—(i) 1 फ्रेवल, 1977 को कैटीन स्टोर्स लिमिटेड में लागू हो देते समृद्ध "क" और समृद्ध "ख" के सभी प्रधिकारियों के रिकाउटों की जांच एक चयन समिति द्वारा की जाएगी, जिसकी अधिकारता संघ सोक सेवा आयोग के प्रध्यक्ष या सदस्य द्वारा की जाएगी और इस समिति में वर्ष में कम दो प्रतिवर्ष रक्षा मंत्रालय के होंगे। वे अधिकारी जो चयन समिति द्वारा उपयुक्त जाएं जाएंगे उनके प्रति प्रारंभिक संरचना की तारीख को कैटीन स्टोर्स लिमिटेड के उन्हीं पर्दों पर नियुक्त किया जायेगे जिन पर्दों पर वे मोनिक आधार पर काम कर रहे हों।

(ii) उपयुक्त उपनियम (1) में उल्लिखित वे व्यक्ति, जो 1 फ्रेवल, 1977 को जिन मोनिक भर्ती पर काम कर रहे हों, उन पर्दों के लिए उपयुक्त न होंगे जाने पर उन पर्दों पर काम करने लगेंगे। जिन पर वे मोनिक आधार पर नियुक्त जिए गये हों और इस प्रयोग के लिए ये पद अनुग्रही में दिये गये संबधित सेवाओं से अनन्य रखे गये तत्व तक उन्होंने जाएंगे जब तक उन्हें इन पर्दों के लिए उपयुक्त पर्दों दी जाता है। उनके संबधित पर्दों पर नियुक्ति के लिए उपयुक्त उपनियम (1) में उल्लिखित चयन समिति द्वारा गम्भीर-गम्भीर पर भी एक सर्वों में बहु रोल एवं एक एक्स-कॉमिटी, ऐसे व्यक्तियों के रिकाउटों की जांच की जाएगी। और उन्हें उनके पर्दों पर नियुक्ति के लिए उपयुक्त पापा जाने पर इन पर्दों में उनकी संबधित अधिकारी, जुने जाने पर संघ सोक सेवा प्रायोग से पर्याप्त बरके नये की जाएगी।

True copy
from
Advocate

-20-

1	3	4	5	6	7	8
14. Accountant 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	
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 1 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 e.g. 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.

87
88
89
90

FOR: BPO/ D.N.Dy./ P.M.O., DATE - 20-21-

① ANNEXURE - 2

R.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 Department.

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 19.2.2003 - the date on which this decision was approved by the Government - as under:-

Designation	Pay scale prior to 1.1.96	Existing pay scale (Rs.)	Pay scale to be extended on notional basis w.e.f. 1.1.1996 with actual payments being made prospectively. (Rs.)
Auditor/ Accountant	1200-30- 1560-40- 2010	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	5500-200-10300
Asstt. Audit Officer/Asstt. Accounts Officer	2000-60- 2300-75- 3200	6500-200- 10500	7450-225-11500

True copy
for
Advocate

5

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

(THROUGH PROPER CHANNEL)

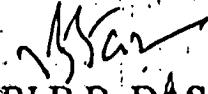
Sub: PAY SCALE FOR STAFF
BELONGING TO ACCOUNTS
CADRE TO OUR DEPARTMENT

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-16511)
R.M(E) OFFICE,
CSD, NARANGI

Date: 26 Mar'04

True copy
Smt. Advocate

SA/Coord/AAO/

April 7, 2003

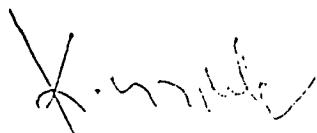
SUB: Pay Scale for Staff belonging to Organized Accounts Department.

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.

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 P R 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 P K Dutta	AAO
1644	Shri Narayan H Koderi	AAO
1712	Shri D B Kadam	AAO
1917	Shri N R Khobragade	AAO
1666	Shri Dinesh Idya	Acctt.
1795	Shri M B Parab	Acctt.
1807	Shri A C Sood	Acctt.
1806	Shri Janardhan Idya	Acctt.
2025	Smt M V Mahajan	Acctt.
2064	Shri N R Arya	Acctt.

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


(K. U. N. Reddy)
Wg. Col.
DGM (F & A)

To

DGM (P&A)

*True copy
for
Advocate*

Office OI 786
Addl. Manager(B&H)
Garrison Stores Department
Govt of India Ministry of Defense
G.S.D. Depot Complex
Guwahati-781029

Regional Manager(East)
Narangi, Guwahati

DGM(P&A)
CSD HO Mumbai

RME/PN-1651/EST/ 186

30 Apr'04

Guwahati
Assam, India
Pincode 781029

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

An application dated 26th 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. P.No. 6/82/F-III(B)/91 dated 28th Feb'2003 for your necessary action.

Encl: As above

(VINOD KUMAR)
REGIONAL MANAGER(EAST)

S.Roy.

True copy
Advocate

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

(THROUGH PROPER CHANNEL)

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

To the
Court
Advocate

26

27

63

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

Ref. No. 6/F&A/Co-ord/RPS/ACS-CSD/22)

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>P/N 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 Kodgi	"
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

(KUKREDDY)
WG CDR
DGM(F&A)

*True copy
 Jagdish
 Advocate*

*1/2/04
 DGM (F&A)*

28 - 28
Annexure - 7 (3)
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
CANTEEN STORES DEPARTMENT
ADELPHI 119 M K ROAD
MUMBAI 400 020

27006/A-2(PFO)/3476

19 Aug 2003

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

Ans2

- 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) but does 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. In view of the above, the pay scales mentioned in the lbd 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

My m
(SANDHYA KUJUR)
MANAGER(P)
FOR GENERAL MANAGER

To:

DGM(F&A)

cc :	All AAOs & Accountants as per list attached	For information
cc :	Office of RM(W).	Reference letter No. RMW/214/70 dtd. 08/05/03 forwarding representation submitted by PN-1245 Shri SK Suri, AAO
cc :	The Manager CSD Depot Delhi	
cc :	The Manager CSD Depot Secunderabad	Reference your letter No. DHD/EST/PN-2052/227 dtd. 08/05/2003 forwarding representation submitted by PN-2052 Shri Pravin Safian, Accnt
		Reference representation dtd. 15/07/03 submitted by PN 1312, Shri SK Srivastava, Ex-Accountant

*mail sent
for Advocate*

28

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)

Annexure - 8

New Delhi, 4th March, 2003.

OFFICE MEMORANDUM

Sub:- 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 28th 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.

Signature
(S. N. Saini)
Assist Controller General of Accounts.

To.

- (i) All Pt. CCAs/CCAs/Dy.CAs
All Ministries/Departments
New Delhi.
- (ii) Director, INGAE, New Delhi.
- (iii) Jt. CGA (Admn.) CGA Office (HQ)

CCAs/CCAs
3/3/03

True copy
for Advocate

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

165

G.I. M.F. O.M. No. 111-E/97 (J/1/2004), dated 1-4-2004

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

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 (S. 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.

- (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 EAs are requested to bring this to the notice of Administrative Ministries/Departments concerned for compliance.

166

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

(S)91, dated 23-2-2003 (S. No. 72 of Swamy's Annual, 2003) the Ministry of Finance (Department of Expenditure) in its D.O. Lett. No. 6 (S2)-E. III (D) 91, dated 19-4-2004 has extended the provisions of the O.M. dated 23-2-2003 to the cadre of Divisional Accountants under the administrative control of Indian Audit and Accounts Department nationally 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 nationally 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 notional with effect from 1-1-1996 with actual payments to be made prospectively
Divisional Accountant (Ordinary Grade)	35%	Rs. 1,400-40-1,600-50-2,300-60-2,600	Rs. 5,000-150-8,000	Rs. 5,500-175-9,000
Divisional Accountant (Grade II)				
Divisional Accounts Officer (Grade I)				
Divisional Accounts Officer (Grade II)				

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.

167

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

Annexure - 9

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

95014/Q/BOCCS

June 2003

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

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 Expenditure/Ministry of Finance OM No. E.No.6/82/E-III(B)/91 dated 28 Feb 2003 properly/in totality as

- (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) 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. 9500/- 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.

(PSR Narasimham)
Section Officer
For Secy BOCCS

D.G(P.D.M)

M/17

P.M.U.P

Tome Cor
for
Advocate

Anushakti Bhawan
CGM Wing
Mumbai 400 001

No: 1/2/2003-SCS/Art 2

August 8, 2003

G9

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

The undersigned is directed to refer to Ministry of Finance, Department of Expenditure O.M. No.6/02/E.III(D)/91 dated 20.2.2003 read with Controller General of Accounts O.M. No.A-60015/1/90/INF-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 as per 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;

Sl.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.

(I.C. Padmanabhan) 3/3
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 (Cadro), DAE

83/ for 10/2003

Time Com
for
Advocate

30

Annexure-12

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)

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

Distribution

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

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

*Mr. G.M.
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 & 4)

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 (1)	Present Scale (2)	Revised Scale (3) Rs. (4) Rs.
1	All posts carrying present scales specified in Column 3	(a) 160-2-170 (b) 180/- (Fixed) (c) 32-20-EB-14-250 (d) 200-3-212-4-232-EB-4-240 (Selection Grade)	GROUP 'D' 750/- (Fixed) 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	775-12-955-EB-14-1025

1	2	3	4
17	(2)	(3)	(4)
18	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
19	-do-	(a) 425-15-500-EB-15 15-560-20-700-EB-25-800 (b) 425-15-500-EB-15 560-20-640-EB-20-700-25-750	1400-40-1600-50-2300-EB-60-2500
20	-do-	(c) 440-15-515-EB-15 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
21	-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
22	-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
23	-do.	(a) 650-430-740-35-880-EB-40-960 (b) 700-30-750-35-900 (c) 650-30-740-35-800-EP-40-1000 (d) 775-35-880-40-1000	2000-60-2300-EB-75-3200-100-3500
24	-do-	650-30-710	2000-60-2120
25	-do-	(a) 650-30-740-35-880-EB-40-1000-EB-40-1200 (b) 650-45-1010-EB-45-1100-50-1200 (c) 775-35-880-40-1000-EB-40-1200	2000-60-2300-EB-75-3200-100-3500
26	-do-	(a) 840-40-1000-EB-40-1200 (b) 840-40-1040	2375-75-3200-EB-100-3500

35

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 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 RANGACHARI,
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 : 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 Ministries/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. 4th 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).

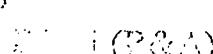
In view of the clear direction contained in Min. of Finance & Company Affairs OM dt. 4.3.2003 circulated to all Ministries/Departments including our Department also, the action regarding grant of higher pay scales to Accountants & Asst. Accounts Officers of CSD should be implemented by obtaining concurrence 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 implementation.

Enclos:a/a


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

TO


I (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. Dt..... 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 PRIOR TO 1/1/96(Rs)	EXISTING SCALE (Rs.)	PAY SCALE TO BE EXTENDED NATIONALLY W.E.F 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-Gazetted.

DGM (P&A)

Distribution:

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

39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

9 MAY 2005

गुवाहाटी विधायिका
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 & our
Respondents
through
Shyam Kanti Choudhury
Adv. Govt. Standing Counsel
G. 505 C. A. T.
Guwahati

407
2
AB

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



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 15th 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)-EIII(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 ^{O.M.} 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



42

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 Departments 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 15th 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



44-
89

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



45
7
83

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

46
89

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 7th day of ^{May} April, 2005.

D.S. Sharma

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

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 राष्ट्रीय महाराष्ट्र (प. न. १४.)

१०१

"गडेली" 119, महार्षि कर्ते मार्ग, मुंबई - 400 020

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 AAQs/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 dispense 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.

G. Subramanyam
ACCOUNTS OFFICER
Office of the CDA(CSD)



46

भारत सरकार
GOVERNMENT OF INDIA
रक्षा मंत्रालय
MINISTRY OF DEFENCE

कॅन्टीन 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 Sept, 2004

/CONFIDENTIAL/

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

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

49

(1) X

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 their payscale in respect of AAOs/Accountants of CSD can not be upgraded.

6. Kindly refer to your letter No. 0/F&A/Co-Ord/RPS/ACS-CSD/54 dated 16th 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.

(S V DEV DHAR)
ASST. GENERAL MANAGER (P)
FOR GENERAL MANAGER

Encl: As above

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

DGM (P&A) may kindly
see before issue.

See
15/9

165 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*), 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 Accountants under the administrative control of Indian Audit and Accounts Department notionally with effect from 1-1-1996.

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.

166

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 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
Divisional Accountant (Ordinary Grade)	35%	Rs. 1,400-40-1,600-50-2,300-60-2,600	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 provisions of CCS (Revised Pay) Rules, 1997.

167

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	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
S. C. S.
S. C. S.

Anup Kumar Chaudhuri

Addl. Central Govt. Standing Counsel
Central Administrative Tribunal,
Guwahati



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

Dated the 9/5/05. 90

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

Re: OA 60/05

Sir,

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

Received copy

A. J. Chanda

Advocate

Your aff
MK Chanda 9/5/05

Addl. Central Govt. Standing Counsel

C. A. T.
Guwahati

52

गुवाहाटी बायपरिठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by the applicants
through Subrata Nask
Advocate
07.03.2003

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/

conventional Accounting procedures independently in respect of it's 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 it's 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 it's 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

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

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.

57

96

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**

C. A. NO. 208/1941

New Delhi, this the 24th day of February, 2004.

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

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

... Applicant

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

VERSUS

i. 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.

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

(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.

12. 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

ଓনলাইন/ABSTRACT

विद्या, विद्या विद्या
विद्या विद्या विद्या
विद्या विद्या विद्या
विद्या विद्या विद्या
विद्या विद्या विद्या

18 Aug 2002



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 60% 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 ~~laxity~~ of ~~laxity~~ ~~laxity~~ was felt that this system was ~~not~~ sufficient

was felt that this system was

प्राप्ति, विविध विषय
Bengal, Jharkhand आदि
विभिन्न विषयों परिवर्तन
General Administrative योजना
प्राप्ति विवरण, परिवर्तन

6 Ag e



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 PAO 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 PAO of BSF was initially manned by the officers and staff of the Comptroller and Auditor General of India as also various other

[REDACTED]

accounts. Soon 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 A & AD into two separate cadres viz.

REVIEW/AMENDED

1. Other ranks from
Bihar, Madhya Pradesh
and Jammu & Kashmir
Central Administrative Tribunals
and other Posts

18 Aug



audit cadre and the other and establishment cadre and giving them pay scales to a major portion of posts 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 similar to the requirements of each organisation which are equally important. Therefore direct recruitment in the scale of Rs. 1400-560 in all the audit and accounts cadre through Staff Selection Committee/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 I&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 I&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 PAF of BSF and other organised accounts departments were revised as under:-

18 Aug 1984

Ministry of Finance
Secretary, Pay Commission
Date: 18/08/1984
Central Administrative Tribunal
Court of Appeal, 19th floor
14th Floor, 10, Lutyens' Marg
New Delhi - 110 001



STATEMENT SHOWING COMPARATIVE PAY SCALES OF
PAD BSF AND OF OTHER ORGANISED ACCOUNTS DEPTT.

	PAY SCALES V.E.F.	PAY SCALES V.E.F.	
	(A)	(C)	10% OTHER ORGANISED DEPTT.
CLERK	Rs. 350-20-1150- 18-25-1500	Rs. 358-20-1158-18- 15-1508	SAME AS COLUMN 'A' SAME AS COLUMN 'B'
JR.	Rs. 1200-50-1550- 10-2010	Rs. 1200-52-1560-18- 10-2018	SAME AS COLUMN 'A' 10% FOR 10% POSTS
SR.	Rs. 1400-60-1680- 10-2080	Rs. 1400-60-1700-18- 10-2100	SAME AS COLUMN 'A' 10% FOR 10% POSTS
JR. ACCOUNTANT	Rs. 1600-60-1800- 10-2100	Rs. 1600-60-1810-18- 10-2110	SAME AS COLUMN 'A' 10% FOR 10% POSTS
SR. ACCOUNTANT	Rs. 1600-60-1800- 10-2100	Rs. 1600-60-1810-18- 10-2110	SAME AS COLUMN 'A' 10% FOR 10% POSTS
JR. ACCOUNTANT OFFICER	Rs. 1600-60-1800- 10-2100	Rs. 1600-60-1810-18- 10-2110	SAME AS COLUMN 'A' 10% FOR 10% POSTS
SR. ACCOUNTANT OFFICER	Rs. 1600-60-1800- 10-2100	Rs. 1600-60-1810-18- 10-2110	SAME AS COLUMN 'A' 10% FOR 10% POSTS

ACCOUNTS OFFICER	Rs. 2315-15-3100- 10-3300	Rs. 2315-15-3200-18- 10-3300	SAME AS COLUMN 'A' 10% 10% POSTS Rs. 2000-60-2300- 10-3100 FOR 10% POSTS IN ADS GRADE
------------------	------------------------------	---------------------------------	--

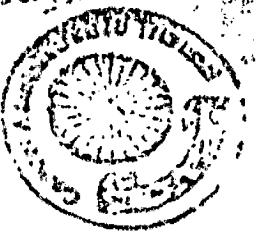
CLERK	Rs. 350-15-3350-10-4500	Rs. 350-15-3350-10-4500	
JR.	Rs. 1000-100-6000	Rs. 1000-100-6000	FOR 10% POSTS
SR.	Rs. 1000-125-7000	Rs. 1000-125-7000	FOR 10% POSTS
JR. ACCOUNTANT	Rs. 1000-125-7000	Rs. 1000-125-7000	FOR 10% POSTS
SR. ACCOUNTANT	Rs. 1000-125-7000	Rs. 1000-125-7000	FOR 10% POSTS
JR. ACCOUNTANT OFFICER	Rs. 1000-125-7000	Rs. 1000-125-7000	FOR 10% POSTS
SR. ACCOUNTANT OFFICER	Rs. 1000-125-7000	Rs. 1000-125-7000	FOR 10% POSTS

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.

REGD/AVM/BSF

1. Received from
Secretary, Padak Bhawan
2. Received by M.R.T.
3. Received by T.D.C.
4. Received by T.D.C.
5. Received by T.D.C.

18/8/



[6]

Was rejected on 30.8.1995 vide Annexure A-13. Since the memorandum did not contain any reasons & further presentation 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.

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 PAO 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 PAO of BSF on lines with the Controller General of Defence Accounts (CGDA) Cadre etc.

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 PAO 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 direction shall be complied with by the respondents within a period of six months from the date of service of this order. No costs.

After consideration
Examiner/Additional Director
Date: 10/10/2000
Central Accounts, Finance Ministry
Bldg. No. 1, New Delhi
With kind regards

18 Ac

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 IIS 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/affirmed to the facts that the applicant had~~

~~referred/affirmed to the facts that the applicant had~~
P.W. 128
Exhibits, Admitted
1. B.W. 128
2. B.W. 129
3. B.W. 130
4. B.W. 131
5. B.W. 132
6. B.W. 133
7. B.W. 134
8. B.W. 135
9. B.W. 136
10. B.W. 137
11. B.W. 138
12. B.W. 139
13. B.W. 140
14. B.W. 141
15. B.W. 142
16. B.W. 143
17. B.W. 144
18. B.W. 145
19. B.W. 146
20. B.W. 147
21. B.W. 148
22. B.W. 149
23. B.W. 150
24. B.W. 151
25. B.W. 152
26. B.W. 153
27. B.W. 154
28. B.W. 155
29. B.W. 156
30. B.W. 157
31. B.W. 158
32. B.W. 159
33. B.W. 160
34. B.W. 161
35. B.W. 162
36. B.W. 163
37. B.W. 164
38. B.W. 165
39. B.W. 166
40. B.W. 167
41. B.W. 168
42. B.W. 169
43. B.W. 170
44. B.W. 171
45. B.W. 172
46. B.W. 173
47. B.W. 174
48. B.W. 175
49. B.W. 176
50. B.W. 177
51. B.W. 178
52. B.W. 179
53. B.W. 180
54. B.W. 181
55. B.W. 182
56. B.W. 183
57. B.W. 184
58. B.W. 185
59. B.W. 186
60. B.W. 187
61. B.W. 188
62. B.W. 189
63. B.W. 190
64. B.W. 191
65. B.W. 192
66. B.W. 193
67. B.W. 194
68. B.W. 195
69. B.W. 196
70. B.W. 197
71. B.W. 198
72. B.W. 199
73. B.W. 200
74. B.W. 201
75. B.W. 202
76. B.W. 203
77. B.W. 204
78. B.W. 205
79. B.W. 206
80. B.W. 207
81. B.W. 208
82. B.W. 209
83. B.W. 210
84. B.W. 211
85. B.W. 212
86. B.W. 213
87. B.W. 214
88. B.W. 215
89. B.W. 216
90. B.W. 217
91. B.W. 218
92. B.W. 219
93. B.W. 220
94. B.W. 221
95. B.W. 222
96. B.W. 223
97. B.W. 224
98. B.W. 225
99. B.W. 226
100. B.W. 227
101. B.W. 228
102. B.W. 229
103. B.W. 230
104. B.W. 231
105. B.W. 232
106. B.W. 233
107. B.W. 234
108. B.W. 235
109. B.W. 236
110. B.W. 237
111. B.W. 238
112. B.W. 239
113. B.W. 240
114. B.W. 241
115. B.W. 242
116. B.W. 243
117. B.W. 244
118. B.W. 245
119. B.W. 246
120. B.W. 247
121. B.W. 248
122. B.W. 249
123. B.W. 250
124. B.W. 251
125. B.W. 252
126. B.W. 253
127. B.W. 254
128. B.W. 255
129. B.W. 256
130. B.W. 257
131. B.W. 258
132. B.W. 259
133. B.W. 260
134. B.W. 261
135. B.W. 262
136. B.W. 263
137. B.W. 264
138. B.W. 265
139. B.W. 266
140. B.W. 267
141. B.W. 268
142. B.W. 269
143. B.W. 270
144. B.W. 271
145. B.W. 272
146. B.W. 273
147. B.W. 274
148. B.W. 275
149. B.W. 276
150. B.W. 277
151. B.W. 278
152. B.W. 279
153. B.W. 280
154. B.W. 281
155. B.W. 282
156. B.W. 283
157. B.W. 284
158. B.W. 285
159. B.W. 286
160. B.W. 287
161. B.W. 288
162. B.W. 289
163. B.W. 290
164. B.W. 291
165. B.W. 292
166. B.W. 293
167. B.W. 294
168. B.W. 295
169. B.W. 296
170. B.W. 297
171. B.W. 298
172. B.W. 299
173. B.W. 300
174. B.W. 301
175. B.W. 302
176. B.W. 303
177. B.W. 304
178. B.W. 305
179. B.W. 306
180. B.W. 307
181. B.W. 308
182. B.W. 309
183. B.W. 310
184. B.W. 311
185. B.W. 312
186. B.W. 313
187. B.W. 314
188. B.W. 315
189. B.W. 316
190. B.W. 317
191. B.W. 318
192. B.W. 319
193. B.W. 320
194. B.W. 321
195. B.W. 322
196. B.W. 323
197. B.W. 324
198. B.W. 325
199. B.W. 326
200. B.W. 327
201. B.W. 328
202. B.W. 329
203. B.W. 330
204. B.W. 331
205. B.W. 332
206. B.W. 333
207. B.W. 334
208. B.W. 335
209. B.W. 336
210. B.W. 337
211. B.W. 338
212. B.W. 339
213. B.W. 340
214. B.W. 341
215. B.W. 342
216. B.W. 343
217. B.W. 344
218. B.W. 345
219. B.W. 346
220. B.W. 347
221. B.W. 348
222. B.W. 349
223. B.W. 350
224. B.W. 351
225. B.W. 352
226. B.W. 353
227. B.W. 354
228. B.W. 355
229. B.W. 356
230. B.W. 357
231. B.W. 358
232. B.W. 359
233. B.W. 360
234. B.W. 361
235. B.W. 362
236. B.W. 363
237. B.W. 364
238. B.W. 365
239. B.W. 366
240. B.W. 367
241. B.W. 368
242. B.W. 369
243. B.W. 370
244. B.W. 371
245. B.W. 372
246. B.W. 373
247. B.W. 374
248. B.W. 375
249. B.W. 376
250. B.W. 377
251. B.W. 378
252. B.W. 379
253. B.W. 380
254. B.W. 381
255. B.W. 382
256. B.W. 383
257. B.W. 384
258. B.W. 385
259. B.W. 386
260. B.W. 387
261. B.W. 388
262. B.W. 389
263. B.W. 390
264. B.W. 391
265. B.W. 392
266. B.W. 393
267. B.W. 394
268. B.W. 395
269. B.W. 396
270. B.W. 397
271. B.W. 398
272. B.W. 399
273. B.W. 400
274. B.W. 401
275. B.W. 402
276. B.W. 403
277. B.W. 404
278. B.W. 405
279. B.W. 406
280. B.W. 407
281. B.W. 408
282. B.W. 409
283. B.W. 410
284. B.W. 411
285. B.W. 412
286. B.W. 413
287. B.W. 414
288. B.W. 415
289. B.W. 416
290. B.W. 417
291. B.W. 418
292. B.W. 419
293. B.W. 420
294. B.W. 421
295. B.W. 422
296. B.W. 423
297. B.W. 424
298. B.W. 425
299. B.W. 426
300. B.W. 427
301. B.W. 428
302. B.W. 429
303. B.W. 430
304. B.W. 431
305. B.W. 432
306. B.W. 433
307. B.W. 434
308. B.W. 435
309. B.W. 436
310. B.W. 437
311. B.W. 438
312. B.W. 439
313. B.W. 440
314. B.W. 441
315. B.W. 442
316. B.W. 443
317. B.W. 444
318. B.W. 445
319. B.W. 446
320. B.W. 447
321. B.W. 448
322. B.W. 449
323. B.W. 450
324. B.W. 451
325. B.W. 452
326. B.W. 453
327. B.W. 454
328. B.W. 455
329. B.W. 456
330. B.W. 457
331. B.W. 458
332. B.W. 459
333. B.W. 460
334. B.W. 461
335. B.W. 462
336. B.W. 463
337. B.W. 464
338. B.W. 465
339. B.W. 466
340. B.W. 467
341. B.W. 468
342. B.W. 469
343. B.W. 470
344. B.W. 471
345. B.W. 472
346. B.W. 473
347. B.W. 474
348. B.W. 475
349. B.W. 476
350. B.W. 477
351. B.W. 478
352. B.W. 479
353. B.W. 480
354. B.W. 481
355. B.W. 482
356. B.W. 483
357. B.W. 484
358. B.W. 485
359. B.W. 486
360. B.W. 487
361. B.W. 488
362. B.W. 489
363. B.W. 490
364. B.W. 491
365. B.W. 492
366. B.W. 493
367. B.W. 494
368. B.W. 495
369. B.W. 496
370. B.W. 497
371. B.W. 498
372. B.W. 499
373. B.W. 500
374. B.W. 501
375. B.W. 502
376. B.W. 503
377. B.W. 504
378. B.W. 505
379. B.W. 506
380. B.W. 507
381. B.W. 508
382. B.W. 509
383. B.W. 510
384. B.W. 511
385. B.W. 512
386. B.W. 513
387. B.W. 514
388. B.W. 515
389. B.W. 516
390. B.W. 517
391. B.W. 518
392. B.W. 519
393. B.W. 520
394. B.W. 521
395. B.W. 522
396. B.W. 523
397. B.W. 524
398. B.W. 525
399. B.W. 526
400. B.W. 527
401. B.W. 528
402. B.W. 529
403. B.W. 530
404. B.W. 531
405. B.W. 532
406. B.W. 533
407. B.W. 534
408. B.W. 535
409. B.W. 536
410. B.W. 537
411. B.W. 538
412. B.W. 539
413. B.W. 540
414. B.W. 541
415. B.W. 542
416. B.W. 543
417. B.W. 544
418. B.W. 545
419. B.W. 546
420. B.W. 547
421. B.W. 548
422. B.W. 549
423. B.W. 550
424. B.W. 551
425. B.W. 552
426. B.W. 553
427. B.W. 554
428. B.W. 555
429. B.W. 556
430. B.W. 557
431. B.W. 558
432. B.W. 559
433. B.W. 560
434. B.W. 561
435. B.W. 562
436. B.W. 563
437. B.W. 564
438. B.W. 565
439. B.W. 566
440. B.W. 567
441. B.W. 568
442. B.W. 569
443. B.W. 570
444. B.W. 571
445. B.W. 572
446. B.W. 573
447. B.W. 574
448. B.W. 575
449. B.W. 576
450. B.W. 577
451. B.W. 578
452. B.W. 579
453. B.W. 580
454. B.W. 581
455. B.W. 582
456. B.W. 583
457. B.W. 584
458. B.W. 585
459. B.W. 586
460. B.W. 587
461. B.W. 588
462. B.W. 589
463. B.W. 590
464. B.W. 591
465. B.W. 592
466. B.W. 593
467. B.W. 594
468. B.W. 595
469. B.W. 596
470. B.W. 597
471. B.W. 598
472. B.W. 599
473. B.W. 600
474. B.W. 601
475. B.W. 602
476. B.W. 603
477. B.W. 604
478. B.W. 605
479. B.W. 606
480. B.W. 607
481. B.W. 608
482. B.W. 609
483. B.W. 610
484. B.W. 611
485. B.W. 612
486. B.W. 613
487. B.W. 614
488. B.W. 615
489. B.W. 616
490. B.W. 617
491. B.W. 618
492. B.W. 619
493. B.W. 620
494. B.W. 621
495. B.W. 622
496. B.W. 623
497. B.W. 624
498. B.W. 625
499. B.W. 626
500. B.W. 627
501. B.W. 628
502. B.W. 629
503. B.W. 630
504. B.W. 631
505. B.W. 632
506. B.W. 633
507. B.W. 634
508. B.W. 635
509. B.W. 636
510. B.W. 637
511. B.W. 638
512. B.W. 639
513. B.W. 640
514. B.W. 641
515. B.W. 642
516. B.W. 643
517. B.W. 644
518. B.W. 645
519. B.W. 646
520. B.W. 647
521. B.W. 648
522. B.W. 649
523. B.W. 650
524. B.W. 651
525. B.W. 652
526. B.W. 653
527. B.W. 654
528. B.W. 655
529. B.W. 656
530. B.W. 657
531. B.W. 658
532. B.W. 659
533. B.W. 660
534. B.W. 661
535. B.W. 662
536. B.W. 663
537. B.W. 664
538. B.W. 665
539. B.W. 666
540. B.W. 667
541. B.W. 668
542. B.W. 669
543. B.W. 670
544. B.W. 671
545. B.W. 672
546. B.W. 673
547. B.W. 674
548. B.W. 675
549. B.W. 676
550. B.W. 677
551. B.W. 678
552. B.W. 679
553. B.W. 680
554. B.W. 681
555. B.W. 682
556. B.W. 683
557. B.W. 684
558. B.W. 685
559. B.W. 686
560. B.W. 687
561. B.W. 688
562. B.W. 689
563. B.W. 690
564. B.W. 691
565. B.W. 692
566. B.W. 693
567. B.W. 694
568. B.W. 695
569. B.W. 696
570. B.W. 697
571. B.W. 698
572. B.W. 699
573. B.W. 700
574. B.W. 701
575. B.W. 702
576. B.W. 703
577. B.W. 704
578. B.W. 705
579. B.W. 706
580. B.W. 707
581. B.W. 708
582. B.W. 709
583. B.W. 710
584. B.W. 711
585. B.W. 712
586. B.W. 713
587. B.W. 714
588. B.W. 715
589. B.W. 716
590. B.W. 717
591. B.W. 718
592. B.W. 719
593. B.W. 720
594. B.W. 721
595. B.W. 722
596. B.W. 723
597. B.W. 724
598. B.W. 725
599. B.W. 726
600. B.W. 727
601. B.W. 728
602. B.W. 729
603. B.W. 730
604. B.W. 731
605. B.W. 732
606. B.W. 733
607. B.W. 734
608. B.W. 735
609. B.W. 736
610. B.W. 737
611. B.W. 738
612. B.W. 739
613. B.W. 740
614. B.W. 741
615. B.W. 742
616. B.W. 743
617. B.W. 744
618. B.W. 745
619. B.W. 746
620. B.W. 747
621. B.W. 748
622. B.W. 749
623. B.W. 750
624. B.W. 751
625. B.W. 752
626. B.W. 753
627. B.W. 754
628. B.W. 755
629. B.W. 756
630. B.W. 757
631. B.W. 758
632. B.W. 759
633. B.W. 760
634. B.W. 761
635. B.W. 762
636. B.W. 763
637. B.W. 764
638. B.W. 765
639. B.W. 766
640. B.W. 767
641. B.W. 768
642. B.W. 769
643. B.W. 770
644. B.W. 771
645. B.W. 772
646. B.W. 773
647. B.W. 774
648. B.W. 775
649. B.W. 776
650. B.W. 777
651. B.W. 778
652. B.W. 779
653. B.W. 780
654. B.W. 781
655. B.W. 782
656. B.W. 783
657. B.W. 784
658. B.W. 785
659. B.W. 786
660. B.W. 787
661. B.W. 788
662. B.W. 789
663. B.W. 790
664. B.W. 791
665. B.W. 792
666. B.W. 793
667. B.W. 794
668. B.W. 795
669. B.W. 796
670. B.W. 797
671. B.W. 798
672. B.W. 799
673. B.W. 800
674. B.W. 801
675. B.W. 802
676. B.W. 803
677. B.W. 804
678. B.W. 805
679. B.W. 806
680. B.W. 807
681. B.W. 808
682. B.W. 809
683. B.W. 810
684. B.W. 811
685. B.W. 812
686. B.W. 813
687. B.W. 814
688. B.W. 815
689. B.W. 816
690. B.W. 817
691. B.W. 818
692. B.W. 819
693. B.W. 820
694. B.W. 821
695. B.W. 822
696. B.W. 823
697. B.W. 824
698. B.W. 825
699. B.W. 826
700. B.W. 827
701. B.W. 828
702. B.W. 829
703. B.W. 830
704. B.W. 831
705. B.W. 832
706. B.W. 833
707. B.W. 834
708. B.W. 835
709. B.W. 836
710. B.W. 837
711. B.W. 838
712. B.W. 839
713. B.W. 840
714. B.W. 841
715. B.W. 842
716. B.W. 843
717. B.W. 844
718. B.W. 845
719. B.W. 846
720. B.W. 847
721. B.W. 848
722. B.W. 849
723. B.W. 850
724. B.W. 851
725. B.W. 852
726. B.W. 853
727. B.W. 854
728. B.W. 855
729. B.W. 856
730. B.W. 857
731. B.W. 858
732. B.W. 859
733. B.W. 860
734. B.W. 861
735. B.W. 862
736. B.W. 863
737. B.W. 864
738. B.W. 865
739. B.W. 866
740. B.W. 867
741. B.W. 868
742. B.W. 869
743. B.W. 870
744. B.W. 871
745. B.W. 872
746. B.W. 873
747. B.W. 874
748. B.W. 875
749. B.W. 876
750. B.W. 877
751. B.W. 878
752. B.W. 879
753. B.W. 880
754. B.W. 881
755. B.W. 882
756. B.W. 883
757. B.W. 884
758. B.W. 885
759. B.W. 886
760. B.W. 887
761. B.W. 888
762. B.W. 889
763. B.W. 890
764. B.W. 891
765. B.W. 892
766. B.W. 893
767. B.W. 894
768. B.W. 895
769. B.W. 896
770. B.W. 897
771. B.W. 898
772. B.W. 899
773. B.W. 900
774. B.W. 901
775. B.W. 902
776. B.W. 903
777. B.W. 904
778. B.W. 905
779. B.W. 906
780. B.W. 907
781. B.W. 908
782. B.W. 909
783. B.W. 910
784. B.W. 911
785. B.W. 912
786. B.W. 913
787. B.W. 914
788. B.W. 915
789. B.W. 916
790. B.W. 917
791. B.W. 918
792. B.W. 919
793. B.W. 920
79

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

II. 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 viz
their No.A/2014/2/92/MFLGA/11FB/357 dated 31.3.1993.

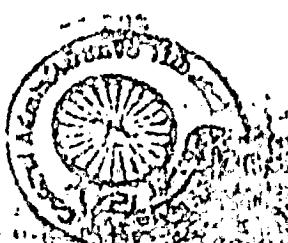
**Pay and Promotions Officer
(functional promotional) project**

1. Pay and Accounts Officer	Rs. 2710-15-2800-EB (functional promotional)	-100-4000	801
2. Pay and Accounts Officer	Rs. 2310-15-2200-EB "	-100-3500	201
3. Asstt. Accounts Officer	Rs. 1600-1700		801
4. Section Officer	Rs. 1700-1800		201
5. Sr. Auditor	Rs. 1500-1600		801
6. Auditor	Rs. 1100-1200		201

ଶ୍ରୀମତୀ/ଅମ୍ବାବିଜ୍ଞାନ

काला, अप्ति विद्या
उपर्याहा, जटिल विद्या
१. वृद्धि विद्या एवं
विद्या विद्यालय ११.
२. विद्या विद्यालय
३. विद्या विद्यालय

18 Mo. - e



Whereas in Pay and Accounts Bureau, Border Security Force, we have following posts:-

1. JAO now Accounts Officer	Rs. 2000-3500
2. JAO	Rs. 1600-1900
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 addod 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."

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
DEPARTMENT OF EXTERNAL AFFAIRS
GENERAL SECRETARIAT
COUNSELOR, JUDICIAL DEPARTMENT
201, JAGAT SAGAR, NEW DELHI-110001
COUNSELOR, JUDICIAL DEPARTMENT
COUNSELOR, JUDICIAL DEPARTMENT
COUNSELOR, JUDICIAL DEPARTMENT

18 May 2008



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 "Organised 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 organised cadre. If certain scales are missing that will not take the trait of the organised cadre, and therefore, this particular plea has simply to be stated to be rejected.

As Ag

Govt/AVCE/2022

*Subclass: 1000
 Central Administrative Services
 Rank: 1000
 Date: 10/10/2022*



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 PAB of BSF.

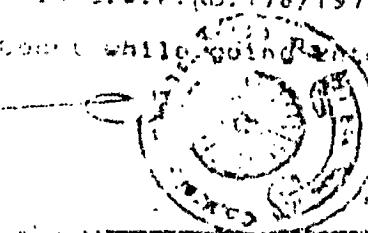
18. Similar question had been gone into by the Delhi High Court in the case of I.N. Natarajan & Ors. v. Union of India & Ors. in C.W.P. (No. 176/1979

~~RECORDED/ANSWERED~~ dated 3.9.1980. The Delhi High Court while going into

other matters like
Administrative Tribunals, Judicial Bench
and other tribunals
Central Administrative Tribunals
State Tribunals, etc.
Delhi High Court, New Delhi

162

163



18-
10

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

Mr. A. B. Sahayya, 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: 1. 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

1. ~~RECORDED~~
2. ~~SEARCHED~~
3. ~~INDEXED~~
4. ~~FILED~~
5. ~~RECORDED~~
6. ~~SEARCHED~~
7. ~~INDEXED~~
8. ~~FILED~~

18 Aug

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 L 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 Banbhik Singh v. Union of India and Others, 1992(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 circumstances to justify different scales of pay irrespective of the identity of their powers, duties and

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 1000. 1001. 1002. 1003. 1004. 1005. 1006. 1007. 1008. 1009. 1000. 1001. 1002. 1003. 1004. 1005. 1006. 1007. 1008. 1009. 1010. 1011. 1012. 1013. 1014. 1015. 1016. 1017. 1018. 1019. 1010. 1011. 1012. 1013. 1014. 1015. 1016. 1017. 1018. 1019. 1020. 1021. 1022. 1023. 1024. 1025. 1026. 1027. 1028. 1029. 1020. 1021. 1022. 1023. 1024. 1025. 1026. 1027. 1028. 1029. 1030. 1031. 1032. 1033. 1034. 1035. 1036. 1037. 1038. 1039. 1030. 1031. 1032. 1033. 1034. 1035. 1036. 1037. 1038. 1039. 1040. 1041. 1042. 1043. 1044. 1045. 1046. 1047. 1048. 1049. 1040. 1041. 1042. 1043. 1044. 1045. 1046. 1047. 1048. 1049. 1050. 1051. 1052. 1053. 1054. 1055. 1056. 1057. 1058. 1059. 1050. 1051. 1052. 1053. 1054. 1055. 1056. 1057. 1058. 1059. 1060. 1061. 1062. 1063. 1064. 1065. 1066. 1067. 1068. 1069. 1060. 1061. 1062. 1063. 1064. 1065. 1066. 1067. 1068. 1069. 1070. 1071. 1072. 1073. 1074. 1075. 1076. 1077. 1078. 1079. 1070. 1071. 1072. 1073. 1074. 1075. 1076. 1077. 1078. 1079. 1080. 1081. 1082. 1083. 1084. 1085. 1086. 1087. 1088. 1089. 1080. 1081. 1082. 1083. 1084. 1085. 1086. 1087. 1088. 1089. 1090. 1091. 1092. 1093. 1094. 1095. 1096. 1097. 1098. 1099. 1090. 1091. 1092. 1093. 1094. 1095. 1096. 1097. 1098. 1099. 1100. 1101. 1102. 1103. 1104. 1105. 1106. 1107. 1108. 1109. 1100. 1101. 1102. 1103. 1104. 1105. 1106. 1107. 1108. 1109. 1110. 1111. 1112. 1113. 1114. 1115. 1116. 1117. 1118. 1119. 1110. 1111. 1112. 1113. 1114. 1115. 1116. 1117. 1118. 1119. 1120. 1121. 1122. 1123. 1124. 1125. 1126. 1127. 1128. 1129. 1120. 1121. 1122. 1123. 1124. 1125. 1126. 1127. 1128. 1129. 1130. 1131. 1132. 1133. 1134. 1135. 1136. 1137. 1138. 1139. 1130. 1131. 1132. 1133. 1134. 1135. 1136. 1137. 1138. 1139. 1140. 1141. 1142. 1143. 1144. 1145. 1146. 1147. 1148. 1149. 1140. 1141. 1142. 1143. 1144. 1145. 1146. 1147. 1148. 1149. 1150. 1151. 1152. 1153. 1154. 1155. 1156. 1157. 1158. 1159. 1150. 1151. 1152. 1153. 1154. 1155. 1156. 1157. 1158. 1159. 1160. 1161. 1162. 1163. 1164. 1165. 1166. 1167. 1168. 1169. 1160. 1161. 1162. 1163. 1164. 1165. 1166. 1167. 1168. 1169. 1170. 1171. 1172. 1173. 1174. 1175. 1176. 1177. 1178. 1179. 1170. 1171. 1172. 1173. 1174. 1175. 1176. 1177. 1178. 1179. 1180. 1181. 1182. 1183. 1184. 1185. 1186. 1187. 1188. 1189. 1180. 1181. 1182. 1183. 1184. 1185. 1186. 1187. 1188. 1189. 1190. 1191. 1192. 1193. 1194. 1195. 1196. 1197. 1198. 1199. 1190. 1191. 1192. 1193. 1194. 1195. 1196. 1197. 1198. 1199. 1200. 1201. 1202. 1203. 1204. 1205. 1206. 1207. 1208. 1209. 1200. 1201. 1202. 1203. 1204. 1205. 1206. 1207. 1208. 1209. 1210. 1211. 1212. 1213. 1214. 1215. 1216. 1217. 1218. 1219. 1210. 1211. 1212. 1213. 1214. 1215. 1216. 1217. 1218. 1219. 1220. 1221. 1222. 1223. 1224. 1225. 1226. 1227. 1228. 1229. 1220. 1221. 1222. 1223. 1224. 1225. 1226. 1227. 1228. 1229. 1230. 1231. 1232. 1233. 1234. 1235. 1236. 1237. 1238. 1239. 1230. 1231. 1232. 1233. 1234. 1235. 1236. 1237. 1238. 1239. 1240. 1241. 1242. 1243. 1244. 1245. 1246. 1247. 1248. 1249. 1240. 1241. 1242. 1243. 1244. 1245. 1246. 1247. 1248. 1249. 1250. 1251. 1252. 1253. 1254. 1255. 1256. 1257. 1258. 1259. 1250. 1251. 1252. 1253. 1254. 1255. 1256. 1257. 1258. 1259. 1260. 1261. 1262. 1263. 1264. 1265. 1266. 1267. 1268. 1269. 1260. 1261. 1262. 1263. 1264. 1265. 1266. 1267. 1268. 1269

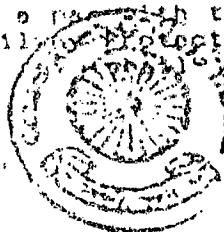
responsibilities. We cannot accept this view. If this view is to be stretched to its logical conclusion, the scales of pay of officers of the same rank in the Government of India may vary from department to department notwithstanding that their powers, duties and responsibilities are identical. We concede 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 anything, 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 Railways Protection Force. The scale of

REPLIED/ANSWERED

Mr. Justice Ray
Chairman, Judicial
Commission
of 1970
Tribunal
of 1970

6 Ag
D.G.



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:

"... 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

Signature

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 sorts 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

10 Aug

23
13
-74-

have been selected, it would be easier from him to be selected when the selection is limited to a cluster of a few villages. That however is altogether a different matter. It is possible that he might not have been selected at all if he had to compete against candidates from all over the country. But once he is selected, whether he is selected by one process or the other, he cannot be denied equal pay for equal work without violating the said doctrine. This plea raised by the respondents-State must also fail."

13. Lastly we have to deal with the contention that the Scheme is a temporary Scheme and the posts are sanctioned on an year to year basis having regard to the temporary nature of the Scheme. We are unable to comprehend how this factor can be invoked for violating 'equal pay for equal work' doctrine. Whether appointments are for temporary periods and the Schemes are temporary in nature is irrelevant once it is shown that the nature of the duties and functions discharged and the work done is similar and the doctrine of 'equal pay for equal work' is attracted. As regards the effect of the breaks given at the end of every six months, we will deal with this aspect shortly hereafter. That however is no ground for refusing the 'equal pay for equal work' doctrine. Be it realized that we are concerned with the 'equal work for equal pay' doctrine only within the parameters of the four grounds and the fact situation discussed hereinabove. We are not called upon, and we have no need or occasion to consider the applicability or otherwise of the said doctrine outside these parameters. For instance we are not required to express any opinion in the context of employment of similar nature under different employers, or in different cadres under the same or different employers. Nor are we concerned with questions required to be dealt with by authorities like the Pay Commissions such as equation of cadres, of determination of parity-differential between different cadres or making assessment of work loads or qualitative differential based on relevant considerations and such other matters. We are concerned in the present matter with employees of the same employer doing same work of same nature discharged in the same department but appointed on a temporary basis instead of in a regular cadre on a regular basis. We have therefore avoided the questions

13 Aug
1982
Central Adm. Services
Ministry of Home
Affairs
New Delhi

(18)

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 within 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.

... Agost WÄLT
1901 (1901)

memoer (A)

/NSN/



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

WRIT PETITION (CIVIL) NO. 7-2004 OF 2004

Memo of Parties

In the matter of

Mr. Private Eye

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

Master Judicial Department
High Court of 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)

Petitioners

Department
Through
Delhi
tion PW

Dr. J. R. Chobedar
Advocate
S. Chobedar
Advocate

IN THE HIGH COURT OF DELHI
AT NEW DELHI

Ex-Private B.W.

Executive 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 Mr. Priti
Puri, Mr. Vibhav Srivastava and Mr. Rohit
Nagpal, Advocates

S. Shri I.R. Chobdar

through : In person

..... Respondent.

CORAM:

HON'BLE MR. JUSTICE VENDER 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?

Vender 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

-27- 78-
3 118

an Accounts Officer in the Border Security Force (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 WP(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 obliged to take into consideration the materials brought on record of the parties to the suit 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 circumstances 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 basically on

ATTESTED
0
Rector Judicial Department
Government of Delhi

3
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 organised 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, in this 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 6th September, 1995 to the following effect:

With reference to this 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 7th 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 organised accounts service. On the basis of the aforesaid, it was contended before

ATTESTED

Govt. of India
Ministry of Defence
Pay & Accounts Department

27

-80

3

MO

that the finding of the learned Tribunal in the impugned order is not as per the report of the Pay Commission and BSC and there was no cadre of the Accounts Officer in the BSC 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 6th 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 faults 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 76/1979 decided on 3rd 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

RECORDED

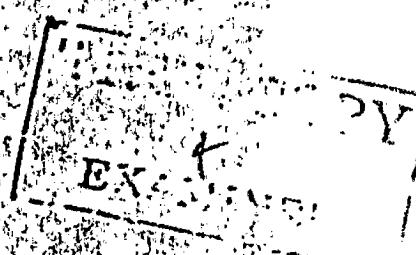
Central Public Department
10/12/2004

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

S.C.
Visender Jat.

S.C.
J.P. Singh

January 25, 2005



(This can be True Copy)

Caratma B.
Dilli
Section 7

COURT NO. - 31 - 82 ANEXURE 'C'
121
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (List No. 605)
L.C.C. 6923-6925/2003

COMBINED APPEAL (List No. 606) DATED 03/06/1980 IN L.M.L. NO. 20065/2004, 20066/2004
OF THE HIGH COURT OF DELHI AT I.I. DELHI

UNION OF INDIA & ORS.

Petitioner(s)

VERCUM

CHORBADAR

Respondent(s)

W.H. APPALI (for C.G. C.G. in 6925/2003)

29/07/2005. These petitions were called on for hearing today.

MR. JUDGE: MR. JUSTICE Y.K. SARHARWAL

MR. JUDGE: MR. JUSTICE ARUN KHILAR

Petitioner(s)

Mr. A. Sharai, A.S.G.

Mrs. Indra Sethney, Adv.

Mr. Bishnu Suri, Adv.

Respondent(s): Mr. Mukul Rohatgi, Sr. Adv.

E/1/2005

Dear

Mr. B.S. Gupta, Adv.

- 83 -

122

UPON hearing counsel the Court made the following

ORDERS

Delay condoned.

The special leave petitions are dismissed.

On request of learned Additional Solicitor General, the petitioners are given further judicial time for three months to comply with the order.

(N. Annapurna)

Court Master

(T.P. Tyagi)

Court Master