

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 329/2006

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....Pg.....1 to 6
2. Judgment/Order dtd. 5/12/2006.....Pg.....1 to 8
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....Pg.....1 to 54
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
- ✓ 12. Additional Affidavit. in person 1 to 89
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

31/12/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 323/06
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Alor Chandra Roy vs Union of India & Ors

Advocate for the Applicant(s) M. Chandra, S. Nain
Ms. Le. Dutta

Advocate for the Respondent(s) Case. H. Le. Sharma

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 20,- deposited vide CPWD No. <u>286-934803</u> Dated <u>26.12.06</u></p> <p><u>sd/-</u> Dy. Registrar <u> </u></p>	<p>11.1.2007</p>	<p>Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.</p> <p>The issue involved in this case is for grant of higher revised pay scale to the present Applicants in parity with the CPWD Draftsman. The Applicants are working Draftsman in Assam Rifles. This Court, vide Annexure-6 order dated 08.10.2001 passed in O.A. No. 10/2001, has extended the benefit to other employees similarly situated which was also confirmed by the Hon'ble High Court and Hon'ble Supreme Court as well vide Annexures - 7 & 8 respectively. The representations so filed by the Applicants for higher revised pay scale were rejected by the</p>

Contd.
11.1.2007

Respondents vide impugned order dated 25.08.2006 at Annexure - 11 stating that benefit of higher revised scale was given to other employees on specific court order.

Heard Mr. M. Chanda, learned counsel for the Applicants and Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the Respondents. When the matter came up for consideration, Mr. Chanda submitted that Applicants would be satisfied if a direction is given to the Respondents to consider the case of the Applicants in tune with the other similarly situated employees who were given the benefit of higher revised pay scale. However, Mr. M. U. Ahmed, learned Addl. C.G.S.C. submitted that he would like to take instruction in the matter within six weeks. Let it be done within that time.

Post the matter on 13.02.2007. It is made clear that the case will be disposed of on that day.

Vice-Chairman

/bb/

13.3.07

no w/s has been
filed
13.3.07

13.2.07 Mr.M.U.Ahmed learned counsel for the respondents has got some personal difficulty. Liberty is given to the respondents to file written statement. Post the matter on 14.3.07.

Vice-Chairman

Im

14.3.2007 The claim of the Applicant is that identically placed persons have already been granted the pay scale which is denied to the Applicants by the impugned order. Mr.M.U.Ahmed, learned Addl. C.G.S.C. was asked to obtain instruction in the matter, but when the matter came up today, Mr. Ahmed submitted that he has not got any instruction and submitted that notice should be issued to the Respondents.

Considering the issue involved in this case, we are of the view that the O.A. has to be admitted. Admit the O.A. Issue notice to the Respondents. Six weeks time is granted to the Respondents to file reply statement.

Post on 26.04.2007.

Member

Vice-Chairman

/bb/

26.4.07 Ms.U.Das learned Addl.C.G.S.C. represents on behalf of Mr.M.U.Ahmed, learned Addl, C.G.S.C. and she also submits that Mr. Ahmed wants to file written statement and he sought for time. Four weeks time is granted to file written statement. Post the matter on 29.5.07.

Member(A)

Member(J)

Lm

29.5.07. Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 02.7.07.

Vice-Chairman

lm

2.7.2007

Written statement has been filed. Applicant is granted three weeks time to file rejoinder, if any. Mr.M.Ahmed, learned Addl.C.G.S.C. submitted that he is not happy with the drafting of the written statement and probably he may have to file additional reply statement. In that event, he is permitted to do the same.

Post the case on 24.7.2007.

Vice-Chairman

/bb/

24.7.07.

Post the matter on 9.8.07.

Vice Chairman

lm

5.7.07

Affidavit in opposition filed by the Respondent. page 1 to 19. Copy not served.

[Signature]

MA 323/06

-5-

4

21.8.2007

As requested by Mr.M.U.Ahmed, learned Addl. C.G.S.C., three weeks further time is granted to file additional reply statement. It is made clear that if the same is not filed by that time, the matter will be proceeded with the reply statement already filed.

Post on 17.9.2007.

Wb Nileel.

8.10.07.

Vice-Chairman

/bb/

09.10.2007

Mr M. Chanda, learned Counsel for the Applicant is present. Mr M.U. Ahmed, learned Additional Central Government Standing Counsel is absent for the reason of his sickness.

Call this matter on 22.11.2007 for hearing.

Interim protection granted to the applicant shall remain in force till disposal of the case.

order dt. 9/10/07 issuing to both the parties.
19/10/07.

(Khushiram)
Member

(M. Mohanty)
Vice Chairman

nkm

22.11.2007

Heard Mr.M.Chanda, learned counsel appearing for the Applicants and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India/appearing for the Respondents.

Hearing concluded. Judgment is reserved.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

Rejoinder not filed.

21.11.07.

323 of 07

05.12.2007 Judgment pronounced in open
Court. Kept in separate sheets.

This Original Application is
disposed of. No order as to costs.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Lin

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.323/2006

DATE OF DECISION : 05-12-2007

Sri Alok Acharjee & 3 others

.....Applicant/s

Mr Manik Chanda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

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

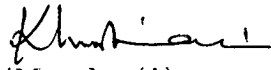
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, 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/Mamber(A)

a

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.323 of 2006.

Date of Order : This the 5th Day of December, 2007.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

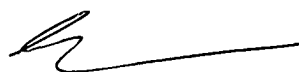
1. Shri Alok Acharjee
Son of late Amrit Lal Acharjee,
Working as Draughtsman
Headquarter. Aruncahal Pradesh & Assam Range,
25 Sector Assam Rifles,
C/O 99 APO
2. Smt Shanta Das Choudhury,
Working as Draughtsman (on deputation)
O/o Deputy Chief Engineer (Construction),
N.f.Railway,
Maligaon, Guwahati-11.
3. Shri Kabal Chandra Das,
Working as Draughtsman,
HQ Misoram Range,
Assam Rifles,
C/O 99 APO.
4. Shri Sanjay Lala
Working as Draughtsman
HQ Tripura Range
Assam Rifles,
C/O 99 APO

.....Applicants

By Advocate Shri Manik Chanda

- Versus -

1. Union of India,
represented by Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.
2. Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.



3. The Director General,
Assam Rifles,
Shillong - 793011.

.....Respondents

By Advocate Shri M.U.Ahmed, Addl.C.G.S.C

ORDER (ORAL)

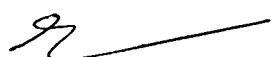
KHUSHIRAM, (MEMBER-A)

These Applicants are employed as Draftsman with Assam Rifles and prayed for parity in pay scale with their colleagues as well as with the Draftsman of CPWD.

2. On the basis of the fact that higher pay was granted to some of the Draftsman (vide order dated 08.10.2001 rendered in O.A.10/2001 by this Tribunal : which was confirmed by Hon'ble High Court at Guwahati and, subsequently by Supreme Court also) a request for higher pay scale was made (by the Applicants) which has been rejected by the Respondents (by impugned order dated 25.08.06) stating that benefit of higher revised scale was given to other similarly situated Draftsman of the department on orders of the Court and as such the aforesaid judgment was "in personam and not in rem."

3. The Applicants have challenged the action of the Respondents in the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers :-

- i) Issue notice to the Respondents to show cause as to why the relief sought for in this application shall not be granted and on perusal of the records.
- ii) To set aside and quash the impugned letter bearing No.A/V-A/86-87/Part/ dated 25.08.2006,
- iii) To direct the respondents particularly the respondents Nos.1 and 2 to accord necessary sanction for extension of higher



revised scale of pay of Rs.1400-2300/- (pre-revised Rs.425-700) to the applicants from the respective date of their joining or at least w.e.f. 13.05.1982 whichever is earlier in terms of O.M. bearing No.F.59.E.III/82 dated 13.03.1984 issued by the Government of India, Ministry of Finance and further be pleased to direct the Respondents to grant corresponding revised scale of pay of rs.5000-8000 (pre-revised Rs.1400-2300) with effect from 01.01.1996 in terms of O.M. No.23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits by refixing the pay of the Applicants.

- iv) To direct the respondents to grant the applicants the benefits on account of 1st ACP in the scale of Rs.5500-9000/- instead of Rs.5000-8000/- and the benefit of 2nd ACP in the scale of Rs.6500-10500/- instead of Rs. 5500-9000 by re-fixing the pay of the applicant in terms of O.M. dated 09.08.1999.

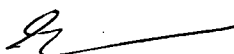
4. In earlier in O.A.10/2001, the Applicants had brought, to the notice of the Tribunal letter dated 24.12.1998 on record; para 5 of which is reproduced as under :-

"Since the Draftsman of Assam Rifles are in the same scale of pay as applicable to Draftsmen Grade II in the CPWD and all the Draftsmen appointed before the issue of Ministry of Finance (Department of Expenditure) O.M No.F.5(59)-E.III dated 13th March 1984 :-

(a) Five Draftsmen mentioned in Appendix B to this letter may please be granted revised scale of pay Rs.1400-2300/- (4th CPC) with effect from the date of their appointment on the basis of MOF O.M. dated 13th March 1984.

(b) Three Draftsmen mentioned in Appendix A to this letter at srl. No.3,4. and 5 have been granted revised scale of Rs.1400-2300/- (4th CPC) on completion of 3 years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF O.M dated 13th March 1984.

(c) The Draftsmen of Assam Rifles in the pre-revised scale of Rs.1400-2300/- (4th CPC) have been granted the revised scale of Rs.4500-7000/- (5th CPC) as applicable to all general categories of Central Govt. employees vide part of First Schedule of CCS (RP) Rules 1997. The Govt. of India vide serial x(a) of part B of First Schedule of the CCS (RP) Rules 1997 has sanctioned revised scale of Rs.5000-8000/- to the Draftsmen Grade II who were in the pay scale of Rs.1400-2300/- (4th CPC). However, in absence of any specific sanction of the Ministry, this department

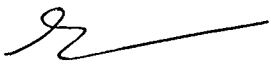


could not allow the Draftsmen who were in the pre-revised pay scale of Rs.1400-2300/-, the justified scale of Rs.5000-8000/- (5th CPC) as per serial x(a) of part B of First Schedule of CCS (RP) Rule 1997. It is also stated that the upgraded/revised scale of Rs.5000-8000/- has already been made applicable to the Draftsmen of Grade II of CPWD with effect from 01-01-1996 vide Govt. of India, Directorate General of Works, CPWD O.M. dated 23/14/97 EC-IX dated 15th October 1997 (copy enclosed). The Draftsmen of Assam Rifles may therefore, be granted the revised scale of Rs.5000-8000/- (5th CPC) corresponding to the scale of Rs.1400-2300/- (4th CPC) as per serial x(a) of Part B of First Schedule of CCS (R) Rules 1997 with effect from 01.01.1996 in place of Rs.4500-7000/- (5th CPC)."

5. The Ministry was requested to accord necessary sanction for extending the benefit to the Draftsmen of Assam Rifles as sought vide para 5(a), (b) & (c) above. The above fact was not disputed by the Respondents in their written statement. Accordingly the Respondents were directed to provide the benefit of the revised pay scale to 5 Applicants of that O.A with effect from 01.01.2006 in terms of O.M. dated 16.10.1997 with arrear monetary benefits. The above judgment was challenged before the High Court which passed order dated 08.04.2005 in WP(C) No.100(SH)2002 upholding the decision of the Tribunal and the Respondents had challenged the decision of the Guwahati High Court before the Apex Court with SLP 8424/2005 and by order dated 10.09.2005 (Annexure-8) the Supreme Court dismissed the petition as under :

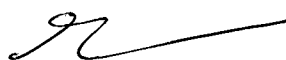
"Delay condoned.

In view of the admission made by the petitioners before the High court conceding the respondents' claim, we do not entertain this special leave petition. The special leave petition is, accordingly, dismissed."



6. The written statement filed by the Respondents in the instant O.A. it is stated that out of the 9 Draftsman serving with Assam Rifles, 5 have been granted the revised pay scale of Rs.4500-7000/- (with effect from 01.01.1996), whereas the Applicants are still drawing their salary in the pay scale of Rs.4000-6000/-. The averments and assertions made on behalf of the Applicants regarding litigation before the High Court and Supreme Court have not been disputed but it was stated that the aforesaid judgment was "in personam and not in rem" and that, hence, the Applicants, in the absence of the orders from the Court, are not entitled to the same benefit and that, hence, their Application is liable to be dismissed.

7. We have heard Mr M.Chanda, learned counsel appearing for the Applicants and Mr M.U.Ahmed, learned Addl. Standing Counsel for the Union of India and, also, perused the materials placed on record. The counsel for the Applicants argued that the Applicants are entitled to get equal pay for equal work and that, since their counterparts in the same department have been granted pay scale of Rs.5000-8000/-; the Applicants (who are discharging the same duties and are similarly situated) are also entitled to same pay and allowances and that discrimination against them is a violation of Article 14 and 16 of the Constitution of India. The counsel for the Respondents argued that the case of the applicants are hopelessly barred by limitation and, as such, they are not entitled to get relief as they have lost their claim on being time barred. In reply to these arguments of the learned counsel for the Respondents, the learned



counsel for the Applicants cited the decision of K.T.Veerappa vs. State of Karnataka & Ors., (reported in SCSLJ 2006(2) 49), wherein it was held that :-

"Once the benefit of revision of pay scale is given by State/University to its officers and employees in terms of court's order, the other employees identically placed would be given the same benefits."

He also cited the decision of M.R.Gupta vs. Union of India & others, reported in (1995) 5 SCC 628, wherein with regard to limitation in the grant of pay scale it was held that :-

The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action".

"Such a grievance, a continuing wrong giving rise to a recurring cause of action every month on the occasion of payment of salary. Hence, such application to the extent of proper pay fixation ^{held} not time barred although the Applicant's claim to consequential arrears would be subject to the law of limitation."

It was further held ;

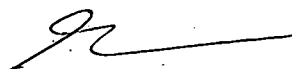
"The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with the rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the enquiry of redemption is extinguished. It is settled that the right of redemption is of this kind."

1


He also cited the Full Bench decision of the CAT in Dhiru Mohan vs. Union of India & others, (reported in CAT (F.B) Vol.II), in O.A.13 of 1989 decided on 11.07.1991., wherein it was held that "the AT Act is a special law and provides specific limitation. Limitation Act not applicable to petitions under the AT Act."


8. Out of 9 Draftsmen of Assam Rifles 5 have already been granted the upgraded pay scale of Rs.5000-8000/- corresponding to earlier Draftsman Gr. II pay scale of Rs.1400-2300/-. Now the remaining 4 have come before the Tribunal to seek redressal of their grievances.

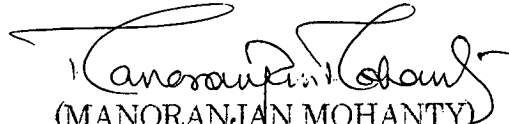
9. In the light of the foregoing discussion and on perusal of the materials placed on record, we are of the view that the claim of the Applicants is backed by sufficient materials and citations and as such cannot be denied for long, though the Tribunal does not have the paraphernalia to examine at length the matters relating to pay scale as it is a matter to be looked into by Pay Commission and are within the purview of policy decision but, in this case, since the 5 of the Draftsmen have already been granted relief, the case of the 4 Applicants for similar relief (subject to limitation regarding arrears from the date of their application) should be examined by the Respondents Department concerned and need grant the same within a period of 3 months from the date of receipt of a copy of this order. The applicants are not entitled for arrears; which are barred by limitation but they are entitled to pay scale/pay fixation etc. and consequential benefits



according to their seniority vis-à-vis their colleagues who have already been granted the benefit.

10. The O.A. is accordingly allowed without any order as to costs.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
~~GUWAHATI BENCH GUWAHATI~~

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

O. A. No. 323 /2006

Shri Alok Acharjee and Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants were initially appointed as Draughtsman in Assam Rifles in the scale of pay of Rs. 330-560/- (revised Rs. 1200-2040/-) on 22.01.81, 22.08.85 and on 03.07.86 respectively. Draughtsman in Assam Rifles is equivalent to the cadre of Draughtsman Gr. II in C.P.W.D. (Annexure- 1 Series)

13.03.1984- Government of India, Ministry of Finance, vide O.M dated 13.03.1984 decided to extend the benefit of revised scale of pay to Draughtsman Grade-I, II and III in the offices/departments of the Government of India other than CPWD provided their recruitment qualification are similar to those in the case of the Draughtsman in Central Public Works Department. (Annexure- 2)

08.11.1985- Director General of Assam Rifles vide order dated 08.11.1985 implemented the order of revised pay scale of Rs. 425-700/- only in respect of 6 senior most Draughtsman following the O.M dated 13.03.1984, including the applicant No. 1. (Annexure- 3)

16.10.1997- Govt. of India, vide O.M dated 16.10.97 granted upgraded revised of Rs. 5000-8000 to the Draughtsman Grade II of CPWD with effect from 01.01.1996. (Annexure- 4)

24.12.1998- Director General Assam Rifles vide his letter dated 24.12.1998 requested the Govt. of India, Ministry of Home Affairs, New Delhi that some of the Draughtsman whose names are mentioned in Appendix B to the said letter dated 24.12.98 may be granted revised scale of pay of Rs. 1400-2300 with effect from the date of their appointment. (Annexure- 5)

08.10.2001- Similarly situated Draughtsman, got the benefit of pay scale of Rs. 1400-2300/- from the date of their initial joining following the judgment and order dated 08.10.2001 passed in O.A. No. 10/2001

22
18

by the learned CAT, which was confirmed by the Hon'ble Gauhati High Court in WP (C) No. 100 (SH)/2002 dated 08.04.2005 which was further confirmed by the Hon'ble Supreme Court in Special Leave to Appeal (CC 8424/2005) on 19.09.2005.

(Annexure- 6, 7 and 8)

26.09.2005- Respondents vide order dated 26.09.2005 granted benefit of 1st ACP to the applicant No. 3 and 4 in the scale of pay of Rs. 5000-8000/- and 2nd ACP to the applicant No. 1 in the scale of pay of Rs. 5500-9000/- ignoring the appropriate higher scale of pay to the applicants.

(Annexure- 9)

07.03.06, 01.03.06, 29.12.05- Applicants submitted their representations claiming higher revised pay scale, which were granted to their juniors.

(Annexure- 10 Series)

25.08.2006- Respondents vide their impugned letter dated 25.08.2006 rejected claim of the applicants, whereby it has been stated that the upgradation of pay scale of Rs. 5000-8000/- at par with Shri Anil Kumar, others cannot be granted to the applicants since the higher pay scale to Shri Anil Kumar D and others have been granted on specific order of the Court, such decision of the respondents is highly arbitrary, unfair and illegal and on that score alone the impugned letter dated 25.08.2006 is liable to be set aside and quashed.

(Annexure-11)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. A/V-A/86-87/Part/ dated 25.08.2006 (Annexure-11).
2. That the Hon'ble Tribunal be pleased to direct the respondents particularly the respondents Nos. 1 and 2 to accord necessary sanction for extension of higher revised scale of pay of Rs. 1400-2300 (pre-revised Rs. 425-700) to the applicants from the respective date of their joining or at least w.e.f. 13.05.1982 whichever is earlier in terms of O.M bearing No. F.59.E.III/82 dated 13.03.84 issued by the Government of India, Ministry of Finance, Department of Expenditure New Delhi and further be pleased to direct the respondents to grant corresponding revised scale of pay of Rs. 5000-8000 (pre-revised Rs. 1400-2300) with effect from 01.01.1996 in

3

19 28

terms of O.M No. 23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits, by re-fixing the pay of the applicants.

3. That the Hon'ble Tribunal be pleased to direct the respondents to grant the applicants the benefits on account of 1st ACP in the scale of Rs. 5500-9000/- instead of Rs. 5000-8000/- and the benefit of 2nd ACP in the scale of Rs. 6500-10500/- instead of Rs. 5500-9000 by re-fixing the pay of the applicants in terms of O.M dated 09.08.1999.
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.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.
-



29

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. 323 /2006

Shri Alok Acharjee & Ors. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	--	Application	1-19
2.	--	Verification	-20-
3.	1 (Series)	Copies of Appointment letters.	21-26
4.	2	Copy of O.M dated 13.03.1984.	-27-
5.	3	Copy of letter dated 08.11.1985.	-28-
6.	4	Copy of O.M dated 16.10.1997.	-29-
7.	5	Copy letter dated 24.12.1998.	30-32
8.	6	Copy of judgment and order dated 08.10.01	33-36
9.	7	Copy of judgment and order dated 08.04.05	37-47
10.	8	Copy of order dated 19.09.2005	-48-
11.	9	Copy of order dated 26.09.2005.	-49-
12.	10 (Series)	Copies of representations.	50-53
13.	11	Copy of impugned order dated 25.08.2006.	-54-

Filed By:

Date:-

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 323 /2006

BETWEEN:

1. Shri Aiok Acharjee,
S/o- Late Amrit Lal Acharjee.
Working as Draughtsman
Headquarter, Arunachal Pradesh & Assam Range,
25 Sector Assam Rifles.
C/O 99 APO.
2. Smti. Shanta Das Choudhury,
Working as Draughtsman (on deputation)
O/o- Deputy Chief Engineer (Construction)
N.F. Railway.
Mallgaon, Guwahati- 781011.
3. Shri Kabal Chandra Das
Working as Draughtsman
HQ Mizoram Range,
Assam Rifles,
C/o 99 APO.
4. Shri Sanjay Lal
Working as Draughtsman
HQ Tripura Range,
Assam Rifles,
C/o 99 APO.

-----Applicants.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi- 110001.
2. Secretary to the
Government of India.
Ministry of finance,
Department of Expenditure,
North Block, New Delhi- 110001.

21
1
Filed by me applicants
S. Nath
Advocate
27.12.2006



3. The Director General,
Assam Rifles,
Shillong- 793 011.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter No. A/V-A/86-87/Part/ dated 25.08.2006 (Annexure-11) whereby the respondents have denied the benefit of upgradation of pay scales to the applicants and praying for a direction upon the respondents Nos. 1 and 2 to accord necessary sanction for extension of higher revised scale of pay of Rs. 1400-2300 (pre-revised Rs. 425-700) to the applicants from the respective date of their joining or at least w.e.f. 13.05.1982, whichever is earlier in terms of O.M bearing No. F.59.E.III/82 dated 13.03.84, issued by the Government of India, Ministry of Finance, Department of Expenditure New Delhi and further be pleased to direct the respondents to grant corresponding revised scale of pay of Rs. 5000-8000 (pre-revised Rs. 1400-2300) with effect from 01.01.1996 in terms of O.M No. 23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits, by re-fixing the pay of the applicants and also be pleased to direct the respondents to grant the applicants the benefits on account of 1st ACP in the scale of Rs. 5500-9000/- instead of Rs. 5000-8000/- and the benefit of 2nd ACP in the scale of Rs. 6500-10500/- instead of Rs. 5500-9000 by re-fixing the pay of the applicants in terms of O.M dated 09.08.1999.

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 citizen 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 applicants pray for permission to move this application jointly in a single application under section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1985 as the relief's sought for in this application by the applicants are common.
- 4.3 That your applicants were initially recruited in the cadre of Draughtsman in the scale of pay of Rs. 330-560/- (revised Rs. 1200-2040/-) in Assam Rifles are equivalent to the cadre of Draughtsman Gr. II of Central Public Works Department (for short C.P.W.D). All the applicants also possessing similar recruitment qualification i.e. Matriculate having 2 years Diploma from I.T.I in Draughtsman ship course with 2, 3 years experience. It is stated that the applicants are civilian central Govt. employees serving under the administrative control of Director General of Assam Rifles, Shillong. As such they are entitled to the benefits and facilities issued by the Government of India from time to time for Central Government Civilian employees.

Copy of appointment letters dated 22.01.81, 22.08.05 and 03.07.86 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1 (Series).

- 4.4 That your applicants are working as Draughtsman in different ranges and field offices in the Assam Rifles under the administrative control of Director General of Assam Rifles, Shillong. All the applicants were initially


25
4

recruited in the pay scales of Rs. 330-560/- (pre-revised); subsequently the scale was revised to Rs. 1200-2040/-. However, all the applicants were placed in the further higher revised scale of Rs. 1400-2300/- on completion of 3 years service after the date of initial recruitment. The applicant No. 1 got the benefit of first ACP as well as second ACP in terms of O.M dated 09.08.1999 in the scale of Rs. 5000-8000/- (1st ACP) as well as placed in the scale of Rs. 5500-9000/- (2nd ACP) respectively. However, the applicant No. 2 even though eligible for grant of 1st ACP but the said benefit is denied to the applicant No. 2. However, the applicant No. 3 got his 1st ACP in the pay scale of Rs. 5,000-8,000/- and the applicant No. 4 also got his 1st ACP in the pay scale of Rs. 5000-8000/- in terms of O.M dated 09.08.1999. In the present application all the applicants are praying for higher revised scale of Rs. 1400-2300/- (pre-revised Rs. 425-700) from the respective date of their joining in service in the department in terms of O.M bearing No. F.59. E. III/82 dated 13.03.1984 issued by the Govt. of India, Ministry of Finance, New Delhi and also praying for grant of corresponding revised scale of pay of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of O.M bearing No. 23/14/97-EC-IA dated 16.10.1997 as well as benefit of ACP in the appropriate corresponding higher scale by way of re-fixation of pay with all consequential service benefits including arrear monetary benefits.

1.1.86

1.1.96
4500-7000

- 4.5 That your applicant No. 1 was initially appointed on 22.01.1981 in the scale of pay of Rs. 330-560/-, however, he was placed on higher revised scale of Rs. 425-700/- (revised Rs. 1400-2300 as per 4th CPC) w.e.f. 01.11.1983. He was again placed in the corresponding scale of Rs. 4,500-7,000/- w.e.f. 01.01.1996 in terms of 5th Central Pay Commission's recommendation. The applicant No. 1 got his 1st ACP w.e.f. 09.08.1999 in the scale of Rs. 5000-8000/- and also got the benefit of 2nd ACP w.e.f. 27.09.2004 in the scale of Rs. 5500-9000/- but the applicant No. 1 is legally entitled to benefit of the scale of Rs. 425-700 notionally w.e.f. 13.05.1982 and actual benefit w.e.f. 01.11.1982 in terms of O.M dated 13.03.1984 and the corresponding revised



5

scale of Rs. 5000-8,000 w.e.f. 01.01.1996 in terms of Part-B of the CCS (Revised Pay) Rule 1997. Thereafter the applicant No. 1 is entitled to the benefit of 1st ACP and 2nd ACP in the appropriate corresponding higher scale. Since the benefit of the O.M dated 13.03.84 has not been extended to the applicant No. 1 from the due date of his entitlement hence the applicant No. 1 has joined in the instant application and more so in view of the fact that his benefit on account of 1st ACP and 2nd ACP in the corresponding higher scale which is denied to the applicant. But the applicant No.1 is legally entitled to the benefit of scale of pay of Rs. 425-700/- notionally w.e.f. 13.05.1982 and actually the benefit w.e.f. 01.11.83 in terms of O.M dated 13.03.1984.

- 4.6 That your applicant No. 2 was initially appointed as Draughtsman w.e.f. 09.08.1985 in the scale of pay of Rs. 330-560/- (revised Rs. 1200-2040/-). Surprisingly although she attained eligibility for grant of benefit of 1st ACP on completion of 12 years of service in terms of O.M dated 09.08.1999 but the said benefit was not extended to her for the reasons best known to the respondents. However, she is presently drawing the corresponding revised scale of Rs. 4500-7000/- in terms of 5th CPC, recommendation, whereas applicant No. 2 in fact legally entitled to be placed in the scale of Rs. 425-700 (pre-revised) w.e.f. 09.08.1995 i.e. from the date of her initial joining in the service and thereafter she is entitled to be placed in the scale of Rs. 5000-8000 w.e.f. 01.01.1996 in terms of O.M dated 13.03.1984 as well as in terms of Part-B of the CCS (Revised Pay) Rules 1997 and thereafter she is further entitled to the benefit of 1st ACP in the scale of Rs. 5500-9000 in terms of O.M dated 09.08.1999 with arrear monetary benefit as because she has attained eligibility for the benefit of 1st ACP. Hence the applicant No. 2 approaching this Hon'ble Tribunal along with the other co-applicants for grant and fixation of the benefit in the appropriate scale due to her.

4.7 That your applicant No. 3 was initially appointed as Draughtsman in Assam Rifles in 09.08.1985 in the scale of pay of Rs. 330-560/- (revised Rs. 1200-2040/-), he was subsequently granted the higher revised scale of pay of Rs. 1400-2300/- (revised Rs. 4,500-7,000/-) on completion of 3 years service as Draughtsman. The applicant No. 3 was further provided the benefit of the revised higher scale of pay of Rs. 5000-8000/- on account of 1st ACP benefit in terms of O.M dated 09.08.1999 but the applicant No. 3 is legally entitled to be placed in the scale of pay of Rs. 425-700 (pre-revised) w.e.f. 09.08.85 in terms of O.M dated 13.03.84 and thereafter he is entitled to be placed in the scale of Rs. 5000-8000 w.e.f. 01.01.1996 in terms of O.M dated 13.03.1984 as well as in terms of Part-B of the CCS (Revised Pay) Rules 1997 and thereafter he is further entitled to the benefit of the scale of Rs. 5500-9000 w.e.f. 09.08.1999 in terms of 1st ACP with arrear monetary benefit as because he has attained eligibility for the benefit of 1st ACP w.e.f. 09.08.99. Hence the applicant No. 3 approaching this Hon'ble Tribunal along with the other co-applicants for grant and fixation of the benefit in the appropriate scale due to him.

4.8 That your applicant No. 4 was initially appointed as Draughtsman on 11.04.1986 in the scale of pay of Rs. 330-560/- (revised Rs. 1200-2040/-). However, after 3 years the applicant was granted the higher revised scale of Rs. 1400-2300/- in the month of May 1989 and thereafter he was given the corresponding revised scale of pay of Rs. 4500-7000/-. However, the applicant No. 4 was given the benefit of 1st ACP in terms of O.M dated 09.08.1999 and accordingly he was placed in the scale of Rs. 5000-8000/- w.e.f. 09.08.1999. But the applicant No. 4 is legally entitled to be placed in the scale of pay of Rs. 1400-2300 (pre-revised Rs. 425-700) w.e.f. 11.04.86 in terms of O.M dated 13.03.84 and thereafter he is entitled to be placed in the scale of Rs. 5000-8000 w.e.f. 01.01.1996 in terms of O.M dated 13.03.1984 as well as in terms of Part-B of the CCS (Revised Pay) Rules 1997 and thereafter he is further entitled to the benefit of the scale of Rs. 5500-9000

w.e.f. 09.08.1999 in terms of 1st ACP with arrear monetary benefit as because he has attained eligibility for the benefit of 1st ACP w.e.f. 09.08.99. Hence the applicant No. 4 approaching this Hon'ble Tribunal along with the other co-applicants for grant and fixation of the benefit in the appropriate scale due to him.

- 4.9. That it is stated that Government of India, Ministry of Finance, vide O.M bearing No. F.5 (59)-E.III/82 dated 13.03.1984 decided to extend the benefit of revised scale of pay to Draftsman Grade-I, II and III in the offices/ departments of the Government of India other than CPWD provided their recruitment qualification are similar to those in the case of the Draftsman in Central Public Works Department. It is further stated in the said O.M dated 13.03.1984 that those who does not fulfill the above recruitment qualification will continue in the pre-revised scale. The benefit of the said revised scale of pay will be given notionally with effect from 13.05.1982. The O.M dated 13.03.84 had been circulated to all Ministries/Departments of the Government of India. As per the said O.M dated 13.03.84 the following revision has been proposed and granted.

	Original scale	Revised scale on the basis of Award
Draftsman Gr. I	Rs. 425- 700	Rs. 550-700
Draftsman Gr. II	Rs. 330-560	Rs. 425-700
Draftsman Gr. III	Rs. 260-430	Rs. 330-560

It is pertinent to mention here that all the applicants who were working in the scale of Rs. 330-560 (revised Rs. 1200-2040/-) possess the qualification of Matriculation with 2 years Diploma in Draughtsman ship from L.T.I with 2/3 years experience on the field. As such all the applicants possesses the similar recruitment qualification like those Draughtsman Gr. II of C.P.W.D and also discharging more arduous nature of work with higher responsibilities than the C.P.W.D. Draughtsman Grade- II. As such

in terms of O.M dated 13.03.1984 all the applicants either at the time of their initial appointment or thereafter was entitled to draw the scale of pay of Rs. 425-700 (revised Rs. 1400-2300). It is ought to be mentioned here that benefit of the revised scale of pay for the Draftsman working in other Central Government offices has been extended by the Govt. of India, Ministry of Finance, Department of Expenditure vide their O.M dated 13.03.84, as such the respondents had no scope to place the applicants in lower pay scale after the issuance of the O.M dated 13.03.84 either at the time of their initial recruitment or thereafter, at least w.e.f. 13.05.1982 or from the respective date of joining. But the respondents particularly the Director General of Assam Rifles allotted the scale of pay of Rs. 1200-2040 (revised) to the present applicants to the present applicants in a very arbitrary and unfair manner, as such the action of the respondents is violative of Article 14 and 16 of the Constitution of India.

A copy of the O.M dated 13.03.84 is annexed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

- 4.10 That your applicants further beg to state that Director General of Assam Rifles vide order bearing letter No. A/V-A/15-80-81/1629 dated 08.11.1985 implemented the order of revised pay scale of Rs. 425-700/- only in respect of 6 senior most Draughtsman following the O.M dated 13.03.1984. Out of the 6 Draughtsman, the name of the applicant No. 1 was also included in the order dated 08.11.1985 and as a result the applicant No. 1 got the benefit of higher revised scale of pay of Rs. 425-700/- only w.e.f. 01.11.1983, but the said benefit was subsequently extended to other applicants also except the applicant No. 2 on their completion of 3 years service in the cadre of Draughtsman, whereas O.M dated 13.03.84 provided the benefit of revised scale notionally w.e.f. 13.05.82 but actual benefit was given w.e.f. 01.11.1983.

Copy of the order-dated 08.11.1985 is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 3.

4.11. That it is stated that all the applicants were placed in the corresponding scale of pay of Rs. 4500-7000/- as per recommendation of the 5th Central Pay Commission. It is relevant to mention here that the respondents Assam Rifles authority granted the revised scale of Rs. 4500-7000/- to the Draughtsman of Assam Rifles vide Part A of First Schedule of CCS (RP) Rules 1997, whereas the Govt. of India, vide Serial X (a) of Part 'B' of First Schedule of CCS (RP) Rules 1997 has sanctioned revised scale of Rs. 5000-8000 to the Draughtsman who were in the scale of Rs. 1400-2300, the justified scale of Rs. 5000-8000/- as per Serial X (a) of Part 'B' of First Schedule of CCS (RP) Rule 1997 w.e.f. 01.01.1996 vide O.M No. 23/14/97-EC-IX dated 16.10.97. Therefore, the Draughtsman of Assam Rifles also entitled to revised scale of Rs. 5000-8000/- as per Part 'B' of First Schedule of CCS (RP) Rules 1997.

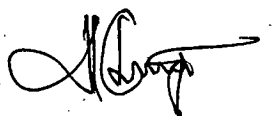
4.12 That it is stated that the benefit of higher revised scale of pay of Rs. 425-700/- (revised Rs. 1400-2300/-) in terms of O.M dated 13.03.1984 was given to the applicant No. 1, 3 and 4 but only after completion of 3 years of service in the cadre of Draughtsman from the date of their initial appointment and accordingly they have been denied the benefit of higher revised scale from the due date in terms of the direction contained in the O.M dated 13.03.1984. Applicant No. 2, 3 and 4 were appointed during the year 1985-86 and the benefit of the O.M dated 13.03.1984 was given w.e.f. 13.05.82, notionally and the actual benefit was given w.e.f. 01.11.1983. Therefore the applicants are entitled to be placed in the higher scale of pay of Rs. 425-700 (revised Rs. 1,400-2,300/-) from the respective date of their joining in service but due to denial of such benefit of re-fixation the applicants are incurring huge financial loss each and every month and also incurring loss in emolument as well as loss in increment which will effect

them even after their retirement from service, because they will draw lesser amount of pensionary benefit due to non-fixation of their pay in the higher scale in terms of O.M dated 13.03.1984. It is pertinent to mention here that due to non-allotment of the scale of Rs. 425-700 (revised Rs. 1400-2300/-) to the applicants from the due date, the applicants have been deprived the benefit of allotment of higher scale and consequential fixation thereto and as a result applicants are placed in a comparatively lower pay scale while granted the benefit of ACP in terms of O.M dated 09.08.1999. So far applicant No. 1 is concerned he is entitled to the scale of pay of Rs. 425-700/- notionally w.e.f. 13.05.1982 and actual benefit w.e.f. 01.11.1982 and the corresponding higher revised scale of pay of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of Part-B CCS (Revised Pay) Rules 1997. Moreover, applicant No. 1 is further entitled to consequential benefit of allotment of further higher scale on account of 1st ACP and 2nd ACP.

- 4.13 That it is stated that the Director General Assam Rifles vide his letter bearing No. A/V-A/86-87/OM/98305 dated 24.12.1998 requested the Govt. of India, Ministry of Home Affairs, New Delhi, that some of the Draughtsman whose names are mentioned in Appendix B to the said letter dated 24.12.98 may be granted revised scale of pay of Rs. 1400-2300 (4th CPC) with effect from the date of their appointment are in Appendix- B. of the said letter dated 24.12.98 may be granted revised scale of pay of Rs. 1400-2300 (IVth CPC) with effect from the date of their appointment on the basis of O.M dated 13.03.84 issued by the Ministry of Finance, Department of Expenditure and it is further requested that the draftsman of Assam Rifles in the pre-revised scale of Rs. 1400-2300 be granted the revised scale of Rs. 5000-8000 (Vth CPC) as the same, is justified scale, as per the recommendation of the 5th Central Pay Commission as per serial X (a) Part B of First Schedule of CCS (RP) Rule 1997 instead of Rs. 4500-7000 as detailed in Part A of First Schedule of CCS (RP) Rule 1997. It is also stated that the upgraded revised scale of Rs. 5000-8000 has already been made

applicable to the Draftsman Grade II of CPWD with effect from 01.01.1996 vide Government of India's O.M. dated 16.10.97 and it is requested to accord necessary sanction for extending the benefit to the draftsman of Assam Rifles as granted under O.M dated 13.03.84 and corresponding revised scale granted vide Ministry of Finance O.M dated 16.10.97. The Director General while highlighted in paragraph 2 of the letter recommending the case of the similarly situated employees, vide his letter dated 24.12.1998. It is categorically stated that the qualification requirement of Civil Draftsman of the force is also similar to those of CPWD Grade II Draftsman. It is also stated in the said letter in para 4 that the 5 Draftsman who have been appointed between June 89 and August 94 were inadvertently allowed pay scale of Rs. 1200-2040 (4th CPC) corresponding to pay scale of Rs. 330-560 (3rd CPC) instead of Rs. 1400-2300 (4th CPC) corresponding to pay scale of Rs. 425-700 (3rd CPC) and requested the Government of India, Ministry of Home Affairs to accord necessary sanction to extend the benefit of the said scale of pay to the other 5 draftsman with effect from the date of their initial appointment and corresponding scale of Rs. 5000-8000 with effect from 01.01.1996 as per 5th CPC.

It is pertinent to mention here that in the letter dated 24.12.98, the DGAR while recommended for grant of higher pay scale of Rs. 5000-8000/- instead of Rs. 4500-7000/- to the Draughtsman serving in Assam Rifles in terms of Part B of 1st Schedule of CCS (RP) Rule 1997 w.e.f. 01.01.1996, further requested the Ministry of Home Affairs to accord necessary sanction to grant scale of Rs. 1400-2300/- instead of Rs. 1200-2040/- to the Draughtsman who were appointed between June 1989 to August 1994, as because those Draughtsman who were allotted the scale of pay of Rs. 1200-2040/- were in fact wrongly allotted the said scale since the same were not in existence on the date of appointment of those Draughtsman but the DGAR lost the sight of the fact that the present applicant No. 2, 3 and 4 were also allotted the wrong scale of pay of Rs. 1200-2040/- on the date of



their initial appointment. However, they have been given the due scale of pay of Rs. 1400-2300/- after completion of 3 years of regular service in the cadre of Draughtsman, as such the applicant No. 2, 3 and 4 are also entitled to be placed in the appropriate scale of Rs. 1400-2300/- w.e.f. their date of initial appointment, but as a result of placement of the applicants in the due scale of Rs. 1400-2300/-, after 3 years from the initial date of joining. As such fixation of the aforesaid 3 applicants have been wrongly made in the lower scale of Rs. 1200-2040/- and as a result there was a consequential loss in increment and also in the total emolument and such loss is recurring in nature although they are legally entitled to be placed in the appropriate scale of Rs. 1400-2300/-. But due to such wrong allotment of scale of pay, as well as due to wrong fixation of pay, re-fixation of pay is now necessary, whereas the other Draughtsman, namely; Anil Kr. D, Sri J. Samuel, Sri Prakash Baruah, Sri Dinesh Kr. Joshi and Smti. Kumari Dev got the benefit of pay scale of Rs. 1400-2300/- from the date of their initial joining following the judgment and order dated 08.10.2001 passed in O.A. No. 10/2001 by the learned CAT, which was confirmed by the Hon'ble Gauhati High Court in WP (C) No. 100 (SH)/2002 dated 08.04.2005 which was further confirmed by the Hon'ble Supreme Court in Special Leave to Appeal (CC 8424/2005) on 19.09.2005. Thereafter all the above mentioned employees have been granted the benefit of the scale of Rs. 1400-2300/- from the respective date of their initial appointment in service and also granted the higher revised scale of Rs. 5000-8000/- in terms of Part B of First Schedule of CCS (RP) Rule 1997 as per 5th Pay Commission recommendation w.e.f. 01.01.1996. Be it stated that initially all the aforesaid 5 employees were granted the scale of Rs. 4500-7000/- w.e.f. 01.01.1996 in terms of Part A of First Schedule of CCS (RP) Rules 1997, however the pay of those applicants re-fixed in the scale of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of the judgment as stated above, but the applicant No. 2, 3 and 4 have been denied the scale of Rs. 1400-2300/- from the date of their initial appointment. Therefore, present applicants are also entitled to be placed in

the scale of Rs. 1400-2300/- (pre-revised) from the respective date of joining in service by way of re-fixation of their pay in addition to the claim of all the present applicants for placement in the scale of Rs. 5000-8000/- w.e.f. 01.01.96 in terms of Part B of First Schedule of CCS (RP) Rule 1997 instead of Rs. 4500-7000/- since all the applicants are similarly situated like those applicants in O.A No. 10/2001. As such they are legally entitled to the benefit of higher revised scale as extended to the applicants of O.A. No. 10/2001 which was duly implemented by the respondents Union of India but denied extension of the said benefit of the higher revised scale to the present applicants are highly arbitrary, illegal and unfair.

It is relevant to mention here that the applicant No. 1 is not entitled to the benefit of scale of pay of Rs. 425-700/- w.e.f. the date of his joining but he is entitled to the aforesaid scale notionally w.e.f. 13.05.1982 and actual benefit w.e.f. 01.11.1983 by way of re-fixation in terms of O.M dated 13.03.1984. However, he is entitled to the benefit of the scale of pay of Rs. 5000-8000 w.e.f. 01.01.1996 in terms of Part-B of CCS (Revised Pay) Rules 1997 and thereafter entitled to the benefit of 1st and 2nd ACP in the consequential appropriate higher scale from the due date in terms of O.M dated 09.08.1999.

Copy of the O.M dated 16.10.97 and letter-dated 24.12.1998 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 respectively.

Copy of the judgment and order dated 08.10.01, 08.04.05 and order dated 19.09.05 of the Hon'ble Supreme Court are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6, 7 and 8 respectively.

4.14 That it is stated that respondents vide order bearing No. A/I-A/2005/ACP/08 dated 26.09.2005 granted benefit of 1st ACP to the applicant No. 3 and 4 in the scale of pay of Rs. 5000-8000/- and 2nd ACP to the

37)

applicant No. 1 in the scale of pay of Rs. 5500-9000/- ignoring the appropriate higher scale of pay to the applicants. All the applicants submitted their representations on different dates claiming higher revised pay scale, which were granted to their juniors but surprisingly all the representations of the applicants have been rejected by the respondents vide their impugned letter bearing No. A/V-A/86-87/Part dated 25.08.2006, whereby it has been stated that the upgradation of pay scale of Rs. 5000-8000/- at par with Shri Anil Kumar, others cannot be granted to the applicants since the higher pay scale to Shri Anil Kumar D and others have been granted on specific order of the Court, such decision of the respondents is highly arbitrary, unfair and illegal and on that score alone the impugned letter dated 25.08.2006 is liable to be set aside and quashed. It is a settled position of law that once the benefit of revision pay scale is given by the Union of India to it's employees in terms of Courts order, the other employees identically placed would be given the same benefit. In this connection the applicants like to place reliance on the decision render by the Hon'ble Supreme Court on 12.04.2006 in Civil Appeal No. 1216-1256/2003 (K.T. Veerappa & Ors. -Vs- State of Karnataka & Ors.).

Copy of order dated 26.09.05, representations dated 07.03.06, 01.03.06, 29.12.05 and impugned letter dated 25.08.06 are enclosed herewith for perusal of Hon'ble Court as Annexure- 9, 10 (Series) and 10 respectively.

- 4.15 That it is stated that when the present applicants are legally entitled to the benefit of higher revised scale in terms of O.M dated 13.03.1984 in the scale of pay of Rs. 1400-2300/- from the respective date of their initial appointment as well as applicants are also entitled to the scale of pay of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of CCS (RP) Rules 1997. More particularly, when the present applicants are senior to Shri Anil Kumar D and others and also on the ground that the judgment rendered by this



Hon'ble Tribunal in favour of Sri Anil Kumar D and others have already implemented by the respondents, granting higher revised scale in terms of O.M dated 13.03.84 as well as in terms of CCS (RP) Rules 1997 vide judgment and order passed in O.A. No. 10/2001, there is no cogent reason to deny the said benefit of the higher revised pay scale to the applicants as because they are similarly situated, as such denial of the benefit of higher revised scale is in violation of Article 14 and 16 of the Constitution of India.

4.16 That it is stated that the applicants are suffering huge financial loss in each and every month due to denial of the benefit of higher revised scale of pay in terms of O.M dated 13.03.1984 in the scale of pay of Rs. 1400-2300/- from the respective date of their initial appointment as well as applicants are also entitled to the scale of pay of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of CCS (RP) Rules 1997 to the applicants and as such loss is recurring in nature, and such denial gives rise to continuous cause of action in each and every month when the applicants are drawing their salary at a lower scale.

4.17 That it is stated that the applicants have approached the authorities for redressal of their grievances but to no result under such compelling circumstances, the applicants approaching this Hon'ble Court for redressal of their grievances.

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

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

5.1 For that, the present applicants are similarly situated employees of the Assam Rifles like those applicants of O.A. No. 10/2001 which was decided on 08.10.01 whereby the Hon'ble Tribunal granted the benefit of higher revised scale of Rs. 425-700/- (revised Rs. 1400-2300) to those applicants in terms of O.M dated 13.03.1984. As such the present applicants are entitled to the benefit of the judgment and order dated 08.10.2001 which was

confirmed by the Hon'ble Gauhati High Court in WP (C) No. 100 (SH)/2002 as well as by the Hon'ble Apex Court.

- 5.2 For that, the benefit of the higher revised scale of Rs. 425-700/- equivalent of scale of pay of Grade-II Draftsman of CPWD extended by the Govt. of India vide O.M dated 13.03.1984 has been denied to the applicants by the impugned letter dated 25.08.2006 on the alleged ground that other 4 (four) Draftsman of Assam Rifles have been granted the benefit of pay scale of Rs. 5000-8000/- on specific order of the Court. This decision of the respondents is highly arbitrary, unfair and illegal and the same is in violation of Article 14 and 16 of the Constitution of India and on that score alone the impugned letter dated 25.08.2006 is liable to be set aside and quashed.
- 5.3 For that, the department of Assam Rifles under the Govt. of India, Ministry of Home Affairs being a model employer cannot deny the benefit of higher revised pay scale granted to a section of Draftsman of the Assam Rifles following the judgment and order dated 08.10.01 to another section of employees who are similarly situated only because those employees could not approach the Hon'ble Court and such a decision to deny the higher revised pay scale is not sustainable in the eye of law.
- 5.4 For that, the benefit of higher revised pay scale at par with Grade-II Draftsman of CPWD have already been extended to some of the similarly situated Draftsmen working under the Director General of Assam Rifles as such denial of the benefit granted under O.M dated 13.03.1984 is violative of Article 14 and 16 of the Constitution of India.
- 5.5 For that, the applicants possesses the similar recruitment qualification like those Draftsman working in the CPWD, this very fact has also admitted by the DGAR Shillong while recommending the case of the applicants for grant of higher revised scale of Rs. 425-700 and further revised scale of Rs.

1400-2300 from the date of their initial recruitment vide DCAR letter dated 12 June 89 and 24.12.98.

- 5.6 For that, the respondents particularly Director General of Assam Rifles admitted the fact that the present applicants have been inadvertently placed in the scale of pay of Rs. 1200-2040/- and strongly recommended for extension of benefit of higher revised scale of pay of Rs. 1400-2300 (pre-revised Rs. 425-700) from the date of their initial recruitment in terms of O.M dated 13.03.84 and also for grant of revised pay scale of Rs. 5000-8000 with effect from 01.01.86 in terms of O.M dated 16.10.87.
- 5.7 For that, the pay scale of Rs. 1200-2040/- was not in existence at the time of initial recruitment of the applicants to the post of Draftsman in the establishment of Director General Assam Rifles as per the order of the Ministry of Finance, Department of Expenditure, issued from time to time.
- 5.8 For that, the present applicants are civilian Central Government employees working in the establishment of Government of India, as such they are entitled to the benefit of revised pay scale granted under the O.M dated 13.03.84.
- 5.9 For that the respondents categorically admitted while recommending the case of the applicants through their letter dated 24.12.1998 to the Government of India, Ministry of Home Affairs that the present applicants having similar recruitment qualification like those of Grade-II Draftsman working in CPWD as such the applicants are entitled to the benefit of revised scale of pay.
- 5.10 For that denial of benefit of higher revised pay scale to the present applicants while the same benefit already granted to other similarly situated Draftsman in the same establishment is violative of Article 14 of the Constitution.

5.11 For that the applicants are suffering irreparable financial loss in each and every month due to arbitrary denial of higher revised scale in spite of repeated recommendations made by the Director General of Assam Rifles, Shillong which also will adversely effect the matter of their pensionary benefits in future.

6. Details of remedies exhausted.

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

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

The applicants further declare that they had 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 set aside and quash the impugned letter bearing No. A/V-A/86-87/Part/ dated 25.08.2006 (Annexure-11).

8.2 That the Hon'ble Tribunal be pleased to direct the respondents particularly the respondents Nos. 1 and 2 to accord necessary sanction for extension of higher revised scale of pay of Rs. 1400-2300 (pre-revised Rs. 425-700) to the applicants from the respective date of their joining or at

39

least w.e.f. 13.05.1982 whichever is earlier in terms of O.M bearing No. F.59.E.III/82 dated 13.03.84 issued by the Government of India, Ministry of Finance, Department of Expenditure New Delhi and further be pleased to direct the respondents to grant corresponding revised scale of pay of Rs. 5000-8000 (pre-revised Rs. 1400-2300) with effect from 01.01.1996 in terms of O.M No. 23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits, by re-fixing the pay of the applicants.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to grant the applicants the benefits on account of 1st ACP in the scale of Rs. 5500-9000/- instead of Rs. 5000-8000/- and the benefit of 2nd ACP in the scale of Rs. 6500-10500/- instead of Rs. 5500-9000 by re-fixing the pay of the applicants in terms of O.M dated 09.08.1999.

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 the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

i) I.P.O No. : 286934803
 ii) Date of issue : 26.12.06
 iii) Issued from : G.P.O. Gwalahab
 iv) Payable at : G.P.O. Gwalahab

12. List of enclosures:

As given in the index.

VERIFICATION

I, Shri Alok Acharjee, S/o- Late Amrit Lal Acharjee, aged about 50 years, Working as Draughtsman, Headquarter, Arunachal Pradesh & Assam Range, 25 Sector Assam Rifles, C/O 99 APO, applicant No. 1 in the Original Application, duly authorized by the others to verify the statements made in the Original Application, 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 25th day of December 2006.

Alok Acharjee

-21-

Annexure-1 (series)

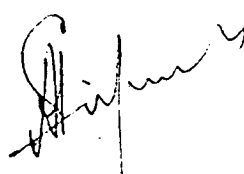
BHARAT SARKAR : GRH MANTRALAYA
GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS
MAHANIDESHALAYA ASSAM RIFLES
DIRECTORATE GENERAL ASSAM RIFLES :: SHILLONG

O R D E R

A/V-1/15-80-81/

Dated Shillong, the 22 Jan 81.

1. The Directorate General Assam Rifles hereby appoints
Shri Alok Acharjee, son of late Amrit Lal Acharjee as Droughtsman Grade III
in existing vacancy of HQ Mizoram Range Assam Rifles, C/O 99 APO wef
27 Sep 80 (FN) in the Scale of pay Rs.330-10-380-EB-12-500-EB-15-560/- pm
plus other allowances as admissible from time to time under Rules.
2. The individual will be liable to serve any where in the Union of
India when posted in any formation of Assam Rifles.
3. The appointment is purely temporary and may be terminated at any
time giving one month notice or the pay thereof without assigning any
reason.
4. The individual is required to produce following certificates
before joining duties.
 - (a) A certificate regarding character and antecedent from the
Magistrate or any Gazetted officer.
 - (b) A certificate from CMD or Civil Surgeon regarding the Medical
fitness and the state of health.
5. Letter No 144/EST/A dated 19 Sep 80 issued by HQ Mizoram Range
Assam Rifles, C/O 99 APO is hereby cancelled.

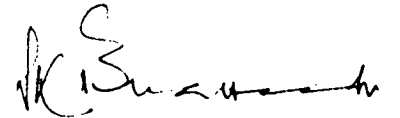

(A N Sirpurkar)
Lt Col
Assistant Director (Adm)

Contd...2.

A/V-1/15-80-81/18

Dated Shillong, the 24 Jan 81

1. Shri Alok Acharjee - for compliance
S/O Late Amrit Lal Acharjee
DEWAN TEA ESTATE
P.O. DEWAN
Dist : Cachar (Assam)
2. Headquarters - for information and necessary
Mizoram Range Assam Rifles
C/O 99 APO action.
3. Pay and Accounts office - for information please
Assam Rifles
Near Laitumkhrach Market
Shillong - 793003
4. Additional Accountant General - for information please
(Central and Arunachal Pradesh)
Shillong
5. Office copy.


(S K Bhattacharjee)
C G O
For Assistant Director (Adm)

ORDER

Annexure-1 (Serial)

I.11033/4/81-EST/28

Dated Shillong, the 22 Aug 85

1. Shri Katal Chandra Das, is hereby temporarily appointed to officiate as Draftsman in the scale of pay of Rs 330-10-380-EB-18-500-EP-15-560/- per month plus other allowances as admissible under rules in the office of Director General Assam Rifles, Shillong with effect from 09 August 1985 (P.).
2. The appointment is purely temporary and shall be terminated with one month notice from either side.
3. The appointee is liable to serve anywhere in India.

Sd/-

(A P Singh)

Lt Col

Assistant Director (G)

Memo No. I.11033/4/81-EST/28(A) Dated Shillong, the 22 Aug 85

Copy to :-

1. The Additional Accountant General (Central : Arunachal Pradesh) Metrollette Building, Shillong - 793 003
2. The Accounts Officer, Pay & Accounts Office, Assam Rifles, Shillong - 793 003
3. The Director, DGAR, Shillong - For information with reference to their letter No. A/P-4/15/80-81/Part/20 dated 17 Jul 85.
4. Bill Section, DGAR, Shillong - 2 copies
5. Shri Katal Chandra Das, Draftsman, Engr Branch, Assam Rifles, Shillong
6. Engr Branch, DGAR, Shillong - 11
7. Service Book Section, DGAR, Shillong - 11
8. Circulation File
9. Office copy

(13 Gurung)

by Credit

Establishment Officer

Marker

.....

-24-

ORDER

Annexure-1 (Series)

A/V-A/SL/DP/86/4

Dated Shillong, the _____ Jul 86

1. Shri Sanjoy Lala is appointed temporarily as a Draughtsman in HQ 'A' Range in an existing vacancy with effect from 11 Apr 86(FN) until further orders in the scale of pay of Rs. 330-10-380-FB-12-500-FB-15-560/- per month plus other allowances as may be admissible from time to time.
2. The appointment is purely temporary and may be terminated on one months notice from either side.
3. The appointee is liable to serve anywhere in India.

Sd/- x x x
(P E Lenon)

Lt General

Director General Assam Rifles

Nemo No A/V-A/SL/DP/86/4 (a) Dated Shillong, the 3 Jul 86

Copy forwarded to :-

1. The Additional Accountant General
Central and Arunachal Pradesh, Shillong
2. Pay and Accounts Office (AR)
Laitumkhrah, Shillong - 3
3. HQ Mizoram Range - for information.
Assam Rifles
C/O 99 APO
4. HQ 'A' Range - alongwith original police verification
Assam Rifles report.
C/O 99 APO
5. Shri Sanjoy Lala, Draughtsman
HQ 'A' Range
Assam Rifles
C/O 99 APO
6. Office Copy
7. Personal file.

[Signature]
(J K Roy)
Major
JAD (A)
for Director General Assam Rifles

-25-

45

STATEMENT OF FIXATION OF PAY UNDER CENTRAL
CIVIL SERVICE (REVISED PAY), RULE 7, 1986

1. Name of the Government Servant : Shri Sanjay ala
2. Designation of the post in which pay is to be fixed as on 1st Jan 86. : D/Man
3. Whether substantive or Officiating: Subs offg
4. Existing scale/scales of the Posts: Rs 330-10-380-12-500-15-560/-
(Where there is more than one scale and the scales are merged, in a single revised scale, the particular scale in which the Officer was drawing pay should be specified):
5. Existing emoluments as on 1st Jan 85: (After Jan 86)
 - (a) Basic Pay including adhoc increment on account of stagnation at the maximum of the existing scale) : Rs. 330/-
 - (b) Special Pay under rule 7(I)(B): -
 - (c) Dearness Pay, ADA, Adhoc DA : Rs -X 645.20
appropriate to basic pay and Special pay under rule 7(I)(B) and NPA at the index average 608 (1960 =100).
 - (d) Amount of first and second instalment of Interim relief admissible on the basic pay, Special pay under rule 7(I)(B) & NPA, : Rs. 110.00
- TOTAL EXISTING EMOLUMENTS(a) to (d): Rs. 1085.20
- 20% of basic pay subject to minimum of Rs. 75/- : Rs. 75.00
- Total Items 5 & 6 : Rs. 1160.20
- Revised scale corresponding to existing scale/scales shown against item 4 above. : Rs. 1,200-20-1,560-EE-40-2,040/-
- (i) Revised Pay as fixed under Sub-rule (1)(A) or 1(B) or 1(C) or 1(D), of Rule 7 at the stage in the Revised scale next above the amount against item 7 above. : Rs. 1,200.00
- (ii) Special pay in the revised scale, if any (Rule 7(1)(C) refers). : -
- (iii) Revised NPA, if admissible (Rule 7(1)(D) refers) : -
- Revised emoluments (total of item 9(i)(ii) and (iii)) : Rs. 1,200.00
- Increase in emoluments (item 10 (i) to (iii)) : Rs. 114.20

- 26 -

46

Next pay scale from 1500 to 1400/-

Dated - 11 April - 1983

-2-

2. Revised emoluments to be shown as:-

- (i) Revised Pay : Rs. 1,200/-
- (ii) Special Pay : -
- (iii) Personal Pay-Note 2 under rule 7(I) refers. : -
- (iv) NPA-Rule 7(1)(D) refers : -
- (i) Number of increments to be allowed on account of seniority (Note 3 below Rule 7(1)). : -
- (ii) Stepped up revised pay : -
- Stepped up revised pay under Rule 7(1)(indicate also the date and pay fixed for the junior) : -
- Increment allowed : -
 - (a) Under third proviso to Rule 8 : -
 - (b) Under fourth proviso to Rule 8 : -
- Amount of personal pay (if revised: pay is less than the existing emoluments plus personal pay, the difference to be allowed personal pay over and above the revised pay (Note 5 under Rule 7(1)). : -
- Whether the revised pay in the officiating post is less than the revised pay in the substantive post vide Rule 7(2). : -
- If answer to 17 is 'Yes', the final revised pay under Rule 7(1). : -
- Date of next increment under Rule 8 : 01-4-88(87)
- Any other relevant information

Commandant
AA & QMS

No.F.5(59)-E.III/82
GOVERNMENT OF INDIA/HARAT-SARKAR
MINISTRY OF FINANCE
(DEPARTMENT OF EXPENDITURE)

New Delhi, the 13th March, 1984.

OFFICE MEMORANDUM

Subject: - Revision of pay scales of Draughtsmen Grade III, II and I in all Government of India offices on the basis of the Award of Board of Arbitration in the case of Central Public Works Department.

The undersigned is directed to state that a committee of the National Council (Joint Consultative Machinery) was set up to consider the request of the Staff Side that the following revised scales of pay allowed to the Draughtsmen Grade I, II and III working in Central Public Works Department on the basis of the Award of Board of Arbitration may be extended to Draughtsmen Grade III, II and I in all Government of India offices:-

	<u>Original Scale</u>	<u>Revised scale on the basis of the Award</u>
Draughtsmen Grade I	Rs. 425-700	Rs. 550-750
Draughtsmen Grade II	Rs. 330-560	Rs. 425-700
Draughtsmen Grade III	Rs. 260-430	Rs. 330-560

2. The President is now pleased to decide that the scales of pay of Draughtsmen Grade III, II and I in Offices/Departments of the Government of India, other than the Central Public Works Department, may be revised as above provided their recruitment qualifications are similar to those prescribed in the case of Draughtsmen in Central Public Works Department. Those who do not fulfil the above recruitment qualification will continue in the pre-revised scales. The benefit of this revision of scales of pay would be given notionally with effect from 13.5.1982, the actual benefit being allowed with effect from 1.11.1983.

3. Hindi version will follow.

Sd/-
(R.C. PURI)
DEPUTY SECY. TO THE GOVT. OF INDIA

All Ministries.

-28-

Annexure-3

DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG - 11

ORDER

A/V-A/15-80-81/ 1/2 29. Dated Shillong, the 08 Nov 85

1. The Director General Assam Rifles is pleased to sanction the revised scale of pay of Rs 425-15-500-EB-15-560-20-700/- per month to the undermentioned Draughtsmen of Assam Rifles. The revised scale of pay as above will be given effect notionally from 13 May 82 while the benefit will be allowed with effect from 01 Nov 83.

- (a) Shri T K Ramachandran Pillai, AC Range
- (b) Shri B K Mitra, NL Range (S)
- (c) Sri P M N Nair, NL Range (N)
- (d) Sri AJOK Acharjee, ML Range
- (e) Shri P N Ojha, DGAR
- (f) Shri N K Choudhury, ARTC

2. Pay in the revised scale of pay will be fixed under FR 22 (a)(ii) read with Audit Instruction (1) below FR 22.

Authority :- Govt of India, Ministry of Finance Department of Expenditure, New Delhi OM No.F.5(59)-E.III/82 dated 13 Mar 84.

sd/xxx

(PE Menon)

Lt Gen

Director General Assam Rifles

Dated Shillong, the 06 Dec 85

Commandant General
Central and Achnachal Division, Shillong
Pay and Accounts Office Assam Rifles
Shillong
Dist. Lt.

(Initial)

(D K Kapur)

Lt Col

AD(Adm)

Director General Assam Rifles

-29-

9
Annexure-4

No. 23/14/97-EC IX
Government of India
Directorate General of Works
Central Public Works Department.
.....

16th October 1997

OFFICE MEMORANDUM

Subject: Upgradation of pay scales on Architectural Side,
Horticulture Side and Drawing Staff (D/Man Side).

In pursuance of Government of India, Ministry of Finance Notification dated 30.09.1997 regarding implementation of recommendations of 5th Central Pay Commission, the existing pay scales of the following categories of staff of C.P.W.D., as indicated in Part 'B' & 'C' of the First Schedule to the Notification of the Ministry of Finance dated 30.09.1997, are hereby upgraded/revised as under w.e.f. 01.01.1998:-

Sl.No.	Name of Post	Existing scale	Upgraded / Revised pay scale
(1)	(2)	(3)	(4)
1.	Assistant (Arch. Deptt.)	1400-2300	5000-150-8000
2.	Architectural Assistant	1400-2300	6500-200-10500
3.	Assistant Architect	2900-3500	7500-250-12000
4.	Sectional Officer (Hort.)	1400-2300	5000-150-8000
5.	Draughtsman Gr.II	1400-2300	5000-150-8000
6.	Draughtsman Gr.I	1500-2660	5500-175-9000

2. All concerned may take necessary action for implementation of these pay scales accordingly.

(Signature)
(PA/DEPT. SECY)
DY. DIRECTOR OF ADMIN.

TO

1. ALL C.E.'s / C.A.'s / S.E.'s / R.E.'s in the C.P.W.D.
2. CE (PWD) Zone I / CE (PWD) Zone II, New Delhi / Director of Hort. C.P.W.D., New Delhi.
3. ALL S.E.'s Coord. in the C.P.W.D. (CEW-I) / (CEW-II)
4. Ministry of Urban Affairs and Employment, New Delhi, for Information.

-30-
Sharat Sarkar
Government of India
Orh Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

A/V-A/86-87/DM/98/305

24 Dec 98

The Government of India
Ministry of Home Affairs
(Pers.II/PP.V Section)
New Delhi - 110001

ANOMALY IN PAY SCALE OF CIVILIAN
DRAUGHTSMAN IN ASSAM RIFLES

Sir,

1. I am directed to refer to the Ministry's letter No 45025/33/90-Pers/PP.V dated 20 Dec 94 and this Directorate letter No A/V-A/96/DM/266 dated 31 May 96 (copies enclosed) and to state that representations are being received from serving Civil Draughtsmen of this Organisation on the following issues :-

(a) Revised Scale of Pay. Non admittance of revised scale of pay on the basis of the Award of Board of Arbitration vide Ministry of Finance (Department of Expenditure) OM No F.5(59)-F-III/82 dated 13 Mar 84. (copy enclosed).

(b) Date of Admissibility of Revised Scale. To allow the revised scale of pay as per Ministry of Finance O M dated 13 Mar 84 with effect from the date of their appointment instead of after 3 years of service on the authority of Ministry of Finance O M quoted above.

✓(c) Revised Scale of Pay (5th CPC). To allow the revised scale (5th CPC) of Rs 5000-8000 as per serial X(a) Part B of First Schedule of CCS (R., Rule 1997 instead of Rs 4500-7000 as detailed in Part A of First Schedule of CCS (RP) Rule 1997.

2. The present authorisation and holding of Civilian Draughtsman is 10 in Assam Rifles. The post is being combatised progressively on wastage. The pay scale of Draughtsman was Rs 330-560 (3rd CPC) as per the approved Recruitment Rules for Draughtsman of 1981 (copy enclosed). No grading of Draughtsman eg Grade I, II and III ever existed in Assam Rifles. However, the Draughtsman were in the same scale of pay as applicable to Draughtsman Grade II in the CPWD. The qualification requirements of RENE civil Draughtsman of the Force is also similar to those of CPWD. In this connection a copy of CPWD, Shillong letter No 9(6)/85-Misc/1001 dated 02 Apr 85 is enclosed.

3. The Ministry of Finance Department of Expenditure vide their OM No F5(59)-E-III/82 dated 13 Mar 1984 further revised the pay scale of Draughtsmen of other offices/Departments of Govt of India other than CPWD based on the Award of Board of Arbitration in respect of Draughtsmen of CPWD. This Department accordingly extended the benefit of upgraded pay scale from Rs 330-560 to 425-700 (3rd CPC) to the civilian Draughtsmen of Assam Rifles. Accordingly out of existing 10 civilian Draughtsmen, five Draughtsmen are in receipt of higher scale of pay as per details given at Appendix A to this letter.

4. The five Draughtsmen who had been appointed between Jun 1989 to Aug 1994 were inadvertently allowed pay scale of Rs 1200-2040 (4th CPC) corresponding to pay scale of Rs 330-560 (3rd CPC) instead of Rs 1400-2300 (4th CPC) corresponding to pay scale of Rs 425-700 (3rd CPC). The details of pay scales being drawn by these five Draughtsmen are given at Appendix B to this letter.

5. Since the Draughtsmen of Assam Rifles are in the same scale of pay as applicable to Draughtsmen Grade II in the CPWD and all the Draughtsmen were appointed before the issue of Ministry of Finance (Department of Expenditure) OM No 13(1)-IC/91 dated 19 Oct 94 (Copy enclosed), the Ministry is requested to consider and ~~approve~~ approve the following on the basis of Ministry of Finance OM No F.5(59)-E.III/82 dated 13 Mar 84 :-

(a) Five Draughtsmen mentioned in Appendix B to this letter may please be granted revised scale of pay Rs 1400-2300 (4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84

(b) Three Draughtsmen mentioned in Appendix A to this letter at srl 3,4 and 5 have been granted revised scale of Rs 1400-2300 (4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar 84.

(c) The Draughtsmen of Assam Rifles in the pre-revised scale of Rs 1400-2300 (4th CPC) have been granted the revised scale of Rs 4500-7000 (5th CPC) as applicable to all General Categories of Central Govt Employees vide Part A of First Schedule of CCS (RP) Rules 1997. The Govt of India vide serial X(a) of Part B of First Schedule of CCS (RP) Rules 1997 has sanctioned revised scale of Rs 5000-8000 to the Draughtsman Grade II who were in the pay scale of Rs 1400-2300 (4th CPC). However, in absence of any specific sanction of the Ministry, this Department could not allow the Draughtsmen who were in the pre-revised pay scale of Rs 1400-2300, the justified scale of Rs 5000-8000/- (5th CPC) as per serial X(a) of Part B of First Schedule of CCS (RP) Rule 1997. It is also stated that the upgraded/revised

scale of Rs 5000-8000/- has already been made applicable to the Draughtsmen Grade II of CPWD with effect from 01-1-96 vide Govt of India, Directorate General of Works, CPWD OM No 23/14/97-EC-IX dated 16 Oct 97 (copy enclosed). The Draughtsmen of Assam Rifles may therefore, be granted the revised scale of Rs 5000-8000/- (5th CPC) corresponding to the scale of Rs 1400-2300/- (4th CPC) as per serial X(a) of Part B of First Schedule of CCS (RP) Rules 1997 with effect from 01-1-96 in place of Rs 4500-7000 (5th CPC).

6. In view of the above, the Ministry is requested to kindly accord necessary sanction for extending the benefit to the Draughtsmen of Assam Rifles as sought for vide Para 5 (a), (b) and (c) above please.

7. An early decision on the subject is solicited.

Yours faithfully,

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

W.S.

N O O

Copy to :-

1. Liaison Officer
Assam Rifles
Room No 171
North Block
Ministry of Home Affairs
New Delhi - 110001 - Letter addressed to Ministry is enclosed for handing over to the concerned Section and progressing the case.
2. Engr Branch (Internal) - with ref to representation received from Draughtsmen of the Branch.

-33-
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure-6

Original Application No.10 of 2001

Date of Order: This the 8th Day of October 2001

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Shri Anil Kumar D.
Son of Shri D. Damodaran
Office of the DIG, Draftsman,
Assam Rifles, Hqrs, Nagaland
Range South
C/O. 99 APO
2. Sri Jose Samuel
Son of Shri P.Y. Samuel Kutty
Draftsman, O/O. the Engineer Branch
Directorate General of Assam Rifles,
Shillong- 7930011
3. Sri Prakash Barua
Son of Shri Binoy Shusan Barua
Draftsman
Office of the DIG, Assam Rifles,
Hqr. Mizoram Range
C/O. 99 APO -
4. Sri Dinesh Kumar Joshi
Son of Shri Jeevan Chandra Joshi
Draftsman
Engineer Branch, A.R.T.C. and School
Dimapur - 797115
Nagaland
5. Smti Kumari Devi
Draftsman
Headquar, Manipur Range, ... Applicants
C/O 99 APO

By Advocate Mr. M. Chanda, Mr. N.D. Goswami.
Mr. G.N. Chankraborty

-Vs-

1. Union of India
Through the Secretary to the
Government of India, Ministry of Home
Affairs, New Delhi
2. The Secretary to the Government of India
Ministry of Finance
New Delhi
3. The Director General
Assam Rifles,
Arbuthnath Road
Shillong.
4. The Deputy Director General
Assam Rifles, Nagaland Range
South, C/O 99 APO
5. The Deputy Director General
Assam Rifles, Mizoram Range
Hqrs., C/O 99 APO
6. Deputy Director General
Assam Rifles,

contd/-

Hqrs. Manipur Range
C/O 99 APO

Respondents;

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

O_R_D_E_R_

CHOWDHURY J(VC):

The issue relates to grant of Higher Revised Pay Scale in terms of the 3rd and 4th Central Pay Commission recommendation read with Office Memorandum dated 13.3.1994 issued by the Government of India, Ministry of Finance in respect of five applicants. These five applicants are working as Draftsman in the Office of the Director General, Assam Rifles and posted in different places in the N.E. Region. The cause of action and grievances are common. Leave was sought for in this application to move this application jointly. Accordingly leave was granted under provision of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

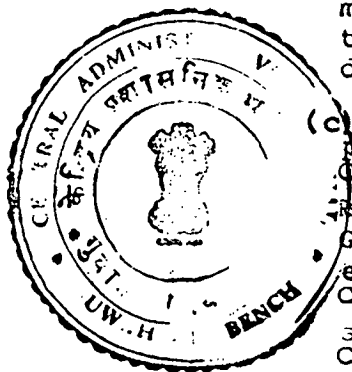
The applicants are serving in the cadre of Draftsman in the scale of Rs. 1200-2040 (revised 4000-6000). The applicants possessed similar educational qualification like those Draftsman Gr. II of CPWD. All the applicants are appointed in between the June 1989 to August 1994 and all the applicants are matriculate having 2 years ITI Diploma in Draftsmanship and also possessed 2/3 years experience at the time of initial recruitment. They are Civilian Central Government Employees and serving under DGAR. The applicants were placed inadvertently in the scale of Rs. 1200-2040, corresponding to pre-revised scale of Rs. 350 - 560 given by the 3rd Pay Commission instead of Rs. 1400-2300/- pre-revised scale of Rs. 425 - 700 in terms of O.M. dated 13.3.84. Out of ten Draftsman

five Draftsmen were ~~in~~ drawing higher revised pay scale of Rs. 1400-2300. The said anomaly was brought to the notice of the concerned Ministry by the DGAR Assam Rifles vide letter No.A/V-A/86-87/O.M./98305 dated 24.12.98(Annexure 7). The paragraph 5 of the said letter, as being relevant is reproduced below :-

"Since the Draftsmen of Assam Rifles are in the same scale of pay as applicable to Draftsmen Grade II in the CPWD and all the Draftsmen were appointed before the issue of Ministry of Finance (Department of Expenditure) O.M. No. F.5(59)-E.III dated 13 March 84 :-

(a) Five Draftsman mentioned in Appendix B to this letter may please be granted revised scale of pay Rs. 1400 - 2300 (4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84.

(b) Three Draftsman mentioned in Appendix A to this letter at Srl. 3,4, and 5 have been granted revised scale of Rs. 1400-2300(4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar. 84.



(c) The Draftsman of Assam Rifles in the pre-revised scale of Rs. 1400- 2300 (4th CPC) have been granted the revised scale of Rs. 4500-7000(5th CPC) as applicable to all General categories of Central Govt. employees vide part of First Schedule of CCS (RP) Rules 1997. The Govt. of India vide serial x(a) of part B of First Schedule of CCS(RP) Rules 1997 has sanctioned revised scale of Rs. 5000-8000 to the Draftsman Grade II who were in the pay scale of Rs. 1400-2300(4thCPC). However, in absence of any specific sanction of the Ministry, this Department could not allow the Draftsman who were in the pre-revised pay scale of Rs. 1400-2300, the justified scale of Rs. 5000-8000/- (5th CPC) as per serial X(a) of Part B of First Schedule of CCS(RP) Rule 1997. It is also stated that the upgraded/ revised scale of Rs.5000-8000/- has already been made applicable to the Draftsman of Grade II of CPWD with effect from 01.01.96 vide Govt. of India, Directorate General of Works CPWD O.M No.23/14/97-EC-IX dated 15 Oct 97(Copy enclosed). The Draftsman of Assam Rifles may therefore, be granted the revised scale of Rs. 5000-8000/- (5th CPC) corresponding to the scale of Rs. 1400-2300(4th CPC) as per serial X(a) of Part B of First Schedule of CCS(RP) Rules 1997 with effect from 01.1.1996 in place of Rs.4500-7000(5th CPC)."

The applicant moved the authority by their representation demanding the justice. Failing to get the appropriate remedy the applicant approach this Tribunal by way of this O.A. The respondents submitted the written statement and did not dispute the claim of the applicant. In the written statement the respondents also stated that a comprehensive proposal was tendered before the concerned Ministry and the said recommendation is still under consideration in Ministerial level and the matter is lying with the Ministry. In the written statement the respondents also admitted the claim of the applicant and higher revised scale as granted to the similarly situated Draftsman of CPWD. We have heard Mr.M.Chanda learned counsel appearing on behalf of the applicant and Mr.B.C.Pathak, Addl.C.G.S.C. for the respondents. In view of the admitted position we do not find any lawful justification in not granting the benefit of the revised pay scale indicated in the office Memorandum dated 13.3.1998. Accordingly, the respondents are directed to provide the benefit of the revised scale of pay to the five applicants as indicated in the communication dated 24.12.98(Annexure 7) with effect from 1.1.1996 in terms of office Memorandum No.23/14/97-EC-IX dated 16.10.1997, with arrear monetary benefits. The respondents are directed to complete the exercise within a period of four months from the date of receipt of this order.

Application is allowed. There shall however, be no order as to costs.

Certified to be true Copy
प्रमाणित प्रतिलिपि

Sd/VICE CHAIRMAN
Sd/MEMBER (A)

Section Officer (A)

विभागाध्यक्ष (आचार्य कक्षा)
Central Administrative Tribunal

Date of application for the copy.	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamp and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
19-4-05	19-4-05	19-4-05	19-4-05	19-4-05

17

-37-

5x

Annexure-7

**THE GAUHATI HIGH COURT
(HIGH COURT OF
ASSAM:NAGALAND:MEGHALAYA:MANIPUR:
TRIPURA:MIZORAM & ARUNACHAL PRADESH)
SHILLONG BENCH**

WP(C) No.100(SH)2002

1. Union of India
Represented by the Secretary
Govt.of India,Ministry of Home Affairs
North Block, New Delhi.

2. The Secretary to the Govt.of India
Ministry of Finance
New Delhi.

3. The Director General
Assam Rifles, Shillong.

4. The Deputy Director General
Assam Rifles,Nagaland Range South
C/o 99 APO

5. The Deputy Director General
Assam Rifles
Mizoram Range, C/o 99 APO

6. The Deputy Director General
Assam Rifles, Manipur Range
C/o 99 APO

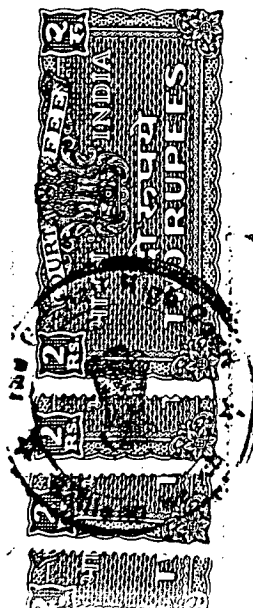
Petitioner

- Versus -

1. Sri Anil Kumar Das
Draftsman, Son of Sri D Damodran
HQ Nagaland Range(South)
Assam Rifles, C/o 99 APO

2. Sri Jose Samuel
Draftsman, S/o Shri PY Samuel Kutty
DGAR, Shillong.

3. Sri Prakash Barua
Draftsman, S/o Shri Binoy Bhusan Barua
HQ Mizoram Range
Assam Rifles, C/o 99 APO



13
-38-
P-2
A
4. Shri Dinesh Kumar Joshi
Draftsman
S/o Shri Jeevan Chandra Joshi
Assam Rifles Training Centre &
Schoo, Dimapur (Nagaland)

5. Smti Kumari Dev
Draftsman
HQ Manipur Range, Assam Rifles
C/o 99 APO.

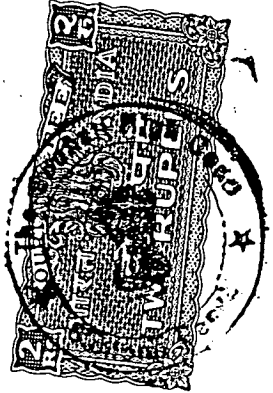
Respondents

BEFORE
THE HON'BLE MR JUSTICE AII SAIKIA
THE HON'BLE MRS JUSTICE A HAZARIKA

For the Petitioners : Mr SC Shyam, CGSC
For the Respondents : Mr JL Sarkar
Mr M Chanda, Advocates
Date of Hearing : 8.4.2005
Date of Judgment : 8.4.2005

JUDGMENT & ORDER (ORAL)

Smti Hazarika, J :



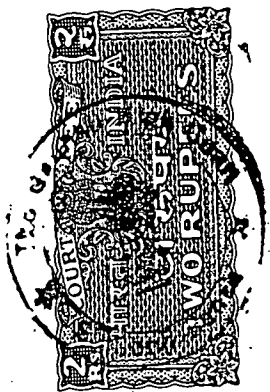
The petitioners being aggrieved with the judgment and order dated 8.10.2001 passed by the learned Central Administrative Tribunal, Guwahati Bench, (hereinafter referred to as CAT), passed in Original Application No.10/2001 has preferred the instant writ petition, praying for quashing the impugned order dated 18.10.2001.

2. By the aforesaid impugned order, the petitioners have been directed to provide the benefit of the revised scale of pay to the respondents within four months from the date of receipt of the order.

3. The respondents numbering five are serving in the cadre of Draftsmen under the Director General Assam Rifles (DGAR in short) in the scale of pay of Rs.1200-2040/- (revised Rs.4000-6000/-) and posted in different areas of North Eastern Region. They possess similar educational qualification like those draughtsmen serving in the Central Public Works Department (CPWD in short). The respondents, being government employees serving under the DGAR, are entitled to the benefits and facilities issued by the Government of India from time to time for Central Government civilian employees.

4. The respondents further contention is, that on the date of their initial appointment, they possessed similar recruitment qualification like those draftsmen Gr-II of CPWD. All the respondents were appointed in between June 1989 to August 1994 and all of them are Matriculate having 2(two) years ITI Diploma in Draughtsmanship and also possessed 2/3 years experience at the time of initial appointment. But, the respondents were placed inadvertently in the scale of pay of Rs.1200-2040/- (4th Pay Commission – CPC in short), corresponding to pre-revised scale of pay of Rs.350-560/- given by the 3rd Pay Commission instead of Rs.1400-2300/- (4th CPC), corresponding to pay scale of Rs.425-700/- (3rd CPC). Out of ten Draughtsmen, five were drawing higher revised pay scale of Rs.1400-2300 as per order dated 8.11.1985 issued by the Director General Assam Rifles, whereas, the benefit of revised pay scale issued under O.M dated 13.3.84 was not extended to the respondents having similar recruitment qualification with those five draughtsmen.

5. The Director General Assam Rifles brought the said anomaly to the notice of the Ministry of Home Affairs vide letter dated 24.12.98



20
40 - 20 P-4

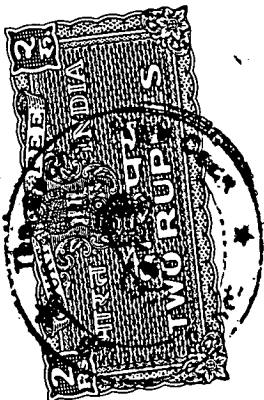
highlighting the case of the respondents. The Director General Assam Rifles requested the Ministry for taking an early decision. Paragraphs 4 and 5 of the letter dated 24.12.98 being relevant, are reproduced below :-

"4. The five Draughtsman who had been appointed between Jun 1989 to Aug 1994 were inadvertently allowed pay scale of Rs.1200-2040(4th CPC) corresponding to pay scale of Rs.330-560 (3rd CPC) instead of Rs.1400-2300 (4th CPC) corresponding to pay scale of Rs.425-700(3rd CPC). The details of pay scales being drawn by these five Draughtsman are given at Appendix B to this letter.

5. Since the Draughtsman of Assam Rifles are in the same scale of pay as applicable to Draughtsman Grade II in the CPWD and all the Draughtsman were appointed before the issue of Ministry of Finance (Department of expenditure) O.M. No.13(1)-IC/91 dated 19 Oct 94 (copy enclosed), the Ministry is requested to consider and approved the following on the basis of Ministry of Finance O.M. No. F.5(59)-E.III/82 dated 13 Mar 84 :-

- a) Five Draughtsman mentioned in Appendix B to this letter may please be granted revised scale of pay of Rs.1400-2300(4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84.
- b) Three Draughtsman mentioned in Appendix A to this letter at sl.3,4 and 5 have been granted revised scale of Rs.1400-2300(4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar 84.
- c) The Draughtsman of Assam Rifles in the pre-revised scale of Rs.1400-2300 (4th CPC) have been granted the revised scale of Rs.4500-7000 (5th CPC) as applicable to all Central categories of central Govt. employees vide Part A of First Schedule of CCS (RP) Rules 1997. The Govt. of India vide serial x(a) of Part B of First Schedule of CCS (RP) Rules 1997 has sanctioned revised scale of Rs.5000-8000 to the Draughtsman Grade II who were in the pay scale of Rs.1400-2300, the justified scale of Rs.5000-8000/(5th CPC) as per serial x(a) of Part B of First Schedule of CCS(RP) Rule 1997. It is also stated that the upgraded/revised scale of Rs.5000-8000 has already been made applicable to the Draughtsman Grade II of CPWD with effect from 01.1.1996 vide Govt. of India, Director General of Works, CPWD O.M No.23/14/97-EC-IX dated 16 Oct 97 (copy enclosed). The Draughtsman of Assam Rifles may therefore, be granted the revised scale of Rs.5000-8000/(5th CPC) corresponding to the scale of Rs.1400-2300 (4th CPC) as per serial x(a) of Part B of First Schedule of CCS(RP) Rules 1997 with effect from 01.1.1996 in place of Rs.4500-7000(5th CPC)."

6. Failing to get justice from the authorities, the respondents approached the learned Central Administrative Tribunal ventilating their grievances. The learned Central Administrative Tribunal vide the impugned order dated 8.10.2001 allowed the prayer of the respondents, directing the



-41-

authority to provide the benefit of the revised scale of pay to the five respondents/applicants as indicated in the communication dated 24.12.98 with effect from 1.1.1996 in terms of Office Memorandum No.23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits. It further directed to complete the exercise within a period of four months from the date of receipt of the order.

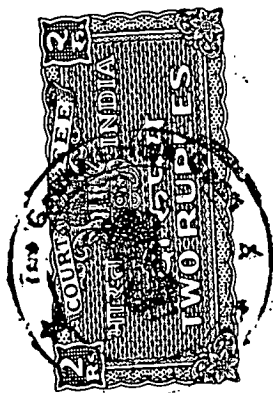
7. Challenging the legality and validity of the aforesaid order dated 8.10.2001, the instant petition has been preferred by the petitioner, Union of India.

8. We have heard Mr SC Shyam, learned Central Government Standing Counsel appearing on behalf of the petitioners, Mr JL Sarkar and Mr M Chanda, learned counsel appearing on behalf of the respondents/applicants.

9. Mr Shyam, learned CGSC submits, that the learned Tribunal committed a serious error of law apparent on the face of the records by allowing the claim of the respondents on the grounds inter-alia as mentioned below :-

i) Prescribed qualifications even for Draughtsmen Grade-III in CPWD are higher than those in the Assam Rifles. But, inspite of this position, comparison has been sought to be made with the next higher grade of Draughtsmen Grade II in the pay scale of Rs.425-700 (pre-revised) Rs.5000-8000/-

ii) On account of the provision and dissimilarities in statutory recruitment rules of Draughtsman in Assam Rifles viz-a vis Draughtsman Grade II and Draughtsman Grade III in CPWD, both grades requiring better qualifications, the actual qualification prescribed in the respective recruitment



- 42 -

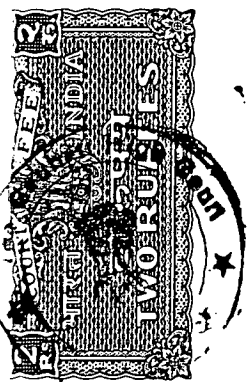
b2

rules and not that possessed by separate individuals are relevant for according scale of pay to the post.

iii) O.M. No.5(59)/E.III/82 dated 13.3.1984 and its subsequent OMs were not promotion or career progression schemes. These instructions have been issued to bring about uniformity in the designations and pay scales of Draughtsmen in the various left out Central Government Departments. In Assam Rifles, the recruitments rules prescribed less qualification as compared to Draughtsman Grade II in CPWD. The respondents, having already been accorded the similar scale of pay of Rs.330-560 (pre-revised)/Rs.1200-2040 (pre-revised)/Rs.4000-6000(revised), no upgradation of pay scale is, therefore, called for and the provision of O.M dated 13.3.1984 do not apply to the Draughtsmen of Assam Rifles.

iv) Draughtsmen of Assam Rifles do not satisfy the essential requirement of being in the pre-revised scale of Rs.205-280, they are not similarly placed with those Draughtsmen covered by the Supreme Court order and OM dated 11.9.1987 and the benefits thereof is therefore not available to the respondents.

v) Prescribed qualification as per the statutory recruitment rules of Draftsmen in Assam Rifles is not higher than the qualification recommended by the 5th CPC and the scale of pay already conform to the pay scale of Rs.4000-6000, which is applicable to Draughtsman Grade III of CPWD, the question of upgradation of scale of pay of the Draughtsmen in Assam Rifles does not arise.



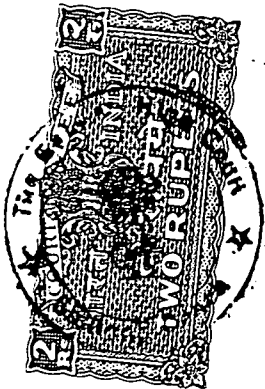
vi) Upgradation of pay of scales of the six Draughtsmen of Assam Rifles was done erroneously without express approval of Ministry of Finance and the same is being reviewed.

vii) Scale of pay of Draughtsmen in Assam Rifles have been appropriately sanctioned as Rs. 330-560(3rd CPC pre-revised)/ Rs. 1200-2040 (4th CPC pre-revised)/ Rs. 4000-6000 (5th CPC revised) based on recommendations of expert bodies like successive pay commission and as such the same should not have been interfered with by the learned Tribunal.

10. In support of his argument, the learned CGSC has placed reliance upon the case reported in 1997 SCC (L&S) 888, Union of India and Another-v-PV Hariharan and Another.

I have carefully perused the same. The Hon'ble Supreme Court, in the said case has held in paragraph 5 as follows :-

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realize that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay sales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairmen of the State Administrative Tribunals shall consider issuing appropriate instructions in the matter."



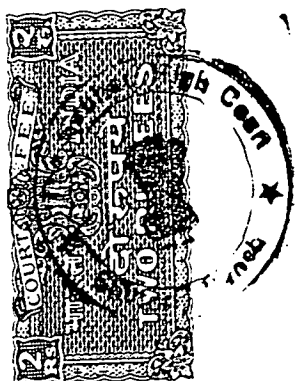
44

64

In my considered view, the case referred to above does not apply in the instant case, inasmuch as, the impugned order dated 8.12.2001 has been passed by the Tribunal comprising of two members, one of them being a retired High Court Judge and after taking care of every aspect of the matter, basing on the material facts and circumstances, the impugned order has been passed.

10. (1) Mr JL Sarkar assisted by Mr M Chanda, Advocate on the other hand, has vehemently opposed the arguments advanced by the learned CGSC. Their clear case is, that following the judgment dated 1.5.1985 of the Hon'ble Supreme Court in P Sarita & Ors v. Union of India, the Ministry of Finance, Govt. of India vide its OM No.F.No.5(13)-E.III/87 dated 11.9.1987 communicated the decision of the President of India, the relevant provision of which reads as follows :-

" The question of extension of the benefit of the draughtsman in other Ministries/Departments of the Govt.of India has been under consideration of the Government. President is now pleased to decide that Draughtsman as were in the pay scale of Rs.330-560 based on the recommendations of the third Central Pay Commission as referred to in para 1 above, may be given the scale of Rs.425-700 notionally from 1.1.1993 and actually from 1.9.1987."



Thereafter, the Government of India vide OM No.13(1)-ic/91 dated 19.10.1994 directed that the revised scales as indicated in OM dated 13.3.1984 may be extended to Draughtsman Grade I, II and III irrespective of their recruitment qualifications in all Government of India's Office subject to some length of service as specified therein. Accordingly, since the pay scale of Draughtsman Grade II in the CPWD stood revised from Rs.330-560 to Rs.425-700 and the said benefit was thereafter extended to the similarly placed Draughtsman of all other departments of the Government of India by OM dated

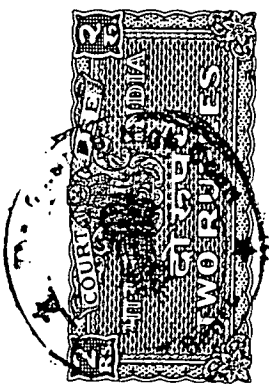
25
- 45 -
65
13.3.1984 and the subsequent OM dated 19.10.1994, the respondents are also entitled to the same benefit as they fall within the purview of OM dated 13.3.1984, OM dated 11.9.1987 and OM dated 19.10.1994 and having been satisfied that the qualification of the respondents are similar to that of Draughtsman Grade II in the CPWD, implemented the revised pay scale of Rs.425-700 in case of Draughtsman working in the Assam Rifles and granted the said scale of five Draughtsman, leaving aside the present respondents and the said anomalies thus brought into the notice of the authority vide letter dated 24.12.1998 quoted above.

The learned counsel therefore, argued that there is no illegality and infirmity in the impugned order dated 8.12.2001, more so, the appellants did not dispute the claim of the respondents at any point of time before the Tribunal, rather made the statement in their written statement filed before the Tribunal admitting the claim of the respondents and also of granting of higher revised scale (Rs.425-700) to five other similarly situated Draughtsman (i.e. the respondents) as granted to the Draughtsman Grade II of the CPWD and admitting that the non-granting of the higher scale to the respondents was an inadvertent one. The learned counsel therefore, vehemently opposed the stand taken by the petitioners herein, inasmuch as, once admitted the case of the respondents to be genuine, contradicting their own statements before this Court would not be proper.

11. (12) In support of his submission, the learned counsel Mr JL Sarkar had relied upon the following decisions :-

1) 1995 Suppl (3) SCC 528
Union of India

-vs-



26
46
P-10
65
Debashis Kar and Others.

2) Judgment and Order dated 31.7.99 passed by the Division Bench of Gauhati High Court in Civil Rule No. 4733/97;
The Secretary, Ministry of Science & Technology & Ors.

- Vs -

Central Administrative Tribunal and Others.

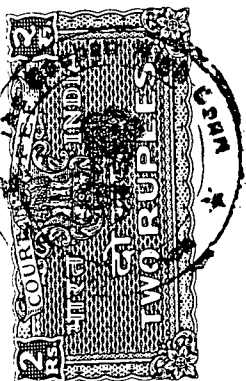
(13) In the first case, while upholding the Tribunal's decision, the Hon'ble Court at paragraph 16 and 17 held as follows :-

"16. Dealing with draughtsmen in the Army Base Workshops in the EME, the Principal Bench of the Tribunal has observed that in the EME for the post of draughtsman, the qualifications that are prescribed are "Matriculation or its equivalent with two years' Diploma in Draughtsmanship Mechanical or its equivalent". The Tribunal has referred to the Report of the Third Pay Commission wherein, while dealing with draughtsmen who were in the pay scale of Rs. 150-240(as per report of Second Pay Commission), it is stated:

(ii) for the next higher grade of Rs. 150-240 the requirement is generally a Diploma in Draughtsmanship or an equivalent qualification ~~or~~ Architecture (both of 2 years' duration after Matriculation)"

"17. The Tribunal has observed that Tracer in the CME could not be treated in any other manner but on a par with Grade II Draughtsman of CPWD, keeping in view their recruitment qualifications. The Tribunal held that the benefit of Office Memorandum dated 13.3.1984 had been rightly extended to Draughtsmen in EME and that ~~its~~ withdrawal was illogical and irrational. The learned counsel for the appellants has been unable to show that the said view of the Tribunal suffers from an infirmity which would justify interference by this Court."

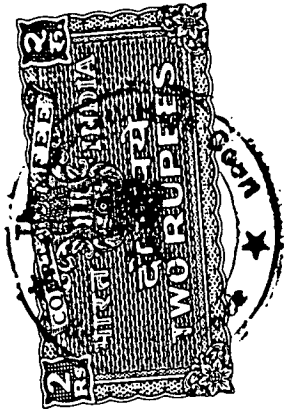
(14) In the second case, the Division Bench of the Gauhati High Court, while dismissing the writ petition, filed by the Union of India held, that the decision in Union of India -versus- Debashis Kar (supra) squarely answers



the submissions raised by the appellants and the decision of the Central Administrative Tribunal stands fully justified.

Relevant para 9 of the said judgment is reproduced below :-

" In view of the above we find no force in the submission of the appellants that the OM dated 19.10.1994 is not applicable to the draftsmen belonging to Survey of India as the waiver of recruitment qualification based on misconception. As stated above the above applicants are not required to possess the qualifications similar to those in the case of draftsmen in CPWD and as such the Office Memorandum dated 13.3.1984 is not applicable to them and apparently this was the reason as to why the requirement relating to the period of service was incorporated in the Office Memorandum dated 19.10.1994. The decision in Union of India versus Debashis Kar (supra) squarely answers the submissions raised by the appellants and the decision of the Central Administrative Tribunal stands fully justified."



14. In the result, there is no infirmity in the order passed by the learned Central Administrative Tribunal, Guwahati Bench, which warrants our interference. The Writ Petition is accordingly dismissed. Parties are to bear their own costs.

24- A. Hazarika
JUDGE

24- A. H. Sarkar
JUDGE

mdk

Certified To Be True Copy

Typed By.....
Read By.....
Compared By.....

19/4/05
Deputy Registrar
Guwahati High Court
Kachari Bazar

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Annexure-8

Petition(s) for Special Leave to Appeal (Civil)...../2005

CC 8424/2005

(From the judgement and order dated 03/04/2005 in WP No. 100/2002 of The
HIGH COURT OF GAUHATI)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

ANIL KUMAR & ORS.

Respondent(s)

(With IA.1 appin. for c/delay in filing SLP)

Date: 12/09/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner(s) Mr.B.Dutta, ASG
Ms. Indra Sawhney, Adv.
Ms. Sushma Suri, Adv.

For Respondent(s) Mr. Pravir Choudhary, Adv.
Ms. Babita Sant, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

In view of the admission made by the
petitioners before the High Court conceding the
respondents' claim, we do not entertain this
special leave petition. The special leave
petition is, accordingly, dismissed.

(Usha Bhardwaj) 19/9
P.S. To Registrar

(Madhu Saxena)
Court Master

49- MAHADESHALAYA ASSAM RIFLES
DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG

ORDER

Annexure-9

No. VI-A/2005/ACPI/07.

Dated 26 Sep 2005

1. In pursuance to Government of India, Ministry of personnel, Public Grievances and Pension (Department of Personnel and Training) Office Memorandum No 25032/1/97/EST(D) dated 09 Aug 1999, sanction is hereby accorded under Assured Career Progression Scheme for drawal of first and second financial upgradation to following staffs :-

First Assured Career Progression Group 'C' & 'D'

(i)	Shri Ratul Kar, overseer	-	5500-175-9000/-	wef 12 Nov 2002
(ii)	Shri N K Sharma, overseer	-	5500-175-9000/-	wef 15 Nov 2002
(iii)	Shri Anil Kumar D Draughtman Gd-II -	-	4500-125-7000/-	wef 24 Jun 2001
(iv)	Mr. Sanjay Lata, Draughtman	-	5000-150-8000/-	wef 09 Aug 1999
(v)	Shri K C Das, Draughtman	-	5000-125-8000/-	wef 09 Aug 1999
(vi)	Shri Jose Samuel, Draughtman	-	4500-125-7000/-	wef 10 Nov 2002
(vii)	Shri Alok Acharjee, Draughtman	-	5000-150-8000/-	wef 09 Aug 1999
(viii)	Md Zulfikar Ali, Peon	-	2610-60-3150-65-3450	wef 08-09-04
(ix)	Md Zillanur, Peon	-	2610-60-3150-65-3450	wef 08-09-04

Second Assured Career Progression

(i)	Shri Alok Acharjee, Draughtman-	5500-175-9000/-	wef 27 Sep 2004
-----	---------------------------------	-----------------	-----------------

(Ravinder Singh)
Major General
Addl Director General Assam Rifles

Distribution :-

1. The Additional Accountant General
(Central & Arunachal Pradesh)
Lechatoleto Building,
Shillong - 793003
2. The Accounts Officer,
Pay and Accounts Office, Assam Rifles
Ministry of Home Affairs,
Government of India,
P.O. Lalumkharah,
Shillong-793003

Internal

3. Establishment Branch (GR Section)
HQ DGAR, Shillong-11
4. Establishment Branch (Bill Section) (02 copies)
HQ DGAR, Shillong-1
5. Individual concerned - 02 copies
6. Office copy

draughtsman
HQ 25 Sector Assam Rifles
C/O 99 APO

V/Inexwle-10(senior) 70

To,

Directorate General Assam Rifles
(A Branch)
Shillong - 793011
(Through proper channel)

Sub:- REQUEST FOR UPGRADATION OF PAY SCALE

Ref:- Your letter No. A/1-A/2005 ACP/08 Dated 26 Sep (copy att)

Sir,

1. With due respect, I have the honour to state the following few lines for your favourable action please.
2. That sir, vide your letter under ref, my first ACP scale for Rs. 5000/- to 8000/- was sanctioned from 09 Aug 1999 and second ACP scale for Rs. 5500/- to 9000/- from 27 Sep 2004.
3. That sir, it is pertinent to point out that my 10 to 14 years junior draughtsmen Shri Anil Kumar D, S. Jose, Prakash Barua, D.K. Joshi and Kamari Devi have been granted the pay scale Rs. 5000/- to 8000/- from 01 Jan 1996 and later on granted one ACP which comes to the pay scale of Rs. 5500/- to 9000/-.
4. In view of the above, may I request your goodness to be kind enough to consider my case and sanction me the pay scale of Rs. 5000/- to 8000/- from 01 Jan 1996 as given to my juniors and two ACP scales for Rs. 5500 to 9000/- and Rs. 6500 to 10,000/- as per existing rule of ACP.
5. For this act of your kindness I shall remain ever grateful to you.

Yours faithfully

Dated 07 Mar 2006

(Alok Acharjee)

Application has been forwarded to HQ DGAR, Shillong, vide HQ 25 Sector AR (HQ Arunachal & Assam Range Assam Rifles) letter No. 25011/A-24/Est/2006/1276 dated 13 Mar 2006.

To : The Director General Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

(Through proper channel)•

PRAYER FOR REVISION OF PAY SCALE

Sir,

1. With due respect, I have the honour to state following few lines for your kind consideration and favourable orders please.
2. That Sir, I was appointed as a Draughtsman in Assam Rifles on 09 Aug 1985 in the Pay Scale Rs. 1200-30-1580-40-2040 which was revised after three years to the scale 1400-40-1800-50-2300 wef 01 Sep 1988 vide DGAR letter No. A/V-A/36-87/DM/30 dt 03 Feb 1989. On 01 Jan 1996 this was revised to the scale 4500-125-7000 as implementation of 5th Pay Commission.
3. Whereas following my juniors in the same cadre had been granted the scale of pay Rs. 1400-40-2300 from their appointment date and subsequently revised to the scale 5000-150-8000 on 01-01-96 :-

(a)	Anil Kumar D	-	DOE 1989
(b)	Jose Samuel	-	DOE 1989
(c)	Prakash Baruah	-	DOE 1991
(d)	Dinesh Joshi	-	DOE 1994
(e)	Kumari Devi	-	DOE 1994
4. Being the senior Draughtsman I am entitled to draw higher pay than my juniors. But still I am drawing lower pay than my juniors.
5. In view of above I request your kind honour to look into the matter and give necessary orders to clear this anomaly as well as to streamline the pay structure of Draughtsman in the force.
5. Thanking you in anticipation.

Yours faithfully,



295/Engr/Gen/2006/

52.


Dated : 1 Mar 2006

ENGR BRANCH

92 ✓

APPLICATION FOR REVISION OF PAY SCALE

An application received from Shri Kabal Chandra Das, Draughtsman is fwd herewith for your further necessary action please.


(CJ Rego)
Lt Col
SO 2 (Works)

Fwd to

A Branch

To,

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(A' Branch)
Shillong-793011

Sub : UPGRADATION OF PAY SCALE OF DRAUGHTSMAN (CIVIL)

Sir,

1. With due respect and humble submission I beg to lay down the following few lines for your kind consideration please.

2. That Sir, I was enrolled in Assam Rifles as a Draughtsman (Civil) on 11-Apr 1986 on implementation of 5th CPC I was granted the pay scale of Rs. 4500-7000/- wef 01 Jan 1996.


3. Sir I have come to know from reliable sources that my junior draughtsman (Civil) are drawing higher pay scale of Rs. 5000-8000/- with effect from 01 Jan 1996. 5th CPC consequent up on the judgment of Honble Supreme Court in order No. CC 8424/2005 dated 19 Aug 2005. Name of my juniors draughtsman are appended below :-

	<u>Date of Appt</u>
(a) Shri Anil Kumar	24-06-1989
(b) Shri Jose Samual	10-11-1990
(c) Shri Prakash Baruah	12-02-1993
(d) Shri Dinesh Kumar Joshi	11-05-1994
(e) Smt Kumari Devi	01-08-1994

4. In view of the above, I request your kind honour to consider my case for up gradation/stepping up of pay scale as per to my junior wef 01-01-1996. Considering the principle that junior should not be granted higher pay scale then their senior counterparts.

5. Anticipating an early action please.

Yours faithfully,


(Sanjoy Lala)
Draughtman (Civ)

Dated: 29-Dec-2005.

AV-A/86-87/Part/

25 Aug 2006

21 Sector,
23 Sector,
25 Sector
Assam Rifles
C/O 99 APO

UPGRADATION OF PAY SCALE: DRAUGHTSMAN

1. Reference your correspondence on the subject.
2. A case for up gradation of the pay scale of Rs 5000-8000/- at par with Shri Anil Kumar Draughtsman & 04 others was taken up with MHA.
3. The Ministry has expressed inability to sanction the higher pay scale to the remaining 04 Draughtsman of AR (incl Smt Shanta Das Chaudhary on deputation to N.F.Rly) since the higher pay scale to Shri Anil Kumar D and 04 others has been granted on specific order of the Court.
4. The effected Draughtsman may please be informed accordingly



(S S Saharan)
Lt Col
SO -1(A)
for DG Assam Rifles

Filed by the Re
through M.U. Ahmed,
2/7/06

Shri Alok Acharjee, & 3 Others

..... Applicant

Versus

Union of India & others

..... Respondents

AL.

In the matter of :-

AFFIDAVIT-IN-OPPOSITION

The humble Respondents beg to submit the reply as follows:-

1. That the answering respondents respectfully submit that in the Directorate General Assam Rifles, Civilian Draughtsman were existing on the Peace Establishment (PE) prior to introduction of Restructured Peace Establishment (RPE) 2003. As per the present Restructured Peace Establishment civil group 'C' non ministerial post is no further authorised. However these individuals will continue in service till they are wasted out.
2. Presently there are 9 (nine) Draughtsman serving in Assam Rifles as under :-

3rd Revision
11-86

S/ No	Name	Date of enrolment	Pay scale granted as on 01.01.96	Remarks
1.	Shri Alok Acharjee	27.09.80	4500-125-7000	✓
2.	Shri K C Das	09.08.85	4500-125-7000	
3.	Smt SD Choudhary	09.8.85	4500-125-7000	Presently on deputation to NE Rly
4.	Shri Sanjay Lala	11.04.86	4500-125-7000	
✓ 5.	Shri Anil Kumar D	24.06.89	4000-100-6000	} W 2 f 1996
✓ 6.	Shri Jose Samuel	10.11.90	4000-100-6000	
✓ 7.	Shri P Baruah	12.02.93	4000-100-6000	
✓ 8.	Shri Dinesh Kumar Joshi	11.05.94	4000-100-6000	
✓ 9.	Smt Kumari Devi	01.08.94	4000-100-6000	

3. Aggrieved by the fixation of pay based on the 5th Central Pay Commission's Recommendations, the following Draughtsman approached the learned Central Administrative Tribunal, Guwahati bench by filing Original Application No.10/2001 for appropriate fixing of the pay scale at 5000-8000/- :-

- (i) Shri Anil Kumar D
- (ii) Shri Jose Samuel
- (iii) Shri P Baruah
- (iv) Shri Dinesh Kumar Joshi
- (v) Smt Kumari Devi

The same was disposed on 08.10.2001 with directions to provide the benefit of the revised scale of pay to the aforesaid applicants.

Copy of CAT Order dated 08.10.2001 in Original Application No. 10/2001 is annexed herewith and marked as **Annexure - I**

4. Aggrieved Union of India preferred an appeal by filing Writ Petition (Civil) No.100/2002 in the division bench of Guwahati High Court, Shillong bench which was dismissed vide order dated 08 April 2005.

Copy of Court Order dated 08.4.2005 in WP(C) 100/2002 is attached herewith and marked as **Annexure II**

5. Accordingly Union of India preferred a Special Leave Petition (SLP) (C) 8424/2005 against the said court order which was also dismissed vide Apex court order dated 19.09.2005.

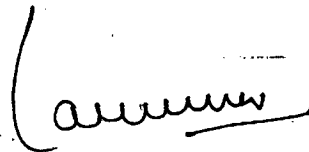
Copy of Apex Court Order dated 19.09.2005 in SLP (C) 8424/2005 is attached herewith and marked as **Annexure - III**

6. That the aforestated five Applicants in deference to the Hon'ble Court order were placed in the pay scale 5000-8000/- The upgraded pay scales have been granted to these applicants in order to honour the court judgement, however, they are not entitled for the same on merit.
7. The benefit of upgradation of the pay scale to present applicants, after due examination, could not be extended since the aforesaid judgement was in personun and not in rem, as advised.
8. Since the applicant have slept over their rights the subject application suffers from inexplicable delay and laches. The application is solely liable to be dismissed on this ground.
9. In view of the foregoing the Hon'ble Tribunal may be pleased to dismiss the instant Original Application.

VERIFICATION

I, Lt Col S Salooja, s/o Gp Capt SC Salooja aged about 39 years, r/o Laitmukrah, East Khasi Hills District, Shillong working in Law Branch HQ DGAR and I have been authorised to file written statement on behalf of respondents do hereby verify that the statement made in paras 1, 2, 6 & 7 are true to my knowledge and those of the paras 3, 4 & 5 being matters of record are true to my information derived there from which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 2ndth day of July 2007 at Guwahati.



Lt Col
ले. कर्नल

Signature
मुख्य विधि अधिकारी

Shillong-793011

महानिदेशालय असम राईफल्स, शिल्लोंग-793011

Original Application No. 10 of 2001

Date of Order: This the 8th Day of October 2001

THE HON'BLE MR. JUSTICE D. P. CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER

1. Shri Anil Kumar D.
Son of Shri D. Damodaran
Office of the DIG, Draftsman,
Assam Rifles, Hqrs, Nagaland
Range South
C/O. 99 APO
 2. Sri Jose Samuel
Son of Shri P. Y. Samuel Kutty
Draftsman, O/O the Engineer Branch
Directorate General of Assam Rifles,
Shillong- 793001
 3. Sri Prakash Barua
Son of Shri Binoy Shusan Barua
Draftsman
Office of the DIG, Assam Rifles,
Hqrs. Mizoram Range
C/O. 99 APO -
 4. Sri Dinesh Kumar Joshi
Son of Shri Jeevan Chandra Joshi
Draftsman
Engineer Branch, A.R.T.C. and School
Dimapur - 797115
Nagaland
 5. Smt. Kumari Devi
Draftsman
Headquarter, Manipur Range, ... Applicants
C/O. 99 APO
- By Advocate Mr. M. Chanda, Mr. N. D. Goswami,
Mr. G. N. Chankraborty

-Vs-

1. Union of India
Through the Secretary to the
Government of India, Ministry of Home
Affairs, New Delhi
2. The Secretary to the Government of India
Ministry of Finance
New Delhi
3. The Director General
Assam Rifles,
Arbuthnath Road
Shillong.
4. The Deputy Director General
Assam Rifles, Nagaland Range
South, C/O 99 APO
5. The Deputy Director General
Assam Rifles, Mizoram Range
Hqrs., C/O 99 APO
6. Deputy Director General
Assam Rifles,

contd/-

2
Hqrs. Manipur Range
C/O 99 APO

Respondent

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

O_R_D_E_R

CHONDHURY J(VC):

(The issue relates to grant of Higher Revised Pay Scale in terms of the 3rd and 4th Central Pay Commission recommendation read with Office Memorandum dated 13.3.1994 issued by the Government of India, Ministry of Finance in respect of five applicants. These five applicants are working as Draftsman in the Office of the Director General, Assam Rifles and posted in different places in the N.E. Region. The cause of action and grievance are common. Leave was sought for in this application to be considered jointly. Accordingly leave was granted under provision of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

The applicants are serving in the cadre of Draftsman in the scale of Rs. 1200-2040 (revised : 4000-6000). The applicants possessed similar educational qualification like those Draftsman Grade II of CPWD. All the applicants are appointed in between the June 1989 to August 1994 and all the applicants are matriculate having 2 years ITI Diploma in Draftsmanship and also possessed 2 1/2 years experience at the time of initial recruitment. They are Civilian Central Government Employees and serving under DGAR. The applicants were placed inadvertently in the scale of Rs. 1200-2040, corresponding to pre-revised scale of Rs. 350 - 560 given by the 3rd Pay Commission instead of Rs. 1400-2300/- pre-revised scale of Rs. 425 - 700, in terms of O.M. dated 13.3.84. Out of ten Draftsman out

contd/-3

(122)

Five Draftsmen were in drawing higher revised pay scale of Rs. 1400-2300. The said anomaly was brought to the notice of the concerned Ministry by the DGAR Assam Rifles vide letter No. A/V-A/86-87/O.M./98305 dated 24.12.98 (Annexure 7). The paragraph 5 of the said letter, as being relevant is reproduced below :-

"Since the Draftsmen of Assam Rifles are in the same scale of pay as applicable to Draftsmen Grade II in the CPWD and all the Draftsmen were appointed before the issue of Ministry of Finance (Department of Expenditure) O.M. No. F.5(59)-E.III dated 13 March 84 :-

- (a) Five Draftsmen mentioned in Appendix B to this letter may please be granted revised scale of pay Rs. 1400 - 2300 (4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84.
- (b) Three Draftsmen mentioned in Appendix A to this letter at Srl. 3, 4, and 5 have been granted revised scale of Rs. 1400-2300 (4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar. 84.
- (c) The Draftsmen of Assam Rifles in the pre-revised scale of Rs. 1400- 2300 (4th CPC) have been granted the revised scale of Rs. 4500-7000 (5th CPC) as applicable to all General categories of Central Govt. employees vide part of First Schedule of CCS (RP) Rules 1997. The Govt. of India vide serial x(a) of part B of First Schedule of CCS(RP) Rules 1997 has sanctioned revised scale of Rs. 5000-8000 to the Draftsmen Grade II who were in the pay scale of Rs. 1400-2300 (4th CPC). However, in absence of any specific sanction of the Ministry, this Department could not allow the Draftsmen who were in the pre-revised pay scale of Rs. 1400-2300, the justified scale of Rs. 5000-8000/- (5th CPC) as per serial X(a) of Part B of First Schedule of CCS(RP) Rule 1997. It is also stated that the upgraded/ revised scale of Rs. 5000-8000/- has already been made applicable to the Draftsmen of Grade II of CPWD with effect from 01.01.96 vide Govt. of India, Directorate General of Works CPWD O.M No. 23/14/97-EC-IX dated 15 Oct 97 (Copy enclosed). The Draftsmen of Assam Rifles may therefore, be granted the revised scale of Rs. 5000-8000/- (5th CPC) corresponding to the scale of Rs. 1400-2300 (4th CPC) as per serial X(a) of Part B of First Schedule of CCS(RP) Rules 1997 with effect from 01.1.1996 in place of Rs. 4500-7000 (5th CPC)."

contd/-

(The applicant moved the authority by their representation demanding the Justice. Failing to get the appropriate remedy the applicant approach this Tribunal by way of this O.A. The respondents submitted the written statement and did not dispute the claim of the applicant. In the written statement the respondents also stated that a comprehensive proposal was tendered before the concerned Ministry and the said recommendation is still under consideration in Ministerial level and the matter is lying with the Ministry.) In the written statement the respondents also admitted the claim of the applicant and higher revised scale as granted to the similarly situated Draftsman of CPWD.

We have heard Mr.H.Chanda learned counsel appearing on behalf of the applicant and Mr.B.C.Pathak, Addl.C.G.S.C.

for the respondents. In view of the admitted position we do not find any lawful justification in not granting the benefit of the revised pay scale indicated in the office memorandum dated 13.3.1998. Accordingly, the respondents are directed to provide the benefit of the revised scale of pay to the five applicants as indicated in the communication dated 24.12.98 (Annexure 7) with effect from 1.1.1996 in terms of office Memorandum No.23/14/97-EC-IX dated 16.10.1997, with arrear monetary benefits. The respondents are directed to complete the exercise within a period of four months from the date of receipt of this order.

Application is allowed. There shall however, be no order as to costs.

TRUE COPY

RECEIVED

Sd/VICE CHAIRMAN

Sd/MEMBER (A)

RECEIVED

General Admn. Secy.
General Admn. Secy.
General Admn. Secy.
General Admn. Secy.
General Admn. Secy.

23/10/2001

11-7-08 | 11-7-08 | 13-7-08 | 13-7-08 | 13-7-08

THE GAUHATI HIGH COURT
(HIGH COURT OF
ASSAM:NAGALAND:MEGHALAYA:MANIPUR:
TRIPURA:MIZORAM & ARUNACHAL PRADESH)
SHILLONG BENCH

WP(C) No.100(SH)2002

1. Union of India
Represented by the Secretary
Govt.of India,Ministry of Home Affairs
North Block, New Delhi.

2. The Secretary to the Govt.of India
Ministry of Finance
New Delhi.

3. The Director General
Assam Rifles, Shillong.

4. The Deputy Director General
Assam Rifles,Nagaland Range South
C/o 99 APO

5. The Deputy Director General
Assam Rifles
Mizoram Range, C/o 99 APO

6. The Deputy Director General
Assam Rifles, Manipur Range
C/o 99 APO

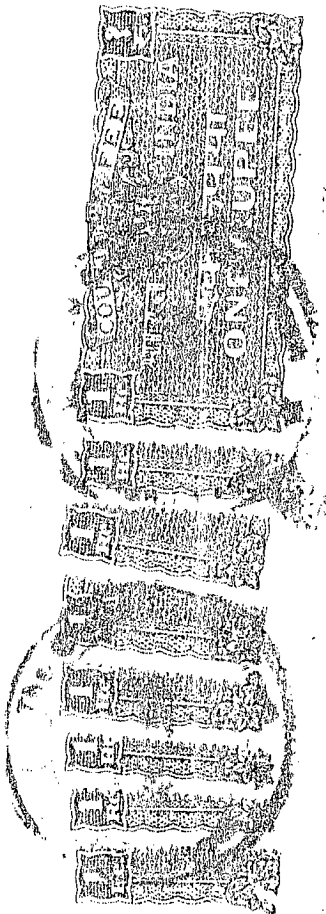
Petitioner

- Versus -

1. Sri Anil Kumar Das
Draftsman, Son of Sri D Damodran
HQ Nagaland Range(South)
Assam Rifles, C/o 99 APO

2. Sri Jose Samuel
Draftsman, S/o Shri PY Samuel Kutty
DGAR, Shillong.

3. Sri Prakash Barua
Draftsman, S/o Shri Binoy Bhusan Barua
HQ Mizoram Range
Assam Rifles, C/o 99 APO



4. Shri Dinesh Kumar Joshi
Draftsman
S/o Shri Jeevan Chandra Joshi
Assam Rifles Training Centre &
School, Dimapur (Nagaland)

5. Smti Kumari Dev
Draftsman
HQ Manipur Range, Assam Rifles
C/o 99 APO.

Respondents

BEFORE
THE HON'BLE MR JUSTICE AH SAIKIA
THE HON'BLE MRS JUSTICE A HAZARIKA

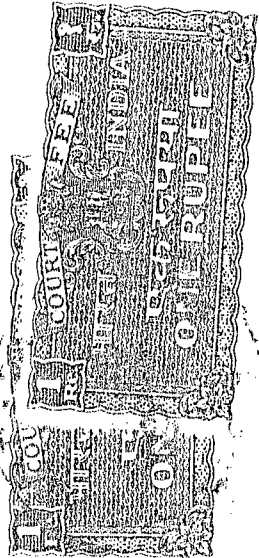
For the Petitioners : Mr SC Shyam, CGSC
For the Respondents : Mr JL Sarkar
Mr M Chanda, Advocates
Date of Hearing : 8.4.2005
Date of Judgment : 8.4.2005

JUDGMENT & ORDER (ORAL)

Smti Hazarika, J :

The petitioners being aggrieved with the judgment and order dated 8.10.2001 passed by the learned Central Administrative Tribunal, Guwahati Bench, (hereinafter referred to as CAT), passed in Original Application No.10/2001 has preferred the instant writ petition, praying for quashing the impugned order dated 8.10.2001.

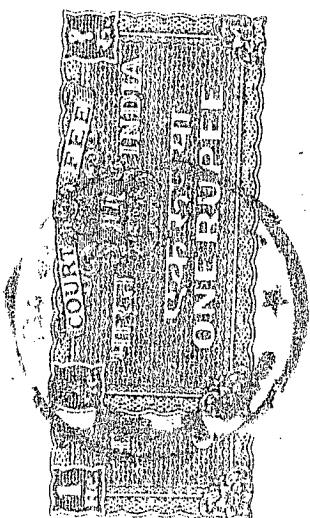
2. By the aforesaid impugned order, the petitioners have been directed to provide the benefit of the revised scale of pay to the respondents within four months from the date of receipt of the order.



3. The respondents numbering five are serving in the cadre of Draftsmen under the Director General Assam Rifles (DGAR in short) in the scale of pay of Rs.1200-2040/- (revised Rs.4000-6000/-) and posted in different areas of North Eastern Region. They possess similar educational qualification like those draughtsmen serving in the Central Public Works Department (CPWD in short). The respondents, being government employees serving under the DGAR, are entitled to the benefits and facilities issued by the Government of India from time to time for Central Government civilian employees.

4. The respondents further contention is, that on the date of their initial appointment, they possessed similar recruitment qualification like those draftsmen Gr-II of CPWD. All the respondents were appointed in between June 1989 to August 1994 and all of them are Matriculate having 2(two) years ITI Diploma in Draughtsmanship and also possessed 2/3 years experience at the time of initial appointment. But, the respondents were placed inadvertently in the scale of pay of Rs.1200-2040/- (4th Pay Commission -- CPC in short), corresponding to pre-revised scale of pay of Rs.350-560/- given by the 3rd Pay Commission instead of Rs.1400-2300/- (4th CPC), corresponding to pay scale of Rs.425-700/- (3rd CPC). Out of ten Draughtsmen, five were drawing higher revised pay scale of Rs.1400-2300 as per order dated 8.11.1985 issued by the Director General Assam Rifles, whereas, the benefit of revised pay scale issued under O.M dated 13.3.84 was not extended to the respondents having similar recruitment qualification with those five draughtsmen.

5. The Director General Assam Rifles brought the said anomaly to the notice of the Ministry of Home Affairs vide letter dated 24.12.98



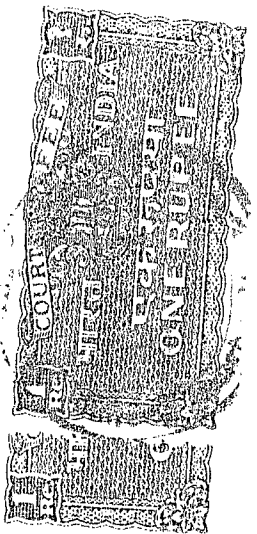
highlighting the case of the respondents. The Director General Assam Rifles requested the Ministry for taking an early decision. Paragraphs 4 and 5 of the letter dated 24.12.98 being relevant, are reproduced below :-

"4. The five Draughtsman who had been appointed between Jun 1989 to Aug 1994 were inadvertently allowed pay scale of Rs.1200-2040(4th CPC) corresponding to pay scale of Rs.330-560 (3rd CPC) instead of Rs.1400-2300 (4th CPC) corresponding to pay scale of Rs.425-700(3rd CPC). The details of pay scales being drawn by these five Draughtsman are given at Appendix B to this letter.

5. Since the Draughtsman of Assam Rifles are in the same scale of pay as applicable to Draughtsman Grade II in the CPWD and all the Draughtsman were appointed before the issue of Ministry of Finance (Department of expenditure) O.M. No.13(1)-IC/91 dated 19 Oct 94 (copy enclosed), the Ministry is requested to consider and approved the following on the basis of Ministry of Finance O.M. No. F.5(59)-E.III/82 dated 13 Mar 84 :-

- a) Five Draughtsman mentioned in Appendix B to this letter may please be granted revised scale of pay of Rs.1400-2300(4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84.
- b) Three Draughtsman mentioned in Appendix A to this letter at sl.3,4 and 5 have been granted revised scale of Rs.1400-2300(4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar 84.
- c) The Draughtsman of Assam Rifles in the pre-revised scale of Rs.1400-2300 (4th CPC) have been granted the revised scale of Rs.4500-7000 (5th CPC) as applicable to all Central categories of central Govt. employees vide Part A of First Schedule of CCS(RP) Rules 1997. The Govt. of India vide serial x(a) of Part B of First Schedule of CCS (RP) Rules 1997 has sanctioned revised scale of Rs.5000-8000 to the Draughtsman Grade II who were in the pay scale of Rs.1400-2300, the justified scale of Rs.5000-8000/(5th CPC) as per serial x(a) of Part B of First Schedule of CCS(RP) Rule 1997. It is also stated that the upgraded/revised scale of Rs.5000-8000 has already been made applicable to the Draughtsman Grade II of CPWD with effect from 01.1.1996 vide Govt.of India, Director General of Works, CPWD O.M No.23/14/97-EC-IX dated 16 Oct 97 (copy enclosed). The Draughtsman of Assam Rifles may therefore, be granted the revised scale of Rs.5000-8000/(5th CPC) corresponding to the scale of Rs.1400-2300 (4th CPC) as per serial x(a) of Part B of First Schedule of CCS(RP) Rules 1997 with effect from 01.1.1996 in place of Rs.4500-7000(5th CPC)."

6. Failing to get justice from the authorities, the respondents approached the learned Central Administrative Tribunal ventilating their grievances. The learned Central Administrative Tribunal vide the impugned order dated 8.10.2001 allowed the prayer of the respondents, directing the



respondents/applicants as indicated in the communication dated 24.12.98 with effect from 1.1.1996 in terms of Office Memorandum No.23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits. It further directed to complete the exercise within a period of four months from the date of receipt of the order.

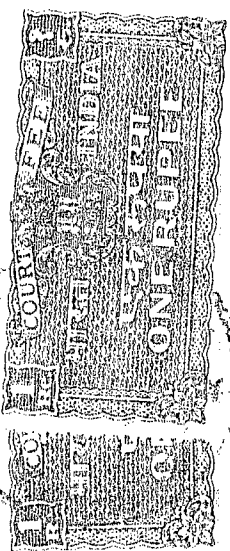
7. Challenging the legality and validity of the aforesaid order dated 8.10.2001, the instant petition has been preferred by the petitioner, Union of India.

8. We have heard Mr SC Shyam, learned Central Government Standing Counsel appearing on behalf of the petitioners, Mr JL Sarkar and Mr M Chanda, learned counsel appearing on behalf of the respondents/applicants.

9. Mr Shyam, learned CGSC submits, that the learned Tribunal committed a serious error of law apparent on the face of the records by allowing the claim of the respondents on the grounds inter-alia as mentioned below :-

i) Prescribed qualifications even for Draughtsmen Grade-III in CPWD are higher than those in the Assam Rifles. But, inspite of this position, comparison has been sought to be made with the next higher grade of Draughtsmen Grade II in the pay scale of Rs.425-700 (pre-revised) Rs.5000-8000/-

ii) On account of the provision and dissimilarities in statutory recruitment rules of Draughtsman in Assam Rifles viz-a vis Draughtsman Grade II and Draughtsman Grade III in CPWD, both grades requiring better qualifications, the actual qualification prescribed in the respective recruitment

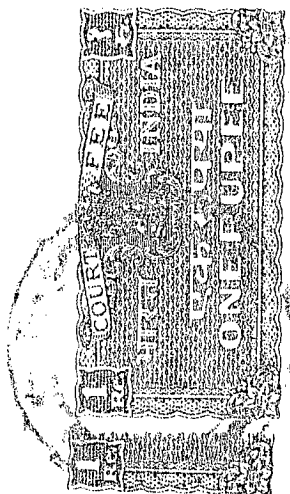


rules and not that possessed by separate individuals are relevant for according scale of pay to the post.

iii) O.M. No.5(59)/E.III/82 dated 13.3.1984 and its subsequent OMs were not promotion or career progression schemes. These instructions have been issued to bring about uniformity in the designations and pay scales of Draughtsmen in the various left out Central Government Departments. In Assam Rifles, the recruitments rules prescribed less qualification as compared to Draughtsman Grade II in CPWD. The respondents, having already been accorded the similar scale of pay of Rs.330-560 (pre-revised)/Rs.1200-2040 (pre-revised)/Rs.4000-6000(revised), no upgradation of pay scale is, therefore, called for and the provision of O.M dated 13.3.1984 do not apply to the Draughtsmen of Assam Rifles.

iv) Draughtsmen of Assam Rifles do not satisfy the essential requirement of being in the pre-revised scale of Rs.205-280, they are not similarly placed with those Draughtsmen covered by the Supreme Court order and OM dated 11.9.1987 and the benefits thereof is therefore not available to the respondents.

v) Prescribed qualification as per the statutory recruitment rules of Draftsmen in Assam Rifles is not higher than the qualification recommended by the 5th CPC and the scale of pay already conform to the pay scale of Rs.4000-6000, which is applicable to Draughtsman Grade III of CPWD, the question of upgradation of scale of pay of the Draughtsmen in Assam Rifles does not arise.



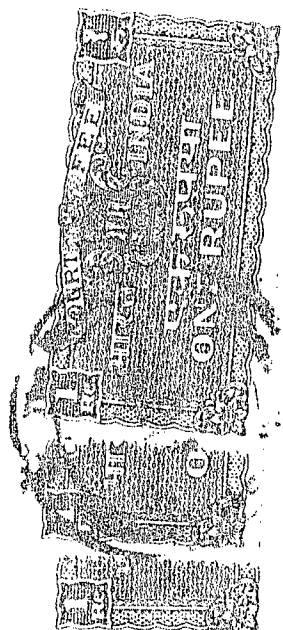
vi) Upgradation of pay of scales of the six Draughtsmen of Assam Rifles was done erroneously without express approval of Ministry of Finance and the same is being reviewed.

vii) Scale of pay of Draughtsmen in Assam Rifles have been appropriately sanctioned as Rs. 330-560(3rd CPC pre-revised)/ Rs. 1200-2040 (4th CPC pre-revised)/ Rs. 4000-6000 (5th CPC revised) based on recommendations of expert bodies like successive pay commission and as such the same should not have been interfered with by the learned Tribunal.

10. In support of his argument, the learned CGSC has placed reliance upon the case reported in 1997 SCC (L&S) 838, Union of India and Another-v-PV Hariharan and Another.

We have carefully perused the same. The Hon'ble Supreme Court, in the said case has held in paragraph 5 as follows :-

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realize that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay sales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairmen of the State Administrative Tribunals shall consider issuing appropriate instructions in the matter."

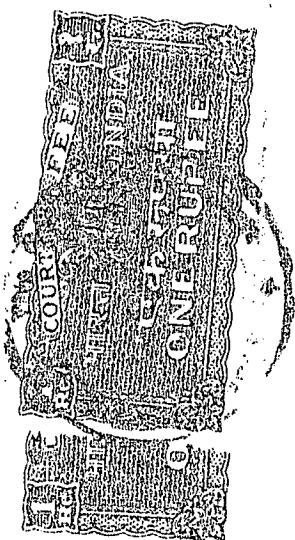


In ^{our} considered view, the case referred to above does not apply in the instant case, inasmuch as, the impugned order dated 8.12.2001 has been passed by the Tribunal comprising of two members, one of them being a retired High Court Judge and after taking care of every aspect of the matter, basing on the material facts and circumstances, the impugned order has been passed.

10. Mr JL Sarkar assisted by Mr M Chanda, Advocate on the other hand, has vehemently opposed the arguments advanced by the learned CGSC. Their clear case is, that following the judgment dated 1.5.1985 of the Hon'ble Supreme Court in P Sarita & Ors v. Union of India, the Ministry of Finance, Govt. of India vide its OM No.F.No.5(13)-E.III/87 dated 11.9.1987 communicated the decision of the President of India, the relevant provision of which reads as follows :-

" The question of extension of the benefit of the draughtsman in other Ministries/Departments of the Govt.of India has been under consideration of the Government. President is now pleased to decide that Draughtsman as were in the pay scale of Rs.330-560 based on the recommendations of the third Central Pay Commission as referred to in para 1 above, may be given the scale of Rs.425-700 notionally from 1.1.1993 and actually from 1.9.1987."

Thereafter, the Government of India vide OM No.13(1)-ic/91 dated 19.10.1994 directed that the revised scales as indicated in OM dated 13.3.1984 may be extended to Draughtsman Grade I, II and III irrespective of their recruitment qualifications in all Government of India's Office subject to some length of service as specified therein. Accordingly, since the pay scale of Draughtsman Grade II in the CPWD stood revised from Rs.330-560 to Rs.425-700 and the said benefit was thereafter extended to the similarly placed Draughtsman of all other departments of the Government of India by OM dated



140
90
- 16 -

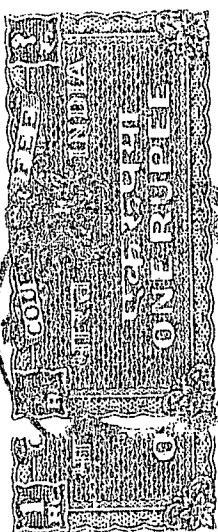
13.3.1984 and the subsequent OM dated 19.10.1994, the respondents are also entitled to the same benefit as they fall within the purview of OM dated 13.3.1984, OM dated 11.9.1987 and OM dated 19.10.1994 and having been satisfied that the qualification of the respondents are similar to that of Draughtsman Grade II in the CPWD, implemented the revised pay scale of Rs.425-700 in case of Draughtsman working in the Assam Rifles and granted the said scale of five Draughtsman, leaving aside the present respondents and the said anomalies thus brought into the notice of the authority vide letter dated 24.12.1998 quoted above.

The learned counsel therefore, argued that there is no illegality and infirmity in the impugned order dated 8.12.2001, more so, the appellants did not dispute the claim of the respondents at any point of time before the Tribunal, rather made the statement in their written statement filed before the Tribunal admitting the claim of the respondents and also of granting of higher revised scale (Rs.425-700) to five other similarly situated Draughtsman (i.e. the respondents) as granted to the Draughtsman Grade II of the CPWD and admitting that the non-granting of the higher scale to the respondents was an inadvertent one. The learned counsel therefore, vehemently opposed the stand taken by the petitioners herein, inasmuch as, once admitted the case of the respondents to be genuine, contradicting their own statements before this Court would not be proper.

12. In support of his submission, the learned counsel Mr J.L. Sarkar had relied upon the following decisions :-

1) 1995 Suppl (3) SCC 528
Union of India

-VS-



135
a/

10 -17-

Debashis Kar and Others.

2) Judgment and Order dated 31.7.99 passed by the Division Bench of Gauhati High Court in Civil Rule No. 4733/97;

The Secretary, Ministry of Science & Technology & Ors.

- Vs -

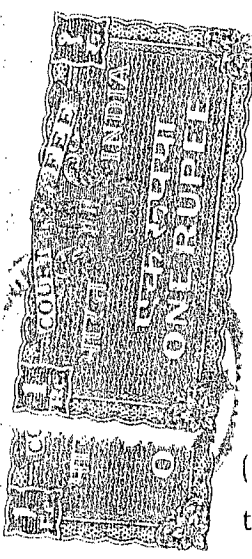
Central Administrative Tribunal and Others.

(13) In the first case, while upholding the Tribunal's decision, the Hon'ble Court at paragraph 16 and 17 held as follows :-

"16. Dealing with draughtsmen in the Army Base Workshops in the EME, the Principal Bench of the Tribunal has observed that in the EME for the post of draughtsman, the qualifications that are prescribed are "Matriculation or its equivalent with two years' Diploma in Draughtsmanship Mechanical or its equivalent". The Tribunal has referred to the Report of the Third Pay Commission wherein, while dealing with draughtsmen who were in the pay scale of Rs. 150-240(as per report of Second Pay Commission), it is stated:

(ii) for the next higher grade of Rs. 150-240 the requirement is generally a Diploma in Draughtsmanship or an equivalent qualification & Architecture (both of 2 years' duration after Matriculation)"

"17. The Tribunal has observed that Tracer in the CME could not be treated in any other manner but on a par with Grade II Draughtsman of CPWD, keeping in view their recruitment qualifications. The Tribunal held that the benefit of Office Memorandum dated 13.3.1984 had been rightly extended to Draughtsmen in EME and that its withdrawal was illogical and irrational. The learned counsel for the appellants has been unable to show that the said view of the Tribunal suffers from an infirmity which would justify interference by this Court."



(14) In the second case, the Division Bench of the Gauhati High Court, while dismissing the writ petition, filed by the Union of India held, that the decision in Union of India -versus- Debashis Kar (supra) squarely answers

-12-

92

the submissions raised by the appellants and the decision of the Central Administrative Tribunal stands fully justified.

Relevant para 9 of the said judgment is reproduced below :-

" In view of the above we find no force in the submission of the appellants that the OM dated 19.10.1994 is not applicable to the draftsmen belonging to Survey of India as the waiver of recruitment qualification based on misconception. As stated above the above applicants are not required to possess the qualifications similar to those in the case of draftsmen in CPWD and as such the Office Memorandum dated 13.3.1984 is not applicable to them and apparently this was the reason as to why the requirement relating to the period of service was incorporated in the Office Memorandum dated 19.10.1994. The decision in Union of India versus Debashis Kar (supra) squarely answers the submissions raised by the appellants and the decision of the Central Administrative Tribunal stands fully justified."

14. In the result, there is no infirmity in the order passed by the learned Central Administrative Tribunal, Guwahati Bench, which warrants our interference. The Writ Petition is accordingly dismissed. Parties are to bear their own costs.

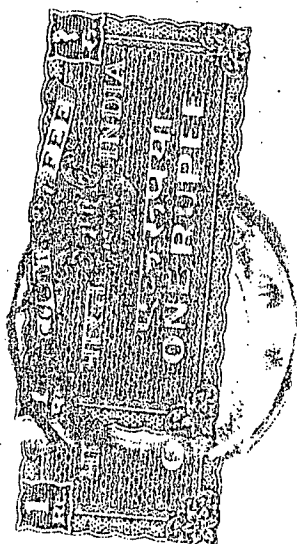
B. P. Pant
JUDGE

B. P. Pant
JUDGE

mdk

Copy of Judgment
Read by
B. P. Pant
JUDGE

19/10/94



ITEM NO.27

COURT NO.2

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2005

CC 8424/2005

(From the judgement and order dated 08/04/2005 in WP No. 100/2002 of The
HIGH COURT OF GAUHATI)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

ANIL KUMAR & ORS.

Respondent(s)

(With IA.1 appln. for c/delay in filing SLP)

Date: 19/09/2005 This Petition was called on for hearing today.

. COBAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner(s) Mr. B. Dutta, ASG
Ms. Indra Sawhney, Adv.
Ms. Sushma Suri, Adv.

For Respondent(s) Mr. Pravir Choudhary, Adv.
Ms. Babita Sant, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

In view of the admission made by the
petitioners before the High Court conceding the
respondents' claim, we do not entertain this
special leave petition. The special leave
petition is, accordingly, dismissed.

(Usha Bhardwaj) 19/9
P.S. To Registrar

(Madhu Saxena)
Court Master