

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
ORDERSHEET

22

81

1. ORIGINAL APPLICATION No : ----- / 2009
  2. Transfer Application No : ----- / 2009 in O.A. No. -----
  3. Misc. Petition No : ----- / 2009 in O.A. No. -----
  4. Contempt Petition No : ----- / 2009 in O.A. No. -----
  5. Review Application No : 12 / 2009 in O.A. No. 147/2006
  6. Execution Petition No : ----- / 2009 in O.A. No. -----
- Applicant (S) : Sri Monoj Kumar Mongis & ors.  
Sri G.K. Pillai & ors.
- Respondent (S) : -----
- Advocate for the : Mr. S. Dutta  
{Applicant (S)} Ms. U. Dutta
- Advocate for the : -----  
{Respondent (S)}

Notes of the Registry

Date

Order of the Tribunal

15.12.09

17.12.2009

This Contempt Petition has been filed by the applicants under sec. 17 of the Administrative Tribunal Act 1985 for willful disobedience and non-compliance of the order dtd 29.5.2009 passed by this Hon'ble Tribunal in OA-No. 147/2006 and with a prayer for initiating a contempt proceeding against the contemnors.  
Laid before the Hon'ble Court for favour of orders.

Alleging willful disobedience of the direction contained in order dated 29.5.09 in O.A. 147/06 present C.P. has been preferred. Prima facie contempt is made out.

Issue notice to Respondents No.3 & 4. Personal presence is dispensed with for the time being.

List on 3.2.2010.

(Madan Kr. Chaturvedi)  
Member (A)

(Mukesh Kr. Gupta)  
Member (J)

/pg/

03.02.2010

Mrs. M. Das, learned Sr. C.G.S.C. appearing for Respondent No.4 seeks and allowed three weeks time to report compliance of the order dated 29.05.2009 in O.A. 147/2006.

List on 25.02.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Section Officer (S).  
15/12/09  
HS

K Das

Issue notice to Respondent Nos. 3 & 4 urgently.

11/12/09  
Secy

/bb/

C.P. 12/2009 (O.A. 147/2006)

25.02.2010

Present Contempt Petition has been filed alleging willful disobedience of the direction contained vide order dated 29.05.2009 in O.A. 147/2006, M.K. Mongia & Others vs. Union of India & Others.

Mrs. M. Das, learned Sr. C.G.S.C. appearing for the Respondents has produced a copy of the order dated 10.02.2010 passed in M.C. No. 4(SH) of 2010 and W.P.(C) No. 1(SH) of 2010 preferred against the order dated 29.05.2009 passed in said O.A., whereby operation of the said judgment and order has been stayed. Said order is taken on record.

In this view of the matter, present C.P. does not survive. Accordingly, same is disposed of with observation that Applicant would be at liberty to revive the said proceedings, if any, on disposal of the said writ petition/variation of the aforesaid order.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Copies of notices along with order dated 17/12/09 send to D/Sec. for issuing to the R-3 and 4 by Regd. A/D post.

D/No. - 12959 &  
129580

22/1/09. Dt. 22-1-09

Notice duly served on R-No. 4.

15/01/09

① Service report

in R-3 and R-4

R-3 No. 1 to 3 and R-4 No. 1 to 3

10.02.2010 to 29.05.2009

29.05.2009

29.2.2010

The order of 10.2.2010 passed

in NP(C) No. 1(SH) 2010

by the Hon'ble High Court

Shillong Bench against

the order of 29.05.2009

in O.A. No. 147/06 may

readily be seen at

Flap A.

#23/2/2010

No w/s filed.

24.2.2010

No Compliance Report filed.

R-3

For Mrs. M. Das

Sr. C.G.S.C.

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IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,  
MANIPUR AND TRIPURA)

SHILLONG BENCH  
CIVIL APPELLATE SIDE

Appeal from X P C

No

1878/10

of 2010

Civil Rule

Memorandum of Appeal

Appellant

Petitioner

Furnish a copy

Shri Manoj Kumar Chandra

Versus

Respondent

Opposite Party

Appellant Mr. S.C. Sharma

For CG

Respondent Mr. K. Bhaskaralingam

For Opposite Party

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
11	22	33	44

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B E F O R E  
THE HON'BLE MR JUSTICE T VAIPHEI  
THE HON'BLE MR JUSTICE ASOK POTSANGBAM

WP(C) NO.1(SH)2010

10.2.2010

Heard Mr SC Shyam, the learned CGC appearing for the writ petitioners. Also heard Mr R Jha, the learned counsel for the respondent No.1.

Let a Rule Issue calling upon the respondents to show cause as to why a writ should not be issued as prayed for; or why such further and other orders should not be passed as this Court may deem fit and proper.

The Rule is made returnable within four weeks.

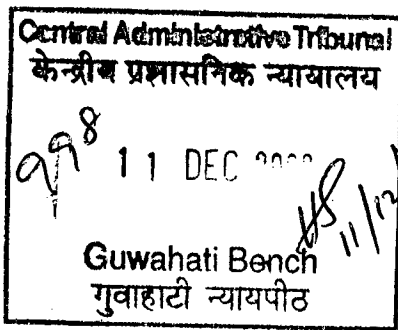
The petitioners will take steps in respect of the remaining respondents by Registered Post with AD card within 48 hours.

  
JUDGE

  
JUDGE

mdk

TRUE COPY  
  
Court Master  
Gauhati High Court  
Shillong Bench



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: AT GUWAHATI

Filed By: -  
The Petitioners

Through: -

Sarjit Datta

(Sarjit Datta)  
Advocate

10.12.2009

Mancy Mongia

CONTEMPT PETITION NO. 12 / 2009

[Arising out of Original Application No. 147 of 2006]

In the matter of: -

Sri Monoj Kumar Mongia & others

... Petitioners

-Versus-

Sri G. K. Pillai & others

... Contemnors

-AND-

In the matter of: -

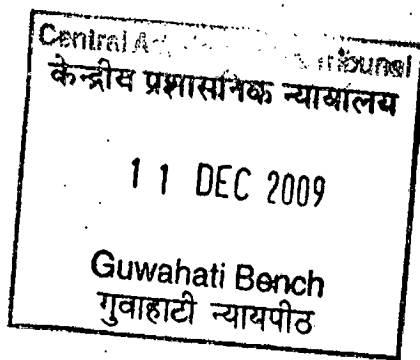
An application under Section 17 of the Administrative Tribunals Act 1985 praying for initiation of a Contempt Proceeding for non-compliance of the Order dated 29.05.2009 passed in OA No. 147/2006,

-AND-

In the matter of: -

Willful disobedience and non-compliance of the Order dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. NO. 147/2006 directing to extend the benefit of the pay scale of Rs. 4500-125-7000 to the petitioners with effect from 01.01.1996 (or, from the date of their appointment, whichever is later) and to pay them the differential arrears of pay within 120 days from the date of receipt of a copy of the Order dated 29.05.2009;

-AND-



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*Manoj Mongia*

In the matter of: -

1. **Sri Manoj Kumar Mongia**  
Son of Sri BM Mongia  
19<sup>th</sup> Assam Rifles (presently 33<sup>rd</sup> Assam Rifles),  
C/O 99 APO
2. **Sri Sanjiv Kr. Rout**  
Son of Sri Indramoni Rout  
4<sup>th</sup> Assam Rifles, C/O 99 APO
3. **Sri Gurpreet Singh**  
Son of Sardar Hardeep Singh  
12<sup>th</sup> Assam Rifles, C/O 99 APO
4. **Sri Manraj Singh Oswal**  
Son of Sri CL Oswal  
33<sup>rd</sup> Assam Rifles, C/O 99 APO
5. **Sri Abhay Kumar**  
Son of Sri Baleswar Mahto  
27<sup>th</sup> Assam Rifles, C/O 99 APO

... Petitioners

-Versus-

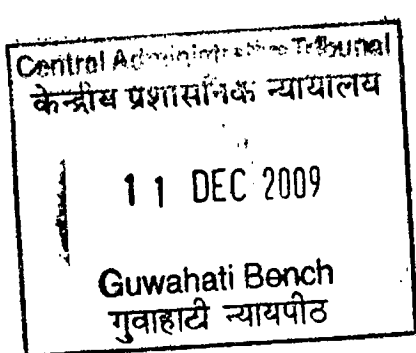
1. **Sri Gopal K Pillai**  
Secretary, Ministry of Home Affairs  
Government of India, Central Secretariat  
North Block, New Delhi - 110001
2. **Sri Naresh Dayal**  
Secretary, Ministry of Health & Family Welfare  
Department of Health, Nirman Bhavan,  
Moulana Azad Road, New Delhi - 110001
3. **Smti Sumita Mukherjee**  
Director, Police Finance  
Ministry of Home Affairs,  
Government of India, Central Secretariat  
North Block, New Delhi - 110001
4. **Lt. General Karan Singh Yadav**  
Director General, Assam Rifles  
Shillong - 793 001

... Contemnors

The humble Petitioners above named -

Most Respectfully States: -

1. That this petition arises out of willful disobedience and non-compliance of the Order dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. NO. 147 of 2006 filed by the petitioners wherein the Contemnors,



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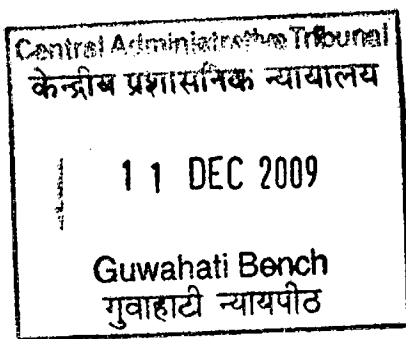
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amongst others, were directed to extend the benefit of the pay scale of Rs. 4500-125-7000 to the petitioners with effect from 01.01.1996 (or, from the date of their appointment, whichever is later) and to pay them the differential arrears of pay within 120 days from the date of receipt of a copy of the Order dated 29.05.2009.

2. That tersely described, the brief facts and circumstances of the case under which the petitioners (who are Pharmacists in Assam Rifles Organisation) had filed the aforesaid original application are that under the Central Civil Services (Revised Pay) Rules, 1997 which were brought into force with effect from 01.01.1996; the pay scale of Rs. 4500-125-7000 was extended to Diploma Holder Pharmacists under Para-Military Forces/Central Police Organisations but such pay scale had been denied to the petitioners.
3. That this Hon'ble Tribunal, after hearing the parties and considering the materials on record, had been pleased to allow the application vide Order dated 29.05.2009 and directed the respondents (therein) to extend the benefit of the pay scale of Rs. 4500-125-7000 to the petitioners with effect from 01.01.1996 (or, from the date of their appointment, whichever is later) and to pay them the differential arrears of pay within 120 days from the date of receipt of a copy of the Order dated 29.05.2009.

A copy of the order-dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. No. 147 of 2006 is annexed herewith as Annexure-1.

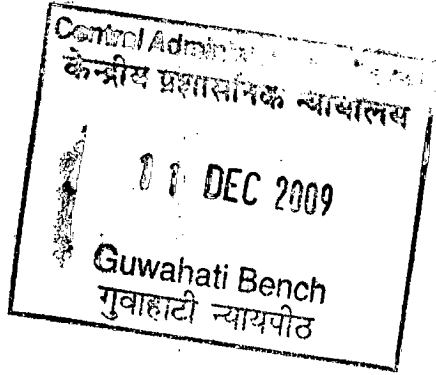
4. That in terms of the direction contained in the aforesaid order in O. A. No. 147 of 2006, the Contemnors are required to take consequential steps/action and pass necessary orders to pay the petitioners appropriate scale of pay of Rs. 4500-125-7000 with effect from 01.01.1996 (or, from the date of their appointment, whichever is later) and to pay them the differential arrears of pay. But, the Contemnors have not yet complied with the direction of this Hon'ble Tribunal as stated above.



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5. That the petitioners state that on enquiry they have learnt that the Registry of this Hon'ble Tribunal had duly communicated to the respondents/contemnors the aforesaid Order dated 29.05.2009 and the contemnors had also received them. Moreover, the petitioners had also approached the contemnors on several occasion and verbally requested implementation of the Order of this Hon'ble Tribunal. But the Contemnors have been acting contrary to the direction of this Hon'ble Tribunal and have not yet implemented the Order.
6. That the petitioners state that despite due communication, the Contemnors have not complied with the directions contained in the order of this Hon'ble Tribunal dated 29.05.2009. The above action of the Contemnors amount to wilful disobedience to the Hon'ble Tribunal's direction and the same has been committed deliberately and intentionally and thus, they have made themselves liable to be punished for violating the order of this Hon'ble Tribunal.
7. That the petitioners state that the Contemnors are still acting arbitrarily and capriciously in their own design and this has resulted in substantial interference with the due course of justice. Hence, this petition for appropriate order under the law.
8. That the petitioners submit that the Contemnors have wilfully not taken any action to comply with the order dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. No. 147 of 2006 and have deliberately defied the order of this Hon'ble Tribunal which amounts to contempt of Court. Therefore, they are liable to be proceeded against and punished according to law.
9. That this is a fit case for the Hon'ble Tribunal for initiation of contempt proceeding for deliberate non-compliance of the order dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. No. 147 of 2006.
10. That the petitioners file this petition bona fide and in the interest of justice.



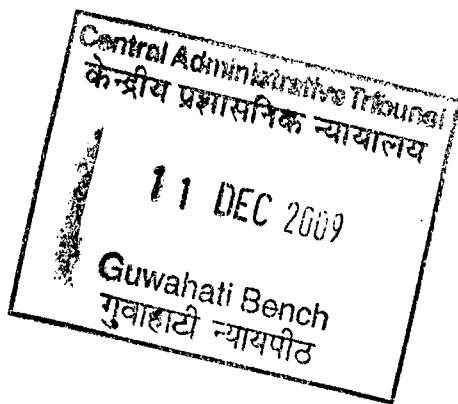


Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to admit this petition and issue notice on the Contemnors to show cause as to why a contempt proceeding should not be drawn up against them and to show cause further as to why they should not be punished for wilful disobedience and non-compliance of the order dated 29.05.2009 passed by this Hon'ble Tribunal in O. A. No. 147 of 2006;

- And -

Cause or causes being shown and upon hearing the parties be pleased to punish the Contemnors in accordance with law and be further pleased to pass any such other order or orders as deemed fit and proper by the Hon'ble Tribunal.

And for this act of kindness, the petitioners as in duty bound shall ever pray.



### AFFIDAVIT

I, Sri Manoj Kumar Mongia, son of Sri BM Mongia, aged about 33 years, working in 33<sup>rd</sup> Assam Rifles, C/O 99 APO, do hereby solemnly affirm and say as follows: -

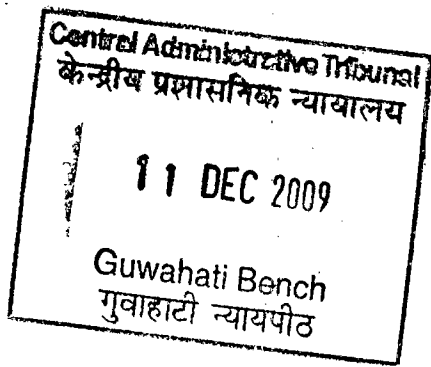
1. That I am one of the petitioners in the accompanying Contempt Petition and as such well acquainted with the facts and circumstances of the present case. Further I have been authorised by the co-petitioners and as such, competent to swear this affidavit.
2. That the statements made in 1-10 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, in the matter of non-compliance of the Hon'ble Tribunal's order 29.05.2009 in O. A. No. 147 of 2006.

And I sign this affidavit on this 5<sup>th</sup> day of November 2009.

*Manoj Mongia.*

Identified by: -

*Dutta*  
Advocate



DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the Contemnors for wilful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 29.05.2009 in O. A. No. 147 of 2006.

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Handwritten signature: *Manoj Kumar*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

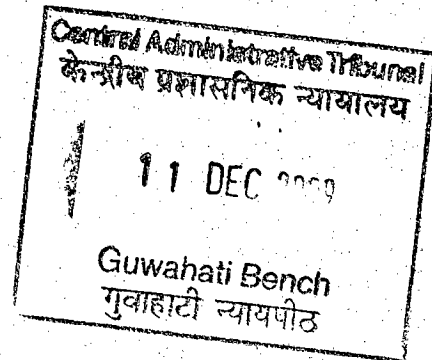
Original Application No.147 of 2008

Date of Order: This the 29<sup>th</sup> day of May 2009

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri N.D. Dayal, Administrative Member

1. Sri Manoj Kumar Mongla,  
Son of Sri B.M. Mongla,  
19<sup>th</sup> Assam Rifles, C/o 99 APO.
2. Sri Sanjiv Kr. Rout,  
Son of Sri Indramoni Rout,  
4<sup>th</sup> Assam Rifles, 99 APO.
3. Sri Gurpreet Singh,  
Son of Sardar Hardeep Singh,  
12<sup>th</sup> Assam Rifles, 99 APO.
4. Sri Manraj Singh Oswal,  
Son of Sri C.L. Oswal,  
99 APO, 33<sup>rd</sup> Assam Rifles.
5. Sri Abhay Kumar,  
Son of Sri Baleswar Mahito,  
27 Assam Rifles, 99 APO.

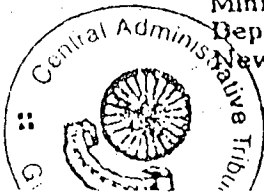


..... Applicants

✓ By Advocates Mr P.G. Borua, Sr. Advocate,  
Mr A. Roy, R. Mahanta, Ms D. Pathak and  
C. Patowary.

- versus -

1. Union of India, represented by the  
Secretary, Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi-110001.
2. The Director (Police Finance),  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi-110001.
3. The Secretary  
Ministry of Health and Family Welfare,  
Department of Health,  
New Delhi.



collected  
10/11/2009  
Hd

4. Director General of Assam Rifles  
Shillong-11.

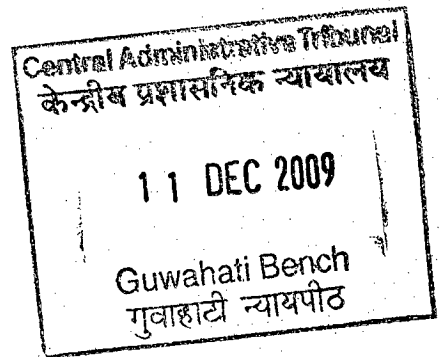
..... Respondents

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

.....  
O.A.No.147/2006

ORDER (ORAL)

29.05.2009



MR. M. R. MOHANTY, VICE-CHAIRMAN

Central Civil Services (Revised Pay) Rules, 1997 was framed/Notified on 30.09.1997 in exercise of the powers conferred by the proviso to Article 309 and Article 148 (5) of the Constitution of India; on the basis of the Report of Fifth Pay Commission; and the said Rules of 1997 came into force retrospectively with effect from 01.01.1996.

2. Fifth Central Pay Commission was set up by the Government of India by Resolution No.5 (12)/E.III/93, dated the 9<sup>th</sup> April, 1994 as amended by Resolution No.5 (12)/E.III/93, dated the 12<sup>th</sup> January, 1995, No.5(12)/E.III/93, dated the 17<sup>th</sup> July, 1996, No.5(12)/E.III/93, dated the 24<sup>th</sup> October, 1996 and No.5(12)/E.III/93, dated the 19<sup>th</sup> November, 1996. The Commission submitted on the 30<sup>th</sup> January, 1997, its Report relating to structure of emoluments, allowances, conditions of service and retirement benefits of Central Government employees including Union Territories, members of All India Services and personal belonging to the Armed Forces.



11 DEC 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

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3. Government of India, vide Para 7 & 8 of its Notification No.GI/MF-50(1)/IC/97 dated 30.09.1997, decided as under:-

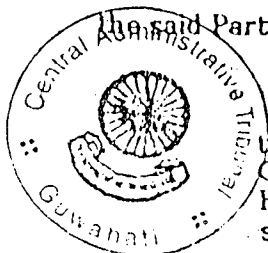
"7. In respect of personnel of Central Police Organisations, in the rank from Constable to Subedar Major, Ministry of Home Affairs will carry out an exercise for rationalization of ranks so as to achieve parity with Delhi Police, pending which the scales recommended by the Fifth CPC will be applied.

"8. Department specific recommendations which are not included in this Resolution shall be processed by the concerned Department/Ministry and approvals of the Government obtained in consultation with the Ministry of Finance and/or Department of Personnel and Training."

4. In Part -A of the Annexure to above-said Notification Dated 30.09.1997, at Sl. No.6 Revised Scale of Pay was prescribed as Rs. 3200-85-4900 (s-6) in replacement to pre-revised Scale of Pay (a) Rs. 975-25-1,150-30-1,540/- and (b) Rs. 975-25-1,150-30-1,660/-. Part A of the first Schedule to the Rules of 1997 also provided this replacement Scale of Pay.

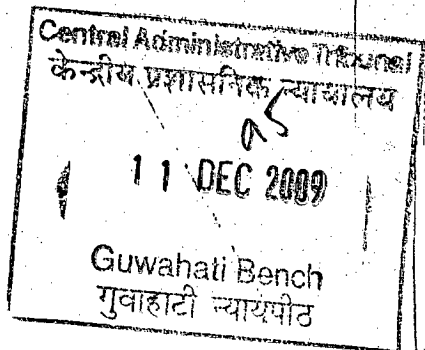
5. In Part -B of the First Schedule to the Rules of 1997, another table of revised Pay-scale have been appended. Preamble of

the said Part -B of the first Schedule to Rules of 1997 reads as under :



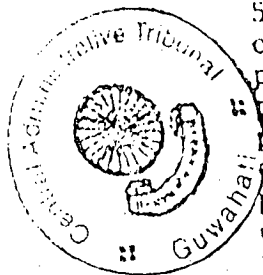
The revised scales of pay mentioned in Column 4 of this part of the Notification for the posts mentioned in Column 2 have been approved by the Government. However, it may be noted that in certain cases of the scales of pay mentioned in Column 4, the recommendations of the Pay Commission are subject to fulfilment of specific conditions. These conditions relate inter-alia to changes in recruitment rules, restructuring of cadres, redistribution of posts into higher grades, etc. Therefore, in those cases where conditions such as changes in recruitment rules, etc., which are brought out by the Pay Commission as the rationale for the grant of these upgraded scales, it will be necessary for the Ministries to decide upon such issues and agree to the changes suggested by the Pay Commission before applying these scales to these posts with effect from 1.1.1996. In certain other cases where there are

conditions prescribed by the Pay Commission as prerequisite for grant of these scales to certain posts such as cadre restructuring, redistribution of posts, etc, it will be necessary for the Ministries/Department concerned to not only accept these pre-conditions but also to implement them before the scales are applied to those posts. It would, therefore, be seen that it is implicit in the recommendations of the Pay Commission that such scales necessarily have to take prospective effect and the concerned posts will be governed by the normal replacement scales until then.



6. Sl. No. XVIII of the Table appended to Part -B of First Schedule of the Rules of 1997 has provided a Special Pay Scale i.e. Rs. 4,500-125-7000/- for Pharmacists possessing entry qualification of Diploma in Pharmacy. This was prescribed on the basis of para. 52.90 of the Report of Fifth Pay Commission.

7. Paras 52.85 to 52.92 of the Report of Fifth Pay Commissions dealt with the case of Pharmacists; which reads as under :-



52.85 General Introduction. - Pharmacists are concerned with supply of medicines in accordance with prescriptions or, when legally permitted, without a prescription. They also deal with procurement, selection, preservation, storage, preparation, distribution, administration and accounting of drugs and pharmaceuticals. The usual minimum essential educational qualification for direct recruitment against the post of Pharmacists in the scale of Rs. 1,350-2,200 is 10+2, 2 years diploma and 3 months training in Pharmacy along with registration with the Central or State Pharmacy Council. Some organizations recruit them with lower qualifications also. Pharmacists have a two or three grade structure, including the entry level, with promotion up to the scale of Rs. 1,640-2,900 and sometimes up to Rs. 2,000-3,500.

52.88 Distribution of establishment.- The total number of Pharmacists is about 3483. They are generally employed in Central Government Hospitals, Dispensaries, Central Drug Laboratory, Medical Stores Organization, etc. Besides, Pharmacists also exist in Botanical Survey of India (BSI), Air Headquarters, Archaeological Survey of India, Directorate General of Employment and Training

(M/o Labour), etc., where entry level is lower, i.e., in the scale of Rs. 1,200-1,800 or Rs. 1,200-2,040.

**52.87 Demands In memoranda.-** Pharmacists associations have demanded setting up of a separate Directorate of Pharmacy for greater participation in policy-making as well as adequate career progression, upgradation of their pay scales and granting of additional allowances for non-practice, patient care, non-technical duties, risk, literature, etc., to improve their functioning as well as achieving job satisfaction.

**52.88 Previous CPCs. -** The Third CPC observed the Pharmacists also include compounders and dispensers. It divided the category of Pharmacists into two i.e. fully qualified Pharmacists and unqualified Pharmacists and accordingly suggested different pay scales. The Fourth CPC broadly followed a similar pattern of granting replacement scales for the registered Pharmacists. For improving the promotion prospectus of Pharmacists it recommended that administrative Ministry might examine the desirability of a few posts in the pay scale of Rs. 1,640-2,900. No distinction was made between qualified and unqualified Pharmacists.

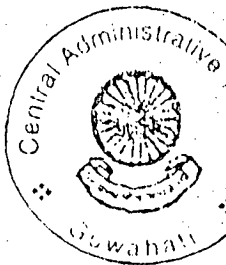
**52.89 Directorate of Pharmacy.-** No justification has been furnished on the need for Pharmacists to play a role in policy making relating to health when a Drugs Controller of India, and Pharmacy Council of India exist. This demand, if accepted, will lead to similar demands by other para-medicals to have their own specialized Directorates. We do not recommend setting up of such a Directorate.

**52.90 Pay structure.-** Upgradation of the pay scale of Registered Pharmacist is sought from Rs. 1,350-2,200 to Rs. 1,400-2,600 at par with diploma holders of other disciplines like Engineering, Nursing, etc., Pharmacy Council of India, recommended in 1976 and 1994, that the pay scale and promotion avenues of Pharmacists should be at par with other technical diploma holders in Engineering and Technology as the post of Pharmacist is also technical. We recommend that Pharmacists, in view of the prescribe entry qualifications should be placed in the scale of Rs. 1,400-2,300 at entry. The grade structure in existence at present should be modified as follows:-

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

11 DEC 2009

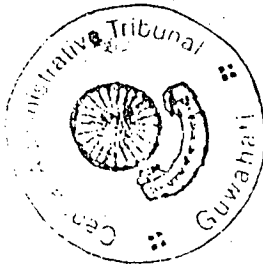
Guwahati Bench  
गुवाहाटी न्यायपीठ





Nomenclature	Pay scale Rs.	Qualification
Pharmacists Grade I	1,040-2,000	2 <sup>nd</sup> ACP
Pharmacists Grade II	1,000-2,000	1st ACP
Pharmacists Grade III	1,400-2,300	10+2+ years, Diploma + 3 months training and registration

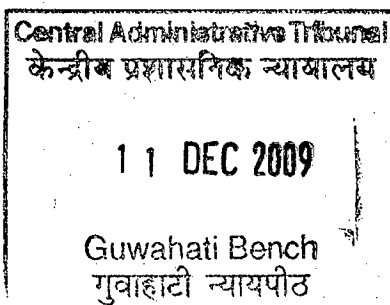
Whenever there is a post of Chief Pharmacist it should be placed in the pay scale of Rs. 2,000-3,500. Posts of chief Pharmacists may also be created in the hospitals in the pay scale of Rs. 2,000-3,500 based on functional justification. In future no recruitment should be made in this cadre with qualification of less than Diploma. All those incumbents who possess a diploma in Pharmacy and are in lower scales at present may also be brought into the scale of Rs. 1,400-2,300. Incumbents not possessing Diploma in Pharmacy may continue in the replacement pay scale corresponding to their existing scales with ACP only.



52.91 Patient care allowance.- Patient care allowance @ of the basic pay per month, has been asked for against the present rate of Rs. 80 p.m. The allowance should be doubled to Rs. 160 p.m., retaining the conditions under which it is granted, i.e., if no night duty or risk allowance is sanctioned by Government.

52.92 General pay scales.- For all the remaining matters our recommendations elsewhere in this report will apply.

8. Applicants, who are Pharmacists in Assam Rifles Organization, by way of filing this Original Application under section 19 of Administrative Tribunals Act, 1985, have raised a claim to get their pay in the scale of Rs. 4,500-125-7000/- with effect from 01.01.1996, instead of the replacement scale of Rs. 3200-85-4900/-. They have alleged in this O.A. that while the Govt. of India extended the pay scale of Rs. 4500-125-7000/- in other Para-military forces/Central Police Organizations for their Pharmacists with



+2)+2 years Diploma, such benefits have not yet been extended to the Applicants; although they are also Diploma Holders, and, as a result, they (Applicants) are victim of discrimination and continuing with the lower replacement scale of Rs. 3200-85-4900/- since 01-01-1996. Applicants have relied on the views of the Apex Court rendered in the case of Union of India v. Dineshan K.K. (reported in [2008] 1 SCC 586) to say 'for the reason of equal pay for equal work', this case need succeed and the Applicants need get the pay in the scale of Rs.4500-125-7000/- w.e.f. 01.01.1996.

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9. By way of filing a written statement, the Respondents have raised an objection to say that Assam Rifles being an Armed Force and the post of Pharmacists being a combatised post, this Tribunal has got no jurisdiction to adjudicate the matter in issue.

10. At the hearing, it has, however, been admitted that Assam Rifles Organization is not under the Ministry of Defence but under the Ministry of Home Affairs and the Pharmacists (although have been equated with the Combatised Havildars in Group-C (Non-Gazetted/Non Ministerial) are recruited just like other civilian Diploma holder Pharmacists.

11. When Govt. of India, in the case of other Central Police Organizations/in other Para-Military Forces of the Central Govt., has already extended the Pay scale of Rs. 4500-125-7000/- for Pharmacists with required Diploma in Pharmacists (which statement of the Applicants, made in the O.A., has not been denied by the Respondents) there were no reason not to extend the said pay scale to the Applicants. Non extension of the said benefit to the Applicants, amounts to discrimination offending the constitutional provisions. If

the Applicants are discharging the job of Pharmacists and at the same time discharging combatised job; them that is an additional ground to extend them the same higher benefit of Rs.4500-125-7000/-.

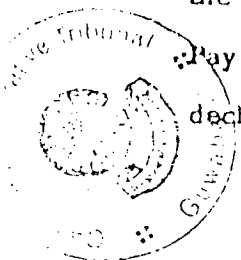
12. By way of placing on record, the cases of Nursing staff of Assam Rifles (where they were also not given the benefits of special scale of pay i.e., the pay scale other than the replacement pay scale) the Applicants have pointed out that this Tribunal, in O.A. 222 of 2002 (decided on 08.08.2003) had to give directions (to Assam Rifles) to extend the higher benefits to Nursing staff of Assam Rifles.

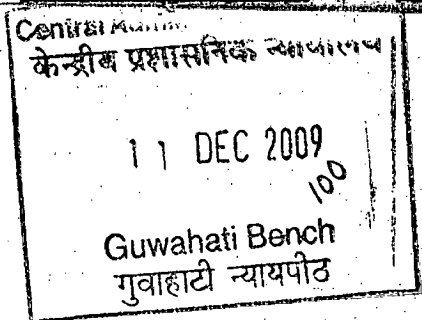
13. In the written statements the Respondents have disclosed that they made an attempt relating to warrant officers (in order to treat them in Technical categories in Assam Rifles) which did not find favour of Ministry of Home Affairs during December 2001 and, by stating so, they intend to state that 'upgradation of pay (of Pharmacists) may disturb various other trades/ranks' within Assam Rifles Organisation. While stating so, the Respondents have also disclosed, in Para 21 of their written statement (filed on 06.11.2006) that "in all fairness, the issue (as raised in this case) was being referred to the 6<sup>th</sup> Pay Commission by the Respondents'. This statement itself goes to show that for imaginary apprehensions the benefits of 5<sup>th</sup> Pay Commission i.e. pay scale of Rs. 4500- 125-7000/- was denied/not extended to the Applicants/Diploma holder Pharmacists of Assam Rifles; un-justly. (Neither the Applicants, nor the Respondents have disclosed, at the hearing, as to how the case of the Applicants/Pharmacists have been dealt with in the report of 6<sup>th</sup> Pay Commission). That apart, not allowing a rank to be upgraded or declared Technical could not have been a reason to refuse the higher

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pay scale of another rank; even though the same has been extended to similarly placed personnel of other similar Organizations/CPOs/ Central Para-military Forces.

✓ 14. In the above premises, since Diploma holder Pharmacists of other Central Police Organization/Central Para-military Forces have been <sup>with</sup> extended the pay scale of Rs. 4500-125-7000/- w.e.f. 01.01.1996; such benefits should be extended to the Diploma holder Pharmacists of Assam Rifle Organization. As a result, this case is allowed by asking the Respondents to extend the benefit of 5<sup>th</sup> Pay Commission/pay scale of Rs. 4500-125-7000/- to the Diploma holder Pharmacists of Assam Rifle Organization w.e.f. 01.01.1996 (or from the date of their appointment, whichever is later) and pay them their differential arrears within 120 days from the date of receipt of a copy of this order. No costs.

Sd/-  
M.R. Mohanty  
Vice-Chairman  
Sd/-  
N.D. Dayal  
Member(A)

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प्रतिप्रति

अनुभाष अधिकारी  
Section Officer (Adm)  
Central Administrative Tribunal  
Guwahati Bench  
Guwahati

Corrected  
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Adh