

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 216 2015
R.A./CP/NO. 2015
E.P./M.P./NO. 109 2015

1. Order Sheets..... 1 page..... 1 to..... 01 /
MP. - 1 PG - 1 /
2. Judgment/ order dtd. 27.10.2015 page..... 1 to..... 21 /
MP. - - - - - /
3. Judgment & Order dtd..... received from H.C. /Supreme Court.
4. O.A. 216/09 page..... 1 to..... 25 /
5. E.P./M.P. 109/09 page..... 1 to..... 4 /
6. R.A./C.P. E ✓ page..... 0 to.....
7. W.S. ✓ Page..... to.....
8. Rejoinder..... ✓ page..... to.....
9. Reply ✓ page..... to.....
10. Any other papers ✓ page..... to.....
11. Memo appearance ALL

DD/MR 03/07/2015
SECTION OFFICER (JUDL.)

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

✓ 1. ORIGINAL APPLICATION No : 276 / 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 : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Taganidhi Dorkhel & Ors.

Respondent (S) : Union of India & Ors.

Advocate for the : Mr. H. S. Baruah
 {Applicant (S)}

Advocate for the : CGSC.
 {Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. Fw. Rs. 50/- deposited with IPO/Ex. No. 396 416566 Dated 28.7.09</p> <p>Dy. Registrar 22-10-09 21/10/09</p>	<p>27.10.2009 /bb/</p>	<p>O.A. is disposed of in terms of order passed separately.</p> <p>(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A) Member (J)</p>

21.10.09
7 (seven) copies of
Application with envelope
received for issue
notices to the Respondent
No. 1 to 7. Copy served.
Extra charge Deputed.
21/10/09

29/10/09

Copy of judgment order
dated 27/10/09 has been
prepared and send to
the D/section for issuing
to the Applicants & Respls
by Regd. post.

Free copies of both
side standing counsel
by hand.

^{From}
29/10/09

D/No. - 12323 to 12334

Dtd. - 4-11-2009

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A No. 216 of 2009 with M.P. No.109/2009

DATE OF DECISION: 27.10.2009

Sri Jaganidhi Pokhrel & Ors Applicant/s.

Mr.H.G.Borua Advocate for the
..... Applicant/s.

- Versus -

U.O.I. & Ors Respondent/s

Mr.M.K.Boro, Addl.C.G.S.C. Advocate for the
..... Respondents

CORAM

THE HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

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

Judgment delivered by

Hon'ble Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 216 of 2009

with

Misc. Application No. 109 of 2009

Date of Order: This, the 27th Day of October, 2009

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J).

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

1. Mr. Jaganidhi Pokhrel
Junior Teacher
S/o: Mr. Ram Prasad Pokhrel
1st Battalion, the Assam Rifles
C/O: 99 APO.
2. Mr. Bhaskar Joyti Deka
Junior Teacher
S/O: Mr. Soneswar Deka
27th Battalion, the Assam Rifles.
3. Mr. Sanjay Kumar Chanchal
Junior Teacher
S/O: Late Basanta Kumar
20th Battalion, the Assam Rifles
C/O: 99 APO.
4. Mr. Ajay Lama
Junior Teacher
S/O: Mr. J.B. Lama
16th Battalion, the Assam Rifles
C/O: 99 APO.

.....Applicants

By Advocate: Mr.H.G.Boruah.

-Versus-

1. The Union of India represented by
The Secretary to the Govt. of India
Ministry of Home Affairs, North Block
New Delhi-110 001.
2. The Secretary to the Govt. of India
Ministry of Finance
Department of Expenditure
North Block
New Delhi – 110 001.

3. The Director General Assam Rifles
Mahanideshalaya
(Directorate General Assam Rifles)
Meghalaya
Shillong-793 011.
4. The Commandant
1st Battalion, The Assam Rifles
C/O: 99 APO
PIN: 932 001.
5. The Commandant
27th Battalion, The Assam Rifles
C/O: 99 APO
PIN: 932 027.
6. The Commandant
20th Battalion, The Assam Rifles
C/O: 99 APO
PIN: 932 020.
7. The Commandant
16th Battalion, The Assam Rifles
C/O: 99 APO
PIN: 932 020.

.....Respondents

By Advocate: Mr.M.K.Boro, Addl. C.G.S.C.

ORDER (ORAL)
27.10.2009

MUKESH KUMAR GUPTA, MEMBER (J):

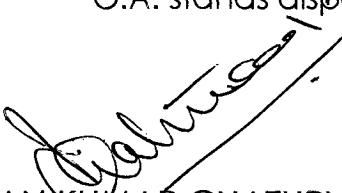
M.A. No. 109 of 2009 has been filed by four Applicants seeking joining together under Rule 4(5)(a) of CAT (Procedure) Rules, 1987. Their grievance is that they are working as Primary Teacher in Assam Rifles schools but paid lesser salary. They claim parity with Hindi Teacher who are in the pay scale of Rs.5500-175-9000/- . It is contended that both the posts are intermediate, yet Applicants are getting pay scale of Rs.4500-125-7000/- vis-a-vis Hindi Teachers, who have been allowed higher pay scale.

There exists no justification for such a treatment, which ex-facie is discriminatory and arbitrary, emphasized learned counsel.

2. Learned counsel for the Applicants Mr.H.G.Boruah fairly pointed out that they made representation only on 30.06.2009 to Respondent No.3 (Annexure-D), which remains unconsidered.

3. We have heard learned counsel for Applicants, perused the pleadings. As on date, six months time have not expired which is minimum time limit prescribed under Section 20(b) of Administrative Tribunals Act, 1985. Therefore we deem it fit to dispose of present O.A., without issuing notice to Respondents, requiring them to pass reasoned and speaking order on their representation dated 30.06.2009. It goes without saying that in case Applicants are aggrieved by such reasoned and speaking order, which will be issued within three months from the date of receipt of this order, they will be at liberty to take appropriate steps under the rules and law.

4. O.A. stands disposed of.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

IN THE CENTREL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : : GUWAHATI

ORIGINAL APPLICATION NO. 216 of 2009

Mr Jaganidhi Pokhrel & Ors.

....Applicants

-VERSUS-

The Union of India and Ors,

.....Respondents

SYNOPSIS

All the Applicants are working in different units as a Junior Teacher of under the Director General Assam Rifles and are non-combatised employees. There are three types of teachers in Assam Rifles viz. Senior Teachers, Junior Teachers and Hindi Teachers. The duties of the both Junior Teachers and Hindi Teachers is to impart education in the Battalion children school of Assam Rifles and rank of the both junior Teachers and Hindi Teachers are same. The minimum qualification for appointment of Junior Teachers and Hindi Teachers are also same. JBT/TTC is necessary for appointment of Junior Teachers but no such training course is necessary for appointment of Hindi Teachers . Both post is intermediated. For the appointment of Junior Teachers need proficiency to teach both in English and Hindi. The Duties of Hindi Teachers are to Teach Hindi language only, But the duties of Junior Teachers are to teach are the subject viz, English, Social Science, Mathematics, Environmental Science, General Knowledge, Computer Education, Sanskrit, Drawing, Arts and Music, Games and Sports, Socially Useful Productive Works(SUPW) and Laboratory Assistant and apart from this the duties of Junior Teachers is to teach Hindi language also. The Hindi Teachers who are under Graduate if subsequently completed the Graduation D.G.A.R formed a habit to declare them as Graduate teachers, though the post is intermediate. All the Junior Teachers of this instant Application is Graduate who faced hostile discrimination from the office of the D.G.A.R without any cogent reason. Though the work load of the Junior Teachers is heavy than the Hindi Teachers but there is a gross disparity in their pay; i.e. while Junior Teachers are getting pay scale in the grade of Rs 4500-125-7000 and Graduate Hindi Teachers getting pay scale in the grade of Rs. 5500-

Delivered for H.R.S. on 20/10/09

175-9000 which is a hostile discrimination. The service rendered by the Junior Teachers are with those of Hindi Teachers but degree of responsibility and reliability are also same with the Hindi Teachers. There is no any qualitative difference as regards the reliability and responsibility . Whereas nature of function , degree of responsibility and reliability are same, the differentiation in pay scale of both Junior Teachers and Hindi Teachers is not a valid differentiation. This differentiation is not based on intelligible criterion, therefore Junior Teachers faced hostile discrimination. As per paragraph 5 of the Standing Operation Procedure (sop for short) of Assam Rifles, issued vide memo No. A/1-A/91/sop/2000, dated 23/11/2003, the senior most teachers of the aforementioned three categories of teachers is allowed to function as Head Master / Principal of the school. Both Junior Teachers and Hindi Teachers fall in the same class or category. The category of Hindi Teachers dose not have any equivalence in the category of Teachers for higher pay scale also the qualification requirement of Hindi Teachers does not fulfill the condition of higher pay scale. Having regard to the qualification of appointment, class or category, nature of work, reliability and responsibility shouldered by the Junior Teachers, they are entitled to the Graduate scale of pay i.e. equal pay with that of Graduate Hindi Teachers whereas Graduate Hindi Teachers are presently drawing the pay scale in the grade of Rs. 5500-175-9000. On 30th day of June 2009 all the Applicants jointly filed an application addressing the Director General Assam Rifles but no fruitful result came out in this attempt. The non-payment of Graduate scale of pay i.e. equal pay to applicants with the Graduate Hindi teachers is violative of Article 14,21,39,(d) of the Constitution of India. Hence claiming Graduate scale of pay with the Graduate Hindi Teachers of Assam Rifles, Applicants filed this instant Application.

Filed by



Hara Gobinda Borah
Advocate
Gauhati High Court Bar Association
Guwahati-781001

21/14/2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

ORIGINAL APPLICATION NO. of 2009

Mr. Jaganidhi Pokhrel &Ors.

.....APPLICANTS

-VERSUS-

The Union of India and Ors.

.....RESPONDENTS

LIST OF DATES

Sl No. Date **Contents, Annexure and Page No.**

1. 10/12/1997 Charter of duties of Junior Teachers and Hindi Teachers of Assam Rifles.
Annexure-A, Page Nos. 17 and 18.
2. 16/08/2005 Order dated 16th August, 2005 issued by the Assam Rifles authority vide memo No. 6055A/2005/768,
Annexure-B, Page No. 19.
3. 11/05/1987 Letter issued by D.G.A.R regarding implementation of the revised pay scale.
Annexure-C, Page Nos. 20 to 22.
4. 30/06/2009 Joint application of the applicants.
Annexure-D, Page Nos. 23 to 25.

Filed by


Hara Gobinda Boruah
Advocate
Gauhati High Court Bar Association
Guwahati-781001

21/10/2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : : GUWAHATI

ORIGINAL APPLICATION NO. of 2009.

Mr. Jaganidhi Pokhrel &Ors.

....APPLICANTS.

-VS-

The Union of India and Ors.

.....RESPONDENTS

INDEX

SI No.	Particulars	Page Nos.
1.	Original Application -----	1 to 15
2.	Verification -----	16.
3.	Annexure-A -----	17 and 18
4.	Annexure-B -----	19
5.	Annexure-C -----	20 to 22
6.	Annexure-D -----	23 to 25.

Filed by

HB
Hara Gobinda Boruah
Advocate
Gauhati High Court Bar Association
Guwahati-781001

21/10/2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

*Please be the
Petitioner I-Appellant
through*
He

Hara Gobinda Boruah
Advocate
Guwahati High Court Bar Association
Guwahati-781001
21/10/2009

ORIGINAL APPLICATION NO. 216 of 2009.

IN THE MATTER OF :

An application under Section 19 of
the Central Administrative Tribunal
Act, 1985.

-AND-

IN THE MATTER OF :

1. Mr. Jaganidhi Pokhrel
Junior Teacher
S/O : Mr. Ram Prasad Pokhrel
1st Battalion, the Assam Rifles.
C/O: 99APO

2. Mr. Bhaskar Joyti Deka
Junior Teacher
S/O : Mr. Soneswar Deka
27th Battalion, the Assam Rifles.

3. Mr. Sanjay Kumar Chanchai
Junior Teacher
S/O : Late Basanta Kumar
20th Battalion, the Assam Rifles.
C/O : 99APO

18

4. Mr. Ajay Lama
Junior Teacher
S/O : Mr. J. B. Lama
16th Battalion, the Assam Rifles
C/O : 99APO

..... **Applicants**

-VERSUS-

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

2. The Secretary to the
Government of India, Ministry
of Finance, Department of
Expenditure, North Block, New
Delhi-110001.

3. The Director General Assam
Rifles, Mahanideshalaya
(Directorate General Assam
Rifles), Meghalaya,
Shillong - 793011

4. The Commandant
1st Battalion, The Assam Rifles
C/O : 99 APO
PIN: 932001

[Signature]

5. The Commandant
27th Battalion, the Assam Rifles
C/O : 99 APO
PIN : 932027.
6. The Commandant
20th Battalion, the Assam Rifles
C/O 99 APO
PIN : 932020.
7. The Commandant
16th Battalion, the Assam Rifles
C/O 99 APO
PIN : 932016

RESPONDENTS

1. DEATAILS OF THE APPLICATION :

Particulars against which the application is made :

Claiming Graduate scale of pay with the Graduate Hindi Teachers of Assam Rifles whereas applicants getting the pay scale in the grade of 4500-125-7000 and Graduate Hindi Teachers getting the pay scale in the grade of 5500-175-9000, which is Hostile discrimination. Having regard to the qualification of appointment, class or category, nature of work, reliability and responsibility shouldered by the Junior Teachers, they are entitled to Graduate Scale of pay i.e. equal pay with that of Graduate Hindi Teachers of Assam Rifles.

2. JURISDICTION OF THE TRIBUNAL :

The Applicants declares that subject matter of the case against which they wants redressal is within the Jurisdiction of the Tribunal.

3. LIMITATION

The Applicants further declares that this application is filed within the period of limitation as prescribed under section 21 of the Administrative Tribunal Act,1985.

4. FACTS OF THE CASE :

A. That, all the Applicants are citizen of India by birth as such they are entitled to all the rights and privileges guaranteed by the constitution of India and the laws framed there under.

B. That, all the Applicants are working in different companies as Junior Teachers and are non- combatised employees working under the Respondent No. 3

The Applicant No. 1 was appointed by an order dated 04/02/2005 issued by D.G.A.R. as a Junior Teacher and his length of service in this esteem organization is about 5 years and his educational qualification is B.Sc. (Hons) and B. ED.

The Applicant No.2 was appointed by an order dated 16/02/2005 issued by the D.G.A.R. as a Junior Teacher and his length of service in this esteem organization is about 5 years and his educational qualification is B.A. and Diploma in Elementary Education (two years course).

The Applicant No.3 was appointed by an order dated 14/02/2005 issued by the D.G.A.R. as a Junior Teacher and his length of service in this esteem organization is about 5 years and his educational qualification B.Com. and B.ED.

The Applicant No.4 was appointed by an order dated 03/02/2005 issued by the D.G.A.R. as a Junior Teacher and his length of service in this esteem organization is about 5 years and his educational qualification M.Sc. and B.ED.

Being aggrieved by a common cause of action, all the Applicants have filed this instant Original Application jointly seeking similar relief.

C. That, the Applicants beg to state that all the applicants are the Junior Teachers of Assam Rifles and they are serving under the Respondents from the date of their joining till today continuously and they are discharging their duties honestly, sincerely and to the best of satisfaction of all their superiors.

D. That, the Assam Rifles is directly under the general superintendence and control of the Central Government as per provisions of the Assam Rifles Act, 1941. The office of the Director General is held by a person who is an active member of the Indian armed forces and he is an officer generally above the rank of Brigadier in the Indian army. The Assam Rifles is created under the above referred Statute and function directly under the control of the Central Government. Section 5 of the Assam Rifles Act. 1941, Specifics the classes and ranks in the Assam Rifles. The teachers are classified as a non-combatised personnel. The applicants are bound to serve any where in India where Assam Rifles Units are located. Though the applicants are teachers they are part and parcel of the Assam Rifles organization. They are liable to serve in hard/ soft/ remote/ difficulty area where Assam Rifles Units exists and have to stay with the combatised personnel.

E. That, the Applicants beg to state that there are three types of teachers in Assam Rifles Viz. Senior Teachers, Junior Teachers and Hindi Teachers. All the Applicants are the Junior Teachers of Assam Rifles. The qualifications for appointment junior Teachers and Hindi Teachers are as follows:

Junior Teacher:

Qualification :

- i). Intermediate or 10+2 or equivalent examination from recognized Board of Education or University.
- ii). Junior Basis Training/Teachers Training Course or equivalent from a recognized Institute or University.
- iii) Proficiency to teach Both in Hindi and English.

Hindi Teacher

Qualification :

- i. Pre-University (2 years course) or equivalent with Hindi as one of the subject or with Diploma /Degree with Hindi from recognized Government Institution.
- ii. Proficiency in imparting education upto Matric in English. JBT/TTC is necessary for appointment of Junior Teacher but no such training course is necessary for appointment of Hindi Teachers . Both post is interrelated. For the appointment of Junior Teachers need proficiency to teach both in English and Hindi. The Hindi Teachers who are under graduate if subsequently completed the graduation, the office of the Director General Assam Rifles formed a habit to declare them as graduate teacher, though the post is intermediate. All the Junior Teachers of this instant Application is graduate who faced hostile discrimination from the office of the Director General Assam Rifles without any cogent reason.

-7-

F. That, the duties of the both Junior Teachers and Hindi Teachers is to impart education in the Battalion Children School of Assam Rifles and work load of the Junior Teachers are heavy then the Hindi Teachers.

A typed copy of the Charter of Duties of both Hindi Teachers and Junior Teachers issued by appropriate authority is annexed herewith and marked as **ANNEXURE-A**

G. That, the applicants beg to state that the duties of Junior Teachers are to teach Hindi language only. But the duties of Junior teachers are to teach all the subject i.e., English , Science , Social Sciences, Mathematics , Environmental Science , General Knowledge, Compute Education , Sanskrit , Drawing Arts and Music , Games and Sports , Socially Useful Productive Works (SUPW) and Laboratory Assistant and apart from this the duties of junior teachers are to teach Hindi Language .

H. That , the applicants beg to state that both Junior and Hindi Teachers drawing the pay scale of Rs. 1200-30 – 2040/- In the 4th Central Pay Commission but the deference was shown in the 5th Central Pay Commission , in the pay Scale of Junior and Hindi Teachers.

I. That, the Applicants beg to state that the work load of Junior Teaches is heavy than the Hindi Teachers but there is a gross disparity in their pay; i.e. while Junior Teachers are getting pay scale in the grade of Rs. 4500-125-7000 and Graduate Hindi Teachers are getting pay scale in the grade of Rs. 5500-175-9000 which is a hostile discrimination. For Example, Sri Deepak Nunia, Hindi Teacher

initially appointed in the scale of Rs. 4000-100-6000 but by an order dated the 16th August 2005 issued vide letter No. 6035/A/2005/768, the office of the Director General Assam Rifles granted revised scale of pay to him of Rs. 5500-175-9000. Again Sri Mrinmoy Nath, was temporarily appointed as Hindi Teacher in the scale of pay Rs. 4000-100-6000 but by an order dated the 16th August 2005 issued letter No. 6035/A/2005/769, the office of the Director General Assam Rifles granted revised scale of pay to him of Rs. 5500-175-9000.

The type copy of the order dated the 16th August 2005 are annexed herewith and marked as
ANNEXURE-B

j. That, while originating the PE (Place Establishment) the Assam Rifles have authorized to run up to Primary Schools but since last 30 years, Assam Rifles are running schools upto class X and XII on self help basis and since then above cadres of teachers are equally taken to run the school, i.e. according to qualification, service experience and ability of teaching. They are allotted classes and duties as deem fit by the Head Master /Principal irrespective of cadre difference. It may be noted that Junior Teachers are shouldering classes equally of more then that of Hindi Teachers posted in the Battalion.

K. That, the Applicants beg to state that the work load of the Junior Teachers are heavy than those of Hindi Teachers. But the degree of responsibility and reliability are same with the Hindi Teachers. There is no any qualitative difference as regards the reliability and responsibility. Whereas the degree of responsibility and reliability are the same, the differentiation in pay scale of both Junior Teachers and Hindi Teachers is not a valid differentiation. This differentiation is no based on intelligible criterion, therefore Junior Teachers faced hostile discrimination.

L. That, the category of Hindi Teachers dose not have any equivalence in the category of Teachers for higher pay scale. Also the qualification requirement of Hindi Teachers provided in the Rect. Rule dose not fulfill the condition of higher pay scale. No Hindi Teachers is entitled to received higher pay scale even if he fulfills qualification requirement for other category of teachers

A typed copy of the relevant document is annexed herewith and marked as

ANNEXURE-C

M. That, the Applicants beg to state that both Junior Teachers and Hindi Teachers fall in the same class or category. As per paragraph 5 of the Standing Operation Procedure (sop for short) of Assam Rifles, issued vide memo No. A/1-A/91/sop/2000, dated 23/11/2003, the senior most teacher of the aforementioned three categories of teachers is allowed to function as Head Master / PRINCIPAL of the school.

Having regard to the qualification of appointment, class or category, nature of work, reliability and responsibility shouldered by the Graduate Junior Teachers, they are entitled to the equal pay with that of Graduate Hindi Teachers.

N. That, the Applicants beg to state that on 30th day of June 2009 all the Applicants jointly filed an Application before the Director General of Assam Rifles but no fruitful result come out in this attempt.

A photo copy of the said applications is annexed herewith and marked as

ANNEXURE- D

O. That, due to non-availability of experienced Trained Graduate Teachers (TGTs) locality as most of the Assam Rifles Battalion are

located in the far flung remote areas of the North East, the Assam Rifles schools are engaging all the Government teachers upto Class X to XII irrespective of cadre difference and are also vested with the responsibilities of library, science laboratory and the other matters related to Assam Rifles schools, Appex. 'C' and 'D' of 'sop' of Assam Rifles schools deals with the duties of Senior Teachers, Junior Teachers and Hindi Teachers. The duties of all the teachers except the Principal/ Head Master are identical. Only the ways of language of expressing the duties are different.

P. That, the Respondents have recognized and approved the contribution of Hindi Teachers by granting them the higher scale of pay but have neglected the Applicants who also have passed graduation and share the same work, work environment and other responsibilities. It is stated that non-recognition of work of the applicants and non-paying of same scale with that of Hindi Teachers is discriminatory and violative of the principles of equal pay for equal work.

Q. That, action of the Respondents is arbitrary, unreasonable and injudicious. For the collateral purpose in collateral exercise of power, Respondent authorities are depriving the Applicants from the said benefits. Such action is liable to be declared as illegal, arbitrary and unconstitutional being violative of Article 14 & 21 of the Constitution of India and Principles of Administrative Fairplay, Good Conscience and Equity.

U. That, the Applicants beg to state that non- payment of equal pay to Applicants with the Hindi Teachers is violative of Article -39 (d) of the Constitution of India. The denial of the Respondents is unreasonable and irrational.

R. That, denying equal pay to the Applicants with that of Hindi teachers of Assam Rifles is discriminatory and contrary to the accepted norms of equal pay for equal work.

S. That, the demand of the graduate pay scale is a very legal demand of the Applicants, denial thereof is very illegal.

5. GROUND FOR RELIEF:

I. For that the duties of Junior Teachers are to teach Hindi Language only. But the duties of Junior Teachers are to teach all the subject ,i.e., English, Science , General knowledge , Computer Education , Sanskrit , Drawing , Arts and Music , Games and Sports, Socially Useful Productive Works (SUPW) and Laboratory Assistant and apart from this the duties of Junior Teachers are to teach Hindi Language .

II. For that, the qualification of the applicants are as follows:

- (i) Mr. Jaganidhi Pokhrel : B.Sc. (Hons) B.ED.
- (ii) Mr. Bhaskar Jyoti Deka : B.A. Diploma in Elementary Education (two years course) From Institution of Education and Training (DIET)
- (iii) Mr. Ajay Lama: B.Com., B.Ed.
- (iv) Mr. Sanjoy Kumar Chanchal :M.Sc. B.Ed.

III. For that duties of Hindi Teachers are to teach Hindi language only. But the duties of Junior Teacher are to teach all the subject i.e. English, Science , Social Science, Mathematics, Environment Science, General Knowledge, Computer Education , Sanskrit, Drawing, Arts and Music, Games and Sports, Socially Useful Productive

works (SUPW) and Laboratory Assistant and apart from this the duties of Junior Teachers are to teach Hindi language.

IV. For that both Junior and Hindi Teachers were drawing the pay scale of Rs. 1200-30-2040/- in the 4th Central Pay Commission but the difference was shown in the 5th Central Pay Commission. In the pay scale of Junior and Hindi (Graduate) Teachers i.e. Junior (Graduate) Teachers were given the scale of Rs. 4500-125-7000/- whereas Hindi(Graduate) Teachers were given Rs. 5500-175-9000/- from 01/01/1996.

V. For that the eligibility criteria for the posts of Hindi Teachers and Junior Teachers are same.

VI. For that the duties of the both Junior Teachers and Hindi Teachers are to impart education in Battalion Children School and the work load of the Graduate Junior Teachers are heavy than Graduate Hindi Teachers but there is gross disparity in their pay that is while Graduate Junior Teachers are getting pay scale in the grade Rs. 4500-125-7000 and Graduate Hindi Teachers are getting pay scale in the grade of Rs. 5500-175-9000 which is a hostile discrimination.

VII. For that the workload of the Junior Teachers are heavy than those of Hindi Teachers. But the degree of responsibility and reliability are same with the Hindi Teachers. There is no

any qualitative difference as regards reliability and responsibility. Whereas the nature of function, degree of responsibility and reliability is the same, the differentiation in pay scale of both Junior Teachers and Hindi Teachers is not a valid differentiation. This differentiation is not based on intelligible criterion, therefore Junior Teachers faced hostile discrimination.

For that both junior Teachers and Hindi Teachers fall in the same or category. As per paragraph-5 of Standing Operation Procedure (sop) of Assam Rifles School. the Senior most teachers of aforementioned three categories of teachers is allowed to function as Head Master/ Principal of the Assam Rifles School.

For that having regard to the qualification of appointment, class on category nature of work, reliability and responsibility shouldered by the junior Teachers, they are entitled to the graduate pay scale with the Graduate Hindi Teachers.

6. DETAILS OF REMEDIES EXHAUSTED :

That, the Applicants declares that they have availed all the remedies available to them.

All the Applicants jointly filed an application before the respondents on 30th day of June 2009 and since nothing has been done by the Respondents which compelled them to approached the Hon'ble Tribunal.

7. MATTER NOT PENDING WITH ANY OTHER COURTS ETC.

That the Applicants declares that the matter regarding in which the Application have been made is not pending before any courts of law any other authority or any other Bench of the Tribunal.

8. RELIEF SOUGHT FOR :

- I. Under the facts and circumstances stated above, the Applicants humbly prays that your Lordship would graciously 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 records and after hearing the parties on the cause or causes that may be shown be pleased to grant the following relief (s)
- II. To direct the respondent to grant the Graduate pay scale to the Applicants i.e. in the grade of 5500-175-9000 as enjoying by the Graduate Hindi Teachers of Assam Rifles with effect from the date of their appointment .
- III. The cost the Application.
- IV. Any other relief (s) the Hon'ble Tribunal may deem fit and proper

9. INTERIM RELIEF :

Pending final decision in the facts and circumstances of the case it is prayed to pass an interim order as Your Lordship deem fit and proper.

10. PARTICULARS OF THE BANK DRAFT/ POST ORDER

I. IPO No. : 39 G 416564

II. Date of issue : 28/07/2008

III. Issued from :

Guwahati Post Office

IV. Payable at :

Guwahati

11. WHERE AND WHO FILE THE APPLICATION

The application has been filed through Advocate

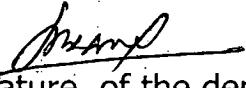
12. LIST OF ENCLOSURES :

As stated in the index>List of dates.

VERIFICATION

I, Mr. Jaganidhi Pokhrel, S/O : Mr, Ram Prasad Pokhrel, aged about 35 years, Junior Teacher ,1st Battalion, the Assam Rifles the Applicant No.1 of the Assistant Application and I am fully acquainted with the facts and circumstances of the case and I am duly authorized by the other Applicants to verify the contents of paragraph nos. 1 to 3 , 5 to 12 are true my personal knowledge and those made in paragraphs 4 on believe to be true based on records and rest are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts.

And I signed this verification on this 28th day of Oct 2009 at Guwahati


Signature of the deponent

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DGAR A/97/SOP/145

Dated 10 December, 1997
Appendix - 'C'
(Ref to Para- 5 SOP
Assam Rifles School)

DUTIES OF SENIOR AND HINDI TEACHERS (NOT REFORMING
THE DUTIES OF THE HEAD MASTER)

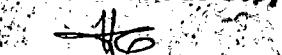
1. Take classes as per the time table allotted in the school.
2. In-charge of school library and maintenance of ledger/records.
3. Assists the Principal / Head Master
4. Prepare students for various contests and seminars.
5. Arrange extra curricular activities like Drama, Debate, etc. on important days.
6. Prepare lesson plan as per the schedule in his /her own time.
7. Responsible for collection of School dues from class students and depositing the same with the 'Head Master'.
8. Responsible for drawal, issue and accounting of text books and stationary to students of his /her class.
9. Conduct of monthly examination and to ensure progress of the children.

APPENDIX-'D'
(Ref to Para -5 of SOP
Assam Rifles School)

DUTIES OF JUNIOR TEACHERS

1. Assists the Principal /Head Master in all matters as and when required.
2. Take classes as per the time table allotted by the Principal / Head Master.
3. Prepare lesson plan as per the schedule in his own time.

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Advocate

4. Responsible for the class allotted and proper guidance to the students and their discipline and conduct in the school.
5. Pay special attention to the weak students.
6. Bring the cases of indiscipline to the notice of Principal/ Head Master.
7. Maintain Daily Attendance Register of his / her class.
8. Conduct of monthly examination and to ensure progress of the children.
9. Any other duties allotted by the Principal/ Head Master relating to the school.

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Advocate

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6036/A/2005/768

6 Assam Rifles
C/O 99 APO
16 August 2005

Assam Rifles School
Udaipur (South Tripura)

REVISED PAY SCALE HINDI TEACHER (GRADUATE)

1. Shri Deepak Nunia Hindi Teacher has been granted revised pay scale of Rs.550-175-9000/- per month w.e.f. 07 Feb 2002 as per HQ, D.G.A.R. sig No. 02259 dated 05 May, 2005.
2. On scrutiny the service book in respect of Shri Deepak Nunia. Hindi Teacher it is found that he is under Graduate. Therefore, you are requested to informed and direct him to submit Graduate Certificate and Mark Sheet in original for our necessary action.
3. An early action requested

Sd/- Illegible
(S. Thumma)
Maj
Adjt.
For Office Comndt.

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HGP
Hara Gobinda Boruah
Advocate

- 20 -

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No PBX 23510/230

Mahanideshalaya, Assam Rifles
 Directorate General Assam Rifles
 Shillong - 793011

11 May 87

A/VII-PS/T/86
 List 'A' & 'B'

IMPLEMENTATION ON THE REVISED PAY SCALE IN RESPECT OF
TEACHING STAFF ASSAM RIFLES

1. The Govt. Of India, Ministry of Finance Notification dated 13 Sep 86 while approving the revised pay scale of the Central Govt. employee of group B,C and D in pursuant to the recommendation of the 4th Central Pay Commission has approved pay scale of teaching staff under item V of 1st scheduled part 'B' att to the Notification in the aforesaid part 'B' the following pay scale have been recommended to the category of teachers mentioned against each :

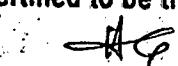
Sl. No.	Category	Pre-revised	Revised
1	Primary School Teacher	Rs.330-10-360-EB-380-15-500- EB15-560	Rs.1200-30- 1560EB-40- 2040/-
2	Train ed Graduate Teacher	RS.440-20-500-EB-25-700— EB-25-750	Rs.1400-40- 1600-50-2300- EB-60-2600/-

2. Against this it has also been recommended that those teachers who are not in the existing scales of pay mentioned in Col. 3 may be given the revised scale maintained in this Col only after ensuring that they have the prescribed qualification.

3. On the authority of above recommendations , pay scale in respect of the teachers of Assam Rifles have been examined with a view of find out whether or not the existing categories of teachers in Assam Rifles can be allowed to draw the higher pay scale as sanctioned by the Govt.

4. It has been revealed from the report of the 4th Pay Commission under para II. 41 of Chapter II that the following

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 Advocate

qualification are required for the appointment of the category of teacher mentioned against each:

(a) Primary Teacher : Matriculation or equivalent with Basic Training or Diploma in Education or one years Teachers Training certificate course.

(b) Trained Graduate Teacher : Bachelor Degree with degree or diploma in Education .

5. As per recruitment Rule of Junior Teacher the qualification required is Matriculation with Teachers Training or Pre- University course. This qualification of Junior teacher in rect Rule closely corresponds to the qualification , suggested for the Primary school teacher . Qualification required for senior teacher in Rect Rule is graduate with degree in teachers training .This qualification is also equivalent to that provided in the 4th pay commission recommendation for graduate teachers.

6. From above it may be seen that the category of Sr. teacher in Assam Rifles fulfils the qualification requirement given for the primary school teachers and the Sr. teacher of the department fulfill that for the trained graduate teacher as provided their respective the Rect. Rule.

7. It is, therefore, decide that the following pay scales as sanctioned by the Govt. of India under Part 'B' of the Schedule mentioned above may be admitted in the following .

Sl. No.	Category	Pre-revised	Revised
1	Junior Teacher	Rs. 260-6-290-EB-6-326-EB-8-390-10-400	Rs.1200-30-1560EB-40-2040/-
2	Senior Teacher	Rs. 330-10-360-EB-380-15-500-EB-15-560	Rs. 1400-40-1600-50-2300-EB-60-2600/-

8. While admitting the higher pay scales as above the following may be specially examined and ensured :

(a) Junior Teacher : If he is a Matriculate he must have the certificate of teachers Basic Training or Diploma in Education or one year teachers training certificate or he must be an intermediate i.e. pre-university pass. Under no circumstances

relaxation of qualification is allowed , if any Jr. teacher does not fulfill the above mentioned qualification he will be admitted the revised pay scale of Rs.950-20-1150-EB-25-1500/- corresponding to his existing pay scale as provided in the part 'A' of the above said schedule.

(b) Senior Teacher : Those senior teachers who are graduate with degree or diploma in education are admitted to above higher pay scale . Other senior teachers who do not have the required qualification irrespective of their seniority are not entitled to received the above higher pay scale . They will be entitled in revised pay scale corresponding to their existing pay scale which is Rs.1200-30-1560-EB-40-2040 as given in part 'A' of the above said schedule.

9. The category of Hindi teacher does not have any equivalence in the category of teachers recommended for higher pay scales. Also the qualification requirement of Hindi Teacher provided in the Rect Rule does not fulfill the conditions to higher pay scales . Thus no Hindi teacher is entitled to receive the pay scale mentioned above even if he the fulfills qualification requirement for other category of teacher .

10. The above order may be implemented in granting the higher pay scale to the entitled junior teachers and senior teachers with effect from 10 Jan,1986 i.e. the date of implementation of the revised pay scale .

11. There will not be however , any representation from any incumbent on this order because the higher pay scale has been admitted to the concerned categories of teachers as per order of the Govt. of India on the precondition of qualification requirement provided in their respective Rect. Rules.

12. Order will be implemented on personal knowledge and supervision of the Commandant .

Sd/- illegible

(J.K. Roy)

Lt. Col.

Assistant Director (A)

for Director General Assam Rifles.

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HGB
Hara Gobinda Boruah
Advocate

To
The Director General Assam Rifles
Mahanideshalaya, Assam Rifles
Maghalaya, Shillong - 793011

Dated 30/06/2009

Sub :- Equal pay as that of Graduate Hindi Teachers of Assam Rifles

Sir,

Most respectfully and humbly we beg to lay before you the following lines for favour of your kind consideration please.

1. That all this instant applicants are Junior Teachers of Assam Rifles battalion Children School. The qualification of the applicants are given below:

(i) Mr. Jaganidhi Pokrel : B.Sc. (Hons) B.ED.

(ii) Mr. Bhaskar Jyoti Deka : B.A. Diploma in Elementary Education (Two years course) from Institution of Education and Training (DIET)

(iii) Mr. Ajay Lama : B.Com., B.Ed.

(iv) Mr. Sanjoy Kumar Chenchal :M.Sc. B.Ed.

2. That, Sir the duties of Hindi Teachers are to teach Hindi language only. But the duties of Junior Teachers are to teach all the subject i.e., English, Science, Social Science, Mathematics, Environmental Science, General Knowledge, Computer Education, Sanskrit, Drawing Arts and Music, Games and Sports, Socially Useful Productive Works (SUPW) and Laboratory Assistant and apart from this the duties of Junior Teacher is to teach Hindi language.

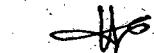
3. That, Sir, it has been brought to your notice that both the Teachers i.e. Junior and Hindi Teachers were drawing the pay scale of Rs. 1200-30-2040/- in the 4th CPC but the difference was shown in the 5th CPC in the pay scale of Junior and Hindi Teachers i.e. Junior (Graduate) Teachers were given the scale of Rs.4500-125-7000/- whereas Hindi(Graduate) Teachers were given Rs. 5500-175-9000/- from 01/01/1996.

4. That, Sir that there are three type of teachers in Assam Rifles Viz. Senior Teachers, Junior Teachers and Hindi Teachers. The qualification for appointment the Junior Teachers and Hindi Teachers are as follows :

Junior Teacher

- (i) Intermediate or 10+2 of equivalent examination from recognized Board of Education or University .
- (ii) Junior Basic Training / Teachers Training Course or equivalent from a recognized institute or university.
- (iii) Proficiency to teach up to Metric in English. JBT/TTC is necessary for appointment of Junior Teacher but no such training course is necessary for appointment of Hindi Teacher . Both posts are intermediate . For the

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**Hara Gobinda Boruah
Advocate**

appointment of Junior Teacher need proficiency to teach both in English and Hindi. The Hindi teachers who are under graduate if subsequently completed the Graduation D.G.R.A. formed a habit to declare them as graduate teacher, though the post is intermediate. All the Junior Teachers of instant application is graduate who faced hostile discrimination from the office of the D.G.R.A. without any cognate reason.

5. That, the duties of the both Junior Teachers and Hindi Teachers is to impart education in battalion children School of Assam Rifles and work load of junior Teachers is heavy than the Hindi Teachers.

6. That, though the work load of the Junior Teachers is heavy than the Hindi Teacher but there is a gross disparity in their pay, i.e. while Graduate Junior Teachers are getting pay scale in the grade of Rs. 4500 - 125-7000/- and Graduate Hindi Teachers getting pay scale in the grade of Rs.5500-175-9000/- which is a hostile discrimination.

7. That, while originating the PE (Place Establishment) the Assam Rifles have authorized to run up to primary School but since last 30 years, Assam Rifles are running Schools up to class X and XII on self help basis and since then above cadres of teachers are equally taken to run the school, i.e. according to qualification, service experience and ability of teaching. They are allotted classes and duties as deem fit by the HM/Principal irrespective of classes equally or more than that of Hindi Teachers posted in the Battalion.

8. That, service rendered by the Junior Teachers are not only same with those of Hindi Teachers but degree of responsibility and reliability are also same with the Hindi Teachers. There is no any qualitative difference as regards reliability and responsibility. Whereas the nature of function, degree of responsibility and reliability are the same the differentiation in pay scale of both Junior Teachers and Hindi Teachers is not a valid differentiation, This differentiation is not based on intelligible criteria, therefore Junior Teachers faced hostile discrimination.

9. That, the category of Hindi Teachers does not have any equivalence in the category of teachers for higher pay scale. Also the qualification requirement of Hindi Teachers provided in the Rect. Rule does not fulfill the condition of higher pay scale even if they fulfills qualification requirement for other category of teachers.

10. That, both Junior Teachers and Hindi Teachers fall in the same class or category. As per paragraph 5 of standing operating procedures (Sop for short) of Assam Rifles School, issued vide D.G.A.R. letter No. A/1-A/91 /Sop / 2000 dated 23/11/2003, the senior most teachers of the aforementioned three categories of teachers is allowed to function as H/M of the school having regard to the

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HGP
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Advocate

qualification of appointment , class or category , nature of work , reliability and responsibility shouldered by the them.

11. That, non-payment of equal pay to applicants with the Hindi Teachers is violative of Articles 39(d) of the Constitution of India . hence the denial is unreasonable, and irrational.

12. That, due to non- availability of experienced Trained Graduate Teachers (TGTS) locally as most of the A.R. Bns. are located in the far flung remote areas of the North East , the A.R. Schools are engaging all the Govt. teachers upto class X irrespective of cadres differences and are also vested with the responsibilities of liabilities of library, science laboratory and the order matters related to A.R. School . Apex 'C' and 'D' of A.R. Schools deals with the duties of Senior Teachers Junior Teachers and Hindi Teachers. The duties of all teachers except the Principal /HM are identical , only the way of language of expressing the duties are different .

13. That, the respondents have recognized and approved the contribution of Hindi Teachers by granting them the higher pay scale but have neglected the applicant who also have passed graduating and share the same work , work environment has other responsibilities. Having regard to the qualification of appointment , Class or category nature of work , reliability and responsibility shouldered by the Graduate Junior Teachers , they are entitled to the equal pay with that of graduate Hindi Teachers. Non- recognition to work of the Graduate Junior Teachers and non paying of same with the of graduate Hindi Teachers is discriminatory and violative of the principle of equal pay for equal work .

14. That denying equal pay to Junior Teachers with that of Hindi Teachers of Assam Rifles is discriminatory and contrary to the accepted norms of equal work .

15. That the demand of equal pay is very legal demand of the applicant's

In the premises aforesaid it is therefore prayed to you to grant equal pay with that of Graduate Hindi Teachers of Assam Rifles from the date of our appointment .

Yours faithfully

1. Mr. Jaganidhi Pokhrel
Junior Teacher
1st Battalion , Assam Rifles
C/O :99 APO

3. Mr. Sanjoy Kumar Chanchal
Junior Teacher
20th Battalion , Assam Rifles
C/O :99 APO

2. Mr. Bhaskar Jyoti Deka
Junior Teacher
27th Battalion , Assam Rifles
C/O :99 APO

4. Mr. Ajay Lama
Junior Teacher
16th Battalion , Assam Rifles
C/O :99 APO

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Advocate