

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 042/00285/2015  
Circuit Court at Imphal

Date of Order: This, the 17<sup>th</sup> day of January 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER**

Shri Soraisam Manimacha Singh  
Aged about 52 years  
Presently working in the capacity of  
Veterinary Field Assistant in Assam Rifles  
S/o (Late) S. Ibobi Singh  
An inhabitant of Chingamakha Maisnam Leikai  
P.O. & P.S. – Singjamei, District – Imphal West, Manipur.

**...Applicants**

By Advocates: Mr. A.M. Singh

-Versus-

1. The Union of India  
Represented by its Secretary  
The Ministry of Home Affairs  
Government of India, North Block  
New Delhi – 1.
2. The Director General of Assam Rifles  
Ministry of Home Affairs, Laitkhor  
Shillong – 793010.
3. The Controller of Accounts  
Pay & Account Office (Assam Rifles)  
Shillong, Old DGAR Complex  
Laitumkhra, Pin Code – 793011.

**...Respondents**

By Advocate: None

## **ORDER**

### **N. NEHSIAL, MEMBER (A):**

This is the second round of litigation. The learned counsel for the applicant informed that on earlier occasion on 17.08.2015, this Court vide dated 30.03.2015 in O.A. No. 040/00096/2015 have issued direction to the respondents to dispose of the representation dated 22.11.2013 made by the applicant within a period of one month by passing speaking order. Since the applicant's grievance has not been adequately addressed in the speaking order issued on 22.05.2015, the present case has been filed for quashing/setting aside the impugned letter dated 3<sup>rd</sup> January, 2013 of the Pay and Accounts Office (Assam Rifles), Ministry of Home Affairs as well as the order dated 22<sup>nd</sup> May, 2015 of the Col. (Records) for DG Assam Rifles, Shillong and further direction to the Respondents to restore the pay scale of the applicant to Rs. 5,500-9,000/- as enjoyed earlier with the grant of 1<sup>st</sup> ACP in parity with the other central Para Veterinary Staffs/DFO Veterinary of Sashastra Seema Bal (SSB), Ministry of Home Affairs, Govt. of India along some other reliefs in the interest of justice and fair play.

2. This case had come up on 17.08.2015, 21.09.2015, 03.11.2015, 04.12.2015, 19.01.2016, 02.03.2016, 01.04.2016, 27.05.2016, 25.07.2016, 28.11.2017, 08.01.2018, 15.02.2018, 19.03.2018, 04.05.2018, 12.06.2018, 11.09.2018, 11.10.2018, 17.12.2018 and finally on

18.12.2018. Hearing was concluded on 18.12.2018 and both parties were given liberty to file written argument within 10 days. Learned counsel for the applicant has submitted his written argument on 05.01.2019 whereas no written argument has been submitted by the respondents.

3. The point of litigation is that the applicant was initially appointed as Veterinary Field Assistant (VFA) vide letter dated 02.02.1987 issued by the Director General, Assam Rifles at the pay scale of Rs. 975-1540/- p.m. and whether he would be entitled to the scale of S-10 (5500-175-9000) in the first financial upgradation under ACP. With the implementation of 5<sup>th</sup> Pay Commission (ROP) 1997, the pay scale of the applicant which was revised to the pay scale to Rs. 3,200-85-4,950/- p.m. under Part "A" of First Schedule 5<sup>th</sup> CPC (ROP), 1997 whereas other similarly situated with Para Veterinary of Central Para Veterinary and AFO of SSB have been provided at the scale of Rs. 4000-100-6000/- p.m. Subsequently he has been placed in the pay scale of Rs. 4000-6000/- p.m. on the basis of Ministry of Home Affairs' letter No. II.27014/16/99-PF.IV dated 28.10.2003. He was subsequently placed in the scale of pay of Rs. 5500-175-9000/- pm w.e.f. 9<sup>th</sup> August 1999 as 1<sup>st</sup> financial upgradation under ACP Scheme vide office order dated 14<sup>th</sup> March 2012. This has been objected to by the office of Pay & Accounts Office (Assam Rifles), vide their letter No. PAO/AR/NPS-Pay Bill/Misc./2012-13/164 dated 03.01.2013 pointing out that the applicant was entitled to get ACP from S-

7(4000-6000) to S-8(4500-7000) w.e.f. 09.08.1999 and granting of scale of pay Rs. 5500-9000/- amounts to jumping over two levels i.e. from S-7 to S-10.

4. Against the decision of Pay & Accounts Office (Assam Rifles) dated 03.01.2013, the applicant made representation dated 22.11.2013. The applicant had also approached this Tribunal vide O.A. No. 040/00096/2015 and this Tribunal vide order dated 30.03.2015 had passed order directing the respondents to dispose of the pending representation dated 22.11.2013 within a period of one month from the date of receipt of a copy of the order by passing a speaking order after providing adequate opportunity to the applicant of being heard. The respondent authorities accordingly passed a detailed speaking order under No. 14015/Rec/Adm-IV(Civ)/SMS/2015/715 dated 22.05.2015 rejecting his representation and cancelling the previous upgradation of pay of the applicant to Rs. 5500-175-9000/-.

5. In the submission made by the learned counsel for the applicant and in the pleadings, the contentions are mainly only on following two grounds:

- (i) That the Assam Rifles is like any other Central Para Military Force is of the same status, equivalent to other Central Para Military Forces;

- (ii) That the cadre of Veterinary Assistant/ Attendant are also operating in the other Para Military Forces like SSB.

6. The pay scale structure of this particular cadre i.e. Veterinary Assistant etc. in the SSB and Para Veterinary Cadre are as under:

	<u>Designation</u>	<u>No. of Posts</u>	<u>Pay Scales</u>
(i)	Deputy Field Officer (Vety)	01	5500-175-9000
(ii)	Assistant Field Officer (Vety)	25	4000-100-6000
(iii)	Senior Field Assistant	247	3200-85-4900

6. Since the applicant was already in the scale of Rs. 4000-100-6000/- like Assistant Field Officer of SSB, his next financial upgradation naturally would be 5500-175-9000/-. Therefore, the financial upgradation effected by the DG AR Shillong giving him scale of Rs. 5500-175-9000/- has been correctly done.

7. The respondent authorities in their written statement has highlighted that this post of Veterinary Field Assistant is an isolated/stand alone post which has neither a feeder post nor has a promotional post. As per 5<sup>th</sup> CPC, the financial upgradation under ACP Scheme shall be given to the next higher grade in accordance with existing hierarchy in a cadre/category of posts without creating new post for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the

immediately next higher (standard/common) pay scales as indicated in Annexure-II which is in keeping with Part-A of the Scheduled annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). Since the pay of the applicant as on 9<sup>th</sup> August 1999 was Rs. 4400/- and his pay scale comes under the Standard/Common Pay scale S-7 i.e. 4000-100-6000 and is entitled for next financial upgradation to S-8 i.e. 4500-125-7000 with effect from 9<sup>th</sup> August 1999 as per Annexure-II. They also admitted that initially they have made a mistake in giving him scale of S-10 i.e. 5500-175-9000 instead of giving him S-8.

8. On going through the records submitted by the parties, it is very clear that the following the relevant portion of the sequence/standard common pay scales notified by the Ministry of Finance, Department of Expenditure dated 30<sup>th</sup> September 1997.

<u>Sl. No.</u>	<u>Scales</u>
S-6	3200-85-4900
S-7	4000-100-6000
S-8	4500-125-7000
S-9	5000-150-8000
S-10	5500-175-9000

9. The issue here is nothing but comparing of an apple with another apple. It is not contested by the applicant that the post of Veterinary Field Assistant in Assam Rifles is isolated post. If the post of Veterinary Field Assistant is isolated one, accordingly the order of Ministry of Finance in regard to the implementation of the 5<sup>th</sup> CPC

and also financial upgradation under ACP has to be complied with. If that is so, since the applicant was placed in the scale of Sl. No. 7 Rs. 4000-100-6000, the next scale of financial upgradation would naturally S-8 4500-125-7000 and obviously not as S-10 which is the scale of 5500-175-9000. Comparing of the isolated post of Veterinary Field Assistant of Assam Rifles that with of the pay scale of Assistant Field Officer (Vety) in the scale of Rs. 4000-100-6000 , Para Cadre of SSB may not be justifiable.

10. Moreover, there is no any indication from the Govt. letter as well as from the contention of the applicant that the Veterinary posts in the SSB are also isolated posts. On the face of the Govt. order dated 13.04.2004, it appears that there is a proper cadre structure in that organization. The number of sanctioned posts of the different scales against these posts is clearly indicated. Therefore, demanding of the ascending scales in the cadre of that organization only because the next higher scale of scale 4000-100-6000 is 5500-175-9000 found not maintainable.

11. Considering the above facts and relevant orders on the subject, we found that the applicant has not justified ground to sustain his O.A. The O.A. is therefore, liable to be dismissed.

12. The applicant also had prayed to direct the respondents to refund the amount already deducted from the pay of the applicant w.e.f. 09.08.1999 with admissible allowances and benefits

as per existing rules promulgated by the Govt. of India. In this connection, it may be highlighted that as per decision of Hon'ble Apex Court rendered in the case of **State of Punjab & Others vs Rafiq Masih (White Washer) etc., (2015) 4 SCC 334** no recovery is to be effected from Group 'C' employees. Therefore, it will not be justified to make recovery from the applicant for the over payment already made during the period he was placed in the higher scale of Rs. 5500-175-9000 particularly when this mistake was committed by the respondents. We hereby accordingly, while dismissing the O.A. No. 042/00285/2015, direct the respondents that no recovery shall be effected from the applicant for the over payment made and whatever recovery of amount already effected shall be refunded to the applicant forthwith.

13. O.A. stands dismissed partly. No order as to costs.

**(N. NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**