

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.273/2010

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

1. Shri Jalesh Kumar
Superintendent
Records Branch, (AR)
Shillong – 11.
2. Shri Pinak Pani Hore
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
3. Smt. Kredio Nongrum
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
4. Smt. Debjani Deb
Record Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
5. Smt. Susan Maureen Tariang
Record Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
6. Shri Subash Ch. Bhattacharjee
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
7. Smt. Binapani Gupta
Record Officer

Office of the Directorate General
Assam Rifles, Shillong – 793011.

8. Shri Rishot Stone Tron
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
9. Smt. Lila Devi Gurung
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
10. Shri N. K. Arjun Kanungoe
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
11. Smt. Dharitri Bhattacharjee
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
12. Shri Joy Madhab Pramanik
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
13. Shri Korywell Kharbithai
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
14. Smt. Ablema Diengdoh
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
15. Shri Ananta Ram Chhetri
Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.

16. Smt. Mita Payal
Record Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
17. Smt. Kabita Mitra
Addl. Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
18. Shri Surajit Kr. Home Choudhury
Addl. Accounts Officer
Office of the Directorate General
Assam Rifles, Shillong – 793011.
19. Smt. Nilima Deb
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
20. Smt. Panna Purkayastha
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
21. Shri Borphylla Syngai
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
22. Shri Jitendra Narayan Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
23. Smt. Purabi Shreshta
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
24. Smt. Jayamma Mathew
Superintendent
Office of the Directorate General

Assam Rifles, Shillong – 793011.

25. Shri Labanya Kr. Sarma
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
26. Shri Subash Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
27. Shri Shymalendu Roy
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
28. Shri Santanu Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
29. Shri Rakhal Dhar
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
30. Smt. Swapna Dey
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
31. Md. Ali Ansari
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
32. Smt. Sujata Sarkar
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
33. Smt. Marblelicia Langstieh

- Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
34. Shri Ivan Favian Lyngrah
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
35. Smt. Leena Chakraborty
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
36. Shri Bhaskar Kumar Bhowmick
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
37. Smt. Sucharita Adhikari
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
38. Shri Santanu Nandi
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
39. Shri Jayanta kr. Das
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
40. Shri Santanu Deb
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
41. Shri Subhashish Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.

42. Smt. Leela Das Gupta
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
43. Smt. Bernadette Fancon
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
44. Shri Pankaj Kr. Pal
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
45. Shri Biman Kumar Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
46. Shri Biresh Ranjan Nath
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
47. Shri Partha Pratim Dutta
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
48. Shri Prafulla Kumar Mandal
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
49. Shri Bikash Roy Choudhury
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
50. Shri Haripada Deb
Superintendent

Office of the Directorate General
Assam Rifles, Shillong – 793011.

51. Shri Dungar Singh Kunjwal
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
52. Smt. Smriti Rekha Bhattacharjee
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
53. Smt. Babli Dhar
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.
54. Smt. Rita Gurung
Assistant
Office of the Directorate General
Assam Rifles, Shillong – 793011.
55. Shri B. R. Myllemngap
Assistant
Office of the Directorate General
Assam Rifles, Shillong – 793011.
56. Smt. Debika Bhattacharjee
Assistant
Office of the Directorate General
Assam Rifles, Shillong – 793011.
57. Shri. Ram Jatan Ray
Superintendent
Office of the Directorate General
Assam Rifles, Shillong – 793011.

(All the applicants are presently working as
Assistants/ Superintendents/Additional Accounts
Officer/Record Officer/Civil Gazetted Officer in the
Head Office of Assam Rifles, Shillong)

... Applicants

By Advocates : Mr.M.Chanda & Mrs.U.Dutta

- Versus -

1. The Union of India
Represented by Secretary to the
Government of India
Ministry of Home Affairs
New Delhi – 1.
2. The Secretary
Ministry of Finance
Department of Expenditure
Govt. of India.
New Delhi.
3. The Director General
Assam Rifles.
Shillong – 793011.

... Respondents.

By Advocate: Mr.R.Hazarika, Addl. C.G.S.C.

Date of hearing: 03.10.2018

Date of order: 21.12.2018

ORDER

MANJULA DAS, MEMBER (J):

By this OA filed under Section 19 of the Administrative Tribunals applicant, (57) in number, have jointly approached this Tribunal seeking following relief(s):-

“8.1 That the Hon'ble Tribunal be pleased to declare that the Assistant Cadre of HQ, DGAR are

entitled to the scale of Rs. 5500-9000/- w.e.f. 01.01.1996 with all consequential benefit.

8.2. That the Hon'ble Tribunal be pleased to direct the respondents to upgrade the scale of Assistant Grade of HQ DGAR from Rs. 5000-800/- to Rs. 5500-9000/- w.e.f. 01.01.1996 to bring parity with the Assistants working in other CPMFs, central Govt. organizations etc. and make corresponding upgradation of pay in the higher cadres in the hierarchy with all consequential benefits so as enable the applicants to get the benefit of the further corresponding scale of pay revision under 6th CPC with all consequential benefits.

8.3 Costs of the application.

8.4 Any other relief(s), which the applicants are entitled to as the Hon'ble Tribunal, may deem fit and proper."

2. This Tribunal had heard the matter earlier and decided on 04.03.2011 as under:-

"8. Testing the present case on the touchstone of the aforesaid tenets, it is obvious, that there exist no violation of the set norms of law in the pay fixation, called for the interference of the Court. However, it is open for the applicants to make appropriate representation before the anomaly committee for upgradation of the scale of pay."

3. Being aggrieved with the order the applicants have filed WP(C) No.129/2011 before the Hon'ble Meghalaya High Court. The Hon'ble High Court vide its judgment and order

dated 22.11.2015 set aside the order of this Tribunal passed the following orders:-

“ ...

In the present matter, where neither the submissions of the parties have gone into the basic scrutiny of the CAT nor a considered finding has been recorded on the merits; and where it appears that the CAT has proceeded in a rather cursory manner, we are unable to endorse the order impugned. In our view, the matter involved in O.A., qua the present petitioners, requires consideration on merits with reference to the contention of the parties.

In view of the above, this writ petition is allowed to the extent and in the manner that the impugned order dated 04.03.2011 is set aside; and O.A. No.273 of 2010 is restored for re-consideration by the CAT qua the present petitioners.”

4. In view of the above directions of the Hon'ble High Court the matter is again heard on merits.

5. The issue involves in the present case is that the applicants working in the HQ, DGAR are not getting upgraded pay scale of Rs.5500-9000/- at par with the Assistants of other Central Para Military Forces (CPMF ins short). Thus, their claim is for equal pay parity with the Assistants of the other CPMFs like BSF, CISF, ITBP & SSB who were given Rs.5500-175-9000/- w.e.f. 01.01.1996.

6. Mr.M.Chanda, learned counsel for the applicants submitted that all the applicants are permanent employees and presently working as Assistant/Superintendent/Additional Accounts Officer/Accounts Officer/Record Officer/Civil Gazetted Officer, in the Assam Rifles which is a para military force under the Ministry of Home Affairs. As per the recommendation of 4th Central Pay Commission, Assam Rifles was brought under common umbrella of CPMFs along with BFS, CRPF, ITBP etc. In the recommendation of the 5th Central Pay Commission (para 70.49) it was stated that the Ministerial cadre in the CPMFs may be given the scale of pay as recommended by the Pay Commission. Accordingly the scale of Assistant cadre in the CPMFs like BPS, CISF, ITBP and SSB was given Rs. 5500-175-9000/- with effect from 01.01.1996. But in the case of Assam Rifles the scale for the post of Assistant was given Rs. 4500-125-7000/- initially and then amended to Rs. 5000-150-8000/-. The learned counsel stressed that the Assam Rifles is also a CPMF like BSF, SSB, ITBP and CISF etc. under one Ministry i.e., the Ministry of Home Affairs. According to the learned counsel, disparity in the scale of pay, of the Assistant of Assam Rifles, was brought to the notice of the Ministry of Home Affairs, vis-à-vis other Central Para-military Forces as under:-

Name of Organization	Scale of pay approved by 3 rd CPC	Scale of pay approved by 4 th CPC	Scale of pay approved by the Govt. of India w.e.f. 01.01.96
CISF	425-800	1640-2900	5500-9000
ITBP	425-800	1640-2900	5500-9000
SSB	425-800	1640-2900	5500-9000
BSF	425-800	1640-2900	5500-9000
ASSAM RIFLES	425-700	1400-2300	4500-7000

The Assam Rifles (Civilian Employees Association) thereafter approached the authorities for removing the pay anomaly and to bring the pay scale of Assistant of Assam Rifles at par with the other Central Para-military Forces. The Ministry of Home Affairs advised the department to refer the case to the 6th Central Pay Commission for removal of disparity. Representation was made before the 6th Central Pay Commission. It was stated that the nature of duties and responsibilities and recruitment qualification of the present applicants are exactly similar to their counterpart working in other CPMFs or Central Police organization. As such denial of benefit of higher revised scale of Rs. 5500-9000/- is violative of Article 14 of the Constitution of India. Learned counsel stated that the 6th Central Pay Commission admitted that grievances are genuine and the same would be redressed soon. Besides,

Ministry of Home Affairs never denied the genuineness or legitimacy of the claim. According to learned counsel, the principle of equity has been denied and settled position of law that "equal pay for equal work" has been violated in not maintaining the parity with the other Para-military Forces.

7. It was further submitted by the learned counsel that the representatives of 6CPC had met the delegation of Ministerial Civilian Staff of HQ, DGAR on 20.03.2007 and after detailed hearing, they had appreciated the problems and admitted that the grievances are genuine and assured that the same would be resolved soon. It was further submitted that Ministry of Home Affairs illegally denied the legitimate claim of the applicant for grant of upgraded pay scale from Rs.5000-8000/- to Rs.5500-9000/- w.e.f. 01.01.1996 which lends support through their legitimate claim. According to the learned counsel, due to the arbitrary denial of pay scale, the applicants are suffering huge financial loss per month for years.

8. In support of the contention, learned counsel for the applicant relied on the following decisions:-

- (i) Judgment dated 24.11.2010 of the Hon'ble High Court of Judicature at Madras in **WP(C) No.27155 of 2009 (AIR & D Technical Employees Association & Others)**;
- (ii) Judgment dated 10.01.2013 of the Hon'ble Supreme Court in **SLP(C) No.33048/2011(Union of India & Ors vs AIR & DD Technical Employees Asn. & Anr)**; and
- (iii) **Yogeshwar Prasad & Others vs National Institute of Education Planning and Administration & Others, (2010) 14 SCC 323.**

9. Mr.R.Hazarika, learned Addl. C.G.S.C. appeared on behalf of the respondents. Mr.Momin Sheikh, Junior Commission Officer, Assam Rifles was also present to assist the court. Mr. Hazarika submitted that the applicants are non-combatant civilian employees presently working in the office of the Director General of Assam Rifles. The Civil Ministerial staff has been working in the Assam Rifles since the inception, but now the persons recruited in this post are being taken in the combatised ranks only. During the 5th CPC the other Central Para-military Force like ITBP, BSF CISF and SSB were granted pay scale of Rs. 5500-9000/- with effect from 01.01.1996. When the Assam Rifles

made an appeal for parity, the Ministry of Home Affairs, examined the proposal in consultation with the ministry of Finance, Department of Expenditure. It was observed that no rationale appears to exist for extending the higher pay scale to the civilian post of Assistant in the Assam Rifles, which was declared a dying cadre. It was also observed that the post upgraded in 2005. As the proposal was not acceded, Assam Rifles was advised to take up the matter with the 6th CPC.

10. We have heard the learned counsel for the parties, perused the pleadings, order of the Hon'ble High Court and the decisions relied upon.

11. The main contention of the applicants is that applicants working in the Assam Rifles have been discriminated in the matter of pay scale as though their nature of duties, responsibilities and recruitment qualification are exactly similar to their counterparts working in other CPMFs or Central Police Organisation, they were initially given the pay scale of Rs.4500-7000/- w.e.f. 01.01.1996, subsequently enhanced to Rs.5000-8000/- w.e.f.30.03.2005 whereas Rs.5500-9000/- was granted to their counterparts in other CPMFs w.e.f. 01.01.1996.

12. Per contra, the categorical stand of the respondents at para 3.4 of the written statement was that the proposal for grant of Rs.5500-9000/- was examined in consultation with the Ministry of Finance, Department of Expenditure who had observed that no rationale appear to exist to grant higher pay scale to the Assistants which was declared as dying cadre. Besides, consequent upon the implementation of the 6th CPC the pay scale of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- have already been merged and accordingly in the Assam Rifles the pay scales and the posts has been merged/upgraded to Rs.9300-34800/- with Grade Pay of Rs.4200 and Superintendent respectively.

13. In the case of **AIR & DD Technical Employees Association (supra)**, relied upon the learned counsel for the applicants, the facts were different to that of the applicants. In the said case, the order dated 10.07.2008 passed by the CAT, Chennai Bench in OA.390/2006 rejecting the claim of the Technicians and Senior Technicians for notional fixation of pay scale from a particular date at par with Lighting Assistants was challenged before the Hon'ble High Court of Madras. In the said case, there had been pay parity in the pay scale of

Technician and Senior Technician with that of Lighting Assistant Grade II and I respectively till 1983 whereas in this case there was no parity of pay scale of the Assistants of Assam Rifles with any CMPFs, as such there is no historical parity. Therefore, the decision of the said case is not applicable in this case. The decision was upheld by the Hon'ble supreme Court in SLP (C) No.33048/2011, relied upon by the learned counsel for the applicant. In the case of **Yogeswar Prasad & Others (supra)** also, Assistants and Stenographers of National Institute of Educational Planning and Administration, Delhi were getting pay scale of Rs.425-800/- similar to that of Assistant in the Central Government upto 1986. After the IV Pay Commission though the Anomalies Removal Committee enhanced pay scale from Rs.1400-2600 to Rs.1640-2900/-, the same was not given to those applicants. In the said case also, there was historical parity. Thus, the decision in **Yogeswar Prasad & Others** is also not applicable in the present case. In the case of **U.P. State Sugar Corporation Ltd. & Another vs. Sant Raj Singh & Ors., AIR 2006 SC 2296** at page 2299, the Hon'ble Supreme Court has held; *"the doctrine of equal pay for equal work as adumbrated under Article 39(d) of the Constitution of India read with Article 14 thereof, cannot be applied in a vacuum. The constitutional*

scheme postulates equal pay for equal work for those who are equally placed in all respects....". Article 14 forbids discrimination but where the classification is founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and that differentia has a rational relation to the object sought to be achieved by the impugned legislative or executive action, it would not be construed to be a case of discrimination.

14. In all the three cases relied upon by the learned counsel for the applicant, there were historical parity with their counterparts in Central Governments, and when the parity was disturbed, the Hon'ble High Court and Hon'ble Supreme Court directed to grant similar pay scale to their counterparts of central secretariat. However, in the present case, as per the own submission of the applicants, the pay scale of the Assistant of the Assam Rifles had not been the same to that of their counterparts in CISF, ITBP, SSB, BSF. At the 3rd CPC, the Assistants of CISF, ITBP, SSB, BSF were drawing pay scale of Rs.425-800/- whereas the Assistants of Assam Rifles were drawing lesser pay scale of Rs.425-700/-. It is established that the Assistants of other CPMFs had been drawing higher pay scale than the Assistants

of Assam Rifles, i.e., the present applicants. In the case of **Union of India vs Dineshan K.K., (2008) 1 SCC 586**, the Hon'ble Supreme Court had held "that doctrine of equal pay for equal work can be applied only when the disparity is apparent."

15. After taking into the entire conspectus of the case and for the forgoing paragraphs, we are of the considered view that the applicants have failed to make out a case warranting intervention of this Tribunal. Accordingly, the OA is dismissed being devoid of any merit.

16. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

/BB/