

**Serial No. 9**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C) No. 98 of 2016  
With WP(C) No. 13 of 2017

Date of Decision: 30.08.2018

Vishambar Dutt & Ors	Vs.	Union of India & Ors
Shri. Ratan Singh	Vs.	Union of India & Ors.

**Coram:**

**Hon'ble Mr. Justice S.R. Sen, Judge (Oral)**

**Appearance:**

For the Petitioner	:	Mr. S. Banik, Adv.
For the Respondent(s)	:	Mr. N. Mozika, CGC

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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1. Both the WP(C) No. 98 of 2016 and WP(C) No. 13 of 2017 came up for hearing.

2. Heard Mr. S. Banik, learned counsel appearing on behalf of the petitioners as well as Mr. N. Mozika, learned CGC appearing on behalf of the respondents.

3. In WP(C) No. 98 of 2016 the brief fact of the petitioner's case in a nutshell is that:

*“By an Order dated 23.10.2015 (**Annexure-E**), the approval of the competent authority for upgradation and re-designation of the post of Rifleman/ORL (Operator Radio & Line) in the Assam Rifles to that of Havildar/ORL with retrospective effect was conveyed. The said Order was issued in the light of Judgment and*

*Order dated 08.05.2014 (Annexure-A) passed in W.P.(C) No. 56 (SH)/2013 and Order dated 23.05.2014 passed in W.P.(C) No. 218 (SH)/2013. Judgment and Order dated 08.05.2014 was assailed in W.A. No. 66/14 by the respondent authorities. Order dated 12.11.2014 passed by this Hon'ble Court in Division Bench granting 2 weeks time to file affidavit to show the status of processing of the matter in the Ministry of Home Affairs, Government of India was unsuccessfully assailed in SLP (Civil) No. 15279/2015, which stood dismissed by an Order dated 28.08.2015 (Annexure-D). Thereafter, the Order dated 23.10.2015 as indicated above was issued restricting its applicability to the petitioners therein only.*

*This Hon'ble Court while considering the issue of upgradation and re-designation of the post of Rifleman did not confine its scope and ambit to Rifleman/ORL (Operator Radio & Line) alone. The petitioners herein are also Rifleman belonging to the Engineering Section. The petitioners pray for necessary directions for upgradation and re-designation of their posts in the light of the Order dated 23.10.2015 (Annexure-E) and the Judgment dated 08.05.2014 (Annexure-A)."*

In WP(C) No. 13 of 2017 the brief fact of the petitioner's case in a nutshell is that:

*"By an Order dated 23.10.2015 (Annexure-E), the approval of the competent authority for upgradation and re-designation of the post of Rifleman/ORL (Operator Radio & Line) in the Assam Rifles to that of Havildar/ORL with retrospective effect was conveyed. The said Order was issued in the light of the Judgment and Order dated 08.05.2014 (Annexure-A) passed in W.P.(C) No. 56 (SH)/2013 and Order dated 23.05.2014 passed in W.P.(C) No.218 (SH)/ 2013. Judgment and Order dated 08.05.2014 was assailed in W.A. No. 66/14 by*

*the respondent authorities. Order dated 12.11.2014 passed by this Hon'ble Court in Division Bench granting 2 weeks time to file affidavit to show the status of processing of the matter in the Ministry of Home Affairs, Government of India was unsuccessfully assailed in SLP (Civil) No. 15279/2015, which stood dismissed by an Order dated 28.08.2015 (Annexure-D). Thereafter, the Order dated 23.10.2015 as indicated above was issued restricting its applicability to the Petitioner therein only.*

*This Hon'ble Court while considering the issue of upgradation and re-designation of the post of Rifleman did not confine its scope and ambit to Rifleman/ORL (Operator Radio & Line) alone. The Petitioner herein is also Rifleman belonging to the Engineering Section. The Petitioner pray for necessary directions for upgradation and re-designation of their posts in the light of the Order dated 23.10.2015 (Annexure-E) and the Judgment dated 08.05.2014 (Annexure-A).*

4. Learned counsel for the petitioners submits that some of the parties approached this Court by way of a writ petition bearing W.P.(C) No. 56 (SH)/2013. After hearing the parties, this Court passed an elaborate order dated 08.05.2014. The contention of the learned counsel for the petitioners is that the petitioners in these present writ petitions also falls under the combatised category of the Assam Rifles, so they are entitled to the benefits as directed in the judgment and order dated 08.05.2014 passed by this Court referred above.

The learned counsel for the petitioners also further submits that these petitioners though working in different trades, but they fall under the combatised category of the Assam Rifles. So, their places covers by

the judgment and order dated 08.05.2014 passed in W.P.(C) No. 56 (SH)/2013. The learned counsel also further contended that the matter has travelled upto the Hon'ble Supreme Court who dismissed the plea of the Union of India and affirmed the judgment passed by this Court.

5. In contra, the learned CGC appearing on behalf of the respondents submits that this judgment is not applicable to the petitioners as they were not parties in the W.P.(C) No. 56 (SH)/2013 and they are working in different trades though they are Riflemen. He also contended that the entry level qualification is different.

6. After hearing the submissions advanced by the learned counsel for the parties and after perusal of the para 5 of the judgment and order dated 08.05.2014 passed by this Court in W.P.(C) No. 56 (SH)/2013, it is clear that in the said judgment, this Court nowhere distinguish the differences in the category and it is an admitted fact that the petitioners in the W.P.(C) No. 56 (SH)/2013 belong to the combatised category of the Assam Rifles. Here also in this present petition, it is an admitted fact that the entry level qualification may be different and they are working in different trades like Blacksmith, Carpenter, etc but they are all Riflemen. If it is so, I do not find any reason that why in the present cases, the judgment passed in the W.P.(C) No. 56 (SH)/2013 cannot be applied.

7. Para 5 of the said judgment referred above is reproduced herein below for ready reference:

*“5. The Court, in order to satisfy itself, asked the questions i.e. (i) as to whether*

*the present petitioners belong to the combatised category; and (ii) also as to whether the petitioners belong to the members of the Central Para Military Forces? to the learned counsel appearing for the parties. Learned counsel for the petitioners Mr. HG Baruah and Mr. SC Shyam, learned senior counsel for the respondents, unanimously replied that the petitioners belong to the combatised category and they are also the members of the Central Para Military Forces. Further, the Ministry of Home Affairs, Govt. of India issued another Office Memorandum dated 03.03.1998 wherein, it is stated that the said Office Memorandum dated 22.01.1998 is quite clear and the pre-revised pay scales of the members of the Assam Rifles who belong to the combatised category should also be revised to the pay scales identical to the revised pay scales of HC(RM) in BSF and CRPF. The Office Memorandum dated 03.03.1998 (Annexure-V to the writ petition) is quoted hereunder:-*

*“No.27011/103/97-PF  
Government of India  
Ministry of Home Affairs*

*New Delhi-110001  
Dated:03.03.1998*

**OFFICE MEMORANDUM**

*Subject: Fixation of pay on rationalization of pay-scales with effect from 10.10.1997 in the Central Para Military Forces.*

*The undersigned is directed to refer to DGAR's letter No.A/Para/5<sup>th</sup> CPC /Vol.III/98 dated 19/8.02.1998 on the subject cited above.*

*2. In this connection it may be stated that the orders dated 22.01.1998 are quite clear. If the pre-revised pay scale of HC(RM) in AR and revised pay-scales are identical to the pay scales of HC(RM) in BSF and CRPF etc. HC(RM) in AR can be re-designated as ASI or equivalent in AR.*

*Sd/- xxxx  
(Gopinathan)  
Desk Officer.”*

8. The Office Memorandum dated 22.01.1998 at Page 13 of the said judgment dated 08.05.2014 is also reproduced herein below for ready reference:

“No.27011/103/97-PF.I/56  
Government of India/Bharat Sarkar,  
Ministry of Home Affair/Grih Mantralaya,

North Block  
New Delhi, the 22<sup>nd</sup> Jan 98.

OFFICE MEMORANDUM

*Subject: FIXATION OF PAY ON RATIONALISATION OF PAY SCALE WITH EFFECT FROM 10.10.97 IN THE CENTRAL PARA MILITARY FORCES.*

*In the context of certain doubts expressed by the Central Para Military Forces in fixation of pay of certain non-gazetted personnel of the CMPFs with effect from 10.10.97, vide order No.27011/97-PC Cell/PF.I dated 10.10.97, it is hereby clarified that the orders are equally applicable to all combatised categories. For example, the HC(RM) will be given the replacement pay scale of Rs.3200-4900, as provided by the Government, in the said orders for HCs and will continue to be known as HC(RM).*

2. *In the case of HC(RM) Gr.I and Gr.II and HC (Draughtsman), since the Pay Commission has given the replacement pay scale of Rs.4000-6000/- in respect of these three categories of posts in CPMFs, these three categories may be re-designated as ASI in the scale pay of Rs.4000-6000/-. As regards other categories of HC, in any of CMPFs, such as HC (RO, Cry) etc., these posts will continue to be known as HC in the relevant scale of pay approved by the Government.*

3. *This issue with the concurrence of Integrated Finance Division of this vide their Dy.No.305/97-Fin.II dated 22<sup>nd</sup> January, 1998.*

*Sd/- xxxx  
(Gopinathan)  
Desk Officer.”*

9. After considering the argument advanced by the learned counsels for the parties and after reading the judgment dated 08.05.2014 passed by this Court in W.P.(C) No. 56 (SH)/2013, I am satisfied that the said

judgment is equally applicable to the petitioners and others who are holding the same category (combatised category).

The respondent is directed to give the benefits to the petitioners and others as observed above within 4(four) months from the date of receipt of a copy of this judgment and order.

10. With this observation and direction both the WP(C) No. 98 of 2016 and WP(C) No. 13 of 2017 are allowed to that extent and stands disposed of by this common judgment and order.

Meghalaya  
30.08.2018  
"D. Nary. PS"



**(S.R. Sen)**  
**Judge**