

IN THE HIGH COURT OF MANIPUR AT IMPHAL

WP(C) No.675 of 2022

1. Force No. S/5016573 WO/RM Shri Anirudh Kumar aged about 33 Yrs, S/o Siyaram kumar, from Village Singariawan, P.O. Singariawan, District- Patna, Bihar- 801304, at present HQ 27 Sector CCPUR C/O 99 APO.
2. Force No. S/5020935 WO/RM, Shri Ningthoujam Chand Singh aged about 32 Yrs, S/o N Indrajit Singh, from Village Koutruk Maning Leikai, P.O. and P.S. Lamsang, District- Imphal West, Manipur- 795146, C/O 99 APO.
3. Force No. S/5013338 WO/RM Shri Hemam Tommy Singh aged about 34 Yrs, S/o (L) Hemam Biren Singh, from Village Moirang, P.O. Moirang, P.S. Moirang, District- Bishnupur, Manipur- 795133, C/O 99 APO.
4. Force No. S/5013454 WO/RM Shri Pramod Kumar Yadav aged about 35 Yrs, S/o Laxman Prasad Yadav, from Village Ghagha, P.O. Ghagha, District-Mandla, Madhya Pradesh- 481661, C/O 99 APO.
5. Force No. S/5014332 WO/RM Shri Sardar Barpate Vilas aged about 33 Yrs, S/o Vilas Shamrao Barpate, from Vitthalwadi, P.O. Kameri, Teh- Walwa, Maharashtra- 415403, C/O 99 APO.
6. Force No. S/5014780 WO/RM Shri Amit Azad aged about 34 Yrs, S/o Nirmal Ram, from Village Dumri, P.O. Dumri, District- Buxar, Bihar- 802120, C/O 99 APO.
7. Force No. S/5014923 WO/RM Shri Ravi Kumar aged about 34 Yrs, S/o Rangasubbaiah, from Village Thurimella, P.O. Thurimella, District- Prakasham, Andhra Pradesh- 523372, C/O 99 APO.

8. Force No. S/5014930 WO/RM Shri Ananthaneni Manjunath aged about 34 Yrs, S/o Ananthaneni Subbanna, from Dubbarlapallai, P.O. Peruru, P.S. Ramagiri, District- Anantapur, Andhra Pradesh- 515621, C/O 99 APO.
9. Force No. S/5015101 WO/RM Shri Laishram Rupachandra Singh aged about 39 Yrs, S/o Laishram Surendro Singh, resident of Naoremthong Laishram Leirak, District- Imphal West, Manipur- 795001, C/O 99 APO.
10. Force No. S/5015260 WO/RM Shri Raj Pratap Verma aged about 36 Yrs, S/o Romnath verma, from Village Tulsi, Teh- Tilda, P.S. Tilda, District- Raipur, Chhattisgarh- 493114, C/O 99 APO.
11. Force No. S/5015303 WO/RM Shri Heramani Sinha aged about 35 Yrs, S/o Laxmikanta Sinha, from Village Fultali, P.O. Fultali, Teh- Birchandranagar, District-Unakoti, Tripura- 799280, C/O 99 APO.
12. Force No. S/5015345 WO/RM Shri Pushpinder Chouhan aged about 34 Yrs, S/o Onkar Singh Chouhan, from Village Karoa, P.O. Karoa, Tehsil- Dehra, District- Kangra, Himachal Pradesh- 177103, C/O 99 APO.
13. Force No. S/5015447 WO/RM Shri Shyamal Gope aged about 36 Yrs, S/o Ajit Gope, from Village Ashok Pally, P.O. Ambassa, District- Dhalai, Tripura- 799289, C/O 99 APO.
14. Force No. S/5015818 WO/RM Shri Ashutosh, S/o Balgovind Singh aged about 34 Yrs, from Village Kohra, P.O. Kohra, P.S. Sajetee, Teh- Ghatampur, District- Kanpur Nagar, Uttar Pradesh- 209206, C/O 99 APO.
15. Force No. S/5016057 WO/RM Shri Md Bhuttu Khan aged about 32 Yrs, S/o (L) Md Karu Khan, from Village Banpur, P.O. Banpur, P.S. Khaira, Teh- Jamui, District- Jamui, Bihar- 811305, C/O 99 APO.

16. Force No. S/5016084 WO/RM Shri Damodar Paul, S/o Ravindra Paul aged about 35 Yrs, from Village Barakaimari, P.O. Jatamari, P.S. Sitalkhuchi, District- Coochbehar, West Bengal- 7146, C/O 99 APO.
17. Force No. S/5016190 WO/RM Shri Pranab Lahkar aged about 33 Yrs, S/o Madhu Ram Lahkar, from Village Uparnoi, P.O. Bangoan, P.S. Patacherkuchi, District- Bajali (old district Barpeta), Assam- 781375, C/O 99 APO.
18. Force No. S/5016188 WO/RM Shri Ranjit Das aged about 33 Yrs, S/o Dandiram Das, from Village Dekasenchowa, P.O. Chamaguri Satra, District- Jorhat, Assam- 785110, C/O 99 APO.
19. Force No. S/5016191 WO/RM Shri Kalyan Mitra Shyam aged about 33 Yrs, S/o Pranab Shyam, from Village Pohukatia Shyam Goan, P.O. Panjan, District- Jorhat, Assam- 785631, C/O 99 APO.
20. Force No. S/5016272 WO/RM Shri Ramesh Kumar aged about 34 Yrs, S/o Mathura Sah, from Village Hafizpur, P.O. Hafizpur, P.S. Baniyapur, District- Chapra, Bihar- 841422, C/O 99 APO.
21. Force No. S/5016292 WO/RM Shri Pappu Ansari aged about 34 Yrs, S/o Jahoor Ansari, from Village Rakasiyan, P.O. Jalkhoriya, P.S. Agrer, District- Rohtas, Bihar- 821113, C/O 99 APO.
22. Force No. S/5016431 WO/RM Shri Rajesh M aged about 34 Yrs, S/o V Muni Kannan, from Village Periya Agamedu, P.O. Sadupri, District- Vellore, Tamil Nadu- 632002, C/O 99 APO.
23. Force No. S/5016476 WO/RM Shri Anand N aged about 34 Yrs, S/o (L) Nagaraj M, from Village Mettukulam, P.O. Christianpet, P.S. Katpadi, District- Vellore, Tamil Nadu- 632059, C/O 99 APO.
24. Force No. S/5016546 WO/RM Shri Umakanta Ghosh aged about 35 Yrs, S/o (L) Pandit Ghosh, from Village Chhoto Bathan, P.O.

Chhoto Bathan, P.S. Naba Gram, District- Murshidabad, West Bengal- 742104, C/O 99 APO.

25. Force No. S/5016559 WO/RM Shri Sudeep Tirkey aged about 34 Yrs, S/o Prabhu Sahay Tirkey, from village Jhauguri Basti, P.O. New Chumta, District- Darjeeling, West Bengal- 734009, C/O 99 APO.

26. Shri Paokhokai Haokip, S/o (L) Ngamkhothang Haokip, from Village Molvom, P.O. Sugnu, P.S. Churachandpur, District- Churachandpur, Manipur-795128, C/O 99 APO.

27. Force No. S/5016835 WO/RM Shri Brijit Das aged about 33 Yrs, S/o Biswajit Das, from Village Ranirbazar, P.O. and P.S. Ranirbazar, District- West Tripura, Tripura- 799035, C/O 99 APO.

28. Force No. S/5016942 WO/RM Shri Jaydeep Verma aged about 34 Yrs, S/o Shyam Narayan Verma, from Village Arakhpur, P.S. Arakhpur, District- Gazipur, Uttar Pradesh- 233305, C/O 99 APO.

29. Force No. S/5017170 WO/RM Shri Sunil Kumar aged about 35 Yrs, S/o Sheeshram, from Village Jodha Ka Bass, P.O. Jodha Ka Bass, P.S. Chirawa, District- Jhunjhunu, Rajasthan- 333027, C/O 99 APO.

30. Force No. S/5020393 WO/RM Shri Satpal aged about 34 Yrs, S/o (L) Ramesh Kumar, from Village Thilor, Teh- Tosham, District- Bhiwani, Haryana- 127040, C/O 99 APO.

31. Force No. S/5020393 WO/RM Shri Shivendra Singh aged about 32 Yrs, S/o Jagveer Singh, from Village Gadanpur Turpa, P.O. Gadanpur Turpa, District- Farrukhabad, Uttar Pradesh- 209739, C/O 99 APO.

32. Force No. S/5020410 WO/RM Shri Pravin Kumar Dixit aged about 31 Yrs, S/o Dinesh Dixit, from Village Surkha, P.O. Khukhundoo, District- Deoria, Uttar Pradesh- 274501, C/O 99 APO.

33. Force No. S/5020804 WO/RM Shri Veerendra Singh aged about 32 Yrs, S/o Amar Singh, from Village Dabua Colony, P.O. Dabua Colony, P.S. Saran, District- Faridabad, Haryana- 121001, C/O 99 APO.
34. Force No. S/5020828 WO/RM Shri Kishan Singh aged about 35 Yrs, S/o Govind Singh, from Village Chamtola, P.O. Basoli, District- Almora, Uttarakhand- 2622, C/O 99 APO.
35. Force No. S/5020831 WO/RM Shri Siyaram Singh Yadav aged about 35 Yrs, S/o Baliram Singh Yadav, from Village Mahuwari Urf Afalepur, P.O. Patepur, Teh- Muhammdabad, District- Ghazipur, Uttar Pradesh- 233225, C/O 99 APO.
36. Force No. S/5020842 WO/RM Shri Kiseto Sumi aged about 34 Yrs, S/o Vikheyi, from Village Yangzitong, P.O. Kiphire, District- Kiphire, Nagaland- 978611, C/O 99 APO.
37. Force No. S/5020864 WO/RM Shri Yanglem Henary Singh aged about 33 Yrs, S/o yanglem Biramangol Singh, from Village Waheng Khuman Mayai Leikai, P.O. Nambol, P.S. Wangoi, District- Bishnupur, Manipur- 795134, C/O 99 APO.
38. Force No. S/5020979 WO/RM Shri Pebam Gajanabi Meitei aged about 31 Yrs, S/o (L) Pebam Boinao Meitei, from Village Govinda Gram Makha Leikai, P.O.& P.S. Nambol, District- Imphal West, Manipur- 795134, C/O 99 APO.
39. Force No. S/5021125 WO/RM Shri Awanish Pandey aged about 31 Yrs, S/o Rajkishor Pandey, from Village Labkani, P.O. Labkani, District- Deoria, Uttar Pradesh- 274202, C/O 99 APO.
40. Force No. S/5021125 WO/RM Shri Niraj Kumar aged about 31 Yrs, S/o Daya Shankar Parshad Sah, from Village Jirawara, P.O. Rasulpur Fatah, District- Vaishali, Bihar- 844122, C/O 99 APO.
41. Force No. S/5021225 WO/RM Shri M Venkatesh aged about 35 Yrs, S/o K Muthukrishnan, from Village Sethunarayanapuram,

P.O.& P.S. Watrap, District- Virudhunagar, Tamil Nadu- 626132, C/O 99 APO.

42. Force No. S/5021221 WO/RM Shri Aneesh M aged about 35 Yrs, S/o Mohanan, from Village Thrikkunnappuzha, P.O.Pallana, District- Alappuzha, Kerala- 690515, C/O 99 APO.

43. Force No. S/5021282 WO/RM Shri Mathew T George aged about 32 Yrs, S/o George TV, from Village Sreekrishnapuram, P.O.Kulakkaattukussi, State- Kerala- 678633, C/O 99 APO.

44. Force No. S/5021463 WO/RM Shri Punnam Sampath aged about 33 Yrs, S/o Chandramowlli, from Village Reddy Gudem, P.O. Yannambill, P.S. Palvancha, District- Bahadradri Kothagudem, Telangana- 507115, C/O 99 APO.

45. Force No. S/5021476 WO/RM Shri Prasant kumar aged about 31 Yrs, S/o Mishri Lal Sah, from Village Mehshi Chowk Bazar, P.O.& P.S. Mehshi, District- East Champaran, bihar- 845426, C/O 99 APO.

46. Force No. S/5021600 WO/RM Shri Rajendra Bazia aged about 35 Yrs, S/o Jagdish Prasad, from Village Sargoth, P.O. Sargoth, P.S. Ringas, District- Sikar, Rajasthan- 332404, C/O 99 APO.

47. Force No. S/5021609 WO/RM Shri Jagdish Chand aged about 35 Yrs, S/o (L) Chhiddi Singh, from Village Priya Nagari, P.O. Aduki, P.S. Thana Highway, District- Mathura, Uttar Pradesh- 281006, C/O 99 APO.

48. Force No. S/5021622 WO/RM Shri Ashwani Singh Jasrotia aged about 33 Yrs, S/o SH Ranjeet Singh Jasrotia, from Village Jandore, P.O. Barwal, Teh/ District- kathua, Jammu and Kashmir- 184143, C/O 99 APO.

49. Force No. S/5021629 WO/RM Shri Mahaveer Poonia aged about 33 Yrs, S/o Sugna Devi, from Village Gadsuriya, Teh- Bilara, P.O. Borunda, District- Jodhpur, Rajasthan- 342604, C/O 99 APO.

50. Force No. S/5021125 WO/RM Shri Hemant Kumar aged about 33 Yrs, S/o Janrarjan Prasad Tiwari, from Village Dewali Baligram, P.O. Dewali Baligram, District- Rudraprayag, Uttarakhand- 246439, C/O 99 APO.
51. Force No. S/5021672 WO/RM Shri Lokesh Kumar aged about 32 Yrs, S/o Banshi Lal, from village Pasta, P.O. Pasta, P.S. Deeg, District- Bharatpur, Rajasthan- 321203, C/O 99 APO.
52. Force No. S/5021673 WO/RM Shri Vijay aged about 32 Yrs, S/o Hargyan Singh, from Village Kharkara, P.O. Kharkara, District- Rohtak, Haryana- 124111, C/O 99 APO.
53. Force No. S/5022772 WO/RM Shri Santi Raj Chakma aged about 34 Yrs, S/o Priyo Ranjan Chakma, from Village Borapansury1, Dsitrict- Lawngtlai, Mizoram- 796770, C/O 99 APO.
54. Force No. S/5022826 WO/RM Chaitanya Majhi aged about 32 Yrs, S/O Moham Majhi, from Badhunia, District –Mayurbhanj, Odisha, PIN :757033, C/O 99 APO.
55. Force No. S/5022867 WO/RM Deep Chand Yadav aged about 32 Yrs, S/O Sadhu Ram Yadav, from Rajpura, District –Sikar, Rajasthan, PIN :332718, C/O 99 APO.
56. Force No. S/5022893 WO/RM Shri Krishna Ramesh Pawar aged about 32 Yrs, S/o Ramesh Devram Pawar, from Village Bhagpur, P.O. Kandari, P.S. Nasirabad, District- Jalgoan, Maharashtra- 425003, C/O 99 APO.
57. Force No. S/5022928 WO/RM Shri Nzanthung Lotha aged about 32 Yrs, S/o Emongthung Lotha, from Village Niroyo, P.O. Wokha, District- Wokha, Nagaland- 797111, C/O 99 APO.

58. Force No. S/5022941 WO/RM Shri Pranab Kumar aged about 31 Yrs, S/o (L) Ramchandra Singh, from Village Azizpur, P.O. Azizpur, P.S. Saraiya, District- Muzaffarpur, Bihar- 844120, C/O 99 APO.
59. Force No. S/5022962 WO/RM Shri Abhiman Ghosh aged about 31 Yrs, S/o Munsii Ghosh, from Village Chhoto Bathan, P.O. Chhoto bathan, P.S. Nabagram, District- Murshidabad, West Bengal- 742104, C/O 99 APO.
60. Force No. S/5022970 WO/RM Shri Parashram Ashok Pote aged about 31 Yrs, S/o Ashok Pote, from Village Desur, Mauli Nagar Desur, District- Belgaum, Karnataka- 590014, C/O 99 APO.
61. Force No. S/5022976 WO/RM Shri Ajoy Rabi Das aged about 31 Yrs, S/o Lt Ranjit Rabi Das, from Village Harerkhola, P.O. Kamalpur, P.S. Kamalpur, District- Dhalai, Tripura- 799285, C/O 99 APO.
62. Force No. S/5023049 WO/RM Shri Deepak Kumar aged about 32 Yrs, S/o Kashi Nath Singh, from Village Rajason, P.O. Rajason, P.S. Bidupur, District- Vaishali, Bihar- 844102, C/O 99 APO.
63. Force No. S/5023050 WO/RM Shri Rahul Pal aged about 32 Yrs, S/o Suresh Pal, from Village 174E/1 Ganga Ganj Colony, P.O. & P.S. Panki, District- Kanpur nagar, Uttar Pradesh- 208020, C/O 99 APO.
64. Force No. S/5023070 WO/RM Shri Hidam Herojit Meitei aged about 33 Yrs, S/o H. Khamba Meitei, from Village Sekta, P.O. Lamlong, P.S. Lamlai, District- Imphal East, Manipur- 595010, C/O 99 APO.
65. Force No. S/5023301 WO/RM Shri Mukesh Singh Gurjar aged about 34 Yrs, S/o Ghasee Ram, from Village Kankaria, P.O. Kankaria, Teh- Khetri, District- Jhunjhunu, Rajasthan- 333053 , C/O 99 APO.

66. Force No. S/5023365 WO/RM Shri Santosh Thakur aged about 32 Yrs, S/o Yogendra Thakur, from Village Titira, P.O. Bhatha Sonho, P.S. Parsa, District- Chhapra (Saran), Bihar- 841460, C/O 99 APO

67. Force No. S/5025764 WO/RM Shri Gavhane Bhagat Govind aged about 32 Yrs, S/o Givind Gavhane, from Village Mandwa, P.O. Zotinga, P.S. Bibi, District- Buldana, Maharashtra- 443202, C/O 99 APO

68. Force No. S/5025773 WO/RM Shri Ravi Kumar Ray aged about 33 Yrs, S/o (L) Chandeshwar Ray, from Village Near A.S.T.C Road Rangapara, P.O.& P.S. Rangapara, District- Sonitpur, Assam- 784505, C/O 99 APO

69. Force No. S/5025778 WO/RM Shri Nishant Kumar aged about 33 Yrs, S/o Lakshmi Narayan Singh, from Village Narkatia, P.O. Babhangama, P.S. Mejorganj, District- Sitamarhi, Bihar- 843327, C/O 99 APO.

70. Force No. S/5025860 WO/RM Shri Tungdim Douzapau Zou aged about 30 Yrs, S/o T Thangkhansuan Zou, resident of Rengkai Bible Hill, P.O.& P.S. Churachandpur, District- Churachandpur, Manipur- 795128, C/O 99 APO.

71. Force No. S/5025893 WO/RM Shri Boopathi C aged about 30 Yrs, S/o Chinnaraj, from Village Peddanapall, P.O. Periyakotta Palli, District- Krishnagiri, Tamil Nadu- 635002, C/O 99 APO

72. Force No. S/5025897 WO/RM Shri Manoj Kumar aged about 31 Yrs, S/o Shivilal, from Village Chinchroli, P.O. Bharounda Khud, District- Jhunjhunu, Rajasthan- 333024, C/O 99 APO

73. Force No. S/5025961 WO/RM Shri Mangal Lama aged about 30 Yrs, S/o Nar Bahadur Lama, from Village Model Village 5th Mile, P.O. Sugar Mile 5th Mile, P.S. Diphupar(B) 4th Mile, District- Dimapur, Nagaland- 797112, C/O 99 APO

74. Force No. S/5016198 WO/RM Shri Bikram Thapa aged about 35 Yrs, S/o Bhairav Bahadur Thapa, from Happy Valley, District – East Khasi Hills, State - Meghalaya- 793007, C/O 99 APO

75. Force No. S/5021550L Rfn/RM Shri Swmaoglung Mwshahary aged about 34 Yrs, S/o Mutilal Mwshahary, from Katrigasha, District – Kokrajhar, State - Assam- 783370, C/O 99 APO

76. Force No. 5023022A Rfn/RM Abdul Rahim, aged about 30 Yrs, S/O Manower Hussain, Village Gulhatia Dist. Murshidabad, West Bengal, PIN : 742401, C/O 99 APO

... Petitioners

-Versus-

1. Union of India through its Home Secretary Ministry of Home Affairs, North Block, New Delhi – 110003.

2. The Director General, Assam Rifles, Shillong, Meghalaya – 793010.

3. Inspector General of Assam Rifles, South, Mantripukhri, P.O. Mantripukhri, P.S. Heingang, Imphal East District, Manipur. Pin Code –

... Respondents

**BEFORE
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA**

For the petitioners	::	Mr. M. Devananda, Sr.Advocate & Ms. N. Jotsana, Advocate
For the respondents	::	Mr. B.R. Sharma, CGSC
Dates of hearing	::	18.01.2024/29.1.2024/ 08.02.2024
Date of judgment/order	::	30.04.2024

JUDGMENT AND ORDER (C A V)

[1] Heard Mr.M.Devananda, learned senior counsel assisted by Ms. N. Jotsana, learned counsel for the petitioners and Mr.B.R.Sharma, learned CGSC for the respondents.

[2] The brief facts of the present writ petition are that the petitioners have been working in the Assam Rifles, Ministry of Home Affairs since November, 1999 in the rank of Riflemen/Operator Radio & Lines ('ORL' for short). Their present scale has been fixed at Rs.3050/- which is not in consonance with the pay structure of other paramilitary forces of the Government of India. Hence, the writ petitioners are seeking the relief for pay rationalisation to the scale of Rs.4000-6000 w.e.f. their initial entry level in terms of the Ministry of Home Notification dated 22.1.1998.

[3] The grievance of the petitioners relating to pay structures relate back to the 4th Pay Commission. Vide Gazette of India Notification dated 29.08.1986 notified implementation of 4th Pay Commission. The personnel of Assam Rifles were given the pay scale as applicable to other CPOs. But such pay structure was not implemented in the Assam Rifles because the technical staffs were not given the post as per the 4th Pay Commission. Thereafter, the 5th Pay Commission came into existence where all technical ranks were re-designated and the pay scale were revised. In all the paramilitary forces, the technical combatant staff were given the rank and pay scale of SI, ASI and Havildar. While the same was not implemented in the case of Assam Rifles, it remained stagnant. Therefore, the petitioners claimed pay parity along with designation of all Central Paramilitary forces, irrespective of the fact that they belong to Assam Rifles or not.

[4] After the declaration of 5th Central Pay Commission, the Ranks structure and Pay Scale from the rank of constable upto the rank of Subedar Major have been rationalized vide Government of India Order dated 10.10.1997 for all the COPs, the rank and the Pay Scale for the technical staff such as Operator Radio & Lines/Radio Mechanics/Cipher were re-designated to the rank of Havildar and till date, the pay scale given is Rs.3200/- and the Class-I & II employees were given the rank of ASI and the Pay Scale of Rs.4000/- per month. An Office Memorandum from the Ministry of Home Affairs in this regards was also issued vide Memo No.27011/103/97-PF, I/56 dated 22nd January, 1998 and the copies were sent to all the Central Police Organisations/Central Para Military Force, but the Assam Rifles failed to implement the said Office Memorandum, which would cover the case of the petitioners herein without any dispute.

[5] The Government of India, Ministry of Home Affairs, by the communication dated 4th July, 2022 issued vide Memo No.II. 27013/18/99-PF.V, directed the Directorate General, Assam Rifles to upgrade the existing post of Riflemen Clerk to Havildar Clerk. It was contended that the Riflemen Clerk also falls within the communication wing/signal category of Assam Rifles and is a post below the Rfn/OLR, to which category, the petitioners belong.

[6] It has been contended by the petitioners that there are three types of technical combatant staff in Assam Rifles, viz. (i) Operator Radio and Line/Radio Operator (ii) Radio Technician/Radio Mechanic and (iii) Cipher. In a similar case, another personnel, namely, Mr.Dinesh KK, who is a Radio Mechanic of Assam Rifles filed a writ petition which was allowed by this Court and upon challenge before Apex Court, the same was affirmed.

[7] One of the petitioners, who was initially appointed as Riflemen (Radio Mechanic) in the Assam Rifles and subsequently

promoted to the post of Warrant Officer (Radio Mechanic) in Assam Rifles submitted a representation to the Director General Assam Rifles, Shillong requesting to upgrade all the Riflemen (Radio Mechanic) appointed in the Assam Rifles to the post of Warrant Officer (Radio Mechanic) from the date of their initial appointment as Riflemen (Radio Mechanic) in Assam Rifles with the pay scale of Rs.4000-6000 (Annexure A/6 to the writ petition).

[8] Affidavit-in-opposition has been filed on behalf of the Union of India and Ors wherein it has been stated that before the introduction of Recruitment Rules, 2000 issued by the Ministry of Home Affairs vide letter dated 31.08.2000, where no separate pay scale of class I and Class II Operators of Assam Rifles is specified and the pay scale in Assam Rifles has been implemented in accordance with the letter dated 10.10.1997 issued by the Ministry of Home Affairs and, therefore, it is submitted that the contention raised in the writ petition is incorrect.

[9] Mr. M. Devananda, learned senior counsel for the petitioners has drawn the attention of this Court to the decision in the case of **Union of India v. Dineshan K.K.: (2008) 1 SCC 586**, where Hon'ble Supreme Court held that the Radio Mechanics of Assam Rifles are entitled to parity in pay scale and rank with similar personnel of other central military and police forces. Relying the decision of **Dineshan KK (supra)**, a Division Bench of Gauhati High Court, in the judgment/order dated 22.09.2011 in **WA No. 50(SH) of 2010 titled No.3589164Y Rfn/ORL Savendra Singh Chauhan v. Union of India & Ors.**, upgraded the rank of Rifleman/ Operator Radio & Lines (ORL) in Assam Rifles as warrant officer. SLP(C) being No. 6241 of 2012 against the Division Bench judgment was dismissed by Hon'ble Supreme Court on 02.07.2012 and thereafter the direction of the Division Bench was complied vide order dated 26.12.2012. Mr. M. Devananda, learned senior counsel

for the petitioners urges that the matter has attained finality. Reliance is placed on another judgment/order dated 08.05.2014 passed by High Court of Meghalaya in **WP(C) No.56 of 2013 titled 357918 Rfn/ORL Madhuvendra Singh & Ors. v. Union of India**, Riflemen/ORLs in Assam Rifles were conferred rank and pay scale of warrant officer relying on the judgment of the Division Bench of Gauhati High Court (supra). It is also pointed out that vide order dated 05.01.2024 issued by the Directorate General Assam Rifles, Shillong, even the Pharmacist in Assam Rifles has also been conferred the same benefit. Learned senior counsel cites the decision in the case of **State of Karnataka v. C. Lalitha: (2006) 2 SCC 747**, where Hon'ble Supreme Court discussed the concept of equality of treating persons similarly situated in service matter. It is prayed that similar relief be granted to the petitioners in terms of the above cited judgments.

[10] MR. BR Sharma, learned CGS for the respondents submits that the petitioners seventy six in numbers, have filed WP(C) No.675 of 2022 praying for a direction to the respondents to grant the rank of Warrant Officer with effect from their initial enrolment to the post of Rifleman (Radio Mechanic) in Assam Rifles.

[11] The petitioners were enrolled as Rifleman (Radio Mechanic) through various appointment orders from 2008 to 2014 as per the then prevailing recruitment rules. In the said recruitment rules the minimum qualification prescribed for the post of Rifleman (RM) was matriculation with English, mathematics and science.

[12] After the publication of revise recruitment rule 2012 which provides minimum qualification for recruiting rifleman (RRM) as 10+2 with 3 years diploma in radio and television tech for electronics or telecommunications or computer or electrical or mechanical engineering or domestic appliances from a recognised university or institute. The respondents as per the revised

recruitment rule 2012 for the first time advertised for the post of Warrant Officer Radio Mechanic in the year 2015. Thereafter, the revised recruitment rule 2012 was again revised in the year 2018 with modification in the minimum qualification required for recruitment of Warrant Officer Radio Mechanic. As per the existing policy, the petitioners are eligible for the post of Warrant Officer Radio Mechanic on fulfilling all the qualitative requirement including passing of Radio Mechanic Class 1 test and as such the petitioners were upgraded to the post of Warrant Officer RM with effect from 1st Jan 2020 as they pass the said test in Feb 2019.

[13] The petitioners have interpreted the office memorandum dated 22nd Jan 1998 and created the impression that the petitioners are to be given promotion to the post of Warrant Officer RM. It is stated that the Office Memoranda dated 22.1.1998 and 3.3.1998 nowhere mentioned that the post of Rifleman RM should be re-designated as Warrant Officer Radio Mechanic instead the office memorandum specifically provides for re-designation of Head Constable (equivalent to Havildar in Assam Rifles). The said OM also provides that if the pre revised pay scale of Havildar in Assam Rifles and revised pay scale of Head Constable in other CPF's are identical then Havildar in Assam Rifles can be re-designated as ASI or Warrant Officer which is equivalent to ASI in other CAPFs. Learned CGS submits that both the OMs dated 22.1.1998 and 3.3.1998 provide that Havildar in Assam Rifles, equivalent to Head Constable shall only be re-designated as Warrant Officer (equivalent to ASI) if and only if the pay scale of Havildar in Assam Rifles is identical to Head Constable in BSF, CRPF etc

[14] Vide letter dated 3rd Dec 2008 the Government of India wrote a letter to the Director General Assam Rifles regarding up-gradation of the posts of Havildar RM to Warrant Officer RM. In the said letter approval of the competent authority was conveyed

for up gradation and re-designation of the posts of Havildar RM in Assam Rifles in the light of the Hon'ble Guwahati High Court decision dated 11.2.2005. As regards to up gradation of posts of Riflemen to the posts of Warrant Officers in Assam Rifles the competent authority does not agree as the recruitment qualification of Rifleman RM so prescribed being lower. Hence the promotion criteria prescribed in the RR, 2000 in respect to Havildar RM still stands good. For the Rifleman RM to qualify consideration for promotion to the post of Havildar RM must attend the following criteria:

- (a) Must have passed Radio Mechanic course from the Army/Central Police Organisation Institute
- (b) Must have min of eight year service in the grade of Rifleman (RM)
- (c) Must be in medical category AYE (one)/SHAPE-I except for low medical category attributable to actual hostilities/insurgency operations and aggravated due to service.
- (d) Must have passed promotion cadre, MR standard-II and Tech Trade Test One.

[15] It is submitted that only when a Rifleman RM is promoted to the post of Havildar RM, he shall be automatically upgraded and re-designated to the post of Warrant Officer RM by virtue of the OMs dated 22.1.1998 and 3.3.1998. It is further stated that all Riflemen RM in Assam Rifles who have passed TER Class 1 shall be upgraded/promoted to the rank of Warrant Officer RM by virtue of being qualified for the post of Havildar RM subject to availability of vacancy. The petitioners passed TER Class 1 on different dates starting from 17.1.2014 to 26.3.2022. Therefore, the claim of the petitioners that they should be upgraded/ promoted to the post of Warrant Officer RM in the Assam Rifles from the date of their initial appointment is untenable in the eye of law.

[16] Mr. BR Sharma has pointed out that the petitioners were recruited as per the recruitment rules prevailing prior to 2012 as Rifleman Radio Mechanic in Assam Rifles by accepting the terms and conditions of the service as well as the recruitment rules prevailing at the point of time. It is not a case of the petitioners that they qualify the criteria to be appointed/promoted to the post of Warrant Officer from the day they were appointed to the post of Rifleman Radio mechanic. It is an admitted fact that the qualification required for the post of Rifleman RM is only matriculation without any additional specialized degree/ diploma. Further, it is also not the case of the petitioner that though the nomenclature of the post of Rifleman RM is not Havildar RM (equivalent to Head Constable RM), the pay scale of Rifleman RM in Assam Rifles is equal to Head Constable RM in other CPFs. It is also stated that the petitioners firstly need to qualify for promotion to Havildar Radio mechanic and then only the OMs dated 22.1.1998 and 3.3.1998 will come into play as upgradation in the said OMs are made only in respect of Head Constable RM (equivalent to Havildar in Assam Rifles) to the post of ASI (equivalent to Warrant Officer RM in Assam Rifles). Assuming but not admitting that the OMs dated 22.1.1998 and 3.3.1998 issued by the Ministry of Home Affairs by the Government of India are applicable to the petitioners, as claimed in the writ petition, the OMs are documents of Government policies and decisions and the same cannot overwrite the recruitment rules framed under Article 309 of the Constitution of India. In service jurisprudence, it is well settled position of law that service rules framed under statutes shall always prevail over conflicting government decisions/policy/resolution. Relying on **2023 SCC online SC 311:Ashok Ram Prahad v. State of Maharashtra**, it is submitted that the claim of the petitioners that they should be upgraded/promoted to the post of Warrant Officer RM in Assam Rifles from the date of their initial

appointment is untenable in the eye of law and as such, the writ petition has no merit, as the petitioners are not aggrieved persons inasmuch as there is violation of fundamental rights or legal rights of the petitioners.

[17] This Court has minutely examined the materials on record, the submissions made at bar and the relevant case law.

[18] It will be relevant to reproduce the relevant portion of decision of Hon'ble Supreme Court in the case of **Union of India v. Dineshan K.K.: (2008) 1 SCC 586**, which held that the Radio Mechanics of Assam Rifles are entitled to parity in pay and rank with similar personnel of other military and Central Police organisations. Relevant para are reproduced below:

18. Vide Order dated 10-10-1997 passed by the Ministry of Home Affairs in pursuance of Para 7 of the Ministry of Finance, Department of Expenditure Resolution dated 30-9-1997, it was notified that the President was pleased to rationalise the rank structure and pay scales of non-gazetted cadre of the Central Police Organisations and as a result of this exercise certain ranks were to be merged and the rank structure was communicated in the order along with the revised pay scales and replacement pay scales. Copy of this order was sent to all the paramilitary forces, including Assam Rifles.

19. On 22-1-1998, an office memorandum was issued by the Government of India, Ministry of Home Affairs, by way of a clarification. In the said letter, it was clarified that Order dated 10-10-1997 was equally applicable to all advertised categories. In the said letter, directions with regard to the redesignation of the three posts including Head Constable (RM) as ASI in Central paramilitary forces along with their replacement pay scales were also ordered.

20. It appears that the disparity in rank and pay in various Central paramilitary forces could not be resolved and on 24-4-2001, the Director General, Assam Rifles submitted a report to the Government with regard to the progress on pay anomaly cases. Para 4 of the said letter is of some relevance to the issue at hand and it reads as follows:

"Rank and pay of technical cadre person, RM, Ptmn., Pharma, and compounder of AR with the same intake QR for remounts are given the ₹594 rank of Havildar wherein they are (sic whereas their) counterparts in CPOs are given ASI. MHA had ordered to submit proposal in directing cadre to cadre comparison with BSF where the rank of ASI is available in other technical and also along with financial implication. The proposal along with financial implication has been submitted to MHA and the case is lying with MOF for approval."

21. Having failed to receive any positive response from the Government, one of the Radio Mechanics issued a notice of demand to the Ministry of Home Affairs and Director General of Assam Rifles, inter alia, praying for giving effect to Office Order dated 10-10-1997 and Office Memorandum dated 22-1-1998. Vide Order dated 26-12-2001, the Ministry of Home Affairs informed the Director General of Assam Rifles that his proposal had been examined in consultation with Ministry of Finance and it was found that there was no point for comparison of grades and scales of pay for such posts across various Central paramilitary forces.

22. It was stated that the proposed upgradation may disturb relativities of various trades and grades within Assam Rifles and there was no functional justification for upgrading these posts. It is evident that on rejection of the recommendation made by the Director General of the Force, the respondent herein was left with no option but to approach the High Court for redressal of his grievance.

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24. From the afore-extracted paragraphs of the counter-affidavit and the résumé of correspondence referred to above, it clearly stands admitted by the petitioners herein that: (i) all the paramilitary forces, including Assam Rifles are on a par with each other and (ii) there was apparent "disparity" in the pay scales of the personnel of Assam Rifles with their counterparts in other Central paramilitary forces. In order to rectify this disparity, Director General, Assam Rifles, Petitioner 2 herein, vide his letter dated 18-2-1998 had, in fact, taken up the grievance of the respondent with the Ministry of Home Affairs, inter alia, recommending redesignation of Havildar (RM) Grades I and II of Assam Rifles as warrant officer and for replacement of pay scale of Rs 4000-100-6000 to bring them on a par with their counterparts in other Central Police Organisations.

25. However, the Ministry of Home Affairs vide Letter dated 3-3-1998 while accepting the said proposal had recommended redesignation of Havildar/RM as warrant officer but subject to the condition that the prerevised and revised pay scales of Havildar/RM in other paramilitary forces were identical to the pay scales of Head Constable (RM) in CRPF and BSF. Manifestly, in the instant case, the differentiation in the pay scales of the two paramilitary forces is sought to be achieved not on the ground of dissimilarity of academic qualification or the nature of duties and responsibilities but only on the ground that there was "initial anomaly" in the Fourth Central Pay Commission Report. The counter-affidavit does not even attempt to explain how the case of Havildar/RM in Assam Rifles is different from that of Radio Mechanics in other Central paramilitary forces.

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27. Thus, the short question requiring our consideration is whether having admitted in their affidavit referred to hereinabove, the "apparent disparity" and "anomaly" in the pay scales of Radio Mechanics, the administrative authorities, the petitioners herein, could be permitted to perpetuate apparent discriminatory differentiation in the pay scales because of the disparity in prerevised and revised scales of the personnel of Assam Rifles prior to the recommendations of the Fourth Pay Commission, irrespective of the identity of their powers, duties and responsibilities with other paramilitary forces. In our considered opinion, in view of the total absence of any plea on the part of the Union of India that Radio Mechanics in other paramilitary forces were performing different or more onerous duties as compared to the Radio Mechanics in Assam Rifles, the impugned decision of the Government was clearly irrational and arbitrary and thus, violative of Article 14 of the Constitution.

[19] The decision in **Dineshan K.K. (supra)** has been relied by various High Courts including this Court and the erstwhile common Gauhati High Court and the matter has attained finality. The facts of the present case is also similar with the case of **Dineshan K.K..**

[20] From perusal and detail analysis of the judgements passed by Hon'ble Supreme Court, Gauhati High Court and

Meghalaya High Court in the above cited cases of **Dineshan K.K.**, order dated 22.09.2011 in WA No. 50 (SH) 2010 and order dated 08.05.2014 in WP(C) No. 56 of 2013 respectively, this Court is of the firmed view that the petitioners herein are also entitled to the similar reliefs. Accordingly, the respondents are directed to grant/upgrade the ranks of the petitioners to the post of Warrant Officers (Radio Mechanic) in Assam Rifles equivalent to ASI (Radio Mechanic) in BSF/ITBP/CRPF with pay scale of Rs.4000-6000 with effect from their initial entry level in terms of Ministry of Home Affairs Notification dated 22.01.1998 with all consequential reliefs. The direction shall be complied within a period of three months from the date of receipt of a copy of this order.

[21] Writ petition is allowed and disposed of in terms of the above directions. No cost.

[22] Send a copy of this order to the Director General, Assam Rifles at Shillong for information and necessary compliance.

JUDGE

FR/NFR
Priyojit

RAJKUMA
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SINGH

Digitally signed
by RAJKUMAR
PRIYOJIT SINGH
Date: 2024.05.18
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