

GAHC010046042020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1425/2020

JC- 353646L SUBEDAR/ CIPHER GANGESH PRASAD TRIPATHI AND 54 ORS.
S/O LT. RAM CHANDRA TRIPATHI, PRESENTLY SERVING AT 2ND ASSAM
RIFLES, C/O 99 APO PIN-932002

2: JC- 353049 W SUBEDAR/CIPHER ANIL CHANDRA BAISHYA
S/O LT. ARUN CHNDRA BAISHYA
PRESENTLY SERVING AT HEAD QUARTER 25 SECTOR ASSAM RIFLES
C/O 99 APO
PIN-932325

3: JC- 353509P SUBEDAR/ CIPHER
RAVINDRA GOALA
S/O LT. S/O LT. RAMZ SWARUP GOALA
PRESENTLY SERVING AT 46TH ASSAM RIFLES
C/O 99 APO
PIN-932024

4: JC-353382P SUBEDAR/CIPHER
ARJUN SINGH
S/O LT. SRI RAM
PRESENTLY SERVING AT 5TH ASSAM RIFLES
C/O 99 APO
PIN-932005

5: JC-353438W SUBEDAR/CIPHER
ASHOK KUMAR
S/O LT. PURAN CHAND
PRESENTLY SERVING AT 15TH ASSAM RIFLES
C/O 99 APO
PIN-932015

6: JC-353634W SUBEDAR/CIPHER
R. SATYANARYAN
S/O LT. R. JANAIAH

PRESENTLY SERVING AT 35TH ASSAM RIFLES
C/O 99 APO
PIN-932035

7: JC-353556 SUBEDAR/ CIPHER
G.D. THAKUR
S/O LT. PRABHU NATH THAKUR
PRESENTLY SERVING AT 9SECTOR ASSAM RIFLES
C/O 99 APO
PIN-932309

8: JC-353416K SUBEDAR/CIPHER J.D. SINGH
S/O LT. RAM SAGAR SINGH
PRESENTLY SERVING AT 13TH ASSAM RIFLES
C/O 99 APO
PIN-932013

9: JC-353892 SUBEDAR/CIPHER
SURENDER RAI
S/O DEEP NARAYAN RAI
PRESENTLY SERVING AT ASSAM RIFLES TRAINING CENTRE
DIMAPUR
NAGALAND.

10: JC-353453 SUBEDAR/CIPHER
KUMUD SAIKIA
S/O LT. JIBESWAR SAIKIA
PRESENTLY SERVING AT 5TH
ASSAM RIFLES
C/O 99 APO
PIN-932005

11: JC-353673P SUBEDAR/CIPHER
R.C. PANDEY
S/O LT. M.N. PANDEY
PRESENTLY SERVING AT 7 SECTOR ASSAM RIFLES C/O 99 APO
PIN-932307

12: JC-353474 SUBEDAR/CIPHER
THOMAS KK
S/O LT. KK KURIAN
PRESENTLY SERVING AT HEAD QUARTER INSPECTOR GENERAL ASSAM
RIFLES (SOUTH)C/O 99 APO

13: JC- 353880SUBEDAR/ CIPHER SHANKAR PRASAD
S/O LATE RAMJIT
PRESENTLY SERVING AT 9 SECTOR ASSAM RIFLES

C/O 99 APO
PIN 932309.

14: JC- 353100L SUBEDAR/ CIPHER SC MOHAMMED
S/O LATE MDCHOWKAT ALI

PRESENTLY SERVING AT ASSAM RIFLES SIGNAL UNIT

SHILLONG
MEGHALAYA
PIN 793010

15: JC- 353586F SUBEDAR/ CIPHER TULAN CHANDRA NATH
S/O LATE DINARAMNATH
PRESENTLY SERVING AT ASSAM RIFLES SIGNAL UNIT
SHILLONG
MEGHALAYA
PIN 793010.

16: JC- 353440N SUBEDAR/ CIPHER SUSHIL KUMAR
S/O LATE MAHABIR PRASAD

PRESENTLY SERVING AT HEAD QUARTER DGAR (SIGNAL BRANCH)
SHILLONG
MEGHALAYA PIN 793011.

17: JC- 353642 SUBEDAR/ CIPHER N. K. DEY
S/O LATE N.C. DEY
PRESENTLY SERVING AT 11 ASSAM RIFLES
C/O 99 APO
PIN 932011.

18: JC- 353956NBSUBEDAR/ CIPHER SHYAMBABU ROY
S/O SH. KAPIL DEO ROY
PRESENTLY SERVING AT 5TH ASSAM RIFLES
C/O 99 APO
PIN 932005.

19: S/354810 WARRANT OFFICER/ CIPHER KULDIP CHAND
S/O LATE PRATAP CHAND SHARMA
PRESENTLY SERVING AT 28
ASSAM RIFLES
C/O 99 APO
PIN 932028.

20: JC- 353421 NBSUBEDAR/ CIPHER P N SINGH
S/O LATE R P SINGH
PRESENTLY SERVING AT 26TH ASSAM RIFLES C/O 99 APO

PIN- 932026.

21: JC-353835P NBSUBEDAR/ CIPHER RAGHU KUMAR K.
S/O LATE KARTHIKEYAN
PRESENTLY SERVING AT 31ST ASSAM RIFLES
C/O 99 APO
PIN 932031

22: JC-353691F SUBEDAR/ CIPHER UNNIKRISHAN PILLAI
S/O LATE SANKARAN PILLAI
PRESENTLY SERVING AT 41ST ASSAM RIFLES C/O 99 APO
PIN 932041.

23: JC- 353691X SUBEDAR/ CIPHER JAHARLAL NANDI
S/O LATE HARI PADANADI

PRESENTLY SERVING AT HEAD QUARTER DIRECTOR GENERAL ASSAM
RIFLES
SHILLONG
MEGHALAYA
PIN- 793011.

24: S/357237 WARRANT OFFICER/ CIPHER SURAJ CHETTRI
S/O LATE R. B. CHETTRI
PRESENTLY SERVING AT 25 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 932325

25: S/354735W WARRANT OFFICER/ CIPHER
P.K. CHAKRABORTY
S/O LATE K C CHAKRABORTY
PRESENTLY SERVING AT 25 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 932325.

26: S/ 355126Y WARRANT OFFICER/ CIPHER MD M AHMED
S/O LATE ISMAIL ALI
PRESENTLY SERVING AT 6TH ASSAM RIFLES
C/O 99 APO
PIN 932006.

27: S/356344 WARRANT OFFICER/ CIPHER ASHOK KUMAR
S/O LATE H.S. GULERIA
PRESENTLY SERVING AT 6TH ASSAM RIFLES
C/O 99 APO
PIN 932006.

28: S/354849 WARRANT OFFICER/ CIPHER S K SHARMA

S/O LATE N R SHARMA
PRESENTLY SERVING AT 10TH ASSAM RIFLES
C/O 99 APO PIN 932010

29: S/353502H WARRANT OFFICER/ CIPHER B N ACHARYA
S/O LATE B D ACHARYA
PRESENTLY SERVING AT 41ST ASSAM RIFLES
C/O 99 APO
PIN 932041.

30: S/353774 WARRANT OFFICER/ CIPHER OM PRAKASH TIWARI
S/O LATE RAMCHANDRA TIWARI
PRESENTLY SERVING AT 26TH ASSAM RIFLES
C/O 99 APO
PIN 932026

31: S/354588 WARRANT OFFICER/ CIPHER SUKUNATHAN NAIR
S/O LATE DAMODARAN PILLAI
PRESENTLY SERVING AT 4TH ASSAM RIFLES
C/O 99 APO
PIN 932004.

32: S/356368 WARRANT OFFICER/ CIPHER JHANTUBANIK
PRESENTLY SERVING AT 3RD ASSAM RIFLES C/O 99 APO
PIN 932003

33: S/355790 WARRANT OFFICER/ CIPHER SHANKAR ADHIKARI
S/O LATE LALMOHAN ADHIKARI
PRESENTLY SERVING AT 14TH ASSAM RIFLES
C/O 99 APO
PIN 932014

34: S/356487K WARRANT OFFICER/ CIPHER S.B. SINGHA
PRASANT
S/O LATE S KHERODASINGHA
PRESENTLY SERVING AT 30TH ASSAM RIFLES
C/O 99 APO
PIN 932030.

35: S/354329W WARRANT OFFICER/ CIPHER CHANDRASEKHAR THAKUR
S/O LATE BAIDYA NATH THAKUR
PRESENTLY SERVING AT 30TH ASSAM RIFLES
C/O 99 APO
PIN 932030.

36: S/356877 WARRANT OFFICER/ CIPHER MDKAIMUDDIN
S/O LATE NABIJANMIYAN
PRESENTLY SERVING AT 11TH ASSAM RIFLES

C/O 99 APO
PIN 932011.

37: S/355737N WARRANT OFFICER/ CIPHER K MSPANIKAR
S/O A.K. MURALEEDHARAN
PRESENTLY SERVING AT 11TH ASSAM RIFLES
C/O 99 APO
PIN 932011

38: JC- 353805X NAIB SUBEDAR/ CIPHER CHAKO T V
S/O T C VARUGHESE
PRESENTLY SERVING AT HEAD QUARTER DIRECTOR GENERAL ASSAM
RIFLES
SHILLONG
PIN 793011.

39: JC- 353649Y SUBEDAR/ CIPHER L.N. SINGHA
S/O LATE KUNJUBABU SINHA
PRESENTLY SERVING AT HEAD QUARTER INSPECTOR GENERAL ASSAM
RIFLES (EAST)
C/O 99 APO.

40: JC- 354154WNBSUBEDAR/ CIPHER RAMESHCHANDRANA
S/O LATE S ARJUNANACHARY
PRESENTLY SERVING AT 23 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 932323.

41: JC- 353870X SUBEDAR/ CIPHER MOHAN KUMAR CHHETRI
S/O LATE DILBHADURCHETTERI
PRESENTLY SERVING AT 27 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 9322327.

42: JC- 353401P SUBEDAR/ CIPHER G S SHARMA
S/O LATE THAKUR SHARMA

PRESENTLY SERVING AT 37TH ASSAM RIFLES C/O 99 APO
PIN 932039.

43: JC- 354243XWARRANT SUBEDAR/ CIPHER N. K.
S/O LATE CHANDRAKANTABAIIDYA
PRESENTLY SERVING AT 7TH ASSAM RIFLES
C/O 99 APO
PIN 932035.

44: JC-353393F NBSUBEDAR/ CIPHER JAWAHARIA LAL TIWARI
S/O LATE RAMDEO TIWARI JAWAHARIA LAL TIWARI

PRESENTLY SERVING AT 41ST ASSAM RIFLES
C/O 99 APO
PIN 932041

45: JC- 353837 SUBEDAR/ CIPHER UMESH ROY
S/O SRI RAM YATAN ROY

PRESENTLY SERVING AT 46TH ASSAM RIFLES C/O 99 APO
PIN 932046.

46: JC-353666Y SUBEDAR/ CIPHER BALDEO SINGH
S/O LATE BIDESHI SINGH
PRESENTLY SERVING AT 34TH ASSAM RIFLES
C/O 99 APO
PIN 932034

47: S/354667 WARRANT OFFICER/ CIPHER RAMESH KUMAR
S/O LATE ZILE SINGH PRESENTLY SERVING AT 34TH ASSAM RIFLES
C/O 99 APO
PIN 932034.

48: S/355205N WARRANT OFFICER/ CIPHER I.A. KHATI
S/O SHRI BAHADUR KHATI

PRESENTLY SERVING 38TH ASSAM RIFLES
C/O 99 APO PIN 932038.

49: S/353671KNB SUBEDAR/ CIPHER SURENDRA PRASAD KOTNALA
S/O LATE K.M. KOTNALA
PRESENTLY SERVING AT 29TH ASSAM RIFLES C/O 99 APO
PIN 932029.

50: JC- 353873L NAIB SUBEDAR/ CIPHER D J BHATTACHARJEE
S/O LATE DINESH CHANDRA BHATTACHARJEE
PRESENTLY SERVING AT 21 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 932321.

51: JC-356606P SUBEDAR/ CIPHER SUNIL KUMAR
S/O SRI SOBHA
PRESENTLY SERVING AT 30TH ASSAM RIFLES C/O 99 APO
PIN 932030.

52: JC-356617 SUBEDAR/ CIPHER NARAYAN ROY
S/O SRI PALASH ROY
PRESENTLY SERVING AT 27 SECTOR ASSAM RIFLES
C/O 99 APO
PIN 932327

53: S/353927 WARRANT OFFICER/ CIPHER MAHENDRA SINGH
S/O LATE TRILOK SINGH
PRESENTLY SERVING AT 20TH ASSAM RIFLES C/O 99 APO
PIN 932020.

54: JC- 356956F SUBEDAR/ CIPHER DEVI RAM KOHALI
S/O SRI GOVIND RAM
PRESENTLY SERVING AS 22 ASSAM RIFLES C/O 99 APO
PIN 932022

55: JC-353945 NBSUBEDAR/ CIPHER
MD HAMID ALI
S/O LATE JALALUDDIN
PRESENTLY SERVING AT 30TH ASSAM RIFLES C/O 99 APO
PIN 93203

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS NEW DELHI-110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA -11

3:THE INSPECTOR GENERAL ASSAM RIFLES
HEAD QUARTER IGAR (EAST)
SEREKONA
SILCHAR
ASSAM
C/O 99 APO

4:THE COMMANDER
25TH SECTOR ASSAM RIFLES C/O 99 APO
PIN 932325.

5:THE COMMANDER
27THSECTOR ASSAM RIFLES C/O 99 APO
PIN 932327.

6:THE COMMANDANT
11THASSAM RIFLES
HALFLONG
ASSAM C/O 99 APO
PIN- 93201

Advocate for the Petitioner : MR. V KUMAR

Advocate for the Respondent : ASSTT.S.G.I.

Linked Case : WP(C)/468/2020

NO.S/353371 WARRANT OFFICER/CIPHER SUBHASH CHANDRA @ S.C. RAI
S/O LT. SHIV NARAYAN RAI
VILL. AND P.O. GASIRA
DIST. GORAKHPUR
UTTER PRADESH
PRESENTLY SERVING AT 16TH ASSAM RIFLES
C/O 99 APO
PIN-932016

VERSUS

THE UNION OF INDIA AND 2 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI-110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

3:THE COMMANDANT 16TH ASSAM RIFLES
C/O 99 APO PIN-932016

Advocate for : MR. V KUMAR
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 2 ORS.

Linked Case : WP(C)/1008/2021

KALIKA PRASAD @ KALIKA PRASAD DWIVEDI AND ANR
S/O LATE OMKAR NATH DWIVEDI
R/O VILL. AND P.O. BATHUWA
DIST. AMBEDKAR NAGAR
UTTAR PRADESH
PIN 224132 RETIRED FROM SERVICE AS JC-353089 SUBEDAR CIPHER FROM
ASSAM RIFLES

2: KARTAR CHSAND CHOUDHURY
S/O LATE BAHAT RAM VILL. AND P.O. GHAR
DIST. KANGRA
HIMACHAL PRADESH

PIN 176103 RETIRED FROM SERVICE AS JC 353354 NABIB SUBEDAR/CIPH
FROM ASSAM RIFLES
VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECY. THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS NEW DELHI 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES

HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA 11

3:THE BRIGADIER (PERS)
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA 11

4:THE COMMANDANT
ASSAM RIFLES TRAINING CENTRE AND SCHOOL
SHUKHOVI
DIMAPUR
PIN 797112

Advocate for : MR. V KUMAR
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS

Linked Case : WP(C)/2319/2020

TULEN CHANDRA NATH AND 2 ORS.
S/O- LT. DINARAM NATH
RETD. FROM SERVICE AS SUBEDAR CIPHER FROM ASSAM RIFLES
R/O- VILL- BARUAKHAT
P.O. KHAPLUNGKUCHI
DIST.- NAGAON
ASSAM

2: DEBAJYOTI BHATTACHARJEE
S/O- LT. DINESH CHANDRA BHATTACHARJEE
RETD. FROM SERVICE AS NB SUBEDAR CIPHER FROM ASSAM RIFLES
R/O- MADHYA BHUBANPAN
AGARTALA
WEST TRIPURA
PIN- 799002

3: ANIL CHANDRA BAISHYA
RETD. FROM SERVICE AS SUBEDAR CIPHER ASSAM RIFLES
S/O- LT. ARJUN CHANDRA BAISHYA
VILL- JANAKPUR
P.O. KAHILIPARA
DIST.- KAMRUP (M)

GHY
ASSAM
PIN- 781019
VERSUS

THE UNION OF INDIA AND 2 ORS.
REP. BY THE SECY. THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI- 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

3:THE BRIGADIER (PERS.)
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

Advocate for : MR. V KUMAR
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 2 ORS.

Linked Case : WP(C)/312/2020

NO. S/353371 WARRANT OFFICER/CIPHER SUBHASH CHANDRA
S/O LT. SHIV NARAYAN RAI
VILL. AND P.O. GASIRA
DIST. GORAKHPUR
UTTER PRADESH
PRESENTLY SERVING AT 16TH ASSAM RIFLES
C/O 99 APO
PIN-932016

VERSUS

THE UNION OF INDIA AND 2 ORS.
REP BY T HE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI-110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

3:THE COMMANDER
16TH SECTOR ASSAM RIFLES
C/O 99 APO
PIN-932016

Advocate for : MR. V KUMAR

Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 2 ORS.

Linked Case : WP(C)/2616/2020

HARGOBINDA CHOUDHURY
S/O- LT. GANGA DHAR CHOUDHURY
RETD. FROM SERVICE AS SUBEDAR CIPHER FROM ASSAM RIFLES
R/O- VILL- BAHARI
P.O. BAHARI HAT
DIST.- BARPETA
ASSAM
PIN- 781302

VERSUS

THE UNION OF INDIA AND 3 ORS.
REP. BY THE SECY. THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI- 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

3:THE BRIGADIER (PERS.)
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

4:THE DY. INSPECTOR GENERAL
H.Q. 25 SECTOR
ASSAM RIFLES C/O 99 APO

Advocate for : MR. B PATHAK
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS.

Linked Case : WP(C)/6235/2021

EX NO.JC-353659 NAIB SUBEDAR (CIPHER) NISHIT DEB CHOUDHURY
S/O LATE NIRPESH DEB CHOUDHURY
RETIRED FROM SERVICE AS NAIB SUBEDAR CIPHER FROM
HEADQUARTER 21 SECTOR ASSAM RIFLES
C/P 99 APO . 932421

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS

NEW DELHI 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES

HEADQUARTER DIRECTORATE GENERAL ASSAM RIFLES

SHILLONG

MEGHALAYA 11

3:THE BRIGADIER (PERS.)

HEADQUARTER DIRECTORATE GENERAL ASSAM RIFLES

SHILLONG

MEGHALAYA 11

4:THE DEPUTY INSPECTOR GENERAL

HEADQUARTER 21 SECTOR

ASSAM RIFLES

C/O 99 APO 932421

Advocate for : MR. V KUMAR

Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS.

Linked Case : WP(C)/5618/2020

SRI BAIJNATH AND ANR

S/O- LT. JAPTI PR

R/O- VILL- SIKTAUR

P.O. KHORABAR

DIST.- GORAKHPUR

UTTER PRADESH

PIN- 176031 RETD. FROM SERVICE AS SUBEDAR CIPHER FROM 6TH ASSAM

RIFLES C/O 99 APO

PIN- 932006

2: BANWARI LAL YOGI

S/O- LT. S.N.YOGI

VILL.- WARD NO.- 12 KHETRI

P.O. KHETRI

DIST.- JHUNJHUNU

RAJASTHAN

PIN- 333503

RETD. FROM SERVICE AS JC- 352912 SUBEDAR/CIPH FROM 20 ASSAM

RIFLES C/O 99 APO

PIN- 932020

VERSUS

THE UNION OF INDIA AND 4 ORS

REP. BY THE SECY. THE GOVT. OF INDIA

MINISTRY OF HOME AFFAIRS

NEW DELHI- 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

3:THE BRIGADIER (PERS.)
HEAD QUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA-11

4:THE COMMANDANT 6TH ASSAM RIFLES
C/O 99 AP

PIN- 932006

5:THE COMMANDANT 20TH ASSAM RIFLES
C/O 99 APO

PIN- 932020

Advocate for : MR. B PATHAK

Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/3742/2020

OM PRAKASH AND 2 ORS.

S/O- LT. SANT RAM

R/O- VILL- BOHAN

P.O. JAWALAMUKHI

DIST.- KANGRA

HIMACHAL PRADESH

PIN- 176031 RETD. FROM SERVICE AS SUBEDAR CIPHER FROM 3RD ASSAM
RIFLES C/O 99APO

PIN- 932003

2: RAMAR V

S/O- LT. VELLAI SAMY

HOUSE NAME- 79/5

S.S.NAGAR KOVIPATTI

VILL- KOVIPATTI

P.O. KOVIPATTI

DIST.- TUTICORIN

TAMILNADU

PIN- 628501

RETD. FROM SERVICE AS HAVILDAR/CIPH FROM 46TH ASSAM RIFLES

C/O 99 APO

PIN- 932046

3: PRATAP SINGH DAHIYA

S/O- LT. KUNDAN LAL

VILL- RAMPURI

P.O. RAMPURI

DIST.- REWARI

HARYANA

PIN- 123411

RETD. FROM SERVICE AS NAIB SUBEDAR/CIPHER FROM ASSAM RIFLES
TRAINING CENTRE AND SCHOOL
DIMAPUR
NAGALAND
VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY THE SECY. THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS NEW DELHI- 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES
H.Q. DIRECTORATE GENERAL ASSAM RIFLES SHILLONG MEGHALAYA-11
3:THE BRIGADIER (PERS.)
H.Q. DIRECTORATE GENERAL ASSAM RIFLES SHILLONG MEGHALAYA-11
4:THE COMMANDANT
3RD ASSAM RIFLES C/O 99 AP
PIN- 9329032
5:THE COMMANDANT
46TH ASSAM RIFLES C/O 99 APO
PIN- 932046

Advocate for : MR. B PATHAK
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/5633/2020

JC-3534531 SUBEDAR/CIPHER KUMUD SAIKIA
S/O LATE JIBESWAR SAIKIA
TOWN SONARI
WARD NO
8
PO SONARI
DIST CHARAIDEO
ASSAM
PRESENTLY SERVICE AT 5TH ASSAM RIFLES
C/O 99
APO 932005

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLES

HEADQUARTER DIRECTORATE GENERAL ASSAM RIFLES
SHILLONG
MEGHALAYA
11
3:THE BRIGADIER (PERS.)

HEADQUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG
MEGHALAYA 11
4:THE COMMANDANT
5TH ASSAM RIFLES
ASSAM
C/O 99 APO 932005

Advocate for : MR. B PATHAK
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT & ORDER (ORAL)

Date : 14.03.2023

Heard Mr. V. Kumar, the learned counsel appearing on behalf of the petitioners in a batch of writ petitions. The respondent herein are represented by Mr. A.K. Dutta, Mr. H. Gupta, Ms.B. Sarma, Mr. K. Gogoi, Ms. A. Gayan, Mr. B. Deka, the learned counsels.

2. The issue involved in the batch of writ petitions is as to whether the respondent authorities in view of the creation of the post of Warrant Officer/Cypher can treat the same to be the first financial upgradation to the petitioners and thereupon make recovery from the petitioners on the ground of excess payment being made upon application of the Modified Assured Career

Progression Scheme(MACP). To appreciate the dispute involved, it would be relevant to take note of the brief facts of the instant case leading to the dispute.

3. All the writ petitioners herein were initially enlisted in the Assam Rifles as Rifleman/ORL (Operator Radio Line) under Section 2 (4) of the Assam Rifles Act, 1941. At that relevant point of time when the petitioners were initially enlisted as Rifleman/ORL there was no Rules regulating the service conditions of the petitioners. However, subsequently the Assam Rifles (Group C Combatised post) Recruitment Rules, 2000 was framed. The petitioners after rendering service as Rifleman/ORL were re-mustered from Rifleman/ORL to Havildar Cypher. At this stage, it may be relevant to mention that the 5th Central Pay Commission had made certain recommendations relating to equivalence of rank and pay in all paramilitary forces. At that relevant point of time, the Assured Career Progression Scheme (ACP) for Central Government Civilian Employees in all Ministries/Departments was also introduced as per an Office Memorandum dated 9/8/1999. In terms with the said scheme, it was decided to grant two financial upgradation to Group B, C and D employees on completion of 12 years and 24 years of regular service respectively. However, the benefits of the said scheme was not given to the petitioners and similarly situated persons on the ground that the re-musteration of the petitioners and similarly situated persons

from the post of Operation Radio Line to Havilder Cypher was treated as promotion in the career of the petitioners as well as similarly situated employees. Under such circumstances one Abdul Bari approached the Shillong Bench of this Court (as it then was) by filing the writ petition which was registered and numbered as W.P.(C) No.256(SH)/2012 thereby praying inter alia for quashing of the decision of the respondent authorities that re-musteration would be counted as upgradation for the purpose of grant of benefits under the Assured Career Progression Scheme and the Modified Assured Career Progression Scheme and that the first upgradation granted under the ACP to the petitioner therein would be counted as the second upgradation.

4. In the meantime, the Meghalaya High Court was established during the pendency of the said writ petition. Vide the judgment and order dated 10/4/2013, the Meghalaya High Court disposed of the said writ petition with a direction to the respondents to grant the second financial upgradation under the MACPS on completion of 20 years in service as Havildar Cypher w.e.f. 20/11/2011 and the first financial upgradation should be from 20/11/2003 with consequential benefits and the order impugned therein dated 12/07/2012 was quashed and another order dated 7/10/2009 was modified to the extent that the first financial upgradation should be w.e.f. 20/11/2003. In paragraph 12 of the said judgment the Meghalaya High Court had categorically held that the

changing of the trade in Cypher category i.e. Havildar/Cypher through re-musteration is not a promotion and also not a financial upgradation and therefore counting of continuous service for the financial upgradation under the ACP scheme should be from the date of re-musteration to the lowest rank of Cypher category i.e. Havildar/Cypher on 21/11/1991 in respect to the petitioners therein. This judgment passed in W.P.(C) No. 256(SH)/2012 dated 10/4/2013 was challenged in appeal which was registered and numbered as Writ Appeal No. 30/2013. Vide an order dated 18/11/2014 taking into consideration that the judgment dated 10/4/2013 was complied with, the Writ Appeal was dismissed. It further appears that a challenge was made to the order passed in Writ Appeal No.30/2013 before the Supreme Court and vide an order dated 4/9/2015, the Special Leave Petition (C) No. 13534-13535/2015 was dismissed.

5. It further appears from the records that the Director General of the Assam Rifles on 18/1/2016 complied with the directions passed in the order dated 10/4/2013 thereby granting the financial upgradation to the petitioners in W.P. (C) No. 256(SH)/2012. As the respondent-Assam Rifles had limited the benefits only to the persons who had approached the Court, similar writ petitions were moved before the Meghalaya High Court whereupon similar orders were also being passed. On the basis of such similar orders, those persons were granted the benefits under the Assured Progression Career Scheme and the Modified

Assured Career Progression Scheme. It further appears that there was a decision taken by the Ministry of Home Affairs whereby it was decided to grant similar benefits of ACP/MACP to the persons only in pending court matters of the same issue. Situated thus, the petitioners herein approached this Court by filing a writ petition which was registered and numbered as W.P.(C) No. 747/2018 raising similar grievances against the respondent authorities.

6. This Court vide an order dated 14/2/2019 directed the respondent authorities and more particularly to the Director General of Assam Rifles to take necessary steps to pass appropriate orders granting the benefits of the ACP/MACP in terms with the judgment dated 10/4/2013 passed in W.P.(C) No.256(SH)/2012 and Writ Appeal No. 30/2013 within a period of two months therefrom. Accordingly, vide an order dated 3/6/2019, the petitioners in W.P.(C) No.747/2018 were granted the benefits under the Assured Career Progression Scheme stating inter alia that the said financial benefits was personal to them and no pay fixation benefits shall accrue to them at the time of their regular promotion.

7. In the meantime, another dispute arose wherein persons similar to the petitioners who were working as Havildar/Cypher, Sub Cypher and M.Sub/Cypher challenged the action of the respondent authorities in denying their rank,

structure and pay scale in terms with the guidelines of the 5th Pay Commission and the Office Memorandum dated 22/1/2018 issued by the Ministry of Home Affairs, Government of India. This issue originated in view of a challenge made by one Havildar Cypher namely Dhusmanta Kumar Raut who claimed the benefit of rank, structure and pay as per the recommendations of the 5th Pay Commission and the Office Memorandum dated 22/1/1998 including the benefit of ACP per policy of the Government of India, 1997.

8. The Agartala Bench of this Court had disposed off the said writ petition filed by Dhusmanta Kumar Raut vide a judgment dated 11/2/2005 with a direction to the respondents to offer the benefit of rank, structure and pay as per the recommendations of the 5th Pay Commission and the Office Memorandum dated 22/1/1998 including the benefit of ACP per policy of the Government of India, 1997. Pursuant thereto another writ petition was filed before the Meghalaya High Court by one Shri Digamber Datt and Ors. which was registered and numbered as W.P.(C) No. 403/2014 thereby claiming similar benefits in terms with the judgment in Dhusmanta Kumar Raut (supra). The Meghalaya High Court vide a detailed judgment and order dated 23/3/2017 disposed off the said writ petition thereby directing the respondents to give appropriate rank and pay scale to the petitioners therein as per the 5th Central

pay Commission and the Office Memorandum dated 22/1/1998 including financial upgradation under the Modified Assured Career Progression Scheme of the Government of India, if any within a period of three months. It appears that the said judgment and order dated 23/3/2017 in W.P.(C) No. 403/2014 was put to challenge before the Division Bench in the Meghalaya High Court. It appears from the records that there was a delay in filing those writ appeals.

9. The Division Bench of the Meghalaya High Court vide an order dated 27/11/2017 in MC(WA) No.52/2017 and MC (WA) No. 54/2017 not only dismissed the appeal on the ground of limitation but also went into the merit and held that the judgment dated 23/3/2017 in W.P.(C) No.403/2014 was based on fundamental principles of parity amongst similarly circumstanced persons and accordingly dismissed the said writ appeals. It further appears from the records that an appeal was preferred before the Supreme Court which was registered and numbered as Special Leave Petition Diary No. 11494/2018. The Supreme Court after condoning the delay dismissed the Special Leave Petition vide and order dated 4/7/2018.

10. It is under such circumstances that on 30/11/2018, the Ministry of Home Affairs had conveyed the no objection for implementation of the order dated 23/3/2017 provided the Assam Rifle is convinced that there is no operational

difficulty in terms of rank- related issue in their forces and all the points against the order dated 23/3/2017 were duly and adequately covered in the SLP. It further appears that vide another order dated 21/12/2018, the competent authority gave the approval for grant of a rank of Warrant Officer/ Cypher and associated pay scale as per the 5th Pay Commission and Government of India's Office Memorandum dated 22/1/1998 w.e.f. 10/10/1997 in consonance with the order dated 23/3/2017 passed in W.P.(C) No. 403/2014 and W.P.(C) No. 311/2016. It further appears that vide an order dated 8/2/2019, the Director General, Assam Rifles, Shillong in compliance to the judgment and order dated 23/3/2017 passed by the Meghalaya High Court upgraded various persons including the petitioners herein to the rank of Warrant Officer/Cypher from the dates as mentioned in the said order in the pre-revised Pay Scale of Rs. 4000-100-6000 w.e.f 10/10/1997 or from the date of passing of the Tech Trade Test Cypher Class- II which ever is later. Further to that, vide another order dated 15/2/2019, the Director General, Assam Rifles conveyed the sanction of the competent authority to grant first, second and third financial upgradation under the Modified Assured Career Progression Scheme on completion of 10/20/30 years of service from the date of re-mustertion in the next higher grade pay as given in Section -1, Part-A of the First Schedule of the CCS(Revised Pay) Rules, 2008 as Appendix –'G' HQDGAR Order A/Pers/MACPS/2009 dated 18/9/2009 to

the persons mentioned in the Appendix with effect from the dates as shown against their names. It was further mentioned that the financial benefits granted to the personnel as mentioned in the Appendix under the MACPS shall be final and no pay fixation benefit shall accrue to them at the time of regular promotion. Further to that, it was mentioned that the order for financial upgradation under the MACPS issued earlier stood superceded.

11. It further transpires that vide another order dated 8/3/2019 similar benefits were also granted which were granted in the order dated 15/2/2019. It reveals from the various writ petitions that the respondent authorities treating the order dated 8/2/2019 as an upgradation to the rank of Warrant Officer/Cypher seeks to recover from the petitioners such excess amount which were paid while granting the benefit under the MACPS for which the various writ petitions have been filed.

12. The contentions of the petitioners in the present writ petitions are that vide order dated 8/2/2019 the concerned respondent authorities have erroneously mentioned it as an upgradation to the rank of Warrant Officer/Cypher. In fact, it was a re-designation upon applying the directions passed in the judgment of the Meghalaya High Court whereby there was a direction to grant appropriate rank and pay scale to the petitioners therein as

per the 5th Central Pay Commission and the Office Memorandum dated 22/1/1998. It is therefore the case of the petitioners that the Warrant Officer/Cypher being a re-designation in terms with the 5th Pay Commission, the question of granting any financial upgradation or promotion to the petitioners does not arise and consequently the question of recovery which have been sought to be made on an erroneous basis by the respondents is required to be interfered with. It was also submitted that neither the CCS(Revised Pay) Rules, 2008 have been amended nor the Assam Rifles (Group-C Combatised Post) Recruitment Rules 2000 have been amended thereby bringing within its ambit the post of Warrant Officer/Cypher.

13. On the other hand, the learned counsels appearing on behalf of the respondents submitted that the order dated 30/11/2018 by which the Ministry of Home Affairs had directed implementation of the judgment and order dated 23/3/2017, it was specifically stated that it was an upgradation of the rank of Havildar/Cypher to Warrant Officer/Cypher w.e.f. passing the Cypher Class II in respect of the petitioners. The learned counsel further submitted that the order dated 08/02/2019 also categorically mentioned that the persons who were Havildar/Cypher were upgradaded to the rank of Warrant Officer/Cypher from the date as mentioned against their names in the table with effect from 10th of

October, 1997 or from the date of passing of the Tech Trade Test Cypher Class -II whichever is later. It is therefore the case of the respondents as could be seen from their affidavit-in-opposition that with the introduction of the post of Warrant Officer/Cypher with effect from 10/10/1997 vide the order dated 21/12/2018 the petitioners who were in the post of Havildar/Cypher were upgraded to the post of Warrant Officer/Cypher and consequently therefore the said upgradation to the post of Warrant Officer/Cypher had to be taken as the first upgradation. It is therefore the contention of the learned counsel appearing on behalf of the respondents that the petitioners herein against whom recovery are sought to be made or from whom recovery had already been made have been granted the benefit under the MACPS without considering the upgradation to the rank of Warrant Officer/Cypher as the first upgradation and as such in view of the specific undertaking being given by the petitioners at the time of getting the benefit of financial upgradation, they are therefore liable to refund the amount paid to them in excess or from the recovery had already been made, there arises no question of refund.

14. I have heard the learned counsel for the parties and perused the materials on record.

15. The question which arises for determination is as to whether the post of

Warrant Officer/Cypher which was brought in effect w.e.f. 10/10/1997 vide the order dated 21/12/2018 amounts to an upgradation from the post of Havildar/Cypher. A relevant aspect of the matter which has to be kept in mind is that there has been no amendment to the Assam Rifles (Group-C Combatised Post) Recruitment Rules, 2000 whereby the posts of Warrant Officer/Cypher was inserted although it appears that there are posts of Warrant Officer/Clerk and Warrant Officer/Personal Assistant. It is submitted by the learned counsels for the respondents with all fairness that the CCS(Revised Pay) Rules 2008 also have not been amended thereby bringing within its fold the post of Warrant Officer/Cypher. The facts have already been narrated hereinabove as well as the circumstances under which the order dated 30/11/2018 and the order dated 8/2/2019 were passed by the Ministry of Home Affairs and the Director General, Assam Rifles, Shillong respectively. But a relevant aspect which can be discerned from the judgment of the Supreme Court in the case of **Union of India Vs Dineshan K.K.** reported in (2008) 1 SCC 586 which throws some light as to how the post of Warrant Officer/ Cypher came into being. It appears from a perusal of paragraph Nos. 18 to 22 of the said judgment, the reason why the said litigation was fought. This Court finds it relevant for the purpose of the instant case to quote the said paragraphs which are reproduced herein under : -

“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 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.”

16. In the said proceedings, there was an affidavit filed, the details of which have been mentioned in paragraph No. 23 of the said judgment. It appears

from the said affidavit which have been quoted by the Supreme Court in its judgment in the case of Dineshan K.K. (supra) that the deponent therein mentioned that on receipt of a letter from the Ministry of Home Affairs dated 22/1/1998, the Assam Rifles Directorate vide letter dated 18/2/1998 had taken up the case with HA to re-designate Havildar/ORL Grade- 1 and II of Assam Rifles as Warrant Officer and for replacement of the pay scale of Rs.4000--Rs.100 -- Rs.6000/- to bring them on par with their counter parts in other Central Police Organizations. It was further mentioned that attention of the Ministry of Home Affairs was also drawn regarding placement of Havildar/ORL Grade I and II in the lower scale of pay consequent to the implementation of the 4th Pay Commission. In reply to the Assam Rifles' letter dated 18/2/1998, the Ministry of Home Affairs had ruled out vide a letter dated 3/3/1998 that Assam Rifles can re-designate Head Constable (RM) as Warrant Officer, if pre-revised and revised pay scale of Havildar in Assam Rifles are identical to the pay scale of Head Constable(RM) in BSF and CRPF. It was further mentioned that the main hurdle as stated in the said affidavit in implementing the said order in Assam Rifles was the disparity in the pay scale of RM in Assam Rifles with that of BSF and CRPF. The Havildar (RM) of Assam Rifles were drawing pay scale of Rs.975-1660/- w.e.f. 1/1/1986 and the replacement scale as given in the 5th

Central Pay Scale is Rs.3,200- 4900/- per month whereas in the CRPF and the BSF, the Havildar(RM) were drawing pay scale of Rs. 1200-30-1560-40-2040 per month whose replacement scale in the 5th Central Pay Commission was Rs.4000-100-6000/-. It was also mentioned that the qualification of Head Constable(RM) in other Central Police Organization and that of the Assam Rifles Havildar(RM) was almost at par.

17. The Supreme Court in the said judgment taking into account the said affidavit had observed that the Ministry of Home Affairs vide the letter dated 3/3/1998 accepted the proposal for recommendation of re-designation of Havildar(RM) as Warrant Officer but subject to the condition that the pre-revised and the revised pay scale of Havildar(RM) in other paramilitary forces were identical to the pay scale of Head Constable (RM) in CRPF and BSF. In paragraph No. 27 of the said judgment the Supreme Court held that the disparity in the pay scale of a radio mechanic had resulted in discriminatory differentiation in the pay scale and accordingly held the same to be irrational and arbitrary and therefore violative of Article 14 of the Constitution. Paragraph 24,25 and 27 of the judgment in the case of Dineshan K.K. are reproduced herein under :-

“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.

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."

18. It would therefore be seen from the orders dated 30/11/2018 as well as the order dated 8/2/2019 that though the expression used as upgradation to the post of Warrant Officer/Cypher but in effect it is actually a re-designation on account of the implementation of the 5th Pay Commission and the communication dated 22/1/1998 which was directed by the various Court and

same attained finality.

19. Consequently this Court therefore holds and declares that the order dated 30/11/2018 and the order dated 8/2/2019 issued by the Ministry of Home Affairs as well as by the Director General of Assam Rifles respectively wherein it has been mentioned as upgradation to the rank of Warrant Officer/Cypher have to be read as re-designation. The petitioners herein have got the benefit on the basis of the judgment and order dated 14/2/2019 passed in W.P.(C) No. 747/2018 and post held by the petitioners of Havildar (Cypher) were re-designated as Warrant Officer/Cypher and the same cannot be treated as the first financial upgradation. Consequently the question of recovery sought to be made by the respondent authorities, the recovery notices so issued as well as the action by which the respondents have already recovered on the basis that the post of Warrant Officer/Cypher was the first financial upgradation is fallacious and misconceived and accordingly interfered with.

20. This Court further finds it relevant to mention that recently the Meghalaya High Court in the case of Ashim Deb Roy & Ors. Vs. Union of India and Ors. in W.P.(C) No.89/2019 had also observed at paragraph 20 of its judgment and order dated 30/1/2023 that the post of Warrant Officer/Cypher was a redesignation and not promotion/upgradation. Para 20 of the said judgment is

quoted herein below :-

It is also noticed that, in the order dated 23.03.2017, as submitted by the petitioners, two distinct directions have been issued that is, firstly, to give appropriate rank and pay scales to the petitioners as per the 5th Central Pay Commission, and Office Memorandum dated 22.01.1998, and secondly, for financial upgradation under the Modified Assured Career Progression Scheme of the Government of India, if any, within a period of three months. This directions clearly imply that, the respondents were to give appropriate rank and pay and it does not imply that, the same be upgradation of rank and pay. Similarly, the judgment dated 23.03.2017, had only limited the direction to financial upgradation under the MACP scheme, and not with regard to ACP. What follows therefore, is that the respondents were to give appropriate rank and pay scale, which would necessarily be to grant the benefits of being re-designated as ASI(Warrant Officer). As observed in the preceding paragraph, there is no direction for grant of promotion to the petitioners to the rank of Warrant Officer, rather it is but, redesignation of the post, as such, the terming of the same as a promotion is contrary to the directions of this Court, contained in order dated 23.03.2017, and also the Office Memorandum dated 22.01.1998.

21. In view of the above, the instant batch of writ petitions stands disposed of on the following observations and directions

(A) The orders dated 30/11/2018 and 8/2/2019 issued by the Ministry of Home Affairs and the Directorate of Assam Rifles respectively wherein it has been mentioned that the post of Warrant Officer/Cypher is an upgraded post amounts to a wrong interpretation to the orders passed by various courts and accordingly the orders dated 30/11/2018 and 8/2/2019 shall be read that the post of Warrant Officer/Cypher is a re-designated post.

(B) The post of Warrant Officer/Cypher being a redesignated post cannot be treated to be a upgradation/promotion from the post of Havildar/Cypher.

(C) The recoveries so made by the respondent authorities from those

petitioners by treating the Warrant Officer/Cypher to be the first upgradation are interfered with and the respondent authorities are directed to refund the said amount within a period of 4 months from the date of the instant judgment.

(D) The recoveries which have been sought to be made against the petitioners on the basis of treating the rank of Warrant Officer Cypher to be the first upgradation is interfered with and the respondent authorities are restrained from making such recoveries on the said ground.

(E) This Court makes it clear that the observations so made herein above under no circumstances be treated as that this Court had interfered with the action of the respondents in introducing the post of Warrant Officer/Cypher.

JUDGE

Comparing Assistant