

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 119 of 2019

- 1. Havildar No. 5450027, Joydeep Das** aged about 42 years, S/o (L) Jogot Moy Das, HQ 9 Sect. Assam Rifles, Pin 934829 C/o-99 APO.
- 2. Havildar No. 5450005, Jagmohan Singh, S/o Arjun Singh, 21** Assam Rifles, Pin 932021 C/o-99 APO.
- 3. Havildar No. 5450006, M. Mohan Singha, S/o M. Tembra Singha, 2 MG AR, Pin 932502 C/o-99 APO.**
- 4. Havildar No. 5450008, Arun Kumar Singh, S/o Sukh Deb Singh, 5 Assam Rifles, Pin 932005 C/o-99 APO.**
- 5. Havildar No. 5450010, Abhishek, S/o Birendra Prasad Singh, ARTC & S, Sukhovi C/o-99 APO.**
- 6. Havildar No. 5450013, Ashok Roy, S/o Sukul Roy, 38 Assam Rifles, Pin 932038, C/o-99 APO.**
- 7. Havildar No. 5450014, Narendra Singh Karki, S/o Prem Singh Karki, HQ DGAR, Laitkor, Shillong, Pin 793010.**
- 8. Havildar No. 5450018, Sandeep Dhyani, S/o (L) M.D. Dhyani, ARTC & S. Sukhovi, P.O. Dimapur, Pin 797115.**
- 9. Havildar No. 5450020, Rakesh Kumar Ranjan, S/o Upendra Kumar Singh, 31 Assam Rifles, Pin 932031 C/o-99 APO.**
- 10. Havildar No. 5450021, Deepak Prasad Bhatt, S/o (L) Khima Nand Bhatt, 19 Assam Rifles, Pin 932019 C/o-99 APO.**
- 11. Havildar No. 5450024, Ram Autar, S/o Angad Ram, 37 Assam Rifles, Pin 932037 C/o-99 APO.**
- 12. Havildar No. 5450025, Bhagvan Singh, S/o Sadhu Singh, HQ IGAR (North), Pin 932554 C/o-99 APO.**

13. Havildar No. 5450026, Sudhir Kumar, S/o Dular Chand Chaudhary, HQ 23 Sect. AR, Pin 932423 C/o-99 APO.
14. Havildar No. 5450029, Vikash Verma, S/o Baidyanath Prasad Verma, HQ 25 Sect AR, Pin 932425 C/o-99 APO.
15. Havildar No. 5450030, Prithivi Nath, S/o Shri Bishun Deo Bhagat, HQ IGAR (East), Pin 932553 C/o-99 APO.
16. Havildar No. 5450036, Rama Kant Roy, S/o Ram Pukar Roy, HQ IGAR (S), Pin 932552 C/o-99 APO.
17. Havildar No. 5450037, Santosh Kumar, S/o Shatrughana Prasad Singh, 1 Assam Rifles, Pin 932001 C/o-99 APO.
18. Havildar No. 5450039, Arvind Kumar, S/o (L) Anjani Kumar Thakur, 11 Assam Rifles, Pin 932011 C/o-99 APO.
19. Havildar No. 5450041H, Dileep Kumar Oraon, S/o Charwa Oraon, HQ 6 Sector Assam Rifles, Pin 932406 C/o-99 APO.
20. Havildar No. 5450043, Tarkeshwar Sah, S/o Shiwaji Sah, 20 Assam Rifles, Pin 932020 C/o-99 APO.
21. Havildar No. 5450046, Rajesh Kumar Yadav, S/o Ramayan Yadav, 12 Assam Rifles, Pin 932012 C/o-99 APO.
22. Havildar No. 5450053, Hemant Kumar Roushan, S/o Jagdev Prasad, 41 AR, Pin 932041 C/o-99 APO.
23. Havildar (Typist) No. 5450012, Sandeep Kumar Dwivedi now posted at 10 Assam Rifles, C/o-99 APO, Pin 932010.

***(...impleaded vide order dated 04-11-2024
passed in MC(WP(C)) No. 470 of 2024)***

... Petitioners

-Versus-

1. The Union of India, represented by Secretary to Ministry of Home Affairs, Government of India, North Block, New Delhi – 1.
2. The Director General, Assam Rifles, Laitkor, Shillong, Pin No. – 793010.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	::	Mr. Kh. Lupenjit, Advocate
For the respondent	::	Mr. W. Darakishwor, Sr. Panel counsel
Date of hearing	::	02-04-2025
Date of judgment & order	::	09-05-2025

JUDGMENT & ORDER

[1] Heard Mr. Kh. Lunpenjit, learned counsel appearing for the petitioners and Mr. W. Darakishwor, learned senior panel counsel appearing for the respondents.

The present writ petition has been filed by 23 (twenty three) petitioners with the prayer for directing the respondents for Remustration/ Up-gradation/ Re-designation of the posts held by the petitioners to the rank of Warrant Officer (Typist) as initial rank w.e.f. 10-10-1997 or from the date of their initial appointment coupled with the prayer for quashing and setting aside the speaking order dated 11-12-2018 issued by the Director General of Assam Rifles rejecting the claim of the petitioners.

[3] The case of the petitioners is that by an order dated 19-09-1989 from the Ministry of Home Affairs, Government of India, addressed to the Director General of Assam Rifles, sanctioned was conferred by the President for combatisation by conversion of the civilian posts in Assam Rifles with immediate effect. The contents of the said letter are reproduced hereunder for ready reference:-

**"No. 27011/44/88-FP.1
Government of India
Ministry of Home Affairs**

New Delhi-110001. the 19th September, 1989.

To

The Director General.

Assam Rifles.

Shillong.

**Sub: Combatisation of ministerial and other civilian posts
in the Assam Rifles HQrs. (Headquarters and Units).**

Sir,

I am directed to convey the sanction of the President to the combatisation by conversion of the civilian posts in Assam Rifles (Headquarters and Unit) under the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 with immediate effect subject to the following terms and conditions:-

- (a) The equivalence of the ranks and pay scales for the combatised posts shall be as indicated in the Annexure. This is in supersession of the existing orders regarding equivalence of ministerial posts.**
- (b) On combatisation, the incumbents of the posts 'who opt for such combatisation will be governed by the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 as amended from time to time for all purposes and the posts concerned on the civil side shall be deemed to have been abolished.**
- (c) All future appointment/ recruitment against the vacancies in various categories of posts combatised by this sanction shall be in the combatised ranks as per the recruitment rules.**
- 2. The existing incumbents of the posts mentioned in Col.1 In Annexure will be given option to opt for combatisation within a period of 3 months from the date of issue of this sanction. Those who do not opt for combatisation will continue in the civilian posts until superannuation under the existing conditions of services which will be deemed to continue as personal to them.**
- 3. The expenditure involved shall be made from within the budget grant of the Assam Rifles for the year 1989-90 and subsequent years.**
- 4. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. ..(33)E-III/89 dated 19.7.89 and the Integrated finance of this Ministry vide their U.O. No. 2605/89-Fin.III(D-1) dated 1.9.89**

Yours faithfully,

Sd/-

(K.S. Parthasarathy)

Under Secretary to the Government of India"

...

In the said letter, the posts held by the petitioners i.e., Hindi (Typist) were converted into Havildar (Typist) as reflected at Sl. No. 19 of the Annexure attached to the said letter.

[4] In order to streamline the anomalies in the matter of rank and pay structure of various CPOs occurred after the implementation of the recommendation of the 5th Central Pay Commission, the President of India ordered rationalisation of rank structure and pay scale of Non-Gazetted cadre of CPOs by issuing an order dated 10-10-1997. The said order dated 10-10-1997 was not implemented in the Assam Rifles in its true spirit leading to deprivation of the personnel in the benefit of rank, status and pay.

In view of the above parity and having been aggrieved, 1339 employees belonging to clerical cadre of Assam Rifles raised issue of parity in respect of pay, rank and status of Assam Rifles clerical cadre at par with other Central Police Organisation (CPO) by filing a writ petition being WP(C) No. 277(SH) of 2010 in the Gauhati High Court, Shillong Bench and sought for introduction of the post of Warrant Officer (Clerk) in Assam Rifles at the Entry Level post.

[5] The said writ petition was disposed of by a judgment and order dated 23-08-2012 directing the Director General of Assam Rifles to take up the matter with the Secretary, Government of India, Ministry of Home Affairs to bring parity in respect of rank structure and pay

of the Assam Rifles clerical cadre at par with other CPOs by introducing the rank of Assistant Sub-Inspector (Warrant Officer) at the Entry Grade w.e.f. 01-01-1986 in the pay scale of Rs. 1320-2040/- (Revised 4000-6000/-) with all consequential benefits in the line of the communication made through the aforesaid Ministry of Home Affairs' letter dated 10-10-1997.

The aforesaid judgment and order dated 23-08-2012 of the learned Single Judge was challenged in WA No. 40(SH) of 2012 in the Gauhati High Court, Shillong Bench, wherein by a judgment and order dated 30-04-2013, the direction of the learned Single Judge was modified with regard to the date of application of the benefit of arrear of financial benefits. Thereafter, the matter reached before the Hon'ble Supreme Court of India in Civil Appeal No. 13445 of 2015 (Arising out of SLP (C) No. 29908 of 2013) and by an order dated 17-11-2015 passed by the Hon'ble Apex Court, the judgment and order of the learned Single Judge was restored.

[6] The Ministry of Home Affairs, thereafter, approved the implementation of the judgment and order dated 23-08-2012 by issuing a Memo dated 21-06-2016, wherein it was communicated that the Ministry of Home Affairs in consultation with the Ministry of Finance has agreed to implement the said judgment and order in respect of the petitioners therein as well as the other similarly placed employees.

Thereafter, the Director General of Assam Rifles implemented the judgment and order dated 23-08-2012 by extending the benefit of rank structure and pay of Warrant Officer to 1250 petitioners in the said WP(C) No. 277(SH) of 2010 by issuing an order dated 28-06-2016. However, the benefits were extended only to the personnel of the clerical cadre, who were in service as on 01-01-1986 and who were enrolled thereafter upto 28-10-2002. As a result, 89 petitioners in the said WP(C) No. 277(SH) of 2010 were left out and not conferred with the same benefits.

[7] 87 out of the aforesaid 89 petitioners, who did not get the benefits, again approached the High Court of Meghalaya by filing Contempt Case (C) No. 21 of 2016. Later on, when the respondents in the said Contempt case agreed to implement the said judgment and order dated 23-08-2012 in respect of the said remaining 89 petitioners, and after the Director General of Assam Rifles issued an order dated 12-04-2019 extending the benefits of the said remaining 89 petitioners, the said contempt case was closed.

Subsequently, another batch of 192 Havildar (Clerk) of Assam Rifles, who were enrolled in service after 28-12-2002, approached the High Court of Meghalaya by filing a writ petition being WP(C) No. 198 of 2019 claiming the same benefits as are given in the judgment and order dated 23-08-2012 passed by the High Court and order dated 12-04-2019

issued by the Director General of Assam Rifles. The said writ petition was also allowed by the judgment dated 17-02-2023 and the Hon'ble Apex Court declined to interfere with the said judgment and dismissed the SLP bearing No. 15217 of 2024 filed by the authorities assailing the said judgment passed by the High Court. As a result, the Director General of Assam Rifles conferred the rank and status of Warrant Officer at the Entry Grade to the aforesaid 192 personnel w.e.f. the date of their respective entry into service by issuing an order dated 19-07-2024.

[8] Later on, another 612 Havildar (Clerk) of Assam Rifles, who were enrolled in service after 28-12-2002 filed a writ petition being WP(C) No. 244 of 2019 before the High Court of Meghalaya praying for directing the respondent authorities to grant the benefit of rank structure, status and pay scale of Assistant Sub-Inspector (Warrant Officer) in the pay scale of Rs. 1320-2040/- (Revised 4000 - 6000/-) w.e.f. the date of their enrolment in terms of the judgment and order dated 23-08-2012 passed by the Gauhati High Court, Shillong Bench in WP(C) No. 277(SH) of 2010. The said writ petition was dismissed by a learned Single Judge, however, in an appeal being WA No. 12 of 2023 filed by the said writ petitioners assailing the judgment passed by the learned Single Judge, a Division Bench of the High Court of Meghalaya set aside the impugned judgment dated 05-12-2022 passed by the learned Single Judge in WP(C) No. 244 of 2019 and allowed the said

writ appeal by granting the reliefs sought for by the said writ petitioners vide judgment dated 18-03-2025 passed in WA No. 12 of 2023.

[9] The relevant portions of the said judgment are reproduced hereunder for easy reference:-

“It emerges from the above that when a particular set of employees is given relief by the Court, the other identically situated persons shall be treated alike and not doing so would amount to discrimination and, therefore, violative of provisions of Article 14 of the Constitution of India. In such a situation, the authorities are obligated to extend the benefit thereof to all similarly situated persons. It is settled by now, specially in service law, that all similarly situated persons should be treated similarly. Even, the principles of delay and laches as well as acquiescence are of not much relevance for consideration of relief claimed in the case.”

“There is no dispute to the fact that both the posts of Warrant Officer (Clerk) and Havildar (Clerk) are entry level posts at the Assam Rifles clerical trade. There is no difference of requisite qualification and performance of duty between the two posts. The normal rule is that when a particular set of employees is given relief by the Court, all other similar and identically situated persons should be treated alike by extending the same benefit. There cannot be selective implementation, particularly when the judgement passed by the Court was a judgement in rem, to create unreasonable classification. There cannot be two different entry grades to one Clerical Trade where some employees get higher rank and pay of Warrant Officer and other similarly situated employees get lessor rank and pay of Havildar. Simply because, the appellants herein did not come to Court and joined the first round of litigation, they cannot be deprived of their legitimate rights. The respondents/employers are under legal obligation to grant the benefit to all these similarly situated employees, notwithstanding the fact as to whether they approached the Court or not.”

“It is pertinent to mention that the set of all the 89 persons, who received the benefit of financial upgradation and rank and status of the Warrant Officer by order No. Rec(Adm-I)/MACPS (Court Case)/2019/320 dated 12-04-2019, have entered into the service after 28-10-2002. Another batch of 192 persons, who were conferred with the same benefit vide order No. Rec(Adm-I)/Ajay Kumar (Court Case)/2024/112 dated 19-07-2024 consequent to the Judgment dated 17-02-2023 passed in WP(C) No. 198 of 2019, have also entered the service after 28-10-2002. Both the sets of the aforesaid persons were enrolled in the service of the Assam Rifles after the Recruitment Rules of 2002 came into force. In such a situation, the contention raised on behalf of the respondents that the appellants are not entitled to the benefit as the post of Warrant Officer is not sanctioned by the rule is totally untenable and stands rejected.”

“The ground of delay and laches as well as acquiescence raised on behalf of the respondents is also not tenable in view of the law laid down by the Hon'ble Supreme Court in Arvind Kumar Srivastava (supra) as discussed above. The respondents by no stretch of imagination can discriminate the appellants by treating them as employees belonging to a different class by making unreasonable classification and deny them the benefit which they are entitled to by virtue of the Judgment and Order dated 23-08-2012 passed in WP(C) No.277 (SH) of 2010 and subsequent approval of implementation issued vide Memo No. MHA U.O. 27013/2/2016.PF.IV dated 21-06-2016 of the Ministry of Home Affairs. I also endorse the reasons given by my learned brother on the issue of delay.”

“For what has been discussed above, the appellants have made out a case for interference with the impugned Judgement dated 05-12-2022 passed in WP(C) No.244 of 2019 and the same is hereby set aside. Resultantly, the appellants are entitled to the relief claimed by them in the writ petition.”

“The respondents are directed to issue necessary order granting the benefit of rank and pay of Warrant Officer to the appellants w.e.f. their respective date of appointment in terms of the benefits already extended to the clerical cadre by implementation of the Judgment and Order dated 23-08-2012 passed in WP(C) No. 277 (SH) 2010. The entire exercise should be completed by the respondents within a period of four months from today.”

The writ appeal stands allowed. No costs.”

[10] In the present case, all the petitioners were initially appointed as Hindi (Typist) in the year 1999, 2000, 2001, 2003 and 2005. According to the petitioners, the posts of Hindi (Typist) have been converted as Havildar (Typist) pursuant to the sanction given by the President of India as reflected in the letter dated 19-09-1989 of the Ministry of Home Affairs, Government of India. It is also the case of the petitioners that in para 2(b) of the Ministry of Home Affairs, Government of India's letter dated 16-03-2009, it is clearly mentioned that Hindi (Typist) post does not exist as per RPE 2003 and the post of Hindi (Typist) has been given as Havildar (Typist) post on combatisation in 1989 and that the said post will be merged with Havildar (Clerk) and will

enjoy promotional avenues as per the existing norms. All the petitioners have also given option for combatisation and they have been combatised w.e.f. 01-12-2011.

According to the petitioners, they are all similarly situated with those Havildar (Clerk), who have been granted the benefit of rank and pay of Warrant Officer by the High Court and subsequently, by the authorities of the Assam Rifles and that they are also entitled to get the same benefits. It has also been submitted on behalf of the petitioners that the judgment dated 18-03-2005 of the Division Bench of the High Court of Meghalaya in WA No. 12 of 2023 squarely covered the case of the present petitioners and that the present writ petition can be allowed by granting similar reliefs as are given to those appellants.

[11] Mr. W. Darakishwor, learned senior panel counsel appearing for the respondents fairly submitted that the issues raised in the present writ petition are similar with those issues raised and considered by the Division Bench of the High Court of Meghalaya in WA No. 12 of 2023 and that the present writ petition can be disposed of in terms of the judgment and order dated 18-03-2025 passed by the High Court of Meghalaya in the said WA No. 12 of 2023. However, Mr. W. Darakishwor, learned senior panel counsel vehemently submitted that as the present writ petitioners were combatised as Havildar (Typist) only w.e.f. 01-12-2011 and as they are not entitled to get the effect of

combatisation retrospectively from the date of their initial appointment, they will be entitled to get the benefit of rank and pay of Warrant Officer only w.e.f. the date of their respective combatisation as Havildar (Typist)/ Havildar (Clerks) i.e., w.e.f. 01-12-2011.

[12] Taking into consideration the facts and circumstances of the present case and the submissions advanced by the learned counsel appearing for the parties and also on perusal of the earlier judgments, more particularly, the judgment dated 23-08-2012 passed by the Gauhati High Court, Shillong Bench in WP(C) No. 277(SH) of 20210 and judgment dated 18-03-2025 passed by the High Court of Meghalaya in WA No. 12 of 2023, this court has come to the conclusion that the petitioners are similarly situated with those petitioners/ appellants and that they are entitled to get the same benefits as are given to those petitioners/ appellants. Accordingly, the respondents are directed to issue necessary orders granting the benefit of rank and pay of Warrant Officer to the present petitioners w.e.f. the date of their respective combatisation as Havildar (Typist)/ Havildar (Clerk) in terms of the benefits already extended to the clerical cadre of the Assam Rifles pursuant to the judgment and order passed by the High Court. It is made clear that the whole exercise should be completed by the respondents within a period of three months from the date of receipt of a certified copy of this order.

With the aforesaid directions, the present writ petition is disposed of. Parties are to bear their own costs.

JUDGE

FR / NFR

Devananda