

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 666 of 2018

1. E/380487H Hav/SKT, Thomas V.T aged about 50 years, S/o V.M. Thomas presently posted at HQ 9 Sector Assam Rifles, Pin 934809 C/o 99 APO.
2. E/380166 Hav/SKT, H.K. Singh, S/o (L) Janak Deo Singh, 38 AR, Pin 932038 C/o-99 APO.
3. E/380162 Hav/SKT, U.S. Gujar, S/o (L) Phonrilal Gurjar, HQ 21 Sector AR, C/o-99 APO.
4. E/380332 Hav/SKT, Baban Thakur, S/o Gobardhan Thakur, 4MGAR, C/o-99 APO.
5. E/380338 Hav/SKT, R.K. Jha, 3MGAR, C/o-99 APO.
6. E/380346 Hav/SKT, Yohannan S., S/o K.P. Simon Thakur, 8 AR, Pin 932008 C/o-99 APO.
7. E/380489 Hav/SKT, Johnson L., S/o (L) Lukose Y., 16 AR, Pin 932016 C/o-99 APO.
8. E/380553 Hav/SKT, Sudarshan V, S/o R. Vasudevan, 16 AR, Pin 932016 C/o-99 APO.
9. E/380561 Hav/SKT, Kuldeep Singh, S/o (L) SH Balwant Singh, HQ 25 Sector, C/o-99 APO.
10. E/380562 Hav/SKT, S N Dubey, S/o (L) Mosaphir Dubey, 31 AR, Pin No, 932031, C/o-99 APO.
11. E/380567 Hav/SKT, G S Negi, S/o (L) Ranjit Singh Negi, 18 AR, Pin No, 932018, C/o-99 APO.
12. E/380570 Hav/SKT, B S Baniyal, 3 MGAR, C/o-99 APO.
13. E/380575 Hav/SKT, Biju Abraham, S/o T P Abraham, 34 AR, Pin No, 932034, C/o-99 APO.
14. E/380576 Hav/SKT, M S Rana, 3 MGAR, C/o-99 APO.
15. E/2901437 Hav/SKT, Jacob P Varghese, S/o P O Jacob, HQ DGAR, C/o-99 APO.
16. E/2901295 Hav/SKT, Pankaj Mani, S/o Shiram Balak

Singh, 39 AR, Pin No, 932039, C/o-99 APO.

17. E/85117 Hav/SKT, Jaibir Singh, 35 AR, Pin No, 932035, C/o-99 APO.
18. E/95879 Hav/SKT, Sumesh K S, S/o P R Sethu Madhavan, 3 AR, Pin No, 932003, C/o-99 APO.
19. E/2193 Hav/SKT, S K Patwal, S/o (L) Mosaphir Dubey, 26 Sector AR, C/o-99 APO.
20. E/2209 Hav/SKT, Manoj Kumar, S/o B L Jakhmola, 28 Sector, C/o-99 APO.
21. E/3002086 Hav/SKT, Brijvir Singh, S/o (L) SH Ram Kishan Singh, 4 MGAR, C/o-99 APO.
22. E/5006237 Hav/SKT, Aheibam Achouba Singh, S/o A. Tomba Singh, 11 AR, Pin No, 932011, C/o-99 APO.
23. E/214099 Hav/SKT, Ram Prakash, ARC & MC, C/o-99 APO.
24. E/115148 Hav/SKT, Akshay Pandhy, S/o Bhagaban Pandhy, ARC & MC, C/o-99 APO.
25. E/380159 Nb/Sub/SKT, Vijayan Pillai, ARC & MC, C/o-99 APO.
26. E/380163 Nb/Sub/SKT, Mathai P C, S/o Ouseph Chacko, 26 AR, Pin No, 932026, C/o-99 APO.
27. E/380353 Nb/Sub/SKT, Pan Singh Bisht, S/o Sitab Singh, HQ DGAR, C/o-99 APO.

...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 A. GUNESHWAR SHARMA

For the petitioners : Mr. Kh. Lupenjit Adv;
Mrs. S. Gitanjali, Adv.

For the respondents : Mr. B.R. Sharma, CGSC

Date of hearing	17.12.2024
Date of order	27.05.2025

JUDGMENT & ORDER

[1] Heard Mr. Kh. Lupenjit, learned counsel along with Mrs. S. Gitanjali, learned counsel for the petitioners and Mr. B.R. Sharma, learned CGSC for the respondents.

[2] By the present writ petition, the petitioners pray for issuing a writ of mandamus or any other appropriate writ of the like nature directing the respondents to implement the OM dated 22-01-1998 thereby redesignation of Havildar/SKT to the rank of Warrant Officer (W/O)/SKT as Initial Rank (w.e.f. 10-10-1997 i.e. date of merger) along with all financial benefits by fixing the pay of Warrant Officer (W/O) of Rs. 4000-100-6000/- (w.e.f. 10-10-1997) for petitioner Nos. 1 to 24 and in respect of Petitioner Nos. 25 to 27 only w.e.f. 10-10-1997 till 18-12-2011 i.e. the date of promotion date to the rank of Nb/Sub/SKT (Engg).

[3] The case of the petitioners is that they initially joined as Riflemen GD in the Assam Rifles. Thereafter, the petitioners were remustered or merged with the Hav/SKT (Engg).

[4] The petitioner Nos. 25 to 27 were promoted to the rank of Nb/Sub/SKT (Engg) at the pay band of Rs. 9300-34-3480+ 42 grade pay and the petitioner Nos. 1 to 24 are still serving as Hav/SKT.

[5] The Government of India, Ministry of Finance (Department of Expenditure) passed resolution after submission of the report of 5th Central Pay Commission relating to structure of emoluments, allowances, conditions

of service and retirement benefits of the Central Government employees including Union Territories, member of All India Services and personnel belonging to the Armed Forces.

The Government of India accepted the recommendation of 5th Central Pay Commission with modification and all the technical ranks were redesignated and the pay scale were revised in all Central Police Organizations and technical combatant staff i.e. to which category the petitioners belong were given the rank and pay scale of Hav, ASI and SI as under:—

Tech Class	Rank	Pay Scale
CL-III	Hav	Rs. 3,200/-
CL-II	ASI	Rs. 4,000/-
CL-I	SI	Rs. 5500/-

In spite of the aforesaid resolution of the Government of India in respect of the Central Armed Police Forces, the same were not implemented by the Directorate General Assam Rifles and the technical staff to which category the petitioners belong were reproduced below:

Tech Class	Rank	Pay Scale
CL-III	Rfn	Rs. 3,050/-
CL-II	Nil	Rs. 3050/-
CL-I	Hav	Rs. 3200/-

[6] By the Notification dated 10-10-1997 issued vide Memo No. 27012/1/97 PC Cell/PF-I, the Government of India, Ministry of Home Affairs, rationalized the rank structures and pay scales of non-gazetted cadre of the Central Armed Police Forces including armed personnel of Assam Rifles i.e. to which category the petitioners belong. Pursuant to the declaration of the 5th Central Pay Commission, the rank structure and pay scales from the rank of Constable to the rank of Subedar Major have been rationalized vide this

Notification. The Ministry of Home Affairs by the said Notification rationalized the rank structure of non-gazetted cadre of Assam Rifles i.e., to which category the petitioners belong as follows:

- i. Constable/Security Assistant.
- ii. Head Constable.
- iii. Assistant Sub-Inspector.
- iv. Sub-Inspector/ACIO-II.
- v. Inspector/ACIO-I.
- vi. Subedar Major.

Further, by the said Notification, the Government of India, Ministry of Home Affairs rationalized the pre-revised pay scales and replacement pay scales in respect of the above cadre as follows.

Sl. No.	Structure	Rationalized pre-revised pay scale	Replacement pay scale
1	Constable /Security Assistant	Rs. 950-1400	Rs. 3050-70-4590
2	Head Constable	Rs. 975-1660	Rs. 3200-85-4900
3	Asst. Sub-Inspector	Rs. 1320-2040	Rs. 4000-100-6000
4	Sub-Inspector/ACIO-II	Rs. 1640-2900	Rs. 5500-175-9000
5	Inspector/ACIO-1	Rs. 2000-3200	Rs. 6500-200-10500
6	Subedar Major	Rs. 2000-3500	Rs. 6500-200-10500

But the Directorate General Assam Rifles in contrary to the above referred Notification issued by the Government of India, Ministry of Home Affairs, by the order dated 07-11-1997 issued vide Memo No. A/Pers/5th Pay/97/21, illegally rationalized the rank structure and pay scales of Assam Rifles personnel erroneously as follows:-

(a) Rifleman	-	Rs. 3050-75-3950-80-4590
(b) Havildar	-	Rs. 3200-85-4900
(c) Nb/Sub	-	Rs. 5500-175-9000
(d) Subedar	-	Rs. 6500-200-10500
(e) Subedar Major	-	Rs. 6500-200-10500 with Appt. pay of Rs. 200 p.m.

Since certain doubts were expressed by the Central Armed Police Forces in fixation of pay of certain non-gazetted personnel of the Central Armed Police Forces w.e.f. 10-10-1997, the Government of India, Ministry of Home Affairs clarified it by the Office Memorandum dated 22-01-1998, issued vide Memo No. 27011/103/97-PF.I/56, the order dated 10-10-1997, are equally applicable to all combatised categories.

[7] By the Office Memorandum dated 22-01-1998, all the Central Armed Police Forces were made equal and were ordered to get the same scale of pay with ranks structures. However, since disparity existed in the 4th Central Pay Commission, as a result the 5th Central Pay Commission, 6th Central Pay Commission and the 7th Central Pay Commission also suffered from the vice of disparity.

By an Office Memorandum dated the 03-03-1998, issued vide Memo No. 27011/103/97-PF, the Government of India, Ministry of Home Affairs, in regards to the fixation of pay on rationalization of rank structure w.e.f. 10-10-1997 in the Central Armed Police Force informed the Directorate General Assam Rifles that the order dated 22-01-1998 are quite clear.

[8] The Government of India, Ministry of Home Affairs, by an order No. II 27013/18/99-PF.V dated 04-07-2002, directed the Directorate General Assam Rifles to upgrade the existing post of Hav/SKT to Warrant Officer. The Hav/SKT is also non-gazetted technical trade.

[9] That one No. 358916Y Rfn/OLR Savendra Singh Chauhan claiming revised pay scale, allowances and appropriate rank structure as

per recommendation of the 5th Central Pay Commission and Office Memorandum dated 22-01-1998, approached the Hon'ble Gauhati High Court, Shillong Bench by way of writ petition being WP(C) No. 32(SH) of 2008 and by an order dated the 25-06-2010, the Single Judge of the Hon'ble Gauhati High Court, Shillong Bench disposed of the above referred writ petition by holding that as per communication dated 24-06-2010, the petitioner would be entitled to the pay scale of Rs. 5200-20200/- w.e.f. 19-11-2009 by way of granting first financial upgradation under Modified Assured Career Progression Scheme (MACPS) without considering the point raised in the writ petition. Being aggrieved by the order dated 25-06-2010 passed in WP(C) No. 32(SH) of 2008 by the learned Single Judge of the Hon'ble Gauhati High Court, Shillong, No. 358916Y Rfn/OLR Savendra Singh Chauhan preferred an appeal by filing a writ appeal being Writ Appeal No. 50(SH) of 2010 and the Hon'ble Division Bench by its judgment and order dated 22-09-2011 allowed the said writ appeal to the extent that:-

"22. On a totality of the consideration of the above facts, reasons and discussions as well as taking into account the decision rendered by the Hon'ble Apex Court in Dinseshan KK (supra), we are inclined to set aside and quash the judgment and order dated 25.06.2010, passed by the learned Single Judge in WP(C) No. 32(SH) of 2008. Consequently, the writ appeal is allowed.

23. The Union of India is directed to give appropriate rank and pay scale to the petitioner as per recommendation of the 5th Pay Commission and Office Memorandum dated 22.01.1998."

The Directorate General Assam Rifles preferred an appeal thereby

challenging the legality and validity of the judgment and order dated 22-09-2011 passed in Writ Appeal No. 50(SH) of 2010 by filing a Special Leave to Appeal being (Civil) CC 6241 of 2012 before the Hon'ble Supreme Court. The said Special Leave to Appeal was called on for hearing on 02-07-2012 and after hearing both sides, the Hon'ble Supreme Court had dismissed the said Special Leave to Appeal.

[10] On recommendation of the 5th Pay Commission, the Central Government accepted the scales of Rs. 4500-125-7000 and granting the post of Havildar to the Warrant Officer which became effective from 10-10-1997 vide OM dated 22-01-1998 and which was made applicable to all the Central Police Organisations like BSF, ITBP, CISF, CRPF etc. by introducing the rank of Assistant Sub-Inspector which is a Warrant Officer in the Assam Rifles vide letter dated 28-07-1998.

[11] In the light of the Hon'ble Guwahati High Court decision dated 11th February, 2005, which was passed in consideration of the recommendation of the 5th Pay Commission in which technical trade was granted as Warrant Officer in equivalence with BSF, as such an order being No. A/Pers/RR Gp C/2008 dated 12th January, 2009 was issued by the Directorate General Assam Rifles in which the authority had given approval for upgradation and redesignation of the post of Havildar (RM) in Assam Rifles to that of Warrant Officer in the pre-revised scale Rs. 4000-6000 with effect from 10-10-1997.

[12] Again in compliance to the Hon'ble High Court of Manipur judgment and order dated 20-08-2014 passed in WP(C) No. 820 of 2013 consideration of the recommendation of 5th Pay Commission, an order being No. A/Pers/II-04/Pharmacist/2015/572 dated 16th October, 2015 was issued

by the Directorate General Assam Rifles in which the authority had given approval for upgradation and redesignation of the post of Havildar (Pharmacist) in Assam Rifles to that of Warrant Officer in the pre-revised scale Rs. 4500-7000 with effect from 01-01-1996.

[13] Moreover, in compliance of the judgment and order dated 23-08-2012 passed by the Hon'ble Gauhati High Court, Shillong Bench in WP(C) No. 277 (SH)/2010, an order being No. A/Pers/II-04/CIK/2016/774 dated 28th June, 2016 was issued by the Directorate General Assam Rifles in which the authority had given approval for upgradation and redesignation of the post of Havildar (Pharmacist) in Assam Rifles to that of Warrant Officer with effect from 01-01-1996 as per relevant rules of the 4th, 5th & 6th CPC.

[14] That in compliance to the order dated 11-05-2017 passed in WP(C) No. 154 of 2017, the Directorate General Assam Rifles had issued an order being A/Pers/II-04/Pharmacist/2017/1189 dated 31-10-2017 in which the competent authority had upgraded and redesignated the post of Havildar/Pharmacist (who is the X (ten) passed) in Assam Rifles to the rank of Warrant Officer in the pre-revised scale Rs. 4500-7000/- with effect from 01-01-1996 or from the date of enrolment whichever is later.

[15] The Government of India, Ministry of Home Affairs, Directorate General Assam Rifles had upgraded and redesignated the post of Havildar to Warrant officer in some of the technical trade as per with other CPOs by introducing rank of Assistant Sub-Inspector (Warrant Officer rank in the Assam Rifles) as per recommendation of the 5th Central Pay Commission w.e.f. 01-01-1996 or from the date of enrolment. As such, the petitioners should also be given the rank of Warrant Officer w.e.f.

10-10-1997 i.e. the date of remustered/merger with the Hav/SKT (Engg) [for Petitioner Nos. 1 to 24] and wef 10-10-1997 till 18-12-2011 i.e. the date of promotion date to the rank of Nb/Sub/SKT (Engg) [for the petitioner Nos. 25 to 27] as per recommendation of the 5th Central Pay Commission as such the petitioners should be given financial benefits of pay of Havildar/SKT by re-fixing to Warrant Officer rank and pay of Rs. 4000-100-6000/- w.e.f. 10-10-1997 and in respect of petitioner Nos. 25 to 27 till 18-12-2011 i.e. the date of promotion date to the rank of Nb/Sub/SKT (Engg) because the petitioners have rendered their service as Havildar/SKT since 10-10-1997 till 18-12-2011 i.e. the date of promotion to Nb/Sub/SKT (Engg).

[16] The case of the respondents is that the petitioners were enrolled into Assam Rifles as Rifleman (General Duty) under the Recruitment Rules called as **the Assam Rifles (Group 'C' combatised posts) Recruitment Rules, 2000**, notified vide G.S.R. 198 dated 31-05-2000 as amended vide G.S.R. 343 dated 31-08-2000 which stipulated the minimum educational qualification for direct recruitment as Rifleman (General Duty) as Matriculate. Pay and allowances have also been extended as per the recommendations of fifth CPC and pay applicable to the petitioners was Rs. 3050-75-3950-80-4590 which has further been revised to Rs. 5200-20200 in PB-1 with GP-2000 w.e.f. 01-01-2006 in the Sixth CPC. The petitioners were given pay scales as recommended by the pay commission commensurating to the rank they were holding and the nature of duties assigned thereto. Rank structure at the entry level as applicable to other Central Para Military Forces was not carried out in view of the differences in

educational qualification and nature of work and duties. Further, the present batch of petitioners were enrolled as Rifleman (General Duty) and were later on remustered to the rank of Naik Engineer (Store Keeper Technician) and further merged to Havildar/Engineer (Store Keeper Technician) on 10-10-1997 since ranks of Naik and Lance Naik were abolished from the Force with effect from 10-10-1997. At the time of the remusteration, the petitioners have entered into a contract with the Union of India by signing an undertaking, which reads as under:

“In the event of my being selected and passing Store Keeper Technician, I am willing to be remustered as Engineer (Store Keeper Technician). I am aware of the financial loss in pay to me in remustering from Rifleman (General Duty) to Havildar/Engineer (Store Keeper Technician), but still I wish to so remustered. I will not ask for voluntary discharge from service until I have completed 8 years in remustered trade. In the event of seeking my discharge earlier than 8 years I will defray the cost of conversion training as assessed by DGAR”

[17] Petitioners were remustered from the post of Rifleman (General Duty to the rank of Naik (Store Keeper Technician) on passing of technical course Class-III from Army Institutes and then merged to the rank of Havildar (Store Keeper Technician) thereby granted one upgradation i.e. from Rifleman to Havildar from the pay scale of Rs. 3050-75-3950-80-4590 to Rs. 3200-85-4900. The petitioners were enrolled in this force with educational qualification of Matriculate only and after enrollment they were provided additional qualification at different Military Institutions on government expense from time to time, in order to make them eligible to perform their trade work. During the period of acquiring additional

qualification on government expense, petitioners were also paid full pay and allowances whereas Store Keeper Technician in other Central Para Military Forces are enrolled with higher qualification of matriculation along with diploma, which they acquire at their own cost and expense of additional three years after matriculation. No government stipend is provided to their counterparts in Central Para Military Forces for acquiring additional qualification of ITI. The petitioners were enrolled in the force under the relevant Recruitment Rules/Policies during the time of their enrolment and remustered to the rank of Store Keeper Technician at their own will. However, claiming for the higher post which was not provided by the Government of India in their hierarchy is not tenable in the eyes of law and bereft of any merit.

[18] Petitioners were enrolled as Rifleman/General Duty and further remustered to the rank of Naik and merged to Havildar/Engineer (Store Keeper Technician) which are promotional post on acquiring the requisite promotional criteria and availability of vacancy. The criteria for promotion includes as stated in the tabulation.

Sl. No.	Rank	Promotion Criteria
(a)	Subedar Major (Store Keeper) Technical Engineer)	By Promotion. Promotion from amongst members of AR holding the rank of Naib/Subedar (Store Keeper Technical Engineer), who:- (i) Must have a min. of six years' service as Naib Subedar (Store Keeper Technical Engineer) (iii) Map Reading Standard One Pass. (iv) Promotion Cadre Pass (vi) Must be in Medical Category SHAPE -I
(b)	Subedar (Store Keeper Technical Engineer)	Not authorised as per Assam Rifles RPE. However, Subedar (Store Keeper Technical Engineer) was deputation from Army.)

Sl. No.	Rank	Promotion Criteria
(c)	Naib/Subedar (Store Keeper) Technical Engineer)	By Promotion. Promotion from amongst the members of Assam Rifles holding the rank of Havildar (Store Keeper Engineer) with minimum service of five years as Havildar (Store keeper Engineer) together with total of eighteen years of service and possessing the following qualifications:- (i) Map Reading Standard One Pass (ii) Promotion Cadre Pass (iii) Technical Trade Test One pass (iv) Must be in Medical Category SHAPE-I
(d)	Warrant Officer (General Duty)	Not authorised as per Assam Rifles RPE
(e)	Havildar (Store Keeper) Technical Engineer	By Remusteration. Remusteration from amongst members of Assam Rifles holding the rank of Rifleman from any category in the Pay Band-I Rs. 5200-20200 and Grade Pay of Rs. 2000 with five years regular service in the grade with upper age-limited of 35 years and possessing the following education qualification, namely (i) Map Reading Standard Two (ii) Promotion Cadre (N Cadre) (iii) Store Keeper Technical Engineers Course from Army or the Central Police Organisation Institution.
(f)	Nk To Hav (Store Keeper)	Direct Promotion (As per ROI 4/91) (i) ACE-II (ii) AEC-II (iii) MR-II (iv) TT-II (v) Promotion Cadre (N Cadre) (vi) Minimum service 15 years and 02 years in same rank. (vii) Last five ACR
(g)	Rfn/Lnk to Nk (Store Keeper)	Direct Promotion (As per ROI 4/91) (i) Map Reading Stand-III (ii) ACE-III (iii) ACE-II (iv) TT-II (v) Minimum service – 10 years (vi) ACR criteria not required

Whereas, all the petitioner Nos. 25 to 27 were promoted to the

rank of Naib Subedar/Engg (SKT) on fulfillment of requisite criteria and on availability of vacancy in such post. Hence, demanding a promotional rank as initial entry is not sustainable in the eyes of law that too after lapse of more than 21 years and as such the present writ petition is liable to be dismissed as having no merit and also on the ground of delay and latches.

[19] The recommendation of Fifth Central Pay Commission has also been implemented by the Assam Rifles as per Government of India, Ministry of Finance (Department of Expenditure) Notification No. 50(1)/IC/97 dated 30-09-1997. The revised pay scale as well as rank structure of Assam Rifles as per above Notification dated 30-09-1997 are as under:—

Sl. No	Rank	Pre-revised pay scale as per Fourth CPC	Pay scales applicable w.e.f 01 Jan 96 as per Fifth CPC
(a)	Subedar Major	2000-60-2300-EB-75-3200	6500-200-10500
(b)	Subedar	1640-60-2600-EB-75-2900	5500-175-9000
(c)	Naib Subedar	1400-40-1800-EB-50-2300	4500-125-7000
(d)	Warrant Officer	—	4000-100-6000
(e)	Havildar	975-25-1150-EB-30-1660	3200-85-4900
(f)	Naik	950-20-1150-EB-25-1400	3050-75-3950-80-4590
(g)	Lance Naik	825-15-900-EB-20-1200 plus Special Pay of Rs. 15/-	2750-70-3800-75-4400 with special pay of Rs. 15/- pm
(h)	Rifleman	825-15-900-EB-20-1200 (Initial pay to be fixed at Rs. 855/-)	2750-70-3800-75-4400

The rank structure and pay scales of non-gazetted cadre of Central Police Organisations and Assam Rifles were rationalized on 10-10-1997 vide Ministry of Home Affairs order No. 27012/1/97 PC Cell/PF.I dated 10-10-1997. Accordingly, the rank of Lance Naik and Naik in the Central Police Organisations and Assam Rifles were merged with the rank

of Constables/Rifleman and Head Constables/Havildar respectively. Presently, the rank structure in the Central Police Organisations and Assam Rifles have been rationalized as under.

SL. NO.	OTHER CPOs	ASSAM RIFLES
(a)	Constable/Security Assistant	Rifleman
(b)	Head Constable	Havildar
(c)	Asst-Sub-Inspector	Warrant Officer
(d)	Sub-Inspector/ACIO-II	Naib Subedar
(e)	Inspector/ACIO-I	Subedar
(f)	Subedar Major	Subedar Major

Subsequently after the rationalization, the pre-revised pay scales and replacement pay scales in respect of above cadres w.e.f. 10-10-1997 are as under:—

Sl. No.	Rank Structure	Rationalized re-revised pay scales	Replacement pay scales
(a)	Constable/Security Assistant/ Rifleman	Rs. 950-1400	3050-70-4590
(b)	Head Constable/ Havildar	Rs. 975-1660	3200-85-4900
(c)	Asst. Sub- Inspector/ Warrant Officer	Rs. 1320-2040	4000-100-6000
(d)	Sub-Inspector/ACIO-II/Naib Subedar	Rs. 1400-2300	5500-175-9000
(e)	Inspector/ACIO-I/Subedar	Rs. 1640-2900	6500-200-10500
(f)	Subedar Major	Rs. 2000-3500	6500-200-10500 with Rs. 200/- pm as appt pay.

The pay scales as applicable in Assam Rifles has been circulated to all concerned vide HQ DGAR letter Nos. A/Pers/5th- Pay/97/21 dated 07-11-1997 and A/Pers/5th CPC/Vol-II/98 dated 24-08-1998 as under:—

Sl. No.	Rank	Pre-revised pay scale as per 4 th CPC	Pay scales applicable w.e.f. 01-01-1996 to 09-10-1997 as per 5 th CPC	Rationalized scale of pay w.e.f. 10-10-97
(a)	Subedar Major	2000-60-2300-EB-75-	6500-200-10500	6500-200-10500 plus Rs. 200/-pm as appt

Sl. No.	Rank	Pre-revised pay scale as per 4 th CPC	Pay scales applicable w.e.f. 01-01-1996 to 09-10-1997 as per 5 th CPC	Rationalized scale of pay w.e.f. 10-10-97
		3200		pay.
(b)	Subedar	1640-60-2600-EB-75-2900	5500-175-9000	6500-200-10500
(c)	Naib Subedar	1400-40-1800-EB-50-2300	4500-125-7000	5500-175-9000
(d)	Warrant Officer	–	4000-100-6000	4000-100-6000
(e)	Havildar	975-25-1150-EB-30-1660	3200-85-4900	3200-85-4900 with spl pay of Rs.50/- pm for existing Havildar (Rs. 50/- pm not applicable for Naik merged with Havildar).
(f)	Naik	950-20-1150-EB-25-1400	3050-75-3950-80-4590	Rank of Naik merged with Havildar
(g)	Lance Naik	825-15-900-EB-20-1200 plus Special Pay of Rs. 15/-	2750-75-3800-75-4400 with special pay of Rs. 15/- pm	Rank of LNK merged with Rfn and granted Rs. 30/- pm as spl pay till promotion to Havildar
(h)	Rifleman	825-15-900-EB-20-1200 (Initial pay to be fixed at Rs. 855/-)	2750-75-3800-75-4400	3050-75-3950-80-4590

The above table clearly indicates the rank wise pay scales applicable to Assam Rifles personnel. Nowhere, it shows that the pay scales were given on the basis of technical qualifications of Class-I, Class-II or Class-III etc. as contended by the petitioners. Passing of these classes/tests is only an essential requisite for promotion to the next higher rank in the organization. However, actual promotion is entirely based on fulfillment of eligibility criteria, seniority and subject to availability of vacancies, which is as per the organizational cum rank structure laid down for Assam Rifles as per sanctioned Restructuring of Peace Establishment of Assam Rifles

conveyed vide Government of India, Ministry of Home Affairs letter No. II.3015/3/96/PF.IV dated 19-08-2003.

The petitioners were enrolled as Rifleman/General Duty and the rank of Warrant Officer is not in the hierarchy and in other trades the same are promotional posts after acquiring requisite promotional criteria and availability of vacancy. There is no post of Warrant Officer in the trade of Engineer (SKT) in Assam Rifles and this is seen from the Assam Rifles (Group 'C' Combatised Posts) Recruitment Amendment Rules, 2009, notified vide G.S.R.130(E) dated 26-02-2009, the Assam Rifles (Group 'C' Combatised Posts) Recruitment Rules, 2015, notified vide G.S.R.120 dated 16-06-2015 and the Assam Rifles Subedar Major Store Keeper Technical (Engineers), Group 'B' (Combatised) Recruitment Rules, 2015 notified vide G.S.R.226 dated 30-11-2015. The same can only be created if sanctioned in cadre review or review of organizational structure of Assam Rifles by the Government as and when the same is necessitated.

As per Office Memorandum No. 27011/103/97-PF.I/56 dated 22-01-1998 issued by the Ministry of Home Affairs, Government of India in continuation of OM. dated 10-10-1997 and resolution dated 30-09-1997 clearly stipulated in paragraph 2 as under:—

"In the case of HC(RM) Gr.I and Gr.II and HC (Draughtsman), since the Pay Commission has given the replacement pay scale of Rs. 4000-6000/- in respect of these three categories of post in CPMFs, these three categories may be redesignated as ASI in the pay scale of Rs. 4000-6000/-. As regards other categories of HC, in any CPMFs, such as HC(RO, Cry) etc.

these posts will continue to be known as HC in the relevant scale of pay approved by the Government".

From the aforementioned Office Memorandum, it is very clear therefrom that only the rank of HC (RM) and HC (Draughtsman) are to be redesignated as ASI. The other categories of the Head Constable in any CPMFs such as HC (RO, Cry) etc., were to retain their present rank. Therefore, the provisions of OM dated 22-01-1998, as contended by the petitioners for redesignation to the rank of Warrant Officer is not sustainable and without any basis.

That case of introducing the rank of Warrant Officer in the Head Constable (Havildar) Radio Mechanic and Head Constable (Havildar) Draughtsman was taken up with Ministry. The Ministry vide its Office Memorandum No. 27011/103/97-PF dated 03-03-1998 intimated that Assam Rifles can redesignate HC (RM) as ASI or equivalent in the Assam Rifles which is Warrant Officer, if pre-revised pay scales of HC(RM) in Assam Rifles and revised pay scales are identical to the pay scales of HC (RM) in BSF and CRPF.

[20] The petitioners are quoting non-existence order dated 04-07-2002 said to have been issued by the Ministry of Home Affairs. The petitioners have annexed a letter dated 28-07-1998 as ANNEXURE-A/6 to the writ petition to bring parity in respect of pay, rank and status of Assam Rifles at par with other category by introducing the rank of Warrant Officer/Assistant Sub-Inspector at the entry level in consonance with aforesaid letter dated 28-07-1998 which cannot be the basis since, letter mentioned above are policy decision not applicable to the category of Engineer (Store Keeper Technical). Rank structure of Assam Rifles group C

employees was rationalized vide Ministry of Home Affairs Office Memorandum dated 10-10-1997. The Headquarters Director General Assam Rifles vide letter dated 28-07-1998 has amended the Sub Para (i) to para 14 (a) of English and Hindi Version of "Baat Chit" a Defence Magazine which was circulated to the environment for information which cannot be an authority for grant of Warrant Officer rank.

[21] The Hon'ble Supreme Court in its judgment and order dated 02-09-2012 in SLP No. 6241 of 2012 pertains to a case filed by Savendra Singh Chauhan, a Rifleman/Operator Radio and Line and the said case has no relevancy with the present writ petition. The Hon'ble Court in the said case directed to upgrade the petitioner to the rank of Havildar after passing of ORL Class III. The present petitioners are not similarly situated with the personnel of Operator Radio and Line category as contended. The recruitment rules, educational qualification and job profile of both the categories differs vastly. Hence, the judgment and order passed by the Hon'ble Court in the case pertaining to the Rifleman/ORL is not applicable for the present petitioners. The comparison made by the petitioners with Operator Radio and Line category is unwarranted and not sustainable in the eyes of law.

[22] Pay structure of Rs. 4500-7000/- is only approved for the common category posts of Pharmacists cadre. Further, based on the recommendation of Fast Track Committee, Government of India, Ministry of Finance, Department of Expenditure vide letter No. F.No. 1/1/2008-IC dated 18-11-2009 accepted the recommendation of Fast Track Committee and the same is applicable with effect from 01-01-2006. The pay scale of Rs. 4500-

7000/- is not applicable for any trade/category serving with Assam Rifles except Pharmacist category. The pay scale of Rs 4500-125-7000 quoted by the petitioner is baseless and misleading the Hon'ble Court. The pay of Rs. 4500-125-7000/- is applicable to the category of Pharmacist who are in possession of 10+2 educational qualification and 2 years Diploma in Pharmacy. Hence, the comparison of the petitioners with the Pharmacist category is totally misconceived and an attempt to mislead the Hon'ble Court. Hence, the contention of the petitioners that on the recommendation of 5th Pay Commission, the Central Government accepted the scales of Rs. 4500-125-7000/- and granted the post of Havildar to Warrant Officer which became effective from 10-10-1997 vide OM dated 22-01-1998 also made applicable to all the Central Police Organisations is bereft of merit and liable to be rejected.

[23] One, Dineshan K.K filed WP(C) No. 497 of 2001 before the Agartala Bench of the Gauhati High Court, praying for "directing the respondents to bring about the parity in respect of the Radio Mechanic of the communication wing of the Assam Rifles with the Radio Mechanic of the communication wing of the Delhi Police and BSF by granting same pay scale to the Radio Mechanic of the communication wing of Assam Rifles which are admissible to the Radio Mechanic of the communication wing of BSF and also bring about parity in respect of the rank and pay structure with their technical trades" and the Hon'ble High Court disposed of the case by its judgment and order dated 11-02-2005 with directions that *"the Union of India's permission to redesignate the Hav(RM) as Warrant Officer*

communicated by letter No. 27011/103/97-PV.I dated 03-03-1998 shall be carried out and the same pay scale as admissible to the counterparts of CRPF and BSF shall be given with effect from the same date and the rider stated therein shall have no effect and be ignored in view of the acceptance by Union of India that the members of Assam Rifles shall get same rank structure with that of other Central Police Organisation. This direction shall be implemented within a period of three months from the date of this order".

In the light of the Hon'ble Gauhati High Court order dated 11-02-2005, the post of Havildar (RM) was redesignated to that of Warrant Officer in the pre-revised pay scale Rs. 4000-6000/- with effect from 10-10-1997. Since as per Ministry of Home Affairs Office Memorandum No. 27011/103/97-PF.I/56 dated 22-01-1998, which was issued in continuation to the OM dated 10-10-1997 and resolution dated 30-09-1997, clearly indicates that "In the case of HC (RM) Gr.I and Gr.II and HC (Draughtsman), since the Pay Commission has given the replacement pay scale of Rs. 4000-6000/- in respect of these three categories of post in CPMFs, these three categories may be redesignated as ASI in the pay scale of Rs. 4000-6000/-. As regards other categories of HC, in any CPMFs, such as HC(RO, Cry) etc. these post will continue to be known as HC in the relevant scale of pay approved by the Government". It is reiterated that in the Office Memorandum, it is very clear there from that only the rank of HC (RM) and HC(Draughtsman) are to be redesignated as ASI. The other categories of the Head Constable in any CPMFs such as HC(RO, Cry) etc., were to retain their present rank. Therefore, the provisions of the OM dated 22-01-1998, as contended by the

petitioners for re-designation to the rank of Warrant Officer is not sustainable and without any basis.

[24] WP(C) No. 820 of 2013 was filed by Havildar (Pharmacist) Amir Singh of 30th Assam Rifles & 19 others before this Hon'ble Court, seeking a direction to set aside the relevant portion of impugned Assam Rifles Pharmacists Group 'C' Combatised Post Recruitment Rules, 2013 as null and void and implement the recommendation of 6th Central Pay Commission and the Fast Track Committee report as forwarded vide Government of India, Ministry of Finance, Department of Expenditure (Implementation Cell), OM dated 18-11-2009 for grant of financial upgradation under Modified Assured Career Progression Scheme (MACPS), in regard to the entry Grade Pay of Pharmacist in Assam Rifles and for providing upgradation of the petitioners to the rank of Naib Subedar with Grade Pay of Rs 4,200/- as already implemented in other similarly situated Central Armed Police Forces (CAPFs).

[25] Mr. Kh. Lupenjit, learned counsel for the petitioners, submits that relying on the decisions of the Hon'ble Supreme Court in the case of **Union of India v. Dineshan K.K.: (2008) 1 SCC 586** and Division Bench of Gauhati High Court in **WA No. 50(SH) of 2010**, this Court, in **judgment dated 30-04-2024 in WP(C) No. 675 of 2022: Shri Anirudh Kumar & Ors. v. Union of India & Ors.**, directed Assam Rifles to grant/upgrade the Warrant Officer (Radio Mechanic) in Assam Rifles equivalent to ASI (Radio Mechanic) in BSF/ITBP/CRPF from the date of their initial entry level with all consequential reliefs. It is stated that the present case is covered by the judgment of the **Anirudh case (supra)** with the exception that in the present case, the petitioners are praying for upgradation from the date of re-

mustered. Relevant para in **Anirudh case** is reproduced below:

[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.*

[26] Mr. Kh. Lupenjit, learned counsel for the petitioners submits that the writ petition may be disposed of by passing similar directions as in order dated 30.04.2024 passed by this Court in WP(C) No. 675 of 2022 [**Anirudh case**], however conferring the all financial benefits from the date of remuneration.

[27] On the other hand, Mr. B R Sharma, learned CGSC appearing on behalf of the respondents submits that the present case is not factually similar to the case of **Anirudh (supra)**. It is also pointed out that writ appeal is pending before the Division Bench of this Court challenging the correctness of the judgment dated 30.04.2024 in WP(C) No. 675 of 2022: **Shri Anirudh Kumar & Ors. v. Union of India & Ors.** and as such the present case cannot be disposed of on the basis of the referred-judgment.

[28] This Court considers the materials on record, the submissions of the learned counsel for the parties and the decisions cited at bar. The reliefs

prayed by the petitioners herein are similar to that granted in the **Anirudh case (supra)**. It may be important to note that Anirudh case was decided on the basis of the decision of the Hon'ble Supreme Court in the case of **Dineshan K.K. (supra)**. High Courts including this Court have been relying the decision in **Dineshan K.K. (supra)** and this Court is of the view of that pendency of appeal before the Division Bench against the **Anirudh case (supra)** will not dilute the decision of the Hon'ble Supreme Court in the case of **Dineshan K.K. (supra)**. One difference from the **Anirudh case (supra)** is that the petitioners are praying for benefits from the date of remustration and not from the date of initial entry.

[29] In the circumstances, the writ petition is disposed with the following directions that:

- (i) The petitioners should be given the rank of Warrant Officer w.e.f. 10-10-1997 i.e. the date of remustered/merger with the Hav/SKT (Engg) [for Petitioner Nos. 1 to 24] and wef 10-10-1997 till 18-12-2011 i.e. the date of promotion date to the rank of Nb/Sub/SKT (Engg) [for the petitioner Nos. 25 to 27] as per recommendation of the 5th Central Pay Commission as such the petitioners should be given financial benefits of pay of Havildar/SKT by re-fixing to Warrant Officer rank and pay of Rs. 4000-100-6000/- w.e.f. 10-10-1997 and in respect of petitioner Nos. 25 to 27 w.e.f. 10-10-1997 till 18-12-2011 i.e. the date of promotion date to the rank of Nb/Sub/SKT (Engg) because the petitioners have rendered their service as Havildar/SKT since 10-10-1997 till 18-12-2011 i.e. the date of promotion to Nb/Sub/SKT (Engg).
- (ii) The whole exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

(iii) Registry is directed to send a copy of this order the Director General, Assam Rifles at Shillong for information and necessary compliance.

JUDGE

FR/NFR

Victoria

KH.
JOSHUA
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