



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

Case No. : WP(C)/48/2019

L. JOHN KONYAK AND 53 ORS
RANK- SUBEDAR MAJOR,
HQ- MON, N/L

2: T. KIUSU TIKHIR
RANK - SUBEDAR MAJOR

HQ- KIPHIRE
N/L

3: ZHEHEVI
RANK - SUBEDAR MAJOR

HQ - KIPHIRE
N/L

4: H. PENTHANG
RANK - SUBEDAR

HQ - NOKLAK
N/L

5: Y. KHAMBA PHOM
RANK - SUBEDAR

HQ - LONGLENG
N/L

6: Y. KIUSUMONG TIKHIR
RANK - JAMADAR

HQ - KIPHIRE
N/L

7: KHASHIHO SEMA
RANK - SUBEDAR MAJOR

HQ - SITIMI
KIPHIRE
N/L

8: R. THONGTHONG
RANK - SUBEDAR

HQ - KIPHIRE
N/L

9: NIKEHE CHISHI
RANK - JAMADAR

HQ - SEYOCHUNG
KIPHIRE
N/L

10: JAMES
RANK - SUBEDAR

HQ - KIUSAM
KIPHIRE
N/L

11: LITSAO SANGTAM
RANK - JAMADAR

HQ- AMAHATOR
KIPHIRE
N/L

12: YANKIUMONG
RANK - JAMADAR

HQ - PUNGRO
KIPHIRE
N/L

13: M. JESANGTHVU
RANK - JAMADAR

HQ - MELURI
PHEK
N/L

14: T. TSURULI
RANK - JAMADAR

HQ - MELURI
PHEK
N/L

15: TAIWANG KONYAK
RANK - SUBEDAR MAJOR

HQ - MON
N/L

16: C.T. WENKHANG
RANK - SUBEDAR MAJOR

HQ- MON
N/L

17: S. M. TALEM
RANK - SUBEDAR

HQ - TOBU
MON
N/L

18: AKHAO KONYAK
RANK - SUBEDAR

HQ - MON
N/L

19: E. CHANGKE KONYAK
RANK - SUBEDAR

HQ - ABOI
MON
N/L

20: E. PETER KONYAK
RANK - JAMADAR

HQ - ABOI
MON
N/L

21: T. SAMUEL KONYAK

RANK - JAMADAR

HQ - MON
N/L

22: C. LEMWANG KONYAK
RANK - JAMADAR

HQ - MON
N/L

23: MANHUA
RANK - JAMADAR

HQ - MON
N/L

24: H. MATHWANG KONYAK
RANK - JAMADAR

HQ - MON
N/L

25: CHAUCHING PHOM
RANK - JAMADAR

HQ - LONGLENG
N/L

26: YIMTING PHOM
RANK - JAMADAR

HQ - LONGLENG
N/L

27: S. NIAMKO PHOM
RANK - JAMADAR

HQ - LONGLENG
N/L

28: YANTHRONGBA
RANK - SUBEDAR MAJOR

HQ - SHAMATOR
TUENSANG
N/L

29: M. KAIMANG CHANG
RANK - SUBEDAR MAJOR

HQ - TUENSANG
N/L

30: C. MURE YIMCHUNGER
RANK - SUBEDAR MAJOR

HQ - KUTHUR
TUENSANG
N/L

31: P. ONGCHI
RANK - SUBEDAR MAJOR

HQ - KINGJUNG
TUENSANG
N/L

32: H. MANGKO
RANK - SUBEDAR MAJOR

HQ - NAKSHOU
TUENSANG
N/L

33: YAOLAI
RANK - SUBEDAR

HQ - THONOK
TUENSANG
N/L

34: H. SHINGLEM CHANG
RANK - SUBEDAR

HQ - NOKSEN
TUENSANG
N/L

35: CHIPONG
RANK - SUBEDAR

HQ - TUENSANG
N/L

36: BUNYI

RANK - SUBEDAR

HQ - MOMCHING
TUENSANG
N/L

37: N. SOMBA
RANK - SUBEDAR

HQ - NOKLAK
TUENSANG
N/L

38: MANGCHUM
RANK - SUBEDAR

HQ - NOKSEN
TUENSANG
N/L

39: M. SHINGNYA
RANK - SUBEDAR

HQ - NOKLAK
TUENSANG
N/L

40: P. SANGCHIU
RANK - JAMADAR

HQ - NOKLAK
TUENSANG
N/L

41: C. MOSO KHIAM
RANK - JAMADAR

HQ - NOKLAK
TUENSANG
N/L

42: YANGYANGSOMBA CHANG
RANK - JAMADAR

HQ - TUENSANG
N/L

43: Y.S. CHINGMAK CHANG

RANK - JAMADAR

HQ - TUENSANG
N/L

44: P. NAMANGYONGPONG
RANK - JAMADAR

HQ - TUENSANG
N/L

45: CHUMEHEAN CHANG
RANK - JAMADAR

HQ - TUENSANG
N/L

46: RONGKIU
RANK - JAMADAR

HQ - TUENSANG
N/L

47: NGON
RANK - JAMADAR

HQ - THONGOKNYU
TUENSANG
N/L

48: TONGRIBA
RANK - JAMADAR

HQ - LONGKHIM
TUENSANG
N/L

49: TANLI CHANG
RANK - JAMADAR

HQ - TUENSANG
N/L

50: CHINGMAK CHANG
RANK - JAMADAR

HQ - HAKCHANG
TUENSANG

N/L

51: LUMRITO YIMCHUNGER
RANK - JAMADAR

HQ - SHAMATOR
TUENSANG
N/L

52: PONGDANG
RANK - JAMADAR

HQ - NOKLAK
TUENSANG
N/L

53: C. THANGPONG
RANK - JAMADAR

HQ - NOKLAK
TUENSANG
N/L

54: LONGSO(WAOSHU)
RANK - JAMADAR

HQ - NOKLAK
TUENSANG
N/

VERSUS

THE STATE OF NAGALAND AND 6 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF N/L,
KOHIMA

2:THE HOME COMISSIONER
N/L
DEPT. OF HOME
N/L
KOHIMA

3:THE COMMISSIONER
N/L
COMMANDER IN CHIEF
V.G
N/L
KOHIMA

4:THE COMMANDANT

V.G

TUENSANG

TUENSANG

N/L

5:THE DEPUTY COMMANDANT

V.G

KIPHIRE

KIPHIRE

N/L

6:THE DEPUTY COMMANDANT

V.G

MON

MON

N/L

7:THE DEPUTY COMMANDANT

V.G

TUENSANG

TUENSANG

N/

Advocate for the Petitioner : JOSHUA SHEQI, IMTONG KICHU,NAGALI
SHOHE,CHINGMEI KONYAK,MIKA H AYE,TOSHIKA

Advocate for the Respondent : GOVT ADV NL,

BEFORE

HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

Advocates

For the Petitioners : Mr. Joshua Sheqi, Adv

For the State respondents : Mr. Imti Imsong, Add. A.G

Date of Hearing : **04.08.2025**

Date of Judgment : **08.08.2025**

JUDGMENT & ORDER (CAV)

The present writ petition has been filed by the petitioners who are serving as Junior Commissioned Officer (JCO for short), Village Guard Organization, Department of Home, Government of Nagaland under the Commissioner Nagaland as the Commander in Chief. The petitioners are Jamadars, Subedars and Subedars Majors in the Village Guards.

2. The petitioners are aggrieved by alleged anomalies in their Pay scale. It is the case of the petitioners that the pay grade of the petitioners are below the pay grade they are entitled to receive which should be corresponding to the pay scale and grade received by police personnel of Nagaland Police in the same rank.

3. It is stated that from the rank of Constable, Village Guard till the rank of Havildar Major, the service of the village guard is voluntary and paid monthly honorarium. From the rank of Jamadar and above the village guards become proper government employees and are paid regular pay scale. According to the petitioners the rank of Jamadar Village Guard is in the rank of Assistant Sub Inspector in the Police Department; the rank of Subedar Village Guard is in the rank of Sub Inspector in the Police Department and the rank of Subedar Major Village Guard is in the rank of Inspector in the Police Department. The next promotion from the rank of Subedar Major Village Guard is Assistant Commandant, whereas, the next promotion from Inspector in the Police department is Deputy Superintendent of Police/Assistant Commandant. The rank of Assistant Commandant and Deputy Superintendent of Police are equivalent, and in this rank, the pay scale becomes equal.

4. It is also stated that as per the Nagaland Service Revision of Pay Rules, 1993 (referred to as ROP Rules for the sake of brevity) the Scale Pay of the Assistant Sub Inspector of Police was revised from Rs 510-895/- to Rs 1250-2280/-, whereas, the corresponding rank in the Village Guard i.e., Jamadar pay scale was at Rs 400-690/- and revised to Rs 900-1760/-. The Jamadar in Village Guard which is equivalent to the rank of Assistant Sub Inspector in the Police was paid the salary of a constable in the Nagaland police. As per the ROP Rules of 1993, the pay of the constable in Nagaland Police was revised from Rs 400-690/- to Rs 900-1760/-.

5. The Scale Pay of Inspector of Police was also revised from Rs 960-1605/- to Rs 1650-3475/-, whereas, the Scale Pay of Subedar Major which is the equivalent rank in village guard was revised from Rs 600-1275/- to Rs 1450-2840/-. Hence, the Scale Pay of Subedar Major is also fixed a step lower although the Subedar Major in the village guard is the equivalent rank of Inspector of Police in the Police Department.

6. It is also stated that in the ROP Rules 1993, at page 141 in column No. 51 in relation to village guards, it is provided, "*Will be entitled to same pay scale as recommended for corresponding rank in the police department*". However, the erroneous pay fixation was not corrected and the same continued without correction till date.

7. In the Nagaland Service Revision of Pay Rules 1999, the Scale Pay of Assistant Sub Inspector of Police was again revised from Rs 1250-2280/- to Rs 4000-6000/-, whereas, the equivalent rank of Jamadar in the Village Guard was revised from Rs 900-1760/- to Rs 2750-4400/-. The Jamadar of Village Guard which is equivalent to the Assistant Sub Inspector of Police was therefore paid the salary of a Constable in the police. As per the ROP

Rules of 1999, the pay of police constable was revised from Rs 900-1760/- to Rs 2750-4400/-. The Scale of Pay of Sub Inspector of Police was revised from Rs 1450-2840/- to Rs 4500-7000/-, whereas, the Scale of Pay of Subedar Village Guards which is in the equivalent rank was revised from Rs 1000-1880/- to Rupees 3050-4590/-. The Scale Pay of Subedar was again fixed at the equivalent of Naik in Police Department although the Sub Inspector of Police and the Subedar of Village Guards are in equivalent rank. The Scale Pay of Inspector of Police at Rs 1650-3475/- was revised to Rs 6000-9750/- whereas the Scale of Pay of Subedar Major in the equivalent rank was revised from Rs.1450-2840/- to Rs 4500-7000/-. The Scale Pay of Subedar Major was again fixed a step lower in the ROP Rules of 1999 also, although the Subedar Major is in the equivalent rank of Inspector of Police.

8. Even in the Nagaland Service Revision of Pay Rules 2010 and 2017, such disparity in the pay scales continued. In the latest ROP Rules of 2017, the pay of the Police Constable in the Police Department was revised from Rs 5200-20,200/- in the grade pay of Rupees 1800/- to the grade pay of Rupees 18,000/-. The Scale Pay of Sub Inspector in the grade of Rs 2800/- was revised to grade pay of Rupees 28,700/-, whereas the Scale Pay of Subedar of Village Guard which is in the equivalent rank was revised from Rs 5200-20,200/- in the grade pay of Rs 1900/- to grade pay of Rs 19,500/-. The Scale pay of Subedar is again fixed below the grade pay of Havildar, although the Sub Inspector of Police and the Subedar are of equivalent rank. The Scale Pay of Inspector of Police at Rs. 9300-34,800/- with grade pay of Rs 4400/- was also revised to the grade pay of Rs 40,800/-, whereas, the scale pay of Subedar Major in the village

guard was revised from Rs.5200-20,200/- in the grade pay of Rs 2800/- to the grade pay of Rs 28,700/-. The Scale Pay of Subedar Major is also fixed at a step lower although the Subedar Major in Village guard is in the equivalent rank of Inspector of Police.

9. It is the case of the petitioner that although the ROP Rules of 1993 suggested for entitlement of same pay scale as recommended for corresponding ranks in the police department, the necessary correction of pay scale was never affected. This discrimination stands uncorrected despite several representations. Being aggrieved, the petitioners have come before this Court.

10. I have heard learned counsel for the petitioner, Mr. Joshua Sheqi, and learned Additional Advocate General, Mr. Imti Imsong for the State respondents.

11. Learned counsel, Mr. Joshua Sheqi submits that the State respondents have failed to apply the Rule of harmonious construction in respect of corresponding ranks, though it is in the knowledge of the State respondents that the ranks from Jamadar to Subedar to Subedar Major in the Village Guards is directly corresponding to the ranks in Police Department from Assistant Sub Inspector to Sub Inspector, to Inspector. It is stated that several representations have been submitted by the petitioners; however, the State respondents have not considered the case of the petitioners.

12. Learned counsel also submits that there is no logical explanation, whatsoever, to justify as to why the pay of Jamadar in the village guard which is equivalent to Assistant Sub Inspector of police is paid the pay scale of a police constable, why the Subedar in the village guard

equivalent to Sub Inspector of police is paid the pay scale of Naik in the police department and why the Subedar Major in the equivalent rank of Inspector is paid the pay scale of police Sub Inspector. It is submitted that the ROP Rules, 1993 clearly made a reference to the Nagaland police as a corresponding service to village guards where the equivalent corresponding ranks would be entitled to the same pay scale. However, in reality the same has never been applied by the State respondents. A bare perusal of the ROP Rules of 1984 shows that in the two corresponding services of police and village guards, the progression from Jamadar to Assistant Commandant and from Assistant Sub Inspector to Deputy Superintendent of Police/Assistant Commandant is four stages of rank. The ROP Rules of 1984 also clearly reflects the corresponding ranks in the Nagaland Police Department

13. The learned counsel for the petitioner further submits that the petitioners are entitled to the Pay Scale of Assistant Sub Inspector of Police from the date they are appointed to the post of Jamadar; the Pay Scale of Sub Inspector of police from the day they get promoted to the post of Subedar and the Pay Scale of Inspector of Police from the date they get promoted to Subedar Major. It is reiterated that once the Subedar Major gets promoted to the post of Assistant Commandant Village Guards he gets the same Pay Scale as Deputy Superintendent of Police/Assistant Commandant of Police.

14. It is further submitted by the learned counsel for the petitioners that the case of the petitioners had also been referred to the Pay Anomalies Committee. The Pay Anomalies Committee examined the representation of the petitioners, however, the petitioner's representation was not

recommended by the Pay Anomalies Committee under ROP Rules 2017. The petitioners in this regard submit that the present writ petition was filed on 09.04.2019; and the counter-affidavit of the State respondent was received on 09.02.2021. However, even after a lapse of almost five years after filing the present writ petition, the report of the Pay Anomalies Committee was never brought to the notice of the petitioners nor produced before this Court. It was only on the query of this Court by an order dated 24.06.2024 that the report of the Pay Anomalies Committee dated 17.10.2018 was brought to the notice of this Court by way of filing an additional affidavit, a copy of which has been received by the petitioners on 10.09.2024 i.e., after a lapse of almost five years after filing the instant writ petition. Since, the decision of the Pay Anomalies Committee dated 17.10.2018 was never communicated to the petitioners, the same could not be assailed before this Court.

15. It is further submitted by the learned counsel for the petitioners that in the Districts of Noklak and Kiphire, in certain locations there are no police stations and only Village Guards maintain the law and order situation. The petitioners has filed an additional affidavit bringing on record certain orders/detailment orders to show that the village guards perform corresponding duties of their counter parts in the Nagaland police. It is stated that these orders and detailment orders clearly shows that the Nagaland police and the service of the village guards are of corresponding nature and they perform the same duties and functions. It is also submitted that the village guards have received several awards, being Ashok Chakra, Shaurya Chakra, Governors Gold Medal, Governors Commendation Certificates etc, for their sacrifices and the meritorious

service they have rendered. However, the discrimination meted out to the members of the village guards continues till date.

16. Learned counsel for the petitioners therefore, prays for a direction to the State respondents to pay to the petitioners the same pay scale of corresponding ranks in the police department as laid down in the ROP Rules of 1993 w.e.f., the date on which ROP Rules of 1993 came into force. The petitioners also pray for a direction to the State respondents to correct the erroneous pay scale of the petitioners and to pay to the petitioners the consequential benefits of arrears of salaries upon rectification of their pay scale w.e.f., the date of coming into force of the ROP Rules, 1993.

17. Learned counsel for the petitioner has relied on the following authorities:-

- 1) ***Satyawati Sharma –Vs- U.O.I*** reported in ***(2008) 5 SCC 287 Para: 18***
- 2) ***Subramanian Swamy –Vs- C.B.I*** reported in ***(2014) 8 SCC 682 Para: 44***
- 3) ***Rohitash Kumar –Vs- Om Prakash Sharma*** reported in ***(2013) 11 SCC 451 Para: 27***
- 4) ***U.O.I. –Vs- Dileep Kumar Singh*** reported in ***(2015) 4 SCC Para: 17***
- 5) ***Garware Wall Ropes Ltd. –Vs- Coastal Marine Constructions and Engineering Ltd.*** reported in ***(2019) 9 SCC 209 Para: 34 & 36***
- 6) ***State of Punjab –Vs- Jagjit Singh*** reported in ***(2017) 1 SCC 148 Para: 42.9, 58 & 59***
- 7) ***Supreme Court Employees Welfare Association and Supreme Court IV Class Employees Welfare Association Vs. Union of India & Anr*** reported in ***1993 Supp (3) SCC 727, Para: 13 & 17***

- 8) ***Jitendra Kumar –Vs- State of Haryana*** reported in ***(2008) 2 SCC 161, paragraph- 58***
- 9) ***Mary –Vs- State of Kerala*** reported in ***(2014) 14 SCC 272, paragraph 21***
- 10) ***Chandigarh Administration & Anr –vs- Jasmine Kaur & Others*** reported in ***(2014) 10 SCC 521, paragraph- 33.2***
- 11) ***Narender Singh –vs- State of Haryana & Others*** reported in ***(2011) 3 SCC 286, paragraph- 20***

18. Learned Additional Advocate General, Mr. Imti Imsong has relied on the affidavit-in-opposition filed on behalf of the respondent Nos. 1 to 7 and also the additional affidavit filed on behalf of the respondent Nos. 1 to 7. Learned Additional A.G submits that the village guards is a voluntary organization which is operational only in the Districts of Mon, Tuensang, Kiphire, Longleng and Meluri Sub-Division of Phek District in the State of Nagaland. This Organization is headed by the Commissioner Nagaland as the Ex-Officio Commandant General.

19. The State respondents in their affidavit-in-opposition has brought out a chart showing the hierarchy of posts in the village guards from the level of village guard (Sepoy) to that of Assistant Commandant and also the hierarchy in the Police Department from the level of constable to that of Deputy Superintendent of Police (DSP), their nature of appointment, and educational qualification.

VILLAGE GUARD

Sl. No	Name of the post	Nature of Appointment	Educational Qualification
1	Asst. Commandant	Promotion	
2	Subedar Major	Promotion	
3	Subedar	Promotion	

4	Jamadar	Promotion and/or Direct recruitment	Matriculate for direct recruitment/Promotion on the basis of seniority from Havildar Major
5	Havildar Major	Honorarium	Voluntary service- No Edu Qualification required
6	Havildar	Honorarium	-Do-
7	Naik	Honorarium	-Do-
8	Lance Naik	Honorarium	-Do-
9	Sepoy	Honorarium	-Do-

POLICE DEPARTMENT (ARMED BRANCH)

Sl. No	Name of the Post	Nature of Appointment	Educational Qualification
1	Dy. S.P	Promotion	
2	Armed Branch Inspector (ABI)	Promotion	
3	Armed Branch Sub-Inspector (ABSI)	Promotion and/or direct recruitment	BT- Class- XII/Gen- Graduate for direct recruitment
4	Havildar	Promotion	
5	Naik	Promotion	
6	Lance Naik	Promotion	
7	Constable	Direct Recruitment	BT- Class- VI/Gen- Class- VII

POLICE DEPARTMENT (UNARMED BRANCH)

Sl. No	Name of the Post	Nature of appointment	Educational qualification
1	Dy. S.P	Promotion	
2	Inspector	Promotion	
3	Sub- Inspector (SI)	Promotion and/ or Direct recruitment	BT-Class XII/ Gen-Graduate for direct recruitment
4	Asst. Sub- Inspector (ASI)	Promotion and / or Direct recruitment	BT-Class XII/ Gen-Graduate for direct recruitment
5	Town Head Constable (THC)	Promotion	
6	Constable	Direct Recruitment	BT- Class VI/ Gen-Class- VII

20. Learned Additional AG submits that in the police department, the entry point for regular service starts from the level of Constable whereas in the village guards the entry point for regular service and entitlement to pay scale starts from the level of Jamadar. He submits that the Government of Nagaland has not taken any policy decision nor issued any orders equating the service of village guards to that of personnel in the police department. It is therefore a misconception on the part of the petitioners to equate the post of Jamadar, village guard to that of Assistant Sub-Inspector of police, or the post of Subedar to that of Sub Inspector of Police or the post of Subedar Major to that of Inspector of police. He has submitted that in the Village Guard Organization from the rank of Sepoy to that of Havildar Major the service is voluntary in nature and for which the appointees are paid a monthly honorarium of Rs. 3000/-

per month and Rs 50/- as rank allowance when promoted to the next level. The monthly honorarium and other allowances of the village guards from the rank of Sepoy to that of Havildar Major is borne by the Government of India in the Ministry of Home Affairs. The village guards are selected/nominated by their respective village councils and appointed by the Deputy Commissioner and/or the Commandant of the District. The service in the village guards organization in regular scale of pay starts from the level of Jamadar which is filled by promotion from amongst the Havildar majors or by direct recruitment.

21. Learned Additional A.G submits that the petitioner cannot draw any assumption of equation of rank and salaries which is contrary to the ROP Rules and is non-existent. He submits that the equation of posts and pay fixation is a complex process and therefore, such exercise is to be left to the wisdom of the experts in such fields. In the ROP Rules of 1993 the post of Subedar village guard does not even find a mention. The ROP Rules 1993 states that the revised scale of pay for Subedar major and Jamadar will be entitled to the same pay scale as recommended for corresponding ranks in the police department. This means that the Subedar major and Jamadar in the village guards would be entitled to the revised scale which is paid to Sub Inspector of Police and Constable in police department under the 1993 Rules. The Petitioner therefore cannot derive any undue benefit by wrong interpretation of the remarks made in the ROP Rules, 1993.

22. Learned Additional A.G further submits that the post of Jamadar is the entry level point for the village guards in the regular service of the Government and the post of Constable is the entry level point in the police

department and therefore, the Government has structured the pay scale accordingly. Likewise, the pay of Subedar village guards is fixed as per the entitlement of Naik in the Police and Subedar major as per the entitlement of Sub-Inspector of Police. Learned Additional A.G has referred to the ROP Rules of 1993, 1999, 2010 and 2017 to show that in all the ROP Rules the corresponding rank of Jamadar village guard is that of Constable in the police department, the post of Subedar corresponds with the rank of Naik in the police department and the rank of Subedar major corresponds to the rank of Sub-Inspector of Police.

23. Learned Additional A.G further submits that the law is well settled that equation of post and determination of pay scale is the primary function of the executive and the petitioner cannot embark upon the task of job evaluation as several factors have to be kept in view while evolving a pay structure and the petitioners nor the Court possesses such expertise.

24. Learned Additional A.G further submits that the petitioners have erroneously invoked the principle of equal pay for equal work without substantiating with evidence that the petitioners discharge the same or identical duties or responsibilities as that of officers in the police department. The village guards and the police are two completely separate and distinct organizations without any functional parity. Their entry into service, mode of recruitment, educational qualification required for appointment and the nature of duties and functions are all different. And there is no basis to equate the post of Subedar major, Subedar and Jamadar village guard with that of Inspector, Sub Inspector and Assistant Sub Inspector in the police department for claiming parity of pay. Learned Additional A.G also submits that the Village Guard (Non Gazetted) Service

Rules is still in a draft stage which requires further modification before final publication and therefore, there is no Service Rules as yet governing the service of the petitioners.

25. Learned Additional A.G further submits that the petitioners had submitted representation to the Chairman of the Pay Anomalies committee of ROP 2017 on 21.06.2018. And the Anomalies Committee after considering the representation of the petitioners has rejected the demand of the petitioners for getting pay scale at par with the Assistant Sub Inspector, Sub Inspector and Inspector in the Police Department. The pay anomalies committee observed that equating the post of Jamadar, Subedar and Subedar Major with Assistant Sub Inspector, Sub Inspector and Police in the Police Department is not tenable and that the village guards cannot be equated with civil police. The Committee held that the village guards are paid fixed wages and only Jamadar, Subedar, Subedar Major, Assistant Commandant are getting pay scale and that the corresponding pay band and grade pay were given to them in ROP 2010 and the pay level under ROP 2017 also corresponds to the same and therefore there is no justification in the demand. Learned Additional A.G submits that this Report of the committee on Pay Anomalies has not been assailed by the petitioners till date. Learned Additional A.G therefore submits that the petitioners have failed to make out a case for invoking the writ jurisdiction of this Court under Article 226 of the Constitution and the same is liable to be dismissed.

26. Learned Additional A.G has relied on the following authorities to support his submissions:-

- 1) ***NIRAB CHANDRA ADHIKARY vs. UNION OF INDIA & ORS.***

reported in **2023 (2) GLT 919**

2) **JITEN KR. DAS & ORS VS. STATE OF ASSAM & ORS.** reported in **2022 (6) GLT 486**

3) **FIREMAN TOMMO NOMUK & ANR. VS. STATE OF ARUNACHAL PRADESH & ANR** reported in **2022 (6) GLT 847**

4) **GOVERNMENT OF W.B. Versus TARUN K. ROY AND OTHERS** reported in **(2004) 1 SCC 347**

5) **HUKUM CHAND GUPTA Versus DIRECTOR GENERAL INDIAN COUNCIL OF AGRICULTURE RESEARCH AND OTHERS** reported in **(2012) 12 SCC 666**

6) **UNION OF INDIA THROUGH SECRETARY, DEPARTMENT OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND ANOTHER Versus T.V.L.N. MALLIKARJUNA RAO** reported in **(2015) 3 SCC 653**

7) **STATE BANK OF INDIA AND ANOTHER Versus M.R. GANESH BABU AND OTHERS** reported in **(2002) 4 SCC 556**

8) **STATE OF HARYANA AND ANOTHER Versus HARYANA CIVIL SECRETARIAT PERSONAL STAFF ASSOCIATION** reported in **(2002) 6 SCC 72**

9) **JADISH KUMAR AND OTHERS Versus STATE OF JAMMU AND KASHMIR, through Principal Secretary to Govt., through its Chairman and Another** reported in **2024 SCC Online J&K 179**

27. This Court has given due consideration to the submissions of the learned counsel for the parties and also perused the pleadings as well as the case laws referred by the petitioners as well as the State respondents.

28. The hierarchy of posts in the Village Guard Organization and the hierarchy of posts in the Police Department has been brought out by the chart relied upon by the State respondents in the affidavit-in-opposition. According to this chart the posts of Sepoy, Lance Naik, Naik, Havildar, Havildar Major in Village Guards are voluntary in nature; there is no prescribed educational qualification and they are paid monthly

honorarium. It is observed that the entry level for the Village Guard Organization with Pay scale is the post of Jamadar for which the prescribed qualification is matriculate for direct recruitment and for promotion it is on the basis of seniority from Havildar major. Thereafter the next promotion is to the rank of Subedar, Subedar major and finally Assistant commandant. Admittedly the Village Guards Organization does not have service rules till date. Per contra, in the police department the entry level post is that of Constable which is a post for direct recruitment and the prescribed qualification is Class 8 passed for general candidates and Class 6 passed for backward tribes. The promotional post from the post of Constable is Lance Naik, Naik, Havildar, Sub Inspector, Inspector, and DSP respectively. The post of Sub Inspector is filled up by promotion or direct recruitment. And the educational qualification prescribed for direct recruitment to the post of Sub Inspector is graduate for general candidates and Class 12 passed for backward tribes.

29. In the case of *State of Jammu & Kashmir Versus Shiv Ram Sharma & Others* reported in **(1999) 3 SCC 653**, the Supreme Court stated that the law is well settled that it is permissible for the Government to prescribe appropriate qualification in the matter of appointment or promotion to different posts. So also in the case of Asst Sub Inspector or Sub-Inspector in the police department, the required education qualification prescribed is graduate for direct recruitment. Whereas, in the village guard organization the prescribed educational qualification for direct recruitment in the post of Jamadar is matriculate. The petitioner therefore cannot claim that the post of Jamadar of village guard is equivalent to the rank of Assistant Sub Inspector in the Police

Department.

30. In the case of ***State of Bihar & Ors Vrs. Bihar Secondary Teachers Struggle Committee, Munger & ors*** reported in **(2019) 18 SCC 301** the Supreme Court has discussed about how a pay structure is evolved. The Supreme Court stated that

“12. Ordinarily a pay structure is evolved keeping in mind several factors e.g. (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and Vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay, etc. We have referred to these matters in some detail only to emphasize that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well.”

31. In the case of ***State of Uttar Pradesh and Another Versus Virendra Bahadur Katheria and Others*** reported in **2024 SCC Online SC 1712** the Supreme Court observed that the prescription of pay scale for a post entails policy decision based upon the recommendations of an expert body like the pay commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder grade. Similarly, pay parity cannot be claimed as an indefeasible enforceable right save and except where the competent authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or distinct qualification. Incidental grant of same pay scale to two or more post without any express equation amongst such post cannot be termed as an anomaly in a

pay scale of a nature which can be said to have infringed the right to equality under Article 16 of the Constitution.

32. Also in the case of ***Jiten Kr. Das (Supra)***, a coordinate bench of this Court held that the issue regarding fixation of pay or pay parity is exclusively within the domain of the executive. In administrative matters, the court should ordinarily defer to the judgment of the administrative/executive unless the decision is clearly violative of some statute or is shockingly arbitrary. Therefore, if the State Executive, in its wisdom deemed it appropriate to provide different pay scale with different pay band to two sets of employees under different departments it cannot be said that the basic requirements of Article 14 was violated and that there is an arbitrary decision making process.

33. The petitioners have claimed that they are entitled to equal pay for equal work and that the petitioners are performing the same duties and functions as the police personnel in the police department, which has been refuted by the State respondents. Upon going through the pleadings this Court has observed that the petitioners are engaged only in three or four districts of the State, whereas the police personnel of the police department are detailed for duty all over the State and the police personnel are also investigating in criminal cases. In any view of the matter this Court does not have the expertise to examine nor is it shown from the materials on record for the court to arrive at a conclusive finding that the nature and scope of work of the petitioners is equivalent to that of the police personnel of the police department. In the case of ***Tarun K. Roy (Supra)***, the Supreme Court held that Article 14 r/w Article 39 (d) envisages the doctrine of equal pay for equal work. The Court held that

the said doctrine however, does not contemplate that only because the nature of work is same, irrespective of educational qualification or irrespective of their sources of recruitment or other relevant consideration, the said doctrine would be automatically applicable. The holders of a higher educational qualification can be treated as a separate class and can be treated differently.

34. It is well settled that equal pay must depend upon the nature of work done. It cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility and functions may be the same but the responsibilities make a difference. In the case of ***Hukum Chand Gupta (Supra)***, the Supreme Court expressed the view that it is for the employer to categorize the post and to prescribe the duties of each post. There cannot be any straight jacket formula for holding that two posts having the same nomenclature would have to be given the same pay scale. Prescription of pay scale in a particular post is a very complex exercise. It requires assessment of the nature and quality of the duties performed and the responsibilities shouldered by the incumbents on different post. Even though the two posts may be referred to by the same name it would not lead to the necessary inference that the posts are identical in every manner. These are matters to be assessed by expert bodies like the pay commission. The writ court would not normally venture to substitute its own opinion for the opinion rendered by the experts. The writ court lacks the necessary expertise to undertake the complex exercise of equation of post of pay scales. A similar view has been expressed by the Supreme Court in the case of ***Union of India through Secretary, Department of Personnel, Public Grievances***

and Pensions (Supra) and also in ***M.R. Ganesh Babu (Supra)***.

35. This Court on going through the pleadings has also noted that the mode of recruitment to the post of Jamadar and the post of Assistant Sub Inspector are completely different and the educational qualification prescribed is also different. The petitioners have not been able to show any order/notification issued by the Government of Nagaland equating the post of Jamadar in the Village Guards with that of Assistant Sub Inspector in the Police. It is also the view of this Court that the petitioner's have misinterpreted the remark in column 51 of the ROP Rules of 1993. In fact, in the said column 51 against the Subject: 'Village Guards', the post of Subedar is not mentioned. The remark, "*will be entitled to the same scale as recommended for corresponding ranks in the police department*" would mean that Subedar major and Jamadar in the village guard is corresponding with the post of Sub Inspector of police and Constable under the police department respectively.

36. In light of the above mentioned decisions of the Supreme Court, this Court is unable to hold that the disparities of pay scales in as far as the petitioners are concerned is in contravention of Article 14 of the Constitution of India. Therefore the decisions cited by the leaned counsel for the petitioner do not help to espouse the case of the petitioners. This Court is of the considered view that the State respondents should be left to decide as to what pay scale should be paid to which set of employees and the Court ought not to interfere in the matter of pay fixation and pay parity as the decision of the government and the Pay Commission to have a different pay for the petitioners cannot be said to be arbitrary or discriminatory in any manner whatsoever.

37. In view of the above observations, this Court does not find any merit in the writ petition and the writ petition stands dismissed.

No order has to cost.

JUDGE

Comparing Assistant