

## Abdul Baquee Choudhury Vs State of Assam

**Court:** Gauhati High Court

**Date of Decision:** June 7, 1990

**Citation:** (1990) 2 GLJ 18 : (1991) 1 GLR 269

**Hon'ble Judges:** S.N.Phukan, J and M.Sharma, J

**Bench:** Division Bench

**Advocate:** U.Das, Advocates appearing for Parties

### Judgement

S N. Phukan, J.

This writ petition has been filed by the All Assam Stenographers' Association of Courts, Tribunal and Revenue Board.

2. The petitioners have agitated before us their grievance regarding decision of the Government not to give the proper pay scale due to the

petitioners. Prior to 1964 the pay scale of Stenographers Grade III was Rs. 100/to Rs. 200/ whereas Upper Division Assistants of District

establishments were getting the pay scale of Rs 125/ to Rs. 175/ P. M. However the Pay Commission constituted in the year 1964 recommended

one pay scale both for Stenographers Grade III and Upper Division Assistants of District Offices and it was Rs. 200/to Rs, 300/. The Pay

Commission constituted in the year 1973 also recommended them pay scale of Rs. 350/ to Rs. 550/ for Stenographers Grade III and Upper

Division Assistants. In the year 1979 there was a mid term revision of pay scale by the government in respect of certain classes of employees and

in the said mid term revision the pay scale of Rs. 375/ to Rs. 600/ was granted both to Stenographers Grade III and Upper Division Assistants. The

3rd Pay Commission constituted in the year 1979 however recommended two separate pay scales namely for Stenographers Grade III Rs. 650/to

Rs. 1,000/ and for Upper Division Assistants of District Offices Rs. 675/ to Rs. 1100/. In the general recommendation of the said Pay Commission

in Schedule H the corresponding scale for the then existing scale of Rs. 375/ to Rs. 600/ was Rs. 675/ to Rs. 1100/ but this was denied to the

Stenographers Grade III. The State Government constituted One Man Anomaly Committee headed by Mr. A. K. Palit, I. A. S. the then Additional

Chief Secretary to the Government and the said Anomaly Committee on reconsideration recommended that Stenographers Grade III may be given

the rerevised scale of pay of Rs. 675/ to 1100/ and further recommended that Stenographers Gradell may start at the stage of Rs. 740/ to

maintain a difference in the minimum of the scale of Stenographer Gradell and Gradelll. This recommendation was however not accepted by the

State Government. Hence the present petition.

3. In the counter filed by the respondent main point urged is that, the claim of Stenographers Gradelll for the revised scale equivalent to that

prescribed for the Upper Division Assistants of Districts is not tenable as the duties and responsibilities, mode of recruitment etc. are not

comparable. In the counter affidavit the observation of the Pay Commission of 1979 for granting the above pay scale to Upper Division Assistants

has been quoted and on perusal we find that this pay scale was granted on the ground that this post is a promotional post, financial implication is

marginal and promotees will be getting a little monetary benefit.

4. We have heard the General Secretary of the Association in person and Mr. Das learned Government Advocate.

5. According to Mr. Das as the duties and responsibilities of the posts of Stenographers Gradelll cannot be compared with that of the posts of

Upper Division Assistants in the Districts Offices, there is no discrimination in granting a lower pay scale to Stenographers Gradelll. Mr. Das has

further urged that while refusing to accept the recommendation of the Anomaly Committee the Government took into consideration the basic

qualifications required for appointment to the post of Gradelll Stenographers and was of the opinion that the posts is not comparable with the

Upper Division Assistants of the Districts establishment either from the point of view of duties and responsibilities or mode of recruitment. Mr. Das

has urged that as the Pay Commission of 1979 and decision of the State Government not to accept the recommendation of the One Man Anomaly

Committee are based on proper application of mind and sufficient reasons have been recorded, this writ Court may not interfere. On the other

hand the petitioner has urged that all along from 1964 both the posts carried the same pay scale and denial of same pay scale to the Stenographers

Gradelll would not only amount to discrimination but it may be treated as reduction in rank. It has also been urged that the recommendation of the

Anomaly Committee would be binding on

the State Government and in this connection our attention has been drawn to a decision of Apex Court in Purshotam Lal vs. Union of India, AIR

1973 SC 1088.

6. The statement of the petitioner that from 1964 onwards the Stenographers Gradelll and Upper Division Assistants of the District establishments

were getting the same pay scale is not disputed. It is also not disputed that the Third Pay Commission constituted in year 1979 recommended the

pay scale Rs. 675/ to Rs. 1100/ for the then existing scale of Rs. 375/ to Rs. 600/ which the petitioners were getting. From the counter affidavit we

find that this revised pay scale was granted also to other categories of employees who were getting the prerevised pay scale of Rs. 375/ to Rs.

6CO/. In the counter affidavit respondents have quoted the reasons given by the Pay Commission for giving this corresponding pay scale to Upper

Division Assistants but we do not find any reason in the counter as to" why this pay scale was denied to the petitioners. Admittedly there were

anomalies in the report of the Pay Commission and the Government had to constitute the Anomaly Committee. This Anomaly Committee

recommended the legitimate scale of pay i. e. the corresponding pay scale recommended by the Pay Commission to the petitioners. AnnexureVI is

a letter of Government of Assam in Department of Personnel intimating the General Secretary, All Assam Stenographers" Association the decision

of the Finance Department rejecting the recommendation of the One Man Anomaly Committee. The said decision along with the recommendation

of the Anomaly Committee have been annexed with the said letter. We find that the Anomaly Committee took into consideration the midterm

revision of the State Government giving the same pay scale of Rs. 375/ Rs. 600/ by the State Government to both Stenographers GradeIII and

Upper Division Assistants. Taking this matter into consideration the Anomaly Committee recommended that Stenographers GradeIII may be given

the revised pay scale of Rs. 675/ to Rs. 1100/ and further recommended that the Stenographers Grade11 may start at the stage of Rs. 740/, in the

said pay scale to maintain a difference. This was rejected by the Finance Department considering the basic qualification for recruitment required for

appointment to Stenographers GradeHI and also the fact that the posts is not comparable with the Upper Division Assistants either from the point

of view of duties and responsibilities or in the mode of recruitment. In fact Finance Department observed that Stenographers GradeIII were given

sufficiently higher revised pay scale. From the above letter we do not find the stand taken by the Personnel Department. In other words there is

nothing on record to show whether the above views of the Finance Department was duly considered and accepted by the Government.

7. The petitioners were getting the pay scale of Rs. 375/ to Rs., 600/ per month prior to the recommendation of the Pay Commission of 1979. It is

not disputed that the said Pay Commission while recommending revised scale of pay recommended the pay scale of Rs. 675/ to Rs. 1100/ as

corresponding pay scale for the above pay scale. Why the petitioners were deprived from the said pay scale by the Pay Commission has not been

stated in the counter affidavit. As the Pay Commission recommended lower pay scale the matter was referred to One Man Anomaly Committee.

The said committee in order to remove the anomaly recommended pay scale as prescribed in Schedule II which was the corresponding pay scale,

as recommended by the Pay Commission. As stated by the respondent in the counter affidavit this revised pay scale was also given to other

employees who were drawing pay in the scale of Rs. 375/ to Rs. 600/. Though Finance Department gave its views, as we have noted, the final

decision of the government is not available with us. That apart, the reasons given by the Finance Department must have also been considered by

the One Man Committee was headed by a very senior civil servant. We do not find any reason to deprive the present petitioners from getting

revised pay scale as recommended by the Pay Commission in Schedule II more particularly in view of the recommendation of the Anomaly

Committee. In our opinion the decision of the respondents not to give the petitioners the said revised pay scale of Rs. 675/to Rs. 1100/ is

arbitrary and cannot stand. It is needless to say that in view of the recommendation of the Anomaly Committee the Stenographers Grade II

would start at the stage of Rs. 740/ as recommended by the Committee. We direct the respondents to implement the recommendation of the

Anomaly Committee immediately and positively within a period of 3 (three) months.

In the result petition is allowed and the rule is made absolute. Parties to bear their own costs.