

(1990) 06 GAU CK 0016

Gauhati High Court

Case No: Civil Rule No. 1230 of 1988

Abdul Baquee Choudhury

APPELLANT

Vs

State of Assam

RESPONDENT

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**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

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### 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 GradeIII 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 GradeIII 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 GradeIII 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 GradeIII and Upper Division Assistants. The 3rd Pay Commission constituted in the year 1979 however recommended two separate pay scales namely for Stenographers GradeIII 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 ScheduleH 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 GradeIII. 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 GradeIII may be given the rerevised scale of pay of Rs. 675/ to 1100/ and further recommended that Stenographers GradeII may start at the stage of Rs. 740/ to maintain a difference in the minimum of the scale of Stenographer GradeII and GradeIII. 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 GradeIII 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 GradeIII 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 GradeIII. 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 GradeIII 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 GradeIII 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 GradeIII 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. 600/. 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. Annexure VI 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 Grade III and Upper Division Assistants. Taking this matter into consideration the Anomaly Committee recommended that Stenographers Grade III may be given the revised pay scale of Rs. 675/ to Rs. 1100/ and further recommended that the Stenographers Grade II 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 Grade II 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 Grade III 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.