
(2012) 06 GAU CK 0008
In the Gauhati High Court
Case No : Writ Petition (C) No. 3476 of 2011

Shri Adhir Barman and Others	Vs	APPELLANT
State of Assam and Others		RESPONDENT

Date of Decision : 28-06-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2013) 1 GLD 33

Hon'ble Judges : B.K. Sharma, J

Bench : Single Bench

Advocate : B.C. Das, Mr. D.N. Bhattacharyya, Mr. M.K. Choudhury, Mr. S.U. Ahmed, Mr. A.C Borbora, Mr. P.K. Deka and Mr. U.K. Nair, for the Appellant; D. Saikia, AAG, Assam, for the Respondent

Judgement

B.K. Sharma, J.—In all the writ petitions, the issue raised is in respect of promotion to the post of Block Development Officer (hereinafter BDO) from the cadre of Extension Officers (For Short EO) belonging to 4 (four) different streams namely, EO (Credit), EO (Fisheries). Brief facts leading; to filing of the writ petitions are as follows:--

W.P. (C) No. 3476 of 2011

The petitioners involved in this writ petition are EO (Credit). According to them, the Govt. of Assam in the panchayat and Rural Development Department, illegally placed the EO (Panchayat and Rural Development) and EO(Women and children) along with the EO(Credit) in the Assam panchayat and Rural Development (Recruitment and Promotion of BDOs) Service Order, 1990. As per the said service orders, all the 3 (three) categories of EOs are entitled to get consideration for promotion to the next higher post of BDO.

2. The EO (Credit) had filed a writ petition being Civil Rule No. 4213/1995 challenging the said Service Order alleging that the methodology adopted is violative of Article 14 and 16 of the Constitution of India. The writ petition was

allowed by judgment and order dated 18.9.1998 quashing the provisions contained in order 3 and 5 of the Executive order dated 2.6.1990, by which provision was made for filling up the post of BDO 40% by direct recruitment; remaining 60% by promotion with the proportion of 20% from EO (Panchayat and Rural Development), 20% from EO(Women (Women and children) and 20% from EO(Credit). It was noticed in the said judgment that the petitioners as EO(Credit) had all along; enjoyed higher pay scale than that of the Extension officers of other two wings.

3. Although the writ petition was allowed by striking down the provisions of Orders 3 and 5 but the matter was left open to the Government to integrate the different cadres of Extension Officers into a common cadre and to publish the integrated seniority list in accordance with law and thereafter to fill up the promotional post on the basis of merit-cum-seniority of the Officers from one combined list. Against the said judgment and order, a writ appeal being WA No. 425/1999 was preferred, which was disposed of by judgment and order dated 24.7.2001. In the writ appeal, the grievance raised was the liberty granted for drawing a common seniority list for promotion to the post of BDO. It was contended, that by such direction un-equals were made equals. Accepting the said plea of the appellant, the aforesaid direction of the learned Single judge was interfered with, with the observation that there would be no bar for the official respondents to keep separate quota for promotion to the post of BDO subject to the condition that all the categories of Extension Officers were made equal.

4. It is the case of the petitioners that they are class-II Gazetted Officer while the EO(P) and EO(W & C) are non-gazetted Grade-III Officers, Referring to the report of Assam Pay Commission, 2008, it has been contended that the said report also has maintained a clear distinction between the EO(C) and other 2 wings of EOs i.e. the EO(P) and EO (W & C). IN this connection, the petitioners, have referred to the following recommendations made by the Assam pay commission.

(i) 50% of the post of Block Development Officer shall be filled up from the ACS cadre.

(ii) remaining 50% of the post of Block Development Officer shall be filled up by promotion from the cadre of Senior Extension Officer.

(iii) Extension Officer be regrouped into two categories viz. junior Extension Officer and Senior Extension Officer.

(a) Posts of Extension Officer (Panchayat) and Extension Officer (Women and Children) be clubbed together and designated as junior Extension Officer.

(b) Posts of Extension Officer (Credit) and Extension Officer (Fishery) be clubbed together and designated a Senior Extension Officer. However, it has been recommended that the post of Extension Officer (Fishery) should be done away with by integrating the same with the Fishery Department

(c) Direct recruitment should take place only at the level of junior Extension Officer.

(d) All posts of Senior Extension Officer shall be filled up by promotion from the cadre of junior Extension Officer.

5. In the ROP Rules of 2010, the EO(C) has been identified with the pay scale of Rs. 8000-35000/- under pay Band 3 with Grade pay of Rs. 4300/- on the other hand, the EO(P) and EO (W & C) have been identified in the pay scale of Rs. 5200-20200/- under PB-2 with grade pay of Rs. 2500/-.

6. Four writ petitions being WP(C) No. 2625/2009, WP(C) No. 6117/2003, WP(C) No. 8726/2004 and WP(C) No. 3964/2009 came to be filed raising grievance in respect of pay scales provided to EO(P) and EO(W & C) and also in respect of promotional avenue of EOs to various categories in the Panchayat and Rural Development Department. When the matter was taken up for disposal on 10.6.2010, it was pointed out that the grievance raised in the writ petitions was pending with the pay Anomaly Committee constituted by the Govt. of Assam to look into the anomalies which might have arisen pursuant to the recommendations made by the Assam Pay Commission (6th).

7. All the writ petitions were disposed of providing that the pay anomaly committee would examine the representation already made by the petitioners involved in the said proceeding and thereafter would make appropriate recommendation as would be considered just and proper. It will be pertinent to mention here that in the said batch of writ petitions; the category of the EO(Fishery) was also involved.

8. Pursuant to the aforesaid order of this Court, the Pay Anomaly Committee Submitted its report on 30.9.2010. As regards the Panchayat and Rural Development Department, taking note of the pleas raised by all Assam Panchayat and Women and Children Extension Officers Association; Assam Panchayat and Rural Development (Fisheries) Graduate Officers Association and All Assam Extension Officers (Credit) Association and also the feed back of the department, the Committee has made the following recommendations:-

(f) As Panchayat and Rural Development Department is a big Department with a large number of officer and staff of various categories and implementing a large number of schemes, complete rationalization of the structure of different cadres and the relevant Service Rules may be finalised urgently as may be considered fit by the Department concerned. The non ACS post of BDOs should be filled up, by the present, by taking equal numbers from the three types of Extension officers, namely, EO (Credit), EO (Women and children) and EO (Panchayat). Forty percent of posts of BDOs may be filled up by ACS Officers and the rest sixty percent equally from the cadres of EO (Credit), EO (Panchayat) and EO (Women and Children). Senior BDOs should preferably be posted in bigger blocks with more funds.

(g) Along with the Assam Pay Commission, 2008, we also recommend immediate transfer of EO (Fisheries) of P & RD Department to Fishery Department for more efficient utilization of these officers in Fishery Department.

(Emphasis supplied)

9. While making the aforesaid recommendation, the Pay Anomaly Committee has observed in its report that the revised pay of EO(P) and EO (W & C) was very low compared to revised pay of EO (Fisheries) and EO (Credit). In this connection, following observations of the pay Anomaly Committee may be referred to:

It is true that the term "Junior Extension Officer" means that they are not full-fledged Extension Officers as the very term "junior" implies. The Committee is of the view that a Government employee's rank or salary can be reduced only by way of punishment or by giving sufficient justification for the same. It seems that the Assam pay commission, 2008 has not given any sufficient justification to rename the EO (Panchayat) and EO (Women and Children) as Junior Extension working for almost 30 years now as extension Officers. In view of the facts mentioned above, the Committee recommends that the EO (Panchayat) and EO (Women and Children) should continue to be known as "Extension Officer" and not as junior extension Officer.

Three types of extension officers, namely EO(Panchayat), EO (Women and Children) and EO(Credit) perform duties under the BDO and they have equal rank though EO(Credit) was given gazetted status by the state Government. As the EO(Credit) neither apparently supervise the works of an independent office, nor exercise the powers of Drawing and Disbursing Officer, nor exercise any statutory power, nor required to take independent decision excluding decisions of routine type and nor required to do any inter-department liaison with gazetted officers of other Departments (Since they are working under the BDO), it was, in our opinion, not necessary to give the gazetted status to EO (Credit). Moreover, the present level of credit flow in the rural areas for agriculture and allied leaves much to be desired from EO(Credit). Therefore, the Committee is not at all in favour of giving gazetted status to the Extension Officers of any type.

Regarding filling up of the BDO's promotional quota from the EO(Credit) only and giving gazetted status to EO (Panchayat) and EO (Women and children), the Committee recommends that 40% posts of BDOs should be filled up by ACS Officers and the rest 60% should be filled from the cadres of EO (Credit), EO (Panchayat) and EO (Women and Children) at 20% each. If the proposed Assam Rural Service is created, the then ACS quota will be filled up progressively by the officers of Assam Rural Service.

So far as the revised pay of EO(Panchayat) and EO(Women and Children) is concerned, the pay Commission has recommended its fixing in Pay Band 2 with Grade Pay of Rs. 2800/- Considering the volume and importance of the works now required to be performed by the EO (Panchayat) and EO (Women and Children), the Committee has already recommended increasing the Grade Pays

of posts in pay Band 2 in chapter 2 of this report. Once this is done, both EO(Panchayat) and EO(Women and children) will be suitably remunerated.

10. After the aforesaid recommendation of the Pay Anomaly Committee, the All Assam Extension Officers (Credit) Association made the Annexure-10 series representations to the Govt. in the Panchayat and Rural Development Department, agitating that the aforesaid recommendation of the Pay Anomaly Committee, if implemented, would abrogate the existing norms and would bring back the already repealed service orders (Order 3 and 5), referred to above.

WP (C) No. 3844/2011

11. This writ petition has been filed by the Assam Panchayat and Women & Children Extension Officers Association praying for a direction to the respondents to implement the aforementioned Pay Anomaly Committee Report. The petitioner has also made grievance in respect of the Office Memorandum dated 5.8.2009, by which the EO(C); EO(Fishery); ACS Officers; circle Officers and EO (Agri), etc. were allowed to hold charge of BDO. Referring to the service orders of 1990 and time to time representations made by the petitioner association, it has been contended that all the 3 (Three) wings of E.Os are at par and accordingly the Pay Anomaly Committee taking note of all Relevant facts, has made the above quoted recommendation, which the state Govt. is required to implement.

12. The petitioner has also referred to the order dated 17.5.2007 passed in WP(C) No. 1779/2007 filed by it challenging the WT Message dated 1.3.2007, by which direction was issued to allow the Extra Assistant Commissioners/Circle officers and other officers of equivalent rank to hold the charge of BDO where regular BDOs were not available. Tracing back the history of the service of the Extension Officers and also the fact that there was no service rule and the service conditions are governed by the aforesaid service order of 1990 and also the aforesaid judgment of the learned Single judge and the Division Bench, the writ petition was disposed of with the following observations:-

8. Thus, from the aforesaid stand of the department, what was emerged is that the process of conferring the gazetted status to the Extension Officers of the said Panchayat and Women & children Wing is under process and that the department is not opposing to the promotion of such officers to the rank of BDOs.

12. The petitioners are in the substantive grade of Extension officers (Panchayat) and (Women & Children) and they have not been considered for promotion to the posts of BDO. According to them, there is nothing wrong, if they are allowed to hold the charge of BDO in absence of any regular BDO. According to them, the decision of the departmental authorities to allow the ACS Officers to hold the charge of the posts of BDO is only to favour them and that too, in violation of the clear cut directions of this Court, about which mention has been made above.

16. All the: above aspects of the matter will have to be considered by the departmental authorities before implementing the WT Message dated 1.3.2007.

In this connection Mr. Bhuyan, learned counsel for the petitioners has referred to the representation dated 13.3.2007 (Annexure-19 to the writ petition) submitted by the petitioner No. 1 to the Commissioner and Secretary to the Government of Assam, Panchayat and Rural Development Department. The said Commissioner may also take on record the said representation towards taking a fresh decision in the matter. At this stage, Mr. P.K. Mushahary, learned Senior State Counsel has referred to the Annexure-13 minutes of discussions dated 6.10.2005. He has also referred to the provisions of the National Rural Employment Guarantee Act, 2005. He submits that as per Section 15 of the said Act no Extension Officer can be posted as BDO. Mr. Bhuyan, learned counsel for the petitioners disputes the same. He submits that the Act has nothing to do with the arrangement by the impugned WT Message.

17. A further submission has been made by Mr. P.K. Mushahary, learned Sr. Govt. advocate that since the petitioners are not the Gazetted officers, they cannot be posted as Block Development Officer. As per own admission of the respondents in Misc. Case No. 1652/2005 filed in WP(C) No. 8726/2004 in which a stay order is operating, the Government has decided to confer Gazetted status to the Extension Officers (Panchayat) and (Women & Children) and the process is on. If there is delay on the part of the departmental authorities towards implementation of the same, I am of the considered opinion that they cannot be put forward the same as a ground not to allow the petitioners to hold the charge of BDO.

18. Writ petition is disposed of directing the Commissioner and Secretary to the Government of Assam in the Panchayat and Rural Development department to consider the above aspects of the matter and then to pass a speaking order, as expeditiously as possible. Till disposal of the matter by passing speaking order, status quo as on today in respect of the impugned WT Message dated 1.3.2007 shall be maintained. It is further provided that the copy of the speaking order to be passed shall be furnished to the petitioners.

13. After the aforesaid judgment and order of this Court, the Govt. issued the Annexure-15 Office Order dated 5.6.2008 with the following observation:--

The Government in the panchayat & Rural Development Department is very eager to confer Gazetted status to the EO(P) and EO(Women and Children) and the same has been proposed in the draft service Rules. The Government is equally eager to promote the required percentage of Extension Officers to BDOs and the same has been incorporated in the draft Service Rules. The draft Service Rules has been sent to the Department of Finance and as soon as it is approved, it would be placed before the Extension Officers to the post of BDOs will be implemented after finalization of the service rules and till then the E/O will continue to maintain their present position.

14. Thereafter, Annexure-16 impugned Office Memorandum dated 5.8.2009 was issued by the Government conveying the decision of the Government to give

charge of the post of BDO to EO(C) and EO (Fishery), wherever there was no regular BDO.

WP(C) No. 5989/2011

15. The petitioners involved in this writ petition are Extension Officers (Fishery). Their grievance is in respect of the aforesaid recommendation of the Pay Anomaly Committee, in terms of which they are required to be transferred to Fishery Department allegedly for more efficient utilization in the Fishery Department. Further prayer made in this writ petition is to implement the Assam pay Commission recommendation, in terms of which the post of EO(C) and EO(F) be grouped and designated as Sr. Extension Officer and Place in Pay Band-3 with grade pay of Rs. 4300/- with the placement of existing EO(Fishery) in a new Pay Band as per their existing scale. According to the petitioners, as per the said pay Commission recommendation and even otherwise also, they being in a higher grade, cannot be equated with that of their junior grade Officers i.e. EO(P) and EO(W & C) WP(C) No. 6242/2011

16. This writ petition has also been filed by the Extension Officers (Credit) making a grievance against the alleged proposal to fill up the post of BDOs by way of promotion. The prayer made in this writ petition is to finalise the service rules following the directions contained in the aforesaid judgment and orders. Further prayer made is to refrain the respondents from effecting promotions to the cadre of BDO from the cadres of EO(P) and EO(W & C). They have also assailed the Annexure-10 and 11 communication dated 29.9.2011 and 14.10.2011. By the first communication, the Deputy Secretary in the Panchayat and Rural Development Department conveyed the decision of the Govt. to fill up the vacant post of BDOs by promotion from amongst the EO(C) and EO(P) and EO(W & C). By the said communication, the final gradation List, ACRs etc. were called for. By the 2nd communication issued by the joint Director, Panchayat and Rural Development Department, the aforesaid decision of the Govt. was communicated requesting all the BDOs to furnish the ACRs of Extension Officers (P), Extension Officers (W & C) and Extension Officers (C).

17. I have heard Mr. B.C. Das, learned senior counsel assisted by Mr. D.N. Bhattacharya; Mr. A.C. Borbora, learned senior counsel assisted by Mr. P.K. Deka and Mr. U.K. Nair and Mr. M.K. Choudhury, learned senior counsel assisted by Mr. S.U. Ahmed, learned counsels appearing for the parties involved. I have also heard Mr. D. Saikia, learned AAG, Assam.

18. While the learned counsel representing the extension Officers (W & C) emphasized the need for implementation of the recommendations made by the Pay Anomaly Committee, the learned counsel representing the EO(C) and EO(Fishery) made submissions for acceptance of the recommendation of the Pay Commission. According to them, the recommendation of the Pay Commission will prevail over the report of the pay Anomaly Committee.

19. To buttress the said arguments, Mr. B.C. Das, learned senior counsel

representing the Extension Officer (Fishery) has placed reliance on the decisions reported in *State of West Bengal and Another Vs. West Bengal Minimum Wages Inspectors Association and Others*, ; *Delhi Veterinary Association Vs. Union of India (UOI) and Others*, ; *Secretary, Finance Department and others Vs. West Bengal Registration Service Association and others*, and *Union of India and Others Vs. Shri Ram Gopal Agarwal and Others*, .

20. Dr. D. Saikia, learned AAG, Assam, by producing the relevant files submitted that the State Govt. on principle, has accepted the recommendations made by the Pay Anomaly Committee. In fact, decision has also been taken to make promotion to the vacant posts and to facilitate the same, ACRs etc. of the eligible extension officers have also been called for.

21. In *Delhi Veterinary Association (supra)*, the Apex Court dealing with the claim for equal pay for equal work, observed that such matters are to be considered by the Pay Commission. It was held that in addition to the principle "Equal pay for equal work", the pay structure of the employees of the Government should reflect many other social values.

22. In *West Bengal Registration Service (supra)*, the Apex Court observed that pay fixation and/or revision in an executive function to be undertaken by expert body like Pay Commission whose Recommendations are entitled to great weight though not binding. In the said decision, it has been held that judicial interference with the complex matter involving job evaluation, equation of jobs and salaries, reduction of particular pay scales, which require consideration of various factors not ordinarily called for, unless there is unjust treatment by arbitrary state action or inaction.

23. In *Ram Gopal Agarwal (supra)* dealing with the concept of equal pay for equal work in the context of Ration Money allowance granted to non-gazetted combatised staff of CRPF, while denying the same to non-combatised post of non-operational area, the Apex Court held that on facts such differential treatment neither violated the principles of equal pay for equal work nor the right to equality.

24. In *West Bengal Minimum Wages Inspectors Association (supra)*, the Apex Court again dealing with the concept of equal pay for equal work, observed that such assertion is not a fundamental right but a constitutional goal. Dealing with the factors to be considered for determining the applicability of the principle and extent of judicial interference permissible, it was held that parity cannot be claimed merely on the basis that earlier the subject post and the reference category post were carrying the same scale of pay. Dealing with the rule of the Pay Commission, it was observed that it has two functions, namely, to revise the existing pay scale, by recommending revised pay scales corresponding to the pre-revised pay scales and 2ndly, making recommendations for upgradation and/or downgrading posts resulting higher pay scales or lower pay scales.

25. There cannot be any second opinion about the aforesaid propositions of law

and principles laid down by the Apex Court in respect of claim of equal pay for equal work; upward or downward revision of pay etc. as the same involve evaluation of various factors by expert body like pay Commission. In the instant case, the pay Commission in its report had made the above quoted recommendation. While making the said recommendations, the Commission made the following significant observations in respect of Extension Officer (Fishery):

It is also observed that post of EO(Fishery) is rather anomalous in this set up. There is no need of a cadre of specialized Officer in the block set up. The Commission is of the view that there should be no fresh recruitment in this cadre of EO(Fisheries) in the block. In future, Extension Officer (Fishery) may be deputed from Department of Fisheries, if necessary. Both the departments may also explore the possibility of integrating EO(Fisheries) in the Fisheries department. The situation needs to be rationalized.

26. From the above, what is seen is that even the Pay Commission has noticed that the Extension Officer (Fishery) is rather anomalous in the set up of Panchayat and Rural Development Department. It has been observed that there is no need of a cadre of specialized officer in the block setup. The Commission also felt the necessity of exploring the possibility of integrating EO(Fishery) in the Fisheries Department.

27. The Pay Anomaly Committee was constituted in the background of the Assam Pay Commission, 2008, which submitted its report on 15.10.2009 regarding revision of pay and allowances of the employees and pensioners of the State Government. As recorded in the preface to the report of the Anomaly Committee, 2010, major recommendations of the Assam Pay commission, particularly, those related to pay structure and allowances, have been accepted by the Government and accordingly it has notified the Assam Services (Revision) of Pay Rules, 2010. However, various employees associations and some other individual employees being not satisfied with the award of the Pay Commission, made serious reservations on implementation of some of its recommendations. It was in such circumstances, the State Government thought it fit to redress the genuine grievance of its employees in an appropriate way and hence constituted the Pay Anomaly Committee to examine the anomalies, if any, in the recommendations of the Assam Pay Commission, 2008 including the Govt. decision taken thereof.

28. The Pay Anomaly Committee dealing with the grievance raised by various associations of the Panchayat and Rural Development Department, made the above quoted recommendations. Although, learned counsel representing the Extension Officers (Credit) and Extension Officers (Fishery) submitted that the Pay Anomaly Committee exceeded in its jurisdiction without devising its own procedure and looking into the required informations and documents but the Anomaly Committee report will show that it took into account the representations made by all the associations, namely, All Assam Panchayat and Women and Children Extension Officers Association; Assam Panchayat and Rural

Development Fisheries Graduate Officers Association; All Assam Project Officers (Credit) Association; All Assam Rural Development Employees Association, etc. It also took into account the note furnished by the Principal Secretary of the Panchayat and Rural Development Department. It appears that on 13.9.2010, the Committee had discussed with the Principal Secretary of the Department about the anomalies in respect of revised Pay of the post of BDO; EO(Credit); EO(W & C) etc.

29. As to the procedure to be adopted by the Pay Anomaly Committee, the Govt. of Assam in the Finance (Pay Research Unit) Department vide its notification-dated 1.1.2010 (Annexure-13 to the report of the Pay Anomaly Committee, 2010), While constituting the Anomaly Committee also notified that the Committee would devise its own procedure and that all departments and offices under the State Government would furnish such information and documents and also other assistance as might be required by the Committee. It was expected that the service associations and other concerned would extend their fullest co-operation and assistance to the Committee.

30. By notice dated 6.1.2010, the Govt. of Assam in the Finance (Pay Research Unit) Department referring to the earlier notification dated 1.1.2010 informed the service associations, Govt. employees and others concerned that memorandum etc. could be submitted along with the suggestions and remedies sought for, giving full justification to the Finance (Pay Research Unit) Department by 20.1.2010

31. It was pursuant to such an exercise, the Pay Anomaly Committee upon evaluation of all the relevant factors made its recommendations indicated above. Although, the EO(Credit) and EO(Fishery) have primarily based their claim towards challenging the recommendation of the Pay Anomaly Committee, the aforesaid Division Bench judgment dated 24.7.2001 passed in WA No. 426/1999, but the judgment itself provides categorization of all the categories under one umbrella. It also provides quota for promotion to the post of BDO for separate categorization of Extension officers. In the said judgment, it was noticed that the EO(Credit) were enjoying higher pay scale than that of EO(P) and EO(W & C).

32. The pay Anomaly Committee has duly taken note of all the relevant aspects of the matter including the pay scale attached to the different wings of Extension Officers. The Committee has come to the conclusion that the revised pay scale of EO(P) and EO(W & C) are very low compared to the revised pay of EO(Fisheries) and EO(Credit). The particular recommendation of the Committee entitling all the Extension Officers promotional quota excluding the EO(Fishery) have been noted above.

33. The basic thrust of argument on behalf of Extension Officer (Credit) and the EO(Fishery) is that the Pay Anomaly Committee could not have made the unequals equal by way of upgrading the Extension Officers(P) and Extension Officers (W & C), so as to be treated at par with the said categories of Extension

Officers.

34. As noticed above, it has all along been the endeavours of the Govt. in the Panchayat and Rural Development Department to provide promotional avenues to the Extension Officers belonging to all the 3 (three) wings, namely, EO(P), EO(W & C) and EO(Credit). In fact, the Service Order of 1990 also provide for such promotion at the ration of 4:60; 40% by direct recruitment and 60% by promotion with the ration of 20:20:20. However, in absence of any justification for the same and taking note of disparity in the pay scales attached to the respective post, the Division Bench interfered with the direction of the learned Single judge providing for a common seniority list for promotion from amongst the Officers belonging to all the three wings. But at the same time and as noticed above, full liberty was granted to bring all the three wings under one umbrella and to fix respective quota of promotion.

35. It is true that the Assam Pay Commission in its report made recommendations favouring the EO(C). However, there was serious objection to such recommendation, inasmuch as, long standing grievance of the other two wings of the Extension Officers, for equation of all the posts of Extension Officers was not taken into account.

36. The Pay Anomaly Committee was constituted after the recommendation of the Pay Commission to look into the grievance of the employees and to make suggestion to the Government. After the recommendations made by the Assam Pay Commission, the Govt. of Assam constituted the Pay Anomaly Committee to examine the areas of anomalies as agitated by the service associations and individual employees.

37. The arguments advanced on behalf of the Extension Officer (Credit), Extension Officers (Fishery) is that the Pay Anomaly Committee, the recommendation of the Pay Commission, the recommendation of the Pay Commission will have precedence over the recommendation of the Pay Anomaly Committee. This argument is not acceptable, inasmuch as, a Pay Commission Report does not attain its finality merely on its submission. The ultimate authority to implement the recommendations is the State Govt. In the instant case while the State Govt. accepted the major recommendations but constituted the Pay Anomaly Committee to look into the reservations expressed by the various employees associations including individual employees in respect of some of the recommendations, made by the Pay Commission. The Pay Anomaly Committee was constituted by the Govt. with a view to redress the genuine grievance of its employees in an appropriate way. It was with that view, the Pay Anomaly Committee was constituted to examine the anomalies. Thus, it was a continuous process towards accepting the Pay Commission recommendations with the removal of anomalies found justified by the Pay Anomaly Committee.

38. According to Mr. D.Saikia, learned AAG, Assam and as has been revealed from the records, the Govt. of Assam has accepted the recommendations of the

Pay Anomaly Committee in respect of the Extension officers of the Panchayat and Rural Development Department and in fact, process has also been initiated for filling up the posts of BDOs on promotion from amongst the Extension officers of all the 3 (three) wings with the ratio of 20:20:20.

39. Learned Counsel for the EO(Credit) referring to the introductory note in the report of the anomaly committee submitted that the report of the anomaly committee is not the finality to the matter and the same would require detailed examination in the light of past references judicial pronouncements holding the field, effect on present equilibrium between different posts etc. and thereafter to submit a proposal to the Finance Department with detailed justification for implementation of those recommendations. In this connection, note No. 1.9.2.19 and 2.20 may be referred to, which are quoted below:--

1.9 The Committee has arrived at its views and recommendations based on the information made available to the Committee in Memoranda and/or during the discussions with employees associations. Due to paucity of time, the Committee has not independently verified the information as given in each memorandum. Similarly, the committee could not hear views of the Departments concerned due to paucity of time. Therefore, the Committee's suggestion at Para 2.20 may be taken into consideration before implementing its recommendations.

2.19. Clause 39 of the Resolution by the Government on the recommendations of the Assam pay Commission, 2008 clearly elucidates the Issues of examination and points of action by the Departments concerned. The Committee regrets to say that most of the issues have not been examined by the Departments as it appears and no action has been taken on important issues like framing of Service Rules etc. even almost a year after the said Resolution was notified. This inordinate delay and apparent inaction has resulted in avoidable harassment to the employees. It is expected that expeditious action will be taken on all such issues within three months of the publication report.

2.20 The Anomaly Committee has given a number of recommendations in Chapter 3. In view of the possible ramifications of the recommendations on inter se equilibrium of different posts in the same Department as well as across other Departments, it is important that the concerned Department should conduct detailed examination of the recommendations related to their Department in light of past references, judicial pronouncements in this regard, effect on present equilibrium between different posts etc. and submit proposal to the Finance department with detailed justification for implementation of those recommendations.

40. The fact of the matter is that the Govt. of Assam in the Finance (Pay Research Unit) Department vide its notification dated 19.2.2011 has accepted the report of Pay Anomaly Committee with certain modifications. The said modifications also refers to departmental related recommendations with the following observations:--

7. Departmental Related Recommendations

The Anomaly Committee has given a number of department-wise recommendations in Chapter-3 of its report primarily based upon association level of individual level representations. In Clause 2.20 of its report, the Anomaly Committee has suggested that in view of possible ramifications of the recommendations on inter-se-equilibrium of different post in the same department as well as across other departments, it is important that the departments concerned should examine these in detail in the light of past references, effect on present equilibrium between different posts etc. and then submit its proposal to Finance department. Departments Concerned may initiate necessary action accordingly.

8. Finance Department shall issue necessary modification, correction addition, clarification etc. on such matters depending on feasibility and justification in due course.

9. The Notification No. FPC 85/2009/1 dated 4th February, 2010 relating to Resolution of the Government on the recommendations of the Assam Pay Commission, 2008 and the Notification No. FPC 85/2009/2 dated 4th February, 2010 relating to the Pay Schedule of the Assam Services (Revision of Pay) Rules, 2010, shall stand corrected accordingly.

41. It is now for the State Govt. to act in the matter in terms of the recommendations made by the Pay Anomaly Committee and to take a decision thereon. Although, Mr. D. Saikia, learned AAG, Assam, during the course of arguments, had submitted that the State Govt. has accepted the recommendations made by the Pay Anomaly committee concerning the issues raised in this batch of writ petitions but if any further deliberations in association with the Finance Department are required towards proper implementation of the recommendations of the Pay Anomaly Committee, the State Government will do well to give concrete shape to the matter with such deliberators, if required.

42. The submissions made by the learned counsel representing the EO (Credit) an EO(Fishery) that the recommendations of the Pay Commission are the gospel truth and the said recommendations cannot be disturbed through a Pay Anomaly Committee, is not acceptable. As has been held above, the deliberations of the Pay Anomaly Committee and the recommendations thereof are in continuous process of implementation of the recommendations of the Pay Commission. Such recommendations made by the expert body, like the Pay Anomaly Committee cannot be interfered with exercising writ jurisdiction, in absence of any arbitrariness in such recommendations. Parameters and yardstick concerning job evaluation, claim of higher status etc. are all complex matters involving job evaluation, equation of posts and salaries, which necessarily require consideration of various facts, interference in such matters undertaken by an expert body like Pay Anomaly Committee, is not called for absence of any unjust treatment by arbitrary state action or inaction.

43. As has been held by Apex Court in Reserve Bank of India and Others Vs. C.N. Sahasranaman and Others, , it has to be borne in mind that in service jurisprudence, there cannot be any service rule which would satisfy each and every employee and its constitutionality is to be judged by considering whether it is fair, reasonable and does justice to the majority of the employees and fortunes of some individual is not the touch stone.

44. In M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another, , the Apex Court holding that State in its wisdom and in furtherance of the Valid policy decision may or may not accept the recommendation of the Pay Commission. Article 14, its trite, does not permit a reasonable classification. It forbids class legislation but permits reasonable classification. It forbids class legislation but permits reasonable classification of an intelligible differentia. In the instant case pursuant to the Pay Commission recommendation, the State Govt. constituted the Pay Anomaly Committee which on consideration of the representations referred to above and deliberations that was made in its meeting, made the above quoted recommendations, which has been accepted by the State Government.

45. There cannot be any absolute satisfaction of all the employees involved in a particular service, more particularly, when they are drawn from different source. It is also not unknown in service jurisprudence in the context of promotion to provide promotional avenue to a particular cadre from different sources. The recommendation of the Pay Commission having merged with the recommendation of the Pay Anomaly Committee, the recommendation of such an expert body better be left untouched and that too exercising judicial review under Article 226 of the Constitution of India. It will be entirely upto the State Govt. to act upon the recommendations of the Pay Anomaly Committee. If for the purpose, any further deliberations are required among the departments involved, the same shall be carried out towards giving finality to the matter, as expeditiously as possible, as it is the grievance of the Extension Officers belonging to different wings that they have been made to stagnate, without any promotion for years together. With the above direction and observation, the writ petitions are disposed of, without however, any order as to costs.