

**(2017) 05 MEG CK 0011**  
**In the Meghalaya High Court**  
**Case No : 289 of 2015**

Shri Ratna Bhusan Panda & Ors.

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

**Date of Decision :** 18-05-2017

**Acts Referred:**

<a href=3998>Constitution of India</a>, <a href=3998-14>Article 14</a>, <a href=3998-21>Article 21</a> - Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions - Amendment of the Sched

**Citation :** 2017 0 LabIC 3011

**Hon'ble Judges :** Ved Prakash Vaish

**Bench :** Single Bench

**Advocate :** R. Jha, N. Mozika

## Judgement

1. By way of the present petition, the petitioners assail the action of the respondents in non-implementation of the recommendation of the Fast",,,,

Track Committee, which was accepted by the Government of India vide Office Memorandum dated 18th November, 2009 as also seek",,,,

implementation of the Office Memoranda dated 18th November, 2009 and dated 10th June, 2015 and grant of benefits in terms of the said Office",,,,

Memoranda along with the arrears of pay after implementation of the financial upgradation. The petitioners also seek directions for grant of parity",,,,

of pay of scale at par with Central Government Health Services w.e.f. 1st January, 1996 along with arrears.",,,,

2. Briefly recapitulating the facts leading to the filing of the present petition are that the petitioners herein are working as Assistant Sub",,,,

Inspector/Pharmacist in the Border Security Force (B.S.F.). After completion of the training the petitioners were posted to different places all over",,,,

India and they were serving to the utter satisfaction of the superior officers in the chain of command and nothing adverse were found against them.,,,,

3. It is stated that the nature of duties of the petitioners are dynamic, multi dimensional, patient oriented professionals committed to fulfilling the",,,,

health care needs of the patients. The role of the Pharmacist in the Para Military Forces are having more responsibilities and they play a crucial role.,,,,

in ensuring not only the smooth running/functioning of soldiers but also renders crucial help in other operational aspects of the forces on ground.,,,,

4. The petitioners are stated to be most trusted health care professional who were consulted for proper use of prescribed medicines dispensed by.,,,,

the doctor and in the absence of the doctor by them.,,,,

5. The petitioners also state that they are serving under the BSF which is declared as Central Armed Police Force and the petitioners" are serving.,,,,

as combatized duty personnels (as soldier is never off duty).,,,,

6. It is also stated that in the Fifty Central Pay Commission Report accepted by the Central Government and implemented w.e.f. 1st January," ,,,,

1996, there were three pay scales of Central Government Health Services in respect of Pharmacist which were applicable to the Pharmacist Cadre",,,,

of the respondents. The same are as under:-,,,,

(i) Pharmacist (Entry Grade)Rs. 4500-125-7000.,,,,

(ii)Pharmacist- II Rs. 5000-150-8000.,,,,

(iii) Pharmacist Rs. 5500-175-9000.,,,,

7. It is further stated that after implementation of the Sixth Central Pay Commission, the Government of India referred the matter of certain",,,,

common category posts in which the post of Pharmacist was one of the category. The Fast Tract Committee recommended that the Entry Grade.,,,,

of Pharmacist in Central Government should remain at Grade-Pay of Rs. 2800 in the Pay Band PB-1 and on completion of two years service in.,,,,

the Entry Grade, all the personnel should be granted non-functional upgradation to the next higher grade having Grade Pay of Rs. 4200/- in the",,,,

Pay Band PB-2. The said recommendation of the Committee regarding the pay scale of the Pharmacists Cadre was accepted by the Government.,,,,

of India and the Ministry of Finance vide Office Memorandum dated 18th November, 2009 thereby approving the pay structure for common",,,,

category post of Pharmacist Cadre with effect from 1st January, 2006." ,,,,

8. It was also notified that the aforesaid upgradation would not be treated as promotion for the purpose of Assure Career Progression Scheme. It ,,,,

is stated that the petitioners raised the points of granting the benefit of the Office Memorandum in the Sainik Samellan as also the petitioner No. 1 ,,,,

filed representation but no action thereon was taken by the respondents. Hence, the petitioners having no other alternative remedy, approached" ,,,,

this Court seeking reliefs as stated in paragraph 1 hereinabove. ,,,,

9. It is contended on behalf of the petitioners that the petitioners bear their allegiance to the nation and most of the troops of CAPF are deployed in ,,,,

harsh and extreme hard locations on border duty, including maintenance of internal security and carrying out some of the most dangerous counter" ,,,,

insurgency duties in highly sensitive and military prone areas like Jammu & Kashmir, Naxal infested areas, Hyper Malaria Endemic zone of North" ,,,,

Eastern region and to perform their duties through the length and breadth of the country. ,,,,

10. It is further contended that combatised pharmacists at all times are required to perform their primary duties of a pharmacists in addition to the ,,,,

ground duties allotted to them by the concerned authority in charge but that do not change the essential fact that a combatised pharmacist is barred ,,,,

from availing the perks and benefits that comes along with their designation/ posts and the same is being enjoyed by the counterparts employed in ,,,,

different departments having the same qualification and doing less duties than the petitioners. ,,,,

11. Learned counsel for the petitioners contended that combatisation process to this technical post has manifold increased the duties and rigors of ,,,,

the said post and denying the petitioners of the benefits is grossly illegal, arbitrary and untenable in law compared vis-a-vis to the pay scale and" ,,,,

other benefits drawn by individuals in BSF, CRPF amongst other government institutions thereby creating an environment of disparity and has" ,,,,

created frustration amongst the petitioners. ,,,,

12. Learned counsel for the petitioners also contended that Office Memorandum dated 18th November, 2009 had already been implemented by" ,,,,

the other departments and similarly situated persons are getting the benefits of the said financial upgradation but the petitioners are being denied the ,,,,

benefits by the department for which they are legally entitled to.,,,,

13. It is further argued on behalf of the petitioners that respondents are not extending the relief of financial upgradation to the petitioners inspite of,,,

clear directions issued by the Ministry of Personnel vide Office Memorandum dated 10th June, 2015. It is also stated that Ministry of Health and",,,,

Family Welfare Department vide office memorandum dated 13th July, 2010 directed the departments for implementation of the office",,,,

Designation,"Pre-

revised

Pay

Scale","Pay structure approved on

the recommendation of Fast

Track Committee",Remarks,

Pharmacist

(Entry

Grade)","4500-

7000",Grade Pay of 2800 in PB-1,"Entry grade for Pharmacist Cadre Essential minimum educational qualifications of 10+2 plus

2 years Diploma in Pharmacy and Registration with State Pharmacy Council.",

,,,,

Designation,Present Pay Scale,Recommended Pay Scale,Corresponding Pay Band & Grade Pay,

,,,Pay Band,Grade Pay ( in Rs. )

Constable

Head Constable

Assistant Sub Inspector","3050-4590

3200-4900

4000-6000","3200-4900

4000-6000

4500-7000","PB-1

PB-1

PB-1", "2000

2400

2800

Sub Inspector, 5500-9000, 6500-10500, PB-2, 4200

Inspector, 6500-10500, 7450-11500, PB-2, 4600

Subedar Major, 6500-10500+ Rs. 200 p.m., 7500-12000, PB-2, 4800

and equal quality and all other relevant factors are fulfilled.,,,,

30. In another case of "STATE BANK OF INDIA AND ANOTHER vs M.R. GANESH BABU AND OTHERS" reported as (2002) 4 SCC.,,,,

556, it was held that equivalence of post has not to be judged merely with reference to mere volume of work. The touchstone on which",,,,

equivalence has to be determined would be to consider the source of recruitment, educational and other qualifications required, as also the",,,,

qualitative and quantitative nature of jobs.,,,,

31. In the light of the aforesaid discussion, the present petition is without any merit, same deserves to be dismissed and the same is hereby",,,,

dismissed.,,,,

32. No order as to costs.,,,,