

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

OA.No. 576 of 2010

NR – 19966-P Major Bindu Aravandian

.....Petitioner

Versus

Union of India & Others.

.....Respondents

With

OA No.574 of 2010, OA No.575 of 2010 and OA No.540 of 2010

For Applicant : Mr. Sunil Kumar Jha, Advocate

For Respondents : Mr. R. Balasubramanian, Advocate

C O R A M:

HON'BLE MR. JUSTICE A.K.MATHUR, CHAIRPERSON

HON'BLE LT.GEN. M.L.NAIDU, MEMBER (A)

JUDGEMENT

22.02.2011

1. All the above four petitions involved similar question of law, therefore, they are disposed of by a common order.
2. For convenient disposal of all the four petitions, the facts given in the case of Major Bindu Aravandan are taken into consideration.

3. Petitioner by this petition has prayed that the SA II No.4/S/2008 dated 22nd December, 2008 may be set aside to the extent of lower grade pay granted to the applicant based on the government Gazette Notification dated 30.08.2008 as being in gross violation of the recommendations of the Pay Commission, Article 14 of the constitution of India and also inconsistent with the section 5, 6 and 9 of the Indian Military Nursing Services Ordinance 1943; and direct the respondents to pay grade pay to the applicant @ Rs.6600/- per month as given to the officers of the rank of Major with arrears from 1.01.2006. Similarly, MSP @ Rs.6200/- w.e.f. 1.09.2008 and Pay Band-4 in the rank of Lieutenant Colonel w.e.f. -1.01.2006 with all consequential benefits and likewise time bound promotions.
4. Petitioner is a commissioned gazetted lady officer in Military Nursing Services which is an integral part of the Armed Forces of the Union and she is amenable to the provisions of the Army Act, 1950 with some exceptions as provided in Section 9 of the Ordinance read with rule 5 and 6 of Military Nursing Services Rule 1943.

5. The petitioner was commissioned in the Military Nursing Services on 28.03.1991 under the Indian Military Nursing Service Ordinance, 1943. She successfully underwent training from Command Hospital (AF), Bangalore. It is alleged that women officers serving in the Army Medical Corps and officers in the Military Nursing Service will rank equally with male officers of the rank of Captain in Army Medical Corps like any Captain of Artillery or Engineers. It is alleged that they have same rank, same status as a commissioned officer along with the regular commissioned officers of the Indian Army.
6. The Government of India appointed a Sixth Central Pay Commission and it submitted a report relating to structure of emoluments, allowances, conditions of service and retirement benefits of the Central Government employees including those belonging to Union territories, members of All India Services and personnel belonging to the Defence Forces / Officers and employees of other related departments. Therefore, this recommendation was submitted to the Government on 24th March, 2008 in respect of Defence Personnel. The Sixth Central Pay Commission recommended the following Pay

Bands, Grade Pay and Military Service Pay (MSP) for Services Officers in the Defence Forces which is reproduced as under:

Rank	Pay Band(PB)	Grade Pay(GP)	Military Service Pay(MSP)
Lieutenant / equ.	15600-39100	5400	6000
Captain / equ.	15600-39100	5700	6000
Major/equ.	15600-39100	6100	6000
Lt.Colonel/equ.	15600-39100	6600	6000
Colonel/equ.	15600-39100	7600	6000
Brigadier	15600-39100	8400	6000
Maj.Gen /Equ.	39200-67000	9000	6000
Lt.Gen/equ.	39200-67000	11000	NIL
Vice Chiefs and Army Commanders /equ.	80000	NIL	NIL
Service Chiefs	90000	NIL	NIL

7. It is alleged that the nursing personnel also operate in the field areas like any other personnel of defence forces. It is further alleged that previous two Central Pay Commissions granted lower pay scales to the Nursing Services Cadre. The Fifth Central Pay Commission said that it would not be fair to do parity between Civil nurses and MNS Officers keeping in view the all India liability and military service element of the latter

category. The Sixth Central Pay Commission agreed with the finding of the Fifth Central Pay Commission regarding absence of any justification for drawing a parity between Civil nurses and MNS Officers and recommended that no differential in salary of officers belonging to the Services or MNS is justified and pay band and grade pay of similarly designated posts in Services cadre and MNS cadre should be same. Meaning thereby that MNS was brought almost at par by the Sixth Pay Commission, however, it was observed that MNS category be kept suitably lower keeping in view the fact that the MNS officers are not primarily meant for combat duties. The Commission accordingly, recommended the following pay structures for MNS Officers:

Rank	Pay Band (PB)	Grade Pay(GP)	Military Service Pay(MSP)
Lieutenant / equ.	15600-39100	5400	4200
Captain / equ.	15600-39100	5700	4200
Major/equ.	15600-39100	6100	4200
Lt.Colonel/equ.	15600-39100	6600	4200
Colonel/equ.	15600-39100	7600	4200
Brigadier	15600-39100	8400	4200
Maj.Gen /Equ.	39200-67000	9000	NIL

8. It is true that so far as MNS is concerned, their pay scales are far superior to that of the nursing staff in Central Government but a special status was given to them in the Army, however, the MNS being not combatant force, therefore, their status was kept little lower. The Sixth Central Pay Commission observed that since they are not combat force, therefore, same status cannot be given to them. However, the contention of the petitioner was that Sixth Central Pay Commission has failed to appreciate that other branches of Army like Accounts, Postal, Education, legal etc. were also not primarily meant for combat duties but they have been given the same treatment so far as the Pay Band, Grade Pay and MSP is concerned. Therefore, the recommendation of the Pay commission to this extent is discriminatory. It is further submitted that Sixth Central Pay Commission recommended a scheme of time bound promotion upto the level of Lt. Colonel to the service officers but same benefit was not given to the

MNS. It is also submitted that in view of the recommendation of the AV Singh Committee, the time bound promotions after the abolishing the Rank of Lt. Colonel (Select) has been done away and as per the recommendation a person becomes Lt. Colonel after 13 years of service whereas same treatment is being denied to the MNS. The Government of India accepted the recommendation of the Pay Commission in respect of Pay Band, Grade Pay, time bound promotion of the Officers of MNS Cadre as applicable to the Services of general cadre in the Army, Navy and Air Force. But by corrigendum dated 24.9.2008, they accepted the Grade Pay from Rs.5700 to Rs.6100/- to the post of Captain including Honorary Captain and deliberately excluded the MNS Officer from improved grade pay and thereby reduced the status of the applicant (Major) equal to PBOR (Honorary Captain). It is submitted that the Government of India issued two Special Army Instructions, one, No.2/S/2008 dated 11.10.2008 in respect of all officers including AMC, ADC, RVC, etc. with improved grade pay and second, No.4/S/2008 dated 22.12.2008 in respect of the officers of MNS cadre without

giving benefit of improved grade pay corresponding to their respective rank in gross violation of the recommendations of the Pay Commission. It is pointed out that MNS Officer holding the rank of Colonel is getting the grade pay of Rs.7600/- of Pay Band-3 despite being in Pay Band-4. It is alleged that on clumsy ground of combat or non-combat basis this distinction has been made. It was pointed out that the then Chief of Army Staff General Deepak Kapoor wrote a letter to the Cabinet Secretary that higher pay for officers of MNS cadre will seriously impact on the functional relationship of command and control in the Military Hospital. It is alleged that there is no parity between the AMC Officers and MNS Officers as AMC officer commissioning starts with 4 advance increment i.e. 12% at the rank of Captain with 25% of pay as NPA(Non practicing Allowance) with 2 years ante date seniority at the rank of and become Major on completion of 4 years of service, Lt. Colonel 11 years of service and Colonel (Time Scale 24 years). Whereas MNS Officer is granted the rank of Lieutenant on commissioning, captain after 5 years, Major after 12 years and Lt.Colonel on completing 20 years of

reckonable service. It is alleged that Government of India succumbed to the request of Chief of Army Staff and made a distinction in the pay band on the basis of combat and non-combat and denied them the benefit of Pay Band-4. However, petitioner submitted that when other branches like accounts services, postal services, education and JAG Branch are being given benefit of PB-4, why it is being denied to the petitioner. In this background, a representation was made by Hon'ble Shri Satpal Maharaj, Member of Parliament(LS) before the Defence Minister and a reply was sent by a Defence Minister justifying the so called distinction.

9. A reply has been filed by the Respondent and contested the position and submitted that by virtue of separate terms and conditions of service of the MNS, who are drawn from a different source of recruitment, successive Pay Commissions including the 3rd, 4th and 5th Pay Commissions maintained relativity between the MNS and the officers cadre of the Services i.e. the Army, the Navy and the Air Force by placing the former in lower pay scale while at the same time granting

the MNS substantial edge over their civilian nursing counterparts in Central Govt. Service. In the 5th Central Pay Commission, the MNS were in separate running scale from 8000-17900. However, the Sixth Pay Commission recommended that the MNS be brought at par in the matter of pay fixation including grant of Grade Pay with that of Services, which, however has been accepted with modifications by the respondents as set out in the Gazette Notification dated 30.8.2008 as the basis on which the recommendations on the ground that MNS are governed by different terms and conditions of service being in different cadre with different charter of duties as set out herein above. It is also pointed out that no comparison of similar designated posts can be drawn between the two on the basis of titular ranks worn by the MNS. The posts tenanted by MNS are Sister, Matron, Principal Matron etc. while performing nursing functions as frontline nursing care givers under the supervision of medical officers in military hospitals, while in Regular Army the posts are – Commanders at levels of Platoon, Company, Battalion, etc, staff appointments at various grades as GSO-1,2,3 etc.

and Instructional appointments to train army personnel in various facets of military duties.

10. It is pointed out that today the MNS are granted a Grade Pay which was not applicable to them prior to implementation of Sixth CPC as also the Military Special Pay. They are in more advantageous position than their counterparts in civil nursing service who are placed in PB-2 and PB-3 and receiving much lower Grade Pay and not in receipt of Military Service Pay and MNS got a hike in pay at fitment ratio greater than 1.86 awarded by the Sixth CPC accepted by the Central Government. The comparative chart between the two services has been filed to highlight which reads as under:

COMPARISON PAY SCALES OF MNS AND CIVILIAN NURSES

Designation	Pre-revised	Revised	Grade Pay	MSP	PB-2
CIVILIAN NURSES					
Staff Nurse	5000-8000	7450-11500	4600	0	PB-2
Nursing Sister	5500-9000	7500-12000	4800	0	PB-2
Asstt. Nursing Supdt.	6500-10500	8000-13500	5400	0	PB-3
Dy. Nursing Supdt.	7500-12000	8000-13500	5400	0	PB-3

Nursing Supdt.	8000-13500	10000-15200	6100	0	PB-3
Chief Nursing Supdt.	10000-15200	12000-16500	6600	0	PB-3
MNS					
LT.	8000-9500	15600-39100	5400	4200	Pb-3
Capt.	9400-12100	15600-39100	5700	4200	PB-3
Maj.	11200-14800	15600-39100	6100	4200	PB-3
Lt.Col	12800-15200	15600-39100	6600	4200	PB-3
Col.	13400-15500	37400-67000	7600	4200	PB-4
Brig.	14700-16200	37400-67000	8400	4200	PB-4
Maj. Gen.	16400-20000	37400-67000	9000	0	PB-4

11. It is also pointed out that fitment in Pay Band and Grade Pay of MNS was amended to bring it in step with the concurrent stage in the Pay Bands and not link titular ranks with the Grade Pay of regular ranks of the Armed Forces so as not to disturb existing functionalities or relativities. On the basis of not being combatant and on account of not disturbing the existing functionalities or relativities, the recommendation of Sixth CPC treating similar designated posts of MNS at par with those of Defence Services was rectified to facilitate

fitment of MNS officers in consonance with the relativities that existed prior to 01 January, 2006.

12. Therefore, in this background the Pay Band including the Grade Pay has been correctly fixed in Pay Band of Rs.15,600-39,100 (Pay Band/Scale-3) with Grade Pay of Rs.6,100 and Military Service Pay of Rs.4,200 as notified vide Special Army Instructions 4/S/2008. So far as the cadre review by way of promotion on time bound basis to MNS is concerned, the recommendation of the Sixth CPC was accepted and after analysing various cadre related issues, the Government issued orders dated 22.10.2010 granting time bound promotion to MNS Officers.
13. In this background the four questions has been urged for our consideration-

- (1) Change in Pay band vis-à-vis with Regular Army officers.
- (2) Lowering of Grade Pay vis-à-vis Army Officer
- (3) MSP vis-à-vis Army officers
- (4) Time bound promotion

So far as 4th issue i.e. time bound promotion is concerned, there is no challenge to the order dated 22.10.2010. This issue learned counsel admitted that there is no prayer to

quash this notification. Hence we are not considering the validity of this notification dated 22.10.2010 which was circulated by the order dated 25.10.2010. Now the only question which remains for our consideration is grant of Pay Band, Grade Pay and MSP to MNS vis-à-vis Army Officers. Learned counsel for the petitioner has strenuously urged before us that on the basis of the recommendation of Pay commission the government should have kept all of them in parity with that of regular army officers and by not keeping in parity with them, they have created a discrimination which is violative to the Article 14, 15 and 16 of the Constitution. In support thereof, learned counsel for the petitioner has invited our attention to the decision of the Apex Court given in the case of ***Union of India & Ors. Vs. Captain Jagpal Singh [JT 1997 (7) S.C.66]***. In this their Lordships has held as under:

"Army Rule 13A – Promotion as substantive captain in terms of para 61 of Regulations for the Army (1962) – Held in terms of Army instructions, respondent in order to be eligible for promotion to rank of Captain was required to pass Part B Examination – However, on his failure to pass, show cause notice issued and another chance given – Compulsory retirement under Army Rule 13A – Held respondent not entitled to exemption from passing Part B examination and similarly situated officers had also to take same course – high Court misread the various Army instructions and totally mis-construed and mis-interpreted the letter dated 3.9.1976 – Orders of High Court set aside".

14. Learned Counsel next invited our attention to the decision of the Apex Court given in case of ***Jasbir Kaur & Ors. Versus Union of India & Ors. [(2003) 8 SCC 720]***. In this the Lordships has held as under:

- A. *Service Law – Uniform – Military Nursing Service – Uniform prescribed for members of, by Chief of the Army Staff – Validity – Held, not violative of Art. 14- Military Nursing Service Ordinance, 1943, Ss.11, 3, 6, 9 & 10 – Army Act, 1911 – Constitution India – Art.14*
- B. *Service Law – Uniform – Military Nursing Service – Prescription of uniform for members of, by army authorities on the recommendation of Dress Review Committee which had considered, inter alia all the objections raised by the members of MNS – Scope of judicial review of – Held, not subject to judicial review except on the ground of Wednesbury principle of irrationality – On facts held, there was no such irrationality in the present case – Military Nursing Service Ordinance, 1943, S. 11 – Uniform – Administrative Law – Judicial review – Grounds of judicial review – Wednsbury unreasonableness.*

15. Learned Counsel submitted that as per section 12 of the Army Act which says that females are ineligible for regular Army, except in such corps, department, branch or other body forming part of, or attached to any portion of, the regular Army as the Central Government may by notification in the Official Gazette, specify in this behalf. Learned Counsel submits that in present case so far as MNS is concerned, that has been made permissible.

16. Learned Counsel for the Respondent has contested the position and submitted that the basis for different treatment to the MNS is that it is a Auxiliary force and not a combat force. Therefore, this is a basic distinction has to be kept in mind and they cannot be treated on par with combat force. Secondly, he also pointed out that there are functional difficulties in hospital vis-à-vis doctors and nursing staff. The functional difficulty is also one of the important factor kept in mind so that the nursing staff work under the supervision of the doctors. Learned Counsel in support of invited our attention to the decision of the Apex Court decision given in the case of ***S.C.Chandra & Ors. Versus State of Jharkhand & ors [(2007) 8 Supreme Court Cases 279]*** and in the case of ***State of Haryana & Ors. Versus Charanjit Singh & Ors. [(2006) 9 SCC 321]*** and in the case of ***State of West Bengal & Another Versus West Bengal Minimum Wages Inspectors Association & Ors. [(2010) 5 SCC 225]***
17. We have bestowed our best of consideration on the rival submissions made by the parties. The recruitment of the

nurses are undertaken under the Nursing Ordinance, 1943 and the Army Instructions 274 lays down terms and conditions of service for the grant of regular commissions in the Military Nursing Service. The amended provision reads as under:

(a) The opening para of sub-para. (C) (i) of para.2 of Annexure 'A' is reconstructed as below:

"A sister will be promoted to the substantive rank of Senior Sister after completion of 9 years' reckonable commissioned service provided she is recommended for such promotion".

(b) The first sentence of the Note under para.2, sub-para (C) (i) is reconstructed as follows:-

"Senior Sisters will be eligible for promotion to Matron if they have served for a minimum of one year in the substantive rank of Senior Sister and have held charge of a small hospital for at least six months".

18. As against this the recruitment of the Army Officer is done under the Army Act, 1950 read with Army Rules, 1954 and Army Regulations framed therein. Therefore, the source of recruitment of both the services is separate. It is true for the purposes of army discipline, provisions of the army act has been made *mutatis mutandis* applicable to the service.

Section-3(xxi) defines a regular army which reads as under:

"regular Army" means officers, junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise are liable to render continuously for a term military service to the Union in any part of the world, including persons

belonging to the Reserve Forces and the Territorial Army when called out on permanent service;

19. This does not include the MNS and it is also very clear from the Army Ordinance recruitment which clearly says that it is an auxiliary force and not the main combat force. Therefore, the basic distinction between the two services is that the nursing staff belongs to a auxiliary force of the Indian Army and certain provisions of the Army Act & Rules are made applicable to them only for the purposes of matter of discipline. Simply because there are certain provisions which has been made applicable of the Army Act to them and they are permitted to have ranks corresponding to the army that will not elevate their position to be a regular army force. Regular army force as defined in section 3(xxi) is very clear that only officers who have been recruited like junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise are liable to render continuously for a tenure military service to the Union in any part of the world, therefore, the similar provisions also exist for Navy and Air

Force. Simply because they wear the same uniform or have the same rank and necessary other benefits like an Army Officer that will not make them part of regular army. The 1943 Ordinance says that it will be called the 'Indian Military Nursing Service' as part of the armed forces of the Union and section 3 of the constitution of Indian Military Nursing Service clearly says, that this shall be raised and maintained in the manner hereinafter provided, as part of the armed forces of the (Union) and for service with (the Indian) Military Forces an auxiliary force which shall be designated as the Military Nursing Services (India). Though it is part of the Army but still their recruitment and methods have been separately provided under the Ordinance of 1943 and it has been designated as a auxiliary force. Therefore, it is not a regular army as defined in Section 3(21), but it is a part of the army force as an auxiliary force and their separate terms and conditions are laid down for the recruitment. Therefore, it is totally misnomer to say that nursing staff are same in the status as a regular combat force inducted in the Indian Army under the Army Act, 1950 read with rules and regulations bearing on the subject.

They are part of the Armed Forces but as an auxiliary force but not as a combat force. Simply because they are being given designation and another perks which are admissible to the combatant soldier and officers recruited in the Indian Army, we cannot elevate their position as a regular army. Section 3 of the Ordinance, 1943 itself says that it is an auxiliary force. Therefore, the distinction between the two forces is right in the inception. They are inducted as an auxiliary force as against the regular army officer is recruited as a combatant force. Therefore, the difference between the two force is right from the induction into the service and this distinction has been kept in view by the Government while fixing their Pay band, Grade Pay and MSP. Therefore, to seek a parity in all respect with that of the armed forces personnel recruited under the army act, rules and regulations is totally misnomer. Distinction is in their recruitment, the army is meant for combatant purposes as against this they are auxiliary forces, therefore, they cannot elevate their position to that of a army officer and seek a parity with them. The respondent in their reply has said it that apart from being

auxiliary force, there will be functional and relative difficulties in operation in the hospital. It is true that difficulty might arise that a doctor bearing a rank of Lt. Col. and nursing staff having status of Lt. Col, there will be functional difficulties because the job of doctor is to see the patient and nursing care has to be taken care by the Lt.col (Nursing). The direction given by the doctor to persons of same rank may cause little difficulty in real operation purposes. Though they bear same rank but job of the doctor is one thing and job of nursing is another thing. She/he has to work under the direction of the doctor, she/he has to be follow his command, but they bear same rank there might be functional difficulty relatively. Therefore, keeping in view this background, if the nursing staff has been given lower MSP, GP, PB then no grouse can be made under article 14, 15 and 16 as there is no such discrimination. Looking into their job requirement, looking to their duties, looking into their induction into service and being auxiliary force they cannot seek a parity with people who are really combatant recruited under the Army Act, Rules and Regulations. The question of equal work equal pay cannot be taken to a rule of a thumb.

The necessities or job requirement of the functioning has to be kept in mind. The regular army officer who is a combatant, he has to be there on the front and including the doctors and other people they can be sent to the front for the purposes to fight along with the real combatant force. Even persons from the JAG branch or education branch they can wield the gun and they are trained for that purposes though after training their job may be of table work, but nonetheless they can be armed and sent to the front for fight as they are trained in their initial training to work as combatant if the situation arises. So far as nursing staff is concerned they can be sent but they have to be at the rear to man the hospital, therefore, these job requirement has to be kept in mind while dealing with the principle of equal work - equal pay. Such distinction has been kept by the apex court from time to time. In this connection a reference may be made to the decision of the Apex Court given in the case of ***Jasbir Kaur & Ors. Versus Union of India & Ors.*** [Supra] in which it has been held that it is undeniable fact that MNS is a separate class sui generis and auxiliary force to the Indian army".

20. Similarly in the case of in the case of State of Haryana & Ors. Versus Charanjit Singh & Ors. (Supra), the three Judges Bench observed that *"very fact that the person who has not gone through the process of recruitment may itself in certain cases make a difference. If the education qualifications are different then also doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity.*

The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere."

21. Similarly in the subsequent decision in the case of **S.C.Chandra & Ors. Versus State of Jharkhand & ors** (**SUPRA**) where Lordships observed that :

"A Service Law – Parity in employment – Equal pay for equal work – Application – Fixation of pay scale – Parity in salary claimed by school teacher with clerks working under government of Jharkhand or BCCL – Whether complete and wholesale identity between two groups – Held, it is well settled that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for equal work cannot apply – More so, when it had already been held that the appellants were not the

employees of BCCL, there was no question seeking any parity of the pay with that of the clerks of BCCL – Constitution of India, Arts. 14 and 39 (d).

It is also held that granting pay scales is a purely executive function and hence court should not interfere with the same."

21. In an another case of **State of West Bengal & Another Versus West Bengal Minimum Wages Inspectors Association & Ors.** [(2010) 5 SCC 225], it was observed *that the principle "equal pay for equal work" is not a fundamental right but a constitutional goal. It is dependent on various factors such as educational qualifications, nature of the jobs, duties to be performed, responsibilities to be discharged, experience, method of recruitment, etc. Comparison merely based on designation of posts is misconceived."*

Therefore, simply because one may have same designation but if the recruitment and duties being performed are different then there cannot be a parity.

22. In the case of **Jasbir Kaur & Ors. Versus Union of India & Ors.** [(2003) 8 SCC 720], hon'ble Supreme Court has already

observed with regard to the MNS that it is an auxiliary force and a separate class, sui generis, therefore, arguments of learned counsel for the petitioner seeking a parity with that of combatant force cannot be accepted.

23. The cases which has been cited by the learned counsel has no relevance as it appear from the facts quoted above.

24. In the case of ***Union of India & Ors. Vs. Captain Jagpal Singh [SUPRA]***, it was a case of Captain required to pass Part B Examination and in that context their Lordships held that High Court has misread the various Army instructions and totally mis-construed and mis-interpreted the letter dated 3.9.1976. So far in the case of ***Jasbir Kaur & Ors. Versus Union of India & Ors. [(2003) 8 SCC 720]***, it was a case of a corporation employees vis-a-vis pay scales of State Government employees. The Corporation employees were denied hike in pay scale introduced by the State government for removing the anomaly but same was denied to the employees of the Corporation, but granted to the employees taken on deputation to the Corporation from State

government. The corporation expressed their difficulties and the court observed that corporation's own employees were entitled to parity with the pay introduced to rectify the anomaly. This case is distinguishable on its own facts that a person similarly sought to be discriminated and anomaly which was removed for the benefit of state employees were extended to the corporation employees though the pay scales were made applicable to all the corporation employees, therefore, their Lordships held that that they are entitled to same benefit that are being available to other employees.

25. In this view of the matter, we are of the opinion that there is no merit in all these petitions and they are dismissed with no order as to costs.

[Justice A.K. Mathur]
Chairperson

[Lt. Genl. ML Naidu]
Member (A)

New Delhi
22nd February, 2011