

BGWS/Meeting

All Members

This is to inform all members of the informal meeting which took place on 21 May 08 at the Gurkha Bhawan commencing 1730 hours.

INFORMAL MEETING BGWS/GUF – WEDNESDAY 21 MAY 2008

An informal meeting between BGWS and GUF representatives was held in the Gurkha Bhawan on 21 May 08. The meeting was to discuss and adopt clear communication:

In attendance:

BGWS

Chairman : Maj (retd) Tikendra Dewan
Gen Sec : Mr Chhatra Rai
Treasurer : Mr Tekbahadur Thapa
PR : Mr Prakash Gurung
Members : Maj (retd) Kulbahadur Thapa
Mr Harikumar Shrestha
Mr Yubaram Gurung
Mr Ramdhan Rai
Mr Krishna Tamang
Mr Kishor Shrestha
Mr Laxmi Pun
Mr Shyam Limbu
Mr Ramesh Tamang
Mr Uttar Gurung
Mr Bhakta Gurung

GUF

Chief Coordinator: Maj (retd) Damar Ghale MBE
Coordinator: Capt (retd) Gary Ghale
Coordinator: Capt (retd) Indrabahadur Gurung
Coordinator: Mr Lalbahadur Gurung

Mr Hari Shrestha opened the meeting by stating this informal gathering was a result of talks between him, Capt Indra Gurung and Mr Lal Gurung and the intention was to have an open table talk.

Chairman BGWS led the meeting to explain the crop of these misunderstandings if any:

1. The 19 March 2008 led by Lib Dem was supported by BGWS, but he had advised Maj Ghale to establish what question was being raised and if the Lib Dem then did have a counter to the PM's response. This was crucial following MOD response to our first legal challenge to quote:

“It was made clear to the House of Commons on 7 June 2006 by the Under Secretary of State for Defence, Tom Watson, that GTACOS review would not include Gurkhas who retired before 1 July 1997. The Hansard extract for the Adjournment debate on 7 June 2006 where Mr Watson explain at columns 90WH:

“the presumption has always been that Gurkhas would retire in Nepal and their TACOS, particularly their pension arrangements, continued to reflect that understanding etc. In evolving these TACOS, we have always sought to protect the unique identity of the Gurkhas and their relationship with their homeland, which the hon Member of Colchester has talked about, and the presumption of their retirement in Nepal has remained.....

He continued at columns 92WH -94WF:

“The immigration rules were changed in 2004 to make it easier for Gurkhas to return to this country on discharge from the Army. Successive Governments have maintained the policy that British citizenship is not automatically given in return for military service, but granted on grounds of residence, towards which such service might not count.....

(THESE ARE EXTRACTS FROM THE PARLIAMENTARY DEBATE OF 7 JUNE 2006 RAISED BY A FEW MPS ON BEHALF OF UBGEAN) THOSE INTERESTED CAN ACCES THE FULL VERSION ON [HANSARD DEBATE 7 JUNE 2006 \(PT 0001\)](#) - **please note to view full version (ie note the next button at the bottom left of the page to carry on)**

The debate concluded with MoD countering all queries raised by the MPs, with no counter response, hence now relied by the MOD as authority for the ‘discrimination’

He then confirmed that while BGWS supported Lib Dem’s initiative, it was also wise to take the legal route. The Lib Dem’s demand settlement rights for pre 1997, with no mention of equal pensions, and what if the bill fails? As it is even the legal route now, is considered a late challenge. The MoD is strongly opposing our legal challenge based on this delay, rather than response to the strong queries we have raised.

Please do not undermine the MoD, they go so low as to quote scripts from our minutes placed on our website (notwithstanding the full argument which was not expressed explained to the members in the meeting – hence important that members attend the meetings and **the reason why BGWS holds sensitive information back, but keeping members informed during meetings), this is additional proof of the fact that MOD are worried and doing their homework.**

2. Following GAESO’s open withdrawal, the Chairman had suggested to Maj Ghale to hold a meeting between the four organisations and the coordinating members to establish facts and formulate a mandate to confirm the coordinators’ responsibilities. Regrettably, instead a full meeting was called to include GUF area representatives. This in itself misled to indicate GUF as a complete new organisation.

3. The Chairman then discussed the minutes released by GUF and how without facts statements made therein could once again mislead the mass, to quote:

(extracted from the GUF minute)

The Pensions Judicial Review By the 'Long Term Sick'

The case is proceeding in the High Court. It is challenging the legality of the Gurkha pension arrangements on the basis of race equality and human rights. We must support it as it will be the first case to be heard and if it loses, it is not good for any Gurkha. Because this case has not gone through the Army's internal grievance procedure, it probably cannot seek to rely on unfairness. We are in contact with the solicitors who are acting in the case.

The BGWS Pensions Judicial Review

This would appear to have been issued in the High Court, but no details are known, apparently on the instructions of the Chairman, BGWS. Consequently, it is difficult to give any advice about this. According to the solicitors acting in the Long Term Sick JR, they have seen some of the papers and think that the case is not very strong. We should support this case but as we do not know anything about it, it is difficult to say what support is required.

BGWS RESPONSE TO THIS FALSE STATEMENT

“The challenge taken by 3 Gurkhas (all BGWS members - sometimes referred to as the Judicial review by the long term sick”) challenging the GOTT on grounds of rationality and age discrimination is to be heard in early June. The BGWS are hoping to be joined as an interested party to that hearing as the matters under consideration will impact widely on the Gurkha community

The BGWS challenge of the GOTT is by way of judicial review on grounds that it breaches the Human Rights legislation on age and race discrimination grounds. As in any judicial review application the permission of the court is required to proceed to a full hearing and that has not yet been obtained.

It has been suggested in [“ because this case has not gone through the Army’s internal grievance procedure etc” quoted in the GUF minutes) that before the BGWS case was started in court , it might have first gone through the Army's internal grievance procedures in order to raise issues of fairness/rationality. Edward Cooper, head of the Employment Department of Russell Jones & Walker, recently instructed by for BGWS has commented: " Progressing the issues through the internal procedures first would not have been appropriate. First, I am not convinced they apply to the type of challenge being taken which is to the making of delegated legislation. Second, in the case of the 3 Gurkhas , which raises rationality (and in effect fairness) has been taken without prior resort to the internal procedures. And thirdly, in the case of BGWS the issue of delay in taking the proceedings has been taken by the MoD, and this would have been even greater if an internal grievance were taken". Mr. Cooper is not aware that the solicitors for the 3 Gurkhas, with whom he is in close contact, have expressed the view that the BGWS case is weak (as has been suggested).

Maj Damar did intervene to explain the misunderstandings, to explain why the area representative were selected in fact claiming these gentlemen were names forwarded by the ex community from its respective areas and the purpose was to fast channel information. (This BGWS felt was not necessary as each organisation should bear the responsibility).

After much discussion GUF team did acknowledge the timely and positive step BGWS have taken and confirmed its stand on unity and accept what is best for all Gurkhas.

Maj Kulbahadur Thapa made a valid comment why even after five months GUF seem to be seeking for a direction. This is loss of precious time.

To summarise, with all kept behind we must march forward as one. It is however evident many in the so called neutral will not favour to join any existing organisations, the onus is thus on GUF to convince them the best way forward. BGWS remains as ever, open and transparent in all its activities, with caution to all that in the best interest of all, sensitive issues which could jeopardise our Gurkha cause must remain within us, but all briefed verbally in meetings, for as highlighted above the MOD are ever keen to dig deep.

See you all on 31 May 2008

CHHHATRA RAI
General Secretary

22 May 2008