

Serial No. 35
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 26 of 2020

Date of Decision: 11.04.2023

C/362574N WO/(Clerk)
Prem Singh Rauthan

Vs.

Union of India & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. M.L. Nongpiur, Adv.

For the Respondent(s) : Mr. R. Debnath, CGC.

- i) Whether approved for reporting in Law journals etc.: Yes/No
- ii) Whether approved for publication in press: Yes/No

Oral:

1. The petitioner is before this Court being aggrieved with the non-communication of ACRs/APARs for the year 2016-17, wherein he has been shown as average, and consequently his promotion to the next higher

post of Naib Subedar (Clerk) from Warrant Officer (Clerk) has been denied.

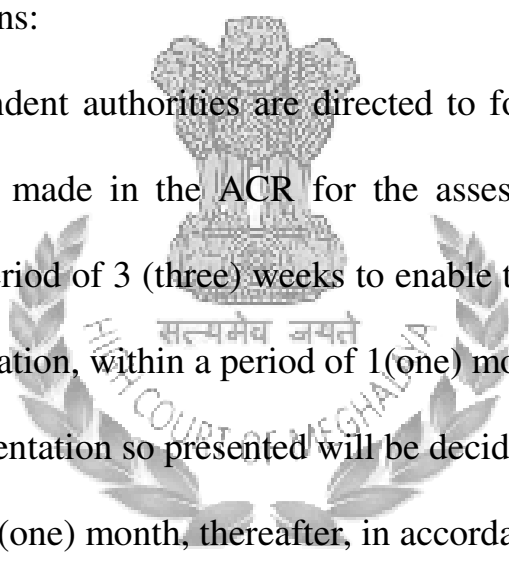
2. Mr. M.L. Nongpiur, learned counsel for the petitioner submits that, the petitioner has been serving since 1996, and was promoted to Havildar on 2002 and subsequently to the rank of Warrant Officer (Clerk) in 2016, with retrospective effect, and is eligible for promotion to the rank of Naib Subedar (Clerk). He submits that, however in the DPC held in the month of January, 2019, he came to learn that he has been superseded for promotion to the next higher rank by his juniors, on the ground that, he was lacking in ACR criteria. He submits that, the relevant ACR which is for the year 2016-17, wherein he has been shown as average was never communicated to the writ petitioner, which has severely prejudiced him.

3. Mr. R. Debnath, learned CGC for the respondents submits that, the petitioner had been screened by the DPC of 2019 and for the last three assessment years, that is, 2015-16, 2016-17 and 2017-18, the minimum should have been 'High Average' whereas, for the year 2016-17, the petitioner was 'Average', and as such, did not fulfil the criteria for the past five assessment years. He submits that, as the petitioner lacked the ACR criteria, he was rightly superseded for promotion. It is however not denied that, the entries for the assessment year 2016-17, were never communicated.

4. I have heard learned counsels for the parties.

5. The case on examination is squarely covered by the earlier orders of this Court, wherein directions had been issued for redressal of similar grievances. As submitted, the fact that emerges is that the petitioner was never communicated the adverse entries for the assessment year 2016-17.

6. In this view of the matter, the writ petition is disposed of with the following directions:

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- i) The respondent authorities are directed to formally communicate the entries made in the ACR for the assessment year 2016-17, within a period of 3 (three) weeks to enable the petitioner to make a representation, within a period of 1(one) month thereafter.
 - ii) The representation so presented will be decided positively within a period of 1(one) month, thereafter, in accordance with law.

7. It is further directed that should the entries be upgraded in consideration of the representation taking into account the petitioner's earlier track record, the respondent authorities shall constitute a review DPC for grant of the consequential reliefs, if any on the basis of the above. The entire exercise shall be completed within a period of 5(five) months from the date of receipt of the representation.

8. With the above directions, this writ petition is allowed to the extent indicated above and is accordingly disposed of.

Judge

Meghalaya
11.04.2023
"D.Thabab-PS"

