

Serial No. 31
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 72 of 2021

Date of Decision: 20.03.2023

Pawendra Singh, G/114892 **Vs.** Union of India & Ors.

Coram:

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

Appearance:

For the Petitioner(s) : Mr. M. Chanda, Adv. with
Mr. M.L. Nongpiur, Adv.

For the Respondent(s) : Dr. N. Mozika, DSG with
Ms. S. Rumthao, Adv. (For R 1-3)

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

JUDGMENT AND ORDER (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 Warrant Officer has been denied.

2. Mr. M. Chanda, learned counsel submits that the petitioner has been serving since 01.07.2013 as Havildar and was eligible for promotion in the year 2018, but by a promotional order dated 15.02.2020 issued by the respondent No. 3, the respondent No. 4 who was junior to the petitioner was granted promotion and superseded him. He further submits that the non-communication of the relevant ACR, though the petitioner was on extra regimental duties has affected him adversely.

3. Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel for the respondent No. 1, 2 and 3 has placed reliance on the affidavit filed on their behalf and submits that due consideration was given to all the 5 ACRs that were before the DPC, and as the petitioner was graded average for the relevant assessment period 2016-17, he was not accorded promotion. He further submits the reasons for denial of the promotion was communicated to the officer on 17.02.2020.

4. I have heard the learned counsel 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 the petitioner's grievances. As submitted, the fact that emerges is that the petitioner was never communicated with 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:

- i) The respondent authorities are directed to formally communicate all the 5 entries made in the ACR to enable the petitioner to make a representation, within a period of 1(one) month.
- ii) The representation so presented will thereafter be decided positively within a period of 1(one) month, 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
20.03.2023
"V. Lyndem-PS"