

Serial No. 29
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 271 of 2021

Date of Decision: 22.03.2023

No. JC-103588M, Naib Subedar/GD Vs. Union of India & Ors.
Girish Chandra Papnee

Coram:

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

Appearance:

For the Petitioner(s) : Mr. B. Pathak, Adv. with
Mr. V. Kumar, Adv.

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

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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

1. The petitioner being aggrieved as the promotion to the rank of Subedar/GD was not given as per seniority and also the deprivation of the benefit of second ACP, is before this Court assailing the impugned orders

granting promotion to his juniors dated 09.07.2020 and also the order dated 05.08.2020, whereby his promotion was not released as per seniority, apart from his being deprived of the second ACP.

2. Mr. B. Pathak, learned counsel for the petitioner submits that the petitioner had approached the respondents repeatedly by way of representations and was informed by the respondent No. 3 vide letter dated 05.08.2020 from the office of the Commandant 10 Assam Rifles that while executing the process for promotion for the next higher rank or granting ACP, the petitioner was lacking in criteria which was recorded in the ACRs making him ineligible for consideration. However, he submits the exact reasons for rejection of the petitioner's case was never specified.

3. The learned counsel submits that entries in 5 ACRs for the assessment years 2014 to 2019, were never supplied to the petitioner and thus, he was deprived of a chance to represent against these entries which has adversely affected his career.

4. Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel for the respondents 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 high average and allotted 5 points for the relevant assessment years i.e. 2014 to 2019, he was not accorded promotion and was superseded for promotion to the rank of Subedar/GD, inasmuch as, as per the policy the

grading should not be below very good i.e. 7 points. He further submits that consequently the petitioner was not granted the second financial upgradation under the ACP Scheme as he was found lacking in the prescribed ACR criteria.

5. I have heard the learned counsel for the parties.

6. The case on examination, and as per the submissions by the learned counsel for the petitioner clearly shows that the entries in the 5 ACRs for the assessment years 2014 to 2019 were never communicated within a reasonable time to the petitioner. This has proved disadvantageous to him, as he was not given an opportunity to represent, for upgrading his ACRs, to be eligible for promotion, and also for grant of benefits under the ACP. The petitioner therefore has been prejudiced, and as such his case is liable to be re-considered by the respondents.

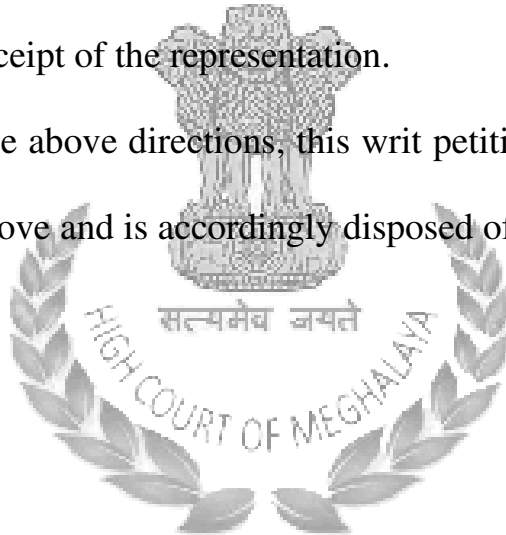
7. In this view of the matter, the writ petition is disposed of with the following directions:

- i) The respondent authorities are directed to formally communicate all the 5 entries made in the ACR for the assessment years 2014 to 2019, to enable the petitioner to make a representation, within a period of 1(one) month of receipt of the communication thereof.

ii) The representation so presented will thereafter be decided positively within a period of 2(two) months, in accordance with law.

8. 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 6(six) months from the date of receipt of the representation.

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



JUDGE

Meghalaya
22.03.2023
"V. Lyndem-PS"