

Serial No. 38
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 422 of 2022

Date of Decision: 19.05.2023

JC-354985X Nb/Sub (CIPH)
Baban Prasad Singh

Vs.

Union of India & Ors.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. B. Deb, Adv.

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

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 being aggrieved on not being promoted to the post of Sub (Cipher) had preferred a representation before the respondent authorities, assailing promotion orders dated 08.02.2021

and 03.02.2021. Thereafter, he was served with the impugned order dated 06.05.2021, whereby it was stated that the application for granting promotion to the next higher rank was not granted, and the petitioner superseded for promotion due to non-meeting of QR.

2. On receipt of said communication, the petitioner again on 23.07.2021, submitted another representation praying for consideration of the promotion, as no show cause notice, or any adverse remarks in his ACR, were ever communicated to him.

3. Mr. B. Deb, learned counsel for the petitioner submits that the uncommunicated adverse entries cannot be taken into consideration for the purposes of promotion, unless the same had been communicated to him and he be given a chance to represent for upgrading or expunging.

4. Dr. N. Mozika, learned DSGI assisted by Ms. S. Rumthao, learned counsel for the respondents submits that the assessment of the petitioner for the period 2019-2020, by the Initiating and Reviewing Officers is purely based on his performance during the period and the same not being considered an adverse report, as such, the same was not communicated to him. He further submits that, the denial of promotion to the petitioner is based on the extant policy governing promotion, and as such, is not in violation of Article 14 and 16 of the Constitution of India.

5. I have heard learned counsels for the parties.
6. 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 2019-2020.
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 entries made in the ACR for the period 2019-2020, within 7(seven) days of presentation of this order before them, to enable the petitioner thereafter 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.
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 5(five) 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
19.05.2023
"D.Thabah-PS"

