

Serial No.23
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 431 of 2022

Date of Decision :29.08.2023

Sri. Hiralal Shah

Vs.

Union of India & Ors.

Coram:

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

Appearance:

For the Petitioner/Applicant(s) : Ms. P.Agarwal, Adv.

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

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

ORAL

1. The petitioner by way of the instant writ application is before this Court with a prayer for a direction to the respondent Assam Rifles to accept the requisite documents filed by the petitioner, issued by the appropriate authority for appointment to the post of Rifleman (Carpenter).

2. It is contended that the rejection of the candidature of the writ petitioner is arbitrary and without any basis, inasmuch as, the rejection on the ground that the domicile certificate was suspect, is unfounded.

3. Ms. P.Agarwal, learned counsel for the petitioner has drawn the attention of this Court to the Annexure-G at page 36 of the writ petition, wherein the petitioner was shown not selected as the requisite documents were not found in order. In this context, she has taken the Court to the documents in the writ petition to show that due verification was also obtained from the concerned authorities in Dimapur, Nagaland, to substantiate the fact that the said certificate issued is genuine.

4. Ms. S.Rumthao, learned counsel vice Dr. N.Mozika, learned DSGI for the respondents, has firstly raised objections with regard to the delay in approaching this Court, inasmuch as, the selection was held in the year 2017-18, and that the writ petition has been filed only as late as 2022. She further submits that the petitioner by an undertaking given on 21-08-2018, has also categorically submitted that he could not submit the required documents and the same had been found not in proper order by the Assam Rifles authorities. She therefore submits that in view of the delay and the fact that the writ petitioner had also furnished an undertaking certificate, no case has been made out for interference and the writ petition is liable to be dismissed.

5. I have heard learned counsel for the parties and examined the materials on record. Firstly, it is noted that the writ petitioner has approached this Court after a considerable delay and has based his case on the fact that in a subsequent selection which was conducted in 2022, a similarly situated candidate was afforded appointment on papers and documents issued by the same authority. It is further noted that as submitted, the undertaking certificate has been given by the said candidate who has affixed his signature, apart from his thumb print. In reply, it is seen that in the rejoinder affidavit filed by the petitioner thereto, it has been stated that the respondent authorities only wanted the Voter ID Card which could not be produced by him as the same was under process.

6. A very important aspect however, that cannot be overlooked in this instant case is the factum of delay and laches on the part of the writ petitioner which has not been sufficiently explained. The mere filing of a legal notice in January, 2019, as submitted by the learned counsel, which however does not bear any stamp of receipt, will not suffice to cure the defect. Although a judgment rendered by the Gauhati High Court in 1991, has been placed by the learned counsel for the petitioner that such delay can be excused, with the development of law recently, delay is a crucial factor and condonation of the same is based on the facts and circumstances of a particular case. In the present case, there being no sufficient reasons

for the delay, and in view of the undertaking furnished by the writ petitioner, no case is made out for interference and the writ petition accordingly stands dismissed.

7. However, no orders as to costs.

Judge

Meghalaya
29.08.2023
"Samantha PS"

