

GAHC010144152023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3996/2023

EX TC 61616 RECT/GD NARESH CHANDER
S/O- MANPHOOL SINGH,
VILLAGE- DOHKI,
P.O.- KITLANA, PS CHARKHI DADRI,
DISTRICT- BHIWANI, HARYANA.

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
NEW DELHI- 110001.

2:THE DIRECTOR GENERAL
ASSAM RIFLES
SHILLONG
MEGHALAYA- 793011.

3:THE DEPUTY COMMANDANT
STAFF OFFICER-1 (RECRUITMENT)
DIRECTORATE GENERAL
ASSAM RIFLES

SHILLONG-11.

4:THE COMMANDING OFFICER
TC
ASSAM RIFLES

KHANAPARA
GUWAHATI

KAMRUP(M)
ASSAM.
PIN- 781022

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 19/07/2023

Heard Mr. R. Mazumdar, learned counsel appearing for the writ petitioner. Also heard Mr. A.K. Dutta, learned CGC, appearing for all the respondents.

The writ petitioner herein, was recruited as a GD(Constable) under the Assam Rifles, whereafter, he was required to undergo induction training. While undergoing the training, the writ petitioner was found to be medically unfit and accordingly, he was discharged from service on 31/10/2001. Around the same time, a number of other persons appointed in the capacity of Cook, Barber, Washerman, General Duty under the Assam Rifles, were also similarly discharged from service on having been found to be medically unfit. Aggrieved thereby, all those persons including the writ petitioner had approached this Court by filing separate writ petition. The petitioner had instituted WP(C) No. 4606/2008. The bunch of writ petitions were disposed of by the learned Single Judge by judgement and order dated 10/08/2012 with the following directions and observations :-

“In view of the submissions made by the learned counsel for the respondents that irrespective of the earlier medical incapacity, during this long period of time since discharge of the petitioner way back in 1991 the petitioners might have become unfit for engagement in Assam Rifles, it is provided that while considering the case of the petitioners in respect of the medical incapacity in reference to the earlier finding of the medical Board, it will also be open for the respondents to consider that aspect of the matter while taking a decision in this regard.

Let the above exercise be carried out as expeditiously as possible, preferably within 30.10.2012.”

In terms of the order dated 10/08/2012 passed by this Court, the writ petitioners therein including the present petitioner were subjected to fresh Medical Board, whereafter, by the impugned order dated 27/12/2012, the case of the writ petitioner was once again rejected on the ground of medical incapacity and over age. Aggrieved by the order dated 27/12/2012, the present writ petition has been filed on 11/07/2023 i.e. after a delay of nearly 11 years assailing the impugned order.

Responding to the preliminary objection raised by Mr. A.K. Dutta, learned CGC on the ground that the writ petition was hit by delay and laches, Mr. Mazumdar submits that his client was not aware of the order dated 27/12/2012. Moreover, some similarly situated persons had been restored back in service recently in the year 2020. Therefore, having come to know about the aforesaid developments, the petitioner, who is a resident of the State of Haryana, has approached this Court by filing the instant writ petition.

It is apparent from the materials on record that at present, the age of the petitioner is 44 years. He was discharged from service on 31/10/2001 i.e. approximately 22 years back. It is no doubt correct that the only ground on which the petitioner was discharge was that he was medically unfit. The learned Single Judge vide order dated 10/08/2012 had subjected the petitioner and the similarly situated candidates to the Appellate Medical Board for re-verification of the medical status of the candidates. However, as noted above, the Appellate Medical Board had rejected the claim of the petitioner.

Mr. A. K. Dutta, learned CGC submits that the copy of the order dated 27/12/2012 was sent to the petitioner at his residential address by registered post with A/D. The said assertion could not be denied by the petitioner's Counsel.

Be that as it may, after going through the statements made in the writ petition, I find that there is no proper explanation for the delay on the part of the petitioner to approach this Court. The averments made in para 16 of the writ petition seeking to explaining the delay, in the opinion of this Court, cannot be treated as reasonable explanation for the delay. Moreover, since the petitioner was aware of the direction passed by the learned Single Judge on 10/08/2012, it was incumbent upon him to pursue the matter if the petitioner was really serious about getting his job back. But no such exercise was apparently carried out by the petitioner. It is also to be noted that scrutiny of the impugned order dated 27/12/2012, I do not find any valid ground to interfere with the decision of the Appellate Medical Board. The mere fact that some other candidate have been recently taken back in service, in the opinion of this Court, cannot be a reasonable explanation for the delay in approaching

this Court.

In view of the above and having regard to the peculiar facts and circumstances of this case, this Court is of the opinion that there is no good ground for this Court to entertain this writ petition. The writ petition is accordingly dismissed.

There shall be no order as to costs.

JUDGE

sukhamay

Comparing Assistant