

GAHC010221692019



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

Case No. : WP(C)/7045/2019

DILWAR HUSSAIN BARBHUIYA
S/O- LATE ABDUL HAFIZ BARBHUIYA, R/O- VILL- GANIRGRAM, P.O-
MAHADEBPUR, P.S- KATIGARAH, DIST- CACHAR, ASSAM, PIN- 788025

VERSUS

THE UNION OF INDIA AND 2 ORS
THROUGH THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, NEW DELHI- 110001

2:THE DIRECTOR GENERAL OF ASSAM RIFLE
GOVT OF INDIA
MIN OF HOME AFFAIRS
LAITKOR
SHILLONG
MEGHALAYA- 793011

3:THE COMMANDANT
43 ASSAM RIFLE HAFLONG
C/O- 99 AP

Advocate for the Petitioner : MR. L R MAZUMDER

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

01-09-2023

Heard Mr. L.R. Mazumder, learned counsel for the petitioner. Also heard Mr. H. Gupta, learned Central Government Counsel for all the respondents.

2. The writ petition has been filed by the petitioner praying for a direction to revoke or cancel the discharge certificate issued to the petitioner on 18.05.2018 by the Assam Rifles authority. The grievance of the petitioner is that after putting in 20 years of service, the Assam Rifles authority sent the petitioner on voluntary retirement and the impugned discharge certificate dated 18.05.2018 was issued.

3. It is submitted by the learned counsel for the petitioner that the petitioner did not apply for any voluntary retirement. Rather, he was asked to put his signatures on blank papers which he did as the same was directed by the superior officers. Subsequently, he came to be aware that these papers were used for treating them to be the application by the petitioner seeking voluntary retirement.

4. Learned counsel for the petitioner, further, submits that a representation dated 18.06.2019 has been preferred by the petitioner stating that he is sent on voluntary retirement without his knowledge. However, the same has not been disposed of by the authority.

5. Mr. H. Gupta, learned CGC appearing for the respondents disputes the contentions raised by the petitioner.

6. It is submitted that an affidavit has already been filed and there it has

been specifically mentioned that the Assam Rifles, after constituting the Board in terms of the prescribed procedure, considered the application of the petitioner along with three other and by order dated 25.09.2017 their applications for voluntary retirement were accepted. He submits that in the said order it is categorically mentioned that each of these individuals have voluntarily/willingly applied for voluntary retirement on attaining the pensionable service. That apart, by letter dated 19.02.2018, the petitioner had requested the Branch Manager, State Bank of India, Cachar, where he is an account holder, to make payment of pension due to him every month by credit to his account. As such, learned CGC submits that the contentions raised by the learned counsel for the petitioner are not sustainable. Therefore, the writ petition merits dismissal.

7. Learned counsels for the parties have been heard and the pleadings on record have been carefully perused.

8. It is seen that although the petitioner has raised this issue that he did not apply for voluntary retirement, but as directed by superior officers, he had signed on blank papers and which were later used by the competent authority for treating them to be an application in Voluntary Retirement. Such contentions made by the petitioner are of a very serious nature, which, however, are not supported by any cogent evidence. It is seen that the petitioner never raised this issue before the Competitive Authority alleging that he never applied for voluntary retirement. In fact, by the communication dated 19.02.2018, it is seen that he has requested the concerned Bank Manager to make payment of his pension due to every month by credit. The affidavit-in-opposition filed by the respondents reflects that the Board was constituted by the Assam Rifles authorities and thereafter, having considered the cases of the petitioner and

other persons who had applied for voluntary retirement, their prayers were allowed.

9. Under such circumstances, this Court does not find any merit in the writ petition to issue any direction to the respondent authorities as prayed for.

10. The prayer made by the petitioner is therefore rejected. However, notwithstanding the observation made above, if the representation dated 18.06.2019 stated to have been filed by the petitioner is pending before the Assam Rifles Authority, the authorities shall pass appropriate order in regard to the representation dated 18.06.2019 and a copy thereof be served on the petitioner without being influenced by the observations made in the writ petition. If any such order had already been passed, in the meantime, a copy thereof be furnished to the petitioner.

11. In terms of the above, the writ petition stands dismissed.

JUDGE

Comparing Assistant