

**Serial No.32**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C). No. 291 of 2023

Date of Decision :05.04.2024

Shri. Dharambir Singh,  
Son of Late Jogi Ram,  
Village: Badshas Machari, P.O: Raudi,  
P.S: Sonapat, District: Sonapat,  
State: Haryana,  
Pin Code: 131001.

....Petitioner

-Vs-

1. Union of India represented by  
Secretary to the Government of India,  
Ministry of Home Affairs,  
North Block, New Delhi – 110001.
2. Director General Assam Rifles,  
Mahanideshalaya,  
(The Directorate General of Assam Rifles,  
Shillong, Meghalaya).
3. Commandant,  
11 Assam Rifles,  
C/o 99 APO.

....Respondents.

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**Coram:**

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

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**Appearance:**

For the Petitioner/Appellant(s) : Mr. S.D.Upadhaya, Adv.  
Mr. H.Yadav, Adv.  
Ms. A.Synrem, Adv.

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

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

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**JUDGMENT AND ORDER (ORAL)**

1. By way of the instant writ application, the writ petitioner is seeking reinstatement of his services by extending the benefits of a judgment and order dated 31-08-2022, passed in WP(C). No. 62 of 2015 along with other connected writ petitions and also for payment of allowances and admissible dues for services rendered for the period upto 01-06-2016.

2. The brief facts which are necessary, are that the writ petitioner who was serving as a Rifleman Cook had enrolled in the Assam Rifles on 28-05-1985 and under the provisions of Rule 48(1)(b) of the Central Civil Services (Pension) Rules, 1972, and the Directorate General Assam Rifles letter No. II.31019/Review/2004/Adm-III, dated 18<sup>th</sup> November, 2004, having been found unfit for retention in services beyond 30 years' service, and was retired from service on 01-06-2015. The petitioner at that point of time being aggrieved with the order of retirement, had then filed a writ petition being WP(C). No. 101 of 2015, and this Court then by order dated 14-05-2015, as an interim measure had stayed the said order of retirement

and as such, the petitioner continued in service. The writ petition then came to be dismissed by a common judgment and order dated 15-03-2016, and as such, as per the directions of the Court, the petitioner stood retired.

3. It is also noteworthy that the petitioner had by then submitted his pensionary papers for payment of pension. It appears that before the Gauhati High Court, similar matters had been agitated wherein by order dated 15-06-2016, passed in a bunch of writ petitions, the orders of premature retirement were found legally unsustainable and were set aside and quashed.

4. Parallely, the other writ petitioners in the other connected writ petitions which had come to be dismissed together with the writ petition of the petitioner, had preferred writ appeals before the Division Bench of this Court, whereafter, on hearing the same were remanded for fresh reconsideration before the Single Bench. These matters then, came to be disposed of by an order dated 31-08-2022, allowing the same, and directions passed therein, for reinstatement and for payment of arrears, salary and allowances as due.

5. It is in this backdrop that the writ petitioner who had abandoned proceedings before the Courts after being unsuccessful in WP(C). No. 101 of 2015, has now sought for directions that the benefits of the order dated 31-08-2022 also be extended and he be reinstated in service.

6. Mr. S.D.Upadhaya, learned counsel for the petitioner has submitted that though it is not disputed that after the said dismissal in the first round of litigation, the petitioner had not agitated for his rights, he however, contends that the fact that other similarly situated petitioners had been granted relief, no discrimination can be accorded to him and he should be given similar treatment and be allowed to continue in service. He further submits that even for the period for which he served by virtue of the interim order passed by this Court, he has not received the pay and allowances as admissible. He therefore prays for directions to be passed for reinstatement of his services and for further directions for payment of the period of service that has remained unpaid.

7. Dr. N.Mozika, learned DSGI assisted by Ms. S.Rumthao, learned counsel appearing for the respondents has contended that the writ petition is hopelessly barred by the laches of the writ petitioner, who after the judgment had been rendered in WP(C). No. 101 of 2015, accepted the same and had proceeded on retirement. He submits that on this ground alone, no consideration can be given to the writ petitioner who has not been vigilant to safeguard his rights or agitated the same at the relevant point of time. With regard to the period served under the interim orders of this Court, the learned DSGI submits that if the submission is correct, then

whatever legitimate dues are payable, the same will be disbursed to the writ petitioner.

8. I have heard learned counsel for the parties. It is not disputed that in similar other matters where the parties had been vigilant and pursued the matter to a logical conclusion, they have obtained the fruits of litigation and have been reinstated in service with their orders of premature retirement being quashed. The aspect of delay however, has to be viewed very seriously by this Court, inasmuch as, the writ petitioner as is patent from the materials on record and as per the pleadings, had for all purposes abandoned his case, and after eight long years, has by way of this instant writ petition, resorted to a fishing expedition in the hope that some relief might be forthcoming.

9. Without adverting to any authorities in the matter, it has been settled in innumerable cases that delay is a factor that cannot be ignored, except for circumstances that are beyond the control of the petitioner or parties. In the instant case, no reasons have been made out, nor any explanation offered as to what prevented the writ petitioner from pursuing his legal remedy before the Courts after dismissal of his writ petition.

10. In this view of the matter, the writ petition being hopelessly delayed by the laches and lapses on the part of the writ petitioner, the relief as claimed, after such a long delay cannot be granted, but however, the

respondents are directed to examine the aspect of the payment of pay and allowances of the writ petitioner for the period he served after the interim order was passed by this Court till the dismissal of WP(C). No. 101 of 2015 thereof.

11. With the aforementioned directions, this writ petition stands disposed of. It is understood that the dues if any, shall be adjusted against the pension that had already been received.

12. No order as to costs.

**Judge**

Meghalaya  
05.04.2024  
"Samantha PS"