

<u>Serial No.17</u> <u>Regular List</u>
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HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 461 of 2020

Date of Order: 06.02.2024

Shri. Ran Vijay Singh

Vs. Union of India & Ors.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner(s) : Mr. S. Banik, Adv.

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

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

ORAL:-

Heard Mr. S. Banik, learned counsel appearing for the petitioner and also Dr. N. Mozika, learned DSGI assisted by Ms. A. Pradhan, learned counsel appearing for the respondents.

1. The brief fact of the case is that the petitioner had earlier filed a writ petition being WP(C) No. 327/ 2014 before this Court praying for a direction to the respondent authorities for remusteration/conversion

of the trade of the petitioner to Nb. Sub. (B&R). The said writ petition was disposed of by an order dated 06-08-2018 with a direction to the respondents to take all necessary steps at their respective levels for according consideration to the case of the petitioner for remusteration from Rfn/GD (B&R) to Nb. Sub. (B&R) and to pass appropriate orders within six weeks. In terms of the said order, the Lieutenant Colonel, Officiating Colonel (Records) for Directorate General, Assam Rifles issued an order dated 28-01-2019, indicating that there did not exist any provision for filling up of vacancies for Nb. Sub. (B&R) by way of remusteration. It was indicated that the post of Nb. Sub. (B&R) is to be filled up only by way of direct recruitment as per the Recruitment Rules, 2000 and hence, the request of the petitioner for remusteration was not tenable due to lack of provisions in the Recruitment Rules. The order dated 28-01-2019 was again challenged by the petitioner by filing WP(C) No. 191/2019 and the said writ petition was disposed of vide order dated 13-02-2020 by setting aside the order dated 28-01-2019 while directing the Lieutenant Colonel, Officiating Colonel (Records) for Directorate General, Assam Rifles to reconsider the matter and to pass speaking order in that regard. It was agreed by the parties that reconsideration of the matter be specifically with regard to the issue on whether remusteration is done by direct recruitment or not. Thereafter, the Brigadier (Personnel) for Directorate General, Assam Rifles issued an order dated 05-08-2020 negating the request of the petitioner for remusteration which is under challenge in the present writ petition.

2. It is contended on behalf of the petitioner that in the impugned order dated 05-08-2020, the authority had concluded that direct

recruitment and remusteration of trade are two different expressions which carry distinct meaning and proceeding on the said premise the prayer of the petitioner was rejected, whereas the authorities are tactfully silent on the issue as to whether remusteration, in effect, is a direct recruitment or not. It is also not clarified as to whether remusteration is equivalent to direct recruitment and without addressing the core issue the rejection of the request for the petitioner is not tenable.

3. Dr. N. Mozika, learned DSGI in his usual fairness submitted that the matter can be disposed of by a direction to the respondent authorities to reconsider the matter specifically with regard to the issue as to whether remusteration is done by direct recruitment or not.

4. In view of the submission made, the impugned order issued vide Ran Vijay Singh/UPAO-Legal/1206/2020/ dated 05-08-2020 is hereby set aside. The matter is remanded back to the respondent authorities, who shall reconsider the matter and pass a speaking order with regard to the issue raised by the petitioner in this writ petition within a period of one month from today.

5. The writ petition stands disposed of.

JUDGE

Meghalaya
06.02.2024
"Biswarup-PS"