

GAHC010089552021



2024:GAU-AS:11585

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

Case No. : WP(C)/6892/2021

D SATISH KUMAR
FORCE NO. C/5014099F, S/O. M DHAKSHNA MOORTHY, PRESENTLY
POSTED AT OFFICE OF THE INSPECTOR GENERAL ASSAM RIFLES (EAST),
C/O. 99 APO, SILCHAR, ASSAM, PIN-932553.

VERSUS

THE UNION OF INDIA AND 2 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI-110001.

2:THE DIRECTOR GENERAL

ASSAM RIFLES
DIRECTORATE GENERAL OF ASSAM RIFLES
SHILLONG-793010.

3:INSPECTOR GENERAL ASSAM RIFLES (EAST)

C/O. 99 APO
SILCHAR
ASSAM
PIN-932553

Advocate for the Petitioner : MR. R MAZUMDAR, MR H BEZBARUA,MRS P RAI

Advocate for the Respondent : ASSTT.S.G.I., MR. A K DUTTA (R-1 TO 3)

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 25.11.2024

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

2. The petitioner has instituted the present proceedings, interalia, praying for fixation of his seniority position with his batch mates, who were recruited in the year 2006 to the post of Havildar/Clerk in the Assam Rifles.

3. The petitioner has also presented a challenge to an order dated 19.08.2007; insofar as, it stipulates that his seniority would be reckoned w.e.f. the date of passing of the final medical examination for all purposes of service matters.

4. As projected in the writ petition, the petitioner, in terms of his selection in a recruitment rally held in the year 2006, had approached the Commandant, Assam Rifles Training Centre, Dimapur, Nagaland for undergoing the prescribed training course. The authorities of the training institute, on verification of his records, having found that the petitioner was over aged by 22 days, proceeded to discharge him from the training. Being aggrieved, the petitioner instituted a writ petition before the High Court of judicature at Madras being WP(C) No. 21230/2007.

5. The High Court of judicature at Madras vide order dated 26.06.2007, proceeded to dispose of the said writ petition by directing the consideration of the representation dated 18.08.2006, preferred by the petitioner in the matter. Thereafter, the Director General of Police, Assam Rifles vide order dated 19.08.2007, on consideration of the grievances of the petitioner as raised in the said representation dated 18.08.2006, was pleased to condone the over age of the petitioner, which by the time was calculated at 52 days. Accordingly, the petitioner was directed to be issued a provisional appointment letter by 22.08.2007 and to

facilitate his appearance before the Assam Rifles Training Centre & School at Dimapur, by 28.08.2007 for final medical examination. The Director General of Police, Assam Rifles had also directed for appointment of the petitioner, herein, as a recruit (Clerk) subject to he being found fit in the final medical examination. In the order dated 19.08.2007, it was further stipulated that the seniority of the petitioner be taken into account w.e.f. the date of passing of the final medical examination for all purposes of service matters. Thereafter, the petitioner's final medical examination was so concluded on 22.10.2007 and he was thereafter recruited into the Assam Rifles services.

6. It is revealed from the materials on record that after having joined his services, by accepting the stipulations as made in the said order dated 19.08.2007, the petitioner after lapse of considerable period of time proceeded to prefer a representation on 15.11.2019, interalia, praying therein for granting to him seniority along with his other batch mates selected in the enrolment process held in the year 2006. The said representation was followed by further representations. The Assam Rifles authorities vide communication dated 20.10.2022, considered the grievance raised by the petitioner and disposed of his representation by holding that the claim as made by him for fixing his seniority w.e.f. 05.06.2006, cannot be acceded to in view of the stipulations made in Paragraph-5 of the order dated 19.08.2007, issued by the Director General of Police, Assam Rifles to the effect that his seniority would be reckoned from the date of passing final medical examination for all purposes of the service matter.

7. A perusal of the materials available on record would go to reveal that the petitioner was permitted entry into service after his over age was so condoned by the competent authority. The order dated 19.08.2007 is a composite order, by which while condoning the over age of the petitioner and directing for his appointment as a recruit (Clerk), it was stipulated that his seniority should be

taken into account w.e.f. the date of passing of the final medical examination. The petitioner having accepted the order dated 19.08.2007 along with the stipulations made therein, the order dated 19.08.2007, having been implemented, the petitioner herein, after the lapse of around 12 years could not have raised grievance with regard to the fixation of his seniority, inasmuch as, the seniority of the petitioner was so fixed vide the order dated 19.08.2007 itself and the same was accepted by the petitioner herein.

8. In view of the facts and circumstances as existing in the matter, this Court finds that the Director General, Assam Rifles, vide his order dated 19.08.2007, having categorically mandated that the seniority of the petitioner on his recruitment to the Assam Rifle service would be so reckoned w.e.f. the date of completion of his final medical examination and the petitioner having been recruited to the Assam Rifle service, his seniority position having also been so assigned w.e.f. the date of his recruitment, in terms of the said order dated 19.08.2007 and the same having attained its finality, the petitioner now cannot be permitted to assail the stipulation as regards reckoning his seniority in the service as made in the said order dated 19.08.2007.

9. In view of the above conclusions, this Court is of the considered view that the petitioner has not made out a case for interference by this Court in exercise of its power conferred under Article 226 of the Constitution of India and accordingly, the writ petition is held to be devoid of merit and the same stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant