

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 353 of 2020

Mutum Shantikumar Singh

Vrs.

Union of India & 5 ors.

...Petitioner/s

...Respondent/s

- B E F O R E -

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

12.05.2025

Heard Mr. M. Devananda, learned senior counsel assisted by Ms. N. Jyotsana, learned counsel appearing for the petitioner and Mr. BR Sharma, learned CGSC appearing for the respondents.

[2] At the outset, the learned senior counsel appearing for the petitioner submitted that in view of the order dated **23-12-2023** passed by the respondents regularizing the period from 31-08-2000 (i.e. from the next date of the dismissal of the petitioner from service) to 21-01-2011 (the date of placing him under suspension after reinstatement), as period spent on duty, the petitioner is not pressing the prayer No. 1 made in the present writ petition.

[3] According to the learned senior counsel appearing for the petitioner, the petitioner was dismissed from service in the year 2000 pursuant to a Departmental Enquiry and thereafter, the petitioner successfully challenged his dismissal order before the Hon'ble Gauhati

High Court and the order passed by the Hon'ble Gauhati High Court has been also subsequently upheld by the Hon'ble Apex Court. Thereafter, the petitioner has been reinstated in service by an order dated **31-12-2010** and the petitioner subsequently joined service w.e.f. 21-01-2011. According to the learned senior counsel, after the petitioner has been reinstated in service, other Constables who are batchmatch of the petitioner and even the juniors to the petitioner have been given promotion in the year 2013 and that the case of the petitioner was not considered for such promotion on the ground that the petitioner do not possess the qualifying service for such promotion. It has also been submitted that since the authorities had already regularized the service of the petitioner during the period he was dismissed from service, the petitioner has now the requisite qualifying service for such promotion. The learned senior counsel further submitted that the petitioner is qualified and eligible for promotion to the higher post of Head Constable (GD) and he is entitled to get such promotion w.e.f the date his next juniors have been given such promotion. The learned senior counsel, accordingly, prays for disposing of this writ petition by directing the authorities to consider the case of the petitioner for such promotion w.e.f. the date his junior has been given promotion.

[4] Mr. BR Sharma, learned CGSC appearing for the respondents submitted that as the petitioner has been given minor penalty in the year 2020 subsequent to a Departmental Enquiry conducted by the authorities, the petitioner is not entitled to be considered for such promotion. It has further been submitted by the learned CGSC that if at all the petitioner is entitled to get such promotion from the date his next junior has been given promotion, such promotion should be only on notional basis and actual payment of higher pay will be w.e.f. the date of issuance of actual promotion order by the authorities.

[5] With regard to the 1st submission raised by the learned CGSC, this court is of the considered view that prior to imposition of the minor penalty in the year 2020 upon the petitioner, the petitioner was entitled to be considered for promotion to the post of Head Constable (GD), as the authorities have arbitrarily overlook his case for such promotion while his batchmate or even his juniors have been given such promotion in the year 2013. Taking into consideration of such undisputed facts, this Court is of the considered view that the petitioner is entitled to have his case considered by the authorities for promotion to the higher post of Head Constable (GD) w.e.f. the date his next junior has been given. However, this Court is

of the considered view that there is merit in the 2nd submission advanced by the learned CGSC that if the petitioner is to get promotion to the post of Head Constable (GD) w.e.f. the date his next junior have been given promotion, such promotion should be only with notional effect and that actual payment of the pay of the higher post should be given w.e.f. the date of issuance of the actual promotion order by the authorities.

[6] In view of the above, the authorities are directed to consider the case of the petitioner for giving promotion to the post of Head Constable (GD) notionally from the date his next junior had been given promotion. The authorities are at liberty to consider for payment of the pay and allowances of the higher posts to the petitioner in terms of the applicable rules.

[7] The consideration of the petitioner's promotion should be completed within a period of 3(three) months from today.

[8] With the aforesaid directions, the present writ petition is disposed of.

JUDGE

Dhakeshori