



Serial No. 33
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 29 of 2024

Date of Decision: 04.11.2025

JC-362229A NB/Sub(Clerk),
Trilok Kumar,
HQ: 22 Sector Assam Rifles,
C/o: 99 APO

... Petitioner(s)

Versus

1. Union of India represented by
The 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), 793010.

3. Commandant (Adm)
HQ 22 Sector Assam Rifles,
C/o 99 APO

... Respondent(s)

Coram:

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

Appearance:

For the Petitioner(s) : Mr. S.D. Upadhaya, Adv. with
Mr. H. Yadav, Adv.

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



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

JUDGMENT AND ORDER (ORAL)

1. The brief facts are that the petitioner was enrolled on 28.03.1992 as Lance Naik (Writer) in Assam Rifles. By Judgment dated 23.08.2012 passed in WP(C) No. 277 (SH) of 2010, the petitioner along with other similarly situated petitioners was granted rank of Warrant Officer at the entry level. The petitioner by the instant writ petition claims that he has been denied due promotion and seniority, and in this regard had also filed a representation before the respondents for counting his seniority from the date of enrollment.

2. Mr. S.D. Upadhaya, learned counsel for the petitioner submits that though he was re-designated as Warrant Officer from the date of entry into service, his seniority which was determined as far back as 2001, is still being maintained which has deprived him of due service benefits. He further submits that with regard to seniority position, though a representation has been filed before the respondents, however the same has been rejected due to lack of ACR criteria, which has compelled the



writ petitioner to approach this Court by way of the instant writ application.

3. Dr. N. Mozika, learned DSGI assisted by Ms. M. Myrchiang, learned counsel for the respondents submits that it is incorrect that the writ petitioner has been wrongly superseded, inasmuch as, in the Departmental Promotion Committee of 2001, for promotion to the rank of Havildar Clerk, the petitioner was found wanting in ACR criteria, but however on fulfilling the ACR criteria, the petitioner was promoted to the rank of Havildar on 01.05.2002. He therefore, submits that at this stage, there is no question of unsettling a settled position as firstly, the issue relates to 2001, and secondly the writ petition itself is delayed, and as such deserves no consideration.

4. In this context, the learned DSGI has cited a decision of this Court rendered in the case of *Arun Kumar Tiwari vs. Union of India & Ors.* reported in **2023 SCC OnLine Megh 401 : (2023) 4 GLT 811 : 2023 Lab IC 4042**, wherein it has been held that *once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained.*

5. Having heard the learned counsel for the parties and on perusal of the materials on record, it is seen that the petitioner had prayed for seniority as per the date of enrollment, and in 2001 when the



petitioner's case for promotion to Havildar Clerk was examined, he was found not to meet the ACR criteria, and as such he was superseded by his juniors, and the seniority list was drawn up accordingly. In 2002, the petitioner was thereafter promoted to the rank of Havildar Clerk and subsequently to the rank of Naib Subedar on 01.05.2016. Thereafter, pursuant to the directions of this Court, the petitioner was re-designated as Warrant Officer from the date of enrollment. It is seen that though he was re-designated as Warrant Officer from the date of entry, the seniority as determined in 2001, is still being maintained.

6. The petitioner is effectively therefore, by the instant writ petition challenging the seniority list, which has been maintained since 2001. Any interference in this regard will result in unsettling a position which has been maintained for the past 24(twenty-four) years, which will have adverse consequences on the other personnel, who have since been promoted. In this regard, the judgment i.e. *Arun Kumar Tiwari vs. Union of India & Ors (supra)*, cited by the learned DSGI has relevance and Para-11 is reproduced hereinbelow:-

“Para 11. The seniority of the petitioner as discussed, was fixed at the time of his re-musteration as Warrant Officer (PA) on 05.03.2008, the same therefore cannot be altered now after a lapse of over a decade, as it will unsettle a settled position. It has to be kept in mind that, the grant of any relief as prayed by the petitioner for review of seniority on grounds of upgradation of his previous rank/post



retrospectively, will surely result in upsetting the seniority position, inasmuch as, the petitioner after his re-musteration as Warrant Officer (PA) had remained junior to the private respondents No. 7 and 8, for more than 12 years, for which review is sought for now. The Supreme Court in the case of Shiba Shankar Mohapatra v. State of Orissa reported in (2010) 12 SCC 471 at Para - 30, had held as follows.

“30. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained. In K.R. Mudgal, this Court has laid down, in crystal clear words that a seniority list which remains in existence for 3 to 4 years unchallenged, should not be disturbed. Thus, 3-4 years is a reasonable period for challenging the seniority and in case someone agitates the issue of seniority beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation.”

7. Accordingly, in the circumstances and for the reasons aforementioned, there is no merit in the instant writ petition, and the same is dismissed.

JUDGE

Meghalaya
04.11.2025
“V. Lyndem-PS”