



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.5/2025 with
MC (WA) No.32/2025

Date of Order :17.06.2025

1. Union of India represented by the Secretary to the Government of India, Ministry of Home Affairs, North Block, New Delhi-110001.
2. The Director General of Assam Rifles, Mahanideshalaya, (The Directorate General of Assam Rifles) Shillong, Meghalaya-793001.
3. The Commandant, 13th Battalion, Assam Rifles, C/o 99 APO.

..... Appellants

Vs.

..... Respondent

Rfn (GD) R. Ramu

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv

For the Respondent : Mr. R. Jha, Adv

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.



JUDGMENT: (per the Hon’ble, the Chief Justice) (Oral)

The respondent/writ petitioner was employed with the Assam Rifles.

In 2005 he was sent on deputation to the Police Academy, Hyderabad.

After his term of deputation was over, he was recalled by his employer but he did obey their direction.

The Assam Rifles being a very specialized and disciplined force, he was treated as a deserter under their rules and dismissed/removed from service by an order dated 22nd August, 2010.

Aggrieved, he preferred a writ petition in this Court [*WP (C) No.72 of 2013 – R. Ramu v. Union of India & ors*].

It was heard before a learned single judge.

By a judgment and order dated 5th May, 2015, the learned single judge disposed of the writ petition by setting aside the order dated 22nd August, 2010 and directing “if the department desires” fresh departmental proceedings according to the Assam Rifles Rules, 2010 framed under the Assam Rifles Act, 2006 may be initiated against the respondent/writ petitioner. “If found innocent”, he was to be reinstated in service.



Examining this order, we find that although the order of termination of service of the respondent/writ petitioner on the ground of desertion was set aside, he was not reinstated. His employer was given the option of conducting a fresh “enquiry” and reinstating him if they found him to be without fault.

This “enquiry” was not started.

He filed a second writ in this Court [*WP (C) No.323 of 2015 – R. Ramu v. Union of India & ors*].

It was disposed of by a learned single judge by a judgment and order dated 5th March, 2024 directing commencement and conclusion of the departmental proceedings/“enquiry” against the respondent/writ petitioner within four months from pronouncement of the order by either reinstating the respondent/writ petitioner or placing him under suspension.

The appellants have accepted that part of the order directing “enquiry” but are aggrieved by the portion directing reinstatement or suspension of the respondent/writ petitioner.

Here, as rightly pointed out by Dr. Mozika, learned Deputy Solicitor General appearing for the appellants, the learned judge has fallen into error.



By the judgment and order dated 5th May, 2015 in the first writ, this court consciously, after setting aside the dismissal/removal from service order, did not reinstate the respondent/writ petitioner but subjected such reinstatement to his being found innocent in an “enquiry” to be conducted at the option of the appellants. This order has attained finality.

After ten long years when the second writ was disposed of on 5th March, 2024, the issue was regarding speedy conclusion of the disciplinary proceedings/“enquiry”. There could not have been any question of reinstatement at that stage when for 10 years, the order refusing reinstatement after attaining finality had remained in force.

In departmental proceedings where the service of the delinquent has not been terminated and it is intact but enquiry is being conducted against him or her, the court may direct the employer to allow the delinquent to work by revoking his suspension or by any other direction.

Such kind of “reinstatement in service” is permissible but when an employee has not been discharged from service. Here, reinstatement pending conclusion of enquiry would tantamount to quashing the departmental proceedings/enquiry and allowing the writ.



In those circumstances, we set aside that part of the impugned judgment and order dated 5th March, 2024 directing the appellants to “reinstate” the respondent/writ petitioner or conduct the enquiry by placing him under suspension and affirm the rest of the judgment and order, with the modification that considering the passage of time, the enquiry should be concluded with a final decision with reasons within three months from date after complying with the relevant rules and the rules of natural justice.

This appeal is accordingly disposed of by modifying the impugned judgment and order dated 5th March, 2024 to the above extent.

MC (WA) No.32 of 2025 is also disposed of.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice

Meghalaya
17.06.2025
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