



Serial No.08
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 83 of 2024

Date of Decision: 22.08.2025

Gouranga Debbarma Sub (GD)
Son of Shri Dhirmani Debbarma.

...Petitioner

-Versus-

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Home Affairs, Shillong.
2. The Director General,
Assam Rifles,
HQ, DGAR,
Laitkor, Shillong.
3. The Additional Director General,
Assam Rifles,
HQ, DGAR,
Laitkor, Shillong.
4. The Commandant,
30, Assam Rifles, C/o 99 APO.
5. The Col (Records)
HQ, DGAR, Laitkor, Shillong.
6. The Brigadier (Personnel)
HQ, DGAR, Laitkor, Shillong.



7. Umesh Chandra Singh, Sub (GD)
43rd Assam Rifles, C/o 99 APO,
Kashiram Basti (Firing Range)
Nagaland – 79115.
8. Raj Kumar Manjhi, Sub (GD)
43rd Assam Rifles, C/o 99 APO,
Kashiram Basti (Firing Range)
Nagaland – 79115.
9. Raghubir Singh, Sub (GD)
43rd Assam Rifles, C/o 99 APO,
Kashiram Basti (Firing Range)
Nagaland – 79115.
10. Ram Datt Singh, Sub (GD)
43rd Assam Rifles, C/o 99 APO,
Kashiram Basti (Firing Range)
Nagaland – 79115.

...Respondents

Coram:

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

Appearance:

For the Petitioner/Applicant(s) : Mr. M.L.Nongpiur, Adv.
Ms. A.Ksoo, Adv.

For the Respondent(s) : Mr. R.Debnath, CGC.
Ms. B.Malngiang, Adv.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The writ petitioner being aggrieved with a speaking order dated 30-11-2023, passed by the respondents in pursuance to a judgment and order of this Court dated 24-08-2023, in WP(C). No. 293 of 2022, is before this Court assailing the same on the following grounds:

- (i) The first ground is that though the representation of the writ petitioner was confined only to the relevant years of 2016-2017, the respondents in refusing to upgrade the ACR, had referred to the years 2006-2007, which are not to be taken into consideration.
- (ii) The second ground taken is that the Initiating Officer (IO) and the Reviewing Officer (RO), were the same persons who in the earlier assessment of 2015-2016 and subsequent 2016-2017 are the same and that the downgrading was without any explanation or reason.

2. The case of the writ petitioner therefore, is that the non-consideration for upgrading not being based on any cogent reasons or circumstances, he has been deprived of the promotion at the relevant point of time.



3. Mr. M.L.Nongpiur, learned counsel for the petitioner has submitted that due to the non-communication of the adverse entries or grading points, for the year 2016-2017, the petitioner had filed a writ petition before this Court being WP(C). No. 293 of 2022, which was disposed of by an order dated 24-08-2023. Learned counsel further submits that as per the order dated 24-08-2023, the respondents had communicated the adverse entries in the ACR of 2016-2017, and the petitioner on receipt of the same, had submitted a representation praying for upgradation of the uncommunicated ACR with a further prayer for retrospective promotion w.e.f. 02-11-2021, as also for restoration of seniority. Learned counsel submits that however, the respondents by the impugned speaking order dated 30-11-2023, have not considered the prayer of the petitioner and have rejected the same on the ground that the writ petitioner had been graded 'Average (2 points)' in the ACRs successively for the assessment year 2007 and 2008 while in the rank of Havildar (General Duty). Learned counsel has vehemently argued that what has been resorted to by the respondents is impermissible in view of the fact that the requirement for consideration in the case of the petitioner is limited to 5(five) assessment periods i.e. from 2016-2020. A further submission is made that though the ACR of the writ petitioner had been completed by the Initiating Officer and the Reviewing Officer in the years



2017, the endorsement by the Senior Reviewing Officer was done only in the year 2019, after a gap of two years. He therefore, submits that the assessment not being made on any rational basis, the same is liable to be interfered with. In support of his submission, the learned counsel has placed reliance in the case of *Union of India & Ors. vrs. G.R.Meghwal 2022 SCC Online SC 1291*.

4. Mr. R.Debnath, learned CGC for the respondents, in reply, has submitted that as per the directions of this Court, the respondents had on receipt of the representation from the petitioner, considered and passed the speaking order. Learned CGC has placed heavy reliance on the directions of this Court with regard to taking into account the earlier track record to justify the non-upgradation of the grade of the writ petitioner on account of his earlier performance for the year 2007-2008, where he was graded '2'. He submits that as in these two years, the performance of the writ petitioner was below the prescribed benchmark, the respondents did not consider it fit to upgrade the ACR. Learned CGC has then referred to the affidavit and submits that there is no provision that exists in the Record Office Instruction (ROI) for review of an ACR once finalised. The impugned order, he submits, being in pursuance to, and as per the orders of the Court, has addressed the issue and has also taken into account the past track record of the petitioner for the assessment years 2007-2008, which has thus prevented



any upgradation. He therefore submits, there being no infirmity in the impugned order, no interference is called for by this Court.

5. Having heard the learned counsel for the parties and also having examined the materials on record, it is noted that the issue in question, is whether there is any justification for the respondents to take into consideration the performance of the writ petitioner beyond the assessment years which have to be considered for the purposes of promotion. In the instant case, it is seen that the promotion in consideration is from Naib Subedar to Subedar and as per the “**Benchmark for Performance Appraisal for Promotion and Financial Upgradation under MACPs dated 29-12-2016,**” the same requires all five ACRs from the years 2016-2020, which should be not below ‘very good’, and (above average) 7 points. The further prescription is that the same should be the benchmark in all five reports i.e. ‘7’. A perusal of the ACR for the relevant assessment year i.e. 2016-2017 reflects that the petitioner had been graded at 7 points by the Initiating Officer on 20-11-2017, with the remarks ‘*Individual is physically fit and robust. He enjoys good command and control over his subordinates and is dependable*’. The Reviewing Officer thereafter, had graded the petitioner at 5 points without any negative remarks and had recorded ‘*A physically fit JCO who execute assigned task with dedication*’, the same was on 30-12-2017. The ACR of the petitioner was then endorsed by the Senior



Reviewing Officer (SRO) after nearly two years on 27-08-2019 who entered these remarks '*A high average JCO. I agree with the assessment of the RO. The IO is liberal in his assessment.*' It is thus seen that the petitioner from being graded 7 points by the Initiating Officer, had been downgraded and the same was endorsed by the Senior Reviewing Officer. It is also to be noted that no remarks have been noted in the report as to the reasons for downgrading of the grades. Further, an interesting point to note in the present case is that the Initiating Officer and the Reviewing Officer were the same Officers for the preceding assessment year i.e. 2015-2016, who had graded the writ petitioner at 7 points and recommended him for promotion.

6. In this backdrop, this Court is now to examine the speaking order passed by the respondents as to whether the same had taken into consideration all the relevant factors. Firstly, is the fact that apart from the assessment year 2016-2017, the petitioner for the year 2015-2016 and from 2017 onwards till 2021, had been given a grading of 7 points, in other words, recommended for promotion, and infact, it was only the assessment that was done in the year 2016-2017, that had prevented him from being considered for promotion at the relevant time i.e. 2021. The impugned order, it appears, refusing the upgradation to the petitioner was passed solely on the ground that the writ petitioner had been graded 'average (2 points)' in the ACRs successively for the assessment year 2007-2008 while in the rank of



Havildar General Duty. Further, at para 7 of the impugned order thereof, though the benchmark clearly prescribes the relevant years to be from 2016-2020, it has been recorded that the performance of the writ petitioner during 2014-2015 is also below the benchmark. Though the learned CGC has tried to take shelter of the orders of this Court by referring to para 7 of the order dated 24-08-2023, passed in WP(C). No. 293 of 2022, which reads as follows:

“7. It is further provided that should the entries be upgraded in consideration of the representation taking into account the petitioner’s earlier track record, the respondent authorities shall constitute a review DPC for grant of the consequential reliefs, if any on the basis of the above. The entire exercise shall be completed within a period of 5(five) months from the date of receipt of this representation.”

A perusal of the same however, will show that the directions are for consideration of the representation of the writ petitioner taking into account the petitioner’s track record. This would necessarily therefore mean that the respondents were to consider the representation in accordance with the benchmark as given in Memorandum dated 29-12-2016 (Annexure-10 of the writ petition) and not to refer to the assessment years which were not to be taken into consideration. Further, it is not understood as to how the assessment year 2014-2015 has also found place in the impugned order without any explanation or reason. The other aspect which has also been



raised by the writ petitioner with regard to the same Initiating Officer and Reviewing Officer for two years giving grades in variance has also not been taken into consideration by the respondents while considering the upgradation of the petitioner.

7. In these circumstances, it is seen that the speaking order dated 30-11-2023, has not addressed the representation of the petitioner in its totality and as such, is set aside with a direction that the respondents, as per the observation made in this judgment, reconsider the representation of the writ petitioner against the benchmark prescribed for promotion to the said post for the relevant years of assessment. It is expected that the said exercise shall be completed within a period of 8(eight) weeks from the date of receipt of this order by the respondents.

8. With the above directions, the matter stands closed and disposed of.

Judge