



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 132 of 2025

Date of Decision: 07.08.2025

Dr. Madhurjya Bhattacharyya
Age: 44 years
ARMC -6000132, Commandant
S/o (L) Janardan Bhattacharya

:::Petitioner

-Vs-

1.The Union of India through the Secretary
to the Government of India, Ministry of Home
Affairs, New Delhi

2.The Director General, Assam Rifles, Shillong-793011,
District: East Khasi Hills

3.The Director Medical, Deputy Inspector General
Headquarter, Directorate General Assam Rifles,
Shillong – 793011, District: East Khasi Hills

4.The DIG Cum Medical Superintendent, Assam Rifles,
Composite Hospital, Shokhuvi, Nagaland,
Pin Code: 797115

:::Respondents



Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Singha, Adv.
Ms. S. Langstieh, Adv.

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

1. The petitioner who is presently employed as Commandant (Chief Medical Officer) in the Assam Rifles, is before this Court with a prayer to direct the respondents to allow him to resign from the service of the Assam Rifles, inasmuch as, his application has been rejected, and till date has otherwise literally been kept in abeyance pending a final decision, inspite of the petitioner having intimated the compelling reasons for tendering his resignation to the authorities.



2. The brief background facts are that the petitioner had joined in the service of the Assam Rifles in the year 2009, and during his service had completed his Post Graduation in Orthopaedics, in the year 2020, on availing study leave for the period of 3(three) years from 01.05.2017 to 30.04.2020. The same was with a condition that he render service of 5(five) years after the completion of his study leave, and accordingly, he executed a bond to remain in service till 30.04.2025. The petitioner thereafter, submitted his letter seeking resignation on 21.03.2025, praying that his resignation be accepted w.e.f. 01.05.2025, after the expiry of the bond period, which however, came to be rejected.

3. Mr. R. Singha, learned counsel for the petitioner submits that the condition of appointment of the petitioner initially as Medical Officer was that he was required to serve in the Assam Rifles for a minimum period of initial engagement of 10(ten) years, as prescribed by the applicable rules, and that it was also given that during the period of appointment, be permitted for good and sufficient reasons, to resign from the force. He further submits that in the course of engagement, he had availed of 3(three) years study leave, and accordingly as per the policy guidelines for pursuing PG courses, had duly executed a bond, and on completion of his PG course in the year 2020, has also served the bond period of 5(five) years. As such, he contends, the petitioner having completed the mandatory period of



service, thus being eligible to leave the services of the force, as per the conditions of employment, had tendered his resignation. The reason for seeking resignation, it has been submitted was firstly, due to the fact that the petitioner's aged mother required his personal care and attention, which was not possible for him to give though he is now the sole caregiver, as he was posted in a remote location. The second reason, it is submitted is due to the fact that the petitioner has secured alternate employment which would make it possible and more convenient for him to attend and care for his mother.

4. The respondents he submits, inspite of the bond period ending on 30.04.2025, rejected his request by citing shortage of Orthopaedic surgeons. The learned counsel further submits that the refusal of the respondents to grant him an NOC, and rejecting his application for resignation has caused immense harm and injury, inasmuch as, he has lost two job opportunities, one in NEIGRIHMS and the other at the ESIC hospital at Guwahati, wherein, on being selected, the petitioner had been offered appointment subject to his resignation from the force. The rejection he therefore submits, has not only caused professional loss and growth, but has also severely impacted his ability to fulfil his duties to his family.

5. The learned counsel has then contended that the petitioner having satisfied the conditions of his service, to allow him to resign therefrom, the



refusal of the respondents is unjustified, inasmuch as, an employee has the right to resign from service, and by entering into a contract of employment does not mean he has signed a bond of slavery. It is also submitted that it is not a question that a cadre strength of Orthopaedic surgeons is maintained by the Assam Rifles, which would justify the refusal of his request. The Assam Rifles Acts 2006, he submits at Section 8, which provides for the condition for resignation, also does not create a bar, as it is provided therein, that a member of the force can resign during the term of engagement, or to withdraw oneself from all or any of the duties of his appointment with the previous permission of the prescribed authority. The Assam Rifles Rules 2010, on the point of resignation at Rule 27, he submits also will not come to the aid of the respondents, inasmuch as, there is no fixed cadre of Orthopaedic surgeons in the force, and further, the prescribed authority (Ministry of Home Affairs) by its latest communication dated 21.07.2025, has advised the Assam Rifles that alternative arrangements be made before the resignation is accepted. As such, therefore he submits presently there is no impediment for the authorities to accept his resignation.

6. Dr. N. Mozika, learned DSGI for the respondents has submitted that the petitioner is a combatant personnel in the Assam Rifles, and is bound by the Assam Rifles Acts and Rules. Section 8 of the Assam Rifles Act



2006, he submits mandates that no member of the force shall be at liberty to resign his appointment, during the term of his engagement except with the previous permission in writing of the prescribed authority. The age of superannuation for Medical Officers in CAPF's and Assam Rifles, he submits is 65(sixty-five) years presently, and as per Rule 27(1) of the Assam Rifles Rules 2010, an Officer may be permitted to resign from the force before completing the term of engagement, only with regard to special circumstances of any case. Rule 27(3)(b) he submits, provides that the Central Government may refuse to permit an Officer to resign, if it considers it to be inexpedient so to do, in interest of the discipline of the force. In the instant case, he submits due to the acute shortage of Orthopaedic surgeons, to tend to a force as large as the Assam Rifles, it was therefore considered not in the interest of the force to allow the writ petitioner to resign therefrom. With regard to the period of engagement referred to by the petitioner, the learned DSGI has submitted that engagement per se, will not strictly mean only the initial period of engagement.

7. The learned DSGI has also contended that the general principles of service law does not apply in situations such as in the present case, wherein the petitioner is subject to the Assam Rifles Act of 2006 and Rules of 2010. In support of his arguments, the learned DSGI has placed reliance in the



case of *Union of India vs. Wg Cdr. Subrata Das* reported in (2020) 12 SCC 784, where he submits it has been held that entry and departure from service in the Air Force, is in terms of the provisions and not the matter which lies at the sweet will of a member of the Air Force. In closing his submissions, it is submitted that as the Ministry of Home Affairs, by its communication dated 21.07.2025, has allowed the Assam Rifles to make alternate arrangements before acceptance of resignation, this factor also be given due consideration by this Court.

8. Having heard the learned counsel for the parties, without further adverting to the facts as placed, it is firstly to be noted that the petitioner's employment undisputedly, is governed by the Assam Rifles Act 2006 and Assam Rifles Rules 2010, and not by general service rules or regulations. The learned counsel for the petitioner in the course of the hearing, has been at pains to refer to various judgments to press home the point that resignation is a right, invested in every employee, but however, it is noticed that the said judgments would have no application, inasmuch as, in the Assam Rifles, the right to resign is not absolute, and is subject to statutory restrictions and operational considerations. In the cases referred to by the writ petitioner, the employees therein were all governed by their own rules, which were then given due interpretation by the Courts.



9. In this context, while the members of the armed forces do not enjoy an unrestricted right to resign, it does not mean that the Rules permit indefinite denial either, but has made provisions that though the authority to reject a resignation exists, the same must be exercised judiciously taking into consideration the expediency thereof, of such a decision. This is evident from Rule 27(3)(b), which provides as follows:

“27. Resignation -

.....

(3) The Central Government may refuse to permit an officer to resign –

(a).....

(b) If it considers it to be inexpedient so to do in the interest of the discipline of the Force;”

10. The circumstances as presented in this case, wherein the petitioner is a sole surviving family member, responsible for the care of his elderly and ailing mother, however perhaps, should have weighed more heavily on the respondents, while processing his request for resignation, which appears to be not for career progression, but for compelling domestic reasons. Further consideration, is the fact that the petitioner has fulfilled the terms of his initial engagement which includes the 5(five) year bond period, post his specialization as required by the stated Government Policy. The reason given by the respondents for refusal due to operational exigency, though



valid, cannot be taken to be permanent, but in fact, the same will at the most amount to a temporary constraint, which would allow the Assam Rifles to only keep in abeyance the acceptance of resignation, if a critical shortage of Orthopaedic surgeons exists in the force. However, at the same time, such delay must be justified and not result in the indefinite denial of the consideration for release.

11. The Ministry of Home Affairs it is however noted, on consideration of the application of the writ petitioner has after due consideration, allowed the Assam Rifles to make alternate arrangements before acceptance of resignation, vide communication dated 21.07.2025, which is reproduced hereinbelow:

***Government of India
Ministry of Home Affairs
(Police – II Division)***

North Block, New Delhi – 01

Subject: Application for resignation from service tendered by Dr. Madhurjya Bhattacharyya, Commandant (Medical Officer), Assam Rifles – reg.

Assam Rifles may refer to their Note No. I.14015/ARMO/Med-I/2025/3142 dated 29th May 2025, requesting therein not to accept the resignation from service in respect of Dr. Madhurjya Bhattacharyya, Comdt (Medical Officer), Assam Rifles.



2. *The case has been examined. As per extent guidelines, it is not in the interest of Government to retain an unwilling Govt servant in service. However, where the Government servant concerned is engaged on work of importance and it would take time to make alternate arrangements for filling the post, the resignation should not be accepted straightway but only when alternative arrangements for filling the post have been made.*

3. *After due consideration of recommendation of DG, Assam Rifles and extent guidelines on the matter, the competent authority has allowed Assam Rifles to make alternative arrangements before acceptance of resignation of Dr. Madhurjya Bhattacharyya, Comdt (Medical Officer), Assam Rifles. Further, Assam Rifles is also requested to furnish action taken on alternative arrangements of Dr. Madhurjya Bhattacharyya, Comdt (Medical Officer), Assam Rifles time to time.*

*Sd/-
(R Joses Vashum)
Under Secretary to the Govt of India
Tel. No.: 011-2309 2889*

Director General, Assam Rifles (Through LOAR)

MHA ID No. A-12011/29/Resign/2022/AR/(CF-3628850)/226 dated 21.07.2025

12. As such, in view of the circumstances as they pertain, keeping in view the communication dated 21.07.2025, the respondents are therefore



directed to make necessary alternate arrangements as expeditiously as possible, preferably within a period of 10(ten) weeks from the date of this order, and thereafter to accept the resignation of the petitioner positively within a period of 4(four) weeks thereafter.

13. Accordingly, as discussed and ordered above, this writ petition is allowed to the extent indicated above, and is disposed of.

Judge

Meghalaya
07.08.2025
"D.Thabab-PS"