



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 192 of 2021

Date of order: 02.04.2025

IRLA No.19976792, 2IC Trideep Sangma

.....**Petitioner**

- Versus -

1. The Union of India represented by the Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Directorate General Border Security Force, Block No.10, Lodhi Road, New Delhi – 110003.
3. The Inspector General BSF, Frontier HQ, Shillong, Meghalaya.
4. Commandant (pers) HQ, DGBSF Block No.10, Lodhi Road, New Delhi – 110003.
5. DIG, Sector HQ Shillong, Mawpat, Shillong, Meghalaya.
6. The Commandant, 11th Battalion, Mawpat, Shillong, Meghalaya.
7. IC 19976648, Shri Yashvir Hooda, 03 Bn BSF, Rangurung TG, PO-Kumarghat, District-Dhalai, Tripura-799264.
8. IC 19976808, Shri Lal Jatong Haolai, 90 Bn BSF, Aizawl, PO-Zemabawk, Mizoram-796017.
9. IC 19976808, Shri Sushil Kumar Maurya, 61 Bn BSF Zotlang (Lunglei), Mizoram-796181, C/o 99 APO
10. IC 19976983, Shri Ranjit Singh Ministry of External affairs, New Delhi.
11. IC 19976822, Shri Sanny Alok Tiga, 66 Bn BSF, Abohar, PO-Azimgarh, District-Ferozpur, Punjab-152116.
12. IC 19976853, Shri Shamboo Prasad, 140 Bn BSF, Raninagar-IV PO-Jalpaiguri, West Bengal-735101.
13. IC 19976594, Shri Y.S. Khangarot, 45 Bn BSF, Raninagar-II, PO-Jalpaiguri, West Bengal-735101.

...Respondents

**Coram:****Hon'ble Mr. Justice I.P. Mukerji, Chief Justice****Appearance:**

For the Petitioner : Mr. R. Jha, Adv.

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

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

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

On 5th July, 1999, the writ petitioner was employed as an Assistant Commandant with the Border Security Force.

On 17th June, 2006, he was promoted to the post of Deputy Commandant. The next higher post in the hierarchy is Second-in-Command.

In 2011, the writ petitioner was sent on deputation in the service of the Hon'ble Governor of Meghalaya where he was posted as Aide-de-Camp (ADC).

By a decision of the Director General of Border Security Force dated 19th December, 2016, promotion was denied to him. The grounds were as follows:

He had not undergone Junior Command course or training and two years' service as Deputy Commandant in a duty battalion or as Regiment Commander in Border Security Force which was an



eligibility criterion for promotion,. However, in that communication there was a hint for reconsideration of the case on a representation being made by the petitioner. It appears that a representation was duly made and considered. It resulted in the decision dated 28th April, 2017, refusing promotion.

Learned Deputy Solicitor General has shown me the relevant part of the rules at page 65 of the petition. It is stated that a Deputy Commandant in level II with five years regular service in the grade with total 10 years in Group 'A' service would be eligible for promotion to the post of Second-in-Command provided he should have successfully completed pre-promotional course or courses as prescribed by the Director General Border Security Force from time to time and two years' service as Deputy Commandant in a duty battalion or as Regiment Commander in Border Security Force. The relevant part of the rule is set out hereunder:

(1)	(2)	(3)	(4)
7. Second-in-Command (General Duty)	542* (Five hundred forty two) (2017) (*Subject to variation dependent on workload)	General Central Service Group 'A', Gazetted, Non-Ministerial.	Level-12 (Rs. 78800-209200/-)

(5)	(6)	(7)	(8)	(9)
Selection	Not applicable	Not applicable	Not applicable	Not applicable



(10)	11
By promotion.	Promotion.- Deputy Commandant in Level-11 (Rs. 67700-208700\-) of the pay matrix of Border Security Force with five years regular service in the grade with total ten years Group 'A' service and possessing the following qualifications, namely:- (a) should have successfully completed pre-promotional course or courses as prescribed by the Director General, Border Security Force from time to time; (b) two years service as Deputy Commandant in a duty Battalion or as Regiment Commander in Border Security Force Artillery except for those Deputy Commandant who are in Field 'G' team and Field Vigilance team of Border Security Force, service rendered in Special Protection Group and National Security Guard; Medical Category SHAPE-I. Note.-1 The service rendered on deputation posting or attachment basis in National Training Institutions.

Admittedly, the writ petitioner did not fulfil the eligibility criteria of having undergone pre-promotional course and two years' service as the Deputy Commandant as prescribed in the rules.

The submission of learned counsel for the petitioner has some substance. It was said that his client was sent on deputation by the decision of the Ministry and not by his own volition and should not suffer for it.

What is germane is that when he was sent on deputation, he was made aware of the risk of losing the chance of promotion on being unable to take the promotion course or render service in the said battalion or be posted as Regiment Commander in BSF. In spite of that the petitioner furnished two undertakings which are at pages 49 and 50 of the affidavit-in-opposition that he would forgo such opportunity and accept the deputation post.



After the deputation came to an end in 2016, the petitioner could not have turned around and claimed promotion on the same footing as his colleagues.

It may be noted that he has been subsequently promoted to the post of Second-in-Command on 7th November, 2017. The retrospective effect that he wants cannot be granted.

Although I am unable to grant any relief to the writ petitioner, I would add the following;

The writ petitioner has rendered bonafide and responsible service on deputation. There is no complaint against him. This posting prevented him from acquiring the eligibility for promotion to the post of Second-in-Command. Subsequently, he has been promoted. I will only direct that whenever he is due for further promotion, his case should be actively considered so that the next promotion is granted to him in the fastest possible time.

The writ petition is disposed of accordingly.

(I.P. Mukerji)
Chief Justice