

Serial No. 32
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 196 of 2023

Date of Decision: 17.02.2025

Joseph K. Sebastian
No. JC-C/361672F Nb/Sub (Clk)
S/o (L) K. M. Sebastian
Director General Assam Rifles,
Laitkor, Shillong, Meghalaya
Pin – 793011

:::Petitioner

-Vs-

1.The 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 Assam Rifles,
Shillong, Meghalaya, PIN – 793011

3.Col (Records) Mahanideshalaya Assam
Rifles, Director General Assam Rifles,
Shillong, Meghalaya, Pin – 793011

4.The Commandant
40 Assam Rifles
C/o – 99 APO, Pin – 932040

:::Respondents

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. M. Chanda, Adv.
Mr. M.L. Nongpiur, 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 petitioner being aggrieved with his supersession in promotion to the rank of Subedar (Clerk), by his juniors is before this Court, impugning the orders dated 11.03.2022 and 29.09.2022. On a representation being filed, the petitioner was informed that promotion was not granted, as he did not meet the ACR criteria for the DPC years 2022 and 2023, which was below the benchmark for promotion. As the entries in the ACR were not communicated, which would have allowed the petitioner a chance to represent against the same, the petitioner is seeking directions for promotion to the post of Subedar w.e.f. 01.01.2021, the date on which juniors to him in service were promoted.

2. Dr. N. Mozika, learned DSGI for the respondents submits that it is a fact, as indicated in Para – 2(K) of the affidavit, that the grading for the period of 2016-17, 2017-18 and 2020-21, made the petitioner ineligible for promotion and that promotion was denied to the petitioner at that point of time, based on extant policy instructions. He however, does not dispute the fact that, the ACR for the said period was not communicated to the petitioner.

3. I have heard learned counsels for the parties and perused the materials on records. In the DPC proceedings for promotion from Naib Subedar (Clerk) to Subedar (Clerk) for the year 2022 and 2023, the petitioner was graded at ‘5R’ for the periods 2016-17, 2017-18 and 2020-21, though for other periods from 2016 to 2021, apart from the period so mentioned, the petitioner was graded ‘7R’.

4. The case on examination is squarely covered by earlier judgments of this Court, wherein directions have been issued for redressal of the petitioner grievances on similar facts, such as that of the petitioner who was never communicated with the adverse entries for the period 2016-17, 2017-18 and 2020-21.

5. In this view of the matter, writ petition is disposed of with the following directions.

- i) The respondent authorities are directed to formally communicate the entries made in the ACR for the period 2016-17, 2017-18, 2020-21, to enable the petitioner to make a representation, within a period of 1(one) month after receipt of the same thereof.
- ii) The representation so presented will thereafter be decided positively within a month thereafter, taking into account the relevant parameters for consideration of promotion.

6. 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 the representation.

7. With the above directions, this writ petition is allowed to the extent indicated above and is accordingly disposed of.

Judge

Meghalaya
17.02.2025
"D.Thabrah-PS"