



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 50/2024

Date of CAV: 18.06.2025

Date of pronouncement: 09.07.2025

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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-793011.
 3. The Presiding Officer, Laitkor Centre, AR Tech and Tdn Rally 2017-2018, Mahanideshalaya, (the Directorate General of Assam Rifles) Shillong, Meghalaya-793011.
 4. The Commandant, Assam Rifles Composite Hospital, Shillong, Meghalaya-793001. ... **Appellants**

Vs.

Smt. Naresh Kumari

... **Respondent**

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 : Ms. P. Cheetri, Adv

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



J U D G M E N T

(Delivered by the Hon'ble, the Chief Justice)

Refractive errors prevent the eye from refracting light properly. LASIK is a type of refractive surgery, using laser to treat vision problems like nearsightedness, farsightedness and astigmatism caused by this error.

Assam Rifles is a para military force under the Ministry of Home Affairs performing the dual role of maintaining internal security in the North-Eastern Region of our country and guarding the Indo-Myanmar border.

On 5th January, 2017, the Ministry of Home Affairs through the Directorate General of Assam Rifles (hereinafter referred to as “the appellant”) published an advertisement for recruitment of staff nurses in the post or rank of Naib Subedar.

Eighteen posts were to be filled up. One of such posts was reserved for persons domiciled in Rajasthan, in accordance with the policy of the government. The requirements or eligibility criteria as stated in the advertisement were (a) matriculation or equivalent (b) diploma in nursing from a recognised council and (c) working



knowledge of Hindi. The candidate was to be between 18 and 25 years of age.

The issue involved in the writ petition and in the appeal is this:

The respondent/writ petitioner had qualified in the recruitment drive of Assam Rifles to fill up the one post of staff nurse from the Rajasthan quota but was disqualified in the medical examination on the ground that her vision was defective and had been sought to be corrected by LASIK surgery. Although her vision after LASIK surgery met the standards prescribed by the appellants, the very fact that this deficiency was sought to be corrected by LASIK surgery made her ineligible for the post.

She preferred the instant writ petition [*WP (C) No.410 of 2019-Smt. Naresh Kumari v. Union of India & ors*].

The writ petition was founded on the following cause of action.

The policy/guidelines for recruitment in Assam Rifles relating to medical fitness regarding vision was discriminatory between gazetted officers which included doctors and non-gazetted post of nurses by prescribing different standards for qualifying in the medical examination of vision, although they were similarly situated. Such



differentiation was unfair, arbitrary and unreasonable which is violative of Article 14 of the Constitution.

The learned judge in his impugned judgment and order dated 15th March, 2024 was of the view that there was clear discrimination “among the sect of persons working in the medical industry namely, doctors and nurses who are equally responsible for well-being of patients”. The policy/guidelines giving relaxation to gazetted officers and denying such concession to nurses “cannot stand in the eye of law”.

The following order was passed:

- “(i) The Clause No.67, being discriminatory, arbitrary and violative of Article 14 of the Constitution of India is interfered with. A direction is issued to the respondents to include both Doctors and Nurses in the Guidelines/Tabular Column to be eligible for appointment, even if they have undergone Lasik Surgery. To that extent, the Guidelines are quashed;
- (ii) Since nearly six years have gone-by, the petitioner shall undergo another medical examination and if found suitable, she shall be accommodated in the existing vacancy or in the next vacancy that may arise;
- (iii) It is made clear that without appointing the petitioner as a Staff Nurse (if medically fit other than Lasik Surgery), no other nurse shall be appointed.”

From this judgment and order, the Central government appeals before us.

Dr. N. Mozika, learned Deputy Solicitor General of India appearing for the appellants made some compelling submissions.



He said that Assam Rifles was a paramilitary force. It is highly specialised and its medical requirements very stringent. The said policy/guidelines, the medical requirements for vision have been made uniform for posts of a particular grade or type. In this force, a nurse is in the rank of Naib Subedar. She enjoys this rank along with other personnel, e.g. a driver, cook, electrician, attendant, tailor, charge mechanic etc.

Relying on the policy guidelines dated 18th May, 2012 learned counsel contended that uniformity in visual standards has been maintained laterally across the posts. In other words, persons of the same rank have been treated equally. Referring to table-1 of Annexure-I to the said policy and paragraph 67 of Annexure-II with the heading “Ophthalmic Systemic Examination”, he submitted that direct entry gazetted officers are permitted to be considered for recruitment even after having undergone LASIK. Referring to table-3 of Annexure-I, he said that similarly all subordinate officers which included nurses have been treated equally making them ineligible for consideration if they had undergone visual correction of any kind “even by glasses.” Hence, according to learned counsel, there was no breach of the principle of



equality. Neither, there was discrimination between any two sections or groups of personnel or candidates.

The requirement that nurses cannot undergo any vision correction through glasses or LASIK is a policy perception of the appellants with which the courts should not interfere. The said policy/guidelines are fair and reasonable not discriminatory or arbitrary. The learned judge committed an error by striking down that part of the policy which disentitled candidates who have to undergo the above corrective procedure for consideration for selection as nurses, it was further submitted.

He contended that by the same judgment and order the entire selection process for nurses had been stalled.

Discussion:

The respondent/writ petitioner underwent medical fitness test before the appellant's medical practitioner on 10th May, 2018. It issued a medical certificate declaring her as unfit with defective distant vision (<6/12). She asked for review of this declaration.

About the same time, she underwent LASIK surgery.

A further medical examination was conducted on 8th June, 2018. A report was made by the Specialist Medical Officer Grade-I (Eye) to



the effect that the vision of the respondent was <6/6 and 6/6 in the right eye and there was a “LASIK scar seen in both cornea”.

For that reason, the review medical examination report dated 8th June, 2018 declared her unfit, although her vision was within acceptable standards.

First of all, it has to be made clear that what we are dealing with are policy/guidelines dated 18th May, 2012 issued by Police-II Division, Ministry of Home Affairs, Government of India prescribed in visual standards for recruitment and retention in service of personnel of the Central Armed Police Force (CAPF) and Assam Rifles (Ars). This Court is concerned with the application of this policy to Assam Rifles.

Now, this policy is not to be taken as a piece of subordinate legislation.

The principles of law which the courts follow to adjudicate upon a policy decision have to be applied here.

The most ordinary principles which would be applicable are that normally, policy decisions are the result of specialised enquiry which the government makes with regard to a subject-matter, conducted by experts in the field. Normally, the courts would not interfere in those policy matters. It is said that a government policy matter is not to be



interfered with by the courts. This legal principle cannot be treated as absolute. When it comes to dealing with an issue so as to evolve a policy decision, specialised expert opinion on it concerning the same, technical matters, the financial and economic impact, requirements of the population etc. are involved. The executive is the best judge of its efficacy. The court should refrain from evaluating and adjudging the policy decision.

Any policy is required to be in conformity with the Constitution and the laws. When the court finds that a particular policy is violative of the Constitution or the law or is arbitrary, most unreasonable, in abuse of power or discriminatory of a section of population or has been made with mala fide intent, it has the power to strike it down or strike down a part of it.

In the above policy guidelines, there are provided visual standards for various categories of personnel which are divided into tables 1-5 in Annexure-I thereof. Annexure-II deals with ophthalmic systemic examination.

Paragraph 67 of the second Annexure dealing with refractive surgeries lays down that candidates who have undergone LASIK surgery may be considered fit for recruitment in the post of direct entry



gazetted officers. Higher ranking officers are usually by direct recruitment which is gazetted.

In table-1 of Annexure-I direct entry gazetted officers whose age of entry is between 20 to 30 years, LASIK surgery for correction of eyesight is permitted subject to some conditions in the policy.

What is an issue in the writ and in this appeal is the stipulation in table-3 of Annexure-I with regard to subordinate officers whose induction is between the age of 18 and 35. The type of vision which is prescribed is N6 and N9 for better eye and worse eye respectively for near vision and 6/6 and 6/9 for better eye and worse eye respectively for distant vision. Then comes the controversial prescription: “visual correction of any kind is not permitted even by glasses.” This simply means that those who have undergone LASIK surgery to achieve the vision standard prescribed would be disqualified.

Now, in Assam Rifles newly recruited nurses are also ranked as subordinate officers. In case of other officers whose services are akin to those in the armed forces, such a stipulation regarding eyesight or vision might be tenable and reasonable. Why this kind of a stipulation is enforced against nurses whose nature and type of work could not be



affected at all by refractive surgery or by glasses provided their vision on clinical examination is adequate for the type of work they do?

I have carefully perused the tables appended as annexures to the said policy. As observed earlier, for direct entry gazetted officers, a visual standard is prescribed which could be arrived at by undergoing a LASIK surgery. The same policy has been made applicable to other gazetted officers particularised in table-2, e.g. medical officers, dentists, veterinary officers, engineers and so on. However, for subordinate officers visual standards as provided in table-3 have been prescribed. In this category nurses are also included.

I have not gone into the reasonableness of this policy as applicable to the other posts in table-3 but I am firmly of the view that prescribing this vision standard for nurses is wholly improper, absolutely unreasonable and discriminatory. I fail to see how the quality of vision required by nurses be different from those prescribed for direct entry gazetted officers like doctors, dentists, veterinary officers and engineers in tables 1 and 2. Nurses are more or less similarly situated as the above medical personnel and therefore, the standard mentioned in table-1 and table-2 should apply to them.



The argument of Dr. Mozika is completely flawed and not accepted by me. As rightly observed by the learned single judge that whereas doctors who are direct entry officers have been exempted from disqualification on the ground of having undergone laser, nurses being paramedics have been disqualified if they have undertaken the same medical procedure.

In my opinion, this kind of differentiation in requirement in the personnel in the same rank is wholly arbitrary and unreasonable. I see no reason why a nurse having undergone refractive surgery could be disqualified when directly recruited doctors are not. The basis of classification of nurses is grossly erroneous. Independent attention should have been given to this medical condition when its application to nurses was being considered. We are not concerned with the entire policy. It is not under challenge. I only hold that the requirements of table-3 with regard to subordinate officers shall be disappplied in case of nurses and that paragraph 67 above would apply also to nurses.

This appeal is dismissed. The impugned judgment and order dated 15th March, 2024 is affirmed with the modification that the



respondent/writ petitioner's eye examination report shall be revised by the appellants, according to the findings above and she be selected to the post of Nurse (Naib Subedar) in the Rajasthan vacancy immediately. All other posts advertised may also be filled up in accordance with law.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice