



Serial No.02
Supple List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No.408 of 2022

Date of Order: 06.02.2025

Shri. Om Prakash Rao
S/o Late Lalita Prasad Rao
R/o Village-Phardaha,
PO- Mathoul Bazar,
District –Deoria (Kushinagar)
Presently residing at
House No. 200B
Shivapuram Basharatpur
District – Gorakhpur (UP)
273004.

Vs. 1.The Union of India, Represented
by the Secretary to the Government
of India, Ministry of Home Affairs,
North Block, New Delhi-110011.

2.The Director General of Assam
Rifles, Directorate General of
Assam Rifles, Laitkor, Shillong-10.

3.OIC, Pension/NE, Record Branch
Director General Assam Rifles,
Laitumkhrah, Shillong,
East Khasi Hills District,
Meghalaya – 793011.

4.The Comandant
3rd Assam Rfiles
C/o 99 APO

....Petitioner

.....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Jha, Adv.

For the Respondent(s) : Dr. N. Mozika, DSGI. with
Ms. N.A.U. Zogra, Adv.

**ORAL:-**

Heard Mr. R. Jha, learned Counsel appearing for the petitioner and Dr. N. Mozika, learned DSGI appearing for the respondents.

By this application, the petitioner has raised his grievance against non-payment of invalid pension by the respondents. The petitioner, enrolled in the service of the Assam Rifles as Rifleman on 22-01-1975, was boarded out of service w.e.f. 09.02.1978 vide discharge certificate dated 22-01-1978. The grievance of the petitioner before this Court is that in spite of his discharge, he has not been paid his invalid and disability pension as per the rules and the related Office Memorandum. The petitioner contended that consequent to his discharge from service, he has approached the respondent-authority several times but, till date nothing material has been done in this regard. Having no other alternative, the petitioner has approached this Court for a direction to the respondents for grant and release of disability pension as admissible in accordance with law.

Mr. R. Jha, learned Counsel for the petitioner, drawing attention of this Court to a communication dated 02-07-2021, submitted that the petitioner was directed to get his percentage of disability assessed by a District Government Hospital and submit the report to the office of the DGAR, Shillong. It is the submission of the learned Counsel for the petitioner that as per the above requirement, the petitioner got himself physically examined and the disability was assessed at 50 per cent. However, in spite of the assessment of his disability, by letter dated 14-12-2021, the petitioner was recommended to be referred to the BSF Composite Hospital, Shillong for obtaining remarks of the specialist in terms of the Central Civil Services Extraordinary Pension Rules. It is submitted that



though the petitioner has made himself available for fulfillment of all the formalities, the respondent-authority till date has not come forward to do the needful as required by the communication dated 14-12-2021. The learned Counsel, therefore, contends that necessary direction be issued to the respondents to complete the requirement that may be necessary for grant of invalid and disability pension to the petitioner.

Dr. N. Mozika, learned DSGI for the respondents, on the other hand, submits that petitioner has approached this Court after a huge delay and that is precisely the reason why the petitioner's case could not be proceeded. It is also the submission of the learned DSGI that in absence of any determinative factor with regard to the percentage of permanent disability of the petitioner, no order as to the entitlement of the petitioner can be passed by the department. He, therefore, submits that the petitioner shall make himself available before the concerned authority of the department and get himself assessed in order to justify his claim for entitlement of pension.

After a careful scrutiny of the materials on record and the submissions advanced by the learned Counsels for the parties, it is amply clear that the petitioner was asked by the respondents to submit a report from a District Government Hospital with regard to the assessment of percentage of permanent disability, which was done by the petitioner. The petitioner was also referred to the BSF Composite Hospital Shillong for obtaining necessary remarks in that regard. However, in spite of fulfillment of all the requirements by the petitioner, nothing has been done by the respondents to determine the entitlement of the petitioner as regard to his claim for pension.

During the course of the hearing, a copy of the Judgment and Order dated 12-09-2024 passed in WP(C) No. 341 of 2022 by a co-ordinate Bench of this Court was placed before this Court wherein in a more or less identical



situation, the Court by relying on the proposition of law laid down in 2015 (4) GLT (ML) 5 has granted relief of disability pension to the petitioner therein.

In view of the above, the instant writ petition is disposed of with a direction to the respondents to complete the requirements and formalities of assessment of disability of the petitioner within a period of 1 (one) month and thereafter to complete the entire exercise of determination of entitlement of the petitioner's disability pension within a period of 2 (two) months thereafter.

It is made clear that the petitioner shall make himself available before the appropriate authority as per the direction of the respondents without default for assessment of percentage of disability. In the event, the petitioner defaults in appearance, the time stipulated herein will stand extended accordingly. Since, the petitioner has approached this Court after a considerable period of delay as pointed out by the learned DSGI, disability pension as determined by the respondent shall commence from three years before filing of this instant writ petition. The computation of pension payable along with arrear therein be calculated by the respondent within the aforesaid total period of 3(three) months from the date on which a copy of this order is furnished to the concerned respondent authority by the petitioner.

With the above, this writ petition stand disposed of.

Judge

Meghalaya
06.02.2025
"Biswarup PS"