

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 293 of 2020

Regtl. No. JC-3400207 W Nb Sub/GD Narendra Singh,
aged about 52 years, S/o Shri Jagdish Ram, resident of NPO
Marwari Village Via Daulatput Chowk, P.O. Marwari, P.S.
Gagret, District: Una, Himachal Pradesh, PIN: 174319.

... Petitioner

-Versus-

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi-1.
2. The Director General Assam Rifles, Shillong, Pin: 793011.
3. The Commandant, 45 Assam Rifles, Pin: 932045, C/o 99 APO

...Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioner	:: Mr. Kh. Tarunkumar, Sr. Advocate asstd. by Ms. Julekha Khan, Advocate
For the Respondents	:: Mr. Boboy Potsangbam, CGSC
Date of Hearing	:: 28-08-2026
Date of Judgment	:: 17-02-2026

J U D G M E N T

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Ms. Julekha Khan, learned counsel appearing for the petitioner

and Mr. Boboy Potsangbam, learned CGSC appearing for the respondents.

The present writ petition has been filed with the prayer for quashing and setting aside the discharge certificate issued by the Commandant, 45th Assam Rifles discharging the petitioner from service w.e.f. 01-08-2016 with retiring pension coupled with the prayer for directing the respondents to allow the petitioner to continue in his service.

[2] The facts of the present case, in a nutshell, are that the petitioner was enrolled in the Assam Rifles on 05-07-1986 as a Rifleman (General Duty) and was posted at 1st Assam Rifles on completion of basic training. He was then promoted to the rank of Havildar (General Duty) on 15-02-2001, then Warrant Officer (General Duty) on 01-06-2011 and again promoted to the rank of Naib Subedar (General Duty) on 01-04-2014.

[3] The Annual Medical Examination of Personnel of Assam Rifles and cadre officers are governed by Assam Rifles Medical Examination (Categorisation and Invalidation) Rules, 1988. The petitioner's Annual Medical Examination was carried out on 30-07-2015 and his medical condition was graded as SHAPE-1 category. However, the petitioner was subsequently diagnosed

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to be suffering from "Primary Hypothyroidism" on 12-08-2015 at his unit, i.e., 45th Assam Rifles. Thereafter, the petitioner was referred to the Specialist at 183 Military Hospital for opinion where his medical category was downgraded to be placed at P2 (T-24) w.e.f. 02-09-2015. The petitioner's medical category was further reviewed on 05-03-2016 wherein he was again recommended to continue in the same Low Medical Category for another six months till 05-09-2016.

[4] The Service Review Board Meeting was held on 17-02-2016 for carrying out the service review of Assam Rifles JCOs Group "B" & "C" Non-Gazetted employees and other categories for retention in service after completion of 30 years qualifying service or on attaining 55 years of age as provided under Rule 48(1)(b) of the Central Civil Services (Pension) Rules, 1972 and FR 56(j) respectively. The said Service Review Board considered the case of the petitioner and found him medically unfit for further retention beyond 30 years of qualifying service and endorsed the following remarks:-

"The JCO is LMC case for primary Hypertension w.e.f. 02 Sept. 2015 low med cat P2(T-24). The force is dply in the CI ops area in NE States and therefore retention of JCO in LMC for P2(T-24) beyond 30 years of qualifying service or 55 years of age whichever is earlier is recommended only subject to upgradation to med cat SHAPE-1 in the next

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review Medical Board on or before completing 30 years of qualifying service."

[5] The medical condition of the petitioner was reviewed again on 05-03-2016 wherein he was recommended to continue in the same Low Medical Category, i.e., P2 for another six months till 05-09-2016. Thereafter, the authorities issued a Show Cause Notice dated 23-03-2016 informing the petitioner that in view of his physical unfitness, his retention beyond 30 years of service is not in public interest. Accordingly, the petitioner was directed to show cause as to why action under Rule 48(1)(b) of CCS (Pension) Rules, 1972, should not be initiated to retire him from service w.e.f. 01-08-2016.

In response to the said Show Cause Notice, the petitioner submitted a reply dated 09-08-2016 stating, inter alia, that his next medical review date is 25-08-2016 and hoped that he will be fully fit at the time of the next medical examination. The petitioner also requested the authorities to prepone his medical review date before he completed 30 years of service.

[6] Just two days after submission of the Show Cause Reply by the petitioner, the Office of the Directorate General, Assam Rifles, Shillong, issued an order dated 11-04-2016 in exercise of the power conferred by Clause 56(j) of the Fundamental Rules

and Rules 48(1)(b) of the CCS (Pension) Rules, 1972 thereby giving notice to the petitioner that on completion of 30 years of qualifying service for pension on 05-07-2016, he will retire from service in the forenoon of 01-08-2016. Pursuant to the aforesaid order dated 11-04-2016, the authorities issued the Discharge Certificate discharging the petitioner w.e.f. 01-08-2016 with retiring pension. The petitioner, having been aggrieved, assailed the same by filing the present writ petition.

[7] Even though the petitioner assailed the said discharge certificate by raising various grounds, Mr. Kh. Tarunkumar, learned senior counsel canvassed his argument on behalf of the petitioner only on one point. It has been submitted by the learned senior counsel that the Director General, Assam Rifles, discharged the petitioner from service in exercise of the power conferred by Clause 56(j) of the Fundamental Rules and Rules 48(1)(b) of the CCS (Pension) Rules, 1972. The argument of the learned senior counsel is that FR 56(j)(ii) mandates that the Government have the absolute right to retire any Government servant by giving him a notice of not less than three months in writing or three months' pay and allowances in lieu of such notice after he attained the age of 55 years. It has been vehemently submitted by the learned senior counsel that as the petitioner was only 48 years 9 months and 23 days on the date of

his discharge, his discharge from service is completely in violation of the provision of FR 56(j)(ii) and as such, the impugned Discharge Certificate is rendered illegal and liable to be quashed and set aside on the ground that the respondents have no power and authority to discharge the petitioner from service. To buttress his argument, the learned senior counsel cited the case law reported in **(2023) 11 SCC 466 "Captain Pramod Kumar Bajaj Vs. Union of India & anr."** wherein it has been held by the Hon'ble Apex Court as under:-

"16. The provision of Fundamental Rule 56(j) reads as under:

"FR 56(j) : The appropriate authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any government servant by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice:

- (i) If he is, in Group "A" or Group "B" service or post in a substantive, quasi-permanent or temporary capacity and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years;***
- (ii) In any other case after he has attained the age of 55 years."***

"17. As is apparent from a perusal of the aforesaid provision, it takes in its fold two elements — the first one is the absolute right of the Government to retire an employee and the second is the requirement of meeting the condition of public interest for doing so. The provision also provides for a prior notice of at least three months to the outgoing employee and mandates that the said provision can be invoked to retire a government servant only after he has attained the age of 55 years."

[8] Mr. Boboy Potsangbam, learned CGSC appearing for the respondents submitted that it is obligatory for the authorities of Assam Rifles to implement the rules under Rule 48(1)(b) of the Central Civil Services (Pension) Rules, 1972 and Fundamental Rule 56(j) for carrying out service review of Government servants on completing 30 years of service or on attaining 50/ 55 years of age to ascertain whether they are fit or unfit for further retention in service in public interest. The basic criteria for assessing fitness for further retention in service are fitness, efficiency and competence of Government servant to perform his duties. The learned counsel submitted that Service Review Board are constituted in the force to take into account the whole service records of the affected employees to ascertain their fitness and persons found unfit are made to retire from service on retiring pension in public interest with full pensionary benefits on completion of either 30 years of qualifying service or on attaining the age of 50/ 55 years as provided under Rule 48(1)(b) of CCS (Pension) Rules and Rule 56(j) of the Fundamental Rules.

[9] It has also been submitted by the learned CGSC that in the present case, the Service Review Board considered the case of the petitioner along with others on 17-02-2016 and the Service Review Board found him medically unfit for further retention beyond 30 years of qualifying service due to his Low Medical Category

P2(T-24). Taking into consideration the said recommendation made by the Service Review Board and the petitioner's Low Medical Category and also taking into account that the Assam Rifles units are deployed in hilly and inhospitable terrain with adverse climatic conditions and the requirements of physical fitness with mental robustness of a combatant personnel of Assam Rifles, which is of paramount importance, the authorities of Assam Rifles found the petitioner unfit for further retention in service beyond 30 years. In view of the above, the Director General, Assam Rifles, was of the opinion that it will be in the public interest to give notice to the petitioner by issuing an order dated 11-04-2016 that on completion of 30 years of qualifying service for pension on 05-07-2016, the petitioner will retire from service w.e.f. 01-08-2016. After giving such written notice to the petitioner, the authorities of Assam Rifles issued the impugned Discharge Certificate. According to the learned counsel, the authorities of Assam Rifles retired the petitioner from service strictly as provided under Rule 48(1)(b) of the CCS (Pension) Rules, 1972 and that the authorities have not committed any illegality in issuing the impugned Discharge Certificate.

[10] The learned CGSC further submitted that there is also gross and unexplained delay and laches on the part of the petitioner in approaching this court. It has been submitted by the learned

counsel that the petitioner was made to retire from service with full pensionary benefits w.e.f. 01-08-2016 and the petitioner has been enjoying his pensionary benefits for the last about 10 years. It has also been pointed out by the learned counsel that the petitioner have already received his retiral benefits such as Service Gratuity, Commutation Amount, Leave Encashment, etc. and as such, the petitioner cannot turn around and challenge his retirement from service, which have been done strictly in compliance with the relevant provisions of the rules. The learned counsel, accordingly, prays for dismissing the present writ petition as being devoid of merit.

[11] I have heard at length the arguments advanced by the learned counsel appearing for the parties and I have also carefully examined all the materials available on record. In the present case, the following facts are undisputed:-

- (a) The petitioner was enrolled in the Assam Rifles as a Rifleman (GD) on 05-07-1986;
- (b) He was made to retire from service w.e.f. 01-08-2016;
- (c) As on 01-08-2016, the petitioner have rendered more than 30 years of service;
- (d) The Office of the Director General, Assam Rifles, issued a Show Cause Notice dated 23-05-2016 to the petitioner

informing him that due to his existing physical unfitness, his retention beyond 30 years of service was not in public interest and directed the petitioner to Show Cause as to why action under Rule 48(1)(b) of the CCS (Pension) Rules, 1972 should not be initiated to retire him from service w.e.f. 01-08-2016;

- (e) The petitioner did not disputed his medical category as P2 (T-24) in his reply to the Show Cause Notice dated 09-04-2016;
- (f) The Office of the Director General, Assam Rifles, issued an order dated 11-04-2016 thereby giving notice to the petitioner that on completion of 30 years of qualifying service for pension on 05-07-2016, he will retire from service w.e.f. 01-08-2016;
- (g) The authorities of Assam Rifles issued the impugned Discharge Certificate of the petitioner with retiring pension; and
- (h) The petitioner have availed all his retiral benefits and enjoying pension since his retirement without any protest.

[12] Taking into consideration the above undisputed facts, this court is of the considered view that while retiring the petitioner from service the authorities have scrupulously followed the mandate of

Rule 48(1)(b) of the CCS (Pension) Rules, 1972 and this court did not find any lacuna in the process adopted by the Assam Rifles authorities while issuing the impugned Discharge Certificate for interfering with the same.

[13] With regard to the ground raised by the learned senior counsel appearing for the petitioner that the impugned Discharge Certificate had been issued illegally and in violation of the mandate of Fundamental Rule 56(j), this court respectfully cannot agree with such contention. The reason is, this court is of the considered view that the provision of Rule 48(1) of the CCS (Pension) Rules, 1972 and the provision of FR 56(j) are separate and distinct rules which can operate independently on its own without one controlling or overriding the other. For easy reference, the provisions of the said two rules are reproduced hereunder:-

F.R. 56(j):

“FR 56 (j) Notwithstanding anything contained in this rule, the Appropriate Authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Government servant by giving him notice of not less than three months in writing or three months’ pay and allowances in lieu of such notice:

- (i) If he is, in Group ‘A’ or Group ‘B’ service or post in a substantive, quasi-permanent or temporary capacity and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years;***
- (ii) In any other case after he has attained the age of fifty-five years.”***

Rule 48 of CCS (Pension) Rules, 1972:

“48. Retirement on completion of 30 years’ qualifying service

(1) At any time after a Government servant has completed thirty years’ qualifying service –

(a) he may retire from service, or

(b) may be required by the Appointing Authority to retire in the public interest

and in the case of such retirement the Government servant shall be entitled to a retiring pension:

Provided that –

(a) a Government servant shall give a notice in writing to the Appointing Authority at least three months before the date on which he wishes to retire; and

(b) the Appointing Authority may also give a notice in writing to a Government servant at least three months before the date on which he is required to retire in the public interest or three months’ pay and allowances in lieu of such notice:”

[14] There may be instances where the Government wants to evaluate the fitness of an employee, who have rendered 30 years of service but who is yet to attain the age of 50/55 years, to ascertain whether he is fit or unfit for further retention in service in public interest. In such cases, this court is of the considered view that the Government can proceed for such evaluation under the provisions of Rule 48(1) of CCS (Pension) Rules without adverting to the provisions of FR 56(j). On the other hand, there may be cases where the Government wants to evaluate the fitness of an employee, who have attained the age of 50/ 55 years but who have rendered less than 30 years of service, to ascertain whether he is fit or unfit for further

retention in service in public interest. In my considered view, in such cases, the Government can resort to the provisions of FR 56(j) for such evaluation independently and without adverting to the provisions of Rule 48(1)(b) of the CCS (Pension) Rules, 1972. Retiring an employee from service by resorting to the provision of Rules, either under Rule 48(1) of the CCS (Pension) Rules or under FR 56(j) independently cannot be regarded as illegal so long as all the requirements mandated under the said two rules are fulfilled.

[15] In the present case, as the petitioner had been made to retire from service w.e.f. 01-08-2016 and as he had availed all the retiral benefits and enjoying his pensionary benefits since his retirement without any protest, this court is of the considered view that it will not be in the interest of justice to upset this settled position at this point of time. In the result, the present writ petition fails and accordingly, the same is hereby dismissed, however without any order as to cost.

JUDGE

Devananda

FR/NFR