

GAHC010036252025



2026:GAU-AS:1401

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1124/2025

NO JC 104154 NAIB SUBEDAR GD GENERAL DUTY RAMRAJ PRASAD
MAJHI
S/O- LATE DWARIKA NATH MAJI ,
10TH ASSAM RIFLES, C O 99 APO, PRESENTLY SERVING AS NAIB
SUBEDAR GD GENERAL DUTY 13TH NDRF, ASSAM RIFLES, C O 56 APO

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE SECRETARY THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIR NEW DELHI 110001

2:THE DIRECTOR GENERAL
ASSAM RIFLES
HEAD QUARTER
DIRECTORATE GENERAL
ASSAM RIFLES SHILLONG 11

3:THE COMMANDANT 10TH ASSAM RIFLES
C O 99 APO
PIN 932010

4:THE COMMANDANT 13TH NATIONAL DISASTER RESPONSE FORCE
ASSAM RIFLES C/O 56 AP

Advocate for the Petitioner : MR V KUMAR, MR. T NATH,MR B PATHAK,MS M TIWARI

Advocate for the Respondent : DY.S.G.I., MR. B CHAKRAVARTY (RC.G.C)

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : 04.02.2026

Whether the pronouncement is of
the operative of the judgment? : No

Whether the full judgment has been
pronounced? : Yes

JUDGEMENT(Oral)

Heard Mr. B. Pathak, learned counsel for the petitioner. Also heard Mr. B. Chakravarty, learned Central Government Counsel for the respondents.

2. By filing this writ petition, the petitioner has prayed for a direction to the respondent authorities to consider his case for promotion to the rank of Subedar/GD (General Duty) as per his seniority, i.e. with effect from the date when his junior was promoted, by expunging/ignoring any uncommunicated adverse entry in his Annual Confidential Reports (ACRs) and to grant all consequential service benefits.

3. The case of the petitioner, in brief, is that he was enrolled in the Assam Rifles on 14.04.1986 as a Rifleman/GD and was posted to the 10th Assam Rifles

in the year 1987. He was promoted to the rank of Havildar/GD in the year 2003 and subsequently to the rank of Warrant Officer/GD in the year 2015 and thereafter to the rank of Naib Subedar/GD in the year 2018.

4. It is the contention of the petitioner that after promotion to Naib Subedar/GD, his next higher promotional rank is Subedar/GD. The petitioner has completed the qualitative requirements for promotion and being the senior-most Naib Subedar in his category, was due to be considered for promotion in the year 2024. Despite his eligibility, the petitioner has been deprived of promotion, while the said benefit has been granted to his juniors. Aggrieved by the said action, the petitioner approached the respondent authorities for the grant of promotion as per his seniority or to communicate the reason for non-consideration of his promotion. Despite requesting the respondents to communicate the reason, his grievance was ignored. Thereafter, the petitioner served a legal notice dated 30.11.2024 seeking promotion as per his seniority.

5. It is contended that the respondent authorities, vide letter dated 27.12.2024, informed the petitioner that his case had been considered by the Departmental Promotion Committee (DPC) held in the year 2024, wherein, his last five Annual Confidential Reports/Annual Performance Assessment Reports (ACRs/APARs) for 2019-2023 were examined and he was graded "High Average" (05 points) in 2019, below the prescribed benchmark of "Above Average" (07 points) i.e. "Very Good" required for promotion. Consequently, the name of the petitioner was not recommended for promotion to Subedar/GD, being ineligible under the ACR criteria.

6. It is contended that that no adverse entry in his ACRs/APARs had ever been communicated to the petitioner and he was unaware of the same until receipt of the reply dated 27.12.2024. It is the settled position of law that every ACR/APAR must be communicated to the concerned employee and consideration of any uncommunicated entry is impermissible. Since the petitioner's ACR for the year 2019 was not communicated to him, it could not lawfully be taken into account for denying his promotion to the rank of Subedar/GD with effect from 01.04.2024.

7. Mr. B. Pathak, learned counsel for the petitioner, submits that the petitioner has rendered more than 38 years of unblemished service to the organization and is now at the fag end of his service career. Except for the grading in the ACR, which was below the prescribed benchmark required for promotion, the petitioner fulfills all the promotional qualitative requirements. The entries/remarks in the petitioner's ACR have never been communicated to him, thereby depriving him of the opportunity to raise his grievance by way of a representation in terms of the relevant provisions, which the respondents have expressly violated.

8. Mr. Pathak, learned counsel, while referring to the judgments of the Hon'ble Supreme Court in the cases of **Dev Dutt vs. Union of India & Ors.**, reported in **(2008) 8 SCC 725** and **Sukhdev Singh vs. Union of India & Ors.**, reported in **(2013) 9 SCC 566**, which have been reiterated in the subsequent cases, submits that law relating to recording of Annual Confidential

Report (ACR) and its communication, has been settled by the Hon'ble Supreme Court, wherein it has held that uncommunicated remarks in the ACRs cannot be acted upon and are directed to be expunged. Therefore, he submits that a direction may be issued to the respondent authorities to grant the promotion to the petitioner on fulfilling all the promotional qualitative requirements by ignoring the uncommunicated entry/grading in the ACR.

9. Mr. B. Chakravarty, learned CGC for the respondents, submits that for grant of promotion, the petitioner's case was considered by the Departmental Promotion Committee (DPC) held in the year 2024. The last five Annual Confidential Reports (ACRs) for the years 2019-2023 were taken into account to ascertain eligibility for promotion. It was revealed that the petitioner had been graded "High Average" by his Initiating Officer and Reviewing Officer in the ACR for the year 2019, which is below the prescribed benchmark of "Above Average" or "High Average" required for promotion. Consequently, the petitioner was found ineligible for promotion and his immediate junior was promoted to the rank of Subedar/GD with effect from 01.04.2024.

10. Mr. B. Chakravarty, learned CGC submits that the respondent authorities have acted strictly in accordance with the extant policy. The claim of the petitioner for promotion is not sustainable, as he did not meet the prescribed ACR criteria. A legal notice submitted by the petitioner was duly received and a reasoned reply was provided vide letter dated 27.12.2024. He submits that Assam Rifles transitioned to the Annual Performance Assessment Report (APAR) system in 2021, whereas the ACR system governed by Record of Instructions

(ROI) 04/1997 was followed prior to that. As per the ROI, confidential reports are not shown to a JCO except where weak or adverse assessments are required to be communicated. In the instant case, the petitioner's ACR for the year 2019 did not contain any adverse remarks and was graded based purely on his performance during the assessment period. Therefore, non-communication of the ACR does not constitute any violation of Rules or arbitrariness.

11. Mr. B. Chakravarty, learned CGC, submits that the ACR grading is a mandatory criterion for promotion. Since the petitioner's grading fell below the prescribed benchmark, he was rendered ineligible for promotion and his supersession in the DPC held on 2024, was strictly in accordance with the extant policy. He submits that promotion in the Assam Rifles is carried out strictly as per seniority and subject to fulfillment of the prescribed qualitative requirements. Therefore, no injustice has been caused to the petitioner, nor any of his legal or constitutional rights have been infringed. Accordingly, the present petition is without merit and is liable to be dismissed.

12. I have considered the submissions of the learned counsels for the parties and also perused the materials available on record.

13. The petitioner, who enrolled as a Rifleman/GD in the year 1986 and posted to 10th Assam Rifles, was promoted from time to time to different higher ranks, the last being the rank of Naib Subedar/GD in the year 2018. The petitioner admittedly has completed the qualitative requirements for promotion to the post of Subedar/GD being the senior most Naib Subedar/GD. The non-

recommendation for promotion by the DPC appears to be due to the grading of "High Average" by his Initiating Officer and Reviewing Officer in the ACR for the year 2019, which is below the prescribed benchmark of "Above Average" required for promotion.

14. Record reveals that admittedly the entry/grading in the ACRs of the petitioner was never communicated to him. The entry/grading in the APAR/ACR requires the Reviewing Authority to ensure communication of the APAR/ACR to the ratee. Thus, the respondent authority ought to have communicated the entry/grading on the APAR/ACR to the petitioner.

15. The law relating to the recording of ACRs/APARs has been well settled by a catena of judgments of the Hon'ble Supreme Court, right from **Dev Dutt** (supra) to **Union of India v. G.R. Meghwal**, reported in **2022 SCC Online SC 1291**. The Hon'ble Supreme Court has held that every entry, irrespective of whether it is poor, average, good, very good, or outstanding, should be communicated to the concerned government servant within a reasonable period. Non-communication of such an entry may adversely affect the employee. Thus, non-communication of any entry/grading in the APAR is arbitrary and violative of Article 14 of the Constitution of India. Accordingly, an uncommunicated entry/grade in an ACR/APAR cannot be acted upon and deserves to be expunged.

16. In the present case, as noted above, although the respondents have submitted that the grading was fair and based on performance without any

adverse remark, it is undisputed that the entry/grade in the APAR of the petitioner was not communicated to him, which is not in accordance with the law. However, the authorities have acted on the said uncommunicated entry/grading of the APAR, thereby depriving the petitioner from being promoted to the post of Subedar/GD, to which the petitioner is legally entitled and therefore, such action is illegal and as such, same deserves to be interfered with.

17. In view of the above, the action of denying promotion to the petitioner to the post of Subedar/GD on the basis of uncommunicated entry/grading in the ACR is not sustainable. Accordingly, the respondent authorities are directed to ignore the uncommunicated entries/grading in the ACRs/APARs of the petitioner for the year 2019 and grant promotion to the post of Subedar/GD as per his seniority from the date when his junior was promoted, along with all consequential service benefits, within a period of three (3) months from today.

18. Writ petition stands allowed and disposed of.

JUDGE

Comparing Assistant