



Serial No.01  
Supp. List

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WA. No. 34 of 2023

Date of Decision: 14.11.2024

JC-361315Y Sub Maj CLK (Retd),  
Radha Krishna Nair KM  
Son of K Madhavan Nair  
Aged 61 years  
Resident of Electupara (PO),  
Pathanamthitta District,  
Kerela – 689656.

...Appellant

-Versus-

1. The Union of India  
Represented by the Secretary  
Govt. of India,  
Ministry of Home Affairs,  
New Delhi -110 001.
2. The Director General,  
Head Quarter,  
Directorate General of Assam Rifles,  
Laitkor, P.O. Happy Valley,  
East Khasi Hills, Meghalaya.
3. The Brigadier (Personal)  
Head Quarters,  
Directorate General of Assam Rifles,  
Laitkor, P.O. Happy Valley,  
East Khasi Hills, Meghalaya.



4. The Colonel (Administration),  
Head Quarter,  
Directorate General of Assam Rifles,  
Laitkor, P.O. Happy Valley,  
East Khasi Hills, Meghalaya.

...Respondents

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**Coram:**

**Hon'ble Mr. Justice H.S.Thangkhiew, Judge**  
**Hon'ble Mr. Justice B.Bhattacharjee, Judge**

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**Appearance:**

For the Petitioner/Applicant(s) : Mr. M.Chanda, Adv.  
Mr. M.L.Nongpiur, Adv.

For the Respondent(s) : Mr. R.Debnath, CGC.

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| i)  | Whether approved for reporting in<br>Law journals etc: | Yes/No |
| ii) | Whether approved for publication<br>in press: _        | Yes/No |
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**JUDGMENT AND ORDER**

**Per H.S.Thangkhiew, Judge**

1. The instant writ appeal has been preferred against the judgment and order dated 13-12-2022, whereby the learned Single Judge, by the said judgment had dismissed WP(C). No. 128 of 2017.



2. The brief facts of the case are that the appellant, as writ petitioner, had approached this Court against the denial of promotional benefits upto the rank and status of Second-in-Command (2IC) at par with other Central Paramilitary Forces, which is stated to be in violation of the judgment and direction dated 23-08-2012, passed in WP(C). No. 277 (SH) of 2010. The grounds for assailing the impugned judgment and order dated 13-12-2022, is that the denial of promotional avenues from Clerical Cadre in Assam Rifles upto the rank of 2IC at par with other Central Paramilitary Forces, which has implemented only a portion of the judgment and order dated 23-08-2012, is arbitrary and liable to be interfered with.

3. Mr. M. Chanda, learned counsel for the appellant has submitted that in the judgment and order dated 23-08-2012, passed in WP(C). No. 277 (SH) of 2010, this Court had directed for parity in respect of rank, structure and pay of the Assam Rifles Clerical Cadre at par with other Central Police Organisations by introducing the rank of Assistant Sub-Inspector (Warrant Officer) at the entry grade with effect from 01-01-1996. He further submits that this order was challenged before the Supreme Court, but the same was dismissed by order dated 17-11-2015, which upheld the order of the learned Single Judge dated 23-08-2012. The learned counsel submits that the grievance that remains is that promotional benefits upto the rank of Second-



in-Command has been denied on the ground that the Assam Rifles has maintained parity in the upper line of the rank structure only upto Subedar Major. It is argued that the learned Single Judge has failed to appreciate that the phrase 'rank structure' included all ranks including the rank of 2IC as available in other Central Police Organisations since the phrase 'rank structure' has been specified by the words 'at par with other CPOs'. The learned counsel submits that the order dated 23-08-2012, has not mentioned about any specific rank, nor excluded the rank of 2IC in its judgment.

4. It has been further contended that the learned Single Judge failed to appreciate that the decision of the Ministry of Home Affairs denying the benefit of promotional avenues upto the rank of 2IC has amounted to an interference with the order dated 23-08-2012, especially when such direction is contained in para 14 of the said judgment thereof. It is also asserted that learned Single Judge failed to appreciate the denial of equal opportunity of promotion to the appellant upto the rank of 2IC, amounts to denial to bring parity in respect of status, rank structure and pay of the Assam Rifles Clerical Cadre at par with other CPOs.

5. Mr. R.Debnath, learned CGC appearing for the respondents, maintains that as per the judgment dated 23-08-2012, the rank of Warrant Officer was introduced and all consequential benefits such as rank, revision



of pay and allowance including arrears was paid to all affected persons including the petitioner herein. With regard to the question of denial of promotional avenues, it has been submitted that the grant of parity in the ranks as per the other CPOs, has no connection with the rationalization of Officer (Grade A) ranks of the Assam Rifles, nor does it provide for an automatic avenue for promotion to personnel who are within Group B for promotion to Group A Officer Cadre, as both Groups are governed by separate recruitment rules. He submits that the only way for personnel from the Clerical Cadre to be considered for promotion to the rank of Assistant Commandant and onwards to Deputy Commandant, Second-in-Command (2IC) and then Commandant, is by way of a limited departmental competitive examination which ensures that an Officer is fairly selected from any trade including Clerical Cadre. He further submits the petitioner, having enrolled as a ministerial staff (in Group B or C), now holding the post of Subedar (Clerk), his next promotion will be as Subedar Major in Group B as per the existing recruitment rules and therefore, his claim for promotion to Group A Officer Cadre, is against the existing norms and cannot be accepted. It is also added by learned counsel that the issue of promotional avenues for personnel from the clerical cadre in the Assam Rifles had received the attention of the Ministry of Home Affairs and in reply to a query thereto, the Assam Rifles had communicated by referring to



the judgment dated 23-08-2012, to state that the operative part of the said judgment only refers to parity of rank and pay structure at par with other CPOs, by introducing the rank of Assistant Sub-Inspectors (Warrant Officer) at the entry grade and not for grant of promotional avenue upto the rank of 2IC.

6. Having heard learned counsel for the parties and studying the impugned order of the learned Single Judge, it is noted that the point in issue has been duly considered and carefully examined by the learned Single Judge as to whether the petitioner who is serving as a Subedar (Clerk) can be considered for promotion through the normal channel upto the rank of 2IC. It is also noted that the learned Single Judge has narrated and illustrated the sequence and the chain of events as they have unfolded, whereby the rank and pay structure in the Assam Rifles Clerical Cadre was brought in parity with other CPO/CAPF/CPMF with the introduction of the rank of Warrant Officer (Assistant Sub-Inspector) at the entry grade. It is also seen that the learned Single Judge has noted that the Assam Rifles as well as other CPOs including the CRPF are governed by their respective recruitment rules, which have provided for the manner and procedure of promotion from the ranks which defers from each other.



7. The findings of the learned Single Judge contained in paragraphs 25, 26 and 27 which are relevant are reproduced herein under:

*“25. However, as submitted by the learned CGC, over and above this, the Assam Rifles as well as the other CPOs including the CRPF are governed by their respective Recruitment Rules indicating the pattern and procedure of promotion in the ranks, which differs from each other. A comparative table of this has been set out by the respondents at para 53 (c) of the affidavit-in-opposition which is reproduced below as:*

S/N o	CAPFs	Assam Rifles
(a)	Constable	Rifleman
(b)	Head Constable	Havildar
(c)	Asst Sub Inspector	Warrant Officer
(d)	Sub Inspector	Naib Subedar
(e)	Inspector	Subedar
(f)	Assistant Commandant i) 50% direct entry ii) 17.5% LDCE iii) 32.5% Local Promotion	Capt/Asst Comdt i) 80% deputation from Indian Army ii) 20% from LDCE

*26. Again, it is to be noted that the learned CGC has submitted that in the Assam Rifles, there are different sets of Recruitment Rules for personnel who are under Group B & C which is the clerical cadre and those under Group A which is the Officers cadre as indicated at para 16 above. This being so, admittedly, the petitioner falls under Group B & C and the post of Second-in-Command (2IC) is found in Group A. Therefore, there is no linear avenue of promotion from the rank of Havildar (Clk) in Group B & C to the post of Commandant in Group A. This does not mean that the promotional avenue has been stopped or blocked altogether since personnel in*



*the clerical cadre are eligible to be promoted and to come over to the ranks found in Group A, albeit, after successfully competing or being found suitable within the 20% quota for Limited Departmental Competitive Examination (LDCE).*

*27. Since it has been established that there exist two categories of cadre in the Assam Rifles, that is, Officers cadre and Clerical cadre, the relevant order of this Court in WP(C) No. 277(SH) of 2010 dated 23.08.2012, particularly at para 14 clearly indicates that parity of rank and pay structure of the Assam Rifle is to be affected only in the 'Clerical cadre' and there is no mention of 'Officers cadre' in the said order".*

**8.** On consideration of the totality of the facts and circumstances of the case, especially on the point that is well defined as given in the chart which has been reproduced in the judgment of the learned Single Judge, reflecting the fact that post of 2IC is a Group A post, governed by the Assam Rifle's own recruitment or selection procedure, there is no infirmity in the order of the learned Single Judge and accordingly, the instant appeal being without any merit is dismissed.

**(B.Bhattacharjee)**  
**Judge**

**(H.S.Thangkhiew)**  
**Judge**