

IN THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR:  
TRIPURA:MIZORAM AND ARUNACHAL PRADESH)

**SHILLONG BENCH**

**WP(C)No.(SH)132 of 2011**

Shri Kamal Kant,  
S/o Shri Piarakak,  
R/o Assam Rifles Composite Hospital,  
Shokhuvi, C/o 99 APO

: Petitioner

versus

1. Union of India,  
Through the Secretary,  
Ministry of Home Affairs,  
Government of India, North Block,  
New Delhi.

2. The Director General of Assam Rifles,  
PO Laitkor, Shillong-10, East Khasi Hills  
District, Meghalaya.

3. The Brigadier (Personnal),  
HQ Directorate General Assam Rifles,  
Laitkor, PO Laitkor, Shillong-10,  
East Khasi Hills District, Meghalaya.

4. The Colonel Medical,  
HQ Directorate General Assam Rifles,  
Laitkor, PO Laitkor, Shillong 10,  
East Khasi Hills District, Meghalaya.

5. The Colonel (Administration),  
HQ Directorate General Assam Rifles,  
Laitkor, PO Laitkor, Shillong 10,  
East Khasi Hills District, Meghalaya.

6. The Colonel Records,  
HQ Directorate General Assam Rifles,  
Laitkor, PO Laitkor, Shillong 10,  
East Khasi Hills District, Meghalaya.

7. The Colonel General Staff,  
HQ Directorate General Assam Rifles,  
Laitkor, PO Laitkor, Shillong 10,  
East Khasi Hills District, Meghalaya.

8.The Registrar cum Secretary,  
Pharmacy Council of India,  
(Constituted under the Pharmacy Act,  
1948), Kotla Road, Aiwan-E-Ghalib Marg,  
Post Box No.7020, New Delhi-02

9. The Secretary,  
Ministry of Health,

Government of India,  
North Block, New Delhi.

10. The Section Officer,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi.

11. The Director of Police Finance,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi.

: Respondents

B E F O R E  
THE HON'BLE MR JUSTICE T VAIPHEI  
THE HON'BLE MR JUSTICE PK SAIKIA

For the petitioner : Mr R Jha, Advocate

For the respondents : Mr SC Shyam, CGC

Date of hearing : 25.05.2012

Date of judgment and order : 25.05.2012

JUDGMENT AND ORDER (ORAL)

T Vaiphei,J

After hearing Mr R Jha, the learned counsel for the petitioner and Mr SC Shyam, the learned CGC, and after going through the affidavit-in-opposition filed by the respondent authorities, we are of the view that this writ petition does not really survive for consideration and is being disposed of today by this order.

The petitioner is questioning the legality of the Recruitment Rules namely "Assam Rifles (Group 'C' Combatised Post) Recruitment Rules, 2000, pertaining to the post of Havildar Pharmacist whereby 3 years Diploma in Pharmacist from a recognized Institution was prescribed as one of the essential qualifications which, according to him, is in contravention of the Recruitment Rules of the other Central, Para Military Forces as well as the qualification prescribed by the Pharmacist Council of India. It may be noted that the same subject matter had come up for consideration in WP(C) No. 49(SH) of 2010 before this Court at the behest

of the same petitioner. This Court vide order dated 26.7.2010, disposed of the writ petition in the following terms:-

“ By this writ petition, the petitioner is questioning the vires of a portion of the Recruitment Rules pertaining to educational qualification for the post of Havildar (Pharmacist) mentioning the technical qualification as three years diploma in Pharmacy from a recognized Institution.

Mr SC Shyam, learned CGC appearing for the respondents submits at the Bar that he has received instruction that the respondents themselves are going to amend the offending portion of the recruitment Rules mentioned above and there may not be any grievance of the petitioner.

Mr Shyam, also frankly submits that as per information so far received by him there is no three years diploma course on Pharmacist and course for diploma is only two years.

Since there is assurance given by the learned CGC, we are of considered view that there is no point in lingering the present writ petition. Accordingly, the present writ petition is closed, however, with the condition that in case the offending portion of the Recruitment Rules for Havildar (Pharmacist) is not corrected within reasonable time, preferably within two months, in the light of the assurance made by Mr Shyam, learned CGC, petitioner is at liberty to approach this Court by filing writ petition afresh.

Writ petition is closed and disposed of.”

The assurance given by the learned CGC therein has not apparently been acted upon by the respondent authorities, which prompted the petitioner to initiate this second round of litigation before us. The affidavit-in-opposition filed by the respondent authorities reveals that the respondents authorities are also presently seized with the matter, and the averments made by them in the 4<sup>th</sup> sub para of paragraph 14<sup>th</sup> of the affidavit-in-opposition is relevant for our purpose and are reproduced herein below:-

“ The respondent would further submit that the Recruitment Rules of Havildar/Pharmacist have been amended as per Fast Track Committee Report and Pharmacist council of India's prescribed minimum educational qualification required for enrolment of pharmacist. The amended Recruitment Rules have been forwarded to MHA for approval and notification on 05.08.2010 vide HQ DGAR letter dated 05.08.2010, 30.09.2010 and 18.11.2010 and the same returned from the MHA with observation vide their noting sheets dated 31.08.2010, 02.11.2010 and 23.11.2010 respectively and finally submitted to MHA on 21.01.2011 vide HQ DGAR letter dated 21.01.2011 duly rectified

observations and still with MHA for notification and same will be implemented on receipt from the MHA.”

On the basis of the aforesaid averments made by the respondent authorities, it becomes obvious that it is just a matter of time for the respondent authorities to complete amendment of the concerned Recruitment Rules to meet the aspiration of the petitioner in the writ petition. The need for further adjudication of the dispute raised by the petitioner is, therefore, stands obviated. Resultantly, this writ petition stands disposed of by directing the respondent authorities to amend the Recruitment Rules in terms of their averments in sub-para 4 of para 14 of the affidavit-in-opposition within a period of three months from the date of receipt of this order.

JUDGE

JUDGE

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