

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 323 of 2017

Date of Order: 30.07.2019

Shri Aboni Phukan Vs. The Union of India & 5 Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

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

For the Respondent(s) : Ms. G. Sharma, Adv.
vice Mr. R. Debnath, CGC

i) Whether approved for reporting in Law journals etc. Yes/No

ii) Whether approved for publication in press: Yes/No

ORAL

1) In the instant case the grievance of the petitioner as projected is that the petitioner was due for promotion as Subedar Major Clerk but he was not promoted and superseded by his juniors on the ground that he lacked the Annual Confidential Report criteria. On the representation the said Annual Confidential Reports, the respondent authorities rejected the same vide the letter dated 03 Oct, 2017. Hence the instant writ petition.

2) Mr. R. Jha, learned counsel for the petitioner at the outset submits that the case of the petitioner is covered by the decisions of the Hon'ble Supreme Court and also by this High Court which are quoted herein below:-

- i) Dev Dutt v. Union of India & Ors. (2008) 8 SCC 725
- ii) NB Sub Karan Singh v. Union of India & Ors. 2015 (2) GLT ML 100
- iii) Order dated 7.12.2011 in the case of Shri Anand Kumar Roy v. Union of India in WP(C) (SH) No. 166 of 2009

3) The learned counsel submits that as the matter in question is squarely covered by the judgments as placed above, the petitioner may be allowed to make a representation against the said Annual Confidential Reports for consideration of his promotion.

4) Ms. G. Sharma, vice counsel of Mr. R. Debnath, learned CGG submits that she has no submission to make in view of the pronouncements by the Hon'ble Supreme Court and also by this High Court on the same subject matter.

5) I have heard learned counsel for the parties, examined the materials on record and also the judgments as cited by the learned counsel for the petitioner, I am in agreement that the instant case is covered by the said judgments as cited.

6) In the circumstances therefore the respondent authorities are directed to communicate the entries made in the ACR to the petitioner to enable him make a representation, if he so, chooses within a period of 1(one) month. The representation so presented will be decided within a period of 1(one) month thereafter in accordance with law. Further, it is directed that if the entry is upgraded in consideration of the representation, the respondent authorities thereafter shall consider the case of the petitioner for promotion retrospectively by holding a DPC. The entire exercise shall be within a period of 6(six) months from the date of receipt of the certified copy of this order.

7) Accordingly, the writ petition is allowed to the extent as indicated above and disposed of.

JUDGE

Meghalaya
30.07.2019
"V. Lyndem PS"