

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 25 of 2020

Date of order: 31.01.2020

Vipin Upadhyay

Vs.

Union of India & Ors.

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Appearance:

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

For the Respondent(s) : Mrs. R. Dutta, Adv.
Vice Ms. A. Paul, ASG

1. This writ petition has been filed by Shri Vipin Upadhyay, inter alia, with the prayer that the order dated 13.3.2019 passed by the Commandant, Assam Rifles whereby, he has been awarded penalty of severe reprimand, may be set aside.

2. Contention of the learned counsel for the petitioner is that petitioner was enrolled as Rfn Nursing Assistant on 16.03.2000 and on completion of training at ARTC&S, Dimapur was posted to 28th Assam Rifles as a Nursing Assistant and has served in various units. The petitioner while serving in AR Hospital, ARASU, Happy Valley, Shillong, was suddenly served with a Battallion Routine Order [BRO Part II) by respondent No. 3 Commanding Officer, Assam Rifles, Admn. Support Unit, Shillong whereby, he was given the punishment of severe reprimand on 13.03.2019. Learned counsel submitted that this order was passed on the basis of ex-parte Court of Inquiry. The petitioner was never informed of the alleged Court of Inquiry. The impugned order of penalty was passed without affording any opportunity of hearing to the petitioner in utter breach of the principles of natural justice.

4. Learned counsel for the respondents submitted that there is no reason for this Court to entertain the present writ petition as the petitioner has got an alternative remedy of appeal before the Director General, Assam

Rifles. He can raise all the arguments before the appellate authority agitated in the present writ petition.

5. Having regard to the submissions made, this Court does not deem it appropriate to directly entertain the writ petition against the order of penalty passed by respondent No. 3-Commanding Officer, Assam Rifles. However, the petitioner is at liberty to file an appeal against the aforementioned order of penalty before the Director General, Assam Rifles, Shillong. If any such appeal is filed within fortnight, the Appellate Authority is directed to decide the same within two months from the date of filing, by providing opportunity of hearing, if demanded by the petitioner.

6. With the aforesaid directions, writ petition is disposed of.

Meghalaya
31.01.2020
"Sylvana PS"



(Mohammad Rafiq)
Chief Justice