



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

Case No. : WA/14/2025

SACHIN KUMAR THAKUR
SON OF CHANDRA SHEKHAR THAKUR, VILLAGE- ROY DANGA
SCHOOL PARA POST - DIMAPUR, DISTRICT- PASCHIM BURDWAN-
713201, WEST BENGAL

VERSUS

OFFICE OF THE COMMANDANT ASSAM RIFLE TANNING CENTRE
AND SCHOOL AND 5 ORS
P.O. DIMAPUR, NAGALAND-797115

2:THE MINISTRY OF PERSONNEL
P.G. AND PENSION DEPT. OF PERSONAL AND TRAINING STAFF
SELECTION COMMISSION (NER) RUKMINI NAGAR
P.O. ASSAM SACHIVALAYA
GUWAHATI-6

3:ARWWA SECRETARIAT HQ
DIRECTORATE GENERAL ASSAM RIFLES
MEGHALAYA
SHILLONG-793010

4:OFFICE OF THE COMMANDING OFFICER
NO. 2 TRG BATTALION ASSAM RIFLE TANNING CENTRE AND
SCHOOL
P.O. DIMAPUR
NAGALAND-797115

5:ASSAM RIFLE TANNING CENTRE AND SCHOOL
DIMAPUR NAGALAND-797115

6:THE DIRECTOR GENERAL OF ASSAM RIFLES
SHILLONG MEGHALAYA-79301

Advocate for the Petitioner : MD APZAL ANSARI, M SOLO

Advocate for the Respondent : ,

BEFORE
HON'BLE MR. JUSTICE UNNI KRISHNAN NAIR
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

04/02/2026

(Y. Longkumer, J)

Heard MD. Apzal Ansari, learned counsel for the appellant/writ petitioner. Also heard Mr. Chinyang Phom, learned counsel, appearing on behalf of Mr. Z.N Ngullie, CGSC for the respondents.

2. The present intra court Appeal has been filed against judgment and order dated 15.03.2024 passed in WP(C)./144/2020.

3. The facts of the case is that the appellant/petitioner appeared for a recruitment exam conducted by the Staff Selection Commission for the post of constable (GD) in Assam Rifles in the year 2011. The appellant/petitioner qualified in the said exam and he received provisional appointment order dated 31st May, 2011. After successfully completing the final stage of the selection process, the appellant was issued another communication inviting him for a medical examination. After being successful in the medical examination appointment letter dated 13.12.2011 was issued to the petitioner for appointment as Recruit General Duty (GD).

4. By a communication the petitioner was directed to report at the Assam Rifles Training Centre, Dimapur on 15.01.2012 along with all relevant documents. After undergoing training for about 12 (Twelve) months 16(Sixteen) days, a discharge certificate on request was issued to the petitioner by the Deputy Commandant and C.I Assam Rifles Training Centre, Dimapur. This was followed by an order dated 31.03.2012 issued by the officiating Commandant Officer of the Commandant Officer No.2, Training Battalion, Assam Rifles Training Centre, Dimapur, by which in terms of the powers under Chapter IV, para 27(4) of the Assam Rifles Rules 2010, notice was given to the petitioner of being discharged from service on 31.03.2012 at his own request.

5. The appellant repeatedly requested reinstatement but to no avail. Despite his multiple representations no favourable response was received.

6. The appellant received a rejection letter on 12th October, 2015 stating that he would not be reinstated as he failed to return within 90 (Ninety) days of dismissal. The appellant states that he had returned within the stipulated period but, he was refused entry and forcibly turned away.

7. After the denial for reinstatement, the appellant's mother also submitted a representation to the respondent authority No.6 on 27th August, 2015. On 21st October, 2015, the petitioner was issued communication No. 5022742/Discharge-12/ARTC&S/NE-III/151 dated 21.10.2015, formally rejecting the petitioner's claim for reinstatement.

8. Being aggrieved, the appellant preferred WP(C)./144/2020, before the

writ court alleging procedural unfairness and lack of transparency in the discharge process, non-compliance with Assam Rifles Rules, 2010 and violation of Articles 16 and 19 of the Constitution of India. The appellant also made allegations of physical torture during the training and claimed mala fide intentions and colorable exercise of power by the authorities.

The respondents filed their affidavit-in-opposition in WP(C)./144/2020 stating that the appellant had knowingly signed the discharge papers while applying for medical leave. It was stated in the affidavit-in-opposition that the appellant was interviewed by the battalion authorities and his Commanding Officer and he was briefed about the disadvantages of proceeding on discharge at that stage, and that he would not be entitled for any service or pensionary benefits and that he will have to deposit an amount equal to 3 (three) months pay allowances on resignation.

9. The respondents also stated that the appellant had applied for discharge from service on his own accord and did not apply for withdrawal of his resignation well within the prescribed time limit of 90 (Ninety) days and therefore, the resignation of the appellant had attained finality.

10. The respondents further stated in their affidavit that the appellant had written the application for discharge in his own handwriting with his signature. He had also submitted an affidavit dated 16.02.2012 executed before the notary public stating that he is desirous to resign from service with his free will, without any force, pressure and any undue inference. It was stated that discharge from service at own request amounts to

resignation from service under Rule 26 of the CCS (Pension) rules 1972. The appellant had therefore applied for discharge from service at his own accord and did not apply for withdrawal of the same within the prescribed period.

11. Learned Single Judge after hearing the parties arrived at a finding that the as per the procedure in the Assam Rifles Rules 1985, a person who wishes to join the Assam Rifles has to undergo a training process during which period a trainee is allowed fixed pay and allowances till his appointment as a Rifle man in accordance with Rules 12, 13 and 14 of the Assam Rifles Rules 1985. The learned Single Judge held that on completion of the training program as per Rule 13, oath or confirmation is required to be administered by the Commandant as per certificate set out in Part III of Appendix I, which is required to be attached to the sheet roll. Thereafter, the requirement of Rule 14 is to be complied with, which includes verification of his character and antecedents and then such person is required to sign a statement in the schedule annexed to the Act in accordance with the provisions of sub-section 2 of Section 4 of the Assam Rifles Act.

12. The learned Single Judge also held that once a person becomes a member of the force of Assam Rifles as per the provisions of Sections 8 of the Assam Rifles Act, 2006, no member of the force is at liberty to resign his appointment during the term of his engagement or to withdraw himself from all or any of the duties of his appointment except with the previous permission in writing of the prescribed authority. It was held by the learned single judge that there is no document to show that the

appellant/petitioner was enrolled as a member of the Assam Rifles on successful completion of his training. Therefore when the appellant had exercised his right to resign, the process was not covered by Section 8 of the Assam Rifles Act 2006.

13. The learned Single Judge also held that the appellant was not able to convince the court that he was forced to sign the letter of resignation as well as the affidavit purportedly sworn on 06.02.2012 before the notary public because a perusal of the said affidavit shows that in the manner and space where the signature of the petitioner is made, it would be impossible for a signature to be taken on blank stamp paper and then the affidavit to be printed thereafter. The signature of the deponent/appellant was found to be more or less in the centre of the page and there were writings above the signature as well as below it. The notary certificate was dated 16.02.2012 and therefore, there is a presumption that even if the copy of the said affidavit was not served on the petitioner, the petitioner did have knowledge of the contents of the affidavit which he had signed on 16.02.2012. However, the appellant had not lodged any protest immediately.

14. The learned Single Judge further held that the appointment letter dated 13.12.2011 at clause (3) made it abundantly clear that if the appellant failed to successfully complete the recruitment training within the stipulated period, his service was liable to be terminated without any notice and assigning any reasons. Therefore, it could not be said that the appellant was not aware that unless he completed and concluded his training successfully, he would not be absorbed as a member of the force

of Assam Rifles. Finally, the WP(C)./144/2020 was dismissed by the learned Single Judge vide order dated 15.03.2024 by holding that the appellant/petitioner had not been absorbed in the Assam Rifles service on successful completion of training and that the petitioner is not a member of the Assam Rifles force and therefore, the question of reinstatement in service would not arise as he did not complete his training successfully.

15. Learned counsel for the appellant, MD. Apzal Ansari submits that the alleged declaration made by him on affidavit was never served to him and it was produced for the first time as part of the affidavit-in-opposition submitted by the respondents. Such a simple notarized affidavit cannot undermine the employment of the appellant which is a fundamental right protected under the constitution. Learned counsel submits that learned Single Judge failed to appreciate that the respondents had failed to provide the reasons for the discharge and did not even mention the provisions of the law under which such discharge was initiated.

16. Learned counsel submits that the learned Single Judge did not consider the material fact that the appellant had injured his palm during the training period and he had gone to his native village for treatment with permission from the authorities and he was under the impression that he was going on medical leave.

17. The learned counsel submits that the learned Single Judge did not consider the fact that the appellant was compelled to sign pre-executed papers without being informed of the contents as he was ordered to do so. He only discovered later that the documents he signed resulted in his

discharge. It is stated that the appellant had signed the documents without fully understanding their implications.

18. The counsel for the appellant submits that the appellant signed on some non-judicial stamp papers and the authorities had told him that signing the documents are the formalities for granting medical leave and believing the authorities he had duly signed in the documents.

19. Learned counsel further submits that the learned Single Judge did not consider that the notarized affidavit was a questionable document and could not have been taken into consideration by the authorities for discharging him from service.

20. Learned counsel further submits that the appellant is an uneducated ignorant person and did not understand the implications of the documents where he had put his signature and he was not aware that the said documents and affidavit were for the purpose of discharge from service. However, the learned Single Judge did not consider this aspect of the matter.

21. In view of the above submissions, the learned counsel for the appellant prays that the impugned judgment and order dated 15.03.2024 passed in WP(C)/144/2020 may be quashed and set aside.

22. Per contra, the learned Central Government Counsel appearing for the respondents submits that the appellant has not been able to make out a case warranting the interference of this Court in the present writ appeal.

23. Learned CGSC has submitted that the learned Single Judge has rightly come to the conclusion that the appellant had not been in the Assam Rifles force and the he was not a member of the Assam Rifles at the time of his discharge as he had not completed his training successfully in terms of the Assam Rifles Act, 2006.

24. We have duly considered the submission made by the opposing counsels and the pleadings and records have been perused.

25. We have found that the learned Single Judge has considered the matter in its entirety and has considered the case of the appellant in the backdrop of the provisions of the Assam Rifles Rules, 1985 and the Assam Rifles Act, 2006. The learned Single Judge has also taken into account the provisions in clause (3) of the appointment letter dated 13.12.2011 where it is categorically stated that if the appellant failed to successfully complete the recruitment training within the stipulated period his service is liable to be terminated without any notice and assigning any reason. The learned Single Judge has also taken into account the contentions of the appellant regarding the notarized affidavit and has arrived at a reasoned finding that the appellant had knowledge of the contents of the affidavit which he had signed on 16.02.2012. After considering the case of the appellant in the light of the Assam Rifles Rules 1985 and the Assam Rifles Act, 2006, the learned Single Judge arrived at the finding that the appellant was not absorbed in the Assam Rifles on successful completion of training and that the appellant was not a member of the Assam Rifles Force and therefore, the issue of reinstatement in service would not arise. Accordingly, we find no perversity with the conclusions drawn by the

Learned Single Judge.

26. The Hon'ble Supreme Court in the case of ***Airport Authority of India Versus Pradip Kumar Banerjee*** reported in ***2025 SCC Online SC 232*** held that in an intra-court appeal, the finding of fact of the learned Single Judge, unless such findings is concluded by the appellant bench to be perverse would not be called to be disturbed. It has been further held that merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the learned Single Judge unless both sides agree for a fairer approach on relief.

27. Applying the decision of the Hon'ble Supreme Court in the case of ***Airport Authority of India (supra)*** to the facts of the present case, we are of the considered view that the impugned order dated 15.03.2024 passed in WP(C)/144/2020 does not warrant any interference.

28. In view of the above discussions we do not find any merit in the writ appeal and consequently, it is dismissed.

No order as to costs.

JUDGE

JUDGE

Comparing Assistant