



GAHC010007822014



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

**Case No. : WP(C)/1755/2014**

ROCE NO. 850872588 SHRI PRATAP CHANDRA NAYAK  
HEAD CONSTABLE / GD, CENTRAL RESERVE POLICE FORCE, GROUP  
CENTRE, 9TH MILE, GUWAHATI, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY  
OF HOME AFFAIRS, NEW DELHI-01

2:THE DIRECTOR GENEAL  
CRPF  
CGO COMPLEX  
LODHI ROAD  
NEW DELHI-03

3:INSPECTOR GENERAL OF POLIE  
NES  
CRPF  
STONEY HEAVEN  
BISHOP COTTON ROAD  
SHILLONG  
MEGHALAYA-01

4:THE DY. INSPECTOR GENERAL OF POLICE  
CRPF  
GROUP CENTRE  
9TH MILE  
AMERIGOG  
GHY-23  
ASSAM



5:THE COMMANDANT  
164 BATTALION  
CRPF AT LOCATIO

**Advocate for the Petitioner** : MR.H BEZBARUAH

**Advocate for the Respondent** : MR.S SARMA

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 11.11.2021**

Heard Mr. K.K. Mahanta, learned Senior Counsel assisted by Ms. N. Begum, learned counsel for the petitioner.

The petitioner at the relevant point of time was working as Head Constable, Central Reserve Police Force (CRPF). According to the petitioner he was qualified for promotion to the next higher grade i.e. Asstt. Sub Inspector in CRPF but unfortunately his juniors were considered for promotion and accordingly promotions were granted to his juniors in the year 2012. The petitioner filed representation raising such grievance vide communication dated 28.2.2021.

Mr. Mahanta learned Senior Counsel brought to the notice of this court that the petitioner was initially dismissed from service vide Commandant-164 Bn. CRPF office order No. P.VIII-8/05-164- Estt. ii dated 9.2.2007. As such award of punishment was brought to challenge before the departmental appellate authority and vide order dated 4.3.2008 the said Authority was pleased to set aside the said order of dismissal, considering the long service about 22 years rendered by the petitioner and the circumstances leading to the unauthorised leave of the petitioner. The appellate authority took a lenient view and passed



the order of punishment to the following effect:

*“1. The punishment of dismissal from service imposed on No. 850872588 HC(GD) Pratap Chandra Nayak of 164 Bn, CRPF vide Commandant, 164 Bn. CRPF Office Order No. P.VIII -8/05-164-Estt.II dated 9.2.07 is hereby set aside and he is re-instated in service.*

*2. He will be awarded the punishment of stoppage of increment for one year without cumulative effect on his re-instatement in service.*

*3. As regards period of his overstay wef 4.5.05 to the date of his dismissal from service, no interference is necessary on the orders of the Commandant-164 Bn, CRPF.*

*4. Intervening period i.e. from the date of dismissal from service to the date of rejoining duty by the individual will be regularised as " Dies non".*

Referring to the CCS CCA Rules 1965 more particularly Rule 11(4) , Mr. Mahanta submits that the punishment imposed is a minor penalty not a major penalty. Therefore the petitioner cannot be deprived of his promotion to the next higher grade on the ground of unsatisfactory service record. In this regard Mr. Mahanta draws the attention to the standing order No. 6/99, by which, the procedure for promotion NGO/GD executive personnel to various rank of constable to Inspector are provided. As per Rule A(ii)(e) the condition precedent for promotion from head Constable to Sub Inspector, amongst , others is that the person must not have had major punishment in preceding five years. Mr. Mahanta submits that since there is no major punishment during the last five years, in view of the aforesaid decision of the appellate authority, the authority cannot deny such promotion to the petitioner. The respondent authority in paragraph 6 of the Affidavit in opposition took the stand that the respondent authority has taken a specific stand that the person has not been granted promotion due to award of major punishment in the last preceding 5 years . Therefore in the given facts and circumstances of the case and in view of the pleadings of the parties the core issue required to be determined and as follows:



1. Whether the stoppage of increment of one year without cumulative effect can consider to be the major punishment and or minor it is a punishment.
2. If, it is a minor punishment whether the respondent authority was justified in rejecting the promotion to the petitioner and if so what remedy is granted to the petitioner?

Now at this stage the learned counsel for the Union of India

Ms. A. Gayan submits that this matter was dealt with by Mr. S. Sarma, learned Senior CGC but due to his difficulty he could not represent in the case today.

Be that as it may, the Union of India will arrange alternative and they will advance their argument on 16.11.2021.

The matter may be treated as part-heard.

**JUDGE**

**Comparing Assistant**