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

**Case No. : WA/288/2024**

RAJESH KUMAR GURUNG  
S/O LATE RAM BAHADUR GURUNG PRESENTLY SERVING AS NAIB  
SUBEDAR/GD (GENERAL DUTY) AT 31ST ASSAM RIFLE, C/O 99 APO,  
932031

VERSUS

1: UNION OF INDIA AND 2 ORS. REPRESENTED BY THE SECRETARY TO  
THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI 110001.

2:THE DIRECTOR GENERAL ASSAM RIFLES  
HEADQUARTER DIRECTORATE GENERAL ASSAM RIFLES SHILLONG 11

3:THE COMMANDANT  
31ST ASSAM RIFLES C/O 99 APO 93203

**For the Appellant(s)** : Mr. B. Pathak, Advocate.  
Mr. V. Kumar, Advocate.

**For the Respondent(s)** : Mr. B. Chakravarty, Central Government Counsel for all the  
respondents.

**- B E F O R E -**

**HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR**  
**HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY**

**19.11.2025**  
**(Ashutosh Kumar, CJ)**

The appellant herein is a Senior Warrant Officer of Assam Rifles, who alleges that he was wrongly denied promotion to the post of Naib Subedar (General Duty) for not having a minimum of two Annual

Confidential Reports (ACRs) earned from a Field Battalion or specified Units (Battalion/Assam Rifles Training Centre and School/NSG). The appellant has four ACRs from the Assam Rifles Field Intelligence Unit where he was posted on Extra Regimental Employment (ERE) duty from November, 2015 to December, 2019.

The contention of the appellant is that he was initially sent on ERE for 3(three) years in public interest by his parent Unit, i.e. 31<sup>st</sup> Assam Rifles. After completing 3(three) years, the appellant desired to return to his parent Unit but that could not happen because the parent Unit never sent a reliever. The appellant, in the absence of his reliever, could not have left the Assam Rifles Field Intelligence Unit without formal release order. The reliever of the appellant came much later, whereafter he rejoined his parent Unit after more than 4(four) years. By that time, his last five years ACRs were from the Field Intelligence Unit, which was not counted by the Departmental Promotion Committee (DPC) for promotion.

The Recruitment and Promotion Instructions (ROI) 4/2002, as amended in 2013, specifies that for promotion, an Officer in 5(five) years must have at least two ACRs from a Field Battalion or specified Units.

Before the learned Single Judge, the appellant contended that the Recruitment and Promotion Instructions (ROI) 4/2002, as amended in 2013, are only instructions which have no statutory force and on that basis alone, the promotion of the appellant could not have been denied. The other ground raised by the appellant was that he, as a member of the disciplined force, has no control over his posting or its prolongation under any circumstance. Additionally, it was argued that his

ACR gradings were above average throughout.

Thus, the sum and substance of the contention of the appellant, which was rejected by the learned Single Judge, was that his posting in the field unit on ERE was within the same force and in public interest and, therefore, promotion to the higher post should not have been denied to him merely on the ground that he did not have minimum of two ACRs from a Field Battalion or any specified Unit.

It was also urged on behalf of the appellant that the Meghalaya High Court has, in a large measure, read down the applicability or the enforceability of the Recruitment and Promotion Instructions (ROI) 4/2002 (amended in 2013).

Mr. Chakravarty, learned Central Government Counsel, however, submits that the ERE posting of the appellant was on his choice and request and not in public interest. There is nothing on record to indicate that the appellant wanted to come back to his Unit but that was not possible because no reliever was sent. That apart, the appellant never controverted such statement of the respondents that the posting on ERE was at his choice.

The learned Single Judge though did not interfere with the Rules and the refusal of promotion to the appellant on the ground that the ERE posting was because of the choice of the appellant, but while parting, observed that the practice followed in Assam Rifles of entertaining verbal requests for transfer and posting makes the process questionable, demanding a set of directives from the authorities so that the process is not left open ended and it is easier to follow the Recruitment and Promotion Instructions (ROI) 4/2002.

Mr. Pathak contends that the learned Single Judge, in a way, found the impracticality of the ROI. In that case, the decision of the Meghalaya High Court ought to have weighed with the learned Single Judge in deciding the claim of the appellant.

Mr. Pathak, however, submits that he shall bring on record documents by way of an additional affidavit to indicate that the appellant's posting on ERE was not on his request but in public interest and that he had made requests to come back to his parent Unit but only because of no reliever being sent by the parent Unit, he had to stay back on ERE posting, which in fact has damaged his promotional prospects.

Mr. Pathak, for the aforesaid purpose, prays for some time.

Time prayed for is granted.

Let this matter come up for consideration on **02.02.2026**.

**JUDGE**

**CHIEF JUSTICE**

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**Comparing Assistant**