

Akbar Ali Vs. Director General of Assam Rifles and ors.

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Court : Guwahati

Decided On : Dec-03-2003

Judge : B.K. Sharma, J.

Appeal No. : Civil Rule No. 4762 of 1998

Appellant : Akbar Ali

Respondent : Director General of Assam Rifles and ors.

Advocate for Def. : C. Choudhury, Sr. CGSC

Advocate for Pet/Ap. : R.P. Sharma, Adv.

Prior history : B.K. Sharma, J. 1. Heard Mr. R.P. Sharma, learned counsel of the petitioner and Mr. C. Choudhury, learned Sr. Central Government Standing Counsel for the respondents. 2. In short, the facts leading to the filing of the writ petition is that the petitioner was promoted to the post of the Havildar/Clerk on 27.9.1987. He was demoted to the rank of Rifleman/Clerk by order dated 18.8.1988 on the ground of misconduct by participating in an agitation launched by the employees of the Assam Rifles on 6

Judgement :

B.K. Sharma, J.

1. Heard Mr. R.P. Sharma, learned counsel of the petitioner and Mr. C. Choudhury, learned Sr. Central Government Standing Counsel for the respondents.

2. In short, the facts leading to the filing of the writ petition is that the petitioner was promoted to the post of the Havildar/Clerk on 27.9.1987. He was demoted to the rank of Rifleman/Clerk by order dated 18.8.1988 on the ground of misconduct by participating in an agitation launched by the employees of the Assam Rifles on 6.7.1988 in violation of the code of conduct. The petitioner has not annexed the copy of the said order dated 18.8.1988.

3. On 1.1.1990 the petitioner was again promoted to the rank of Havildar/Clerk by the communication (Annexure-A) dated 17.5.1990. However, the said order was cancelled by an another order (Annexure-B) dated 13.6.1990 before the petitioner could join the promotional post. Thereafter, the petitioner submitted numerous representations which yielded no results. Eventually by a communication (Annexure-E) the recommendation on 16.7.1997 made in favour of the petitioner was also rejected.

4. It is the case of the petitioner that his colleagues were dismissed from the services on the same very ground of taking part in the agitational programme launched by the Assam Rifles Employees on 6.7.1988. Challenging the order of dismissal, a series of writ petitions were filed which were allowed by this Court. The Assam Rifles authorities being aggrieved had preferred Civil Appeal Nos. 2499-2591/ 93 before the Apex Court. The Apex Court upheld the judgment of this Court and it is submitted by Mr. Sharma that the employees which were dismissed from services were reinstated.

5. Unlike these employees, the petitioner was demoted from the post of Havildar/Clerk to that of Rifleman/Clerk. In this writ petition, the petitioner has not made any grievance against the said order of demotion, but his grievance is confined to the order of cancellation of his subsequent order of promotion. Although he was ordered to be promoted by Annexure-A order dated 17.05.1990, but the same was cancelled before he could join the post. His representation was also disposed of by non-speaking order.

6. No affidavit in opposition has been filed controverting the fact on record. The petitioner has also not chosen to annex the copy of the order dated 18.08.1988 by which he was demoted to the rank of Rifleman/Clerk. In the aforesaid circumstances I am not inclined to grant the prayers made in the writ petition and instead I issue a direction to the respondent No. 1 to consider the case of the petitioner for promotion as Havildar/Clerk, which in fact, once granted with effect from 1.1.1990 by an order dated 17.5.1990 (Annexure-A). However, the same was cancelled without assigning any reasons by an order dated 13.06.1990 (Annexure-B). Likewise, Annexure-E order dated 16.07.1997 is also a non-speaking one. In the aforesaid circumstances and in the fitness of the things, the respondent No. 1 should now consider the case of the petitioner in the light of the judgment of this Court eventually affirmed by the Apex Court by the judgment and order dated 20.10.1995 referred to above. This exercise shall be carried out within a period of two (2) months from the date of receipt of the certified copy of this order. Needless to say that the case of the petitioner shall be considered from the due date, if admissible, under the rules,

6. With the above direction the writ petitioner is disposed of.

7. No order to costs.

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