

(2025) 06 MEG CK 0341
In the Meghalaya High Court
Case No : Writ Petition (C) No. 342 Of 2024

Rohit Kumar

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 19-06-2025

Acts Referred:

Assam Rifles Act, 2006 — Section 11(2), 62
Assam Rifles Rule, 2010 — Rule 17, 25, 28(1), 29
Assam Rifles Regulation, 2016 — Regulation 108

Citation : (2025) 06 MEG CK 0341

Hon'ble Judges : H. S. Thangkhiew, J

Bench : Single Bench

Advocate : A. Sahad, P. Choudhary, Dr. N. Mozika, M. Myrchiang

Final Decision : Dismissed

Judgement

H. S. Thangkhiew, J

1. The writ petitioner who was serving as a Rifleman is before this Court, with a prayer to set aside and quash the Impugned Discharge Order dated 06.09.2023, Discharge Certificate dated 23.11.2023, for setting aside and quashing order dated 01.08.2024, and to allow the petitioner to rejoin service, by regularizing the suspension period and for grant of all service benefits.

2. The brief facts are that the petitioner was enrolled as a Rifleman in the Assam Rifles and in the course of his service, in the years 2014, 2015, 2021 and 2023, had been awarded five Red Ink Entries for over staying leave and for every instance had been awarded rigorous imprisonment which was duly served by him. On 26.08.2015, after the petitioner had been awarded the third Red Ink Entry, for being absent for 63(sixty-three) days, he was given a warning letter stating that if he incurred a fourth Red Entry, a process of discharge from service would be initiated against him. The petitioner however, absented himself again for 63(sixty-three) days in the year 2021, and was awarded a fourth Red Ink Entry with accompanying rigorous imprisonment, but was allowed to continue

considering the length of his service. In the year 2023, the petitioner once again absented himself without leave, and was awarded a fifth Red Ink Entry with accompanying rigorous imprisonment, which resulted in an inquiry proceeding being initiated against him. In the inquiry proceedings, the Inquiry Officer came to the conclusion that the writ petitioner was a habitual and repetitive offender, but the respondents before discharging him from service, served a show cause allowing him 15(fifteen) days to reply. On receipt of the show cause reply dated 21.08.2023, on examination of the same, the petitioner was issued with a discharge order dated 23.11.2023.

3. Mr. A. Sahad, learned counsel for the petitioner has submitted that the petitioner was not afforded reasonable opportunity to put up his own case, nor has any specific reason been given in the show cause. The punishment imposed, he submits is too harsh, and not commensurate with the alleged charges. He further submits that inspite of preferring an appeal against the discharge order dated 23.11.2023, which was delayed, but was accompanied by an application for condonation of delay of 24(twenty-four) days, the same was not considered and the appeal was rejected, on the ground that it was not within the stipulated time given in Rule 28(1) of the Assam Rifles Rule, 2010. In support of his arguments, the learned counsel has placed reliance on a judgment of the Supreme Court dated 14.07.2022, in the case of Amarendra Kumar Pandey vs. Union of India & Ors. passed in Civil Appeal Nos. 11473-11474 of 2018, wherein he submits, an order of discharge on a receipt of four Red Ink Entries by the petitioner therein, had been set aside. He therefore submits, the petitioner be given the same consideration and in the least, orders may be issued that his appeal be heard on merits.

4. Dr. N. Mozika, learned DSGI for the respondents has submitted that the petitioner is bound by the Assam Rifles Act 2006, and his continuance in service is subject to the conditions prescribed therein. The petitioner he submits, though duty bound to maintain a high degree of discipline, had been awarded five minor punishments under Section 62 of the Assam Rifles Act, which are known as Red Ink Entries. The petitioner he further submits, before being discharged from service by the impugned orders, had been given ample opportunity to explain himself, and infact, after award of the third Red Ink Entry, was given a warning that if a fourth Red Ink Entry was awarded, a process of discharge would be initiated. In spite of the warnings, the petitioner he submits, was awarded two more Red Ink Entries for being absent without leave. The inquiry pursuant thereto, being conclusive on undisputed facts, after hearing the writ petitioner, his discharge was recommended. It is further submitted that, the petitioner did not prefer an appeal within the stipulated 90(ninety) days period, as allowed under Rule 28(1) of the Assam Rifles Act, and there being no provision for condonation, the appeal was therefore dismissed. Learned DSGI has also placed a decision of this Court passed in the case of Jasom Wangsa vs. Union of India reported in 2019 SCC OnLine Megh 72, in support of his submissions.

5. Having heard the learned counsel for the parties, at the outset it is seen that, the petitioner before being discharged, had indeed been awarded five Red Ink Entries for a period ranging from 2014 to 2023, for which he faced rigorous imprisonment for every instance. From the records, it is also reflected that the petitioner was afforded adequate warning and an opportunity to correct himself, after the award of the third Red Ink Entry. By the warning letter dated 26.08.2015, after award of third Red Ink Entry, the petitioner was warned to be more careful in his conduct, and was also informed that if he incurred the fourth Red Ink Entry, action would be taken under Section 11(2) of the Assam Rifles Act, and Rules 17 and 25 read with Rule 29 of the Assam Rifles Rules. However, it appears on his failure to correct his conduct, and on the receipt of five Red Ink Entries, a preliminary inquiry was instituted on 11.03.2023, and on the basis of the opinion of the preliminary inquiry, showing that the petitioner was a perpetual offender, it was recommended that show cause notice be issued to the petitioner. On the show cause being filed, the respondents on consideration of the same thereof, and on the finding that the petitioner was an incorrigible offender, then discharged him from service.

6. In the entire sequence of events as discussed above, it is seen that the petitioner had been discharged after following due process, as prescribed. A perusal of Regulation 108 of the Assam Rifles Regulation, 2016, which deals with Discharge on ground of Red Ink Entries, shows that the respondents had duly followed the same before the final orders were passed. The petitioner it can be seen, belonging to a disciplined force, failed to correct himself, and inspite of the warning given, gave no heed and continued in his errant ways, which resulted in his discharge. Even, when preferring an appeal, the petitioner failed to file the same within the 90(ninety) days period, allowed by the statute, which resulted in the dismissal of the appeal also.

7. In the considered view of this Court therefore, in view of the facts and circumstances of the case, no interference is called for and the writ petition is liable to be dismissed. The judgment cited by the learned counsel for the petitioner is of no assistance to the case of the petitioner, inasmuch as, in the instant case the discharge was after following due process after affording adequate opportunity to the petitioner.

8. In the result therefore, there being no merit in the instant case, the same stands dismissed and is accordingly disposed of.