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**IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH.**

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**CWP-7358-2025 (O&M).  
Date of Decision: 18.03.2025.**

**S.N. YADAV (HAV/NA RETIRED FROM ASSAM RIFLES) AND  
ANOTHER**

... Petitioner(s)

Versus

**UNION OF INDIA AND OTHERS**

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

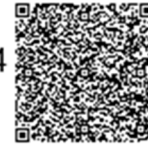
Present: Mr. Rabinder Singh, Advocate,  
for the petitioner.

**VINOD S. BHARDWAJ, J. (ORAL)**

Challenge in the instant writ petition is to the order dated 05.02.2018 (Annexure P-5) whereby the claim of the petitioners for the grant of 2<sup>nd</sup> financial upgradation under the ACP Scheme has been rejected by the respondents.

2 Learned counsel for the petitioners contends that the petitioners retired from Assam Rifles from the post of Havildar after serving for more than 24 years and the service particulars of the petitioners are tabulated as under:

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<i>Sr. No.</i>	<i>Regimental No. Rank &amp; Name</i>	<i>Date of joining service</i>	<i>Date of promotion to Naik</i>	<i>Date of completion of 24 years</i>	<i>Date of retirement</i>
(1)	No.M/370724 (Hav/NA) S.N. Yadav	20.06.1980	01.08.1991	26.06.2004	01.04.2005
(2)	No.M/354373 (Hav/ORL) Bhup Singh	26.07.1980	01.05.1997	26.07.2004	01.03.2005

3 The petitioners retired from the service on 01.04.2005 and 01.03.2005 respectively. He contends that the despite the petitioners having completed 24 years of service before their retirement, they have not been granted the second upgradation under the ACP Scheme of the Government as notified on 09.08.1999.

4 It is further contended that the petitioners submitted representations to the respondent authorities for grant of financial upgradation under the ACP Scheme but as no action was being taken, hence, WP (C) No.8379 of 2016 was filed before the High Court of Delhi which was dismissed as withdrawn for want of territorial jurisdiction vide order dated 21.09.2016. The petitioners thereafter approached this Court through CWP No.26975 of 2016 seeking directions to the respondents for grant of 2<sup>nd</sup> ACP. Vide interim order dated 20.12.2017, the respondents were directed to pass a speaking order with regard to the entitlement of the petitioners for the grant of ACP. In compliance thereto, the Director General Assam Rifles passed a speaking order dated 05.02.2018, communicated to the petitioners vide order

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dated 07.02.2018 whereby it was brought to the notice of the petitioners that the claim of the petitioners for the grant of second ACP stood rejected since both the petitioners had not passed the promotional Cadre namely “S” Cadre/Promotion Cadre” for promotion. Since the petitioners did not qualify the “S Cadre Course” hence, they were not eligible for further promotion. Consequently, the pre-requisite conditions for claiming the benefit of 2<sup>nd</sup> ACP having not been fulfilled, the petitioners are not eligible for the grant of financial upgradation. The promotional criteria for Havildar/Naib Subedar as brought out in the speaking order under challenge is extracted as under: -

*“(i) Qualification Matric or Army Certificate of Education-II pass.*

*(ii) Technical Trade Test Class-I pass.*

*(iii) Map Reading Standard-I pass.*

*(iv) Should have passed 'S' Cadre/promotion cadre.*

*(v) Should have minimum 5 years' service as Havildar.*

*(vi) ACR Criteria: (a) Three out of last 5 reports should not be below "High Average".*

*(b) Remaining two reports should not be below 'Average'.”*

5           The aforesaid CWP No.26975 of 2016 was accordingly withdrawn on 10.02.2020 with liberty to challenge the order dated 05.02.2018. The instant writ petition has now been filed after a period of more

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than 05 years of withdrawing the earlier petition and after a period of more than 07 years since passing of the impugned order.

6            Learned counsel for the petitioners contends that the respondents have wrongly declined the claim of the petitioners on the ground that the petitioners were not eligible for being promoted to the post of Naib Subedar notwithstanding that the respondents themselves did not nominate the petitioners amongst others for undergoing the said promotion cadre training before completion of 24 years of service. Since the petitioners were not recommended by the respondents No.3 and 4, hence, the petitioners cannot be denied the grand of 2<sup>nd</sup> ACP by the said respondents as they were themselves the cause of the petitioners not fulfilling the eligibility requirement for promotion to the post of Naib Subedar.

7            No other argument has been raised nor any judgment has been cited by the counsel appearing for the petitioners.

8            I have heard the learned counsel appearing for the petitioners and have gone through the documents appended along with the present petition.

9            Undisputedly, the claim of the petitioners has been rejected on the ground that petitioners did not fulfill the eligibility conditions for promotion to the post of Naib Subedar from the post of Havildar as mandatory training had not been undergone by the petitioners.

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10 Even though an attempt has been made by the petitioners to argue at this juncture that the respondents themselves did not nominate the petitioners for the said post, however the said argument cannot be accepted at this juncture since the petitioners did not approach any competent Forum at the relevant point in time when the option submitted by the petitioners for their nomination for the respective training course was not accepted. There is also no challenge to the said action even at this stage. Even otherwise, the petitioners having superannuated on 01.04.2005 and 01.03.2005 respectively, the above argument of the petitioners that they were not nominated to undergo the “S Cadre” training course cannot be accepted at this belated stage.

11 This Court cannot go into a cause of action that was never challenged by the petitioners at an appropriate time and is required to examine as to whether the order passed by the competent authority is legal and valid in the eyes of law. Counsel for the petitioners has failed to refer to any statutory provisions as per which the reasons cited by the respondents can be said to be erroneous or not based upon the correct reading of the statutory provisions for the grant of 2<sup>nd</sup> ACP under the Scheme.

12 For the foregoing reasons, I do not find that any merit exists in the present petition or that there is any flaw in the orders passed by the competent authority.

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13            The present petition is accordingly dismissed in *limine*.

March 18, 2025.

(VINOD S. BHARDWAJ)

raj arora

JUDGE

*Whether speaking/reasoned*        : Yes/No

*Whether reportable*                 : Yes/No