

GAHC040011532022



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

Case No. : WP(C) 337/2022

1:Dhurbajyoti Borah
Son of Shri Sashadhar Borah,
Resident of Anini, Dibang Valley District, Arunachal Pradesh, PIN 792101.
Ph. No. 9476688854

VERSUS

1:The State of AP and Anr.
Represented by its Chief Secretary, Govt. of Arunachal Pradesh, Civil Secretariat,
Itanagar 791111

2:The Secretary
to the Govt. of Arunachal Pradesh
Department of Personnel
Civil Secretariat
Itanagar 791111

Advocate for the Petitioner : V K Nair, Sr. Advt.
Tadup Tana Tara
Gamken Bam

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 07.02.2023

Heard Mr. Tadup Tana Tara, learned counsel for the petitioner. Also heard Ms. Goter Ete, learned Addl. Senior Government Advocate, appearing on behalf of all the respondents.

This writ petition under Article 226 of the Constitution of India, has been filed by the petitioner, with the following prayers:

- “(i) To issue a writ in the nature of Certiorari and/or any other appropriate writ, order or direction of like nature towards setting aside the Memorandum of Charge dated 02.07.2018 (Annexure-1) vis-à-vis the Inquiry Report dated 04/03/2022 along with purported and perverse findings/observations (Annexure-4) along with all consequential steps taken in pursuance thereof*
- (ii) To issue a writ in the nature of Certiorari and/or any other appropriate writ, order or direction of like nature towards setting aside the impugned order of penalty dated 21.02.2022 (Annexure-10) and consequential order dated 14.03.2022 (Annexure-12)*
- (iii) To issue a writ in the nature of Certiorari and/or any other appropriate writ, order or direction of like nature towards setting aside and quashing the impugned transfer order dated 15.03.2022 (Annexure-13)*
- (iv) To issue a writ in the nature of Certiorari and/or any other appropriate writ, order or direction of like nature towards directing the respondent authorities to allow the representation dated 04.01.2021 (Annexure-15) preferred by the petitioner and thereby transfer and post the petitioner at Arunachal House, Parvatinagar, Tezpur.*
- (v) To direct the respondent authorities to promote the petitioner to the Arunachal Pradesh Civil Service Admin. Grade w.e.f. the date persons considered in the DPC held in the year 2018 were so promoted, with all consequential benefits of pay, seniority etc.*
- (vi) To direct the respondent authorities to release to the petitioner his arrears of pay in accordance with prayer no (v) above.”*

In view of the writ petitioner having been posted and attached with the Directorate of Gazetteers, Government of Arunachal Pradesh; Mr. Tara, learned

counsel for the petitioner, submits that the prayers No. (iii) and (iv), have now become redundant.

The order, dated 21.02.2022, issued by the Secretary (Personnel), Government of Arunachal Pradesh, Itanagar, vide Memo. No. PERS-12013/24/2021/1077B, is an order passed by the authority under Rule 15 of the Central Civil Services(Classification, Control & Appeal) Rules, 1965, imposing penalty as specified in Rule 11(vi) of the Central Civil Services(Classification, Control & Appeal) Rules, 1965, on the petitioner reducing 2(two) stages in the lower time-scale of pay for two years with further direction that he will not earn increment of pay during this period.

Against the aforesaid order of penalty, dated 21.02.2022; an appeal is stated to have been preferred by the petitioner, before the appellate authority on 04.04.2022, which, according to him, is yet to be considered and disposed of by the appellate authority.

Assailing the order of penalty passed by the authority against the petitioner vide order, dated 21.02.2022; the petitioner in Paragraph No. 31 of the writ petition, has contended as under:

“31. That the petitioner begs to state that the impugned penalty order dated 21.02.2022 and the consequential order dated 14.03.2022 has been so issued without there being a finding in the Enquiry Report dated 04.03.2020 holding the petitioner to be guilty of the charges levelled against him. The action on the part of the respondent authorities in issuing the impugned penalty order without stating therein the points of disagreement with the Enquiry Report dated 04.03.2020 and issuing disagreement note to that effect, is outrightly perverse and liable to be interfered with by this Hon’ble Court.”

Similar contention is stated to have been raised in the appeal preferred by the petitioner before the appellate authority, namely, the Chief Secretary to the Government of Arunachal Pradesh, dated 04.04.2022.

In support of the contentions raised by the petitioner assailing the order, dated 21.02.2022, whereby the penalty specified therein, has been imposed against the petitioner; Mr. Tara, learned counsel for the petitioner, has relied on the following decisions rendered by the Hon'ble Apex Court as well as by this Court:

- (i). **(2006) 4 SCC 153**, reported in ***Ranjit Singh v. Union of India & ors.***;
- (ii). **2017 (2) GLT 1187**, reported in ***State Bank of India & ors. v. Nani Gopal Palit***;
and
- (iii). **2021 (5) GLT 490**, reported in ***Safiqur Rahman v. State of Assam & ors.***

Since the appeal against the order, dated 21.02.2022, imposing penalty on the petitioner, has been preferred by the petitioner before the appellate authority, namely, the Chief Secretary to the Government of Arunachal Pradesh, under Rule 24 of the Central Civil Services(Classification, Control & Appeal) Rules, 1965, which is a statutory appeal; there is no reason why the appellate authority under Rule 24 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, should not dispose of the appeal, dated 04.04.2022, expeditiously.

Since the appeal has been preferred by the petitioner as far back as on 04.04.2022, and, as such, there has been an inordinate delay in disposing of the appeal preferred by the petitioner before the appellate authority; I, therefore, deem it appropriate to direct the Chief Secretary to the Government of Arunachal Pradesh, who is stated to be an appellate authority under Rule 24 of the Central Civil Services(Classification, Control & Appeal) Rules, 1965, to dispose of the appeal, dated 04.04.2022, preferred by the writ petitioner, herein; by taking note of the law laid down by the Hon'ble Apex Court as well as by this Court, relied on by Mr. Tara, learned counsel for the petitioner, as well as any other relevant law applicable in the facts and circumstances of the case, within a period of 2(two) weeks from the date of receipt of a certified copy of this order, which shall be furnished by the petitioner, within a period of 1(one) week, from today.

The writ petition stands disposed of with the above direction.

JUDGE

Comparing Assistant