

GAHC010021372022



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

**Case No. : WP(C)/962/2022**

MD. SOFIQUR RAHMAN @ SAFIQL ISLAM  
MD. AKBAR, R/O VILL- BARALIMARI, P.O.-BARALIMARI, P.S.-  
BHURAGAON, DIST- MORIGAON (ASSAM), PIN-782121

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT  
DEPARTMENT, DISPUR, GUWAHATI-06 (ASSAM)

2:JOINT DIRECTOR AND STATE NODAL OFFICER (MGNREGA)  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
DISPUR  
GUWAHATI-06 (ASSAM)

3:THE DEPUTY COMMISSIONER  
MORIGAON  
DIST-MORIGAON  
ASSAM

4:THE CHIEF EXECUTIVE OFFICER  
MORIGAON ZILLA PARISHAD  
DIST-MORIGAON  
ASSAM

5:BLOCK DEVELOPMENT OFFICER AND PROGRAMME OFFICER  
LAHORIGHAT DEVELOPMENT BLOCK  
DIST-MORIGAON  
ASSAM

6:SECRETARY OF NIJ-CHAHARIYA GAON PANCHAYAT

DIST-MORIGAON  
ASSA

**Advocate for the Petitioner** : MR F K R AHMED

**Advocate for the Respondent** : SC, P AND R.D.

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 3.2.2023**

Heard Mr. F.K.R Ahmed, learned counsel for the petitioner. Also heard Mr. N. K.Dev Nath, learned Standing Counsel, P&RD and Mr. H. Sarma, learned counsel for respondent No.3.

2. The grievance of the writ petitioner is that though he has been working as contractual GRS since the year 2008 under the establishment of Haiborgaon Gaon Panchayat under Morigaon Zila Parishad he has not been allowed to join and continue to work as GRS after availing leave merely on the ground that a Criminal proceeding was initiated being Bhuragaon P.S.Case No. 198/2021 u/s 366/420/406 of IPC against him.

3. The Deputy Chief Executive Officer, Zilla Parishad, Morigaon, Assam has filed an affidavit on behalf of respondent Nos. 3 and 4 and they have taken a stand that the petitioner had never informed the respondent authority regarding criminal charge pending against him and he has remained absent without submitting any leave application. It was further stand in the said affidavit that the petitioner had not applied for any leave informing criminal case pending against him and the petitioner was absent in his duty without giving any

information to the authority. It is also contended that though it is admitted that the petitioner had submitted an application before the Deputy Chief Executive Officer however, the said application was not accompanied by any other document and when such defect was pointed out, the petitioner had failed to submit any document, relating to criminal case.

4. The petitioner had filed a reply affidavit annexing application dated 19.10.2021, which reflects that the petitioner has applied for leave saying that he had to hide himself to avoid arrest in connection with criminal case filed. Accordingly he prays for grant of leave and also has annexed application filed before the B.D.O, Lahorighat intimating that he has been granted bail in criminal case by this Court and that he intimated the passing of bail order, however he was not allowed to join in the service.

5. Though the grievance of the petitioner is that he is not allowed to resume his duty, however the respondent authority has not refuted such allegation. What is discernible from the affidavit is that the petitioner had not applied for leave. However they are silent whether he wanted to join in the duty even after his alleged absence and they have refused it. They are absolutely silent to that effect. The respondent has not taken any stand disputing the contractual appointment of the petitioner inasmuch as has not raised any issue that the contract of the petitioner has already been terminated.

6. In that view of the matter as the petitioner has prima facie shown that he had made an application before the authority seeking for leave and that he has been granted bail, the authority shall consider the same and pass a necessary order on his application filed. In the meantime, the petitioner may file a fresh application before the respondent No. 3 addressing the deficiencies shown by

the respondent No.3 in his affidavit .

7. The respondent authority will consider the payment of salaries in terms of extant service condition of the petitioner and pay the same if entitled. The entire exercise shall be carried out within a period of two weeks from receipt of the certified copy of this order to be submitted by the petitioner before the B.D.O, Laharighat.

8. In terms of the above, this writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**