

GAHC010056602022



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

Case No. : WP(C)/2657/2022

RAJIB BORA
S/O- LT. NAREN BORA, R/O- BHARAGURI, P.O.- PADUMONI, P.S.
SAMAGURI, DIST.- NAGAON, ASSAM, PIN- 782140.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, EDU. (SEC.) DEPTT., DISPUR,
GHY.-06.

2:THE DIRECTOR OF (SECONDARY) EDUCATION
KAHILIPARA
GHY.-19
ASSAM.

3:THE DIRECTOR OF HEALTH AND FAMILY WELFARE DEPTT.
ASSAM
HENGRABARI ROAD
GHY.-36 ASSAM.

4:THE MANAGING DIRECTOR
LGB REGIONAL INSTITUTE OF MENTAL HEALTH
TEZPUR
DIST.- SONITPUR
ASSAM PIN- 784001.

5:THE INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE
NAGAON
DIST.- NAGAON ASSAM.

6:THE HEADMASTER
PADUMONI SILPUKHURI HIGH SCHOOL
P.O.

P.S.
DIST.- NAGAON
ASSAM. PIN- 782426.

7:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIX MILE
KHANAPARA
GUWAHATI PIN- 781022

Advocate for the Petitioner : MS M DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

09/05/2023

Heard Ms. M Das, learned counsel for the petitioner. Also heard Mr. S M T Chistie, learned Standing counsel, Department of School Education for the respondent Nos. 1, 2 & 5; Mr. D Upamanyu, learned Standing counsel, Director of Medical Education, Assam for the respondent Nos. 3 & 7 and Mr. A Dutta, learned Standing counsel, Lokopriya Gopinath Bordoloi Regional Institute of Mental Health, Tezpur for the respondent No. 4.

2. Petitioner is an Assistant Teacher of Padumoni Silpukhuri High School, District-Nagaon.

3. For his unauthorized absence since August, 2008, the Inspector of Schools, Nagaon District Circle, Nagaon issued show-cause notice against the petitioner under Reference No. IS/NDC/AAP/SUS/2015/01/4051 dated 01.08.2017 under Rule 9 of the Assam Services (Discipline and Appeal) Rules, 1964 as to why penalties under the provisions of Rule 7 (i) to (vii) of the said 1964 Rules should not be inflicted upon him. Along with the said show cause notice dated 01.08.2017, statement of allegations had also been annexed.

4. Pursuant to the said show cause notice dated 01.08.2017, the petitioner submitted his reply on 16.08.2017 before the Inspector of Schools, Nagaon along with the medical certificates issued by the Bhogeswari Phukanani Civil Hospital, Nagaon and Lokopriya Gopinath Bordoloi Regional Institute of Medical Health (LGBRIMH), Tezpur relating to the treatment that he received with regard to his

mental illness.

5. Earlier, the authorities of the LGBRIMH, Tezpur, Sonitpur vide No. LGB/MRD/OPD/3534/04/26 dated 29.07.2022 issued a Fitness Certificate in favour of the petitioner specifying that the petitioner was under treatment in the said Institute for a major psychological disorder since 27.09.2013 to 20.07.2022 and was admitted on 05.07.2022 and later, discharged from the said Institute of Medical Health on 20.07.2022.

6. As per the assessment of the Medical Board of the said LGBRIMH, Tezpur, Sonitpur dated 29.07.2022, the petitioner was found to be fit for work at present, taking into account with the advice of regular medications and follow up.

7. Pursuant to the orders of the Court dated 09.12.2022 and 11.04.2023 passed earlier in this proceeding, the petitioner appeared before the Medical Board of the Gauhati Medical College & Hospital (GMCH), Guwahati on 18.04.2023 consisting of Professor of Department of Psychiatry of the GMCH and two Assistant Professors of Psychiatry Department of the said GMCH.

8. The said Medical Board of GMCH, Guwahati, on verification of the fitness certificate in respect of the petitioner issued by the LGBRIMH, Tezpur, Sonitpur on 29.07.2022 and on obtaining clinical history from the petitioner and his elder brother, Rintu Kumar Bora found that the petitioner was under treatment at BP Civil Hospital, Nagaon from 20.09.2009 till 15.08.2017 and under LGBRIMH, Tezpur, Sonitpur from 27.09.2013 to 20.07.2022 with periodic checkup in between.

9. During the deliberation of the matter, Mr. D Upamanyu, learned Standing counsel, Director of Medical Education, Assam has placed a copy of the report of the Medical Board of GMCH, Guwahati dated 18.04.2023 forwarded by the Principal-cum-Chief Superintendent, GMCH, Guwahati on 19.04.2023.

10. From the perusal of the report of the Medical Board of GMCH, Guwahati dated 18.04.2023, it is seen that the said Medical Board of GMCH, Guwahati after medical examination of the petitioner on 18.04.2023 found him physically and mentally fit without any apparent thought, perceptual, behavioural and cognitive disturbances and opined that the petitioner aged about 55 years is fit to resume his teaching responsibilities and advised him to continue with the treatment as advised by LGBRIMH, Tezpur, Sonitpur regularly with periodic follow up.

11. In view of the above, the petitioner shall now submit a fresh representation before the

Inspector of Schools, Nagaon District Circle, Nagaon along with a copy of the said Medical Fitness Certificate of the petitioner issued by the LGBRIMH, Tezpur, Sonitpur on 29.07.2022 as well as the forwarding of the Professor & Head of the Department of Psychiatry, GMCH, Guwahati dated 19.04.2023 and the report of the concerned Medical Board dated 18.04.2023, noted above, forthwith on or before 19.05.2023, obtaining necessary acknowledgment from the said authorities in that regard.

12. Thereafter, the Inspector of Schools, Nagaon District Circle, Nagaon shall do the needful with regard to the disciplinary proceeding initiated against the petitioner earlier on 01.08.2017 to which the petitioner submitted his reply on 16.08.2017 and also shall consider his case as to whether on the basis of such medical reports issued by the LGBRIMH, Tezpur, Sonitpur dated 29.07.2022 as well as by the Medical Board of GMCH, Guwahati dated 18.04.2023, noted above, he can resume his service in Padumoni Silpukhuri High School, District-Nagaon or not and if so, the Inspector of Schools, Nagaon shall allow him to join his service on the strength of those two Medical Certificates issued by the concerned authorities, as indicated above.

13. Copy of the Medical Fitness Certificate issued by the LGBRIMH, Tezpur, Sonitpur on 29.07.2022 as well as the forwarding of the Professor & Head of the Department of Psychiatry, GMCH, Guwahati dated 19.04.2023 with the report of the concerned Medical Board of GMCH, Guwahati dated 18.04.2023 be kept as part of the record.

14. Mr. D Upamanyu, learned Standing counsel for the respondent Health Department, Assam shall also provide a copy of the said forwarding of the Professor & Head of the Department of Psychiatry, GMCH, Guwahati dated 19.04.2023 along with the report of the concerned Medical Board of GMCH, Guwahati dated 18.04.2023, noted above, to the petitioner.

15. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant