

GAHC010213802021



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

Case No. : WP(C)/2640/2019

MANOJ KUMAR DAS
S/O. LT. KHAGENDRA NATH DAS
R/O- GANDHIBASTI
GHY.-03
P.O.- CHANDMARI
P.S. CHANDMARI
DIST. KAMRUP(M)
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
ENVIRONMENT AND FORESTS DEPTT.
DISPUR
GHY.-06.

2:THE PRINCIPAL SECRETARY

TO THE GOVT. OF ASSAM
ENVIRONMENT AND FORESTS DEPTT.
DISPUR
GHY.- 06.
3:THE SECRETARY

TO THE GOVT. OF ASSAM
ENVIRONMENT AND FORESTS DEPTT.
DISPUR
GHY.-06.

4:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI

GHY.-6.

5:THE CONSERVATOR OF FORESTS

CENTRAL SOUTHERN ASSAM SOCIAL FORESTRY CIRCLE

BASISTHA

GHY.-29.

6:THE CHIEF CONSERVATOR OF FORESTS AND NODAL OFFICER (FC ACT)
ASSAM

O/O. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE

ASSAM

PANJABARI

GHY.-7.

Advocate for : MR. J I BORBHUIYA

Advocate for : ADDL. AG

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS.

BEFORE

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

10.08.2023

Heard Mr J I Borbhuiya, learned counsel for the petitioner and Mr R R Gogoi, learned Standing Counsel, Forest.

2. This writ petition has been filed by the petitioner putting to challenge the departmental proceedings initiated against him and the Show Cause Notice issued to the petitioner vide Memo No. FRE-115/2007/Pt./86-A, dated 19.09.2016 and the statement of allegations and the charges based on those statement of allegation, on the basis of the Letter No. FRE-115/2007/Pt-I/19, dated 19.04.2012. There are two charges framed against the petitioner, for which the enquiry committee was constituted. The charges are as under:-

“Charge No. 1: Misappropriation of Govt. Money to the tune of Rs. 40,762/- and recovery thereof.

That while you, Sri Manoj Kumar Das, were in charge of Boko Social Forestry

Range under Guwahati Social Forestry Division you had been provided Civil advance of Rs. 40,762/- by the then DFO, Guwahati Social Forestry Division during 2004-05 under TSP(G) scheme for creation of two block plantations of 10 ha and 5 ha area. In your cash accounts of month of May/2004, June/2004 and July/2004, you have shown expended the entire amount in the creation of above said plantation at Lampara of Boko SF Range. You handed over charge of Boko Social Forestry Range on 06.08.2005 to Sri Bipin Chandra Thakuria, FR. But your successor, Sri Bipin Chandra Thakuria after thoroughly checking of the area could not trace the above said block plantations of 10 ha and 5 ha in Lampara area. In view of above, no further maintenance fund for the said plantation was released by the DFO, Guwahati Social Forestry Division. Thus, you had not done the works of block plantation of 10 ha and 5 ha area while the entire Govt. money amounting to Rs. 40,762/- has been shown expended by you.

You are therefore, charged with “misappropriation of Govt. Money to the tune of Rs. 40,762/- and recovery thereof.”

Charge No. 2: Submission of False Vouchers, Muster Rolls and Cash Accounts with malafide.

That while you, Sri Manoj Kumar Das, were in charge of Boko Social Forestry Range under Guwahati Social Forestry Division, you had been provided civil Advance of Rs. 40,762/- by the then DFO, Guwahati Social Forestry Division during 2004-05 under TSP(G) scheme for creation of two block plantations of 10 ha and 5 ha area. In your cash accounts of the month of May/2004, June/2004, you have shown expended the entire amount in the creation of above said plantation at Lampara of Boko SF Range. You handed over charge of Boko Social Forestry Range on 06.08.2005 to Sri Bipin Chandra Thakuria, FR. But your successor, Sri Bipin Chandra Thakuria, after thoroughly checking the area could not trace the above said block plantations of 10 ha and 5 ha in Lampara area.

Thus, you had not done the works of block plantation of 10 ha and 5 ha area while the entire Govt. money amounting to Rs. 40,762/- has been shown expended by you. By

doing so, you have submitted vouchers, muster rolls, cash account showing those items of work which were not at all executed. As such, the vouchers, muster rolls and cash account, submitted by you are false.

Therefore, you are charged with submission of false vouchers, muster rolls and cash accounts with mala fide.”

The said communication with the charges was enclosed with list of exhibits and list of witnesses.

3. It is the submission of the learned counsel for the petitioner that those documents were never supplied to him. Meanwhile, by order dated 04.01.2019, an Enquiry Officer was appointed by the competent authority. Under such circumstances, the petitioner prays for quashing of the charges drawn against him and the enquiry proceeding conducted on the ground that the documents which he wants to verify and examine were not permitted to be examined. Learned counsel for the petitioner further submits that the petitioner did not participate in the enquiry proceeding as documents were never furnished to him.

4. Upon direction of this Court to the learned Standing counsel to obtain instructions, the learned Standing Counsel has produced the relevant records for perusal of the Court. Upon due perusal of the documents, it is found that the petitioner participated in the enquiry proceeding and submitted his written statement for his defence denying all charges. The enquiry Officer had also submitted an Enquiry Report. From the record, it is seen that the enquiry was concluded and both the charges have been held to be not proved. The matter is before the disciplinary authority, although a copy of the enquiry report has been furnished before this Court.

5. After having heard the learned counsel for both the parties and on perusal of the record which was produced before this Court, this Court is of the view that since the charges against the petitioner have been held to be not proved, the grievance of the petitioner appears to have been addressed by the Department and no further purpose will be served to pursue the present petition, as all the charges have been held to be not

proved by the Enquiry Officer. In the event, the disciplinary authority decides not to accept the findings of the Enquiry Officer, then they may take recourse of proper procedure in accordance with law. It is expected that a copy of the Enquiry Report will be furnished to the petitioner in due course to permit him to avail any remedy or file any application, if so advised.

6. In view of the aforesaid observations, this writ petition stands disposed of.

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JUDGE

Comparing Assistant