

GAHC010086052023



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

Case No. : WP(C)/2307/2023

DIPMONI DUTTA
S/O- KAILASH CH. DUTTA,
H.NO. 3, MANGO LANE,
PANJABARI, GUWAHATI- 781037.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI

GUWAHATI- 781037.

3:THE ADDITIONAL CHIEF CONSERVATOR FO FORESTS (ADMN. AND VIG.)
O/O THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM

ARANYA BHAWAN
PANJABARI

GUWAHATI- 781037.

4:THE DEPUTY CONSERVATOR OF FORESTS

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

ARANYA BHAWAN
PANJABARI

GUWAHATI- 781037.

5:THE SILVICULTURIST
ASSAM
BASISTHA
GUWAHATI- 781029

Advocate for the Petitioner : MR. N NATH

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 21-07-2023

Heard Mr. N. Nath, learned counsel for the writ petitioner. Also heard Mr. D. Gogoi, learned standing counsel, Forest Department, Assam appearing on behalf of respondent Nos. 1 to 5.

The writ petitioner herein, while working as a Jr. Assistant in the office of the Silviculturist, Assam, i.e. the respondent No. 5, was sent on deputation to serve under the Justice B.P. Katakey One Man Commission of Enquiry. The service of the petitioner was placed on deputation under the One Man Commission by the order dated 21-09-2020 issued by the Addl. Chief Conservator of Forest, i.e. the respondent No. 3 herein. As per the order dated 21-09-2020, the petitioner was to continue to draw his salary from the present division, i.e. under the respondent No. 5. Pursuant to the order dated 21-09-

2020, the petitioner had reported for duty before the Justice B.P. Katakey Commission. On completion of the Enquiry, the report of the one man commission was submitted before the Chief Secretary to the Govt. of Assam on 19-04-2021. Thereafter, by letter dated 20-04-2021 issued by the Secretary to Justice B.P. Katakey Commission of Enquiry addressed to the respondent No. 2, it was informed that requirement of the staff sent on deputation including the petitioner was no longer there and therefore, a request was made to withdraw them from the service of the Commission.

Mr. Nath, learned counsel for the petitioner submits that pursuant to the communication dated 20-04-2021, the respondent Nos. 2 and 3 were under a legal obligation to issue formal order of repatriation of the petitioner. However, no such order has been passed till today, as a result of which, the fate of the petitioner has been hanging in uncertainty. It is also the submission of Mr. Nath that ever since 20-04-2021, the petitioner has not been paid his salary, as a result of which, he has suffered immensely. As such, a writ of mandamus has been prayed for in this proceeding.

Responding to the above, Mr. Gogoi, learned standing counsel, Forest Department submits that since 20-04-2021 the petitioner has not reported for duty and therefore, a departmental proceeding is contemplated against him. The learned standing counsel has also submitted on instructions, that a formal order of repatriation of the petitioner will be issued without any further delay.

After hearing the submission of learned counsel for both the sides and on going through the materials available on record, I find that the facts till the issuance of communication dated 20-04-2021 by the Secretary to Justice B.P. Katakey Commission is

undisputed. The entire controversy in this writ petition revolves around the events taking place thereafter. Although the department has taken a stand that the petitioner has not reported for duty since 20-04-2021, the fact remains that there is no office order issued by the competent authority asking the petitioner either to continue in his deputation post or repatriating him to his parent department. Under the circumstances, the plea that the petitioner has remained unauthorizedly absent since 20-04-2021, *prima facie*, appears to be untenable in the eyes of law. Be that as it may, since the learned departmental counsel has made a categorical submission that the petitioner would be repatriated to his parent department and his pending salary/ arrear salary would be paid without any undue delay, I am of the view that no practical purpose will be served by keeping the writ petition pending before this Court any further.

As such, this writ petition stands disposed of with a direction upon the respondent Nos. 2 and 3 to issue immediate order of repatriation in respect of the petitioner and assign him a proper place of posting. The respondents shall also take necessary steps for releasing the arrear salary of the petitioner for the period aforementioned, as may be found due and payable under the law.

Writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant