

GAHC010141592019



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

Case No. : Cont.Cas(C)/354/2019

R.S.J L DANIEL
D/O LATE L DANIEL, R/O. 7B ANAND KUNJ APARTMENT, ZOO NARENGI
ROAD, 9 NEAR GITA NAGAR POLICE STATION), GUWAHATI, DISTRICT-
KAMRUP(M), ASSAM, PIN- 781021.

VERSUS

ALOK KUMAR, I.A.S. AND 3 ORS.
THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, DISPUR,
GUWAHATI-06.

2:NITIN KUMAR SHIVDAS KHADE
I.A.S.
THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE (TAXATION) DEPARTMENT
DISPUR
GUWAHATI- 781006
ASSAM.

3:ANURAG GOEL
I.A.S.
THE COMMISSIONER OF TAXES
ASSAM
DISPUR
GUWAHATI- 781006
ASSAM.

4:ABDUL ROUF
(IA AND AS)
(B.E.
CHEMICAL ENGINEERING)
THE ACCOUNTANT GENERAL (A AND E)

ASSAM
MOIDAMGAON
BELTOLA
GUWAHATI- 781029

Advocate for the Petitioner : MR S S TALUKDAR

Advocate for the Respondent : MR. D SAIKIA

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 02/08/2023

None appears for the petitioner on call. Mr. B. Choudhury, learned counsel for the respondent.

2. This contempt petition has been filed by the petitioner alleging willful and deliberate disobedience of the directions contained in the order dated 13.03.2019 passed in WP(C) No. 1604/2019.

3. By the said order the writ petition was disposed of as under:-

“13.03.2019

Heard Mr. SS Talukdar, learned counsel for the petitioner. Also heard Mr. D Nath, learned Govt. Advocate, Assam for respondent No.1, Mr. B Choudhury, learned counsel for respondent Nos.2 and 3 and Mr. A Hasan, learned counsel for respondent No.4.

2. Grievance of the petitioner is that though the authorities had initiated certain departmental enquiry against him as far back in the year 2012, there is no end at sight. After conclusion of the proceedings by the enquiry officer and after copy of the enquiry report had been furnished to the petitioner, to which the petitioner had submitted his representation twice, the authorities have not taken any decision in

this regard to conclude the enquiry.

3. A departmental enquiry comes to an end only when the disciplinary authority passes the final order. In the present case, the disciplinary authority has not passed any final order either exonerating by making the petitioner liable for any misconduct or charge made against him, thus, keeping the matter hanging, which according to the petitioner is not permissible.

4. There is force in the submission advanced. Prolonged continuation or non-conclusion of an enquiry results in various disadvantages to an employee including non-receipt of full wages, non-consideration for promotion to the higher post etc. Therefore, if the authorities had concluded the enquiry, there is no reason why the authority should sit over the enquiry. More so, after the petitioner had already submitted his representations against the findings of the enquiry report.

5. Accordingly, the present petition is disposed of with the direction to the respondent authority, more particularly, the disciplinary authority to consider and act upon the report of the enquiry officer along with the representations that had been submitted by the petitioner and pass appropriate final order in this regard within a period of one month from the date of receipt of a certified copy of this order.

6. If the aforesaid final order is not passed by the competent authority as indicated above, it will be deemed that the authorities are not keen to pursue the departmental enquiry in which event the departmental enquiry shall be deemed to have been closed and the petitioner will be entitled to all consequential benefits as if there was no departmental proceeding against him.

7. With the above observations and direction, this petition stands disposed of."

4. The contempt petition was filed alleging wilful and deliberate violation of the order dated 13.03.2019 passed in WP(C) No.1604/2019. In spite of representations furnished, the directions of the learned single judge had not

been complied with.

5. Mr. B. Choudhury, learned counsel appearing for the respondents submits that being aggrieved by the said order, a writ appeal was preferred being W.A. No. 58/2020 and during the course of the hearing before the Division Bench it was revealed that pursuant to the orders passed by the learned single Judge, the enquiry was completed and the Disciplinary authority had accepted the findings of the enquiry officer and had thereupon proceeded to compulsorily retire the petitioner by imposing penalty under Rule 7 of the Assam Services (Discipline & Appeal) Rules, 1964. The said order was also endorsed by the Assam Public Service Commission. In view of the order passed by the Disciplinary authority, the Writ Appeal was accordingly disposed of. Considering the directions passed in W.A. No. 58/2020, no further order needs to be passed in the present contempt petition.

6. In view of such orders being passed by the Division Bench, the directions contained in the order dated 13.03.2019 passed in WP(C) No. 1604/2019 will have to be accepted to be complied with.

7. This contempt petition is accordingly closed.

8. Notices issued are re-called.

JUDGE

Comparing Assistant