

GAHC010143862021



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

Case No. : Cont.Cas(C)/368/2021

CT/GD DILIP HAZAARIKA FORCE NO.065137276
S/O LATE NANDESWAR HAZARIKA, R/O VILL. GHOGRA, DHEKIAJULI
DIST., SONITPUR, ASSAM, PIN 784110

VERSUS

PAMULA KISHORE AND ANR.
THE ENQUIRY OFFICER (2 IC 50 BATTALION) CENTRAL RESERVE POLICE
FORCE, INJIRAM, ONTA, DIST. SUKMA, CHHATTISGARH, PIN 533464

2:N P SINGH (P.M.G.)
THE COMMANDANT 50 BATTALION
CENTRAL RESERVE POLICE FORCE
INJIRAM
ONTA
DIST. SUKMA
CHATTISGARH
PIN 53346

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : MR. R K D CHOUDHURY (R1, R2)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 21/08/2023

Heard Mr. H. Bezbaruah, learned counsel for the petitioner. Also heard Mr.

R.K. Deb Choudhury, learned DSGI for the respondents.

2. This contempt petition has been filed by the petitioner alleging wilful and deliberate disobedience of the directions contained in the order dated 22.04.2021 passed in WP(C)/6624/2011. By the said order a Co-Ordinate Bench of this Court disposed of the writ petition with the following directions:-

“The learned ASGI submitted that he has no objection in quashing the orders provided liberty is granted for denovo enquiry.

Considering the fact that no presenting Officer was appointed which is clearly against the settled principles of law and the submission of the learned ASGI the impugned orders dated 22/2/2010 and order dated 19/5/2010 are quashed and set aside with liberty granted to the respondents to conduct denovo enquiry as per rules.

The writ petition is disposed of.

To avoid any doubt, since the impugned orders are quashed and set aside, the petitioner should be re-instated immediately and the enquiry to be conducted by the respondents should be completed within a time frame of 4 months from today.”

3. It is submitted that this direction was not complied with and therefore the contempt petition has been filed.

4. Mr. R.K. Deb Choudhury, learned DSGI for the respondents submits that an affidavit has been filed by the respondent and it is explained as to why some delay had occurred in compliance with the directions. It is submitted that paragraph 4 of the said affidavit the reasons for the delay have been properly explained.

5. It is averred that during the period of April and May, 2021, Corona was prevailing in Delhi NCR and therefore there was some delay which had occurred

in complying with of the directions of this Court. That apart by Communication dated 23.06.2021, which was communicated to the petitioner through special messenger at his home, the petitioner was informed that he will be reinstated in service and a de-novo enquiry will be conducted against him. The petitioner thereafter only rejoined in his service on 02.07.2021. He was reinstated on the same day thereafter the de-novo enquiry proceeded against him. The de-novo enquiry was conducted and it was completed on 22.10.2021. Mr. R.K. Deb Choudhury further submits that pursuant to the said de-novo enquiry the order was passed with the following conclusions:-

“ (1) No. 065137276 CT/GD Dilip Hazarika dismissed from the service w.e.f the date of issue of this office order and struck of strength from the same date.

(2) Period from dismissal from service i.e. w.e.f 22/10/2010 to date of reinstatement i.e. 02/07/2021 is treated as non-duty period or not spent on duty for all purpose under the provision of FR 54 (5).

(3) Over paid amount be recovered from No.065137276 CT/GD Dilip Hazarika and deposited into government treasury. Kit classification also be done and recover the cost of list kit article and deposit the amount in govt. Treasury”.

6. Mr. R.K. Deb Choudhury further submits that this de-novo enquiry has also been put to challenge in WP(C)/5253/2022 in a subsequent writ petition filed by the petitioner.

7. Mr. H. Bezbaruah, learned counsel for the petitioner submits that no rejoinder is necessary but from a perusal of the affidavit it is evident that there was a delay in compliance with the directions of this Court whereby the authorities were directed to complete the de-novo enquiry with a period of 4 months from the date of receipt of certified copy of this order.

8. Learned counsels for the parties have been heard. Pleadings on record

have been carefully perused.

9. While the directions of the Court was to complete the de-novo enquiry within 4 (four) months, admittedly the enquiry could not be completed within the 4 (four) months as directed. The delay for not being able to complete the enquiry within 4 (four) months has been explained in the affidavit filed by the respondent No.1 although no application for extension of time was prayed for by the respondent seeking further extension of time for completion of the enquiry.

10. Nevertheless the enquiry was completed and the said enquiry report is under challenged in WP(C) No.5253/2022. Under such circumstances, this Court is of the view that although some delay had occurred in compliance of the order dated 22.04.2021 passed in WP(C)/6624/2011 under the facts and circumstances of the case, this Court is not inclined to invoke its contempt jurisdiction under provisions of Section 11 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India and the Gauhati High Court (Contempt of Court) Rules. Accordingly, the contempt petition stands closed.

JUDGE

Comparing Assistant