

GAHC010169672023



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

Case No. : WP(C)/4511/2023

DEEPIJIT SARKAR
S/O- SACHINDRA CH. SARKAR,
R/O VILLAGE NARSINGBARI, WARD NO-1,
P.O AND P.S- GOALPARA, DIST- GOALPARA, ASSAM, PIN-783101

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT., DISPUR, GUWAHATI-06

2:THE SECRETARY
TO THE GOVT. OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT.
DISPUR GUWAHATI 06

3:THE DIRECTOR
OF HEALTH SERVICES
ASSAM
HENGRABARI
GUWAHATI-6.

4:THE JOINT DIRECTOR OF HEALTH SERVICES
GOALPARA
ASSAM-783101

5:THE CHAIRMAN
DISCIPLINARY PROCEEDINGS COMMITTEE
CUM SDM AND HO (SH)

O/O-THE JOINT DIRECTOR OF HEALTH SERVICES
GOALPARA

ASSAM
783101

6:THE INSPECTOR OF DRUGS
O/O-THE JOINT DIRECTOR OF HEALTH SERVICES
GOALPARA
ASSAM
78310

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : SC, HEALTH

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-08-2023

Heard Mr. B. D. Das, learned Senior Counsel assisted by Mr. D. Thaosen, learned counsel for the petitioner and Ms. S. Sarma, learned Standing Counsel, Health and Family Welfare Department for all the respondent Nos. 1 to 6.

2) Petitioner, a Health Assistant serving under the Joint Director of Health Services, Goalpara and posted in the office of the Inspector of Drugs, Goalpara, respondent No.6.

3) The petitioner was arrested on 28.02.2023 in connection with Anti Corruption Bureau P.S. Case No.05/2023 registered under Section 120(B) IPC read with Section 7 (a) of the Prevention of Corruption Act, 1988, as amended.

4) Later, he was released on bail by order dated 10.04.2023, passed by the learned Special Judge, Assam, Guwahati in said ACB P.S. Case No.05/2023.

5) As he was arrested and detained in custody for more than 48 hours in said ACB P.S. Case No. 05/2023, the Director of Health Services, Assam by order

No.HSE/Suspension/294/2022/2659 dated 10.04.2023 suspended the petitioner from service allowing him to draw subsistence allowance @ 50% of the basic pay and proportionate other allowances as per the provisions of FR&SR.

6) The Joint Director of Health Services by its order dated 25.04.2023 constituted a committee to draw Departmental Proceeding against the petitioner. Pursuant to the same, the Chairman of the constituted Departmental Proceeding Committee on 23.05.2023 issued show-cause notice to the petitioner informing him about the initiation of the Departmental Proceeding against him.

7) The petitioner filed an appeal on 09.06.2023 before the Secretary to the Government of Assam in the Health and Family Welfare Department objecting to the Departmental Proceeding initiated against him and for re-instatement in service and to admit his said appeal by setting aside the order of suspension dated 10.04.2023.

8) The petitioner has also placed before the Court a copy of the order dated 21.12.2022, passed by a coordinate Bench of this Court in WP(C) No. 7765/2022, wherein the Court directed the respondent authorities therein to consider the case of the said petitioner under the provisions of Rule 6(2) of the Assam Services (Discipline and Appeal) Rules, 1964 within a specific period of time.

9) Assam Services (Discipline and Appeal) Rules, 1964 that came into force w.e.f., 05.11.1964 is a statutory Rule framed under Article 309 of the Constitution of India.

10) Rule 6 of said 1964 Rules relates to suspension of a Government employee.

11) Rules 13 and 14 of said 1964 Rules provides for preferring an appeal against any such order of suspension.

12) As the statutory appeal of the petitioner dated 09.06.2023 is presently pending before the Secretary to the Government of Assam in the Health and Family Welfare Department, considering the same and as per the statutory provisions of said 1964 Rules, the Secretary to the Government of Assam in the Health and Family Welfare Department, respondent No.2 is directed to dispose of the said appeal of the petitioner dated 09.06.2023 within a period of 45 (forty-five) days from the date of receipt of a certified copy of this order to be furnished by the petitioner along with a copy of his said appeal dated 09.06.2023 and copy of this writ

petition including the Annexures appended thereto obtaining necessary acknowledgement from the said authority in that regard.

13) The Secretary to the Government of Assam in the Health and Family Welfare Department shall intimate the petitioner about the outcome of his said appeal.

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

JUDGE

Comparing Assistant