

GAHC010182062023



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

**Case No. : WP(C)/4754/2023**

INDRAJIT BORA  
S/O- LATE BHUBAN CHANDRA BORA,  
CHIEF ENGINEER, GUWAHATI MUNICIPAL CORPORATION,  
GUWAHATI, KAMRUP(M), ASSAM.  
PERMANENT ADDRESS-  
CLUB ROAD, CHANDAN NAGAR, JORHAT.  
PRESENT ADDRESS- 1ST FLOOR  
(IN THE HOUSE OF NABIN HATIMURIA),  
HATIGAON BHETAPARA ROAD,  
P.S.- HATIGAON, GUWAHATI-38.

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SPL. SECRETARY TO THE  
GOVT. OF ASSAM,  
PUBLIC WORKS (ROADS) DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:DEPUTY SECRETARY TO THE GOVT. OF ASSAM  
ESTT-B (CONFIDENTIAL CELL)  
PWRD.

3:THE DEPUTY COMMISSIONER  
KAMRUP(M)  
GHY-01.

4:SUPERINTENDENT OF POLICE  
DIRECTORATE OF VIGILANCE AND ANTI-CORRUPTION  
ASSAM

SRIMANTAPUR  
GUWAHATI-32.

5:INSPECTOR OF POLICE  
DIRECTORATE OF VIGILANCE AND ANTI-CORRUPTION  
ASSAM  
SRIMANTAPUR  
GUWAHATI-32

**Advocate for the Petitioner** : MR. SK N MOHAMMAD

**Advocate for the Respondent** : GA, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**25.08.2023**

Heard Mr. SK S N Mohammad, learned counsel for the petitioner and Mr. R Dhar, learned Standing counsel, Public Works (Roads) Department, Assam for the respondent Nos. 1 & 2. Also heard Mr. D Bora, learned Government Advocate, Assam for the respondent Nos. 3, 4 & 5.

**2.** The petitioner is a Superintending Engineer (Civil), PWRD, RAM Cell in the Office of the Chief Engineer (Roads), Assam and was attached to the Chief Engineer, Guwahati Municipal Corporation.

**3.** On 22.03.2023 the petitioner was arrested in ACB P.S. Case No. 17/2023 registered under Section 7 (a) of the Prevention of Corruption Act, 1988 as amended, in a bribe case while taking bribe money.

**4.** Later he was released on bail by the Special Judge, Assam on 28.04.2023 in said ACB P.S. Case No. 17/2023.

**5.** The Commissioner and Special Secretary to the Government of Assam in the Public

Works Roads Department (PWRD) vide Communication No. eCF 244735/10 dated 31.03.2023 suspended the petitioner from service under Rule 6(2)2.2.1 of the Assam Services (Discipline & Appeal) Rules, 1964 as he was arrested in a police case and detained in custody for more than 48 hours w.e.f. 22.03.2023 i.e., the date of his arrest.

**6.** The petitioner on 12.05.2023 submitted a representation for his reinstatement in service, which is yet to be considered.

**7.** Later by No. E-294339/81 dated 03.07.2023, the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department issued a Show-Cause Notice to the petitioner under Rule 9 of the Assam Services (Discipline and Appeal) Rules, 1964 read with Article 311 of the Constitution of India as to why the penalties prescribed in Rule 7 of the Assam Services (Discipline and Appeal) Rules, 1964 should not be inflicted upon him in terms of the charges framed against him in the said Show-Cause Notice dated 03.07.2023.

**8.** The said Show-Cause Notice dated 03.07.2023, noted above, was issued to the petitioner through E-mail at 11.24 PM on 03.07.2023.

**9.** The petitioner received the said Show-Cause Notice and submitted his reply on 10.07.2023. Said Show-Cause reply of the petitioner is yet to be considered.

**10.** The petitioner submitted that after his release on bail on 28.04.2023 in said ACB P.S. Case No. 17/2023, he on 12.05.2023 submitted an appeal before the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department for his reinstatement in service, intimating the said authority about his release on bail. The said appeal has not been disposed of till date.

**11.** As the petitioner has not been reinstated in service for more than 90 days after the date of his release on bail on 28.04.2023, the petitioner being aggrieved has preferred this writ petition, praying for a direction to the respondent authorities to reinstate him in service stating that he will retire from service on 30.09.2023 on attaining the age of superannuation at 60 years.

**12.** On being enquired, Mr. R Dhar, learned Standing counsel, Public Works (Roads) Department, Assam placed before the Court a copy of the Notification No. CON.8/2022/Pt./87 dated 12.08.2023 issued by the Commissioner and Special Secretary to the Government of

Assam, Public Works (Roads) Department, whereby the respondent department stated that a Departmental Proceeding has already been initiated against the petitioner on 03.07.2023 and considering the entire facts and circumstances, the said authority by the Notification dated 12.07.2023 extended the suspension of the petitioner for a period of 2 (two) months w.e.f. 22.06.2023 and until further order.

**13.** The period of 2 (two) months in terms of the said Notification dated 12.07.2023, noted above, is already over.

**14.** However, the enquiry with regard to the Departmental Proceeding against the petitioner has not been initiated.

**15.** Though the petitioner raised a question that the Show-Cause Notice issued to him on 03.07.2023 is without the signature of the authority concerned, but the petitioner has already submitted his reply to the said Show-Cause Notice on 10.07.2023 and he has not challenged the said Show-Cause Notice dated 03.07.2023.

**16.** Considering the fact that the petitioner shall retire from service on 30.09.2023 and that the respondent authorities are yet to consider his reply to the said Show-Cause Notice dated 10.07.2023 submitted before the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department on 10.07.2023; the petitioner is directed to submit a fresh representation before the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department along with the certified copy of this order on or before 31.08.2023, stating his grievances and praying for his reinstatement in service who was placed under suspension on 31.03.2023.

**17.** As the petitioner shall retire from service on 30.09.2023, in the event of filing such representation by the petitioner along with the certified copy of this order on or before 31.08.2023, as directed above, the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department shall dispose of the same in accordance with law, intimating the petitioner about the outcome of his said representation.

**18.** With the above observation and direction, this writ petition stands disposed of.

**19.** Copy of the Communication of the Commissioner and Special Secretary to the Government of Assam, Public Works (Roads) Department dated 12.07.2023 placed before the

Court by Mr. R Dhar, learned Standing counsel, Public Works (Roads) Department be kept as part of the record.

**JUDGE**

**Comparing Assistant**