

GAHC010213502011



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

Case No. : WP(C)/5224/2011

SRI AJIT KUMAR BARUAH
S/O LT. SATISH CH. BARUAH, R/O NAKARI, P.O. AND P.S. NORTH
LAKHIMPUR, DIST LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM and ORS
REP. BY THE COMMISSIONER AND SECY. , DEPTT. OF FOREST, DISPUR,
GHY-6., ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST

REHABARI
GHY- 8.

3:THE CHIEF CONSERVATOR OF FOREST

PANBAZAR
GHY- 1.

4:THE CONSERVATOR OF FOREST

NORTHERN ASSAM CIRCLE
TEZPUR- 784001.

5:THE DEPUTY COMMISSIONER

LAKHIMPUR
LAKHIMPUR
ASSAM- 787001.

6:THE DIVISIONAL FOREST OFFICER

NORTH KAMRUP DIVISION
RANGIA- 781354.

7:THE DIVISIONAL FOREST OFFICER TERRITORIAL

NORTH LAKHIMPUR- 787001

Advocate for the Petitioner : MR.PARAG J SAIKIA

Advocate for the Respondent :

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner :Mr. RI Bhuyan, Advocate

For the Respondents : Mr. TC Chutia, Advocate

Date of Hearing : 15.06.2023

Date of Judgement : 15.06.2023

JUDGEMENT & ORDER (ORAL)

1. Mr. RI Bhuyan, learned counsel for the petitioner prays for an adjournment on the ground that his senior Mr. NH Mazarbhuiyan, learned counsel is out of station. Since the writ petition is pending since 2011, such prayer for adjournment is rejected. Though the name of Mr. RI Bhuyan, learned counsel is also shown as the counsel, but he is even without the brief. Also heard Mr. TC Chutia, learned counsel for the respondent No. 5.
2. The petitioner is aggrieved by an order dated 20.08.2011 passed by the Principal Chief Conservator of Forest and Head of Forest Force, Assam whereby the claims of the petitioner that petitioner was appointed as

Forester Grade-I in the forest department and that he is entitled for reinstatement in service and for arrears of salary, were rejected.

3. The petitioner on the basis of a certificate purportedly issued by Divisional Forest Officer dated 23.12.1983 claims to be appointed as Forester Grade I. The aforesaid certificate on the basis of which the petitioner claims to have entered into Government service is quoted hereinbelow:

“This is to certify that Sri Ajit Kumar Baruah son of Sri Satish Chandra Baruah, Vill- Garahaga Sonari Gaon, P.O. Azad, P.S. North Lakhimpur, Dist- Lakhimpur is serving under the Divisional Forest Officer, North Kamrup Division under the N.R.E. Programme as Supervisor which may be treated as Forester, I. He is an young energetic educated youth and is found suitable in Forestry works especially in field works. He is sincere and dutiful in his work.

He bears a good moral character.

I wish him all success in future.

Divisional Forest Officer,

North Kamrup Division”

4. The claim of the petitioner is that due to his illness he was absent from his duties for about 10 years and ultimately he joined the office of the DFO, North Lakhimpur Territorial Division on 19.12.2005. But, he was restrained to enter into the office of the DFO, North Lakhimpur. Even an FIR was lodged against him for which he had to take bail from the competent court. With the aforesaid backdrop the petitioner preferred a writ petition against the respondent authorities, which was registered as WP(C) No.2469/2011. Said writ petition was disposed of by this court on 30.05.2011 with the following directions:

“30.05.2011

Heard PJ Saikia, learned counsel, for the petitioners, and Mr. B.J. Ghosh, learned Govt. Advocate, appearing on behalf of the respondents.

Upon hearing the learned counsel for the parties and on perusal of the materials on record, and, as agreed to by the learned counsel for the parties appearing before me, this writ petition is disposed of, at the motion stage itself, with the following directions:-

The petitioner, as undertaken by him, will make a representation, in writing, addressed to the respondent No.2, namely, Principal Chief Conservator of Forest, Panbazar, Guwahati-1, within two weeks from today seeking such reliefs as he may deem himself entitled to and, if such a representation is made, the respondents, particularly, respondent No.2, namely, Principal Chief Conservator of Forest, Panbazar, Guwahati-1, shall consider and dispose of the same in accordance with law by making a speaking order within a period of six weeks from the date of receipt of the petitioner's representation as indicated hereinbefore. If the petitioner feels aggrieved by the decision(s), which may be arrived at, or the order(s), which may be passed, by the respondents/authorities concerned, the petitioner shall remain at liberty to take recourse to such provisions of law as may be permissible.

While making the representation as indicated above, the petitioner shall enclose, therewith, a certified copy of this order along with a copy of this writ petition and annexures thereto. No costs."

5. Subsequent to this, the petitioner preferred a representation on 06.06.2011. Therefore, the impugned speaking order was passed.
6. From the impugned order, it is seen that the Principal Chief Conservator concluded that there is no basis for claim of the petitioner that he was appointed as Forester Grade-I in the Forest Department. It was also held that the petitioner was never an employee of forest department nor he was working in the Forest Department. Accordingly, the claim of the petitioner

for release of salary was rejected. Being aggrieved, the present application is filed.

7. In this case also the petitioner claims to be a Government servant on the basis of the annexure -1, which is quoted hereinabove.
8. The respondents by filing an affidavit has taken a specific stand that the petitioner was never appointed by the Government of Assam to any post in the Forest Department of Assam as claimed by the petitioner. The document/ certificate dated 12.08.1983 cannot be treated to be an appointment order and same is nothing but a piece of paper in the name of a certificate issued by the then Divisional Forest Officer and such certificate cannot be treated as an appointment order. It was a further stand of the respondents that the claim of the petitioner that the petitioner is continuing in service as Forester Grade I by attending the office is totally false.
9. It is available on record that the petitioner, after his alleged recovery from ailment on 19.12.2005, submitted a joining report before the Divisional Forest Officer, Lakhimpur Forest Division and the Divisional Forest Officer by its communication dated 31.12.2005 intimated the petitioner that his joining report is not accepted as there is no record in the Division as well as in the office of the Principal Chief Conservator of Forest of appointment of the petitioner as Forester Grade-I.
10. Thereafter, the Divisional Forest Officer filed an FIR alleging that the petitioner was attempting to forcefully enter into the office and to join. It is the contention of the petitioner that as the police has submitted final report, therefore, such fact proves that the petitioner is continuing in service.

11. The appointment certificate on the basis of which the petitioner claims to enter into Govt. service and as Grade I Forester, cannot be accepted inasmuch as public appointment cannot be made in that way.
12. Secondly, the petitioner himself has admitted that for 10 years he was not in service and when he went to join, he was not allowed to join and an FIR was filed. Closure report by the police in the FIR lodged by the authority cannot be a conclusive proof that the petitioner is continuing in service.
13. From the aforesaid material, the conclusion reached by the Principal Chief Conservator of Forest through the impugned order cannot be faulted with. The petitioner has failed to show that any legal or Constitutional right of his has been infringed by the respondent authorities.
14. In the aforesaid view of the matter, this court is of the considered opinion that the impugned order has rightly been passed. Accordingly, the present writ petition stands dismissed.

JUDGE

Comparing Assistant