

GAHC010217972023



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

Case No. : WP(C)/5697/2023

PRANJAL BORA
S/O MUKUL CHANDRA BORA R/O BHERBERI P.O. HALUWAGAON P.S.
SAMGURI DIST. NAGAON ASSAM PIN 782185

VERSUS

THE COMMISSIONER AND SECRETARY AND 2 OORS
TO THE GOVT. OF STATE OF ASSAM REVENUE DEPTT. DISPUR
GUWAHATI 781006

2:THE DISTRICT COMMISSIONER AND DISCIPLINARY AUTHORITY
NAGAON
ASSAM PIN 782001

3:THE CIRCLE OFFICER
KALIABOR REVENUE CIRCLE KALIBOR NAGAON ASSAM PIN 78213

Advocate for the Petitioner : MR. B J GHOSH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 15-12-2023

Heard Mr. B.J. Ghosh, learned counsel appearing for the petitioner. Also
Heard Mr. J.K. Goswami, learned Additional Senior Government Advocate, Assam,
and Mr. S. Dutta, learned Standing Counsel, Revenue, appearing for the
respondents.

The petitioner herein, who was working as a Lat Mondal in the Office of the Circle Officer, Kaliabor, was arrested on 03.03.2023 by the Vigilance and Anti Corruption Department, Assam, in connection with ACB Police Case No. 07/2023. The petitioner was placed under suspension by the order dated 04.03.2023, passed by the District Commissioner & Disciplinary Authority, Nagaon. Subsequently, the petitioner was released on bail on 06.04.2023. The petitioner thereafter filed a representation dated 24.04.2023 before the District Commissioner & Disciplinary Authority, Nagaon, praying for release of subsistence allowance and also intimating that he has been released on bail. Subsequently, another representation dated 01.08.2023 has been addressed to the Deputy Commissioner, Nagaon, seeking re-instatement in his service as a Lat Mondal in the office of the Circle Officer, Kaliabor.

This writ petition is filed by the petitioner being aggrieved by the fact that he has not been re-instated in service in spite of being placed under suspension for a period beyond three months without any review. The further grievance raised in the writ petition is that no subsistence allowance was released to the petitioner during his suspension.

During the course of proceedings, learned counsel for the petitioner submits that subsistence allowance has been received by the petitioner in the meanwhile.

By order dated 06.12.2023 passed in this proceedings, the respondents were permitted time to obtain instructions as to whether any specific review order has been passed regarding extension of the suspension order issued to the petitioner. Today, when the matter is called out, learned counsels for the respondents submit that they have not been posted with the required instructions.

In spite of opportunities granted, neither any instructions are forthcoming from the respondents, nor has any affidavit been filed. Under such circumstances, this Court is of the considered view that the writ petition can be disposed of with the direction to the respondent authorities, more particularly, the District Commissioner & Disciplinary

Authority, Nagaon, to pass appropriate orders in respect of the prayer of the petitioner for re-instatement in his service. Needless to say that the law as regards review of suspension has been clearly laid down by the Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary and another**, reported in **(2015) 7 SCC 291**, which has been referred to and relied upon by three Division Benches of this Court in the cases of **Rekibuddin Ahmed Vs. State of Assam and others [WP(C) 3218/2019]**, **State of Assam & Ors. vs. Ajit Sonowal & Ors. (WA 114/2022)** and **State of Assam & Anr. Vs. Mrigen Haloi**, reported in **2021 (4) GLT 682**. Under such circumstances, the respondent authorities are duty bound to follow the law laid down by the Apex Court as well as by the Division Benches of this Court in the aforementioned cases and pass appropriate orders deciding the question of re-instatement of the petitioner.

Accordingly, the respondents are duty bound to re-instate the petitioner in his service and since it is evident that no review had taken place before expiry of three months for extension of the suspension of the petitioner, the respondents are bound to follow the law laid down by this Court, as discussed above, following the principles of the law laid down by the Apex Court in the case of **Ajay Kumar Choudhary** (supra). The order re-instating the petitioner should be passed by the respondent department within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order.

The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant