

GAHC010272032022



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

Case No. : WP(C)/15/2023

DINARAM BORA
SON OF LATE NARA RAM BORA,
RESIDENT OF VILLAGE GOHAIN GAON,
P.O.- KAMARBANDHA ALI,
DIST- GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT,
GOVT. OF ASSAM, DISPUR,
GUWAHATI- 781006.

2:THE DEPUTY COMMISSIONER
GOLAGHAT
GOLAGHAT
ASSAM.

3:ADDITIONAL DEPUTY COMMISSIONER
GOLAGHAT
ASSAM.

4:CIRCLE OFFICER
GOLAGHAT REVENUE CIRCLE
GOLAGHAT
ASSAM

Advocate for the Petitioner : MS. D SINHA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

30.01.2023

The instant writ petition has been filed by the petitioner for payment of his back wages to which he is entitled to as per law.

The case of the petitioner herein is that the petitioner was appointed as a Gaonburah of Gohaingaon village as per the order dated 13.09.2005 of the Deputy Commissioner, Golaghat. On the basis of a complaint, the petitioner was initially placed under suspension. Thereafter by an order dated 19.07.2011, the Deputy Commissioner, Golaghat had constituted an Enquiry Committee to enquire the allegation made against the petitioner. The petitioner was neither allowed to participate in the said enquiry nor the petitioner was provided any report of such enquiry as has been alleged in the writ petition. However, the petitioner came to learn from the Circle Officer, Golaghat Revenue Circle that a group of less than 10% of the population of the villagers had filed a complaint against the petitioner for some other vested interest. Subsequent thereto, on 24.04.2012, the Deputy Commissioner, Golaghat terminated the services of the petitioner with immediate effect based upon the public complaint.

Being aggrieved, the petitioner had filed a writ petition being WP(C) No.2965/2012. This Court vide the judgment and order dated 14.07.2017 set aside the termination order dated 24.04.2012 on the ground that the date of termination and the date of initiation of the disciplinary proceedings are one and the same. However, liberty was granted by this Court to the

respondents to bring the said proceedings to a logical conclusion by following proper Departmental norms and procedure.

Subsequent thereto, vide an order dated 16.11.2017, the Deputy Commissioner Golaghat had reinstated the petitioner as Gaonburah of Gohaingaon under Dakhinhengera Mouza within the jurisdiction of Golaghat Revenue Circle with immediate effect and the petitioner was directed to take charge as per procedure. However, it is the case of the petitioner that during his suspension period as well as the period during which the petitioner was terminated which was held by this Court to be nonest in the eye of law, he was not paid his honourarium. The petitioner, accordingly, submitted various representations but the respondents having not redressed the grievances of the petitioner, the petitioner has approached this Court under Article 226 of the Constitution.

Mr. J. K. Goswami, the learned counsel for the respondents submitted that taking into account the order being passed by this Court dated 14.07.2014 wherein the termination order was set aside, the petitioner would be entitled to his honourarium but it is on account of non-availability of the funds, the petitioner has not been paid his honourarium. He further submitted that steps have also been taken for additional budget so that the petitioner's honourarium can be paid. In this regard, Mr. J. K. Goswami, the learned counsel for the respondents has placed on record an instruction issued by the Circle Officer, Golaghat Revenue Circle to the Additional Deputy Commissioner, Revenue, Golaghat dated 12.01.2023 which is kept on record and marked with the letter "X".

Taking into consideration that the petitioner's entitlement to the honourarium during the period of his suspension and termination is not in

dispute and it is only on the question of non-availability of fund that the petitioner has not been paid his honourarium, this Court disposes of the instant writ petition with a direction to the Deputy Commissioner, Golaghat to pay the honourarium to the petitioner during the period of his suspension as well as his termination within a period of 3 (three) months from the date a certified copy of the instant order is served upon the respondent No.2

With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant