



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

Case No. : WP(C) 1/2023

1:SHRI. I. AOCHUBA PONGENER
RESIDENT OF MERHULITSA COLONY,
KOHIMA, NAGALAND, PIN - 797001

VERSUS

1:THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, KOHIMA,
PIN - 797001

2:THE ADDITIONAL CHIEF SECRETARY AND FINANCE COMMISSIONER
FINANCE DEPARTMENT
NAGALAND
KOHIMA

PIN - 797001

3:THE PRINCIPAL DIRECTOR
DIRECTORATE OF TREASURIES AND ACCOUNTS

NAGALAND
KOHIMA
PIN - 79700

Advocate for the Petitioner : C. T. JAMIR, SR. ADV

Advocate for the Respondent : GOVT ADV NL

BEFORE

HON'BLE MR. JUSTICE L.S. JAMIR**ORDER****Date : 12-01-2023**

Heard Mr. C.T. Jamir, learned senior counsel assisted by Ms. Marilyn Rutsa, learned counsel for the petitioner; also heard Mr. V. Zhimomi, learned Government Advocate appearing on behalf of the respondents.

The petitioner is presently serving as Senior Treasury Officer (Sr.TO) in the Department of Treasury and Accounts, Government of Nagaland. On the basis of an Audit Report of the Controller and Auditor General for the year ending 31.03.2019, the Nagaland *Lokayukta* held an enquiry pertaining to the fraudulent/double/excess drawal by various departments of the Government of Nagaland *vide* order dated 16.11.2022. The order further stated that immediate action may be taken against the officers/staff within 30.11.2021. Thereafter, the *Upa Lokayukta* framed charges against the officers/staff, including the petitioner for fraudulent withdrawal of Rs. 11,99,960/- under Executive Engineer, PHED, Urban Division Kohima, and divested them of their current assignments and responsibilities till further orders by Notification dated 18.12.2021. Show Cause Notice dated 18.12.2021 was also issued to Show Cause within 15 days. The petitioner, accordingly submitted his reply on 21.12.2021 clarifying that during the relevant period the alleged fraudulent bills have been signed by the then Sub-Treasury Officer (STO), who has retired and, therefore, the petitioner cannot be held liable or responsible for the actions committed by another officer. Thereafter, the *Upa Lokayukta vide* an order dated 24.05.2022 observed that after completion of necessary

steps by the Departments, the officers/staff may be restored back to their post and its responsibilities. The petitioner, accordingly made an application to the Principal Director, Directorate of Treasuries and Accounts Nagaland, on 27.05.2022 to rescind the impugned Notification dated 18.12.2021.

The *Upa Lokayukta*, vide order dated 09.08.2022 in Case No.: A-NLP-08/2021, modified the earlier orders dated 16.11.2021 and 24.05.2022, dropped the allegations made against the petitioner and forwarded the same to the concerned authorities vide a letter dated 10.08.2022. The relevant portion of the order dated 09.08.2022 reads as under:

"In view of the above facts and circumstance, the order dated 16/11/2021 and 24/5/2022 passed by this forum is modified to the extent that the name of the officer Shri. Aochuba Ao @I. Aochuba Pongener reflected in the orders is dropped and the name of the then STO Smti. Kezhano is inserted in its place.

Copy of this order along with the CTC of orders dated 16/11/21 and 24/5/2022 and the photocopy of the Affidavit filed by Shri. Aochuba Ao @I. Aochuba Pongener and Smti. Kezhano be send to (1) The Additional Chief Secretary & Finance Commissioner for necessary orders (2) The Principal Director Treasuries & Accounts for information."

Despite the order dated 09.08.2022, the concerned authorities are yet to issue regular posting to the petitioner till date and therefore he has approached this Court by way of this present writ petition.

Taking into consideration the order dated 09.08.2022 passed by the *Upa Lokayukta* it is amply clear that the charges against the petitioner has been dropped and all the earlier orders passed against the petitioner has been modified. In that view of the matter, this Court is of the considered opinion that there is no impediment on the part of the respondents to issue regular posting orders to the

petitioner.

Accordingly, this writ petition is disposed of directing the concerned authorities, particularly the respondent Nos. 2 & 3, i.e. The Additional Chief Secretary and Finance Commissioner, Finance Department Nagaland, and the Principal Director, Directorate of Treasures & Accounts Nagaland, to consider giving regular posting to the petitioner within a period of 2 (two) weeks from the date of receipt of a copy of this order.

With the above observations and directions, the writ petition is disposed.

Sd/-
JUDGE

Comparing Assistant