

GAHC010009312020



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

Case No. : WP(C)/345/2020

CONSTABLE NO. 640 AMIO RAJKHOWA
S/O- LATE TUKHESWAR RAJKHOWA, R/O- VILL HABIAL GAON, P.O-
GANAK PUKHURI, P.S- GOLAGHAT, DIST- GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER TO THE GOVT OF ASSAM, HOME DEPTT,
DISPUR, GUWAHATI- 6, DIST- KAMRUP(M), ASSAM

2:THE DGP
ASSAM
ULUBARI
GUWAHATI- 07
DIST- KAMRUP
ASSAM

3:THE DEPUTY INSPECTOR GENERAL OF POLICE (TRAINING)
ASSAM
DERGAON CUM APPELLATE AUTHORITY
DIST- GOLAGHAT
ASSAM

4:THE COMMANDANT
11TH APBN
DERGAON
DIST- GOLAGHAT
ASSAM
PIN- 78562

Advocate for the Petitioner : MR P TALUKDAR

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/605/2012

CONSTABLE NO.640 AMIO RAJKHOWA
S/O SRI TUKHESWAR RAJKHOWA
R/O HABIAL GAON
P.O. GANAK PUKHURI
P.S. GOALGHAT
DIST- GOLAGHAT
ASSAM

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE COMMISSIONER TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GHY-6
DIST- KAMRUP
ASSAM

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY-7
DIST- KAMRUP
ASSAM

3:THE DY. INSPECTOR GENERAL OF POLICE
ULUBARI
GHY-7
DIST- KAMRUP
ASSAM

4:THE ISPECTOR GENERAL OF POLICE T.A.P.
ASSAM
ULUBARI
GHY-7
DIST- KAMRUP
ASSAM

5:THE COMMANDANT

11TH ASSAM POLICE BATTALION
DERGAON

PIN-785621
DIST- GOLAGHAT
ASSAM

Advocate for : MR.P TALUKDAR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND ORS

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 25.06.2024

None appears for the petitioner on call. Mr. C.K.S.Baruah, learned Government Counsel represented the State respondents.

2. The above noted writ petitions have been instituted by the same petitioner assailing imposition of an order of penalty of removal from service on conclusion of departmental proceeding instituted against him on an allegation of having remained unauthorizedly absent. Writ Petition No. 345/2020 was so instituted presenting a further challenge to an order dated 22.11.2019 passed by the Deputy Inspector General of Police (Training), Dergaon rejecting the appeal as filed in the matter against the penalty imposed upon the petitioner.

3. A perusal of the materials brought on record in the above writ petitions, reveals that the petitioner while serving as Constable in the 11th Assam Police Battalion, Degaon was permitted to proceed on leave for 10 days w.e.f. 20.09.2004 to 30.09.2004. It is seen that after availing the said leave and on expiry of the same, the petitioner did not re-join his services. The respondent authorities thereafter, issued notices to the petitioner requiring him to re-join his services however, the same not having been responded to, the Commandant

11th Assam Police Battalion vide an order dated 16.06.2006 proceeded to place the petitioner under suspension on account of his unauthorized absence, with immediate effect.

4. The said order of suspension was followed by initiation of departmental proceeding against the petitioner by way of issuance of a show cause notice dated 19.06.2006 and therein it was held that the petitioner had remained unauthorizedly absent w.e.f. 01.10.2004.

5. It is seen that the petitioner although was issued with a copy of the said show-cause notice, he had not responded to the same. Thereafter, the enquiry was conducted in the matter by the respondents and on receipt of the enquiry report from the Enquiry officer, and the processing as mandated being done, the Commandant 11th Assam Police Battalion, Degaon proceeded vide order dated 26.09.2006, upon agreeing with the findings arrived at in the matter by the enquiry officer, proceeded to impose upon the petitioner herein the penalty of removal from service. Such penalty was so imposed upon a conclusion being drawn that the petitioner is not entitled for being retained in the service. It is seen that the petitioner thereafter, had submitted an appeal in the matter before the appellate authority against the said order dated 26.09.2006.

6. Perusal of the appeal memo reveals that the petitioner had not brought on record any materials therein to reflect as to why he had not joined his services and as to the reason of not responding to the notices issued in the departmental proceeding initiated against him. The said appeal on being considered came to be rejected by the appellate authority vide its order dated 22.11.2019.

7. Perusal of the contentions as made in the writ petitions does not reveals

that the petitioner had brought on record any cogent cause justifying his absence from duties w.e.f. 01.10.2004 and also with regard to his non participation in the enquiry proceeding. Accordingly, the petitioner being a member of a disciplined force could not be permitted to remain unauthorizedly absent from his duties and on account of such unauthorized absence, the petitioner had exposed himself to be proceeded against and imposed with exemplary punishment.

8. Accordingly, this court does not find any error in the penalty as imposed upon the petitioner herein as well as in the contentions as recorded by the appellate authority in the order, dated 22.11.2019.

9. However, the petitioner not being represented before this Court, this court would not dismiss the writ petition on merit. However, on account of non-representation on behalf of the petitioner, the writ petitions stands dismissed for non-prosecution.

JUDGE

Comparing Assistant