

GAHC010003852023



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

Case No. : WA/7/2023

HABIZUR RAHMAN LASKAR
S/O. LT. NASIB ALI LASKAR, VILL. TUPKHANA, P.O. ARUNACHAL, P.S.
SILCHAR, DIST. CACHAR, ASSAM, PIN-788025.

VERSUS

THE STATE OF ASSM AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, HOME AND
POLITICAL (B) DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR GENERAL OF POLICE
ULUBARI
GUWAHATI-07.

3:THE INSPECTOR GENERAL OF POLICE
ULUBARI
GUWAHATI-07.

4:THE DEPUTY INSPECTOR GENERAL OF POLICE
C.R. DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

5:THE SUPDT. OF POLICE CUM DISCIPLINARY AUTHORITY
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460.

6:THE DY. SUPDT. OF POLICE (P)
23RD AP(P) BN.
CUM ENQUIRY OFFICER

DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

For the Appellants : Mr. S. Nath, Advocate
For the Respondents : Mr. D.K. Sarmah, Addl. Sr. GA, Assam
Ms. S. Konwar, JR. GA, Assam

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

JUDGMENT & ORDER (ORAL)

Date : 04-04-2024

(Vijay Bishnoi, CJ)

This *intra-court* appeal is filed by the appellant being aggrieved with the order dated 12-12-2022 whereby the learned Single Judge while disposing of the writ petition filed by the petitioner has granted liberty to the petitioner to give reply to the Enquiry Report with a further direction to the Disciplinary Authority to pass its own reasoned order. Simultaneously, the learned Single Judge has refused to interfere the order dated 11-12-2014 impugned in the writ petition, whereby the appellant was compulsorily retire from service after a departmental enquiry.

2. The learned Single Judge has observed that the order dated 11-12-2014 retiring the appellant compulsorily will remain subject to the fresh order passed by the Disciplinary Authority. The learned Single Judge has further clarified that the ground taken by the appellant to the effect that the Presenting Officer has also acted as Enquiry Officer be treated as foreclosed and the petitioner can submit his reply by taking any other ground other than the aforesaid ground.

3. The learned counsel for the appellant has submitted that he is only aggrieved by the direction of the learned Single Judge whereby it has foreclosed the right of the petitioner to raise the ground that the Presenting Officer and the Enquiry Officer is the same in the Disciplinary Proceeding against the appellant.

4. We have heard the learned counsel for the appellant and have also perused the original record of the Departmental Proceedings produced by the learned counsel for the State of Assam. From the record it is clear that no Presenting Officer was appointed at any point of time during the pendency of the Departmental Proceeding against the appellant. In such circumstances, when the Presenting Officer was not even being appointed in the Departmental Proceedings, there is no question of the same person acted as the Presenting Officer and the Enquiry Officer. Hence, we do not find any case for interference.

This intra-court appeal is dismissed.

The original record of the Departmental Proceedings be returned back to the learned counsel for the State of Assam

JUDGE

CHIEF JUSTICE

GS

Comparing Assistant