

GAHC010005272014



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

Case No. : WP(C)/435/2014

DURGESWAR ROY
S/O LT. UPEN CHANDRA ROY, R/O BAHIRACHANGMARI, P.O. DHONTOLA,
P.S. ABHAYAPURI, DIST- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME DEPARTMENT, DISPUR, GHY-6

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

3:THE COMMANDANT
7TH A.P. BATTALION
CHARAIKHOLA
KOKRAJHA

Advocate for the Petitioner : MS.L BORGOHAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

19.04.2024

Heard Ms. N Saikia, learned counsel for the petitioner. Also heard Mr. A Chakraborty, learned Junior Government Advocate for the State respondents.

2. The grievance as raised in the present proceeding is with regard to the non-payment of arrear salaries to the petitioner w.e.f. the date of his removal from service i.e. 06.09.2001 to the date of his reinstatement in service i.e. on 02.05.2012.

3. The petitioner while working as a Constable in the 7th Assam Police Battalion, Charaikhola, Kokrajhar district was placed under suspension w.e.f. 17.07.2001. The said order of suspension was followed by a show-cause notice dated 23.07.2001. It is contended in the writ petition that the petitioner in pursuance to an enquiry was imposed with a penalty of removal from service. Being aggrieved, the petitioner had approached this Court by way of instituting a writ petition being WP(C)No.7364/2003 assailing such order of removal. This Court vide the judgment and order dated 02.05.2012 gave a final consideration to the said writ petition by interfering with the order of penalty of removal from service as imposed upon the petitioner on 06.09.2001. This Court thereafter, proceeded in the facts and circumstances of the case to modify the penalty as imposed upon the petitioner by treating the period of suspension from 17.07.2001 to 06.09.2001 to be punishment imposed upon the petitioner. With the above imposition of penalty, the petitioner was directed to be reinstated in service subject to furnishing of the fitness certificate, maintaining continuity of service all throughout.

4. The respondent authorities in terms of the directions passed by this Court vide judgment and order dated 02.05.2012 proceeded to reinstate the petitioner in his services. The order so passed on 30.06.2012 reinstating the petitioner has also provided that the continuity of the services of the petitioner shall be maintained all throughout.

5. The petitioner by way of instituting the present proceedings has prayed for a direction requiring the respondent authorities to release his due salary w.e.f. 06.09.2001 to 02.05.2012 i.e. from the date of his removal from service to the date when the orders interfering the said penalty was passed by this Court.

6. A perusal of the judgment and order dated 02.05.2012 would reveal that this Court while directing for reinstatement of the petitioner had not passed any further directions with regard to the manner in which the period of service of the petitioner after his removal was to be so treated. The direction as passed by this Court vide order dated 02.05.2012 has since attained finality in absence of a challenge being made thereto.

7. In view of the directions as contained in the judgment and order dated 02.05.2012, any further order that would be passed by this Court in the present proceeding would amount to a review of the directions as passed therein, which is clearly impermissible.

8. In view of the above position, the present proceeding is held to be devoid

of any merit and the same stands dismissed. However, it is contended that the petitioner was not paid his subsistence allowances during the period of his suspension w.e.f. 17.07.2001 to 06.09.2001. The petitioner is at liberty to approach the respondent authorities by way of filing an appropriate application, staking a claim for being rereleased with the subsistence allowances for the said period of his suspension. In the event of the petitioner filing any such application, the dismissal of the present petitioner shall not bar consideration of such application by the respondent authorities and for release of any amount that may be due on account of subsistence allowances specifically for the period as mentioned hereinabove.

9. In terms of the above, this writ petition stands disposed of.

JUDGE

Comparing Assistant