

GAHC010016522024



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

Case No. : Cont.Cas(C)/141/2024

NIRMAL KUMAR SHARMA
S/O- SHRI PREM NATH SHARMA,
VILL- KUNDE LALOWAL,
P.O- JANGAL, TEHSIL, GURDASPUR, DIST- GURDASPUR, PUNJAB, PIN-
143521

VERSUS
NITIN AGARWAL AND ANR
CGO COMPLEX, LODHI ROAD , NEW DELHI
2:HARDEEP SINGH
THE INSPECTOR GENERAL
BORDER SECURITY FORCE
SHILLONG
MEGHALAYA
PIN-79300

Advocate for the Petitioner : RAJESH MAZUMDAR
Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 15.03.2024

Heard Mr. N. Ali, learned counsel appearing on behalf of Mr. R. Mazumdar,
learned counsel for the petitioner.

By this contempt petition, the petitioner is alleging willful disobedience of the order dated 17.08.2023 passed by this Court in WP(C)/2626/2011.

The operative portion of the order dated 17.08.2023 reads as under:

“22. Upon considering the submissions, this Court is of the opinion that the interest of justice would be met if the petitioner is deemed to be in service till today and he is allowed to go on voluntary retirement w.e.f. today. This Court also agrees with the submission of Mr. H. Gupta, learned counsel for the respondents that allowing the petitioner to be reinstated would effect the administrative exigency of a disciplined service and in the further opinion of this Court, the Petitioner may not be able to cope up after the long passage of 20 years. It is also the opinion of this Court that as the petitioner had not rendered any service during this period, the question of the petitioner getting any benefits for the said period such as salary, promotion, etc. would not arise. However, as the petitioner would be deemed retired as on today, the said period of service be counted towards the pensionary benefits while computing the pensionary benefits of the petitioner.

23. Accordingly, this Court sets aside the purported resignation of the Petitioner dated 08.04.2003 as well as the order dated 25.04.2003 whereby the Petitioner's resignation was accepted. The petitioner would be deemed to be in service till today and the Petitioner be permitted to go on voluntary retirement w.e.f. 18.08.2023. The Respondent Authorities shall issue necessary orders in compliance to the said directions thereby permitting the Petitioner to go on voluntary retirement w.e.f. 18.08.2023. This Court further directs that during this period from 30.04.2003 till date, the petitioner would be entitled to any of the benefits such as salary, promotion, etc. but the said period till date shall be taken into consideration for computing the pensionary benefits of the petitioner. The above directions are passed taking into account the exceptional facts and circumstances of the instant case.

24. Accordingly, in terms with the above observations and directions, this instant writ petition stands disposed of.”

A perusal of the order dated 17.08.2023, would indicate that no time frame was given for implementation of the directions passed in the said Judgment and Order dated 17.08.2023.

Accordingly this contempt petition is disposed of directing the respondents to comply with the Judgment and Order dated 17.08.2023, passed in WP(C)/2626/2011 within a period of 3(three) months from the date of receipt of a copy of the order of this Court.

Contempt petition is accordingly disposed of.

JUDGE

Comparing Assistant