

GAHC010032802024



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

Case No. : WP(C)/908/2024

ROHIDUL ISLAM
S/O- ATOWAR RAHMAN, VILL- HAGURIPARA, P.O. MESERVITA, P.S.
LAKHIPUR, DIST.- GOALPARA (ASSAM), PIN- 783129, PRESENT R/O-
VILLAGE- MANASH PARA, P.O. AND P.S. LAKHIPUR, DIST.- GOALPARA
(ASSAM), PIN- 783129

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY, HEALTH AND FAMILY
WELFARE DEPARTMENT, DISPUR, GHY- 781006

2:THE DIRECTOR
HEALTH SERVICES
GOVT. OF ASSAM
LICHUBAGAN
HENGRABARI
GUWAHATI- 781036

3:THE MISSION DIRECTOR
NHM
ASSAM
SAIKIA COMMERCIAL COMPLEX
SRINAGAR PATH CHRISTIANBASTI
G.S.ROAD
GHY- 781005

4:JOINT DIRECTOR OF HEALTH SERVICES
GOALPARA
DISTRICT- GOALPARA
ASSAM
PIN- 783101

5:THE SUB-DIVISIONAL MEDICAL AND HEALTH OFFICER
LAKHIPUR BPHC
PIN- 78312

Advocate for the Petitioner : MR. M I HUSSAIN, MR. N ISLAM,SK ABDULLAH,N. UDDIN

Advocate for the Respondent : GA, ASSAM, SC, HEALTH,SC, NHM

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

11.09.2024

- 1.** Heard Mr. M.I. Hussain, learned counsel for the petitioner and Mr. D. Upamanyu, learned Standing Counsel, Health & Family Welfare Department for the respondent nos.1, 2, 4 & 5. Also heard Ms. A. Das, learned counsel for the respondent no.3.
- 2.** On 30.07.2024, the learned Standing Counsel, Health & Family Welfare Department was granted some time to enable him to obtain materials pertaining to the statement recorded. Today when the matter is listed, the learned Standing Counsel seeks further time to bring on record the instructions received by him, by way of an affidavit.
- 3.** However, having regard to the nature of the controversy raised in this present writ petition, the same is taken up for disposal at this stage.
- 4.** The case of the petitioner is that he was appointed as Support Staff for

functionalization of NSCU at Lakhipur, BPHC/SDCH, in terms of the nomination made by the respondent no.5 to the respondent no.4, vide communication dated 19.08.2023 (Annexure-7). After the petitioner joined in his service, an FIR was lodged by one Staff Nurse on certain allegation made against the petitioner and the petitioner was arrested by the police on 18.11.2023 and forwarded to the Court concerned on the same day. It is the case of the petitioner is that on production before the Court, the petitioner was released on bail. However, the petitioner was not allowed to join back in his service and the respondent no.5 vide impugned letter dated 22.11.2023 directed that the petitioner is barred from all kinds of duties in Lakhipur CHC/SDCH, Lakhipur from 16.11.2023.

5. Against the writ petition, the respondent no.2 has filed an affidavit-in-opposition on 25.04.2024, wherein at paragraph no.6 of the said affidavit, it is stated that respondent no.4 had formed an Inquiry Committee and inquiry was made on 23.11.2023. It is however noticed that the impugned order was passed on 22.11.2023 debarring him retrospectively from all kinds of duties in Lakhipur CHC/SDCH, Lakhipur from 16.11.2023. It is therefore, the case of the petitioner that not only has he been debarred from his duties retrospectively even before the FIR was lodged, but the impugned order was passed before the constitution of the Inquiry Committee by the respondent no.5. Under the circumstance, the petitioner prays that the impugned communication dated 22.11.2023 be set aside and he may be allowed to join back his duty with consequential benefits.

6. It is noticed that the petitioner against the communication dated 22.11.2023 had filed his representations before the respondent no.4 and also

before the respondent no.5, which according to the petitioner had not been considered and disposed of and thereby prompting him to file the instant writ petition. Admittedly, from the materials available on record, the two representations are pending as on date. It is therefore, the considered opinion of this Court that the same should be disposed of by the respondent authorities concerned within a timeframe.

7. Accordingly the writ petition is disposed of by directing the respondent nos.4 & 5 to consider and dispose of the representations of the petitioner within a period of 15 (fifteen) days from the date of receipt of a certified copy of this order. The order to be passed shall be communicated to the petitioner. It is also provided herein that if the representations of the petitioner are not disposed of within the time prescribed by this Court, the petitioner shall be allowed to join back in his service and the consequential benefit if any, may be determined by the authority concerned in accordance with law. The petitioner shall also furnish the respondent nos.4 & 5 a copy of the writ petition along with the certified copy of this order for their compliance, wherein the representations submitted by the petitioner to the respondent nos.4 & 5 have been annexed as Annexure-13 & 14 respectively.

JUDGE

Comparing Assistant