

GAHC010053292024



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

Case No. : WP(C)/1544/2024

DIGANTA KAKATI
F AND ES STATION, BONGAIGAON (DRIVER)
S/O- BHUBAN CHANDRA KAKATI
VILL- NIZ MODERTOLA,
P.O.- BAIHATA CHARIALI,
P.S.- KAMALPUR,
DIST- KAMRUP(R), ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY (HOME)
DEPARTMENT TO THE GOVT. OF ASSAM.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DIRECTOR
FINANCE AND EMERGENCY SERVICES
PALTANBAZAR
GHY-1
ASSAM.

4:THE DEPUTY DIRECTOR FIRE AND EMERGENCY SERVICE
ASSAM
KAMRUP(M)
GHY-1.

5:FIRE PREVENTION OFFICER (WEST)
ENQUIRING OFFICER FIRE AND EMERGENCY SERVICES

ASSAM

GUWAHATI.

6:INCHARGE
CHAPAR
DHUBRI F AND ES
DHUBRI
ASSAM- 788371.

7:INCHARGE
BONGAIGAON
F AND ES
ASSAM- 783380

Advocate for the Petitioner : MR MINTU SAIKIA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 26.06.2024

Heard Mr. M. Saikia, learned counsel for the petitioner. Also heard Ms. A. Talukdar, learned Standing Counsel appearing for the Finance Department representing the respondents no. 1, 3, 4, 5, 6 & 7 and Mr. P. Naik, learned counsel appearing for the respondent no. 2.

The petitioner in the present proceeding has prayed for a direction upon the respondent authorities for release of his arrear salaries for the period w.e.f. 10.10.2020 to 09.11.2021.

A perusal of the materials brought on record reveals that, the petitioner was charged to have remained unauthorisedly absent during the

said period and a Disciplinary proceeding in the matter was initiated against him. The replies as filed by the petitioner not being found to be satisfactory, an enquiry was held in the matter and the Enquiry Officer had already submitted his report, holding that the charge against the petitioner of having remained unauthorisedly absent w.e.f. 10.10.2020 to 09.11.2021 has been established in the enquiry.

A copy of the said enquiry report has been forwarded to the petitioner herein vide the communication dated 22.12.2021. The learned counsel for the petitioner submits that the petitioner had not submitted any representation against the enquiry report.

Be that as it may, the proceedings having been completed way back in the year 2021 with the submission of the enquiry report in the matter to the Disciplinary authority, it is seen that the Disciplinary authority had not taken a decision in the said enquiry report and the matter has remained stalemate.

In view of the above position, the Disciplinary authority of the petitioner herein is directed to take a decision on the enquiry report as submitted in the matter by the Enquiry Officer. While taking the said decision, the Disciplinary authority shall also take into consideration any representation that may have been filed by the petitioner in response to the communication dated 22.12.2021, by which, the enquiry report was forwarded to the petitioner herein and thereafter, come to a conclusion with regard to the findings of the Enquiry Officer in the matter.

Basing on the conclusion that would now be arrived at in the matter by the Disciplinary authority, the period of absence of the petitioner w.e.f. 10.10.2020 to 09.11.2021 be so treated.

The prayer as made by the petitioner in the present proceeding for being released his arrear salaries cannot be accepted, inasmuch as, the said period the petitioner having been alleged to have remained unauthorisedly absent, without conclusion of the Disciplinary proceeding now pending against the petitioner, no order(s) for release of arrear salaries of the petitioner for the said period can be passed by this Court.

Accordingly, the Disciplinary authority of the petitioner shall take a decision with regard to the enquiry report as submitted by the appointed Enquiry Officer in the departmental proceeding initiated against the petitioner within a period of one month from the date of receipt of a certified copy of this order from the petitioner.

Basing on the decision that would be so arrived at, in the Disciplinary proceeding initiated against the petitioner, further decision as may be called for in the matter towards payment of any arrear salaries for the said period w.e.f. 10.10.2020 to 09.11.2021, shall be so taken by the Disciplinary authority of the petitioner and the petitioner be also communicated about the same.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant