

GAHC010061702024



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

Case No. : I.A.(Civil)/948/2024

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY TO GOVERNMENT
OF ASSAM, DEPARTMENT OF HOUSING AND URBAN AFFAIRS, ASSAM
SECRETARIAT, BLOCK-D, DISPUR, GUWAHATI-6.

2: THE CHAIRMAN
JORHAT DEVELOPMENT AUTHORITY
AILAMUKHIA GAON
KENDUGURI BYE PASS
TRUCK TERMINUS COMPLEX

JORHAT- 785010
ASSAM.

3: THE DIRECTOR
TOWN AND COUNTRY PLANNING
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

OPPOSITE TO GANESH MANDIR

ASSAM.

4: THE DEPUTY DIRECTOR
TOWN AND COUNTRY PLANNING CUM MEMBER SECRETARY
JORHAT DEVELOPMENT AUTHORITY
AILAMUKHIA GAON
KENDUGURI BYE PASS

TRUCK TERMINUS COMPLEX
JORHAT- 785010

ASSAM

VERSUS

RATHINDRA NATH SARMAH PATHAK,
S/O- LATE PURNA KANTA SARMA PATHAK, RESIDENT OF- JAIL ROAD,
JORHAT, P.O. BORBHETA, P.S.- JORHAT, PIN- 785004, ASSAM.

Advocate for the Petitioner : SUBHASH CHANDRA KEYAL

Advocate for the Respondent : MR. Y S MANNAN

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 20.06.2024

Heard Mr. S.C. Keyal, learned counsel for the applicant. Also heard Mr. Y.S. Mannan, learned counsel for the opposite party/writ petitioner.

The applicant has prayed for a modification of the interim order dated 21.12.2023 passed by this Court in WP(C) 5372/2023, whereby, the respondent No.2/applicant in the instant application, has been directed to release the current salary of the writ petitioner during the pendency of the writ petition unless any specific orders restraining the respondents are passed by the Court and the order dated 08.02.2024 wherein directed the respondents to pay the current salary to the petitioner from the month of September, 2023.

The opposite party/writ petitioner has filed the connected writ petition being WP(C) 5372/2023 challenging the orders dated 06.08.2021, 25.02.2022 and order dated 03.08.2023, by which, the writ petitioner was transferred to Bus Terminus and the designation of APRO was re-designated as Research Assistant and the show cause notice as to why the disciplinary action should not be taken against him.

This Court on 21.12.2023 has directed the respondent authority to release the current salary of the petitioner during the pendency of the writ petition unless any specific order restraining the respondents by the Court. Thereafter, by the order dated 08.02.2024, the above order was reiterated and the petitioner to be paid the current salary from the month of September, 2023.

Mr. S.C. Keyal, learned counsel for the applicant by referring to the statement made in the applications submits that the allegations leveled by the petitioners are false and misleading. He submits that on enquiry it is found that the petitioner remains absent from his duty.

The petitioner despite several notices has refused either to cooperate with the authorities or to join his duty. Therefore, he submits that the interim order dated 21.12.2023 and 08.02.2024 may be vacated.

Mr. Y.S. Mannan, learned counsel for the opposite party/writ petitioner, refuting such submissions of the learned counsel for the applicant, submits that there is no reason for vacating or modifying the above impugned orders, inasmuch as, the petitioner is a regular employee and no suspension order has been passed or any disciplinary proceeding has been initiated against the petitioner. The grounds taken in the Interlocutory Application is totally false, which the petitioner has clearly highlighted in the writ petition. He submits that no ground is made out by the applicant for vacating the interim order.

I have considered the submissions made by the learned counsel for the parties.

On perusal of the grounds taken in the present Interlocutory Application goes to show that the applicant has only denied the allegations made by the opposite party/petitioner in the writ petition. Undisputably, the petitioner is a regular employee and neither the petitioner has been placed under suspension nor departmental proceedings is pending against the petitioner. The averments made in the Interlocutory Application is on the factual aspect of the matter which is the subject matter to be finally adjudicated in the writ proceeding. Thus, no case is made out for modification or vacation of interim orders by the applicant.

Having considered above, I find no ground to vacate or modify the interim order dated 21.12.2023 and 08.02.2024 passed in WP(C) 5372/2023.

Accordingly, the I.A. stands rejected.

However, it is made clear that the petitioner to attend his duty regularly.

JUDGE

Comparing Assistant