

GAHC010062342024



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

Case No. : WP(C)/1739/2024

THE UNION OF INDIA AND 2 ORS.
REPRESENTED BY THE SECRETARY,
GOVT.OF INDIA,
MINISTRY OF COMMUNICATION AND IT,
DEPARTMENT OF POSTS,
DAK BHAWAN, SANSAD MARG,
NEW DELHI- 110116.

2: CHIEF POST MASTER GENERAL
ASSAM CIRCLE
GUWAHATI- 781001.

3: SUPERINTENDENT OF POST OFFICES
TINSUKIA DIVISION
TINSUKIA- 786125

VERSUS

DHANYA KANTA BORA
S/O- LATE BHUPEN BORAH,
GRAMIN DAK SEVAK,
BRANCH POST MASTER,
DIHINGIA GAON B.O.,
IN A/C WITH HIJUGURI SO TINSUKIA,
ASSAM, PIN- 786192.

For the petitioners : Mrs. R. Devi,
Central Govt. Counsel

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

09-09-2024

(Vijay Bishnoi, C.J.)

This writ petition is filed by the petitioners being aggrieved with the order dated 19.02.2024 passed by the Central Administrative Tribunal (hereinafter to be referred as 'Tribunal'), Guwahati Bench in O.A. No.34/2024 preferred on behalf of the private respondent herein.

The private respondent has approached the Tribunal challenging the memorandum of charge-sheet dated 18.12.2023 issued to him by the petitioner department. The Tribunal while issuing notice to the petitioners stayed the operation of memorandum of charge-sheet dated 18.12.2023 till the next date vide impugned order dated 19.02.2024. The Tribunal has taken into consideration the argument advanced on behalf of the private respondent that the principal allegation against the private respondent is that he participated in the strike during the period from 12.12.2023 to 15.12.2023 for which as per the direction of the Directorate (SR & Legal) dated 22.12.2023, his TRCA was deducted for the period the private respondent remained absent from duty. The Tribunal has also taken into consideration that there was a charge of retaining excess cash of Rs.36,511.90 against the private respondent which was for the period when he was on leave from 02.12.2023 to 11.12.2023. The Tribunal has also taken into consideration another ground raised on behalf of the private respondent that in case of other employees, the department has issued only minor penalty/charge-sheet and in some cases, termination order was also withdrawn. The Tribunal, considering the said argument advanced on behalf of

the private respondent, has issued notices to the petitioners and has stayed the operation of the memorandum of charge-sheet dated 18.12.2023 till the next date.

Learned counsel for the petitioners has argued that the Tribunal has erred in staying the memorandum of charge-sheet without there being any justifiable reasons. It is submitted that the disciplinary proceeding against the private respondent is at the initial stage and the Tribunal has erred in staying the memorandum of charge-sheet at the initial stage. Learned counsel for the petitioners has, therefore, submitted that the impugned order passed by the Tribunal may kindly be set aside and the department be allowed to proceed with the memorandum of charge-sheet issued against the private respondent.

Having heard the learned counsel for the petitioners and after going through the material available on record, we are of the view that the Tribunal has simply stayed the operation of the memorandum of charge-sheet dated 18.12.2023 till the next date. If the order passed by the Tribunal is interfered with then the Department may continue with the departmental proceeding against the private respondent and in that case, the O.A. filed by the respondent herein may become infructuous. Otherwise also, looking to the memorandum of charge-sheet, it can be gathered that the principal charge against the private respondent of participating in the strike for three days and of retaining the cash with him for the period when he was on strike, the allegation regarding misappropriation etc. is not levelled against the private respondent.

Be that as it may, in the peculiar facts and circumstances of the case, we do not find any case for interference with the impugned order dated 19.02.2024 passed by the Tribunal. However, it would be open for the petitioners to file their response to the O.A. before the Tribunal and if any such response is filed,

it is expected that the Tribunal shall consider the request made on behalf of the petitioners for vacating the *interim* stay order or to dispose of the O.A. filed on behalf of the respondent herein finally at an early date.

With these observations, this writ petition is disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant