

GAHC010079362024



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

Case No. : WP(C)/2210/2024

DHANANJOY KUMAR NATH
S/O- LATE JATIN CHANDRA NATH,
R/O- VILLAGE AND P.O- SARIHAJAN,
P.S- BOKAJAN,
DIST- KARBI ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HANDLOOM AND TEXTILES DEPARTMENT,
DISPUR, GUWAHATI-06

2:THE DIRECTOR

HANDLOOM AND TEXTILES
ASSAM

GOPINATH BORDOLOI ROAD

AMBARI
GUWAHATI-781001

3:THE JOINT DIRECTOR
HANDLOOM AND TEXTILES (HILLS)
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
DIST- KARBI ANGLONG
ASSAM

4:THE DEPUTY SECRETARY
HANDLOOM AND TEXTILES (HILLS)

KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
DIST- KARBI ANGLONG
ASSAM

5:THE SUPERINTENDENT
HANDLOOM AND TEXTILES (HILLS)
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
DIST- KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR. F A HASSAN, MS. U NANDA,MR. A K DAS

Advocate for the Respondent : SC, K A A C, SC, HANDLOOM AND TEXTILE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

27.11.2024

Heard Mr. F. A. Hassan, learned counsel appearing for the petitioner. Also heard Mr. J. Chutia, learned Standing Counsel, KAAC appearing for the respondent Nos.3, 4 and 5. Ms. A. Longkumar, learned counsel representing Mr. R. Dhar, learned counsel for the department of Handloom & Textile, Assam is present on behalf of respondent Nos.1 and 2.

The writ petitioner herein was serving as a Demonstrator in the Handloom & Textile Department, Assam. He was posted at Sarihajan coming under the KAAC area. The case of the petitioner is that for last 2 years or so, he has been suffering serious ailment pertaining to chronic liver disease as a result of which, he was unable to discharge his official duties. Consequently, the petitioner had to remain absent from duty since past several months. According to the petitioner, he had to apply for leave on a number of occasions due to his

health condition. Eventually, the petitioner had submitted an application seeking voluntary retirement from service as he was not in a position to join back his duty due to critical health condition. Alleging that no action has been taken by the authorities on the application for voluntary retirement submitted by the petitioner and instead, a departmental proceeding has been initiated against him by the respondent Nos.3 to 5 for his unauthorised absence from duty, the petitioner has approached this Court by filing this writ petition seeking protection of his rights.

Mr. Hasan, learned counsel for the petitioner submits that the condition of his client is very critical. Under the circumstances, there is no chance of the petitioner joining back his duties. As a matter of fact, due to acute financial crisis due to stoppage of his salary the petitioner is not in a position to even avail proper medical treatment necessary for his survival.

Responding to the above submission, Mr. Chutia, learned Standing Counsel, KAAC has submitted, in his usual fairness, that initially the department had taken action in the matter in accordance with law taking note of the fact that the petitioner had remained unauthorisedly absent from duty. Mr. Chutia submits that the department has not received any application for voluntary retirement. However, during the pendency of this writ petition it has come to the notice of the departmental authorities that the petitioner is actually suffering from critical ailments for which he would be unable to join or perform his official duties.

Therefore, submits Mr. Chutia, if the petitioner makes a fresh application seeking voluntary retirement and also seeks regularisation of the period of his absence from duty, the department will consider the same sympathetically by taking note of the ground realities and if necessary, would exonerate him from the

departmental proceeding thus, giving relief, as may be permissible under the law, to the petitioner. Mr. Chutia has further assured this Court that if the application is submitted without further delay, prompt action would be taken in the matter taking note of the critical health condition of the petitioner. If that be so, this Court is of the view that nothing further survives for adjudication in this writ petition.

Consequently, with the consent of learned counsel for both the sides, this writ petition is being disposed of by granting three weeks time to the petitioner to submit an application seeking regularisation of his period of absence by granting leave that may be available in his credit and also a separate application seeking voluntary retirement from service with effect from the chosen date. If such application(s) is/are submitted by the petitioner within three weeks from today by enclosing a copy of this order, the same be processed in accordance with law and appropriate decision, in terms of the submission made by the learned Standing Counsel, KAAC, be taken in the matter. The decision taken by the authorities be communicated to the petitioner without any undue delay.

With the above observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant