

GAHC010092552024



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

Case No. : WP(C)/2493/2024

RANJIT DAS
ASSISTANT EXECUTIVE ENGINEER DHEMAJI DEV BLOCK, DHEMAJI, PIN-
787057, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
THROUGH THE PRINCIPAL SECRETARY, PANCHAYAT AND RURAL
DEVELOPMENT DEPARTMENT, GOVT. OF ASSAM, DISPUR, GHY-6.

2:DEPUTY SECRETARY
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
GOVT. OF ASSAM
GHY-6

Advocate for the Petitioner : MR P P MEDHI

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 15-05-2024

Heard Dr. P.P. Medhi, learned counsel for the petitioner as well as Mr. U. Sharma, learned counsel appearing on behalf of Mr. S. Dutta, learned standing counsel for the P&RD Department appears for both the respondents.

2. The petitioner is presently posted as Assistant Executive Engineer, Dhemaji Development Block under the P&RD Department, Govt. of Assam.

3. In course of his service, the petitioner was issued a show-cause notice dated 22.03.2023 containing allegations which may not be sculpt out in this order. The petitioner had submitted a show-cause reply. Thereafter, the disciplinary authority had issued a notification on 04.07.2023 to hold an enquiry into the charges brought against the petitioner. The inquiry report dated 22.04.2024 was submitted by the Joint Secretary to the Govt. of Assam, who was appointed as the Inquiry Officer, recommending that the relevant provisions of the Civil Services Conduct Rules were attracted in the case.

4. Aggrieved by the said inquiry report dated 22.04.2024, the petitioner has filed this writ petition under Article 226 of the Constitution of India for setting aside the said inquiry report with a further prayer to stall the departmental proceedings initiated against the petitioner.

5. As some matters which are related to the personal life of the petitioner is involved, the Court is of the considered opinion that the nature of allegations may not be reflected in this order and therefore, the facts which have invited the disciplinary proceeding against the petitioner is not narrated herein.

6. The learned counsel for the petitioner has submitted that the inquiry report contains finding that are prejudicial to the petitioner and that

if it is alleged that the inquiry is conducted in a partial manner without taking into consideration the stand taken by the petitioner. Accordingly, it is submitted that the inquiry was conducted in an illegal manner and the report itself is vitiated in the illegality. In support of his submission the learned counsel for the petitioner has cited the case of *Anant R. Kulkarni v. Y.P. Education Society and ors.*, AIR 2013 SC 2098.

7. Without entering into the merit of the inquiry report, the Court is of the considered opinion that an inquiry report has to be sustained by the departmental authorities during the hearing of the disciplinary proceedings and at that time the petitioner would have the opportunity of examining the witnesses and/ or to dispute the correctness of the said inquiry report.

8. In the opinion of the Court, in cases involving departmental proceedings, the constitutional Courts ought to be slow in examining the correctness of otherwise of the inquiry report which is not yet crystallized into the finding of the disciplinary authority. Even if the disciplinary proceeding against the delinquent employee is decided against such employee, under the Assam Services (Discipline and Appeal) Rules, 1964, an appeal can be filed by the aggrieved employee.

9. The case of *Anant R. Kulkarni (supra)* cited by the learned counsel of the petitioner is not found to help the petitioner in any way because of the fact that pursuant to the inquiry report submitted in the proceeding referred in the said case, the petitioner was terminated and the termination order was challenged before the Appellate Tribunal and the Tribunal had

quashed the termination order. Thereafter, the management had approached the writ Court and the order was passed in the writ Court directing the authorities to proceed with a fresh inquiry. Then the delinquent employee had approached the Supreme Court of India. Therefore, the said case is not an authority on the point that an inquiry report which is not yet accepted as an admissible evidence in the departmental proceeding was interfered with by a Constitutional Court.

10. Accordingly, the Court does not find this to be a fit case for quashing the inquiry report dated 22.04.2022.

11. Nonetheless before parting with the records it is made clear that as the Court has not entered into the merit of the charges framed against the petitioner or examined the merit of the inquiry report, it is provided that this order shall not preclude petitioner from challenging the inquiry report in such manner as the petitioner may be so advised in course of the disciplinary/departmental proceedings or any steps that may be taken thereafter.

12. With the said observations, this writ petition stands closed.

JUDGE

Comparing Assistant