

GAHC010099842023



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

Case No. : WP(C)/2748/2023

DHARMA KANTA PATOWARY
S/O- LATE JAGAT CHANDRA PATOWARY ,
R/O- VILLAGE VEBLA,
P.O- JALAHGHAT,
P.S- SIMLA, DIST- BAKSA (BTAD), ASSAM, PIN-781327

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT
DEPARTMENT , DISPUR, GUWAHATI-781006, ASSAM

2:THE COMMISSIONER V
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
JURIPAR
PANJABARI
GUWAHATI-781037
ASSAM

3:THE ACCOUNTANT GENERAL
MAIDAMGAON
BELTOLA
GUWAHATI-29
ASSAM

4:THE BLOCK DEVELOPMENT OFFICER
BAJALI DEVELOPMENT BLOCK
CHOUKHUTY
DIST- BARPETA
ASSAM
PIN-78132

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : SC, AG

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

24.04.2024

Heard Mr. R.S. Chauhan, learned counsel for the petitioner. Also heard Mr. P. Handique, learned Standing Counsel, P&RD and Mr. S.K. Medhi, learned Standing Counsel, Accountant General.

This writ petition has been filed by the petitioner praying for a direction for release of the leave salary amounting to Rs. 7,63,280/- and the arrear revised pay with effect from 01.04.2016 to 28.02.2017. The petitioner was appointed as an Accountant and posted at Bajali Development Block. Subsequently, by common order dated 14.12.2016, he along with 41 Accountants were transferred. He was transferred to Mankachar Development Block, Dhubri, Assam. Since the petitioner's wife was suffering from terminal disease, the petitioner has applied for modification of the transfer order on humanitarian grounds. That apart, the petitioner had also suffered from some medical conditions resulting in the petitioner not being able to join in his place of posting. Accordingly, the Disciplinary proceeding was initiated under the relevant provisions of the Assam Services (Discipline and Appeal) Rules, 1964. A penalty was imposed on the petitioner withholding two annual increments with cumulative effect. Subsequently, the petitioner superannuated from service on 31.03.2019. Being aggrieved by the imposition of penalty, the petitioner had approached this Court by filing W.P.(C) No. 526/2021. By order dated 06.10.2021, the Co-ordinate Bench had interfered with the order dated 13.03.2019 by which the Department had imposed the penalty of withholding two annual increments with

cumulative effect. No further appeal was preferred by the Department and the order of the Co-ordinate Bench in W.P.(C) No. 526/2021 has attained finality.

In view of the order dated 06.10.2021 passed by the Co-ordinate Bench in W.P.(C) No. 526/2021 and in view of interfering with the order imposing penalty dated 13.03.2019, the petitioner is now before the Court claiming the financial benefit that accrued to him namely release of leave salary amounting to Rs. 7,63,280/- and arrear revised pay with effect from 01.04.2016 to 28.02.2017.

Although opportunities were granted earlier to the respondents department, however, no instructions were forthcoming.

Perusal of the writ petition reveals that pursuant to interference of the impugned order of punishment by the Co-ordinate Bench of this Court, there appears to be no hurdle for release of the claims made by the writ petitioner.

Under such circumstances, since no instructions have been forthcoming from the Department, this writ petition stands disposed of with a direction to the Commissioner, P&RD to examine the grievances of the writ petitioner and thereafter pass adequate speaking order and a copy thereof shall be served on the petitioner.

In order to decide the matter, if any information is required to be called for from any subordinate office, the same may be called for by the Commissioner.

Accordingly, the directions be carried out within a period of 60 (sixty) days from the date of receipt of certified copy of this order.

JUDGE

Comparing Assistant