

GAHC010142842022



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

Case No. : WP(C)/4722/2022

ROSESHWAR BORAH
S/O. LT. SRI PUNIRAM BORAH, R/O. USHANAGAR, BY LANE NO.18, DIST.
SONITPUR AT TEZPUR, PIN-784001.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF A.H.
AND VETERINARY, DISPUR, GUWAHATI, PIN-781006, KAMRUP (M) IN THE
DIST. OF ASSAM.

2:THE SECRETARY
TO THE GOVT. OF ASSAM
DEPTT. A.H. AND VETERINARY
DISPUR
GUWAHATI
PIN-781006
KAMRUP(M) IN DIST. OF ASSAM.

3:THE JT. SECRETARY

TO THE GOVT. OF ASSAM
DEPTT. OF A.H. AND VETERINARY
DISPUR
GUWAHATI
PIN-781006
KAMRUP(M) IN DIST. OF ASSAM.

4:THE DIRECTOR

DAIRY DEVELOPMENT
GOVT. OF ASSAM.

5:ACCOUNT OFFICER

OFFICE OF THE DIRECTOR OF DAIRY DEVELOPMENT
KHANAPARA
GUWAHATI
PIN-781022
KAMRUP(M) IN DIST. OF ASSAM.

6:THE PRINCIPAL ACCOUNTANT GENERAL(A AND E)
ASSAM

Advocate for the Petitioner : MR G CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

19.07.2024

Heard Shri G. Choudhury, the learned counsel for the petitioner and Ms. MM Katakya, the learned Standing Counsel, Animal Husbandry and Veterinary Department, Government of Assam.

2. The petitioner was serving as a Director cum DDO in the office of the Director of Dairy Development had retired from service upon attaining the age of superannuation on 28/02/2002. Thereafter on 28/03/2002, an FIR was lodged by one Shri R.N. Mishra, the then Director, Dairy Development Department, Assam *inter alia* alleging that while the petitioner was serving as the Joint Director and was the Drawing and Disbursing Officer of the Directorate of Dairy Development, Assam being in collusion with another employee entered into a criminal conspiracy and dishonestly misappropriated an amount of Rs. 2.5 crores of the Directorate of Dairy Development, Government of Assam during their tenure since 1996. On receipt of the said FIR, Dispur PS case No.

337/2002 under sections 120B/420/477A/468/406/409 IPC read with Section 13(d) of the Prevention of Corruption Act, 1988 was registered and which culminated into the Special Case no. 26/2012. However, in the said trial, considering the evidence collected during the process of trial, vide judgment dated 14.08.2019, the petitioner and the other accused persons were acquitted of all the charges and set free forthwith.

3. However, even after being acquitted, the pensionary dues was not paid to the petitioner and accordingly, he had served a legal notice to the Joint Secretary to the Government of Assam, Animal Husbandry and Veterinary Department dated 07/09/2021 claiming release of all pensionary and other retiral benefits as may be due and payable by the Government along with interest, cost and compensation. As no action was taken, the present case has been filed.

4. Ms. MM Katakya, learned counsel for the respondents contends that the Department intends to initiate a fresh disciplinary proceeding against the petitioner.

5. Without going into the question as to whether a *de-novo* disciplinary proceeding can be initiated, it is to be noted that the petitioner had retired from the service in the year 2002. Rule 21 of the Assam Services (Pension) Rules, 1969 provides that after retirement of an employee, a disciplinary proceeding can be initiated only in respect of such allegations that took place within a period of four years prior to such proceedings. In the instant case, the aforesaid period of four years is admittedly over and the petitioner had retired much earlier in the year 2002

6. Accordingly, the respondents are directed to process the pension and other

retiral benefits of the petitioner under Rules of 1969 as per law and bring the same to its logical end within a period of two months from the date of receipt of a certified copy of this order.

7. At this stage, the learned counsel for the petitioner prays for a direction for payment of interest. This Court is however of the opinion that such claim can be considered by the respondent authorities. The petitioner is accordingly given liberty to submit an application seeking interest on the amount involved and in such case, the same is required to be considered in accordance with law.

8. The writ petition is accordingly disposed of in the manner indicated above.

JUDGE

Comparing Assistant