

GAHC010161122024



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

Case No. : WP(C)/4157/2024

RAJESH ROY
SON OF SUREN ROY, RESIDENT OF VILLAGE AND POST OFFICE-
PALASHBARI, POLICE STATION- PALASHBARI, DISTRICT- KAMRUP,
ASSAM, PIN-

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY ITS COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, GENERAL ADMINISTRATION DEPARTMENT,
DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
REVENUE AND DISASTER MANAGEMENT (LAND REVENUE)
DEPARTMENT
DISPUR
GUWAHATI- 781006

3:THE DIRECTOR OF LAND RECORDS AND SURVEY ETC.
ASSAM
RUPNAGAR
GUWAHATI- 781032

4:THE DISTRICT COMMISSIONER
KAMRUP (M)
GUWAHATI

5:THE INQUIRY OFFICER
D.P. CASE NO. 01/2023 AND ADDL. DISTRICT COMMISSIONER
KAMRUP (MERO)
GUWAHATI

6:THE ADDITIONAL DISTRICT COMMISSIONER
KAMRUP (METRO)
GUWAHATI

7:THE REVENUE CIRCLE OFFICER
SONAPUR REVENUE CIRCLE
DISTRICT- KAMRUP (M)
ASSAM

8:THE TREASURY OFFICER
KAMRUP (M)
GUWAHAT

Advocate for the Petitioner : MR. R SARMA, MS DIPALI DUTTA

Advocate for the Respondent : GA, ASSAM, SC, FINANCE,SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 04.11.2024

Heard Ms. D. Dutta, learned Counsel for the petitioner, Mr. J.K. Goswami, learned Additional Senior Government Advocate for respondent no. 4, 5, 6 and 7, Mr. J. Hazarika for respondent no. 2 and 3. Mr. A. Phukan for respondent no. 1.

Having regard to the nature of the grievance projected by the petitioner and the remedy available under the Assam Services (Discipline and Appeal) Rules, 1964, the writ petition is disposed of at this stage.

By filing this writ petition, the petitioner who was working as Land Record Assistant under the Office of the District Commissioner, Kamrup Metropolitan district, Guwahati, (Personnel Branch) was dismissed from service after a departmental enquiry was initiated

against him. The order of dismissal from service was issued on 27/06/2024. The learned Counsels appearing for the respondents have submitted that there is a provision for filing statutory appeal under Rule 15 of the Assam Services (Discipline and Appeal) Rules, 1964 against any penalty imposed under Rule 7 of the same Rules before the appellate authority. The appeal has to be filed within a period of 90 days from the date of receipt of the order concerned. The appeal may however be entertained even after the expiry of the period prescribed subject to the appellate authority being satisfied that there was sufficient cause for not submitting the appeal on time. It is therefore submitted by the learned Counsel for the respondents that the statutory remedy having not been exhausted by the petitioner, the petitioner should be relegated to filing an appeal before the appellate authority. The submissions so made have been duly considered. Although in appropriate cases a writ petition may not be refused to be entertained for non-exhaustion of the alternate remedy available, but having regard to the specific provision provided under Rule 15 of the said Rules for filing a statutory appeal, this Court is of the considered view that the same should be availed of by the petitioner.

Accordingly, the writ petition is disposed of with a direction to the petitioner to file the statutory appeal before the appellate authority within a period of 2 (two) weeks from today along with appropriate application for condonation of the delay, if the period of limitation has expired in the meantime. Upon filing of such application and the appeal by the petitioner, the appellate authority concerned shall consider the same and take a decision in accordance with law as

expeditiously as possible and at any rate, within a period of 2 (two) months from the date of receipt of the application and the appeal.

With the above observation and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant