

GAHC010166482022



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

Case No. : WP(C)/5475/2022

BAHARUL ISLAM
S/O. LT. ABDUS SAMAD, VILL. KHANDAKAR PARA, P.O. BHELLA, P.S. AND
DIST. BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPTT., ASSAM, DISPUR,
GUWAHATI-781006.

2:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)

ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029.

3:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
ASSAM
JURIPAR
SIXMILE
GUWAHATI-37.

4:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
ASSAM
DISPUR
GUWAHATI-781006.

5:THE BLOCK DEVELOPMENT OFFICER

CHANGA DEVELOPMENT BLOCK
CHENGA
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MR. N H BARBHUIYA, MS N J BEGUM,MR. M HUSSAIN

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

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 28-08-2024

Heard Mr. N.H. Barbhuiya, learned counsel for the petitioner. Also heard Mr. P. Handique, learned standing counsel, P&RD.

2. Considering the simple grievance raised by the petitioner, the present writ petition is disposed of at the admission stage.

3. By filing this petition, the petitioner has prayed for a direction to the respondents to release his arrear salary for the period from 26.07.2011 to 04.10.2022 on being reinstated in service after putting him under suspension and also for a direction to release the salary to the petitioner at par with his other colleagues.

4. The petitioner who is serving as Extension Officer (Panchayat) in the Office of the Block Development Officer, Chenga Development Block working in Gamafulbari Development Block, Barpeta was placed under suspension vide order dated 08.08.2011 w.e.f. 26.07.2011 having been found that he was arrested in connection with CBI case and remained in jail for more than 48 hours. When no proceeding was initiated and the subsistence allowance of the petitioner was not released, the petitioner approached this Court by filing writ petition being WP(C) 4920/2016 and this Court vide order dated

30.08.2016 disposed of the writ petition with a direction to the respondents to take immediate steps for payment of the proportionate subsistence allowance. Pursuant thereto, the subsistence allowance was paid to the petitioner. Thereafter, the petitioner filed another writ petition being WP(C) 8661/2018 for reinstatement of his service and this Court vide order dated 18.12.2018 had disposed of the writ petition with a direction to the authorities to examine whether any review had been undertaken by the authorities as provided under Rule 6 of Assam Service (Discipline and Appeal Rules) 1964 and if that has not been done, the authorities will pass appropriate order and for revocation of the suspension order so that the petitioner can be reinstated in service with all attending benefits.

5. The respondent authorities vide order dated 01.10.2020 reinstated the petitioner in service with immediate effect pursuant to the order of this Court. Accordingly, the petitioner joined his service on 05.10.2020.

6. It is the contention of the petitioner that though the petitioner has been reinstated in his service, however, the consequential benefits, which ought to have been paid to the petitioner, has not been considered and he is being paid the same salary and other entitlements as prevailing in the year 2011.

7. Mr. N.H. Barbhuiya, learned counsel for the petitioner submits that on the reinstatement of the petitioner in his service, the provision of FR 54(B) would be applicable and accordingly, his salary in the scale of pay and other benefits has to be considered and calculated by fixing the pay scale and other benefits. However, the respondent authorities have failed to consider the same. He submits that the petitioner has submitted a representation on 19.02.2021 before the concerned authorities with a prayer for fixing of his pay by counting his suspension period as in service with a further prayer to release the arrear salary of suspension w.e.f. 26.07.2011 to 04.10.2022. However, the same is yet to be considered.

8. Mr. N.H. Barbhuiya, learned counsel submits that at this stage the petitioner would be satisfied, if the representation filed by the petitioner is directed to be disposed of in accordance with the applicable Rules within a time frame.

9. Mr. P. Handique, learned Standing counsel, P & RD fairly submits that the representation filed by the petitioner in terms of the applicable Rules is deserved to be considered by the respondent authorities in accordance with Sub Rule 1 and 6 of FR 54(B). Therefore, he would not have any objection, if this Court dispose of the present writ petition with a direction to consider the representation of the petitioner dated 19.02.2021.

11. Having considered the submissions and considering the simple grievance for consideration of the representation of the petitioner in accordance with the applicable Rules, this Court deem it appropriate to dispose of the writ petition with a direction to consider and dispose of the representation of the petitioner dated 19.02.2021 within a time frame.

12. Accordingly, the writ petition is disposed of with a direction to the respondent authorities particularly, the Commissioner P & RD to consider and dispose of the representation of the petitioner dated 19.02.2021 in accordance with the provision of FR 54(B) within a period of one month from the date of receipt of the certified copy of this order.

13. With the above direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant