

GAHC010206562016



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

Case No. : WP(C)/5015/2016

LAKHYA HAZARIKA
S/O LT. RAM HAZARIKA VILL- KOLOWLOWA SONOWAL GAON, P.O.
KOLOWLOWA KHOWANG DIST. DIBRUGARH, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HEALTH AND FAMILY WELFARE A DEPARTMENT, DISPUR, GUWAHATI,
ASSAM.

2:DIRECTOR OF HEALTH SERVICES

ASSAM
HENGRABARI
GUWAHATI -36.

3:JOINT DIRECTOR OF HEALTH SERVICES

JORHAT
P.O. JORHAT
DIST. JORHAT
ASSAM
PIN - 785001.

4:DISTRICT TREASURY OFFICER JORHAT

P.O. JORHAT
DIST. JORHAT
ASSAM.

5:ACCOUNTANT TO THE OFFICE JOINT

DIRECTOR OF HEALTH SERVICES
JORHAT
P.O. JORHAT
DIST. JORHAT
ASSAM
PIN - 785001

Advocate for the Petitioner : MS.B TALUKDAR, MR. S J SARMAH,MS.M DAS

Advocate for the Respondent : MR.B GOGOI, SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

20-08-2024

Heard Shri S. J. Sarmah, learned counsel for the petitioner. Also heard Shri B. Gogoi, learned Standing Counsel, Health and Family Welfare Department.

2. The writ petition has been instituted for the following relief:-

“6. That the petitioner begs to state that when the petitioner enquired about why his salary has not been paid, then the office personal informed him that the report of the enquiry been placed to the Principal Secretary to the Govt. of Assam, Health and Family Welfare Department, Dispur, Guwahati and same has been pending till date.

7. That the petitioner begs to state that on 30/4/15 Deputy Superintendent of police, C.M.'s Special Vigilance Cell, Assam, Guwahati whereby a lots of employees are implicated as accused and also stated that their appointments are illegal. Accordingly all are terminated from their services. Be it stated that the petitioner name is not there and no any termination letter is send to him. Till date the petitioner is diligent by serving his duty without having any salary.”

3. Shri Sarmah, the learned counsel for the petitioner has submitted that the petitioner was appointed as a Vaccinator on 11.02.2005 and was initially posted

at Dibrugarh. Subsequently, he was transferred to Jorhat where he was discharging his duties. However, the salaries were stopped from September, 2014 without any reason. He had filed the writ petition in the year 2016 and had continued in his service till May, 2017 whereafter he was not allowed to continue. It is submitted that the petitioner's entry into the service was not clouded and therefore the petitioner has a legal right for the salaries for the period in which he had rendered his services. Learned counsel for the petitioner has also informed that there have been some enquiries on certain fake appointments. However, so far as the petitioner is concerned, his appointment would not fall within those fake appointments and therefore, appropriate directions be issued.

4. Shri B. Gogoi, the learned Standing Counsel has submitted that in the year 2013-14, detecting certain anomalies in matters of appointment in the Health and Family Welfare Department, more particularly in the district of Jorhat, an enquiry was conducted by the CM Vigilance Cell. In the said enquiry, the case of the petitioner was also examined and it was found that there was no record of payment of salary for the date of appointment. The learned Standing Counsel has referred to the document annexed to the affidavit-in-opposition filed by the respondent no. 3 on 28.11.2016. So far as the petitioner is concerned, his date of appointment was stated to be 02.11.2005 and his date of transfer to Jorhat was in the year 2011. As regards the salary status, it has been stated that till October, 2014, salary was given by the Joint Director of Health Services, Jorhat. From the said document, it appears that the service book was also opened for the petitioner.

5. Shri Gogoi, the learned Standing Counsel has however submitted that for

further verification, all the documents have been handed over to the CM Vigilance Cell and the matter is yet to be finally settled.

6. Though the learned counsel for the petitioner has also raised the issue of discontinuation from service from May, 2017, in absence of a specific challenge in the writ petition and being a subsequent event, this Court will not embarked upon that issue. So far as the claim for salaries is concerned, it appears from the pleadings and from the submissions that from October, 2014 the salaries of the petitioner has not been paid. The learned counsel for the petitioner has informed, as observed above that from May, 2017, the petitioner was not allowed to continue in his service. Since such action is not the subject matter of challenge, without making any comment on that aspect, this Court directs that the claim for salaries for the period from October, 2014 to May 2017 he examined by the authorities and if it is found that the petitioner had actually rendered his service for the said period, the salaries are to be released to him expeditiously and preferably within a period of 4 (four) months from the date of receipt of a certified copy of the order.

7. The respondent authorities are also at liberty to take a decision as to whether to continue with the service of the petitioner taking into consideration the long period of experience attained by him from the initial date of appointment in the year 2005.

8. Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant