

GAHC010212902023



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

Case No. : MC/77/2023

SANDEEP SINGH
S/O- LT. J.B. SINGH, HQ CE, PROJECT UDAYAK, DOOMDOOMA, DIST.-
TINSUKIA, ASSAM.

VERSUS

THE UNION OF INDIA and 3 ORS
REP. BY THE SECY., MINISTRY OF ROAD TRANSPORT and HIGHWAYS,
GOVT. OF INDIA, SOUTH BLOCK, NEW DELHI- 110001.

2:SECRETARY
DEPTT. OF PERSONNEL and TRAINING
GOVT. OF INDIA
NEW DELHI- 110001.

3:SECRETARY
BORDER ROADS DEVELOPMENT BOARD
4TH FLOOR
B. WING
SENA BHAWAN
NEW DELHI- 110011.

4:DIRECTOR GENERAL
BORDER ROADS
SEEMA SADAK BHAWAN
RINGH ROAD NARAINA
DELHI CANTT.
NEW DELHI- 110010

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

25.01.2024

Heard Mr. R. Mazumdar, learned counsel appearing for the applicant/writ petitioner. Also heard Ms. A. Gayan, learned CGC appearing for the respondents.

This Misc. Case has been filed with a prayer to restore WP(C) No.5638/2011 to its original file by recalling the order dated 12.06.2023 by means of which, the aforesaid writ petition was dismissed for non-prosecution.

By producing a copy of the order dated 14.06.2023 passed by this Court in WP(C) No.5648/2011, Mr. Mazumdar submits that the case of his client is covered by the said order passed in an identical writ petition wherein, similar order of censure was assailed by the writ petitioner therein. The applicant/writ petitioner is also entitled to similar relief. However, due to oversight the counsel could not take steps to tag the vokalatanama with the relevant records, as a result of which, the petitioner went unrepresented on 12.06.2023 leading to dismissal of the writ petition for non-prosecution. Mr. Mazumdar submits that if the writ petition is not restored to its file and disposed of by granting similar relief to the applicant herein, the same would lead to travesty of justice.

Ms. A. Gayan, learned CGC has relied upon the counter-affidavit filed by the department to submit that no good ground for restoration of the writ petition is made out in this Misc. Case.

After hearing the submissions of the learned counsel for both the sides and on

perusal of the relevant records, this Court is not convinced with the explanation furnished by the learned counsel for the applicant for non-appearance on 12.06.2023. However, taking note of the fact that similar writ petitions praying for identical reliefs filed by similarly situated petitioners have already been allowed by this Court, denying relief to the applicant herein, in the opinion of this Court, would lead to miscarriage of justice.

As such, this Misc. Case stands allowed. The order dated 12.06.2023 is accordingly recalled.

Registry to restore the writ petition to its original file and list for orders after 10 days by reflecting the name of learned counsel for the parties in the Cause List.

JUDGE

Comparing Assistant