

GAHC010229542023



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

Case No. : I.A.(Civil)/3106/2023

SAMIR CHANDRA KAR
S/O LATE UMESH CHANDRA KAR,
R/O T5, B BLOCK, RAYHAN RESIDENCY, BELTOLA, PIN- 781028.

VERSUS

THE UNION OF INDIA AND 8 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK, NEW DELHI, PIN- 110001.

2:6TH CENTRAL PAY COMMISSION
2ND FLOOR
ICARD BUILDING
PLOT NO. 6
VASANT KUNG INSTITUTIONAL AREA
PHASE-II
NEW DELHI-110070.

3:HE DIRECTOR OF (POLICE FINANCE)
MINISTRY OF HOME AFFAIRS
POLICE FINANCE WING
NORTH BLOCK
NEW DELHI
PIN-110001.

4:THE DIRECTOR GENERAL ASSAM RIFLES

MAHANIDESHALAYA (THE DIRECTORATE GENERAL ASSAM RIFLES)
SHILLONG
MEGHALAYA- 793011.

5:THE DY. INSPECTOR GENERAL ASSAM RIFLES (DIGAR) 25 SECTOR

THE ASSAM RIFLES
LEKHAPANI
TINSUKIA
ASSAM
C/O 99 APO.

6:THE COMMANDANT
3RD BATTALION
THE ASSAM RIFLES
CHARIDUAR
SONITPUR
ASSAM C/O 99 APO
PIN-932003.

7:THE COMMANDANT
44TH BATTALION
THE ASSAM RIFLES LOKHRA
SONITPUR
ASSAM
C/O 99 APO
PIN- 932044.

8:THE INSPECTOR GENERAL ASSAM RIFLES
(NORTH) (DIGAR) 10TH SECTOR
THE ASSAM RIFLES
C/O 99 APO.

9:THE INSPECTOR GENERAL ASSAM RIFLES
(SOUTH) (IGAR)
THE ASSAM RIFLES
C/O 99 APO

Advocate for the Petitioner : MR. R B PHOOKAN

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

Linked Case :

SAMIR CHANDRA KAR

VERSUS

THE UNION OF INDIA AND 8 ORS.

Advocate for : R SARMAH
Advocate for : appearing for THE UNION OF INDIA AND 8 ORS.

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 29/02/2024
Vijay Bishnoi, CJ

Heard Mr. R. B. Phookan, learned counsel for the applicant/appellant. We have also heard Ms. R. Devi, learned CGC, appearing for the opposite parties/respondents.

The matter comes upon for consideration of IA (C) No. 3106/2023 with a prayer for condoning the delay of 1033 days in filing the connected appeal.

In the application for condonation of delay, the main reason given by the applicant is that though he retired from service on 30/06/2021 but soon thereafter, he left for his native village in Tripura and stayed there for sometime. It is averred that on account of lock-down and travel restriction in the country, he was unable to travel to Guwahati to meet his advocate and take further recourse against the impugned order. It is further averred that the other writ petitioners in the writ petition are natives of different parts of North Eastern Region and Jammu and Kashmir and a lot of time was consumed in seeking consensus of all the writ petitioners to challenge the impugned order.

It is further averred that when no consensus had arisen between all the petitioners, the appellant decided to proceed with the further legal course on his own and thereafter, he arranged a meeting with his advocate in July, 2022 at Guwahati. However, the advocate requested the applicant to come after few weeks and ultimately in October, 2022, precisely on 07/10/2022, he had a meeting with the advocate. However, dissatisfied with the said advocate, the appellant wanted to engage another advocate for consultation and take all the legal recourse against the impugned order and ultimately, towards the end of December, 2022, he was informed about the present set of counsels but at that time, due to ensuing winter and Bihu vacations, the applicant could not get an

appointment towards the end of January, 2023 and unable to meet his advocate. In the second week of February, 2023, he could meet his advocate and thereafter, the brief was prepared and presented before this Court in September, 2023.

Having gone through the contents of the application and after hearing the learned counsel for the applicant, we are of the view that the applicant has failed to explain the huge delay of 1033 days in filing the connected writ appeal satisfactorily. Vague assertions have been made in the application without there being any details. Hence, no case for condonation of delay is made out.

Otherwise also, the impugned order passed by the learned Single Judge is also not liable to be interfered with as the learned Single Judge by placing reliance on the decision of the Hon'ble Supreme Court rendered in the case of ***Union of India Vs, Ram Gopal Agarwal*** reported in ***(1998) 2 SCC 589***, has non-suited the applicant. The learned Single Judge has also placed reliance on the decision of the single bench of the Meghalaya High Court as well as the decision of the Division Bench of the Meghalaya High Court.

Under the circumstances, we do not find any merit in the writ appeal also.

Hence, the IA(C) No. 3106/2023 is dismissed. Consequently, the connected writ appeal is also liable to be dismissed for being devoid of any force and the same is dismissed accordingly.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant