

GAHC010279592023



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

Case No. : I.A.(Civil)/3702/2023

PULIN SAIKIA,
SON OF LATE BABULI SAIKIA,
RESIDENT OF VILLAGE- KURUABAHI,
P.O. AND P.S.- SAMAGURI,
DISTRICT- NAGAON, ASSAM.
PIN- 782140.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY ITS PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, FINANCE DEPARTMENT, ASSAM, JANATA BHAWAN, DISPUR,
GUWAHATI- 781006.

2:SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE (ESTABLISHMENT-B) DEPARTMENT
ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI- 781006.

3:DEPUTY SECRETARY TO THE GOVT. OF ASSAM
FINANCE (ESTABLISHMENT-B) DEPARTMENT
ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI- 781006.

4:DIRECTOR OF ACCOUNTS AND TREASURIES
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI- 781006.

5:THE EXECUTIVE ENGINEER
BOKAKHAT PHE DIVISION
DIST.- GOLAGHAT
ASSAM
PIN- 785612

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

23.01.2024

Heard Mr. B. K. Das, learned counsel for the applicant. Also heard Mr. P. Nayak, learned Standing Counsel, Finance Department, Assam appearing on behalf of OP Nos.1 to 4. Ms. M. Kalita, learned Standing Counsel, PHE Department, Assam is present on behalf of OP No.5.

The applicant herein was placed under suspension by the order dated 22.06.2023. During the currency of the period of suspension, departmental proceeding was initiated against him and memorandum of charge was served upon the applicant on 09.10.2023. However, the order of suspension of the applicant/writ petitioner has not been reviewed till today. The basic argument of the applicant's counsel is that in view of the decision of the Supreme Court of India in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary and another** reported in **(2015) 7 SCC 291** as well as the Division Bench Judgment of this Court rendered in the case of **State of Assam and others Vs. Ajit Sonowal and others [WA 114/2022]** it was incumbent upon the authorities to review the order of suspension within the period of 90 days from the date of issuance of the same and if there was any decision to extend the

period of suspension of the applicant, the same ought to have been preceded by a reasoned order. But no such exercise has been carried out in his case.

Mr. Das has further argued that his client has submitted a representation dated 30.11.2023 (Annexure-8 to the I.A.) before the Secretary to the Government of Assam, Finance Department, Dispur with a prayer to allow him to join back in service by revoking the suspension order dated 22.06.2023 but the same has not been considered till today.

Mr. P. Nayak, learned Standing Counsel, Finance Department, on the other hand, submits that the process of reviewing the order of suspension of the applicant is under progress and within two weeks from today, a final decision will be taken in the matter. If that be so, this Court is of the opinion that this is a fit case where the OPs should be directed to consider the representation dated 30.11.2023 submitted by the applicant before taking a final decision on the question of revocation/extension of the order of suspension.

As such and as agreed to by the learned counsel for both the sides, this I.A. is being disposed of by providing that the OP Nos.1 to 5 would consider the representation dated 30.11.2023 submitted by the applicant and pass a reasoned order therein, within two weeks from the date of receipt of a certified copy of this order. Whatever be the outcome of the process, the same be communicated to the applicant in writing within the aforesaid time frame.

With the above observation, this I.A. stands disposed of.

JUDGE

Comparing Assistant