

GAHC010282652023



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

Case No. : MC/90/2023

MONOWAR HUSSAIN,
SON OF LATE BAHIAH ULLAH, UNARMED SECURITY GUARD, ERSTWHILE
WIMCO LTD. LTD., DHUBRI, NOW MANAGED BY ITC LTD., RESIDENT OF
A.M.CO.ROAD, P.S. AND DISTRICT- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT
DEPARTMENT, JANATA BHAWAN, DISPUR, GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER
DHUBRI
DISTRICT DHUBRI
PINCODE- 783301
ASSAM

3:THE CERTIFICATE OFFICER
OFFICE OF THE DEPUTY COMMISSIONER
DHUBRI
PINCODE- 783301

4:THE ASSISTANT LABOUR COMMISSIONER CUM AUTHORITY
UNDER THE PAYMENT OF WAGES ACT
1936
DHUBRI
PINCODE- 78330

5:ITC LTD.
BEING REPRESENTED BY ITS MANAGING DIRECTOR
HAVING ITS REGISTERED OFFICE AT VIRGINA HOUSE

37
J.L.NEHRU ROAD
KOLKATA- 700071

6:SHRI AMARENDRA MOHAN DUTTA
MANAGER OF ERSTWHILE WIMCO LTD. DHUBRI
NOW MANAGED BY ITC LTD.
AM CO. ROAD
DHUBRI
P.O. ASSAM MATCH CO.ROAD
DHUBRI
ASSA

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/4965/2023

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SON OF LATE BAHAT ULLAH
UNARMED SECURITY GUARD
ERSTWHILE WIMCO LTD. LTD.
DHUBRI
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DHUBRI
ASSAM

Advocate for :
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 22-01-2024

Heard Mr. R. Sensua, learned counsel for the applicant and Mr. D. Gogoi, learned Senior Government Advocate for the State and Mr. S. Dutta, learned counsel for the respondent no. 1.

The applicant filed this miscellaneous application praying for restoration of WP(C)/4965/2023 to its original file which has been dismissed on 17.11.2023 for

non-prosecution.

The learned counsel for the petitioner submits that the writ petition being WP(C)/4965/2023 was filed by the petitioner by engaging Mrs. U. Baruah, Senior Advocate, Mr. S. Khound and Mr. D. J. Medhi. However, on 20.09.2023, the petitioner took back the brief of the said writ petition from the aforesaid counsels and thereafter the earlier set of counsels had filed an application before the Registry to delete their names, and the same was done which is reflected in the order dated 06.10.2023, in the connected writ petition. Thereafter the petitioner had engaged Mr. D. Das, learned Senior Advocate, Mr. R. Sensua, and Mr. K. Mohammed, as his learned counsels in WP(C)/4965/2023. However, in the meantime on 17.11.2023, the said writ petition was listed before the Court prior to the filing of vakalatnama by the newly engaged counsels and as such, no one appeared before the Court for the petitioner on that day in WP(C)/4965/2023. Accordingly, by an order dated 17.11.2023, the writ petition was dismissed for non-prosecution.

The learned counsel for the petitioner further submits that on 20.09.2023 the brief was taken from the earlier counsels and on 15.11.2023, the vakalatnama was given to the newly engaged counsel and on 16.11.2023, the said vakalatnama was given to the Advocate's clerk for filing, but, due to some mistake, the same could not be filed on time and submitted the said vakalatnama only on 20.11.2023. However, in the meantime, on 17.11.2023, the said writ petition was already dismissed for non-prosecution.

It is the further submission of the learned counsel for the petitioner that the petitioner has a very good case and if the case is not restored to file, the petitioner shall suffer irreparable loss and injury and that there has been no deliberate negligence or lapse on the part of the petitioner and hence, prays for

restoration of the WP(C)/4965/2023 by recalling the order dated 17.11.2023, by which the writ petition has been dismissed for non-prosecution.

Heard the learned counsel for the parties.

Considering the reasons stated above, I am fully satisfied with the explanation given by the learned counsel for the petitioner for non appearance on 17.11.2023 due to which the WP(C)/4965/2023 has been dismissed.

Accordingly, the order dated 17.11.2023 stands recalled and the writ petition being WP(C)/4965/2023 is restored to file.

With this the miscellaneous application stands allowed and disposed of.

JUDGE

Comparing Assistant