

GAHC010294272023



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

Case No. : WP(C)/5/2024

FERDADUL AHMED

S/O DIL MOHAMMAD SK, R/O VILL-MOKRAPARA, P.O.-K/BHOTGAON, P.S.-
KOKRAJHAR, DIST-KOKRAJHAR (BTC), ASSAM, PIN-783370

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT
DISPUR, GHY-06

3:THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT, ASSAM
CHENIKUTHI, GUWAHATI-03

4:THE BODOLAND TERRITORIAL REGION (BTR)
REPRESENTED BY THE PRINCIPAL SECRETARY
BTR, KOKRAJHAR, ASSAM

5:THE SECRETARY
BODOLAND TERRITORIAL COUNCIL (BTC)
BODOFANWGW
KOKRAJHAR
ASSAM
PIN-783370

6:THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN-78337

Advocate for the Petitioner : MR. M U MONDAL
Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

:: O R D E R ::

03-04-2024

Heard Mr. A. Alim Sk., learned counsel for the petitioner. Also heard Mr. D. Bora, learned Government Advocate appearing for respondent No. 1; Ms. M.M. Katakey, learned standing counsel, Animal Husbandry and Veterinary Department, for respondent Nos. 2 & 3 and Mr. S. Bora, learned standing counsel, BTC, for respondent Nos. 4, 5 & 6.

On recommendation of the Central Recruitment Board (CRB), BTC, the petitioner was appointed as Veterinary Field Assistant and posted at AIC, Kuhiarkuchi under the establishment of SDVO, Bhergaon of Udalguri district, subject to receipt of satisfactory police verification report, by an order dated 27-01-2023. The petitioner accordingly joined the post on 01-02-2023. Thereafter, the Superintendent of Police, DSB, Kokrajhar, by a communication dated 14-03-2023, addressed to the Director, Animal Husbandry & Veterinary Department, BTC, Kokrajhar, furnished the verification report in respect of the petitioner stating that Kokrajhar Police Station Case No. 536/2022, under Sections 143/147/148/447/325/307/302/ 506 IPC is registered against the petitioner and is still under investigation. Thereafter, the Investigating Authority filed the charge-sheet No. 122 on 14-05-2023, in Kokrajhar Police Station Case No. 536/2022 against four accused persons. However, no charge-sheet was filed against the petitioner. The Superintendent of Police, DSB, Kokrajhar, Assam, by communication dated 30-05-2023, addressed to the Director,

Animal Husbandry & Veterinary Department, BTC, Kokrajhar, also furnished the verification of criminal & antecedent in respect of the petitioner stating that the petitioner is one of the accused persons named in the FIR in connection with Kokrajhar Police Station Case No. 536/2022 and investigation of the case has been completed by the Investigating Officer. However, the petitioner is not sent up for trial.

The petitioner is aggrieved by the communication dated 10-11-2023, written by the Secretary, BTC, Kokrajhar and addressed to the Director, Animal Husbandry & Veterinary Department, BTC, Kokrajhar, stating that till the entire issue is examined and decided by the competent authorities in Government of Assam, no order regarding permission for drawal of first salary would be issued against the petitioner.

The learned counsel for the petitioner submits that though the name of the petitioner has been mentioned in the FIR, he has not been charge-sheeted and not sent up for trial, which is also substantiated by the Superintendent of Police, DSB, Kokrajhar, in the communication dated 30-05-2023, wherein the Superintendent of Police, DSB, Kokrajhar, has stated that the petitioner has not been sent up for trial and investigation is complete. Further it is stated that no charge-sheet has been filed against the petitioner. It is, therefore, submitted that the communication dated 10-11-2023, withholding drawal of first salary by the petitioner, issued against the petitioner is *prima facie* illegal and the same deserves to be interfered with.

Mr. S. Bora, learned standing counsel, BTC, submits that as no charge-sheet has been filed against the accused-petitioner and the petitioner has not been sent up for trial, and, therefore, there should be no impediment to release the salary of the petitioner. He further submits that the authorities may be permitted to work out the

salary of the petitioner and release the same from the date of joining of the petitioner to his post.

Recording the submission made by the learned standing counsel, BTC, and also considering the fact that no charge-sheet has been filed against the petitioner and the petitioner has not been sent up for trial, which is further substantiated by the letter of the Superintendent of Police, DSB, Kokrajhar, dated 30-05-2023, this Court is of the considered opinion that withholding of the first salary of the petitioner is *prima facie* illegal. Accordingly, the impugned communication dated 10-11-2023, written by the Secretary, BTC, Kokrajhar and addressed to the Director, Animal Husbandry & Veterinary Department, BTC, Kokrajhar, is set aside and quashed.

The respondents are directed to verify and calculate the salary due to the petitioner and pay the same within a period of two months from the date of receipt of a certified copy of this order.

With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant