GAHC010006352014

2026:GAU-AS:9818

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

Case No. : WP(C)/951/2014

SATYA RAM DEKA
RC RESERVE CONSTABLE NO.1035, S/O SRI KALU RAM DEKA, R/O CHENGAPATHAR, P.O. CHENGAPATHAR, VIA KALIGAON, DIST- DARRANG, ASSAM, PIN-784525

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, HOME DEPARTMENT, DISPUR, GHY-6

2:THE DIRECTOR GENERAL OF CIVIL DEFENCE and COMMANDANT GENERAL OF HOME GAURDS
GHY-28

3:THE COMMANDANT
2ND A.I.S.F. BN.
CHABUA
DIBRUGARH
ASSAM
PIN-786184

4:THE COMMANDANT
12TH A.P.BN
JAMUGURIHAT
SONITPUR
ASSA

Advocate for the Petitioner : , MS. B CHOUDHURY (LEGAL AID COUNSEL),MR.M K BORO

Advocate for the Respondent : , GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

14/07/2026

Heard Ms. B Choudhury, learned Senior Legal Aid counsel assisted by Ms. Imsenkala, learned counsel for the petitioner and Mr. A Chakraborty, learned Government Advocate, appearing for the respondents.

2. The petitioner in the present writ petition has presented a challenge to an order dated 10.09.2013, passed by the Assam Administrative Tribunal, Guwahati in Case No. 11ATA/2012, dismissing the said appeal preferred by the petitioner.

3. The facts in brief requisite for adjudication of the issues arising in the present writ petition is noticed as under.

The petitioner, herein, was initially appointed as a Constable in the Assam Tea Plantation Security Force. As per the policy decision arrived at in the matter by the Government of Assam, a Assam Special Reserve Force (in short, ASRF) in the name and style of Assam Industrial Security Force (in short, AISF) was raised and the personnel in service in the erstwhile Assam Tea Plantation Security Force (ATPSF) were given an opportunity for absorption in the newly raised Assam Industrial Security Force. The petitioner accordingly, submitted his willingness and in pursuance to a screening, the petitioner being found suitable for absorption in the Assam Industrial Security Force, he was vide an order dated 03.12.2008, appointed as Constable in the 4th Assam Special Reserve Force Battalion (2nd Assam Industrial Security Force), w.e.f. 15.12.2008. The

said appointment was, however, subject to the condition that the petitioner would furnish an undertaking in respect of being covered under the New Pension Scheme as well as his willingness to come under the Assam Special Reserve Force. The appointment was also subject to successful completion of 6 (six) months Basic Training Course by the petitioner.

The petitioner was deputed for undergoing the training, as contemplated in the said order dated 03.12.2008, w.e.f. 01.11.2010. The petitioner, accordingly, joined the training program. However, without any intimation and/or permission, the petitioner remained unauthorisedly absent from his training, w.e.f. 30.11.2010 till 13.12.2010. At the relevant point of time, a complaint was also received against the petitioner of having been involved in the theft of an ATM card of a colleague Constable Raju Bora. The petitioner after having remained unauthorisedly absent, had reported to the Head Quarter of the 2nd A.I.S.F. on 18.12.2011.

The petitioner having remained unauthorisedly absent from his training, he came to be discharged from the training by the Commandant, 12th Assam Police Battalion, vide an order dated 13.12.2010. The said order dated 13.12.2010, having been received by the Commandant, 2nd A.I.S.F. Battalion, an order dated 17.02.2011 came to be issued, terminating the services of the petitioner on account of his indisciplined conduct as well as his unauthorised absence from the training course.

The petitioner being aggrieved with the order dated 17.02.2011, preferred an appeal before the Appellate Authority. The appeal preferred by the petitioner on consideration came to be rejected vide an order dated 06.01.2011 passed by

the Appellate Authority.

The petitioner, being aggrieved by the termination effected in his case, assailed the same before the Assam Administrative Tribunal, by way of instituting Case No. 11ATA/2012. The Tribunal, upon considering the issues arising before it in the said appeal, proceeded vide judgment dated 10.09.2013 to dismiss the said appeal.

Being aggrieved, the petitioner has instituted the present writ petition.

4. Ms. B Choudhury, learned Senior Legal Aid counsel, after reiterating the facts noticed hereinabove, has submitted that the petitioner was not afforded with an opportunity of hearing before he was terminated from his services. She submits that no Show Cause Notice was issued to the petitioner in the matter and thereby, the petitioner was denied an opportunity to place his stand before the respondent authorities. She further submits that there was no enquiry conducted in the matter in terms of the discipline rules holding the field and accordingly, the decision of the Disciplinary Authority of the petitioner to terminate him from his services would mandate an interference from this Court.

4.1 Ms. Choudhury, learned Senior Legal Aid counsel, by taking this Court through the materials brought on record in the present writ petition, has submitted that the enquiry as conducted in the matter by the authorities, was only a preliminary enquiry and the same could not have formed the basis for terminating the services of the petitioner, herein.

4.2 Ms. Choudhury, learned Senior Legal Aid counsel, has further submitted that the petitioner was forced to remain away from his training on account of unavoidable circumstances arising in view of a false allegation being leveled

against him by a colleague trainee. She submits that it took some time for the petitioner to get the matter resolved and accordingly, he had to remain away from his training program. She submits that the training program being for 26 (twenty Six) weeks, the absence of the petitioner there from, w.e.f. 30.11.2010 to 13.12.2010 was required to be condoned by the respondent authorities and the petitioner permitted to undergo his training, if required, by extending the period of such training.

4.3 Ms. Choudhury, has further submitted that the Tribunal, while considering the issues had not dealt with the contentions raised before it on behalf of the petitioner, herein and had proceeded to hold that no prejudice was caused to the petitioner on account of non-holding of a regular enquiry against him before terminating his services.

4.4 Ms. Choudhury, learned Senior Legal Aid counsel, accordingly, submits that the impugned judgment dated 10.09.2013, passed by the Tribunal, would mandate an interference, along with the order dated 17.02.2011 and the order of the Appellate Authority dated 06.01.2012.

5. Per contra, Mr. A Chakraborty, learned Government Advocate, appearing for the respondents submits that the petitioner admittedly had remained away from his training program without receiving permission for the same. He submits that the petitioner in the enquiry held to ascertain reasons as to why the petitioner had remained away from his training, admitted that he had remained unauthorisedly absent from the training camp, w.e.f. 30.11.2010 to 13.12.2010.

5.1 Mr. Chakraborty, learned Government Advocate further submits that the petitioner had also admitted to the fact that he had taken away the ATM card of

his colleague and had misutilized the same by withdrawing money from the bank account of his colleague. Mr. Chakraborty, has submitted that the petitioner having not continued with his training program and no permission having been granted to him to remain away from the training, the petitioner came to be discharged from the training by the Commandant, 12th Assam Police Battalion, wherein, the said training was being undertaken. He submits that the petitioner having been discharged from his training program and it being a requirement in the order of appointment of the petitioner that his such appointment would be subject to his satisfactory completion of the training program, the petitioner having not completed his training program, the termination of the services of the petitioner came to be effected vide order dated 17.02.2011, on the said count.

5.2 Mr. Chakraborty, learned Government Advocate submits that the services of the petitioner was akin to that of a probationer and the petitioner not having satisfied the conditions set out in his order of appointment, termination of his services being effected in terms of the conditions stipulated therein, would not mandate an interference from this Court.

6. I have heard the learned counsel for the parties and also perused the materials available on record.

7. The petitioner on being found to be suitable for being enrolled as a member of the Assam Industrial Security Force, was vide order dated 03.12.2008, absorbed in the said force, subject to certain conditions that were imposed. One of the conditions imposed upon the petitioner, relevant to the issue arising for determination in the present writ petition, is that his such absorption was subject to successful completion of 6 (six) months basic training.

The petitioner was, thereafter, deputed for undergoing training at the 12th Assam Police Battalion. The petitioner joined for undergoing his training in the said Battalion on 01.11.2010. However, the materials brought on record revealed that the petitioner, w.e.f. 30.11.2010 to 13.12.2010, had remained absent from his such training, without any intimation being given to the authorities of the said Training Center.

8. The petitioner having been found to have remained unauthorizedly absent from his training, the Commandant, 12th Assam Police Battalion, wherein, the petitioner was deputed for undergoing training, proceeded to discharge the petitioner from his training vide a communication dated 13.12.2010. The petitioner having been discharged from his training, he is found to have not satisfied the conditions, which would have led to his absorption as a member of the Assam Industrial Security Force, in terms of the order dated 03.12.2008. The respondents of the Battalion, wherein, the petitioner was so posted in pursuance to the order dated 03.12.2008, proceeded to carry out an enquiry to ascertain the reasons as to why the petitioner had remained absent from his training. The enquiry as conducted in the matter, had revealed that the petitioner had remained absent from his training, inasmuch as, he had found an ATM Card of his colleague of the training center and thereafter, had misutilized the said ATM Card for withdrawing money. The said act of the petitioner having been detected by the colleague of the petitioner, the petitioner was not in a position to return back to his training camp. Accordingly, the petitioner remained unauthorizedly absent from his training.

9. The reason as to why the petitioner having remained away from his training coming on record, has been noticed by this Court and this Court finds

that the said reason is not justifiable. The absence of the petitioner is not permissible to be condoned, basing on the said reason, which had required him to remain away from the training center. The Disciplinary Authority of the petitioner, vide an order dated 17.02.2011, noticing the discharge of the petitioner from his training by the Commandant, 12th Assam Police Battalion, vide an order dated 13.12.2010, proceeded to terminate the petitioner from his services on the ground that the petitioner could not complete 6 (six) months of his Basic Training Course. Although, in the said order, it was highlighted that it was not expedient to hold an enquiry under Clause (2) of Article 311 of the Constitution of India, this Court in the facts and circumstances of the case finds that such observation was out of context and was not mandated to be made. However, the said observations in the considered view of this Court cannot be held to have invalidated the order dated 17.02.2011.

10. The petitioner had also submitted an appeal, however, the Appellate Authority, on a careful consideration of the matter, had vide order dated 06.01.2012, rejected the said appeal affirming the order passed by the Disciplinary Authority of the petitioner. The petitioner had, thereafter, approached the Assam Administrative Tribunal, by way of instituting an appeal, being Case No. 11ATA/2012. The Tribunal upon consideration of the matter was proceeded vide order dated 10.09.2013 to dismiss the said appeal and thereby, uphold the termination effected in respect of the services of the petitioner.

11. This Court has perused the conclusions drawn by the Tribunal in its judgment dated 10.09.2013 and finds that the Tribunal had also held that completion of the training was one of the mandatory conditions imposed with regard to the appointment of the petitioner. It was also held that the Disciplinary

Authority had terminated the services of the petitioner by way of an innocuous order without casting any stigma on it. The enquiry that was initiated prior to issuance of the order dated 17.02.2011, was held by the Tribunal to be only in the nature of conducting a preliminary enquiry, inasmuch as, no conclusion was drawn by the Disciplinary Authority of the petitioner in the order dated 17.02.2011, with regard to any finding that may have been recorded by the enquiry committee in its report. It was further held that the termination of the services of the petitioner, who at best can be considered to be a probationer, being in terms of the stipulations made in his order of appointment, a regular disciplinary proceeding was not mandated to be held against the petitioner in the matter.

12. On a consideration of the conclusions drawn by the Tribunal in the matter, this Court is of the considered view that the same is not erroneous and accordingly, the judgment and order dated 10.09.2013 would not mandate an interference from this Court.

13. In view of the above discussions, this Court is of the considered view that the claim made by the petitioner in the present writ petition would not mandate an acceptance and accordingly, the writ petition is held to be devoid of any merit and consequently, the same stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant