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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2601/2016**

ARUN RAI

.....Petitioner

Through: **Mr. Mukesh Kr. Singh, Advocate.**

versus

GOVERNMENT OF ASSAM & ANR

.....Respondents

Through: **Mr. Shuvodeep Roy and Mr.
Deepayan Dutta, Advocates.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **15.04.2025**

1. By way of this petition under Article 226 of the Constitution of India, the petitioner seeks the following relief:

“(i) This Hon'ble Court may kindly be pleased to issue a Writ of mandamus, certiorari, or any other order or direction quashing and setting aside the order dated 17.09.2014 of the Disciplinary Authority where by two increments stopped with cumulative effect under Rule-7 of the Assam Services (Discipline and Appeal) Rules, 1964 and for the period of suspension penalize the petitioner not to have any other benefit except the subsistence allowance and/or.

(ii) To issue an appropriate writ of mandamus, certiorari or order or directions directing the Respondent to disburse all the allowances, benefits as per the post of Sub-Ordinate Liaison Assistant, Grade III during the period of suspension.

(iii) To issue an appropriate writ of mandamus, certiorari or order or directions directing the Respondent to disburse the salary of the petitioner as per order dated 05.11.2024 for the post of Sub Ordinate Liaison Assistant, Grade III from the date of reinstatement to the date of realization and/or;

(iv) to pass such other and further order (s) as may be deemed necessary on the facts and in the circumstances of the case.”

2. The petitioner joined the services of the Government of Assam in the office of the Resident Commissioner, Assam Bhavan, New Delhi, in



the year 1989. He was first appointed as a Peon and was promoted to the post of Subordinate Liaison Assistant [“SLA”] on 12.10.2004. By a further order dated 10/13.06.2011, he was promoted to the post of House Manager cum Receptionist, Assam Bhavan, New Delhi.

3. Disciplinary proceedings were initiated against the petitioner in the month of May 2012, alleging that his promotion to the post of House Manager cum Receptionist was based on a forged educational qualification (Class X) certificate placed in his record, whereas he had, in fact, only passed Class VIII.

4. The petitioner was suspended by order dated 14.05.2012.

5. Inquiry proceedings were conducted against the petitioner on the following two charges:

“1. That while you were holding the post Subordinate Liaison Assistant, Assam Bhawan, New Delhi, you submitted a Central Board of Secondary Examination Certificate bearing Roll No.6143704 declaring you to have passed All India Secondary School Examination held in year 1987 which appears to be a fake certificate as communication by Central Board of Secondary Examination vide their letter No.CBSE/RO(AJM)mem/12/2944 dated 4/05/2012.

You are therefore, charged with Gross Misconduct.

2. That, on the basis of the certificate submitted by you, the Selection Committee in its meeting held on 09/06/2011 considered you for promotion to the post of House Manager. The certificate later appeared to be a fake one.

You are therefore, charged with gross misconduct and misleading your superiors.”

6. The Inquiry Officer submitted a report dated 11.07.2014, considering the evidence led by the parties. It was found that the petitioner’s original employment record - maintained since the year 1989 - showed that he was qualified only upto Class VIII. Subsequently, a certificate was placed on record showing that he had passed the Class X



examination conducted by the Central Board of Secondary Education [“CBSE”] in the year 1987. The Inquiry Officer noted that the respondent had inquired with the CBSE, and had been informed that the certificate was not genuine. The petitioner himself admitted that he had not passed the Class X examination, and sought an inquiry into how a forged and fabricated certificate came to be placed in his personal file.

7. Although the Inquiry Officer recorded that he was inclined to believe that the petitioner had submitted the fake certificate, as it would not be of benefit to anyone else, he also noted that the employer’s case was based on an assumption unsupported by evidence. The certificate itself did not bear any mark or initials as to whom it was submitted by, and how it found place in the petitioner’s file. The Inquiry Officer came to the conclusion, based upon the fact that the petitioner’s employment records at the time of his joining, showed that he was only qualified upto Class VIII, and that the respondents had not produced vital records, that there was “*a very unclear picture of the involvement*” of the petitioner in the alleged act. Based on the evidence, despite the presumption that submission of such a certificate would benefit no one else, the allegations were held to be not proved.

8. The Disciplinary Authority, by order dated 17.09.2014, also concluded that the certificate is a false and fabricated one, as admitted by the petitioner himself, and corroborated by his personal file. However, in the absence of any convincing evidence, with regard to the provenance of the said certificate, the Disciplinary Authority passed the following order:

“i. The office order No.RC/E(Apptt.) 12/10/1647 dated 13th June 2011 promoting Shri Arun Rai, Subordinate Liaison Assistant to the post of House Manager-cum-Receptionist, Assam Bhawan, New Delhi is found



to be ab-initio void. Hence, it is set aside with immediate effect.

ii. The Delinquent Officer has been under suspension from 14th May 2012. Shri Arun Rai is reinstated in service and reverted to Grade-IV in the same grade i.e. grade IV, to which he belonged prior to his promotion which has been found to be null and void and hence set aside, with effect from the date he reports for duty.

iii. The penalty of stoppage of two increments of Shri Arun Rai with cumulative effect is inflicted upon Shri Arun Rai under Rule (7) of the Assam Services (Discipline and Appeal) Rules 1964.

iv. For the period of his suspension he will be paid his subsistence allowances only, as already ordered. He will not be entitled to any other benefit for the period under suspension.”

9. The aforesaid order was modified by order dated 05.11.2014 on an appeal preferred by the petitioner. The Appellate Authority noted that direction (ii) in the Disciplinary Authority's order was erroneous, to the extent that the petitioner had been reverted to Grade IV, whereas his impugned promotion was from the post of SLA [which is inadvertently a Grade III post], to House Manager cum Receptionist. In view of this position, the Appellate Authority modified the order to the following extent:

“In view of the above, the earlier order No.RC/E(AR)DP/30/2012/2497 dated 17 Sept 2014 is partially modified and Shri Arun Rai, on reinstatement in service, is reverted to the post of Subordinate Liaison Assistant, Assam Bhawan, New Delhi which he was holding prior to his promotion to the post of House Manager cum Receptionist, which was set aside vide order dated 17 Sep. 2014.”

10. Mr. Mukesh Kumar Singh, learned counsel for the petitioner, submits that despite the aforesaid order dated 05.11.2014, the petitioner continued to be paid emoluments commensurate to Grade IV until he was promoted to the post of House Manager cum Receptionist in December 2024. He submits that for the period from 17.09.2014, when the disciplinary order was passed reinstating him in service, until his



promotion in December 2024, the order of the Appellate Authority ought to have been given effect, and the petitioner should have been paid the emoluments of the post of SLA and not that of Grade IV. Although several reliefs have been sought in the writ petition, Mr. Singh states that the petitioner would be satisfied with an order to this effect.

11. Having heard learned counsel for the parties, I am of the view that the aforesaid submission of Mr. Singh is merited. The order of promotion of the petitioner dated 12.10.2004, from the post of Peon to the post of SLA, and the subsequent promotion dated 10/13.06.2011, from the post of SLA to House Manager cum Receptionist, have both been placed on record. Only the latter has been found to be vitiated by reliance on a false educational certificate. The order of the Disciplinary Authority was rightly modified by the Appellate Authority to reflect that the petitioner's reinstatement would be to the post of SLA, and not to Grade IV. Consequently, there is no reason for denying petitioner the benefit of pay and emoluments, relatable to the post of SLA, pursuant to his reinstatement by orders dated 17.09.2014 and 05.11.2014.

12. The respondents are directed to compute the arrears due to the petitioner on the basis of this order, within a period of four weeks from today, and to remit the amounts due to him within a further period of four weeks thereafter.

13. As no further relief is sought in this writ petition, the petition is disposed of with these directions.

PRATEEK JALAN, J

APRIL 15, 2025/SS/SD/