GAHC010144682024

2026:GAU-AS:16617

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

Case No. : WP(C)/3673/2024

PRANAB KUMAR BHATTACHARJYA
S/O- LATE BIMAL CHANDRA BHATTACHARJYA, R/O- VILL.- RAJAGAON, WARD NO. 5, P.S. AND DIST. MORIGAON, ASSAM, PIN- 782105.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, HOME AND POLITICAL (B) DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE MEMBER

FOREIGNERS TRIBUNAL (2ND)
MORIGAON
DIST. MORIGAON
ASSAM
PIN- 782105.

4:THE DEPUTY COMMISSIONER
MORIGAON
DIST. MORIGAON
ASSAM
PIN- 782105.

5:THE ENQUIRY OFFICER
OFFICE OF THE DEPUTY COMMISSIONER

MORIGAON
DIST. MORIGAON
ASSAM
PIN- 782105

Advocate for the Petitioner : MR. A PAUL,

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE NCHUMBEMO MOZHUI

ORDER

12/11/2026

Heard Mr. A. Paul, learned counsel for the petitioner. Also heard Mr. T.C. Chutia, learned Senior Government Advocate, assisted by Ms. L. Islam, learned counsel for the respondent.

2. The instant petition is filed under Article 226 of the Constitution of India for issuance of writ in the nature of certiorari and on mandamus and or any other writ, order praying for a direction for setting aside of impugned order dated 01.06.2022 passed by the Member, Foreigners Tribunal, 2nd, Morigaon, Assam by dismissing the service of the petitioner as L.D.A. in the Foreigners Tribunal, 2nd, Morigaon, Assam and the impugned Order dated 06.04.2024 passed by the Secretary to the Govt. of Assam, Home & Political Department upholding the Order of Dismissal R/o Village – Rajagaon, Ward No. 5, P.S. Morigaon, PIN -782105, District : Morigaon, Assam.

3. The learned counsel for the petitioner submits that while the petitioner who was working as L.D.A. in the Foreigners Tribunal (2^{nd}), Morigaon, Assam, he was suspended by an Order dated 09.08.2019 by the Member of the said

Tribunal on being arrested in connection with Morigaon P.S. Case No.728/2019. Subsequently, on being released on bail the petitioner challenged the said suspension order by filing before this Hon'ble Court W.P.(C) No.3634/2020, which was disposed of on 27.01.2022 with a direction to reinstate the petitioner in service and to initiate departmental proceeding against him within a period of 3 months from passing of the said order of this Hon'ble Court. Thereafter, on 13.04.2022, a show cause notice was issued to the petitioner by the Enquiry Officer to initiate a departmental proceeding against the petitioner by framing 3 (three) charges against him, whereby the petitioner furnished his reply on 22.04.2022, by denying the charges leveled against him. On 01.06.2022, the petitioner was shocked, when he has been dismissed from service by the Member, Foreigners Tribunal (2nd), Morigaon, Assam in consideration of enquiry report furnished by the Enquiry Officer through Deputy Commissioner, Morigaon vide report dated 25.04.2022 though prior to issuance of dismissal order of the petitioner, no enquiry report was furnished to the present petitioner by the competent authority. In addition to that the petitioner was not given any opportunity to inspect any document and cross-examine any witness related to the disciplinary proceeding initiated against him by the disciplinary authority, for which it caused grave prejudice to the petitioner. Moreover, though the petitioner preferred a statutory appeal before the Respondent No.1 against the impugned Order dated 01.06.2022 passed by the Respondent No.3 but the Respondent No.2 who has disposed of the appeal without interfering with the statutory appeal of the petitioner and uphold the dismissal Order dated 01.06.2022 by passing the impugned Order dated 06.04.2024 against the petitioner for which it warrants intervention of this Hon'ble Court for violation of Rule 9 of the Assam Service (Discipline & Appeal) Rules, 1964 and in the

interest of justice.

4. The learned counsel for the petitioner submits that he was not furnished with the report of enquiry vide office letter No. MEL.05/2022/56 dated 13.05.2022 and as such he could not make his representation against the above referred report dated 25.04.2022 and impugned Order dated 01.06.2022 passed by the Respondent No.3 and the dismissal Order dated 01.06.2022 by passing the impugned Order dated 06.04.2024 against the petitioner.

5. It is further the contention of the petitioner that non furnishing of the enquiry report dated 13.06.2024, the petitioner could not file any representation and the impugned order dated 01.06.2022 has been passed without affording any opportunity to the petitioner to rebut the allegation set forth.

6. Thereafter, left with no option the petitioner filed an RTI application before the Public Information Officer and Additional Deputy Commissioner, Morigoan seeking information with regard to the report of enquiry dated 13.05.2022. The Public Information Officer vide letter No. MEL.05/2022/64 dated 22.06.2022, has furnished the information, insofar it relates to the enquiry report 25.04.2022 submitted by the enquiry officer before the competent authority.

7. The learned counsel for the petitioner further submits that the instant petition has been assailed challenging the show cause notice dated 13.04.2022 as well as the impugned order dated 06.04.2024 passed by the respondent No. 4 upholding the impugned order dated 01.06.2022 issued by the respondent No. 3 against the petitioner. However, the fact remains in the instant petition that the petitioner has not challenged the enquiry report dated 25.04.2022 because of the facts that he was not in possession of the enquiry report 25.04.2022.

8. Mr. T.C. Chutia, learned senior counsel, for the respondent, on the other hand fairly submits that the enquiry report dated 25.04.2022 was not furnished to the petitioner to defend his case in accordance with law. It was only after filing of the RTI by the petitioner, the same was furnished to him and as such the learned Senior Counsel for the State submits that for the interest of justice and for proper adjudication of the matter, the matter may be remanded back to the disciplinary authority giving an opportunity to the petitioner to make representation against the enquiry report dated 25.04.2022 as stipulated by law.

9. The learned counsel for the petitioner on the submission of the counsel for the respondents fairly admits and submits that the matter may be remanded to the disciplinary authority, affording an opportunity to the petitioner to file his representation against his enquiry report dated 25.04.2022.

10. This Court upon consideration of the submission of the counsel for the parties and without going into the merits of the case directs the disciplinary authority to allow the petitioner to file its written representation against the inquiry report dated 25.04.2022 and on receipt of such written representation passed appropriate order in accordance with law.

11. In view of the observation made hereinabove, the impugned order dated 01.06.2022 passed by the Member, Foreigners Tribunal, 2nd, Morigaon, Assam by dismissing the service of the petitioner as L.D.A. in the Foreigners Tribunal, 2nd, Morigaon, Assam and the impugned Order dated 06.04.2024 passed by the Secretary to the Govt. of Assam, Home & Political Department upholding the Order of Dismissal R/o Village – Rajagaon, Ward No. 5, P.S. Morigaon, PIN -782105, District : Morigaon, Assam is hereby quashed and set aside.

12. The respondent authorities are hereby directed to furnish a copy of the inquiry report dated 25.04.2022 and the petitioner is directed to submit his written representation within a period of 15 (fifteen) days. It is made clear that upon receipt of the written representation by the petitioner against the inquiry report dated 25.04.2022, the disciplinary authority shall pass appropriate order taking into consideration of the representation/objection so raised by the petitioner within a period of 1(one) month from the receipt of the written representation. However, it is made clear that any observation made in this petition will not prejudice the disciplinary authority to decide on the merit of the case.

13. With the above observation, the instant petition stands disposed of.

14. No order as to cost.

JUDGE

Comparing Assistant