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2026:GAU-AS:15082

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

Case No. : WP(C)/3915/2026

SRI MADAN CHETRY
SON OF LATE DHRUBA BAHADUR CHETRY,, RESIDENT OF HOUSE NO. 1, JANATA NAGAR, NOONMATI, P.S. NOONMATI, DISTRICT- KAMRUP (M), ASSAM

VERSUS

ASSAM POWER GENERATION COMPANY LIMITED AND 3 ORS
REPRESENTED BY THE MANAGING DIRECTOR, BIJULI BHAWAN, PALTAN BAZAR, GUWAHATI, DISTRICT KAMRUP (M), ASSAM.

2:THE CHIEF GENERAL MANAGER
APGCL
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI
DISTRICT- KAMRUP (M)
ASSAM.

3:THE GENERAL MANAGER
KARBI LANGPI HYDRO ELECTRIC PROJECT
LENGERY
P.S. BAITHALANGSO
DISTRICT WEST KARBI ANGLONG
ASSAM.

4:THE SENIOR MANAGER (FINANCE AND ACCOUNTS)
KARBI LANGPI HYDRO ELECTRIC PROJECT
APGCL
LENGERY
P.S. BAITHALANGSO
DISTRICT WEST KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR. R BORA, MS R MEDHI

Advocate for the Respondent : SC, APGCL,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 07-10-2026

Heard Mr. R. Bora, learned counsel for the petitioner. Also heard Mr. D. Nath, learned Standing Counsel, APGCL, for all the respondents.

2. Aggrieved by his continued suspension since 21.08.2020 pursuant to the order dated 24.08.2020, issued by the General Manager, KLHEP, APGCL, the petitioner has instituted the present writ petition.

3. The petitioner was appointed as Sahayak (Grade-IV staff) under the respondent-authorities on 17.09.2007. While serving in such capacity, the petitioner was arrested on 28.08.2020 in connection with Baithalangso P.S. Case No. 61/2020, under Section 6 of the POCSO Act, 2012. Consequent upon his arrest, the petitioner was placed under suspension vide order dated 24.08.2020, with effect from 21.08.2020.

4. It is the case of the petitioner that despite the fact that the order of suspension has remained operative since 21.08.2020, no review of the suspension has been undertaken and or departmental proceeding has been initiated against him till date. Therefore, the continued suspension of the

petitioner for such an inordinately long period, without any review or initiation of departmental proceedings, cannot be sustained in law, being contrary to the applicable rules and the settled principles governing continued suspension.

5. Considering the limited issue raised in the writ petition, this Court on dated 30.09.2026 directed Mr. D. Nath, learned Standing Counsel, APGCL, to obtain necessary instructions.

6. Today, on instructions, Mr. D. Nath, learned Standing Counsel, APGCL, fairly submits that the respondent authorities have neither undertaken any review of the suspension of the petitioner nor initiated any departmental proceeding against him till date. He submits that for taking necessary steps in the matter, the petitioner was asked to furnish the status of the criminal proceeding pending against him; however, the same has not yet been placed before the appropriate authority. Consequently, no further action could be initiated by the respondent authorities till date.

7. Considered the submissions of the learned counsel for the parties and perused the materials available on record.

8. There is no dispute with regard to the fact that the petitioner was placed under suspension vide order dated 24.08.2020 with effect from 21.08.2020, consequent upon his arrest in connection with Baithalangso P.S. Case No. 61/2020. It is also an admitted position that as on date, neither any departmental proceeding been initiated against the petitioner nor any review been undertaken by the respondent authorities for extension of his suspension.

Under such circumstances, the order of suspension cannot plainly be allowed to be continued. The inaction on the part of the respondent authorities in undertaking any review for extension of the petitioner's suspension is undoubtedly in the teeth of the settled law and the applicable rules.

9. The law relating to suspension and its continuance has been considered by the Hon'ble Supreme Court in **Ajay Kumar Choudhary v. Union of India**, reported in **(2015) 7 SCC 291**, wherein it has been held that suspension, particularly suspension preceding the formulation of charges, is essentially transitory or temporary in nature and must perforce be of short duration. If suspension is for an indeterminate period, or its renewal is not based on sound reasoning contemporaneously available on the record, the same would render it punitive in nature. The Hon'ble Supreme Court further held that the currency of a suspension order should not extend beyond three months if, within that period, the memorandum of charges/charge-sheet is not served upon the delinquent officer/employee; and where the memorandum of charges/charge-sheet is served, a reasoned order must be passed for extension of the suspension.

10. In the present case, the petitioner has remained under suspension for more than five years. However, despite such prolonged period, the respondent authorities have admittedly neither initiated any departmental proceeding against the petitioner nor undertaken any review for continuation of his suspension. The explanation offered by the respondents that the petitioner has not furnished the status of the criminal proceeding cannot justify keeping the petitioner under suspension indefinitely, particularly when no departmental

proceeding has been initiated against him during the entire period of more than five years.

11. In view of the undisputed facts that the petitioner has remained under suspension for more than 5 (five) years since the issuance of the impugned order dated 24.08.2020 and having regard to the position of law as noticed hereinabove, this Court is of the considered view that the suspension of the petitioner cannot be allowed to continue any further. Accordingly, the impugned order dated 24.08.2020, issued by the General Manager, KLHEP, APGCL, is hereby set aside. Consequently, the petitioner shall be reinstated in service forthwith with all consequential benefits.

12. It is, however, made clear that the reinstatement of the petitioner shall not preclude the respondent authorities from taking such action as may be permissible in law, including initiation of departmental proceedings, if so warranted, or from taking any other appropriate decision in accordance with the applicable rules and the outcome/status of the criminal proceeding. Needless to say, any such action shall be taken strictly in accordance with law and within a reasonable period.

13. Writ petition stands disposed of.

JUDGE

Comparing Assistant