GAHC020006012023 2026:GAU-NL:577

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

Case No. : WP(C)/253/2023

SHRI YANGER AIER
CONSTABLE (COMPUTER OPERATOR) BEARING PIMS NO. POL00163
OF PHQ ATTACHD TO FSL DIMAPUR

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE HOME COMMISSIONER, GOVT. OF
NAGALAND, KOHIMA

2:THE DIRECTOR GENERAL OF POLICE
NAGALAND KOHIMA

3:THE ADDL. DIRECTOR GENERAL OF POLICE
ADM
NAGALAND KOHIM

Advocate for the Petitioner : MOA JAMIR, M JEMU,M SOLO,MANHEIH KONYAK,THEJANUO METHA

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 29-10-2026

1. By filing the instant application under Article 226 of the Constitution of India, the Petitioner has impugned the order No. PHQ(B-X)/MISC/38/2023/693 dated 12.10.2023 passed by the Addl. Director General of Police (Adm), Nagaland, Kohima whereby the Petitioner was dismissed from service.

2. Heard learned counsel for the Petitioner, Mr. Moa Jamir. Also heard learned Government Advocate, Ms. Inaholi, appearing for the State Respondents.

3. The brief facts leading to the filing of the instant writ petition are that the Petitioner was initially appointed as a Constable on temporary basis against the establishment of the IGP (INT) against existing vacancy. There was a condition in the appointment order that the Petitioner should undergo basic training at the PTS, Dimapur, Nagaland. After, completion of the basic training, Completion Certificate was issued in favour of the Petitioner and vide order dated 17.04.2007, the Petitioner was posted at FSL, Dimapur, with immediate effect, against existing vacancy.

4. While the Petitioner was discharging his duties sincerely a complaint was lodged on 13.12.2012 by the then Dy. Inspector General of Police (HQ), Nagaland, Kohima before the Officer-in-Charge of the State Crime Police Station, PHQ, Nagaland, Kohima on the allegation that while processing medical reimbursement bills in the Department certain claims

were sent to the concerned hospitals where the patients purportedly took treatment and it was subsequently found that the claims were false. Amongst many other such claims, the complainant in the complaint on 13.12.2012 also alleged that the Petitioner was also one of the persons who made the false claim for the treatment of his mother at GNRC Hospital, Guwahati.

5. Subsequent to the complaint a case was registered being State Crime Cell Case No. 18/2012 under Sections 409/420/469/468/471/467/120B of the IPC corresponding to GR Case No. 262/2012 and the same was endorsed for investigation.

6. After the investigation was completed, Charge-sheet was filed against the Petitioner and the trial commenced before the Court of Chief Judicial Magistrate, Kohima, Nagaland. The Trial Court convicted the Petitioner by the judgment dated 25.08.2023 and order dated 25.08.2023 holding the Petitioner guilty under Sections 409/420/469/468/471/467/120B of the IPC. After his conviction in the said GR Case No. 262/2012 by the learned Chief Judicial Magistrate, Kohima the Respondent No. 3 vide impugned order No. PHQ(B-X)/MISC/38/2023/693 dated 12.10.2023 dismissed the Petitioner from service in exercise of power conferred under Rule 7 of the Nagaland Service (Discipline and Appeal) Rules 1967 [hereinafter referred to as the Rules of 1967] with immediate effect. The dismissal was passed solely on the ground that the Petitioner had been convicted and sentenced to 3 (three) years imprisonment in the above mentioned GR Case by the learned Chief Judicial Magistrate, Kohima.

7. In the meantime, the Petitioner had preferred an appeal which was registered as Crl. Appeal No, 01/2023 before the learned District and Sessions Judge, Kohima, Nagaland, which was later transferred to the District and Sessions Judge, Wokha. During the pendency of the instant writ petition, the Crl. Appeal No. 01/2023 was disposed of by the learned District and Sessions Judge, Wokha, Nagaland by judgment dated 13.05.2026 thereby setting aside the conviction of the Petitioner in GR Case No. 262/2012.

8. Being aggrieved, the Petitioner has invoked the extraordinary jurisdiction of this Court and prayed for quashing and setting aside the impugned dismissal order dated 12.10.2023 and also made a prayer for reinstating the Petitioner in service. The main grounds taken by the Petitioner in the writ petition is that the impugned dismissal order dated 12.10.2023 was passed without taking recourse to the provisions of Rule 9 of the Rules of 1967 with regard to the disciplinary proceedings. It is also the case of the Petitioner that since the conviction of the Petitioner has already been set aside by the order of the learned District and Sessions Judge dated 13.05.2026, the very basis of the dismissal order has been removed and accordingly the same cannot stand the test of law.

9. At this stage, the learned Government Advocate, Ms. Inaholi, appearing for the State Respondents submits that the Respondents have never been supplied with a copy of the order dated 13.05.2026 passed by the learned Appellate Court and further the Petitioner has failed to bring to the notice of the authorities regarding his acquittal in the criminal case and, therefore, the Respondents never got the opportunity to re-examine

the impugned order dated 12.10.2023 in the light of the acquittal of the Petitioner by the order dated 13.05.2026 passed in Crl. Appeal No. 01/2023. She has, therefore, submitted that the Respondent Authorities should be given an opportunity to re-examine the impugned dismissal order dated 12.10.2023 and that the Petitioner should be directed to bring the subsequent developments to the notice of the Respondent Authorities.

10. This Court has duly considered the submissions of the learned counsel for the parties and perused the records; specifically the order dated 13.05.2026 passed by the learned District and Sessions Judge, Wokha, Nagaland in Crl. Appeal No. 01/2023. It is seen that by the order dated 13.05.2026, the Appellant Court, after re-examining the evidence has observed that the prosecution has failed to establish any of the ingredients constituting the offences charged against the Petitioner. Consequently, the appeal was allowed and the conviction and sentence imposed on the Petitioner under Sections 409/420/469/468/471/467/120B of the IPC was set aside and the Petitioner was acquitted.

11. The Supreme Court in the case of ***Union of India v. Jaipal Singh***, **(2004) 1 SCC 121** has held that when the dismissal rested entirely on the conviction, reinstatement has to be made following the appellate court's acquittal.

12. This Court has also observed that the impugned dismissal order dated 12.10.2023 was based solely on the Petitioner's conviction and the conviction in the criminal case has been subsequently set aside in an appeal resulting in his acquittal and, therefore, the employee is ordinarily

entitled to reinstatement.

13. In the case of ***Basanti Prasad v. Chairman, Bihar School Examination Board & Ors.***, **(2009) 6 SCC 791**, the Supreme Court held that if the government servant is acquitted on appeal, the dismissal order can be revised. This judgment supports the proposition that the employer must reconsider the dismissal after the acquittal, when the punishment was based on an order of conviction.

14. Admittedly, the Respondent Authorities have never been given an opportunity to reconsider the impugned dismissal order dated 12.10.2023 after the Petitioner was acquitted by the learned District and Sessions Judge, Wokha, Nagaland.

15. In view of the above facts and circumstances, this petition is disposed of with a direction to the Petitioner to submit a representation for review of the impugned order No. PHQ(B-X)/MISC/38/2023/693 dated 12.10.2023 in view of the acquittal by the learned District and Sessions Court in Crl. Appeal No. 01/2023. The Petitioner shall also enclose a copy of the judgment dated 13.05.2026 passed in Crl. Appeal No. 01/2023 and the said representation shall be submitted within one week from today. Thereafter, the Respondent Authorities, particularly the Respondent No. 2 shall examine the impugned dismissal order dated 12.10.2023 in the light of the order dated 13.05.2026 of the learned District and Sessions Judge, Wokha, Nagaland in Crl. Appeal No. 01/2023 and thereafter issue such revised order within a period of 2 (two) months after the receipt of the Petitioner’s representation.

16. Needless to say, if the Petitioner is aggrieved by any subsequent orders passed by the Respondent Authorities he is at liberty to come before this Court.

17. With the above directions, the petition stands disposed of.

JUDGE

Comparing Assistant