

GAHC010011492015



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

Case No. : WP(C) 2037/2015

1:JYATISH CHANDRA SUKLYABAIDYA
S/O LT. MAHENDRA CHANDRA SUKLYABAIDYA R/O VILL- ANJIRGRAM
P.O. PALANGHAT, P.S. DHOLAI DIST. CACHAR, ASSAM.

VERSUS

1:THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, FINANCE
DEPARTMENT, DISPUR, GUWAHATI- 781006.

2:DR. RAVI KOTA
THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE ESTABLISHMENT-B DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:SRI PABAN KUMAR BARTHAKUR
THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
URBAN DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI - 781006.

4:SRI BIPIN CHANDRA DEVA SARMAH
FORMELY OFFICER ON SPECIAL DUTY
FINANCE DEPARTMENT
VILLAGE- RONGPURHATI
P.O. BARPETA- 781301
ASSAM.

5:THE DEPUTY COMMISSIONER
HAILAKANDI DISTRICT
P.O. HAILAKANDI- 78815
ASSAM

Advocate for the Petitioner : MS.S DASGUPTA

Advocate for the Respondent : SC, FINANCE

BEFORE
THE HON'BLE MR JUSTICE PRASANTA KUMAR DEKA
ORDER

30. 08. 2019

Heard Mr. N. Dhar, learned counsel for the petitioner. Also heard Mr. R. Borpujari, learned Standing Counsel, Finance Department, appearing for the respondent nos. 1 & 2. Also heard Mr. N. Goswami, learned counsel for the respondent nos. 3 & 5.

The petitioner is aggrieved by the Notification dated 07.02.2015 issued by the Commissioner & Secretary, Finance (Establishment-B) Department, Assam whereby the penalty of deduction of amount of Rs. 10,000/- only was effected from DCRG of the petitioner and the suspension period was treated as on duty for that purpose. The petitioner filed this writ petition challenging that the departmental enquiry was in clear violation of the statutory rules, particularly, Rule 7 and Rule 9 of the Assam Services (Discipline and Appeal) Rules, 1964, read with Rule 21 of Assam Services (Pension) Rules, 1969.

Thereafter the respondents entered appearance and filed an affidavit-in-opposition by the respondent no. 2 wherein, it is stated that the petitioner was reinstated into service in the year 2014 and promoted in the year 2015.

During the pendency of the writ petition, the deduction of Rs. 10,000/- which was withheld as penalty from DCRG of the petitioner was released. Under such circumstances, Mr. Dhar submits that the Notification dated 07.02.2015 be recalled. On the other hand, Mr. Borpujari submits that as the petitioner was reinstated in the year 2014 and subsequently promotion was also effected, under such circumstances, there is no point of recalling the said Notification dated 07.02.2015.

I have considered the submissions, if we look into the relief sought for by the petitioner, the amount of Rs. 10,000/- had already been released and the petitioner was also

notionally promoted on 27.02.2015 after he was reinstated vide order dated 29.01.2014. As such the Notification dated 07.02.2015 has become infructuous and invalid. In respect of the other relief of the petitioner to compensate for excessive distress owing to malafide and arbitrariness on the part of the concerned authority, the petitioner is at liberty to move the appropriate Court subject to the Limitation Act, 1963.

Accordingly, this writ petition stands disposed of with the above observations.

JUDGE

Comparing Assistant