

GAHC010042282023



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

Case No. : WP(C)/1077/2023

ANSHUMAN BARUAH
S/O SANJIB BARUAH R/O NOON MATI GUWAHATI REFINERY TOWNSHIP
SECTOR 2 QUATER NO. 2014 DIST. KAMRUP (M) GUWAHATI ASSAM PIN
781020

VERSUS

INDIAN OIL CORPORATION LTD. AND 5 ORS.
A GOVT. OF INDIA UNDERTAKING HAVING ITS REFINERY DIVISION AT
GUWAHATI GUWAHATI REFINERY NOONMATI GUWAHATI ASSAM REP. BY
ITS EXECUTIVE DIRECTOR AND REFINERY HEAD

2:DEPUTY GENERAL MANAGER (HUMAN RESORCE)
INDIAN OIL CORPORATION LTD. GUWAHATI REFINERY DIVISION

3:ASSISTANT MANAGER (ER)
INDIAN OIL CORPORATION LTD. GUWAHATI REFINERY DIVISION

4:MANAGER (FIRE AND SAFETY)
INDIAN OIL CORPORATION LTD. GUWAHATI REFINERY DIVISION

5:GENERAL MANAGER (VIGILANCE)
VIGILANCE DEPTT. INDIAN OIL CORPORATION LTD. GUWAHATI
REFINERY DIVISION

6:CHIEF MANAGER (FIRE AND SAFETY)
INDIAN OIL CORPORATION LTD. GUWAHATI REFINERY DIVISIO

Advocate for the Petitioner : MR. B D DEKA

Advocate for the Respondent : SC, OIL

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 01-03-2023

Heard Mr. B.D. Deka, learned counsel for the writ petitioner.

Assailing the order of termination from service dated 17-02-2023 issued by the respondent No. 4, this writ petition has been filed.

Mr. Deka submits that the petitioner was appointed in the post of Junior Engineer–IV (Fire & Safety), pursuant where to he had joined in service on 31-12-2021. However, by the impugned order of termination dated 17-02-2023, the services of the petitioner has been terminated without issuing any show-cause notice or giving him an opportunity of being heard. Hence, this writ petition.

Mr. I. Choudhury, learned Sr. counsel assisted by Mr. Meherin, learned counsel for the respondents submits that since the petitioner was on probation, the question of issuing any show-cause notice to him did not arise in the eye of law. In support of his above contention, Mr. Choudhury has relied upon a decision rendered in the case of ***Om Prakash Mann Vs. Director of Education (Basic) & Ors.*** reported in ***(2006) 7 SCC 558.***

A perusal of the impugned order dated 17-02-2023 goes to show that pursuant to an internal inquiry and recommendation of the Central Vigilance Commission, it was found that the petitioner was selected/ appointed erroneously and hence, the order of termination was issued. It is, however, not disclosed as to what was the error in his appointment or the anomaly in the selection process and if so, who are the officials responsible for the same. It is also not clear as to whether any action has been initiated by the respondents against any of those officials. Be that as it may, since Mr. Choudhury, learned Sr. counsel for the respondents submitted that the facts would be brought on record in the form of an affidavit, the matter would call for further examination.

Issue notice of motion returnable on 21-04-2023.

Since Mr. Meherin has accepted notice on behalf of all the respondents, no formal notice is required to be sent in this case.

Extra copies of the writ petition, requisite in numbers, be furnished to the learned counsel for the respondents so as to enable him to obtain instruction and file affidavit.

Heard on the prayer of interim relief.

Said prayer will be considered on the returnable date.

However, as an ad-interim measure, it is hereby provided that the post held by the petitioner shall not be filled up without obtaining the leave of this Court.

Registry to list this case along with W.P.(C) No. 1373/2022 and W.P.(C) No. 8082/2022.

JUDGE

GS

Comparing Assistant