

GAHC010110882016



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

Case No. : WP(C)/2647/2016

GAJENDRA NATH PATGIRI
S/O- LT. PUPSA PATGIRI, R/O VILL.- BARBANG MAJIUPARA, P.O.-
BARBANG CHOUKHUTI, P.S.- PATACHARKUCHI, DIST.- BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY ITS COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPTT., ASSAM, DISPUR, GHY-
6.

2:THE ACCOUNTANT GENERAL
ASSAM
BELTOLA
MAIDAMGAON
GHY- 29.

3:THE DIRECTOR OF PANCHAYAT AND RURAL DEPTT.
PANJABARI
JURIPAR
GHY- 37.

4:THE JOINT DIRECTOR OF PANCHAYAT AND RURAL DEPARTMENT
BARPETA
P.O. and DIST.- BARPETA
ASSAM.

5:THE DIRECTO OF PENSION
PANCHAYAT AND RURAL DEPTT.
ASSAM
HOUSEFED COMPLEX
LAST GATE

DISPUR
GHY- 6.

6:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILA PARISHAD
PANCHAYAT AND RURAL DEPTT.
DIST.- BAKSA THE THEN BARPETA
ASSAM.

7:THE BLOCK DEVELOPMENT OFFICER
BAJALI DEVELOPMENT BLOCK
CHOUKHUTI
DIST.- BAKSA THE THEN BARPETA
ASSAM.

8:THE DIRECTOR OF PANCHAYAT AND RURAL DEPTT.
B.T.A.D.
BAKSA
ASSAM.

9:THE TREASURY OFFICER
BARPETA/BAKSA
DIST.- BAKSA THE THEN BARPETA
ASSAM

Advocate for the Petitioner : MR. S HUSSAIN, MR. B ISLAM,MS. R BEGUM

Advocate for the Respondent : SC, BTADC, MR. S K MEDHI (R-2),SC, FINANCE,SC, AG,SC,
PENSION & PUBLIC GRIEVANCES,MR. M. NATH (SC,P&RD)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

21.04.2026

Heard Mr. B. Islam, learned counsel for the petitioner. Also heard Mr. A.K. Ghosh, learned Standing Counsel, P&RD; Mr. S.K. Medhi, learned Standing Counsel, Accountant General for the respondent No. 2; Ms. B. Borah, learned Standing Counsel, BTC for the respondents Nos. 7 & 8.

2. The petitioner before this Court was serving as an Office Peon in the Bajali Anchalik Panchayat Office. The petitioner was placed under suspension for purported unauthorised absence and enquiry proceedings were initiated. The petitioner was placed under suspension with effect from 27th of December, 2005. Thereafter, show cause notice was issued on 19.08.2006, calling upon the petitioner to submit his reply to the charges levelled against him. Pursuant thereto, the enquiry officer was appointed as well as the enquiry proceedings were initiated. The Joint Director, P&RD has filed an affidavit, whereby the averments were made that since the petitioner was unauthorisedly absent from his duty for the last few months and did not respond to the notice, therefore, he was placed under suspension. Although the show cause notice was issued and served upon the petitioner to furnish his reply, no such reply was submitted by him and thereafter, the petitioner submitted an application requesting to release his entire salary.

3. According to the learned counsel for the petitioner, he could not attend his duties as he was suffering from psychiatric disorder. The respondent authorities directed the petitioner to appear before the Medical Board constituted to examine the petitioner. However, the same was not done by the petitioner. Rather, he submitted an opinion from the OPD of the Gauhati Medical College & Hospital, where it was opined that the petitioner was suffering from Chronic Ischemic Stroke (WA) for a particular period.

4. The CEO, Barpeta Zila Parishad has also filed an affidavit contesting the case of the petitioner. The CEO supported the case projected and reflected by

the Joint Director, P&RD and further stated in the affidavit that subsistence allowance was paid to the petitioner as per the provisions of the Fundamental Rules. The petitioner filed rejoined affidavit to the affidavit filed by the CEO, Barpeta Zila Parishad reiterating his case as projected in the writ petition. From the pleadings available before the Court it is seen that the petitioner has been placed under suspension and his financial benefits have not been released. Particularly because of the fact that there is an enquiry proceeding initiated against the petitioner in pursuance to the show cause notice issued dated 19.08.2006. From the averments, it is clear that the petitioner did not file his response.

5. The status of the enquiry report is not reflected in the writ petition. However, on oral instructions, the learned Standing Counsel for the P&RD department has submitted before the Court that the last date of hearing before the enquiry officer was on 21.07.2025. The status of the enquiry report as on date is not known by him. He submits that he would like to obtain the instructions, if the Court permits him to obtain such instructions within a short period of time.

6. The prayer before this Court in the writ petition is for the direction to the respondents to grant the GPF Pension, Arrear outstanding salary and other allowances. While there is no specific challenge made against the enquiry proceedings initiated by the respondent department, the fact remains that the respondents have initiated an enquiry and the said enquiry is stated to be still pending and the prayers made by the petitioner has not been redressed by the

department. It is distressing to notice that the enquiry proceedings were initiated by way of issuance of the show cause on 19.08.2006. From the averments made in the affidavit it is seen that the notice issued to the petitioner had not been responded to by the petitioner and as a consequence the enquiry proceedings lingered on. What the department has failed to explain in its affidavits is why the enquiry continued from 2006 for a period of ten years, until the petition was filed in 2016. Even as on date there is no official explanation furnished by the department either by way of their affidavits or by way of instructions as to why the enquiry proceedings have not been concluded for 20 years. Such inaction by the department leading to the delay in conclusion of the proceedings is strongly deprecated. Whether the petitioner would be entitled to his claim for release of financial benefits and other claims towards arrear salary is one aspect of the matter but the fact that these claims have not been entertained solely on the ground that a proceeding initiated against the writ petitioner has not been concluded, which has troubled the conscience of the Court. Time and again this Court as also the Apex Court has laid down several judgments directing the respondents to expeditiously conclude the departmental proceedings and pass appropriate orders by the disciplinary authority where required.

7. The reference in this case can be made to the judgment of the Apex Court in *Prem Nath Bali Vs Registrar, High Court of Delhi & Anr.* reported in (2015) 16 SCC 415. This judgment of the Apex Court has laid down clear parameters for expeditious conclusion of departmental proceedings against the government servants. The Assam Services (Discipline & Appeal) Rules, 1964 read with the Manual of Departmental Proceedings appended thereto also emphasises on

early disposal of departmental proceedings.

8. Under such circumstances it is necessary to direct the respondents more particularly the Director of Panchayat and Rural Development namely respondent No. 3 to take all steps necessary as per the provision of law to conclude the enquiry proceedings initiated and issue instructions to the enquiry officer to conclude the enquiry proceedings as expeditiously as possible. Upon conclusion of such enquiry proceedings, the Director being the appointing authority will take all necessary steps as prescribed under the Assam Services (Discipline & Appeal) Rules, 1964 to pass specific orders thereon in terms of the enquiry report that may be submitted by the enquiry officer. Needless to say a copy of the enquiry report must be served on the writ petitioner before the appointing authority proceeds to pass orders against the interest of the writ petitioner. Depending on the outcome of such enquiry report and the consequential orders passed by the appointing authority, the further claims of the writ petition will require examination at the hands of the respondent authorities. However, the pendency of the enquiry proceedings and/or any such orders required to be passed by the appointing authority. The conclusion of the enquiry proceedings shall not be a bar for release of the outstanding arrear salary found to be payable to the petitioner for services rendered and the same shall be released without further delay. The enquiry shall be completed within a period of 45 days from the date of receipt of the certified copy of this order. Thereupon the procedure prescribed, read with Rule 9A of the Assam Services (Discipline & Appeal) Rules, 1964 be proceeded with by the appointing authority if found necessary, within a further period of 30 days.

9. This writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant