

GAHC010281312023



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

Case No. : WP(C)/7350/2023

DALIM DAS
S/O LATE SURENDRA NATH DAS
R/O NARAYANPUR, BYE LANE 2, H/NO. 16, GANESHGURI,
GUWAHATI-781006
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FORESTS DEPARTMENT, DISPUR, GUWAHATI-781006,
DIST. KAMRUP (METRO), ASSAM

2:THE UNDER SECRETARY TO THE GOVT. OF ASSAM

ENVIRONMENT AND FORESTS DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE

ASSAM
PANJABARI
GUWAHATI-781037

4:THE ADDL. CHIEF CONSERVATOR OF FORESTS (T)

LOWER ASSAM ZONE
BASISTHA
GUWAHATI-781029

5:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E)

ASSAM
GUWAHATI-78102

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 19/12/2023

Heard Mr. B. D. Konwar, learned senior counsel assisted by Mr. H. Agarwal, learned counsel for the writ petitioner. Also heard Mr. D. Gogoi, learned Standing Counsel, Forest Department, Assam, appearing for the official respondents.

The order dated 05/12/2023 passed by the Under Secretary to the Government of Assam, Environment and Forest Department, has been assailed in this writ petition on numerous grounds including the ground of being in contravention of letter and spirit of the order dated 28/07/2023 passed by this Court in WP(C) No. 3652/2023.

Mr. Konwar submits that the department, having agreed to the order dated 28/07/2023, could not have passed the impugned order for recovery of the amount from the petitioner for services rendered during the period from 01/04/2022 to 31/03/2023 nor was it permissible to forfeit the promotion earlier given to the petitioner. Under the circumstances, a prayer has been made to stay the operation of the impugned order dated 05/12/2023 with immediate effect.

Mr. Mr. D. Gogoi, learned Standing Counsel, Forest Department, Assam, on the other hand, submits that there are serious anomalies, raising suspicion as regards the circumstances under which the age of the petitioner was corrected in the service record and, therefore, the matter calls for appropriate enquiry by the departmental authorities. The learned Standing Counsel, therefore, submits that the matter may be fixed after 4 weeks so as to enable the department to file an affidavit bringing the relevant facts on record.

In view of the above, issue notice of motion returnable on 24/01/2024.

Since Mr. D. Gogoi, learned Standing Counsel, Forest Department, Assam, has accepted notice

on behalf of the respondent nos. 1 to 4 and Mr. R. K.Talukdar, learned Standing Counsel, AG (A&E), Assam, has accepted notice on behalf of the respondent no. 5, service of notice is deemed to be complete in this case. However, extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel within three days from today, so as to enable them to obtain instruction and file affidavit.

Heard on the prayer of interim relief.

Having regard to the facts and circumstances of the case, it is hereby provided that operation of the impugned order dated 05/12/2023, in so far as the same relates to forfeiture of the promotion given to the petitioner to the rank of Assistant Conservator of Forest (ACF) and also the direction for recovery of pay and allowances drawn by him during the period from 01/04/2022 to 31/03/2023, shall remain stayed.

The departmental authorities would, however, be at liberty to proceed with other conditions laid down in the impugned order dated 05/12/2023 including processing the pension of the writ petitioner.

List the matter again on 24/01/2024.

JUDGE

sukhamay

Comparing Assistant