

GAHC020001722024

2025:GAU-NL:399



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

Case No. : WP(C)/56/2024

SHRI R AOMEREN
S/O S. REPASOSONG
R/O 5TH MILE, DIPHUPAR B VILLAGE
H.NO. 446, DIMAPUR, NAGALAND.
CURRENTLY SERVING AS DRIVER, GRADE II, NST
OFFICE OF THE ASSISTANT GENERAL MANAGER, NST DIMAPUR
NAGALAND

VERSUS

THE STATE OF NAGALAND AND ANR
REPRESENTED BY THE SECRETARY
DEPT. OF TRANSPORT
GOVT. OF NAGALAND
NAGALAND CIVIL SECRETARIAT, KOHIMA NAGALAND-797001

2:THE GENERAL MANAGER
NST
DIMAPUR NAGALAN

For the Petitioner(s) : Mr. L. Iralu, Advocate

For the Respondent(s) : Mr. N. Angami, Govt. Advocate

Date of Hearing : **27.08.2025**

Date of Judgment : **27.08.2025**

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. L. Iralu, the learned counsel appearing on behalf of the petitioner. Mr. N. Angami, the learned Government Advocate, Nagaland appears on behalf of the respondents.

2. The petitioner herein has assailed the show cause notice dated 02.04.2024 whereby steps were taken by the General Manager, Nagaland State Transport, Nagaland to terminate the petitioner merely by issuing a show cause notice and not following the mandate of Rule 9 of the Nagaland Services (Discipline and Appeal) Rules, 1967 (for short, "the Rules of 1967").

3. This Court heard Mr. N. Angami, the learned Government Advocate, Nagaland appearing on behalf of the respondents and enquired, as to whether, the Rules of 1967 would be applicable insofar as the Nagaland State Transport is concerned.

4. Mr. N. Angami, the learned Government Advocate, Nagaland appearing on behalf of the respondents submitted that the said Rules of 1967 would duly apply.

5. This Court further takes note of that taking into account that the petitioner herein has been appointed to a Government service, he is protected under Article 311(2) of the Constitution of India and further in terms with Rule 9 read with Rule 7(ix) and Rule 10 of the Rules of 1967, imposition of penalty of dismissal from service should be preceded by an enquiry unless the exception under Rule 11 of the Rules of 1967 can be satisfied.

6. It is the opinion of this Court that if the Respondent Authorities deems it proper to impose a major penalty of dismissal from service, the respondents have to resort to the procedure as mandated in Rule 9 of the Rules of 1967.

7. In that view of the matter, it is the opinion of this Court that on the basis of the show cause notice dated 02.04.2024, the petitioner cannot be dismissed from service.

8. Accordingly, this Court disposes of the instant writ petition with the following observations and directions:

(i) The show cause notice dated 02.04.2024 cannot be the sole basis on which the petitioner can be dismissed from service.

(ii) If the Respondent Authorities deems it appropriate to

impose penalties upon the petitioner and more particularly a major penalty in the nature of dismissal from service, the petitioner being a protected employee in terms with Article 311(2) of the Constitution of India, resort has to be taken in terms with Rule 9 of the Rules of 1967.

(iii) This Court, therefore, while interfering with the show cause notice dated 02.04.2024 grants the liberty to the respondents to initiate proceedings under Rule 9 of the Rules of 1967, if so advised.

(iv) Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant