

(2016) 10 GAU CK 0021
In the Gauhati High Court
Case No : Writ Petition (C) No. 6347 of 2016

Baneswar Nath

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision : 24-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 NEJ 363

Hon'ble Judges : Mr. N. Chaudhury, J.

Bench : Single Bench

Advocate : Mr. D.C. Borah, Advocate, for the Petitioner; Dr. B. Ahmed, SC, Irrigation Department, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. N. Chaudhury, J.— Heard Mr. D.C. Borah, learned counsel for the petitioner and Dr. B. Ahmed, learned Standing Counsel, Irrigation Department.

2. The petitioner, who is a Work-charged Khalasi in the office of the Executive Engineer, Dhakuakhana Division (Irrigation), was placed under suspension on 10.10.2007. He was paid subsistence allowance but as no disciplinary proceeding was drawn up the petitioner approached this Court vide WP(C) No.2601/2014 after expiry of seven years and considering the urgency of the matter this Court was pleased to dispose of the writ petition on 28.05.2014 at motion stage directing the respondent authorities to complete the departmental enquiry against the petitioner within a period of three months from the date of receipt of the order. It was also directed that in case the petitioner was exonerated from the charges on the conclusion of the enquiry, he should be reinstated forthwith without prejudice to the ongoing criminal proceeding against him. After the certified copy of this order was placed before the Chief Engineer, Irrigation, Assam, by the petitioner a disciplinary proceeding was drawn up against him and charges were framed. The petitioner replied to the charges but thereafter the disciplinary proceeding has not been concluded. Under such circumstances, the

petitioner continues to remain under suspension for nine years. During this period the petitioner has been paid subsistence allowance but since he did not get the full salary he must be suffering financially. It is also to be noticed that the Government has been sleeping over the matter for long nine years. During this period though subsistence allowance has been paid but the Government did not derive any benefit from the service of the petitioner. It is not clear as to why the respondents failed to conclude the disciplinary proceeding within nine years.

3. Dr. B. Ahmed, learned Standing Counsel, Irrigation Department, submits that the Government shall conclude the proceeding immediately.

4. Having heard learned counsel for the parties the writ petition is hereby disposed of with a direction to the respondent authorities to conclude the disciplinary proceeding within a period of two months from today. In the event the disciplinary proceeding is not concluded within the period of two months from today, the petitioner shall be reinstated in service on expiry of two months without prejudice to the outcome of the disciplinary proceeding.

5. The writ petition stands disposed of.