

(2021) 07 GAU CK 0117

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 6575 Of 2018

Binay Kumar Singh

APPELLANT

Vs

Union Of India And 4 Ors

RESPONDENT

Date of Decision : 26-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 21, 226
Code Of Criminal Procedure, 1973 — Section 195(1)(b)(i)
Indian Penal Code, 1860 — Section 199, 200

Citation : (2021) 07 GAU CK 0117

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : A Sarma

Final Decision : Dismissed

Judgement

1) Heard the petitioner-in-person. Also heard Mr. S.S. Roy, learned CGC appearing for the respondent no.1 and Mr. K.N. Choudhury, learned senior

counsel, assisted by Mr. D.J. Das, learned counsel for the respondent nos. 2 to 5.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed, inter alia, (i) to set aside and quash the letter no.

NEDFi/HRD/ 55(STAFF)/No.3988/2018-19 dated 10.08.2018 with all consequential benefits; (ii) to direct the respondents to reinstate the petitioner in

the post of Deputy General Manager with all consequential benefits of arrear salary, seniority, promotion, etc. with all consequential benefits.

3) Bereft of details and to maintain brevity, for the purpose of this judgment, it would be sufficient to mention that in this writ petition, the case

projected by the petitioner is that he was initially appointed as Deputy Manager (Grade-B post) in the establishment of respondent no.2 on 08.04.1996.

He was promoted to Grade-C on 01.10.2000 and on 01.02.2009, he was promoted to Grade-D and posted as Deputy General Manager. Thereafter, w.e.f. 27.07.2011, he was entrusted with additional charge of Chief Vigilance Officer (CVO for short).

4) It is projected that while working as CVO, the petitioner found out various illegalities. It has been mentioned that he found out submission of forged travelling bill by one senior staff, high value loan sanctioned to one industry was disbursed at one go in violation of banking norms and that the said loan had become non-performing asset (NPA for short), manipulation of minutes of Departmental Promotion Committee (DPC for short) to give undue benefit to one officer. For reasons assigned in the last part of this judgment and order, the Court is inclined to withhold the names of persons against whom allegations have been made by the petitioner. It is projected that when the petitioner voiced his concern, the senior officers connived together and became vindictive against the petitioner by locking his chamber, caused delay in releasing reimbursement due to him, his leave applications were kept pending and thus, made life miserable for him and that by order dated 20.12.2017, he was transferred from Guwahati to Kohima. The petitioner projects that he had submitted his representations before the Central Vigilance Commission (CVC for short) and to the Ministry of DoNER, but as no action was taken he became demoralized and by submitting representations dated 02.08.2018 and 07.08.2018, the petitioner had prayed for his release from service.

5) In the meanwhile the petitioner had approached this Court by filing W.P.(C) 182/2018, challenging his transfer while his representation against his transfer order was pending and this Court by order dated 17.01.2018, directed the petitioner to submit his representation before the Board of Directors of respondent no.2 and in the interim, the respondents were directed not to take coercive steps against the petitioner till disposal of his representation. The petitioner submitted his representation before the Board of Directors of respondent no.2 on 19.01.2018 and the said representation was made over to DGM (Vigilance), State Bank of India for examination as per decision of the Board taken in its meeting. The petitioner submitted another representation dated 15.06.2018 before the Board of Directors of respondent no.2, seeking copy of report by SBI DGM (Vigilance) report on his

representation and also requesting the CVO of respondent no.2 to examine the said report and give her opinion and recommendation to CVC through

CVO, Ministry of DoNER. The petitioner also submitted a representation dated 20.06.2018 before the Manager (HRD) of respondent no.2 for

providing protection as per CVC Circular no. 16/3/2016 dated 28.03.2016. The petitioner also submitted two other representations dated 29.06.2018

and 02.08.2018 to release him from service by paying compensation of Rs.7.00 Crore. In the meanwhile on 01.08.2018, the respondent no.2 had

rejected the representation submitted by the petitioner against his transfer to Kohima and also directed him to join his place of posting in Kohima

Branch as per decision taken in 113th Board Meeting of respondent no.2 held on 22.06.2018. Thereafter, by communication dated 10.08.2018

impugned in this writ petition, the respondent no.5, i.e. the DGM (HR & Admn) of respondent no. had released the petitioner from service at the close

of business hours of the respondent no. 2. On 12.08.2018, the petitioner had submitted an appeal before the Board of Directors of respondent no.2.

Moreover, by an e-mail dated 20.08.2018, (Annexure-P/17), the petitioner had informed the Chief Vigilance Officer of respondent no.2 that he had a

right to make representation to the CVC. This was followed by submission of representations vide e-mail dated 12.08.2018 (Annexure-P/16) and

27.08.2018 (Annexure-P/18), claiming compensation of Rs.7.00 Crore. Thereafter, the petitioner had submitted his complaint dated 31.08.2018 before the CVC.

6) The petitioner-in-person has made his submissions based on his pleadings in the writ petition and annexures appended thereto. For the purpose of

maintaining brevity in this judgment and order, it would be suffice to mention herein that the grievance of the petitioner against his colleague officers,

both juniors and seniors, Board of Directors, members of DPC appears to be never-ending. The grievance of the petitioner does not end with

respondent no.2 and its staff and officials, the petitioner has made vitriolic attack on the counsel who appeared for him but he has also made rancorous

or resentful attack on the learned senior counsel for the respondent nos. 2 to 5. The petitioner appears to be holding an opinion that forged documents

has been created to malign him, and deliberate false statements has been made by the respondent nos. 2 to 5 in their affidavit-in-opposition. In this

regard, the petitioner had submitted a voluminous letter dated 12.03.2021 before the Secretariat of the Honâ??ble The Chief Justice, which was received under receipt no. 3695 dated 12.03.2021. The prayer made are verbatim quoted as follows:-

a. To take cognizance of Sri N D Singh the respondent has conspired with officer to made perjury: (i) Sri B.P. Muktie, CMD, NEDFi (ii) Sri S K

Baruah, Executive Director and Chief Finance Office (iii) Ms. Olee Bora, General Manager- HR, (vi) Sri Veekash Agarwal, Company Secretary and

DGM (Finance & Account), (v) Ms. Smita Khaund, Chief Vigilance Officer (vi) Dr. T.K. Mukhopadhyaya, Ex Board of Director, (vii) Dr. R.K.

Gupta, Ex Board of Director (viii) Sri K. Banerjee, Ex. Board of Director

b. Allow the petitioner to appear in Person in W.P.(C) 6575/2018.

7) Per contra, the respondent nos. 2 to 5 by filing their joint affidavit-in-opposition have denied each and every allegations made in the writ petition.

Apart from referring to the statements made in the affidavit-in-opposition, the learned senior counsel for the respondent nos. 2 to 5 has referred to

Annexure-3 thereof to demonstrate that in the meeting of the Management Committee held on 19.10.2010, the petitioner was one of the invitees

where one of the issues discussed was relating to the promotion of the concerned officer, against whom the petitioner has alleged forgery of air

tickets. However, the Committee had cleared the promotion of the concerned officer to the grade of DGM (Grade-D) w.e.f. 01.10.2010. It is

submitted that allegations of forgery of air ticket by a concerned officer had come to light in the year 2002, yet vide letter dated 30.08.2005, it was the

petitioner who had written to the General Manager of respondent no.2 to grant annual increment to the said concerned officer. In short, the plea of the

respondent nos. 2 to 5 is that during the tenure of the petitioner as CVO of respondent no.2, the petitioner had submitted as many as 15 (fifteen)

â??nilâ?? quarterly reports between 31.03.2011 to 31.12.2014. However, after the Nomination and Remuneration Committee of respondent no.2 in

its meeting dated 22.01.2015, short-listed five eligible officers including the petitioner for filling up the post of General Manager, the behaviour of the

petitioner got changed and he had started sending mails and letters with derogatory remarks against the respondent no.2 as well as against other

officers. It is also submitted that as CVO, the petitioner was not entitled to take

suo motu investigations without existence of any complaint and it is also submitted that CVO is a post created as per directions of CVC and only corruption matters can be taken up by CVC. It is also submitted that business decisions relating to release of loan amount, etc. is within the realm of a CVO. Thus, it is submitted that the steps taken by the petitioner during his tenure as CVO was beyond his authority. In this regard, it is submitted that not only the CVC has not taken cognizance of the complaint made by the petitioner, but the Ministry of DoNER has also closed all complaints made by the petitioner and that letters to that effect were addressed to the petitioner with copy to the respondent no.2, which has been suppressed by the petitioner.

8) The learned CGC has submitted that the Union of India is a formal party and he is present only to protect the interest of the respondent no.1.

9) From the above, it is seen that the points for determination which arise in this writ petition are as follows:-

a. Whether the allegations made by the petitioner against various persons whose names are disclosed in the writ petition and annexures appended

hereto can be gone into by this Court?

b. Whether the petitioner is entitled to relief as per prayer made vide letter received by the Secretariat of the Honâ??ble the Chief Justice under

receipt no. 3695 dated 12.03.2021?

c. Whether the impugned communication dated 10.08.2018 is liable to be interfered with?

10) The point of determination no. (a) is taken up first. It is seen that in this writ petition, the petitioner has not impleaded any of the persons against

whom serious allegations has been extensively made in this writ petition and documents appended thereto. It may be mentioned that from the overall

reading of the writ petition, the petitioner has projected that it was because of actions of many of his co-workers, he had suffered continuous mental

harassment and that as per his letter dated 29.06.2018 (Annexure-P/9) containing request to release him from service, it is categorically mentioned

that the â?? request you to release me from the service of NEDFi treating it as forced resignation ...â? Therefore, the case projected by the

petitioner is that the actions of several of the officers of the respondent no.2 are vital and relevant for the purpose of deciding the legality of the

communication dated 10.08.2018, impugned in this writ petition, by which the resignation of the petitioner from service was accepted.

11) Therefore, without giving a reasonable opportunity of being heard, there is no way that the Court can ex parte visit any of the allegations behind

the back of the persons against whom such allegations have been made in an attempt to find out the truth of such allegations. The persons against

whom allegations have been made are proper and necessary parties and that in their absence, the correctness of the ex parte allegations cannot be

heard and decided. There is no iota of doubt in the mind of the Court that any decision taken without hearing the party who are likely to be adversely

affected would violate the principles of natural justice.

12) It would be appropriate to refer to the observations made by the Division Bench of this Court in the case of Tractor and Farm Equipment Ltd. Vs.

Secretary to the Government of Assam & Ors., (2004) 2 GLR 56: AIR 2004 Gau 73, which is extracted below:-

The observations of the Court in Udit Narain Singh Malpaharia Vs. Additional Member, Board of Revenue, Bihar, AIR 1963 SC 786, read with what

has been observed and laid down in Prabodh Verma Vs. State of U.P., AIR 1985 SC 167, it clearly follows that it would be against the principles of

natural justice to make an adverse remark behind the back of the persons, who are to be directly affected by the decision, sought for, in the writ

petition. In other words, if the decision of a writ Court is likely to adversely affect even the reputation of a person, such a person must be regarded as

a necessary party. This, in turn, indicates that a writ Court, while considering the question of necessary party, the Court has to bear in mind the

principles of natural justice and should be conscious of the fact that no decision be reached behind the back of the party, whose interest will be vitally

affected by the decision that may be pronounced in the writ petition, though in the writ petition, no relief has been sought for against such persons and

though they may not be necessary for deciding the question of relief. In short, in view of the fact that such persons are likely to be affected by the

decision that may be taken, principles of natural justice demand that they be heard before the decision is taken and in such a context, such a party will

be regarded as a necessary party for disposal of an application under Art. 226.

13) Thus, in light of the discussions above, the point of determination no. (a) is

decided in the negative and against the petitioner by holding that the allegations made by the petitioner against various persons whose names are disclosed in the writ petition and annexures appended hereto, cannot be gone into by this Court ex parte in the absence of such persons.

Therefore, the writ petition is hit by non- joinder of necessary parties.

14) The second point of determination is taken up now. In this connection it is seen that the letter/ complaint received by the Secretariat of the

Honâ??ble the Chief Justice under receipt no. 3695 dated 12.03.2021 is not supported by any affidavit. Therefore, the Court is inclined to hold that on

the basis of allegations which are not supported by any affidavit, neither the correctness of the allegations made therein is required to be gone into, nor

any cognizance of perjury can be taken. Moreover, the records also reveal that the petitioner has not served a copy of the said letter/ complaint under

receipt no. 3695 dated 12.03.2021 to the learned CGC or to the learned counsel representing respondent nos. 2 to 5.

15) It may be stated that para-A of the said letter/ complaint contains averment to the effect that fraud played by the officials of NEDFi whereby they

have concealed in affidavit facts disclosed in material and relevant documents. In this regard, it is not the case of the petitioner that those documents

had been annexed to the writ petition and that tailored document was produced by the persons against whom perjury is alleged. As already indicated

above, the concerned officials of respondent no.2 were not made parties in the writ petition and they were not put to notice to take their stand on any

such documents. The petitioner has not made any statement that any document or material referred in the said letter/ complaint was annexed to the

writ petition. Thus, once again the petitioner has made an attempt to have an enquiry conducted against the non- parties to the writ petition behind their

back.

16) In para-A of his said letter/ complaint, the petitioner has referred to (i) Chapter-V of CAG Report 9 of 2017 to project that irregularities were

reported therein, (ii) letter dated 12.06.2015, to project that Secretary, NEC was making enquiry, (iii) three documents of the year 2015 were referred

to project that cognizable offence was committed which may be punishable under various provisions of the Indian Penal Code. In para-B of the said

complaint, the grievance of the petitioner is that his right to life and livelihood

under Article 21 of the Constitution of India was deprived. It may be stated that majority of the events narrated therein are of prior to the date of filing of the writ petition. It is not in dispute that apart from representing before the Board of Directors of respondent no.2, the petitioner has also continuously been submitting his representations against the actions complained of before the Ministry of DoNER, CVC and several other competent authorities. Nonetheless, the categorical stand of the respondent nos. 2 to 5 in their affidavit- in- opposition is to the effect that the petitioner had submitted as many as 15 (fifteen) â??nilâ?? quarterly reports between 31.03.2011 to 31.12.2014. The said stand of the respondent nos. 2 to 5 has not been rebutted by the petitioner.

17) Thus, when none of the actions or commissions or omissions on part of the officials of respondent no.2 prior to issuance of impugned letter dated 10.08.2018 is assailed in the writ petition. Moreover, none of the concerned parties whose names are disclosed in letter/ complaint dated 12.03.2021, under receipt dated 15.03.2021 have been arrayed as respondents in the connected writ petition. It is also not the case of the petitioner that any of the documents annexed to the writ petition were forged and fabricated by the deponent of affidavit-in-opposition filed by the respondent nos. 2 to 5 deliberately and to consciously tried to take this Court for a ride. The petitioner has merely projected that the contents of documents are manipulated. However, it is not the projected case of the petitioner that any particular document annexed to the affidavit-in-opposition does not exist on record. Therefore, when the contents of the document on available on record has not been assailed, the Court is of the considered opinion that statements made on the basis of documents on record cannot be held to be false or fabricated and that reliance on the same by this Court would in any manner affect the administration of justice. Thus, the Court is unable to record its satisfaction that any offences as contemplated in Section 199 and Section 200 of IPC, and as referred in Section 195(1)(b)(i) of Cr.P.C. has been made out. However, the Court hastens to clarify that no opinion is expressed in connection with correctness or otherwise of any document filed the parties in this writ petition.

18) The petitioner has not made any prayer in the writ petition to challenge the legality of any action taken or any omission or commission on part of

any of the officers of the respondent no.2. Therefore, in the garb of making an enquiry on the allegations of perjury, the Court is not inclined to find out

the correctness of the allegations made in the said letter/ complaint of perjury and to embark on an exercise to find out if the contents of any document

not under challenge is correct or not, which is not the subject matter of the writ petition. In this writ petition, the challenge is only against the letter

dated 10.08.2018, by which the resignation letter of the petitioner was accepted.

19) Thus, the petitioner is found not entitled to any relief in terms of prayer (a) made vide letter/ complaint received by the Secretariat of the

Honâ??ble The Chief Justice under receipt no. 3695 dated 12.03.2021. However, the prayer (b) has already been allowed and the petitioner- in-

person has been heard in person.

20) Now only the point of determination No. (c) is to be examined. In this regard, the contents of the said letter is quoted below:-

â??Dear Sir,

With reference to the office order no. 21 dated 20th December 2017 and in pursuance to the decision of the Board of Directors of the

Corporation in the light of Honâ??ble Gauhati High Court order Writ Petition (c) C/ No.182/2018 dated 17th January 2018, you have been

transferred to Kohima Branch Office vide transfer order no.07 dated 1st August 2018. However, you did not report for duty at Kohima

Branch Office which amount to misconduct as per policy no.15 of Human Resource Policies and Rules of the Corporation.

In the meantime, you have submitted your resignation letter vide letters dated 22nd August 2018 and 7th August 2018 expressing your

desire to be released from the service of the Corporation. The Competent Authority of the Corporation has accepted your resignation with

immediate effect.

In view of the above, you are hereby released from the service of the Corporation at the close of business hours on 10th August 2018.

However, your demand for compensation is found to be improper and not tenable.

Your terminal benefits are being released as per the Human Resource Policies and Rules of the Corporation.

Yours faithfully,

sd/-

(name withheld)

Dy. General Manager, HR & Admnâ??

21) The petitioner has made four-fold submissions. Firstly, that it is stigmatic, secondly, that order of release is not coupled with payment of

compensation, thirdly, that his right to life and livelihood as guaranteed by Article 21 is violated, and fourthly, he was protected from punitive action or

transfer by virtue of CVC Circular no. 16/3/06 dated 28.03.2006.

22) As regards the first point urged as to whether the impugned letter dated 10.08.2018 is stigmatic, it is seen that it has been mentioned in the

impugned letter it has been mentioned that the petitioner did not report for duty at Kohima Branch Office which amounted to misconduct as per Policy

No. 15 of Human Resource Policies and Rules of the Corporation. However, this Court by order dated 17.01.2018 passed in W.P.(C) 182/2018, had

observed that till the representation of the petitioner is decided, coercive steps should not be taken against the petitioner pursuant to the impugned

transfer order dated 20.12.2017. However, in the said order, it was also made clear that the impugned order will abide by the decision of the Board of

Directors of NEDFi. The said order dated 17.01.2018 is quoted below:-

â??The petitioner is serving as Deputy General Manager, Planning in the North Eastern Development Finance Corporation Ltd. (for short

NEDFi) since July 2016. He is aggrieved by the office order No.21 dated 20.12.2017 (Page-112) whereby, the Deputy General Manager is

transferred to the Branch Office at Kohima, Nagaland.

2. The learned Senior Counsel Mr. S.K. Medhi submits that the petitioner is a Human Resource personnel and therefore, his deployment in

the Branch Office cannot be in public exigencies. The impugned order is also projected to be a malafide transfer at the instance of the

respondent Nos.7, 8 & 9, who are the Chairman/Director/General Manager level officers of NEDFi. The Senior Counsel submits that the

petitioner is unjustly transferred from the Planning Department because of his recent complaint dated 6.12.2017 (Page-29 â?" 108),

addressed to the Chief Justice of the Gauhati High Court, in connection with the alleged perjury committed in the WP(C) No.3158/2015, by

the private respondents. In order to project the malafide action, Mr. Medhi submits that the petitioner's representation presented on

21.12.2017 (Annexure-4) was returned back and his office chamber was locked up, without taking a decision on the representation.

3. The NEDFi has filed the Caveat in the case and they are represented by the learned Senior Counsel Mr. K.N. Choudhury. The Senior

Counsel justifies the transfer order by referring to the proceedings dated 18.12.2017 where the deployment of a senior officer to Nagaland

Branch Office of NEDFi, was justified on account of the poor business and rising NPA in Nagaland. Mr. Choudhury argues that the

transfer of the senior level officer has nothing to do with the complaint dated 6.12.2017. He further points out that while the petitioner

served as the CVO of the NEDFi during 2011-2016, he never raised any complaint against the 3 private respondents, although the

alleged illegality are shown to be committed during that period.

4. I have considered the submission made by the rival Counsel and feel that the representation filed by the transferred officer should

receive consideration from the competent authority of the organization. Since malafide is alleged against the respondent Nos.7, 8, & 9, the

petitioner is permitted to address a representation to the Board of Directors of the NEDFi and the same is ordered to be considered on

merit, with due regard to the issues raised by the petitioner. The petitioner should furnish a copy of this order and his representation within

3 days and until the representation is decided by the Board of Directors, coercive steps should not be taken, in pursuant to the impugned

transfer order dated 20.12.2017. However, the impugned order will abide by the final decision of the Board of Directors of the NEDFi. It is

further made clear that Mr. B. Paul Muktieh (respondent No.7) who is the Chairman and Managing Director, should not participate in the

deliberation of the Board of Directors, when the petitioner's representation is being considered. It is ordered accordingly.

5. With the above order, the case is disposed of without any order on cost.

23) The petitioner has annexed a letter dated 01.08.2018 (Annexure-P/11) from the Company Secretary of NEDFi, informing the petitioner that the

Board of Directors of the respondent no.2 had discussed the representation

dated 19.01.2018 submitted by the petitioner in their meetings held on 27.02.2018 and 22.06.2018 and had decided that the Management had the authority to transfer any officer/ employee to any office for the advancement of the business interest of the Corporation and that there was no violation of transfer policy of the Corporation in the extant case. The decision of the Board of Directors was followed by an office order no. 07 dated 01.08.2018, directing the petitioner to join his place of posting at Kohima Branch as per decision of the 113th Board of Directors meeting held on 22.06.2018 and earlier office order no. 21 dated 20.12.2017. Thus, transfer being an incidence of service, upon communication of the decision taken by the Board of Directors of respondent no.2, the petitioner was bound to join his place of posting.

24) Under the aforesaid context, it appears from the contents of para-1 of the herein before quoted impugned letter dated 10.08.2018 that the respondent no.5 had merely informed the petitioner that not reporting for duty at Kohima Branch Office amounted to misconduct as per policy no. 15 of Human Resource Policies and Rules of the Corporation. Thus, the Court does not find the remarks made in para-1 of the impugned letter dated 10.08.2018 to be stigmatic. Not joining at Kohima Branch Office is a fact, which cannot be wished away by the petitioner.

25) The second point raised by the petitioner is now examined, viz., that order of release is not coupled with payment of compensation. In this regard, it would be relevant to be mention that in para-7 of his representation dated 29.06.2018 (Annexure-P/9), the petitioner has used the words "In view of the above and in view of my continuous harassment by NEDFi, it is appropriate for me to request you to release me from the service of NEDFi treating it as forced resignation and thus pay compensation of Rs seven crore compensation to me, as below:- (a) salary on CTC basis for 74 months " 4 crore 50 lacs, (b) defamation by CMD " 2 crores, (c) mental harassment, etc. 50 lacs." (quoted verbatim). The said representation is followed by representations dated 02.08.2013 (Annexure-P/13), and 07.08.2018 (Annexure-P/14). Thereafter, by his e-mail dated 12.08.2018 (Annexure-P/16) and 27.08.2018 (Annexure-P/18), the petitioner had not only reiterated his demand for payment of compensation but made repeated request to release him from service.

26) The normal thumb rule for acceptance of resignation is that till the resignation is accepted by the appropriate authority in consonance with the rules, if any, governing such acceptance, the Government servant concerned has locus paenitentiae to withdraw his offer of resignation. In this case in hand, the petitioner has not taken the plea that he had withdrawn his resignation. Rather, as indicated herein before, the stand of the petitioner is that after tendering his request for release, and even after acceptance of his resignation, he had submitted representations vide e-mail dated 12.08.2018 (Annexure-P/16) and 27.08.2018 (Annexure-P/18), claiming compensation.

27) It may be mentioned that notwithstanding that it was nobody's pleaded case that there existed a contract of service between the respondent no.2 and the petitioner, however, in course of his submissions, the petitioner- in-person has specifically urged and reiterated for the second time that as between him and the respondent no.2, there was a contract of service and that he had determined the contract. Under such circumstances, the matter can be viewed in two angles as stated herein after. On one hand, if we go by the assertion made by the petitioner that he had unilaterally determined the contract, then the petitioner would have to establish how and to what extent he was entitled to compensation of Rs.7.00 Crore, and the appropriate forum would only be the civil Court. On the other hand, assuming that there was no contract of service, in that event, it is not the case of the petitioner that he was seeking voluntary retirement, where an employee may be entitled to some amount of salary and wages as prescribed under the Rules. It is not the case of the petitioners that the compensation of Rs.7.00 Crore was claimed in accordance with any statute or any service rules in force and/or under the service contract between the parties.

28) As per the pleadings coupled with annexures appended to the writ petition, the case of the petitioner is that he was seeking release from service.

The representation for releasing him from service has two distinct prayers, one for releasing him, purportedly on "forced resignation". The second prayer is to pay him compensation. In this case, not only the petitioner had sought for his release from service, but the said prayer is found to be repeated in several subsequent representations. Therefore, the Court is unable to accept that the petitioner was forced to resign. The plea that the petitioner was "forced to resign" is deemed to be waived when the petitioner

repeated his prayer for monetary compensation. The competent authority of the respondent nos. 2 to 5, including its Board of Directors had accepted the resignation submitted by the petitioner. There is nothing on record from which the petitioner has been able to show that his representation to release him from service was "conditional" and that it was a pre-condition of his offer to resign that he must first be given compensation before accepting resignation or else the resignation or request for release from service was not to be acted upon. The manner in which acceptance was to be made by the respondent no.2 is not found indicated in the offer dated 29.06.2018 (Annexure-P/9) made by the petitioner to be released from service. Thus, the Court is constrained to hold that in so far as the respondent no.2 is concerned, the acceptance of the resignation offered by the petitioner by their competent authority including the Board of Directors was absolute and unqualified. Merely because the petitioner had sought for compensation, the offer to resign and/or release cannot be said to be conditional and in any event, it has been held that the offer made by the petitioner to resign and/or for his release cannot be construed to be conditional, merely because compensation was demanded. Moreover, there is no prayer in this writ petition that in absence of payment of compensation, his offer to resign and/or for his release be treated as null and void or that it cannot be acted upon. In other words, the petitioner has prayed for cancellation of his offer to resign. It may be stated that in this writ petition the petitioner has rightly not made any prayer for compensation as claim for compensation is a disputed question of fact which cannot be decided by the writ Court and only a civil Court can adjudicate such claim requiring examination of evidence.

29) The fourth point urged by the petitioner in person was that he was protected from punitive action or transfer by virtue of CVC Circular no. 16/3/06 dated 28.03.2006. The orders of transfer are not the subject matter of challenge in this writ petition. Moreover, after the petitioner has resigned from service, the purported issue raised by the petitioner only remains an academic exercise. The issue is no longer live, as such, this point raised by the petitioner is not required to be gone into and answered as it is not at all relevant to the relief claimed in this writ petition.

30) Therefore, the Court is of the considered opinion that by virtue of the

representation, the petitioner has made an offer of release, which is separate and distinct from his demand for compensation. On a perusal of the 6 (six) page letter dated 29.08.2016 (Annexure-P/9), the petitioner has not stated anywhere to the effect that his offer for release was conditional and/or that it would not take effect till compensation was first paid.

31) Therefore, in light of the discussions above, the point of determination no. (c) is also answered in the negative and against the petitioner by holding that the impugned letter dated 10.08.2018 is not liable to be interfered with. However, in so far as the claim for compensation is concerned, the petitioner is at liberty to approach the Civil Court, subject to law of limitation, seeking compensation, if so advised.

32) Consequently, on all counts, the writ petition stands dismissed, leaving the parties are left to bear their own cost.

33) In the earlier part of this order, the Court had indicated that the Court is inclined to withhold the names of persons against whom allegations have

been made by the petitioner. The reason for the same is that the learned senior counsel for the respondent nos. 2 to 5 has been able to demonstrate

that the incidents which have been referred to by the petitioner were by and large prior to the date when his name was considered for promotion. In

the meantime, while holding the office of CVO, the petitioner had submitted 15 (fifteen) nil reports. It has been demonstrated that the petitioner was

present in the Management Committee meeting held on 19.10.2010 (Annexure-3 of affidavit-in-opposition), where a decision was taken to recommend

closure of the case of one particular officer, who was accused of irregularities in producing air travel tickets in the year 2002. Rather, the petitioner by

his letter dated 30.08.2005 (Annexure-4 of affidavit-in-opposition), had recommended granting annual increment to the same officer. Moreover, since

the year 2017, the petitioner had been submitting complaints against many officers and employees of respondent no.2 before the Board of Directors of

respondent no.2, before Ministry of DoNER, before CVC, etc. Therefore, the Court is of the considered opinion that the authorities named herein are

not powerless to take action against the concerned officer if they find any reason to do so. Nonetheless, none of the individual acts, commissions and

omissions, or things done, or actions taken if any, by any of the officers and employees of the respondent no.2 is not under challenge in this writ

petition, there is no reason to disclose names of any officers and employees of respondent no.2 in this order as those names are not relevant to decide

this writ petition.

34) The petitioner is appearing in person, as such, the Court is inclined to bring it to his notice that he has a right to intra-Court appeal as provided for

under the Gauhati High Court Rules.