
(2003) 10 GAU CK 0018
In the Gauhati High Court
Case No : WP (C) No. 1730 of 2003

Mahendra Nath Das

APPELLANT

Vs

State of Assam and Another

RESPONDENT

Date of Decision : 29-10-2003

Acts Referred:

Citation : (2004) 2 GLR 1

Hon'ble Judges : Ranjan Gogoi, J

Bench : Single Bench

Advocate : B.K. Sharma, D.K. Sharma and P.C. Boro, for the Appellant; N.C. Phukan, Addlp Sr. G.A., for the Respondent

Judgement

Ranjan Gogi, J.—A departmental proceeding was initiated against the writ petitioner on the basis of the charge-memo dated 30.8.1995. The charges were enquired into by a duly appointed enquiry officer and on the basis of the report of enquiry dated 15.3.1996, an order dated 17.2.1998 was passed by the disciplinary authority removing the petitioner from service. Aggrieved, a writ petition, i.e., Civil Rule No. 5307/98 was filed by the petitioner, which was finally answered by this Court, on 19.6.2002 by interfering with the order of removal passed. The interference of this Court was primarily on the ground that the copy of the report of enquiry was not furnished to the writ petitioner prior to the imposition of the penalty. This Court, therefore, directed that a copy of the enquiry report be furnished to the petitioner and thereafter gave liberty to the disciplinary authority to recommence the proceeding against the petitioner from that stage. This Court also observed that consequential relief/reliefs as may be available to the writ petitioner be accorded to him.

2. The disciplinary authority, following the mandate of the directions issued by this Court, in its judgment and order dated 19.6.2002, by an order dated 20.2.2003 thought it proper to reinstate the petitioner in service sometime in the month of September, 2002 (Annexure-10) and thereafter passed an order on 20.2.2003 directing that in accordance with the order of this Court dated

19.6.2002, a copy of the enquiry officer's report be furnished to the writ petitioner. However, curiously and for reasons not known, the disciplinary authority did not consider it necessary to restart the enquiry from the stage of submission of enquiry officer's report and instead by the same order dated 20.2.2003 proceeded to hold the writ petitioner to be amity of thy charges leveled and thereafter imposed the punishment of removal once again on the writ petitioner. Aggrieved, this present writ petition has been filed.

3. The directions contained in the judgment dated 19.6.2002 are unambiguous. The disciplinary authority was given the liberty to proceed with the enquiry if it considered it fit and appropriate to restart the same after furnishing a copy of the enquiry officer's report to the writ petitioner. This is the mandate of the law as laid down by the Apex Court in the case of Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., If the disciplinary authority is inclined to continue the proceeding it must necessarily start the proceeding afresh from the stage of submission of the enquiry officer's report. In the instant case, by the order dated 20.2.2003, the disciplinary authority ordered for furnishing a copy of the enquiry officer's report to the writ petitioner. Thereafter, if it was considered fit and appropriate, the enquiry had to recommence from that stage and concluded after affording all reasonable opportunity to the writ petitioner. Instead, what was done is that by the same order dated 20.2.2003, without recommencing the enquiry proceeding as would be required, the writ petitioner was found to be guilty. How the disciplinary authority could have adopted the course of action as reflected in the impugned order dated 20.2.2003 and hold the writ petitioner to be guilty of the charges leveled and on that basis re-imposed the punishment would remain a mystery.

4. For all the aforesaid reasons, the order dated 20.2.2003 is being interfered with. The said order is set aside and quashed and the matter is remanded to the disciplinary authority for a de nove adjudication, if any such adjudication is considered necessary by the disciplinary authority. Consequential reliefs, as would be admissible to the writ petitioner under the law, would follow and would be conferred on the writ petitioner without any delay.