

(2021) 07 GAU CK 0102

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3300 Of 2021

Nikunja Medhi

APPELLANT

Vs

State Of Assam And 3 Ors.

RESPONDENT

Date of Decision : 28-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 07 GAU CK 0102

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : M H Ahmed

Final Decision : Disposed Of

Judgement

1. Heard Mr. M.H. Ahmed, learned counsel for the petitioner. Also heard Mr. R. Dhar, learned Additional Senior Govt. Advocate appearing for the respondents.

2. By filing this belated writ petition under Article 226 of the Constitution of India, the case projected by the petitioner is that by an order dated

07.06.1993, while reinstating the petitioner in service, the competent authority had ordered stoppage of 3 (three) increments from his pay with

cumulative effect as punishment for remaining unauthorizedly absent. The learned counsel for the petitioner projects that only on 06.01.2021, when the

petitioner met the dealing assistant of Barpeta Police Reserve to proceed for his voluntary retirement, he was provided with a photostate copy of his

service book wherein he found the order recorded on 27.07.1993. It is projected that the petitioner could come to know about the punishment imposed

on him by the respondent no.4 for the first time on 06.01.2021. Accordingly, this present writ petition was filed on 25.05.2021.

3. Opposing the maintainability of this writ petition, the learned Additional Senior Govt. Advocate has submitted that the petitioner had accepted the punishment for long 27 years 11 months 18 days. It is further submitted that as per the statement made in the present writ petition, the petitioner had submitted an appeal on 02.06.2006. Accordingly, it is submitted that the petitioner did have knowledge of punishment imposed on him and the projection made in this writ petition that the petitioner came to know for the first time on 06.01.2021 about the punishment imposed on him was unbelievable. It is submitted that even from the date of submission of his appeal/representation dated 02.06.2006, the present writ petition is hopelessly barred by more than 15 years.

4. The Court is of the considered opinion that the delay on part of the petitioner in approaching this Court after nearly 28 years from the date of punishment and 15 years from the date he submitted his representation before the Director General of Police (Administration), the present writ petition is hopelessly barred by limitation and the belated challenge is not maintainable. Moreover, the petitioner was paid his reduced salary with stoppage of three increments with cumulative effect. Therefore, he know about the punishment awarded to him. The petitioner has not produced his past relevant pay slip to show that punishment was not awarded to him. In the present case in hand, the Court finds that the delay is so enormous that such delay defeat equity. Therefore, the Court is not inclined to entertain this writ petition to challenge the punishment after nearly 28 years.

5. At this stage, the learned counsel for the petitioner submits that the petitioner may be permitted to file a representation before the competent authority. In this regard, the Court is of the considered opinion that the petitioner does not need permission of the Court to submit a representation. However, if any such representation is filed, the authority shall not treat it as direction of the Court and such representation may independently be dealt with as per their own wisdom. Needless to say that the order of disposal of the representation shall be communicated to the petitioner.

6. With the aforesaid observation, this writ petition stands dismissed without issuing notice on the respondents.