

GAHC010025892016



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**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
WP(C) 5806/2016**

Md. Abul Hussain and 13 Ors
S/O. Lt. Gadhu Munshi, H. No. 3, Hatigaon, Guwahati In The
District Of Kamrupm, Assam.

2: Sri Hashi Ram Boro
S/O. Sri Sunnath Boro
Vill. And P.O. Tengajhar
P.S. Goreswar
Dist. Kamrup
Assam.

3: Md. Akkash Ali
S/O. Md. Arab Ali
Vill. Natbama Hatigaon
P.O. And P.S. Dispur
Guwahati
Dist. Kamrupm
Assam.

4: Md. Manjur Ahmed
S/O. Lt. A. Latif
Vill. And P.O. Thakurbari
P.S. Rangapara
Dist. Sonitpur
Assam.

5: Sri Akan Borah
S/O. Lt. Bhadra Kt. Borah
Vill. And P.O. Behali
Dist. Sonitpur
Assam.

6: Md. Akshed Ali Ahmed
S/O. Lt. Jahiruddin Ali
Vill. Mukundapur
P.O. Bhagpur
P.S. Goreswar
Dist. Kamrup
Assam.

7: Md. Danish Ali
S/O. Md. Jainul Abedin

Vill. Gauhigaon
P.O. And P.S. Sootia
Dist. Sonitpur
Assam.

8: Md. Matleb Ali
S/O. Md. Tyeb Ali
Vill. Barkuriha
P.O. Titkuri
P.S. Rangia
Dist. Kamrup
Assam.

9: Sri Jogeswar Boro
S/O. Sri Joni Ram Boro
Vill. And P.O. Tengajhar
P.S. Goreswar
Dist. Kamrup
Assam.

10: Sri Nabin Ch. Kalita
S/O. Hahi Ram Kalita
Vill. Balabari
P.O. Tengajhar
P.S. Goreswar
Dist. Kamrup
Assam.

11: Sri Bharat Borah
S/O. Lt. Jiban Borah
Vill. Kalibari
P.O. And P.S. Tezpur
Dist. Sonitpur
Assam.

12: Md. Babul Ali
S/O. Md. Mahbub Ali
Vill. Nurour
P.O. And P.S. Sootia
Dist. Sonitpur
Assam.

13: Md. Kamal Hussain Mullah
S/O. Lt. Poyer Uddia Mullah
R/O. Ward No. 11
Bahaglur Tari
P.O. A.M.Co. Road
Dhubri
Dist. Dhubri
Assam.

14: Sri Bhabananda Saikia
S/O. Sri Bhairab Saikia
R/O. Bhairab Nagar
P.O. And P.S. Tezpur
Dist. Sonitpur
Assam

.....Petitioners

VERSUS

The State Of Assam And Anr

Rep. By The Comm. And Secy. to The Govt. Of Assam, Deptt. Of Home, Dispur, Guwahati -781006 In The District Of Kamrupm, Assam.

2:The Superintendent Of Police
Vigilance And Anti-Corruption
Assam
Srimantapur
Guwahati -781032 In The District Of Kamrup-(M)
Assam

....Respondents

Advocates for the Petitioners: Mr. S. Kataki, Advocate,

Advocates for the respondents : Mr. T.C. Chutia, Advocate for the respondents

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE

ORDER

05.12.2024

Heard Mr. S. Kataki, learned counsel for the petitioners. Also heard Mr. T.C. Chutia, learned Addl. Senior Govt. Advocate for the State respondents.

2. By filing this writ petition, the petitioners, 14(fourteen) in numbers, have challenged the initiation of Regular Enquiry bearing no. 23(4)2015 by the Superintendent of Police, Vigilance & Anti-Corruption, Assam, against the petitioners and also the vide letter No. DGVA/RI/2016/2217 dated 27.07.2016, whereby, the Superintendent of Police, Vigilance & Anti-Corruption, Assam, has directed the Executive Engineer, Tezpur Division (Irrigation) to send the petitioners for deposing their statements and verification of documents in connection with regular enquiry suspecting the petitioners for misappropriation

of Govt. money, on the ground that the same is illegal and in violation of the judgment and order dated 04.09.2009 passed in WP(C) 5580/2002.

3. It is the contention of the petitioners that the petitioners were appointed to the post of Grade-III and Grade-IV under the Tezpur (Irrigation) Division, Tezpur, pursuant to the advertisement dated 23.08.1998 issued by the Executive Engineer, Tezpur Division (Irrigation). The appointments were made after oral interview by the competent authority.

4. After the appointment of the petitioners, while they petitioners were serving no salaries were paid. Being aggrieved they approached this Court by filing a writ petition which has been registered as WP(C) 5580/2002 for payment of salary. This Court on 04.09.2009 allowed the writ petition with a direction to the respondent authorities to pay the salary of the petitioners from the date of their joining by holding that the petitioners are entitled to 50% of the pay and allowances for the period prior to 06.09.2002 since their appointment and also entitled the regular payment of their salary from 06.09.2002. The appointment of the petitioners were held to be not de-hors the rules rather a case of procedural lapses on the part of the respondent authorities for which the petitioners cannot be deprived for such lapses and further held that the action of the respondent authorities illegal.

5. Against the aforesaid judgment and order dated 04.09.2009, a writ appeal was filed by the state respondents for which miscellaneous case being MC No. 1755/2010 was filed for condonation of 172 days in filing the said appeal. However, the same was dismissed on 22.02.2011 by the Division Bench.

6. It is contended that after the judgment and order dated 04.09.2009, the

petitioners were paid the arrear salaries and their services were confirmed by the competent authorities.

7. Thereafter, an impugned regular enquiry was initiated being Regular Enquiry No. 23(4)/2015 by the Superintendent of Police, Vigilance & Anti-Corruption, Assam, against the petitioners. Vide impugned letter No. DGVA/RI/2016/2217 dated 27.07.2016, Superintendent of Police, Vigilance & Anti-Corruption, Assam, has communicated a letter to the Executive Engineer, Tezpur Division (Irrigation), Tezpur and directed to send the suspect persons/petitioners to the office of the Director General of Vigilance & Anti-Corruption, Assam, for depositions of their statements and verification of documents. Being aggrieved this writ petition is filed.

8. Mr. S. Kataki, learned counsel for the petitioners submits that the initiation of Regular Enquiry No. 23(4)/2015 by the Superintendent of Police, Vigilance & Anti-Corruption, Assam, and consequential letter dated 27.07.2016 directing the petitioners for recording their statements and verification of documents are illegal inasmuch as, the allegation against the petitioners is of misappropriation of Govt. money and the Hon'ble High Court has already held that the initiation is against the judgment and order dated 04.09.2009 passed in WP(C) No. 5580/2002, wherein, the appointments of the petitioners have been held to be in accordance with law. Therefore, the initiation of Regular Enquiry as well as the impugned communication letter dated 27.07.2016 is liable to be set aside and quashed.

9. On 05.11.2024, after argument of the learned counsel for the petitioner, Mr. T.C. Chutia, has prayed for some time to file affidavit as the instructions received by him indicates that the Regular Enquiry pursuant to the letter dated

27.07.2016, has been completed and nothing has been found against the petitioners. Today, when the matter is taken up for hearing, the learned Additional Senior Government Advocate, Mr. T.C. Chutia by placing the same instructions has reiterated his submissions made on 05.11.2024, however without bringing the instructions on record by way of an affidavit.

10. Mr. T.C. Chutia, learned Additional Senior Government Advocate, submits that in view of the judgment and order of this Court dated 04.09.2009 and consequential confirmation of the services of the petitioners as well as the enquiry had practically being closed, nothing survives for adjudication as no enquiry shall be conducted further by the respondent authorities.

11. Having considered the submissions of the learned counsel for the parties and also perusal of the judgment and order dated 04.09.2009 passed in WP(C) No. 5508/2002 and its consequential confirmation of the services of the petitioners coupled with the fact that the Regular Enquiry has been practically concluded without there being any indictment against the petitioners, I deem it appropriate to close this writ petition, as the respondent authorities has practically concluded that the Regular Enquiry with a finding that all the necessary procedures have been completed by the Government including the State Cabinet for the appointments of the petitioners, thereby, subsequently confirming the services and there is no further steps have been taken for filing an appeal against the judgment and order dated 04.09.2009 passed in WP(C) No. 5580/2002. Accordingly, the writ petition stands closed and disposed of.

JUDGE

Comparing Assistant