



GAHC010263762019

Page No.# 1/5



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/646/2019

DIPAK CHAKRABORTY
S/O- LT UPENDRA KUMAR CHAKRABORTY, GOKUL DHAM COMPLEX,
OPP. ASEB SILCHAR SUB-DIVISION-II, HAILAKANDI ROAD, SILCHAR,
DIST- CACHAR, ASSAM

VERSUS

ALOK KUMAR AND 4 ORS.
THE CHIEF SECY. TO THE GOVT. OF ASSAM, (P.H.E) DISPUR, GHY-06

2:DR. SIDDARTHA SING
THE SECY. TO THE GOVT. OF ASSAM
PUBLIC HEALTH ENGINEERING DEPTT.
DISPUR
GHY-06

3:MANIN KUMAR DAS
THE UNDER SECY. TO THE GOVT. OF ASSAM
PUBLIC HEALTH ENGINEERING DEPTT.
DISPUR
GHY-06

4:NAYAN DAS
THE CHIEF ENGINEER
(PHE) (WATER)
ASSAM
HENGRABARI
GHY- 36

5:PROSENJIT NATH
THE EXECUTIVE ENGINEER (PHE)
SILCHAR DIVISION NO-



Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : MR. P N GOSWAMI, SC,PHE

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Date : 09-11-2022

Heard Mr. B.K. Das, learned counsel for the petitioner and Mr. D. Gogoi, learned counsel for the respondent contemnors in the PHED.

2. This contempt petition is instituted alleging wilful and deliberate violation of the order dated 01.11.2018 in WP(C) No. 7498/2017. The direction of this Court in the order dated 01.11.2018 at paragraph 8 thereof is as extracted below:

“8. This present petition is accordingly disposed of with the direction to the respondents to take necessary steps for payment of the certified expenses incurred by the petitioner for undergoing treatment in Bangalore for which Post-Facto Referral certificate has been issued, which exercise shall be undertaken within a period of 6 (six) weeks from today.”

3. There is a further provision in paragraph 9 of the said order dated 01.11.2018, which is as extracted below:

“9. Apart from payment of the aforesaid certified amount towards medical expenses, the claim of the petitioner for reimbursement of the travelling allowances will also be examined by the authorities in accordance with the law and if entitled, shall be reimbursed to the petitioner within the aforesaid period.”

4. The direction contained in paragraph 8 of the said order is for payment of the certified expenses incurred by the petitioner for undergoing treatment within a period of six months for which Post-Facto Referral Certificate had been issued.



Paragraph 9 provides that apart from payment of the certified amount towards medical expenses, the claim of the petitioner for reimbursement of the travelling allowances etc. shall also be examined and if entitled, to be reimbursed. Alleging wilful and deliberate violation of the aforesaid direction in the order dated 01.11.2018 in WP(C) No. 7498/2017, this contempt petition is instituted.

5. Mr. B.K. Das, learned counsel for the petitioner strenuously urges upon that by a communication dated 05.03.2019, the Executive Engineer (PHE), Silchar Division No.-1, Silchar had communicated to the Chief Engineer (PHE) Water, Assam, that an amount of Rs. 5,20,339/- which had been worked out to be the entitlement by the Joint Director of Health Services, Cachar ought to be reimbursed. But instead of the amount of Rs. 5,20,339/- being paid, an amount of Rs. 3,77,877/- had been paid to the petitioner. According to the petitioner, the certified expenses referred in the order dated 01.11.2018 in WP(C) No. 7498/2017 was Rs. 5,20,339/- and therefore, any amount paid to the petitioner which is less than the claimed amount is also a wilful and deliberate violation of the order of the Court.

6. Wilful and deliberate violation of an order of a Court which invites the contempt jurisdiction cannot be equated with an execution case, where every penny claimed for, unless honoured, the execution may continue nor it can be said that if any other view is taken by any other authorities as regards the amount of money to be paid based upon an evaluation of the entitlement as per the records, would also be a wilful and deliberate violation of the Court's order. It is more so when there is no adjudication by the Court on the amount of the entitlement and there is only a passing observation on the claim made by the petitioner. Both the circumstances do not satisfy the requirement of a wilful and deliberate violation although it may not be a complete relief that the petitioner



may desire.

7. We have also taken note that apart from the communication dated 05.03.2019, there is another communication by the Executive Engineer (PHE), Silchar Division No.-1 dated 20.03.2018 which provides that the petitioner is entitled to an amount of Rs. 3,77,877/- being the amount to be reimbursed. In other words, there is a divergence of view within the same Executive Engineer (PHE), Silchar Division No.-1, as to the actual entitlement of the petitioner. Therefore, the payment of an amount of Rs. 3,77,877/- made to the petitioner cannot be construed to be a wilful and deliberate violation of the order of this Court. But, however, if the petitioner is of the view that the actual amount to be paid to him would be Rs. 5,20,339/- and not Rs. 3,77,877/-, the petitioner may file appropriate application before the respondent authorities and in the event such application is made, the authorities to pass a reasoned order after giving the petitioner a hearing. As regards the other requirement of paragraph 9 of the order dated 01.11.2018 in WP(C) No. 7498/2017, where it is provided that in the event the petitioner is entitled to any travelling allowances, the same may also be paid, the petitioner may submit his claim for travelling allowances as provided in the paragraph 9 and the authorities may also pass a reasoned order on the same. The reasoned orders are to be passed within a period of 1(one) month from the date of receipt of the applications that the petitioner may submit.

8. The contention of the petitioner that his complete entitlement is to be decided by this Court under contempt jurisdiction is unacceptable and therefore, is rejected. If the authorities are already in the process of evaluating the aforesaid claims of the petitioner, closure of the contempt petition shall not be bar in bringing such claim to its logical end.



Contempt petition stands closed as indicated above.

JUDGE

Comparing Assistant