

GAHC040004262021



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

Case No. : WP(C)/124/2021

SHRI TAGRU MARING
S/O LT. TAGRU TAKE , NH 415 GOHPUR TINALI, ITANAGAR, PO R.K.
MISSION, PS ITANAGAR, PAPUM PARE DISTRICT, AP.

VERSUS

THE STATE OF AP AND 4 ORS.
REPRESENTED THROUGH CHIEF SECRETARY, GOVT. OF AP.

2:THE CHIEF ENGINEER PHE AND WS DIVISION, Govt. of A.P., Capital
Complex, itanagar.

Age: 0

Occupation :

3:THE EXECUTIVE ENGINEER PHE & WS Sub-DIVISION, Tali, District Kra
Daadi, A.P.

Age: 0 Occupation :

4:THE ASSISTANT ENGINEER PHE & WS Sub-DIVISION, Tali, District Kra
Daadi, A.P.

Age: 0 Occupation

4:THE Junior ENGINEER PHE & WS Sub-DIVISION, Tali, District Kra Daadi, A.P.

Age: 0 Occupation

Advocate for the Petitioner : M Nibo
Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 25.07.2023

None appears for the petitioner, on call.

However, Ms. Goter Ete, learned Addl. Senior Government Advocate, is present on behalf of all the respondents.

This writ petition has been filed, seeking a direction for payment of Rs. 13,25,800/- by the respondent authorities to the petitioner being the carrying charge of G.I. Pipes from the Office of the Executive Engineer, PHED, Central Store, Karsingsa, to Yangte and then from Yangte to Kumey river and from Kumey river to Tali through headload.

According to the petitioner, the Assistant Engineer, PHE & WS, Sub-Division Tali, had issued a Note of Indent on 15.01.2020 and asked him to carry the indent materials from the Office of the Executive Engineer, PHED, Karsingsa Central Store, in the month of March, 2020.

The petitioner further contends that the indent material Note was submitted before the Office of the Executive Engineer, PHED, Karsingsa Central Store, and the material was released from the Karsingsa Central Store which was loaded in the truck hired by the petitioner and he was given a challan of the materials by the Office and

the materials was carried from Karsingsa to Yangte and then from Yangte to Kumey river and from Kumey river to Tali through headload as there was no vehicle transportation to carry such materials to Tali and all the materials was deposited in the store at Tali.

For the aforesaid carrying charge of the G.I. Pipes by the petitioner from the Central Store, Karsingsa, to Yangte and then from Yangte to Kumey river and from Kumey river to Tali; the petitioner contends that a bill amounting to Rs. 13,25,800/- is required to be paid by the respondent authorities to him.

An affidavit-in-opposition has been filed by the respondent No. 2.

In the affidavit-in-opposition filed by the respondent No. 2; in Paragraphs No. 4, 5 & 6; it has been stated as under:

“4. That with regards to the statement made in paragraph-2 of the writ petition, the answering respondent begs to state that due to exigency of work, the AE, PHE and WS Sub-Division Tali, had issued the note of indent to carry the materials from the Central Store Karsingsa to Kumey Bridge to the Petitioner as some of GI pipes was yet to be carried by the main contractor due to payment delayed. So unofficially a chit was issued to the petitioner to lift the material from central store as it was lying in the store since 2015-2016. So, at that point of time, it was urgent to lift the GI pipes to complete the project before March 2021, therefore, it was issued to him as he was agreed to carry the balance GI pipes on without work order and cash payment.

5. That with regards to the statement made in Paragraph-3 of the writ petition, the answering respondent begs to state that the total weight of GI pipes as per indent issued by AE, PHE Tali was 19.522MT. However, the actually GI pipes issued by the Karsingsa store shown in as per Annexure-B vide page 11 and 12 was 15.506MT. So, the petitioner carried only total quantities of 15.506MT of GI pipes from Karsingsa Store to Yangte transit Store by

mechanical mean for a distance of 280 km. And then Yangte to Kumey Bridge point for a lead of 40 km by mechanical means which is a Katcha road. The carriage of materials from Kumey bridge point to Tali store by head load claimed by the petitioner is totally false. It was carried by Sri Langyuk Tade, a habitant of Tali Headquarter. It is totally denied that AE PHE and WS Sub-Division, Tali never engaged the petitioner for head load carriage.

6. That with regards to the statement made in paragraphs-4, 5, 6, 7, 8, 9 and 10 of the writ petition, the answering respondent begs to state that it is pertinent to clarify that the petitioner had never carried the GI pipes from Kumey River bridge Point to Tali by head load. Only the petitioner had carried the total quantity had carried the total quantity of 15.506 metric tonnes of GI Pipes as per challan issued from Karsingsa store which is shown in Annexure-B vide page 11 and 12. From Karsingsa to Yangte transit store the total distance is 280 km (pitch road), therefore, as per approved rate carrying charge amount was Rs. 112189 (Rupees One lakh twelve thousand one hundred eighty nine) only. The same above quantities of GI pipes was also transported through Katcha road covering 40 Km from Yangte Transit store to Kumey River Bridge point costing around Rs. 20344/-(Rupees Twenty thousand three hundred and forty four) only. Accordingly, the total bill incurred for carrying of above aforesaid materials was amounting to Rs. 1,32,533/-(Rupees One lakh thirty two thousand five hundred thirty three) only, as such, after the completion of the work the Said amount was duly paid to the Petitioner with additional lumpsum amount."

From a perusal of the averments made by the respondent No. 2 in Paragraphs No. 4, 5 & 6, of the affidavit-in-opposition filed, which is quoted hereinabove; it appears that in the exigency of work, the Assistant Engineer, PHE & WS Sub-Division Tali, had issued a Note of Indent to carry the materials from the Central Store, Karsingsa, to Kumey Bridge to the petitioner as some of the G.I. Pipes were yet to be carried by the main contractor due to the delayed payment.

Pursuant to the aforesaid Note of Indent, the petitioner appears to have carried 15.506 MT of G.I. Pipes from Central Store, Karsingsa, to Yangte Transit Store and then from Yangte Transit Store to Kumey Bridge Point by a mechanical means in a *kutchra* road. However, the carriage of the materials from Kumey Bridge Point to Tali store by headload as claimed by the petitioner, has been denied.

For carrying 15.506 MT of G.I. Pipes from Central Store, Karsingsa, to Yangte Transit Store and then from Yangte Transit Store to Kumey Bridge Point; it appears that Rs. 1,12,189/- being the carrying charge from Kumey Bridge Point to Yangte Transit Store for a distance of 280 KMs. as per the approved rate and Rs. 20,344/- being the carrying charge from Yangte Transit Store to Kumey Bridge Point for a distance of 40 KMs. had been paid to the petitioner.

Thus, there appears to be a dispute between the parties regarding the claim of the petitioner for payment of Rs. 13,25,800/- as the carrying-charge of the petitioner for carrying the G.I. Pipes from Karsingsa Central Store to Kumey Bridge Piont.

In view of the disputed questions of facts, regarding the petitioner's entitlement of Rs. 13,25,800/- being the carrying-charge for the materials, the petitioner alleges to have carried-out from Karsingsa Central Store to Kumey Bridge Point; this writ petition shall stand disposed of leaving the petitioner to approach the appropriate forum for resolution of the dispute raised in the instant case.

Interim order passed earlier, if any, stands vacated.

JUDGE

Comparing Assistant