



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

Case No. : WP(C)/233/2023

Huzar Lollen
S/o Late Messok Lollen,
Permanent Resident of Village Bogdo,
PO/PS Aalo, West Siang District, Arunachal Pradesh.
Mobile No. 8119995570

VERSUS

THE STATE OF AP and 4 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh. 2:The Director
Age: 0
Occupation :

3:The Commissioner (Vigilance)
Age: 0
Occupation :

4:The Secretary (Personnel)
Age: 0
Occupation :

5:The Under Secretary (Personnel)
Age: 0
Occupation

Advocate For the Petitioner : Mr. K. Loya, Advocate.

Advocate the respondents : Ms. G. Ete, Addl. Sr. Govt. Adv.

Date of hearing : **05.10.2023**

Date of Judgment : **05.10.2023**

**BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR**

JUDGMENT & ORDER

Heard Mr. K. Loya, learned counsel for the petitioner and Ms. G. Ete, learned Addl. Sr. Govt. Advocate appearing for the State respondents.

2. The grievance of the petitioner, in short, is that the petitioner is an APCS Grade-II of 1985 batch officer and an AGMUT Cadre Officer of 1996 batch, who retired from service on attaining superannuation on 31.08.2019 as Commissioner (Research & Public Libraries), Govt. of Arunachal Pradesh. During long span of his service career, the petitioner with utmost sincerity and dedication, served the Department to the satisfaction of his superior authority in particular and State of Arunachal Pradesh in general and there was no any adverse remark on his service career and no whisper has been made against the performance of his duty. Therefore, the petitioner has made several representations requesting the respondent authorities for issuing NOC/Vigilance clearance so as to avail his retirement/pension benefits. However, the same has not been considered by the respondent authorities. Thereafter, being aggrieved, the petitioner had filed a writ petition being WP(C) No.181 (AP) 2022 and this Court was pleased to allow the said writ petition vide judgment and order, dated 02.09.2022 by directing to release the pension of petitioner expeditiously and in any case, within an outer limit of 3 (three) months from the date of receipt of certified copy of the order.

3. Despite the aforesaid Judgment and order, dated 02.09.2022 in the above writ petition, the respondent authorities have not released the pension due to the petitioner. The said order being not complied with, the petitioner had filed a

contempt petition being Cont. Cas(C) No.50(AP)/2022. The respondents in the said contempt case had filed affidavit, in which, it was stated that the matter was forwarded to the Director of Audit and Pension, who is the competent authority. This Court had closed the above contempt case in view of the fact that the Director of Audit and Pension was not a party. However, gave liberty to file a fresh writ petition. It reflects from the records that denial of pension and return of the pension papers is on the same issue regarding NOC/ Vigilance Clearance certificate which was already settled by this Court in the Judgment, dated 02.09.2022, passed in the earlier writ petition.

4. Mr. K. Loya, the learned counsel for the petitioner, further submits that the release of pension cannot be made condition for issuance of any NOC or Vigilance Clearance Certificate, as the same does not have any bearing on the issue of payment of the pension. Moreover, the pension has been held to be legal right of a retired govt. employee, such rights cannot be infringed on extraneous and irrelevant considerations and it is also submitted that the pension is succor for post-retirement period. It is not a bounty at will, but a social welfare measure as a post-retirement entitlement to maintain the dignity of the employee. The very basis for grant of pension is to facilitate a retired government employee. However, Mr. Loya submits, in the instant case, the respondent authorities have not released the regular pension to the petitioner despite his retirement on 31.08.2019, without any reasons, which is impermissible in law and as such, this is a pre-eminently fit case, wherein, this Court may be pleased to direct the respondent authorities to release the pension and other retirement benefits to the petitioner with effect from the date of his retirement. Therefore, the petitioner prays for a direction, more particularly, to the respondent No. 2 to release the pension and other benefits to the petitioner.

5. Ms. G. Ete, learned Addl. Sr. Govt. Advocate appearing for the State respondents, producing a copy of the letter, dated 21.08.2023, written by the Under Secretary (Personnel)/ Respondent No.5 herein addressed to her, submits that the excess drawal amount in respect of the petitioner, retired government servant, is being calculated by the Bill Branch on receipt of his pay drawal statement from the Delhi Jal Board and immediately after the calculation and recovery of the excess drawal is done, the pension papers will be submitted to the DAP. Accordingly, Ms. Ete seeks some time, preferably 45 days, to complete the process finally.

6. At this stage, Mr. Loya, learned counsel for the petitioner, submits that the purported and uncalculated excess amount drawn by the petitioner cannot now be recovered from him inasmuch as, if any, it was due to the fault of the respondent authority concerned, for which he should not suffer. Mr. Loya emphatically submits that it is the settled position of law in view of the judgment in this regard of the Hon'ble Supreme Court. Mr. Loya, however, has no objection if some more time is granted to finally settle and release the pension of the petitioner, who has been waiting for the same since he retired on superannuation on 31.08.2019.

7. Having heard the learned counsel of both sides as above and on consideration of the averments along with the documents annexed thereto made in the writ petition, it is provided that the respondents, more particularly the respondents No. 2 and 5 shall settle and release the entire pension amount and other retirement benefits, without fail, to the petitioner, as per his entitlement within a period of **45(Forty Five) days** from the date of receipt of a certified copy of this order, which shall be furnished by the petitioner.

8. A copy of this order shall be furnished to Ms. G. Ete, learned Addl. Sr. Govt.

Advocate forthwith.

9. The letter, dated 21.08.2023, written by the respondent No. 5 addressed to Ms. Ete is taken on record.

With the above direction, the petition stands disposed of.

JUDGE

Comparing Assistant