

GAHC040015532022



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

Case No. : Cont.Cas(C) 50/2022

1:Huzar Lollen
S/o Late Messok Lollen, Permanent resident of village Bogdo, P.O and P.S - Aalo,
West Siang District, Arunachal Pradesh.
Mobile No. 8119995570

VERSUS

1:Kaling Tayeng and 2 Ors.
Secretary-cum-Commissioner (Vigilance), Government of Arunachal Pradesh,
Itanagar.

2:Smt. Mimum Tayeng
Secretary (Personal)
Government of Arunachal Pradesh
Itanagar.

3:Pesi Jilen
Under Secretary(Personal)
Government of Arunachal Pradesh
Itanagar

Advocate for the Petitioner : Ninnong Ratan

Advocate for the Respondent : Lissing Perme

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 25-04-2023

Heard Mr. N. Ratan, learned counsel for the petitioner and Mr. L. Perme, learned counsel for the respondent no. 1 and Mr. S. Tapin, learned Senior Government Advocate for the State respondents.

2. This contempt petition has been filed alleging violation of order dated 02.09.2022, passed by this Court in WP(C)181/(AP)2022, whereby, the writ petition was disposed of by observing as under:

“...In that view of the matter, the writ petition stands disposed of by directing release of the pension to the petitioner expeditiously and in any case, within an outer limit of 3(three) months from the date of receipt of certified copy of this order. Further this Court grants liberty to the Department to pay the arrear pension in 3(three) equal instalments.”

3. The respondent nos. 2 & 3 have filed their counter-affidavit, wherein, it has been indicated that in compliance of the order of this Court dated 02.09.2022, passed in WP(C)181/(AP)2022, the respondents have written to the Director of Audit and Pension, Government of Arunachal Pradesh, for payment of pension to the petitioner, vide letter dated 07.02.2023 by the respondent no. 3/Shri Pesi Jilen, Under Secretary(Personnel), Government of Arunachal Pradesh, vide No. PERS/AIS-54/2014(Pt.I)/858.

4. In view of the above, I find that the respondents, herein, have complied with the order of this Court dated 02.09.2022, passed in WP(C)181/(AP)2022 and therefore, there has been no any violation of the order of this Court by

the respondents requiring initiation of any contempt proceeding against the respondents.

5. Though the respondents, herein, have complied with the order of this Court, dated 02.09.2022, passed in WP(C)181/(AP)2022, according to the petitioner, the petitioner is yet to receive pension because of the non-compliance of the order of this Court, dated 02.09.2022, passed in WP(C)181/(AP)2022, by the Director of Audit and Pension, Government of Arunachal Pradesh.

6. The Director of Audit and Pension, Government of Arunachal Pradesh admittedly was not a party in the writ petition. Though the Director of Audit and Pension, Government of Arunachal Pradesh was not made a party in the writ petition, learned counsel for the petitioner, contends that since the direction of the Court in its order dated 02.09.2022, passed in WP(C)181/(AP)2022, was to release the pension of the petitioner, the Director of Audit and Pension, Government of Arunachal Pradesh would still be bound by the order passed by this Court, dated 02.09.2022, passed in WP(C)181/(AP)2022.

7. In support of his contention, Mr. Ratan, learned counsel for the petitioner has placed before this Court a decision of the Hon'ble Supreme Court rendered in the case of ***Sita Ram vs Balbir @ Bali, reported in (2017) 2 SSC 456***, to contend that a third party will also be liable for contempt if he knowingly assists in breach of the order passed by the Court.

8. Civil contempt has been defined in Section 2(b) of the Contempt of Courts Act, 1971, to mean wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an

undertaking given to a Court.

9. The Director of Audit and Pension, Government of Arunachal Pradesh, though may not have acted in terms of the letter dated 07.02.2023, written to him by the respondent no. 3/Shri Pesi Jilen, Under Secretary(Personnel), Government of Arunachal Pradesh, vide No. PERS/AIS-54/2014(Pt.I)/858, for payment of pension to the petitioner yet in view of the fact that The Director of Audit and Pension, Government of Arunachal Pradesh was not a party to the writ proceeding instituted by the petitioner, it cannot be said that the Director of Audit and Pension, Government of Arunachal Pradesh had wilfully disobeyed the order of this Court dated 02.09.2022, passed in WP(C)181/(AP)2022.

10. Since, it does not appear to this Court that The Director of Audit and Pension, Government of Arunachal Pradesh had acted in any manner in wilful disobedience of the order of this Court dated 02.09.2022, passed in WP(C)181/(AP)2022, I am not inclined to accede to the prayer made by the learned counsel for the petitioner to implead The Director of Audit and Pension, Government of Arunachal Pradesh as a party respondent in the instant contempt petition. The prayer for impleading the Director of Audit and Pension, Government of Arunachal Pradesh as respondent in the instant contempt petition, by the learned counsel for the petitioner has not been accepted by this Court for the reason that in addition to the fact that the Director of Audit and Pension, Government of Arunachal Pradesh does not appear to have acted in wilful disobedience of the order of this Court, dated 02.09.2022, passed in WP(C)181/(AP)2022, for not being a party to the WP(C)181/(AP)2022, the petitioner, herein, would still have the remedy to

approach this Court again for payment of his pension in accordance with the pension Rules.

11. For the reasons discussed hereinabove and in view of the findings recorded, that the respondents, herein, have not violated the order of this Court, dated 02.09.2022, passed in WP(C)181/(AP)2022, this contempt case shall stand closed, with a liberty granted to the petitioner to seek further appropriate remedy as may be available, under the law, for payment of pension to the petitioner by the State authorities.

JUDGE

Comparing Assistant