

GAHC010007612010



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

Case No. : WP(C)/5558/2010

ROBIN KHAN
SON OF LATE ARABINDA KHAN, RESIDENT OF CHRISTIAN BASTI,
GUWAHATI, DIST. KAMRUP METRO, ASSAM.

VERSUS

THE STATE OF ASSAM and ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HILL AREAS DEPARTMENT, AND DIRECTOR OF THE BOARD, ASSAM
HILLS SMALL INDUSTRIES DEVELOPMENT CORPORATION LIMITED,
DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER

KARBI ANGLONG DISTRICT
ASSAM AND DIRECTOR OF THE BOARD
ASSAM HILLS SMALL INDUSTRIES DEVELOPMENT CORPORATION
LIMITED
DIPHU
KARBI ANGLONG
ASSAM.

3:THE DEPUTY COMMISSIONER

NORTH CACHAR HILLS DISTRICT
ASSAM AND DIRECTOR OF THE BOARD
ASSAM HILLS SMALL INDUSTRIES DEVELOPMENT CORPORATION
LIMITED
DIPHU
KARBI ANGLONG.

4:THE CHAIRMAN

ASSAM HILLS SMALL INDUSTRIES DEVELOPMENT CORPORATION
LIMITED
DIPHU
KARBI ANGLONG.

5:THE MANAGING DIRECTOR

ASSAM HILLS SMALL INDUSTRIES DEVELOPMENT CORPORATION
LIMITED
DIPHU
KARBI ANGLONG

Advocate for the Petitioner : MR.A CHETRY

Advocate for the Respondent : MR.C C DEKA

BEFORE
HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 03-01-2023

Heard Mr. M.P. Sarma, learned counsel for the petitioner and Mr. R. Dhar, learned Addl. Senior Government Advocate for the respondents No. 1, 2 and 3, respectively being the authorities under the Assam Hills Small Industries Development Corporation Limited of the Government of Assam, the Deputy Commissioner, Karbi Anglong and the Deputy Commissioner, North Cachar Hills. None appears for the respondents No. 4 and 5, being the authorities under the Assam Hills Small Industries Development Corporation Limited, Diphu, Karbi Anglong although the cause list reflects the name of the learned counsel and further it was intimated in the display board that the part-II list would be taken up in course of the day.

2. The petitioner Sri Robin Khan was a Stenographer Grade-III in the office of

the Assam Hills Small Industries Development Corporation Limited (for short 'the Corporation') having been appointed on 08.08.1989 and continued up to 15.09.2006. It is stated that sometime in the year 1990, the petitioner was regularized in service.

3. A reading of the writ petition does not make it discernible as for which specific period the petitioner is claiming arrear salary but at the same time, the petitioner refers to an order of this Court dated 19.02.2019 in WP(C) No. 1435/2012 which also pertains the payment of arrear salaries of the employees of the Corporation. The relevant paragraphs being paragraphs 8, 9 and 10 of the said order is extracted as below:

“8. Considering the submissions advanced by the learned counsels for the parties, the objections raised by the learned counsels for the State respondents may not require an examination of the case on merit since the learned senior counsel Mr. T J Mahanta submits that the petitioners have been paid their pending salaries to some extent and therefore, the balance amount may also be directed to be paid to them as early as possible and if not in a phase manner.

9. The submission of Mr. B K Bhagawati, the learned counsel for the respondent No. 5 Corporation that the Corporation is making some profit and the arrear salaries of the employees are being paid from such profits to the extent possible without compromising with the growth and development of the Corporation is noted. It is also noticed that a number of correspondences has been made by the respondent No. 5 Corporation to the Department of Hill areas wherein, the Corporation has sought the assistance of the State Government. Technically, the State Government may not be liable to extent financial support to the Corporation but in view of the financial difficulty faced by the Corporation, the State Government in the Hills Department as well as in the Finance Department may consider extending financial assistance to the extent possible. The respondent No. 5 Corporation shall also continue to pay the petitioners their current and arrear salaries by devising a method particularly to clear the arrear dues in a phase and expeditious manner.

10. With the above observations and directions, the writ petition stands disposed of. “

4. A reading of the afore-extracted paragraphs makes it discernible that the Corporation had certain financial difficulties because of which its employees were not paid the salaries for given period and the Court required the

Corporation to take up the matter of payment of the arrear salaries and in doing so, in view of the financial difficulties of the Corporation, the State Government in the Hills Department as well as in the Finance Department were required to extend the necessary financial assistance.

5. Accordingly, as in this writ petition it is a claim for arrear salary, we pass the same order as extracted above being paragraphs 8, 9 and 10 of the order dated 19.02.2019 in WP(C) No. 1435/2012. However, as the period for which the arrear salary claimed is not very specific in the writ petition, we require the writ petitioner to file a detailed representation before the Managing Director of the Corporation who shall examine from the records on the entitlement of the petitioner to such arrear salary and if the order to be passed is in favour of the petitioner for any such salary the same be paid by following the procedure provided in the paragraphs 8, 9 and 10 of the order dated 19.02.2019 in WP(C) No. 1435/2012. The reasoned order be passed within a period of two months from the date of receipt of such detailed representation that the petitioner may submit.

6. Mr. M.P. Sarma, learned counsel for the petitioner has pointed out to the Annexure 1 of the writ petition being an office order dated 10.01.2006 of the Managing Director providing for certain period of unauthorized absence of the employees of the Corporation and in the list enclosed thereof, the name of the petitioner appears at Sl. No. 11 showing his total days of absence to be 338 days. It is stated that no notice was issued to the petitioner on the allegation of remaining absent before incorporating his name in the aforesaid list and showing him to have been unauthorizedly absent for 338 days. If the respondents intend to insist on any unauthorized absence to deny the arrear salary, the petitioner be given a specific notice for the purpose and be allowed

to make his submission and only thereafter any arrear salary to be deducted.

Writ petition stands disposed as indicated above.

JUDGE

Comparing Assistant