

GAHC010025532017



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

Case No. : WP(C)/3372/2017

NAZIFA HAZARIKA AHMED
W/O. DR. FARID AHMED, R/O. FLAT NO. D-13, SARAIGHAT HOUSING
COMPLEX, BHETAPAR, HATIGAON ROAD,
GHY., KAMRUP M, ASSAM, PIN-07.

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, HEALTH AND
FAMILY WELFARE DEPTT., DISPUR, GHY.-06, ASSAM.

2:THE MISSION DIRECTOR
NATIONAL HEALTH MISSION
ASSAM
SAIKIA COMMERCIAL COMPLEX
NEAR POST OFFICE BUS STAND
CHRISTIANBASTI
GHY.-05
ASSAM.

3:THE JOINT DIRECTOR
HEALTH SERVICES
AMINGAON
KAMRUP R
GHY.
ASSAM.

4:THE DIRECTOR
FINANCE and ACCOUNTS
NATIONAL HEALTH MISSION
ASSAM
SAIKIA COMMERCIAL COMPLEX
NEAR POST OFFICE BUS STAND
CHRISTIANBASTI

GHY.-05
ASSAM.

5:THE DIST. PROGRAMME MANAGER
HEALTH SERVICES
AMINGAON
KAMRUP R
GHY.
ASSAM.

6:THE BLOCK ACCOUNTS MANAGER
HEALTH SERVICES
AMINGAON
KAMRUP R
GHY.
ASSAM.

7:THE UNION OF INDIA
REP. BY MINISTRY OF HEALTH and FAMILY WELFARE
NIRMAN BHAWAN
NEW DELHI-110108

Advocate for the Petitioner : MR.M RAHMAN

Advocate for the Respondent : SC, HEALTH

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

13.09.2023.

Heard Mr. I. Ahmed, learned counsel for the petitioner. Also heard Ms A. Bora, learned Standing Counsel, National Health Mission (NHM) appearing for the respondents.

2. This petitioner before the Court at the relevant point of time was working as District Co-ordinator (RBSK/WIFS/ARSH) under the NHM and was posted at Amingaon. The petitioner joined in her services in the year 2014 and has been rendering her services with utmost sincerity. Because of ailments that the

petitioner suffered which required medical treatment, she was absent from her duty from 10.11.2016 to 11.11.2016, which was subsequently extended as she did not recover from the ailments. This was intimated to the Joint Director of Health Services by communicated dated 15.11.2016 as well as through an e-mail to the Additional Deputy Commissioner, who is the Nodal Officer RBSK, State Consultant RBSK and the District Programme Manager. Thereafter, she had to go out of station again from 12.10.2016 to 18.10.2016, for treatment of her father-in-law and thereafter, also from 08.10.2016 to 11.10.2016, because of medical reasons and which she had communicated to the Additional Deputy Commissioner and the Joint Director of Health Services by e-mails dated 13.10.2016 and 15.10.2016.

3. It is the case of the petitioner that there is no lapse on her part except for the fact that she was suffering from medical ailments which required prolonged medical treatment and therefore, she was unable to attend to her duties. The grievance of the petitioner is that her salaries for the months of October, 2016 and November, 2016 was never released, although she had repeatedly sought for the release of her salaries from the authorities concerned but no such salary was released.

4. A show cause notice dated 26.12.2016 was also issued asking her to show cause as to why she was unauthorisedly absent from her duty since 10.11.2016. In response to the said show cause, she submitted her reply on 05.01.2017 giving details reasons as to why she could not attend her duties. After the reply furnished by the petitioner, no proceeding was initiated against her but the salary for the two months i.e. October, 2016 and November, 2016 was not released. The petitioner preferred another representation on 08.03.2017 before the Mission Director, NHM, Assam praying for release of her salary. However, no

reply was forthcoming from the Department nor her salary was released. Being aggrieved, the petitioner approached this Court by filing the present Writ Petition, praying for appropriate direction or order.

5. Although this Court by the order dated 12.06.2017, issued Notice. No response has been filed by the respondents. The matter was last listed on 07.12.2020. Today also, when the matter is called up, Ms A. Bora, learned Standing Counsel appearing for the National Health Mission (NHM) prays for further time for complete her instructions.

6. Having heard learned counsel for the parties and upon perusal of the Writ Petition, it is found that the only grievance of the petitioner is for release of her salaries for two months i.e. October, 2016 and November, 2016. From the documents enclosed to the Writ Petition it is seen that the petitioner was absent from her duties citing medical reasons. A show cause notice dated 26.12.2016 was also issued, to which the petitioner had submitted her reply. As submitted by Mr. I. Ahmed, learned counsel for the petitioner that no proceeding was initiated against the petitioner. No order has also been passed by the competent authority indicating the prayer made by the petitioner for release of her arrear salaries.

7. The respondent authorities also have not furnished any reasons nor filed any affidavit contesting the claims of the petitioner.

8. Considering the fact that the matter has been pending before this Court for some time and also taking into account the prayer of the petitioner being limited to release of arrear salaries for the months of October and November, 2016, coupled with the fact that the petitioner is no longer in service of NHM, as submitted by the learned counsel for the petitioner, this Court is for the view

that the Writ Petition need not be kept pending for want of instructions from the respondents.

9. The writ petition therefore stands disposed of with a direction to the respondent NHM to look into the grievances raised by the petitioner by the representation dated 08.03.2017, stated to have been filed by the petitioner regarding her claim for arrear salary for the months of October and November, 2016. The respondent authorities will call for any such information/ documents, as may be felt necessary while deciding the issue raised by the petitioner and if required, give a personal hearing to the petitioner.

10. The respondents will thereafter pass appropriate order(s) in response to the prayer made for release of arrear salary for the months of October and November, 2016. If the respondent authority considers it necessary not to release the arrear salary, as prayed partially or in full, then the same must be supported by adequate reasons. Any such order that may be passed by the respondent authorities, a copy thereof must be served upon the petitioner.

11. With the above observations, the writ petition stands closed. The respondent authorities will carry out the exercise

within 60 (sixty) days from the date of receipt of the certified copy of this order.

12. The writ petition stands disposed of. Interim order if any, stands vacated.

JUDGE

Comparing Assistant