

GAHC010041732021



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

Case No. : WP(C)/1558/2021

NITYANANDA DEBNATH
S/O- LT. KULENDRA CHANDRA DEBNATH, R/O- GHUNGOOR, KULENDRA
NAGAR, P.O. NIT, SILCHAR- 788010, P.S. SILCHAR, DIST.- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
HANDLOOM TEXTILES AND SERICULTURE, GHY-6, KAMRUP (M), ASSAM

2:THE DIRECTOR
DIRECTORATE OF HANDLOOM AND TEXTILES
ASSAM
GOPINATH BORDOLOI ROAD
AMBARI
GHY-01
KAMRUP (M)
ASSAM

3:THE MANAGING DIRECTOR
ASSAM APEX WEAVERS AND ARTISANS CO-OPERATIVES FEDERATION
LTD. (ARTFED)
A.K.AZAD ROAD
REHABARI- GHY- 08
KAMRUP (M)
ASSAM

4:THE MANAGER
ACCOUNTS
ARTFED
A.K.AZAD ROAD
REHABARI- GHY- 08

KAMRUP (M)
ASSAM

5:THE BRANCH MANAGER
ARTFED
KOLKATA BRANCH
KOLKATA
WEST BENGAL

6:THE BRANCH MANAGER
ARTFED
DISPUR BRANCH
GHY-06
KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. D CHAKRABARTY

Advocate for the Respondent : SC, HANDLOOM AND TEXTILE

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

18.12.2023

1. Heard Mr. D Chakrabarty, the learned counsel for the petitioner. Also heard Mr. A Jahid, learned counsel for the respondent Nos. 3 to 6 and Mr. R Dhar, learned counsel for the respondent Nos. 1 and 2.
2. The claim of the petitioner is that his employer i.e. respondent Nos. 3 to 6 owes him an amount of Rs. 13,24,493/- against the outstanding salary due. According to the petitioner, the petitioner has been pursuing with the respondent authorities for payment of such due, however, the respondents have failed to honour his due.
3. The respondents have filed an affidavit wherein a specific stand has been taken that total outstanding due to the petitioner is Rs. 10,44,845/- only and

not Rs. 13,24,493/- as claimed by the petitioner. While admitting such due, yet another stand has been taken that due to severe financial constraint faced by the ARTFED, the petitioner could not be paid and that the respondent ARTFED is not in a position to pay the admitted amount to the petitioner at the current situation.

4. This court is of the view that instrumentality of the State like ARTFED cannot take financial constraint as a ground to deny right of an employee to get legally due salaries, more particularly when such due was unequivocally admitted. .

5. At this stage, the learned standing counsel for the ARTFED on instruction from his client submits that a proposal has already been sent to the Government for release of money due to the petitioner as well as of some other employees and it will take three months time to get such sanction from the Government and then only ARTFED will be in a position to pay the same to the petitioner. Therefore, he prays that a period of three months may be granted to make such payment.

6. Considering the above submission and the specific stand taken in oath in the affidavit as discussed hereinabove, this court is of the view that the petitioner has been able to make out a case for direction to the respondents to pay the outstanding admitted due amounting to Rs. 10,44,845/- to the petitioner.

7. Accordingly, it is directed that the respondent Nos. 3 to 6 shall do the needful for payment to the petitioner amounting to Rs. 10,44,845/- within a period of 6 (six) months from today. The respondents may also pay the aforesaid amount in instalments to the petitioner within the period fixed as above.

8. With the aforesaid, the present writ petition stands disposed of.

JUDGE

Comparing Assistant