

GAHC010226312014



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

Case No. : WP(C)/3794/2014

OM PRAKASH GUPTA
S/O- LT. B.P. GUPTA, R/O- R.N.J. ROAD, P.O. and P.S.- HOJAI, DIST.- NAGAON,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, HOME DEPTT., DISPUR,
GHY- 6.

2:THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
POLITICAL DEPTT.
PERSONNEL
DISPUR
GHY- 6.

3:THE DY. COMMISSIONER CUM DIST. MAGISTRATE
NORTH CACHAR HILLS
HAFLONG
ASSAM
PIN-

4:THE OFFICER-IN-CHARGE
DIYUNG MUKH POLICE STATION
NORTH CACHAR HILLS
ASSAM
PIN...

5:MOTOR TRANSPORT OFFICER
NORTH CACHAR HILLS
HAFLONG
ASSAM
PIN

For the Petitioner(s) : Mr. J. I. Borbhuiya, Advocate

For the Respondent(s) : Mr. J. Handique, Government Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

Date : 12-10-2023

1. The instant writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities in not making payment of eight numbers of bills which amounts to Rs.2,83,910/- for requisition of various vehicles of the Petitioner from time to time by the concerned Respondent Authorities.

2. A perusal of the pleadings of the instant writ petition discloses that the Petitioner had approached the Respondent Authorities on numerous occasions and having failed to receive any favourable response, the instant writ petition was filed on 25.07.2014.

3. This Court had issued notice on 08.08.2014.

4. From a perusal of the writ petition, it reveals more particularly from Annexure-1 (series) which are the orders of requisition as well as release order by which the Petitioner's vehicles were requisitioned and the Petitioner claims his entitlement of an amount of Rs.2,83,910/ as requisition hire charges.

5. The Respondent No.3 had filed an Affidavit-in-Opposition wherein it has

been mentioned that out of the eight numbers of bills reference to which have been made in the instant writ petition, four bills have already been sent to the Superintendent of Police, Dima Hasao District for making payment vide a communication bearing No.NCH/N-923/2010-11/2302 dated 23.07.2012 amounting to Rs.1,39,650/-. It has also been mentioned that in respect to the remaining four bills, the submission of the original bills are not available in the Office. The Petitioner was also asked to submit records of the original bills as the Government cannot make payment on the basis of photocopies only. The said communication which was sent to the Superintendent of Police, Dima Hasao District, as referred to hereinabove has been enclosed as Annexure-1 to the said affidavit filed by the Respondent No.3.

6. It is also seen that the Respondent No.4 had also filed an Affidavit-in-Opposition. In the said Affidavit-in-Opposition, more particularly at paragraph No.5, it was mentioned by the Respondent No.4 that the vehicle bearing Registration Nos. (i) AS-01-W-6036, (ii) AS-14-B-0580, (iii) AS-01-V-5965 and (iv) AS-01-Z-4034 were requisitioned/hired for convoy/escort duty on the routes viz Haflong -Diyungmukh, Umrangso - Diyungmukh and Umrangso - Dehangi etc. on different occasions for maintaining law and order and accordingly, the Petitioner has submitted the hire charge bills of the hired vehicles along with the original Requisition Forms to the Deputy Commissioner, NC Hills, Haflong time to time for payment which were duly received by the Nazir of DC's Office, NC Hills, Haflong in the year 2008. It was further mentioned that the Deputy Commissioner, NC Hills, Haflong forwarded the bills with the photocopy of the Requisition Forms of vehicle bearing Registration No.AS-01-Z-4034 to the Office of the Superintendent of Police, Dima Hasao on behalf of the Respondent Nos. 4 and 5 on 23.07.2012 i.e. after 4 (four) years

vide letter No.NCH/N-923/2010-11/2302 dated 23.07.2012. It was mentioned that the said bills were not entertained by the Office of the Deputy Commissioner, Dima Hasao as the requisitioned vehicles were utilized and released either by the M.T.O. or O/C, Diyungmukh P.S. It was further mentioned that the requisitioned vehicles were utilized by the O/Cs of the concerned Police Station for the purpose of convoy and escort duty.

7. From the records, it further reveals that the Petitioner had filed an Affidavit-in-Reply to the Affidavit-in-Opposition filed by the Respondent No.3 stating inter alia that the bills of the Petitioner were duly submitted before the authority and the Respondent Authorities cannot refuse to make payment of the amount to which the Petitioner is entitled to taking the excuse that the bills in originals are not available in Office. It was mentioned that the said Respondents can reconstruct the same bills as it has been in their possession all along and there has been admission of utilizing the vehicles of the Petitioner on various occasions for the purpose of maintaining the law and order.

8. In the backdrop of the above pleadings, this Court has duly heard the learned counsels for the parties. A perusal of the writ petition as well as the affidavit so filed by the Respondent No.3 would show that the Respondent No.3 has duly admitted that the Petitioner is entitled to an amount of Rs.1,39,650/- in respect to the four bills the details which have been mentioned in paragraph No.4 of the said Affidavit-in-Opposition filed by the Respondent No.3. However, as regards the remaining four bills, it was mentioned that there was no records of submission of the original bills which are available in the office for which the Petitioner was directed to submit records of the original bills.

9. On the other hand, if this Court takes note of the Affidavit-in-Opposition filed by the Respondent No.4 who is the Officer In-charge of Diyungmukh Police Station, he had categorically mentioned that all the vehicles of the Petitioner were duly used for escort and convoy duty. The Respondent No.4 had also mentioned in paragraph No.5 that the Petitioner had submitted the hire charge bills of the hired vehicles along with original Requisition Forms to the Deputy Commissioner, N.C. Hills, Haflong time to time for payment. The said paragraph has been sworn as being matters of record by the Respondent No.4 and as such the Respondent No.4 would definitely has records on the basis of which the statement was made in paragraph No.5 of his affidavit-in-opposition.

10. Under such circumstances, this Court therefore disposes of the instant writ petition with the following observations and directions.

(i) Taking into account that it is an admitted fact that the Petitioner is entitled to an amount of Rs.1,39,650/- which have been admitted by the Respondent No.3 in his Affidavit-in-Opposition, the Respondent Authorities i.e. the Deputy Commissioner-cum-District Magistrate, NC Hills shall disburse the said amount to the Petitioner within a period of 2 (two) months from the date a certified copy of the instant order is served upon the Respondent No.3.

(ii) As regards the remaining four bills of an amount of Rs. 1,44,260/-, the Petitioner is given the liberty to approach the Respondent No.3 by placing the necessary documents before the said authority to show that the Petitioner is entitled to the said amount of Rs.1,44,260/-.

(iii) The Respondent No.3 while carrying out of the verification shall duly

enquire with the Respondent No.4 i.e. the Officer In-charge of Diyungmukh Police Station as regards the hire charge bills and the original Requisition Forms which were submitted by the Petitioner as the same is apparent from paragraph No.5 of the Affidavit-in-Opposition filed by the Respondent No.4 wherein he stated that the said statements has been made on the basis of the records.

(iv) It is further made clear that if the Petitioner is able to satisfy the Respondent Authorities as regards his entitlement, the Respondent Authorities shall pay the said amount after due verification. The said exercise in respect of the four bills be completed within a period of 4 (four) months from the date a certified copy of the instant order along with the representation and necessary documents are submitted by the Petitioner to the Respondent No.3.

JUDGE

Comparing Assistant