

GAHC010119352022



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

Case No. : Cont.Cas(C)/363/2022

DR. BASANTA LASKAR
RETIRED PROFESSOR OF MEDICINE ASSAM MEDICAL COLLEGE
DIBRUGARH R/O. PROFESSORS QUARTER NEC COMPOUND ASSAM
MEDICAL COLLEGE CAMPUS DIBRUGARH ASSAM PIN 786032.

VERSUS

SIDDHARTH SINGH AND ANR
IAS COMMISSIONER AND SECRETARY, HEALTH AND FAMILY WELFARE
4TH FLOOR A BLOCK ASSAM SECRETARIAT BUILDING, DISPUR,
GAUHATI-781006.

2:MR. AVINASH P. JOSHI

PRINCIPAL SECRETARY HEALTH AND FAMILY WELFARE
GOVT. OF ASSAM
3RD FLOOR
CM BLOCK
ASSAM SECRETARIAT
DISPUR
PIN-781006

Advocate for the Petitioner : PETITIONER IN PERSON,

Advocate for the Respondent : MR A CHALIHA (R-2), AMICUS CURIAE, MR S
CHAKRABORTY, MR M BHUYAN (R-2), MR. B GOGOI (R-2)

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

18.09.2024

Heard Mr. S. Chakraborty, learned Amicus Curiae for the petitioner. Also heard Mr. A. Chaliha, learned counsel for the respondent No. 2.

2. By filing this petition under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India for alleged willful and deliberate violation of the Order dated 08.03.2019 passed by this Court in WP(C) No. 5471/2014 and I.A.(C) No. 3370/2018.

3. The facts of the case is that the petitioner, by filing writ petition, i.e., WP(C) No. 5471/2014 was primarily seeking regularization of his service as Professor of Medicine in Assam Medical College & Hospital, Dibrugarh with retrospective effect from 01.04.1997.

4. This Court upon hearing the parties and considering the grievance raised therein, was pleased to close the said writ petition by giving liberty to the petitioner in person to file representation before the respondent authorities and as and when such representation is filed, the same to be disposed of by the respondent authorities.

5. Since, the representation of the petitioner was not disposed of by the respondent authorities and the arrear salary and non-practicing allowance as directed was not paid, the present contempt petition was filed.

6. Mr. S. Chakraborty, learned Amicus Curiae submits that though arrear

salary pursuant to the filing of the contempt petition has been released by the respondent authorities, however, it falls short of the actual arrear due to the petitioner.

7. He accordingly submits that the order of this Court is not complied in full spirit and as such, the respondents have committed contempt of Court.

8. He further submits that before the writ proceeding in WP(C) No. 5471/2014, the learned Standing Counsel, Health Department has given an undertaking that steps has already been initiated to grant the benefit to the petitioner in person and therefore, there is contempt of the aforesaid undertaking.

9. Per contra, Mr. A. Chaliha, learned counsel for the respondent No. 2 submits that in terms of the Order dated 08.03.2019, the Commissioner & Secretary to the Government of Assam, Medical Education and Research Department has considered the representation of the petitioner and disposed the same.

10. He further submits that the arrear salary as per available on record amounting to Rs. 83.11906 Lakhs alongwith the non-practicing allowance amounting to Rs. 16.23834 Lakhs is also paid. He accordingly submits that the order of this Court has been fully complied and there survives nothing for adjudication in the contempt proceedings.

11. I have given my prudent consideration to the arguments made by the learned counsels for the parties and have perused the materials available on record.

12. Since this petition has been filed by the petitioner drawing the attention of the Court for the alleged non-compliance of the Order dated 08.03.2019 passed in WP(C) No. 5471/2014, apt to refer to the said order at the outset.

13. Para 5 of the judgment is reproduced hereunder for ready reference:-

“5. In view of the redressal of the grievance raised in the present writ petition as indicated above, this Court is inclined to close the present writ petition, however, with the following observations:-

(i) Liberty is granted to the petitioner-in-person to move the competent authorities to seek redressal of any further grievances which he might still have, including those sought to be raised by way of the said additional affidavit filed on 27.11.2018 as well as I.A. (Civil) 3370/2018. It is provided that if such representation is filed by the petitioner within a period of 1(one) month from today, the competent authorities shall dispose of such representation, as early as possible, but within an outer period of 3(three) months. It is needless to say, that whatever speaking orders that would be passed, shall be communicated to the petitioner-in-person.

(ii) The petitioner-in-person has submitted that he has not been receiving his arrear salary as well as non-practicing allowance. In this regard the learned Standing Counsel for the Health Department has submitted that steps has already been initiated to grant the benefits to the petitioner-in-person. However, the petitioner-in-person would be free to raise his grievance for the same by his representation as indicated hereinbefore.

(iii) It is needless to say that if the petitioner-in-person has any further grievance except the one raised in the present writ petition, he would be free to agitate such grievance before the appropriate forum or Court in accordance

with law.”

14. It appears that this Court while closing the said writ petition directed the respondents to disposed of the representation filed by the petitioner preferably within an outter period of 3 (three) months and upon passing of the speaking order to communicate the same to the petitioner in person.

15. It further appears that in view of the submission of the petitioner in person that he has not been receiving his arrear salary as well as non-practicing allowance, in which regard the learned Standing Counsel for the Health Department has submitted that steps has already been initiated to grant the said benefit to the petitioner in person, this Court provided that the petitioner in person would be free to raise his grievance for the same in his representation if needed.

16. It appears that the representation of the petitioner has also been considered and disposed of by the respondents by Order dated 07.09.2024. It further appears that the said order has also been communicated to the petitioner in person.

17. A perusal of the Order dated 07.09.2024 indicates that the respondents have paid the arrear salary as well as non-practicing allowance amounting to Rs. 83.11906 Lakhs and Rs. 16.23834 Lakhs respectively.

18. As regards the arrear salary falling short cannot in the opinion of this Court, be gone into by this Court while exercising contempt jurisdiction. However, the petitioner is at liberty to seek redressal, in the event, he is aggrieved by the quantum of the arrear salary paid to him before the

appropriate forum.

19. It is a settled principal of law that once the petitioner files the contempt petition, thereafter, it is between the Court and the contemnor.

20. In the present case, the representation of the peititoner having been disposed of by the respondents, the direction passed by this Court in WP(C) No. 5471/2014 by Order dated 08.03.2019 stands complied. Therefore, nothing further survives for adjudication.

21. Accordingly, the contempt petition stands closed.

22. This Court appreciates the assistance rendered by Mr. S. Chakraborty as Amicus Curiae.

JUDGE

Comparing Assistant