

GAHC010132052023



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

Case No. : WP(C)/3527/2023

RAJASHREE SEN DEKA
SON OF SRI MRIDUL SEN DEKA,
RESIDENT OF NARAYAN NAGAR,
KUMARPARA, P.O. AND P.S.- BHARALUMUKH,
GUWAHATI- 781009, DISTRICT- KAMRUP(M),
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM,
HOME DEPARTMENT, DISPUR,
GUWAHATI-6,
DISTRICT- KAMRUP(M), ASSAM.

2:THE DISTRICT MAGISTRATE
GUWAHATI- 781001

DISTRICT- KAMRUP(M)
ASSAM.

3:THE COMMISSIONER OF POLICE
PAN BAZAR
GUWAHATI- 781001

DISTRICT- KAMRUP(M)
ASSAM

Advocate for the Petitioner : MR. S KATAKI, MS. R DUTTA

Advocate for the Respondent : GA, ASSAM,

BEFORE

THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

Order

21.08.2024

Heard Mr. S Katakai , learned counsel for the petitioner and Mr. S Baruah, learned counsel for the respondent.

It is the case of the petitioner that respondent authorities at different times hired the vehicle belonging to the petitioner for public service and for the purpose of maintaining law and order in Assam. For such services, an amount of Rs. 41,65,759/- is due to the petitioner. It is also submitted by the learned counsel for the petitioner that the petitioner had approached the respondent authorities at different times for claiming such dues, but no response from the respondent authorities has been forthcoming.

The respondent No. 3 has filed an affidavit-in-opposition through the Deputy Commissioner of Police. The respondent has taken the following stand in the affidavit:

“4. That with regard to the statements made in paragraph 2 of the writ petition deponent begs to state that concerned records of Motor Transport Branch ,Police Reserve, Guwahati verified to ascertain the authenticity of hire charge bills submitted by petitioner .In the course of verification ,it is found that all together 27 Nos. of Hire charge bills in respect of vehicles No.AS-12-A/9027, AS-09-C/0404, AS-25-Q/2028, AS-25-Q/2712, AS-25-Q/2031, AS-12-A/9027 and AS-01-G/9926 respectively received from the petitioner. All the hire charge bills received from the petitioner forwarded to the Sanctioning Authority under Proposal No. 502-514(RV) dated 18.07.2023 for an amount of Rs. 19,60,616/- and proposal No. 515-528(RV) dated 18.07.2013 for an amount of Rs. 22,05,143/- i.e. total amount of Rs. 41,65,759/- after observing the required formalities to accord sanction and allotment of fund against such proposal. It is further stated that the payments of Hire Charges Bills always depend on the sanction and

allotment of fund required from the Sanctioning Authority. The deponent further submits that till to date, the sanction of entitled amount by the sanctioning authority is yet to be received due to which payment of each proposal amount is pending"

Thus, from the aforesaid it is seen that the respondent has admitted the due to be Rs. 41,65,759/- and it is their explanation that such payment has not been made for want of fund.

In view of the aforesaid, the respondent authority while admitting the due cannot take the ground not to pay such amount for want of fund.

Considering the matter in its entirety, the present writ petition stands disposed of with a direction to the sanctioning authority to do the needful for sanctioning and payment of the amount claimed by the petitioner and admitted by the respondent. Such exercise be carried out within a period of 3 months from the date of receipt of the order passed today to be furnished by the petitioner before the sanctioning authority i.e. the Principal Secretary to the Government of Assam, Home Department, Dispur.

The petitioner shall be at liberty to file a fresh representation along with a copy of this order.

This disposes of the writ petition.

JUDGE

Comparing Assistant