

GAHC010161262022



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

Case No. : WP(C)/5302/2022

SISURAM MEDHI
S/O. LT. SRI TITHI RAM MEDHI, R/O. MURIPOSOTIA, WARD NO.2, P.O.
MORIGAON, P.S. MORIGAON, DIST. MORIGAON, 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, GUWAHATI-781006, KAMRUP
(M), ASSAM.

2:THE DIRECTOR

DIRECTORATE OF HANDLOOM AND TEXTILES
ASSAM
GOPINATH BORDOLOI ROAD
AMBARI
GUWAHATI-781001
KAMRUP (M)
ASSAM.

3:THE MANAGING DIRECTOR

ASSAM APEX WEAVERS AND ARTISANS CO-OPERATIVE FEDERATION
LTD. (ARTFED)
A.K. AZAD ROAD
REHABARI
GUWAHATI-781008
KAMRUP (M)
ASSAM.

4:THE BRANCH MANAGER

ACCOUNTS
ARTFED
A.K. AZAD ROAD
REHABARI
GUWAHATI-781008
KAMRUP (M)
ASSAM.

5:THE BRANCH MANAGER

ARTFED
MORIGAON BRANCH
DIST. MORIGAON MORIGAON-782105
ASSAM.

6:THE COMMISSIONER AND SECRETARY

TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
ASSAM
GUWAHATI- 781006

Advocate for the Petitioner : MR. S ZAMAN, MR. M ALAM

Advocate for the Respondent : SC, HANDLOOM AND TEXTILE, MR. D SARMA (r-3,4,5),MR. ABU JAHID (r-3,4,5),GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Judgment & Order (Oral)

Date : 14.08.2024

Heard Mr. S. Zaman, the learned counsel for the petitioner. Also heard Ms. U. Das, learned Addl. Senior Government Advocate appearing for the State respondent no. 1& 6 and Mr. R. Dhar, learned Standing

Counsel for the Handloom and Textile Department representing the respondent no. 2 as well as Mr. A. Jahid, learned counsel appearing for the respondents no. 3 to 5.

2. The claim of the petitioner is that his employer i.e. respondent Nos. 3 to 5 owes him an amount of Rs. 7,58,727/- against the outstanding salary and gratuity. 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. 7,58,727/- against pending salary and gratuity Rs. 75,000/- only. However, it was further contended that on account of financial constrain as faced by ARTFED, the authority is not in a position to pay the said amount to the petitioner and only after receipt of grant-in-aid from the Govt. of Assam, the payment of said amount can be made by the ARTFED authorities. Accordingly, the dues as claimed by the petitioner, herein, are admitted by the respondent authorities.

4. This court is of the view that instrumentality of the State like ARTFED cannot take financial constraint as a ground to deny the right of an employee to get his admitted dues, including arrears of salaries.

5. At this stage, the learned standing counsel for the ARTFED submits that funds are to be received from the Government for meeting the existing liabilities towards salaries and pensionary benefits of its employees, including retired employees like the petitioner, herein. The said submission has been duly considered and this Court is of the view that the same does not merit acceptance. The authorities of ARTFED are duty bound to make provisions for releasing to the petitioner, herein, his admitted dues.

6. Considering the above submission and the specific stand of the respondents taken 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.7,58,727/- to the petitioner.

7. Accordingly, it is directed that the respondent Nos. 3 to 5, shall do the needful for payment to the petitioner amounting to Rs. 7,58,727/- within a period of 6(six) months from the date of receipt of a certified copy of this order. The respondents may also pay the aforesaid amount in installments to the petitioner within the period fixed as above. In the event the said amount is not released to the petitioner in full within a period of 6(six) months, w.e.f. the date of receipt of a certified copy of this order, the amount so remaining due as on such date shall carry interest @ 6% per annum, w.e.f. the date the amount was due for payment, till the date of its actual payment.

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

JUDGE

Comparing Assistant