

GAHC010179742024



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

Case No. : WP(C)/4533/2024

DWIPEN BARMAN
S/O- DASARATH BARMAN,
R/O- BAMUNIMAIDAM,
JYOTINAGAR, P.O- BAMUNIMAIDAM,
P.S- CHANDMARI, GUWAHATI, DIST-KAMRUP (M), ASSAM, PIN-781021

VERSUS

THE STATE OF ASSAM AND 5 ORS
THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, HOME AND
POLITICAL DEPARTMENT
DISPUR, GUWAHATI - 6., KAMRUP (M), ASSAM

2:THE COMMISSIONER OF POLICE
ASSAM POLICE COMMISSIONERATE
MG ROAD
PANBAZAR

GUWAHATI-01
KAMRUP (M)
ASSAM

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
B.K. KAKATY ROAD
ULUBARI
GUWAHATI-7

4:THE ASSISTANT INSPECTOR GENERAL OF POLICE (ADMN)
ASSAM
B.K. KAKATY ROAD
ULUBARI

GUWAHATI-7
KAMRUP (M)
ASSAM

5:THE MOTOR TRANSPORT OFFICER (M.T.O)
POLICE RESERVE

ASSAM POLICE COMMISSIONERATE
MG ROAD
PANBAZAR
GUWAHATI-01
KAMRUP (M)
ASSAM

6:THE ADDITIONAL DISTRICT MAGISTRATE
GUWAHATI-01
KAMRUP (M)
ASSA

Advocate for the Petitioner : MS. M B BARUAH, MR. D K CHOMAL, MS. A DEVI

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

02.12.2024

1. Heard Ms. M.B. Baruah, learned counsel for the petitioner and Ms. U. Das, learned counsel for all the respondents.
2. The petitioner's grievance is that the hiring charges of the petitioner's vehicle, bearing Registration No.AS-14-E-1350, has not been paid by the respondents even after 2 years. The petitioner had made a claim that the respondents are liable to pay to the petitioner, the hiring charges amounting to Rs.5,33,498/-.

3. Ms. U. Das, learned counsel for the State respondents, on the other hand submits that there has been a settlement of a part of the amount payable to the petitioner, by deduction of 20% from two Proposals, i.e. Proposal Nos.2775 and 2776 (RV) dated 05.02.2024. She submits that altogether 5 Proposals have been made with regard to the hiring charges of the petitioner's vehicle. Proposal Nos.2775 and 2776(RV) dated 05.02.2024 shows that the petitioner is liable to be paid Rs.2,16,782/- after deducting 20%, as One Time Settlement of the bills of the petitioner. In respect of Proposal No.5399-5401(RV) dated 01.10.2024, the petitioner is liable to be given Rs.2,75,322/-.

4. I have heard the learned counsels for the parties.

5. As stated by the counsel for the respondents and in terms of the affidavit filed by the respondent no.2, the respondents have admitted their liability towards the petitioner to be Rs.4,92,104/-. In respect of the Proposal Nos.2775 and 2776(RV) dated 05.02.2024, the respondents have deducted 20% of the petitioner's hiring charges amounting to Rs.39,414/-on the ground that the negotiated One Time Settlement would result in immediate clearing of the pending dues. The settlement was apparently made in the year 2022 and despite the same, the dues of the petitioner has not been paid till now.

6. The issue pertains to whether there was an unequal bargaining power on the part of the State Government, in making such a settlement and at the same time not adhering to it. Be that as it may, the fact remains that the respondents have as on date admitted that they are liable to pay Rs.4,92,104/- after deducting 20% from the two Proposals mentioned above. Accordingly, the respondents are directed to pay to the petitioner the admitted amount of Rs.4,92,104/-, within a period of 3 (three) months, from the date of receipt of a certified copy of this order. Liberty is however given to the petitioner to make a

claim for the deducted amount, in the Civil Court, if he is advised that the settlement of Proposal Nos.2775-2776(RV) dated 05.02.2024 for 20% deduction, has not been adhered to by the respondents.

7. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant