

GAHC010187602021



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

Case No. : WP(C)/5941/2021

MAHENDRA DAS
SON OF LATE MOMAT CH. DAS
R/O NALBARIGAON
P.O. CHOWKBAZAR, P.S. NALBARI
DIST. NALBARI, ASSAM, PIN-7881334.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE LAW
DEPARTMENT, GOVT. OF ASSAM, DISPUR, GUWAHATI-1.

2:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E) ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI-781029

3:MOTOR ACCIDENT CLAIM TRIBUNAL
NALBARI
REP. BY THE MEMBER/PRESIDING OFFICER
PIN-781334.

4:TREASURY OFFICER
NALBARI DISTRICT
NALBARI

5:THE GAUHATI HIGH COURT REPRESENTED BY THE REGISTRAR
GENERAL
GUWAHATI-781001

6:THE COMMISSIONER AND SECRETARY TO THE GOVT.OF ASSAM
PENSION AND PUBLIC GRIEVANCES DEPARTMENT

ASSAM SECRETARIAT
DISPUR
GUWAHATI-

Advocate for the Petitioner : MR. J SARMAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE KARDAK ETE

O R D E R

31.05.2024.

Heard Mr. J. Sarmah, learned counsel for the petitioner. Also heard Mr. H.K. Das, learned Standing Counsel, Gauhati High Court, representing the respondent Nos.3 & 5, Mr. R. Barpujari, learned Standing Counsel for the Finance Department for the respondent No.4 and Mr. K.K. Medhi, learned counsel appearing on behalf of Mr. S.K. Medhi, learned engaged counsel for the respondent No.2.

2. The challenge made in this Writ Petition is the order dated 16.09.2021, whereby the excess drawl amount of Rs.82,896/- (Rupees eighty two thousand eight hundred ninety six) only, is sought to be recovered from the petitioner and also for a direction to grant ACP/MACP, in terms of the State Government's scheme notified vide Memo No.FPC-12/2017/4, dated 06.07.2014.

3. It is stated at the Bar that so far as the recovery of the excess amount is concerned, since the respondent authorities have decided to waive the same, coupled with judgment of the Hon'ble Supreme Court in the case of State of

Punjab and others vs. Rafiq Masih, reported in (2015) 4 SCC 334, no adjudication is required. Having considered the submissions of learned counsel for the parties, I am of the view that no further determination is required on the above issue. However, it is observed that no recovery can be made in view of the ratio laid down by the Hon'ble Supreme Court in the case of Rafiq Masih (supra) and rightly the State Authorities are in the process of waiving the same.

4. So far as the claim for grant of ACP/MACP is concerned, it is also fairly conceded by the learned counsel for the parties that the petitioner, who has completed thirty (30) years of service on 17.07.2018 and has retired on 03.04.2020, is entitled for MACP under the Scheme of the State Government dated 06.07.2014. It is also noticed that the petitioner has got promotion only once to the post of UDA on 01.03.2013.

5. In view of above and considering the fact that the petitioner is entitled for ACP/MACP, the Writ Petition is disposed of with a direction to the respondents to consider the grievance of the petitioner for payment of ACP/MACP, in terms of the Notification date 06.07.2014, within a period of three (3) months, from the date of receipt of copy of this order.

6. With above observation and directions, the Writ Petition stands allowed and disposed of.

JUDGE

Comparing Assistant