

GAHC010231472019



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

Case No. : WP(C)/7328/2019

GIRIDHAR PATOWARY
S/O. LT. PARASHURAM PATOWARY, R/O. RAJGARH ROAD, 11 BYE LANE
HOUSE NO.28-A, P.O. ULUBARI, P.S. CHANDMARI, GUWAHATI(M), ASSAM,
PIN-781003.

VERSUS

NORTH EASTERN ELECTRIC POWER CORPORATION AND 3 ORS.
REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR, BROOKLAND
COMPOUND, LOWER NEW COLONY, SHILLONG-793003.

2:THE DIRECTOR FINANCE

NORTH EASTERN ELECTRIC POWER CORPORATION
BROOKLAND COMPOUND
LOWER NEW COLONY SHILLONG-793003.

3:THE DIRECTOR (P)
NORTH EASTERN ELECTRIC POWER CORPORATION
BROOKLAND COMPOUND
LOWER NEW COLONY SHILLONG-793003.

4:THE DIRECTOR TECHNICAL
NORTH EASTERN ELECTRIC POWER CORPORATION
BROOKLAND COMPOUND
LOWER NEW COLONY SHILLONG-793003

Advocate for the Petitioner : MRS. A GAYAN

Advocate for the Respondent : MR. A SARMA

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 24.06.2024

Heard Mr. C. Choudhury, learned senior counsel, assisted by Ms. J. S. Das, learned counsel, appearing on behalf of the petitioner. Also heard Mr. A. Sarma, learned standing counsel, appearing on behalf of all the respondents/North Eastern Electric Power Corporation, Brookland Compound, Lower New Colony, Shillong -793003.

At the outset, Mr. Choudhury, learned senior counsel appearing for the petitioner, submits that the present proceeding is being limited to the claim of the petitioner for being released the salaries deducted from his terminal benefits for a period of 21 days by the respondent authorities.

It is projected in the writ petition that the petitioner, herein, had retired from service on attaining the age of superannuation on 28.02.2017. After the retirement of the petitioner from service, it is seen from the affidavit filed by the respondent authorities that an inquiry was held in the matter pertaining to irregularities in sanctioning of leave and release of full salaries during the calendar year 2015-16 in respect of the petitioner, herein.

It is the stand of the respondent authorities that the petitioner, herein, although had proceeded on leave during the period; the said periods of leave were not so regularized in the manner required and it alleged that the same was so done by manipulation of the records at the behest of the petitioner, herein.

Mr. Sarma, learned standing counsel, appearing for all the respondents, has drawn the attention of this Court to an inquiry report of the Chief Vigilance Officer, dated 17.05.2018, wherein, on an examination of the complaint so raised against the petitioner, a conclusion was arrived at that the petitioner, had, in fact, got his periods of leave regularized without there being any supporting documents like medical certificate, medical fitness certificate, etc..

On receipt of the said inquiry report, the respondent authorities proceeded to deduct 21 days' equivalent leave salary from the petitioner's terminal benefits and thereafter, released the balance amount to the petitioner on 05.12.2019.

Being aggrieved by the above, the present proceeding has been instituted by the petitioner.

From perusal of the inquiry report, in question, it is seen that the connected inquiry was so conducted without involving the petitioner in the matter in any manner. Even after the said inquiry report was brought on record and before the decision to deduct the salary of the petitioner was so taken; it is seen that no notice in the matter was issued to the petitioner, herein, and the deduction 21 days' equivalent leave salary from the petitioner's terminal benefits was unilaterally made by the respondent authorities.

On a pointed query raised by the Court to the learned standing counsel, North Eastern Electric Power Corporation, as to whether the persons involved in the allegation now levelled against the petitioner in the HR Department of the respondent authorities, were proceeded against in terms of the inquiry report; Mr. Sarma, learned standing counsel, on instructions, has submitted that no person was proceeded against in this

connection.

In view of the above position and the deduction of the salaries of the petitioner for a period of 21 days from his terminal benefits having been so made without a notice being issued to him and the petitioner having already superannuated from his service on 28.02.2017; this Court is of the considered view that such deduction was so effected in clear violation of the principles of natural justice and accordingly, cannot be sustained.

Accordingly, the authorities of the respondent authorities are hereby directed to release the amount so deducted i.e. the leave salary for a period of 21 days from his terminal benefits, within a period of 2(two) months from the date of receipt of a certified copy of this order.

For taking the matter forward, the petitioner, herein, shall submit a certified copy of this order along with a representation before the Director, Finance, North Eastern Electric Power Corporation; staking a claim for release of the said deducted amount within a period of 15(fifteen) days from today and thereafter, the Director, Finance, North Eastern Electric Power Corporation, shall process the same and release to the petitioner, the amount so deducted after taking due approval from the competent authority.

With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant