

GAHC010238342023



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

Case No. : WP(C)/6195/2023

VINIT KASLIWAL JAIN
S/O VIMAL CHAND KASLIWAL JAIN R/O J D ROAD WARD NO. 5 P.O.
KOKRAJHAR DIST KOKRAJHAR ASSAM PIN 783370

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP BY THE COMMISSIONER AND SECRETARY DEPTT OF HOME DISPUR
GUWAHATI 6

2:THE DIRECTOR GENERAL OF POLICE
ASSAM

ULUBARI GUWAHATI ASSAM PIN-781007

3:THE BODOLAND TERRITORIAL COUNCIL
REP BY THE PRINCIPAL SECRETARY KOKRAJHAR

4:THE SUPERINTENDENT OF POLICE
KOKRAJHAR

Advocate for : MR. A LAL

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

28.02.2024

Heard Mr. M. Pandit, learned counsel for the petitioner. Mr. M. Chetia,

learned counsel appears for the respondent Nos. 1, 2 and 4, while Mr. S.R. Rabha, learned counsel appears for the respondent No.3 (BTC).

2. The case of the petitioner is that she is a registered owner of 4 [four] nos. of vehicles bearing registration nos. AS-16/D-4222, AS-16/F-1222, AS-16/H5777 & AS-16/H-8999. It has been averred that during the period from 01.07.2017 – 30.06.2023, the office of the respondent no. 4 had requisitioned the said vehicles on a number of occasions and thereafter released them on different dates. The petitioner had thereafter submitted bills towards hiring charges amounting to Rs. 45,61,752/- including daily allowance of the driver/staff and the Value Added Tax. It is stated that despite repeated request to the respondent authorities seeking disbursement of the said amount, the respondent authorities did not take any discernible action for disbursement of the bill amount. The petitioner was thus constrained to approach this Court seeking disbursal of the said amount.

3. Mr. M. Chetia, learned counsel appearing for the respondent Nos. 1, 2 and 4 submits that the petitioner is entitled to receive Rs.65,37,361/- after deducting 2% from the total amount of bills (excluding VAT).

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

5. Para 6 of the affidavit-in-opposition filed by the respondent No. 4 on 12.02.2024 states as follows:-

“6. That as regards the statements made in Paragraph No. 7 of the writ petition, the answering deponent states that the competent authority hired the vehicles from the above petitioner for the use of this respondent for the interest

of public service and maintaining the law & order situation. However, the deponent has no authority to sanction the hired charge bills and accordingly all hired charge bills were forwarded to the O/O Assam Police Headquarters, Ulubari, Guwahati in different occasions for necessary sanction and release of fund for total admissible amount of Rs.65,37,361- (Rupees sixty five lakh thirty seven thousand three hundred sixty one) only, wherein he has got payment of Rs. 16,24,961- (Rupees sixteen lakh twenty four thousand nine hundred sixty one) only. It is pertinent to mention here that, the petitioner has claimed some bills on vehicle No. AS16D/4222, (S GOLD AC), AS-16F/1222 (Scorpio), AS16H/5777 (Scorpio) and AS16H/8999 (Scorpio) wherein after negotiations with the petitioner in connection with one time settlement with Minutes of the conference of the Superintendents of police held on 3rd & 4th Jan/2022 with the Hon'ble chief Minister of Assam, at Duliajan the bill was prepared after deducting 2% from the total amount of bills (excluding VAT) and sent to Assam Police Head Quarter, Assam, Guwahati in different occasions for early payment. The rest amount is payable to him."

6. As can be seen from the above, the petitioner is liable to be paid Rs.65,37,361/- as per the verification and admission made by the Superintendent of Police, Kokrajhar, Assam. However, in terms of the Full Bench judgment of this Court in the case of **Tamsher Ali Vs. State of Assam & Others**, reported in **2008 (4) GLT 1**, the verification and admission of the outstanding liability has to be made by the Head of the Department, which, in this case, would be the respondent No.2.

7. Accordingly, the respondent No.2 is directed to re-verify the amount payable to the petitioner after going through the verification made by the Superintendent of Police, Kokrajhar and take a decision on the same. Thereafter, the admitted amount should be paid to the petitioner. The entire exercise should be completed within a period of 3(three) months from the date of receipt of a certified copy of this order.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant