

GAHC010107482020



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

Case No. : WP(C)(Suo Moto) 2/2020

1:XXX
GUWAHATI, ASSAM

VERSUS

1:THE PRINCIPAL ACCOUNTANT GENERAL (A AND E), ASSAM
O/O THE ACCOUNTANT GENERAL (A AND E), MAIDAMGAON, BELTOLA,
GUWAHATI-781029

Advocate for the Petitioner : SC, GHC

Advocate for the Respondent : SC, AG

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 14.08.2020

Heard Mr. U.K. Nair, learned senior counsel and standing counsel for the High Court along with his assisting counsel Mr. A. Chetri. Also heard Mr. G. Baishya, learned standing counsel for the respondent no.1.

2. This *suo motu* writ petition has been registered on the basis of representation dated 10.08.2020 submitted by the Assam Judicial Service Association regarding non-issuance of pay slips, leave credit statements, etc. in time bound manner.

3. The Judicial Officers of the State of Assam, through their said representation have expressed that they are facing a lot of problems with the office of the respondent no.1 in the

following matters:-

- i. First pay-slip of newly appointed officers.
- ii. Pay slips to be issued on transfer to another station/ place of posting.
- iii. Incremental pay-slips.
- iv. Promotional pay-slips.
- v. Annual GPF Statements.
- vi. Missing subscriptions in GPF.
- vii. Leave admissibility report.
- viii. Pension documents and pension payment orders.

4. It has been further represented that there are instances where several Judicial Officers had to send representatives to the office of the respondent no.1 on multiple occasions for getting their requisite documents.

5. The State is deemed to be aware that the Judicial Officers are already stressed and working under immense pressure. Unlike other Governments employees, a Judicial Officer has to work hard on administrative and judicial side throughout the year to earn points, which are reported in their respective ACRs and become the basis of future promotions, etc. Therefore, it is expected that the Judicial Officers would effectively utilize their time and deliver justice to the litigating parties. Therefore, if a judicial officer has to spend time to obtain papers, documents and slips from the office of the respondent no.1, there is reasonable apprehension that it would increase their stress and there is likelihood that it may affect efficient dispensation of justice, which would not be in public interest.

6. The respondent no.1 definitely knows that the State pays salary and other emoluments as per the prescribed grade pay scale, as such, the respondent no.1, i.e. the Principal Accountant General (A&E) is expected to have information about the pay which is being drawn by a Judicial Officer of the State and, as such, the delay in issuing pay slips appears to be incongruous, and without any apparent reason.

7. Normally the Court is required to presume under Section 114, Illustration (e) of the Evidence Act that official acts have been regularly performed. However, if the Judicial Officers of the State have to run from pillar to post for their pay-slips, leave credit statement, etc., the said presumption appears to have no application in the present situation. It is a right earned

by every employee, including judicial officers to be paid in time for the service rendered by them. It further cannot be disputed that the respondent no.1 has the duty to release salary and emoluments in time. Denial of right of the judicial officers, by late release of salary, etc., and failure of the respondent no.1 in timely performance of his duties certainly calls for involving writ jurisdiction by this Court.

8. Therefore, the matter requires examination by the Court. Hence, let a notice of motion returnable in 3 (three) weeks be issued. The respondent no.1 is duly represented by Standing Counsel, as such, notice is not required to be served by post. However, one extra copy of this writ petition be served on the learned standing counsel for the respondent no.1.

9. The respondent no.1 shall file a detailed affidavit to show cause as to why the reliefs as prayed for and/ or why any other appropriate relief should not be granted. For the present, in the said affidavit, the respondent no.1 is directed to provide detailed information w.e.f. 01.01.2017 till date regarding (a) the dates on when communication was received by this office about appointment of new judicial officers; (b) the dates on which his office received communications from the Registry of this Court about transfer and posting of judicial officers; (c) the dates on which his office has received information about promotion and promotional posting of judicial officers; (d) the corresponding dates on which his office had issued pay-slips, etc. as morefully mentioned in paragraph 3 above; (e) the standing instructions and/ or standard operating procedure in force, if any, in his establishment regarding time within which the pay-slips, etc. is required to be made ready and communicated to the concerned judicial officer; and (f) whether any e-mail address has been notified in the Gazette, wherein orders of appointment, transfer, posting, promotion of judicial officers of the State is required to be sent in lieu of hard copy.

10. As it is observed that this issue is affecting an entire class of Officers serving in the State, the respondent no.1, i.e. the Accountant General (A&E) shall ensure that his affidavit is filed within the time allowed.

11. It may be pertinent to mention herein that the learned standing counsel for the respondent no.1 has submitted that since the initial lockdown imposed in the month of March, 2020, the establishment of respondent no.1 is working with not more than 30% staff attendance and therefore, he submits that there could be a possibility of some inadvertent delay on part of the respondent no.1 of not being able to issue all the necessary pay-slips etc.

In this regard, the Court is of the considered view that when most of the works relating to issuance of pay-slips etc. are computerized, there must be a system in place which works so that notwithstanding whatever situation is prevailing in the State, there should be seamless disbursement of the salary of the Judicial Officers.

12. List after 3 (three) weeks on 08.09.2020.

JUDGE

Comparing Assistant