

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

ITANAGAR PERMANENT BENCH

1. WP(C) NO. 224(AP)2011

Sri Hari Taro
Aged about 52 years
Son of Lt. Hari Tayam
Permanent resident of village Nyomi
Kurung Kumey District
Presently residing at 6KM, Itanagar
PO & PS - Itanagar, Papum Pare District,
Arunachal Pradesh.

.....*Petitioner*

2. WP (C) 225(AP) 2011

Shri Hari Sambio, aged about 38 years, son
of Lt. Hari Tada, presently residing as
Nyokum Lapang, P.O & P.S Itanagar,
Papumpare District, Arunachal Pradesh.

.....*Petitioner*

3. WP (C) 226(AP) 2011

Shri Hari Gingang, aged about 37 years, son
of Lt. Hari Talang, permanent resident of
village Joru, P.O & P.S Palin, Kurung Kumey
District, Arunachal Pradesh.

.....Petitioner

4. WP (C) 234(AP) 2011

Shri Hari Talang, aged about 40 years, son
of Hari Apo, permanent resident of village
Joru, P.O & P.S Palin, Kurung Kumey
District, Arunachal Pradesh.

.....Petitioner

5. WP (C) 244(AP) 2011

Shri Hari Tayum, aged about 45 years, son of Hari Tarh, permanent resident of village Joru, P.O & P.S Palin, Kurung Kumey District, Arunachal Pradesh.

.....Petitioner

6. WP (C) 247(AP) 2011

Shri Hari Tate, aged about 46 years, son of Late Hari Banke, permanent resident of village Panya, P.O & P.S Palin, Kurung Kumey District, Arunachal Pradesh.

.....Petitioner

7. WP (C) 248(AP) 2011

Shri Hari Taging, aged about 45 years, son of Late Hari Tadak, permanent resident of village Joru, P.O & P.S Palin, Kurung Kumey District, Arunachal Pradesh.

.....Petitioner

8. WP (C) 249(AP) 2011

Shri Hari Tatam, aged about 29 years, son of Hari Tako, permanent resident of village Joru, P.O & P.S Palin, Kurung Kumey District, Arunachal Pradesh.

.....Petitioner

Advocate for the Petitioners in all the above 8 writ petitions:
Mr. Subu Tapin

-Versus-

1. The State of Arunachal Pradesh represented by the Secretary, Public Works Department, Government of Arunachal Pradesh, Itanagar.

2. The Chief Engineer [Western Zone], Public Work Department, Government of Arunachal Pradesh, Itanagar.
3. The Superintendent Engineer, Naharlagun Civil Circle, Public Work Department, Government of Arunachal Pradesh.
4. The Executive Engineer, Sangram Division, Public Work Department, Government of Arunachal Pradesh, Sangram.
5. The Executive Engineer, Tali Division, Public Work Department, Tali, Kurung Kumey District, Government of Arunachal Pradesh.
6. The Assistant Engineer, Palin Sub-Division under Sangram Division, Public Work Department, Government of Arunachal Pradesh.

.....*Respondents*

Advocate for the Respondents in the above 8 writ petitions:
Ms. Goter Ete, Addl. Senior Government Advocate

B E F O R E
HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN

Date of hearing : **23.05.2016**
Date of Judgment & order : **26.05.2016**

JUDGMENT AND ORDER(CAV)

Heard Mr. Subu Tapin, learned counsel, appearing on behalf of the petitioners. Also heard Ms. Goter Ete, learned Addl. Senior Government Advocate, appearing on behalf of all the respondents.

2. These writ petitions, all together, 8(eight) in nos., are being disposed of, today, by common judgment & order, they being pertaining to similar and identical issues relating to non-payment of admitted outstanding bill to the petitioners, for various works they undertook under the respondent Department of Public Works, Government of Arunachal Pradesh.

3. In WP(c)224(AP)2011, it the case of the petitioner Sri Hari Taro, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 2,15,059.00, a sum of Rs. 1,15,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 96,111.24 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)225(AP)2011, it the case of the petitioner Sri Hari Sambio, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 1,44,830.00, a sum of Rs. 80,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 62,813.96 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)226(AP)2011, it the case of the petitioner Sri Hari Gingang, that he had completed the road cutting works executed and completed by him at

Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 1,80,716.00, a sum of Rs. 1,05,000 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 72,448.06 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)234(AP)2011, in the case of the petitioner Sri Hari Talang, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 91,792.00, a sum of Rs. 75,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 15,950.38 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)244(AP)2011, in the case of the petitioner Sri Hari Tayum, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 96,522.00, a sum of Rs. 43,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 51,886.80 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)247(AP)2011, in the case of the petitioner Sri Hari Tate, that he had completed the road cutting works executed and completed by him at Dari-

Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 56,670.00, a sum of Rs. 24,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 31,536.60 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)248(AP)2011, in the case of the petitioner Sri Hari Taging, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 3,18,741.00, a sum of Rs. 1,40,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 1,72,758.46 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

In WP(c)249(AP)2011, in the case of the petitioner Sri Hari Tatam, that he had completed the road cutting works executed and completed by him at Dari-Chambang Road under the Rural Infrastructure Development Fund-XI Scheme in the year 2007-08 and out of Rs. 67,562.00, a sum of Rs. 40,000.00 has been paid to him by the respondent authorities. However, the contention of the petitioner is that the balance amount of Rs. 26,210.76 is still not paid to the petitioner despite repeated requests made before the appropriate authorities.

4. The State Respondents, in the counter affidavit, have admitted to the outstanding dues, as claimed by the petitioners, to be paid to them but they have

averred that the balance outstanding amounts in respect of all the petitioners, have been duly paid to them, respectively, during 2008 by the Executive Engineer, Sangram Division, vide various Cheques. In support of the said contention, the respondent authorities have annexed one Annexure(Annexure-1) which is a reply to the petitioners that they have paid the balance amount by way of cheques against the petitioners' dues that have been mentioned in the chart, appended as Annexure-2 to the affidavit-in-opposition so filed by them.

5. The above contention of the State Respondents has been vehemently denied by the petitioners to the effect that they did not receive the balance outstanding amount, till date. After careful consideration of the aforesaid Annexes 1 and 2, the State Respondents have simply mentioned the names of petitioners as against the cheques issued but nothing is discernible that the said cheques were actually received by the present petitioners as there is no signatures of the petitioners acknowledging the receipt of the cheques, in question. Such a piece of document regarding delivery of amount without signature of the recipients, and the casual statement made by the respondent authorities, is not at all sufficient to prove the due delivery of the cheques to the rightful persons.

6. On the other hand, this Court, vide repeated orders, directed the respondent authorities to make an inquiry and to furnish a report before this Court as to when and in whose favour the aforesaid cheques were disbursed and who withdrew the said amount, so as to reveal as to whether the said amount

actually have been received by the present petitioners or somebody else. But the respondent authorities failed to furnish such report as called for by this Court, about due delivery of the amounts, in question, to the petitioners, as claimed in the affidavits.

7. Today, Ms. Deka, learned Senior Government Advocate, has submitted that no concrete information regarding the details, as sought for by this Court, as to:- (i). whose favour the cheques, in question, were disbursed, (ii). who withdrew such cheques and (iii). whether the petitioners or somebody else have received the said amounts; were provided to the Respondent No. 3/Superintending Engineer, Yachuli Civil Circle, PWD Arunachal Pradesh Camp-Naharlagun, by the Branch Manager, Co-operative Apex Bank, Hapoli, through which the cheques, in question, were issued.

In this regard, a communication dated 11th of May 2016, written by the said Respondent No. 3 and addressed to Ms. Deka, learned Senior Government Advocate, has been placed before this Court, for perusal.

9. In view of the above glaring infirmities and in absence of proof of due delivery of the admitted amount to the petitioners; this Court, without going into the extreme depth of the matter, hereby directs the concerned respondent authorities to make payment of the balance outstanding admitted dues to each of the present petitioners, namely, Sri Hari Taro(Rs.96,111.24), Sri Hari Sambio(Rs. 62,813.96), Sri Hari Gingang(Rs. 72,448.06), Sri Hari Talang(Rs. 15,950.38), Sri Hari Tayum(Rs. 51,886.80), Sri Hari Tate(Rs. 31,536.60), Sri Hari Taging(Rs.

1,72,758.46), and Sri Hari Tatam(Rs. 26,210.76), with an interest at the rate of 6% per annum, from the dates of their entitlement, within a period of 3(three) months from the date of receipt of a certified copy of this order, without fail.

9. Before parting with the matter, at hand, this Court, raise serious concern about such disbursement of amount by the respondent authorities without proper verification of the recipients. Accordingly, the respondent authorities particularly, respondent No. 1 viz. Secretary(PWD), Government of Arunachal Pradesh, Itanagar, as well as respondent No. 2 viz. Chief Engineer(Western Zone), PWD, Government of Arunachal Pradesh, Itanagar, are hereby directed to cause a proper enquiry, regarding disbursement of such Government money and to unearth the aspect of misappropriation of public money, if any, that have been committed by erring officials and take necessary action accordingly against such officials.

9. With the above directions, all these writ petitions stand disposed of. However, there shall be no order as to cost.

JUDGE

Bikash