

GAHC010203892023



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

Case No. : WP(C)/5398/2023

ITC LTD
A PUBLIC LIMITED COMPANY HAVING ITS REGISTERED OFFICE AT
VIRGINIA HOUSE, 37 JAWAHARLAL NEHRU ROAD, KOLKATA-700071,
INDIA, REPRESENTED BY ITS SENIOR FINANCE MANAGER (EAST), MS.
DEBOLINA MOOKERJEE, R/O 11A, GOKUL BARAT STREET, KOLKATA-
700012, DIST- KOLKATA, STATE-WEST BENGAL

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
LABOUR WELFARE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE CERTIFICATE OFFICER
OFFICE OF THE DEPUTY COMMISSIONER
DHUBRI

3:THE ASSISTANT LABOUR COMMISSIONER
-CUM-AUTHORITY UNDER THE PAYMENT OF WAGES ACT
DHUBRI
PIN-783301

4:MONOWAR HUSSAIN
S/O LATE BAHIAH ULLAH
R/O A.M. CO. ROAD
PS AND DIST- DHUBRI
ASSA

Advocate for the Petitioner : MS M HAZARIKA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 18.09.2023

Heard Ms. M. Hazarika, learned Senior Counsel assisted by Mr. D. Khan, learned counsel for the petitioner and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 1 – 3.

2. The petitioner is aggrieved by an Order dated 15.07.2022 passed by the respondent no. 3 whereby the respondent no. 3 has rendered a decision in an application titled 'Shri. M.K. Das vs. Shri.Amitendra Mahan Dutta'.

3. Ms. Hazarika, learned Senior Counsel for the petitioner has referred to an application dated 02.07.2022 [Annexure-12] and the Order dated 15.07.2023 [Annexure-15] to contend that the Assistant Labour Commissioner himself as the In-Charge of Labour Inspector, Dhubrisubmitted the application purportedly under Section 15[3] of the Payment of Wages Act, 1936. It is contended that it is a case where the applicant himself has rendered the decision in the Order dated 15.07.2022 whereby a direction has been made to the Authorized Representative of the petitioner company to deposit an amount of Rs. 82,98,330/- towards delayed earned wages and others within a period of 15 days from the date of receipt of the said Order with the further provision that in default, a certificate would be issued to the Bakijai Officer for realization of the entire amount found payable to the respondent no. 4. Ms. Hazarika has further contended that the genesis of the application dated 02.07.2022 was a settlement arrived in conciliation proceedings held on 13.02.2017 [Annexure-5]. As per the settlement, the petitioner company was to pay arrear salaries/wages [subject to increments & other benefits as admissible] to the respondent no. 4 within a

month therefrom. It is submitted that the petitioner company had forwarded a demand draft for an amount of Rs. 2,23,627/- in compliance of the settlement to the respondent no. 4 by a letter dated 31.03.2017 and the said fact has already been admitted by the respondent no. 4 in the application submitted by him before the Labour Welfare Department, Government of Assam on 14.12.2021 seeking initiation of proceedings under Section 33[C] of the Industrial Disputes Act, 1947. The respondent no. 4 had also admitted about his refusal to accept the demand draft. It is contended that the applicant himself decided the matter which clearly suffers from biasness.

4. Issue notice, returnable in 4 [four] weeks.

5. As Mr. Gogoi, learned Additional Senior Government Advocate, Assam has appeared and accepted notice on behalf of the respondent nos. 1 – 3, no formal notices need to be issued to the said respondents. Mr. Khan, learned counsel for the petitioner shall, however, furnish requisite nos. of extra copies of the writ petition along with annexures, to Mr. Gogoi within 3 [three] working days from today.

6. The petitioner shall take steps for service of notice upon the respondent no. 4 by registered post with A/D within 3 [three] working days from today.

7. Having regard to the projections made and upon perusal of the materials, it is provided that till the returnable date, the order dated 15.07.2022 [Annexure-15] and all other consequential proceedings shall remain stayed.

JUDGE

Comparing Assistant