

GAHC010211662015



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

Case No : WP(C)/5207/2014

DR. DEEPAK KUMAR GOGOI
S/O LT. MAHENDRA NATH GOGOI
R/O H/.NO.21
UDAY PATH
R.G. BARUAH ROAD
GHY-24
DIST- KAMRUP METRO
ASSAM

VERSUS

OIL INDIA LTD and 5 ORS.
A GOVT. OF INDIA ENTERPRISE
REGD. OFFICE DULIAJAN
P.O. DULIAJAN-786602
DIST- DIBRUGARH
ASSAM
REP. BY THE CHAIRMAN CUM MANAGING DIRECTOR

2:THE RESIDENT CHIEF EXECUTIVE
OIL INDIA LTD.
P.O. DULIAJAN-786602
DIST- DIBRUGARH
ASSAM

3:THE HEAD MEDICAL SERVICES
MEDICAL DEPTT.
OIL INDIA LTD.
P.O. DULIAJAN-786602
DIST- DIBRUGARH
ASSAM
4:THE HEAD HOSPITAL ADMINISTRATION
MEDICAL DEPTT.
OIL INDIA LTD.

P.O. DULIAJAN-786602
DIST- DIBRUGARH
ASSAM
5:THE GENERAL MANAGER FandA
OIL INDIA LTD.
P.O. DULIAJAN-786602
DIST- DIBRUGARH
ASSAM
6:SMTI. TULIKA GOGOI
W/O SRI DEEPAK KUMAR GOGOI
C/O G. MOHAN
CHITTRANJAN BARUAH PATH
PHUKAN NAGAR
SIBSAGAR
PIN-785640

Advocate for : MR.B D KONWAR
Advocate for : MR. J PATOWARY
R-6 appearing for OIL INDIA LTD and 5 ORS.

BEFORE

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner	: Mr. B. D. Konwar, Senior Counsel Assisted by Mr. H. Agarwal, Advocate.
For the Respondents	: Mr. M. K. Choudhury, Senior Counsel Assisted by Mr. K. Kalita, Advocate. Mr. A. M. Bora, Senior Counsel Assisted by Mr. J. Patowary, Advocate
Date of Hearing	: 28.03.2024
Date of Judgement	: 22.04.2024

ORDER (CAV)

1. Heard Mr. B. D. Konwar, learned Senior Counsel assisted by Mr. H. Agarwal, learned counsel for the petitioner. Also heard Mr. M. K. Choudhury, learned Senior Counsel assisted by Mr. K. Kalita, learned counsel for the

respondent OIL and Mr. A. M. Bora, learned Senior Counsel assisted by Mr. J. Patowary, learned counsel for the respondent No. 6.

2. The present writ petition is filed seeking a direction to the respondent authorities to deposit/credit all the dues of the petitioner payable to him by the respondent company into his savings bank account number 211810000001586 maintained in HDFC Bank, Duliajan Branch.

3. The brief facts leading to filing of the present case can be summarized as follows:-

i. While the petitioner was serving as a Medical Officer under the respondent OIL India Limited (hereinafter referred to as OIL), he was placed under suspension with effect from 21.06.2013 by an order dated 27.06.2013 for the reason of the petitioner being detained more than 48 hours in connection with a criminal case registered as Duliajan PS Case No. 148/2013 under Section 498A IPC. Such criminal case was lodged by the respondent No. 6 i.e. the wife of the petitioner.

ii. Thereafter, a departmental proceeding was initiated against the petitioner, a disciplinary enquiry was held and the petitioner was found guilty of the charges as alleged in Memorandum of Charge dated 16.11.2013.

iii. On being found guilty, the petitioner was inflicted with the punishment of dismissal from service.

iv. The appeal preferred by the petitioner before the appellate

authority was also dismissed.

- v. During the pendency of the proceeding/suspension, the petitioner approached the respondent authorities and requested the authorities to credit his dues in his Saving Bank Account Number 211810000001586 maintained in HDFC Bank, Duliajan Branch, instead of crediting the same in the joint account maintained by the petitioner jointly with his wife/respondent No. 6.
- vi. The petitioner also preferred a writ petition being WP(C) No. 1173/2014, wherein, the petitioner challenged his prolonged suspension and also raised the issue of change of bank account. The said writ petition was disposed of by this Court under its order dated 05.03.2014, whereby, amongst other this Court directed the OIL to consider the representation of the petitioner dated 08.11.2013 regarding change of salary account from one bank to another.
- vii. Alleging that bank account has not been transferred as prayed, the present writ petition is filed.
- viii. This Court while issuing notice of motion in the present writ petition, under its order dated 09.10.2014, directed the respondent OIL not to deposit the dues of the petitioner in Bank Account No. 10494865423 maintained in the State Bank of India, Duliajan Branch.
- ix. This Court on 23.06.2015 passed an order in WP(C) No. 1173/2014, whereby, the respondent OIL was directed credit the dues of the petitioner to which he is entitled in the new account of the petitioner i.e. Account No. 211810000001586 maintained in HDFC

Bank, Duliajan Branch.

- x. In the aforesaid backdrop, the respondent OIL preferred an Interlocutory Application in WP(C) No. 3605/2015 seeking clarification in the factual backdrop that in the meantime, the Judicial Magistrate First Class, Dibrugarh, under its order dated 03.11.2013 passed in CR No. 510/2013 directed the OIL India Limited to keep aside a sum of Rs. 40 Lakhs from the terminal/dismissal dues payable to the petitioner. The said Interlocutory Application was registered as I.A./1082/2015. This Court under its order dated 25.01.2016 passed in the I.A. directed maintenance of status quo regarding release of money to the writ petitioner.
- xi. Accordingly, such interim application was closed directing continuance of status quo order till disposal of the connected writ petition.
- xii. The wife of the petitioner got herself impleaded in the writ petition and also preferred an Interlocutory Application being I.A.(Civil) No.1022/2018 in WP(C) No. 3605/2015. Such application was disposed of by this Court observing that until further orders, the order dated 25.01.2016 passed in I.A/1082/2016 shall continue to operate in the writ petition.
- xiii. Thereafter, the respondent wife filed another application registered as I.A. (Civil) No. 2834/2022 seeking modification/vacation of the order dated 23.06.2015, 25.01.2016 and 20.05.2019 and to permit the authorities to release the amount of Rs. 40 Lakhs as directed by

the Judicial Magistrate First Class, Dibrugrah.

- xiv. It is important to note here that the respondent wife preferred CR Case No. 510^C/2013 under Section 12 of the Protection of Women from Domestic Violence Act, 2005.
- xv. The learned Magistrate by its order dated 12.12.2013 directed the petitioner to pay an amount of Rs. 25,000/- per month to his minor daughter, and Rs. 10,000/- to his son as interim maintenance. The petitioner preferred a criminal appeal against the said interim order before the learned Additional Sessions Judge, Dibrugarh which was dismissed by the learned appellate Court. Subsequently, the order dated 03.11.2014 was passed in the CR Case No. 510^C/2013 as discussed hereinabove.
- xvi. Certain specific direction was issued to the OIL India Limited which is quoted herein below:-

“Monetary Relief:

11. The concerned authority of the employer of the respondent, OIL India Limited, Duliajan is directed to release (out of the amount kept aside by interim order dated 03.11.2014, the sum of Rs. 40 lakhs from the terminal/dismissal dues payable to the respondent) the amounts in the following manner:-

- *The arrear amount which has become due since the order of interim maintenance dated 12.12.2013, a sum of Rs. 25,000/- per month to the daughter Smti. Shivangi Gogoi and Rs. 10,000/- to the son Rustov Gogoi.*

- *The arrear amount in respect of the daughter which had become due till she attained majority.*
- *The amount which shall remain in hand of the OIL Limited after making the payments as aforesaid, shall be further divided and paid to the following manner:-*
 - *A sum of Rs. 20 lakhs shall be paid in favour of the aggrieved party namely Smti. Tulika Gogoi and,*
 - *Another sum of Rs. 10 lakhs shall be paid in favour of Sri Rustov Gogoi.*
- *The Oil India Limited shall be at liberty to release, the residue if any remains after making all the aforesaid payments, in favour of the respondent.*
- *The concerned authority, OIL Limited, Duliajan is to cause immediate effect to the transfer of the above amount of total of Rs. 30 lakhs to be transferred to the individual bank account of the aggrieved party Smti. Tulika Gogoi which is A/C No. 10494862852 (one zero four nine four eight six two eight five two) at the State Bank of India, Duliajan Branch. The arrear amount of the monthly interim maintenance which has become due is also to be transferred to the abovementioned bank account number”.*

xvii. It is the case of the respondent wife that due to the interim orders passed, a lawful direction issued by the competent Court are not being implemented.

4. Mr. B. D. Konwar, learned Senior Counsel for the petitioner argues that

the petitioner is having a right to choose his bank account for deposit of his legal dues. As the authority has not disputed the legal due, the petitioner is entitled to get his due transferred in the Bank Account of his choice. Such right of the petitioner has been violated by his respondent employer and therefore, a writ of mandamus is required to be issued as against the respondent employer to deposit the amount due to the petitioner in his preferred bank account i.e. bank account No. 211810000001586 maintained in HDFC Bank, Duliajan Branch.

5. Mr. M. K. Choudhury, learned Senior Counsel representing the employer respondent OIL submits that the respondent OIL shall have no objection in transferring the amount due in the preferred account of the petitioner, however, at the same time, they are under legal duty to honour the order passed by the learned Judicial Magistrate First Class, Dibrugarh.
6. Mr. A. M. Bora, learned Senior Counsel representing the respondent No. 6 opines that the respondent wife was granted relief under law more particularly, under the DV Act, 2005 by a competent Court and such order has in the meantime, attained finality. However, for the interim orders passed by this Court, the respondent wife has been deprived of the benefit of the orders passed by the competent court and therefore, a direction may be issued to the respondent to act as per direction of the learned Judicial Magistrate First Class, Dibrugarh.
7. There is no iota of doubt that the petitioner shall have a right to get his legal dues transferred into a bank account of his choice. However, when the same is a salary account, the transaction shall be subject to prescribed norms in this regard set by the employer and Bank. In the case in hand,

the respondent employer has taken a stand that the employer is not having any difficulty in transferring the dues in the bank account of choice of the petitioner. That being the position, no disputes remains to be adjudicated in this regard. However, this Court cannot be oblivious of the directions issued by the learned Judicial Magistrate First Class, Dibrugarh in CR Case No. 510^C/2013 as discussed and quoted hereinabove inasmuch as the respondent OIL India Limited shall be under bounden legal duty to honour such judicial direction subject to any further order that may be/had been passed by the Revisional/appellate authority.

8. In view of the aforesaid, more particularly, in view of the stand taken by the respondent OIL India Limited that they are ready to transfer the amount to the account of choice of the petitioner subject to compliance of the order of the Judicial Magistrate First Class, Dibrugarh dated 03.11.2014 passed in CR Case No. 510^C/2013, nothing survives to be adjudicated in this present writ petition inasmuch as this Court in the present writ proceeding neither can comment nor can determine the legality and / or validity of the order dated 03.11.2014 passed in CR Case No. 510^C/2013
9. Accordingly, this writ petition stands closed. Interim order passed earlier if any stands vacated.

JUDGE

Comparing Assistant