

WP(C) 57/2015

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. K. Dabi, learned counsel for the petitioner and Ms. G. Deka, learned State Counsel.

By means of this writ petition, the petitioner has prayed for a direction to the respondents to release her salary which has been withheld on the strength of the impugned Anenxure-14 communication dated 25.02.2013. For a ready reference, the communication made to the Chief Engineer, Water Resources Department by the Judicial Magistrate 1st Class, Itanagar Complex is quoted below:-

"To,

The Chief Engineer
Water Resources Department
Govt. of A.P.

Ref:- CR Case No.020/2013

Sub:- temporary Closing of SBI Bank Account in respect of Smti Ipu Nyodu

It to inform you that, one Smti Ipu Nyodu, permanent resident of Pan vil lage, Po/PS Nari, Fast Siang District Arunachal Pradesh, who is working under your Department as a Peon, has been charged u/s 406/409/420/468/34 IPC for cheating case and the same is pending before the Court of undersigned. It is reveals from the report that she had taken Child Care Leave for a period of 6 (six) month which, she is supposed to re-join on 2nd of April, 2013.

Even after the issuance of Summon, the alleged accused is not turned before the Court of undersigned and it is apprehend that she might be absconding intentionally to avoid the aforesaid case.

It is also reveals from the records that she is having a SBI Bank Account bearing No.30277387545 (Itanagar Branch) and the transaction is going on at present.

In view of above and circumstances, the transaction or the payment to the alleged accused under this Account may be closed temporarily or till the disposal of this case."

From the above, what is seen is that the petitioner is purportedly involved in a case in which she has been charged u/s 406/409/420/468/34 IPC. She was on child leave for six months and according to the impugned communication, she might have joined on 02.04.2013. The impugned action towards withholding of salary has been directed by the said letter on the ground of non-appearance in the proceeding by the petitioner, I am afraid such a course of action on the part of the Judicial Magistrate is totally uncalled for. The Judicial Magistrate has other means to procure attendance of the accused persons, but recourse cannot had to direct the appointing authority of the department, in which the petitioner is serving to withhold her salary.

Learned counsel for the petitioner submits that the petitioner shall appear before the learned Judicial Magistrate.

In view of the above, this writ petition is allowed directing the respondents to pay the admissible salary to the petitioner both arrear and current and the impugned letter dated 25.02.2013 shall not stand on the way of the Chief Engineer, Water Resources Department to release the salary of the petitioner. The said letter shall have no effect, so far as the same relates to direction to close the Bank Account of the petitioner and non release of salary to her.

With the above direction, the writ petition stands disposed of.