

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 524 of 2023

**Present: Hon'ble Mr. Sudhi Ranjan Mishra, Judicial Member
Hon'ble Mr. Pramod Kumar Das, Administrative Member**

1. Dr. Prabhas Ranjan Pradhan, aged 67 years, S/o Late Pravkar Pradhan, at Plot No. GA 61, Sailashree Vihar, PO Sailashree Vihar, Bhubaneswar, Dist Khorda, PIN 751021.

.....Applicants

VERSUS

1. Union of India represented by the Principal Secretary, Health and FW Department, New Delhi.
2. Under Secretary, CGHS (Admin), Ministry of Health & Family Welfare, RK Puram, New Delhi – 110011.
3. Director (CGHS), Ministry of Health & Family Welfare (CHS Division), Nirman Bhawan, New Delhi – 110011.
4. Addl. Director, CGHS, Old AG Colony, Unit 4, Bhubaneswar 751001, Fax 0674-2500127, email id ad.bh@cghs.nic.in

.....Respondents

For the applicant : Applicant in person

For the respondents: Mr. B R Swain, counsel

Heard & reserved on :03.04.2024

Order on : 18.04.2024

O R D E R

Mr. Pramod Kumar Das, A.M.

The applicant challenging the inaction of the respondents in releasing his salary for the period from 01.04.2022 to 21.09.2022 has filed this OA praying for the following reliefs:

a) To direct the Respondent No. 2 and 4 to release the unpaid salary for the period from 01.04.2022 to 21.09.2022 amounting to 4,27,500/- along with permissible interest.

b) To allow any other relief as deemed fit and proper.

2. Heard both sides and perused the records.

3. The short fact of the case is that the applicant who had retired after attaining the age of superannuation from the post of Addl. Director, CGHS, Bhubaneswar was appointed on contractual basis for 179 days from vide letter dated 14.09.2020. Thereafter vide letter dated 21.12.2021 he was once again appointed for a period of 89 days. It is the case of the applicant that before the expiry of the period of 89 days as mentioned in Annexure A/2, Respondent No. 4 verbally ordered the applicant to continue to work as contractual doctor and went on issuing orders of posting and transfer vide Annexure A/5, A/6, A/7, A/8 and A/9. It is submitted that vide order dated 26.09.2022 (A/10) he was given offer of appointment for 89 days but there was no mention about his engagement for the period from 22.03.2022 to 21.09.2022. It is submitted that only the salary for the period from 22.03.2022 to 31.03.2022 i.e. for 10 days was released. It is submitted that the applicant submitted one representation vide Annexure A/11 for release of his salary for the period from 01.04.2022 to 21.09.2022 but Respondent No. 4 vide letter at Annexure A/12 intimated that his salary could not be released due to technical deficiency of formal appointment letter and that ex post facto approval has been sought from Respondent No. 2.

4. The respondents in their counter inter alia averred that the applicant was allowed to continue to discharge his duties for the period from

22.03.2022 to 21.09.2022 without any formal appointment letter issued from establishment section and technical approval followed by financial approval (IFD) of competent authority at the level of Directorate of CGHS is a pre-requisite to be done by the O/of Addl. Director CGHS Bhubaneswar.

5. The applicant has filed rejoinder reiterating the stand taken by him in the OA.

6. Admitted fact of the matter is that the applicant was allowed to work for the period from 22.03.2022 to 21.09.2022 without any formal appointment letter and the applicant had discharged his duties. It is also seen from Annexure A/5, A/6, A/7, A/8 and A/9 that the respondents had been issuing posting and transfer order of the applicant for the said period. It is also seen from letter dated 23.05.2023 (A/12) wherein post facto approval was sought the respondents have admitted that the applicant was in regular attendance and that salary was not released due to technical deficiency of formal appointment letter from the establishment.

7. It is an established principle that wages are earned right and not a charity. Payment of due wages is a fundamental right of a worker under Article 21 of the Constitution of India. The act of the respondents in availing the services of the applicant and then not paying him his salary is depriving him of his right to livelihood and is violative of Constitution of India. It was incumbent on the part of the respondents, not on the part of the applicant, to have issued formal appointment order or issued post fact approval for release of his salary. Almost two years have passed but his salary has not been paid. The applicant is a senior citizen and he had to approach this Tribunal for release of his salary for the work done by him.

This act of the respondents is nothing short of exploitation and harassing him. The facts remain that applicant was not paid salary even though he had worked for the said period with or without intention is immaterial and, admitted position of record is that the payment was not made and there was no disputed position of facts involved in the case.

8. In view of the above discussion, the applicant is entitled to the salary is not in dispute. Now the question arises for payment of interest as claimed by him. For this purpose, we would like to take the extract of the decision of the Hon'ble Apex Court in the case of **State of Andhra Pradesh & Ors. Smt. Dinavahi Lakshmi Kameswari**, Civil Appeal No. 399/2021, Arising out of SLP(C) No. 12553 of 2020, relied on by the applicant, which is as under:

“14 The direction for the payment of the deferred portions of the salaries and pensions is unexceptionable. Salaries are due to the employees of the State for services rendered. Salaries in other words constitute the rightful entitlement of the employees and are payable in accordance with law. Likewise, it is well settled that the payment of pension is for years of past service rendered by the pensioners to the State. Pensions are hence a matter of a rightful entitlement recognized by the applicable rules and regulations which govern the service of the employees of the State. The State Government has complied with the directions of this Court for the payment of the outstanding dues in two tranches. Insofar as the interest is concerned, we are of the view that the rate of 12% per annum which has been fixed by the High Court should be suitably scaled down. While learned counsel for the respondents submits that the award of interest was on account of the action of the Government which was contrary to law, we are of the view that the payment of interest cannot be used as a means to penalize the State Government. There can be no gainsaying the fact that the Government which has delayed the payment of salaries and pensions should be directed to pay interest at an appropriate rate.

15. We accordingly order and direct that in substitution of the interest rate of 12% per annum which has been awarded by the High Court, the Government of Andhra Pradesh shall pay simple interest computed at the rate of 6% per annum on account of deferred salaries and pensions within a period of thirty days from today. This direction shall, however in the facts and circumstances, be confined to categories 3, 4, 5 and 6 of GOMs No 26 dated 31 March 2020. We clarify that interest shall be paid to all pensioners of the State at the rate of 6% per annum on the deferred portion, for the period of delay. Having regard to the prevailing bank interest, the rate of 12% per annum which has been fixed by the High Court, would need to be and is accordingly reduced.”

9. Further, the Hon'ble High Court of Orissa in the case of **Sovakar Guru Vs. State of Odisha and Ors**, WPC (OA) No. 1553/2017 has held as under:

“15. The present case is a clear example of inexcusable departmental delay. Even if it is assumed that the representations made by the petitioner were actively catered to, this cannot be an excuse for lethargy of the department because rules/instructions provide for initiation of process much before retirement. The exercise which was to be completed much before retirement was in fact started long after petitioner's retirement. It is imperative that an interest @ 6% per annum is to be made bearing in mind the decision of the Hon'ble Supreme Court in the case of [State of Andhra Pradesh & Anr v. Smt. Dinavahi Lakshmi Kameswari](#).

16. Accordingly, insofar as the interest rate is concerned, this Court is of the view that the relief sought at the rate of 18% per annum be suitably scaled down. This Court, accordingly, directs the State to pay simple interest computed at the rate of 6% per annum on account of deferred salaries within a period of 30 days from today.

10. Accordingly, we direct the Respondents to pay the salary of the applicant for the period from 01.04.2022 to 21.09.2022 along with interest @ 8% per annum within a period of 30 days from date of receipt of copy of this order. Additionally for the inconvenience caused to the applicant a cost of Rs. 5,000/- shall be paid to the applicant within the said period.

9. The OA is allowed with above observations. No costs.

(PRAMOD KUMAR DAS)
MEMBER (A)

(SUDHI RANJAN MISHRA)
MEMBER (J)

(csk)