

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 191 of 2016**

**Date of order : 17.1.2020**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)**

Lingaraj Barik, aged about 56 years,  
S/o Late Baikuntha Barik, At-Plot No. 321, Sanitemple, Patrapara,  
N.H.-5, Bhubaneswar, Dt.-Khurda.

.....Applicant

VERSUS

1. Union of India represented through its Director General of Health Services, Nirman Bhawan, New Delhi-110103.
2. Addl. Director Central Govt. Health Scheme, Unit-IV, Bhubaneswar, Dt.-Khurda.
3. Pay & Accounts Officer, Central pension Accounting Office, Ministry of Finance, Govt. Of India, Trikot-II Bhikaji Kama Place, New Delhi.
4. Sr. Accounts Officer, Pay & Accounts Office, Ministry of Health & Family Welfare, 15/1 Chowringhe Square, Kolkata-700069.

.....Respondents

For the applicant : Mr.K.C.Kanungo, counsel

For the respondents: Mr.S.B.Mohanty, counsel

**O R D E R (ORAL)**

**Per Mr. Gokul Chandra Pati, Member (A)**

The applicant has filed this OA under the section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “(a) To direct the respondent No.2 to fix the pay of the applicant after giving due promotional benefits with increment as due and admissible under the rules from 2006 till 1.7.2009 and fix the pension accordingly and to quash the order dt, 15.2.2013 passed under Annexure A/10;
- (b) To pay all other such benefits like, bonus from 2007 to till 1.7.09 along with Regular pension.

And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

And for which act of your kindness the applicant as in duty bound shall every pray.”

2. The facts of the case are that the applicant retired from service on voluntary retirement w.e.f. 1.7.2009, but was not sanctioned the retirement benefits. He filed OA No. 338/2009 which was disposed of with a direction to sanction his retirement dues. The order was challenged unsuccessfully by the respondents before Hon'ble High Court. When the order was not complied, the applicant filed CP No. 79/2009. Thereafter, the respondents sanctioned provisional pension on 3.5.2011 as well as gratuity. Since the revision of 6<sup>th</sup> Pay Commission in pension was not sanctioned, the applicant filed again the OA No. 1085/2012 which was disposed of to consider the representation of the

applicant. In response, the respondents have passed the order rejecting the case on the ground that criminal and departmental proceedings are pending against the applicant. The OA is filed being aggrieved by the order dated 15.2.2013 (Annexure-A/10).

3. The applicant has also filed the MA No. 211/16 for condoning delay in filing the OA, which was considered alongwith the OA. It is stated that the respondents have passed the order denying benefit claimed by the applicant since a criminal case and departmental proceeding is pending against him. He was pursuing alternative remedy by representing to the authorities for which there was delay in filing the OA.

4. The Counter filed by the respondents stated that the applicant got the job by producing forged certificate in the year 1988. He applied for VRS which was accepted on 2.7.2009. It is further stated that letters from the concerned schools were received on 30.9.2008 and 16.6.2009 that the certificates produced by the applicant were not genuine. Disciplinary proceeding initiated against him has been finalized and the charges against him have been established and the matter has been referred to the DG CGHS for obtaining approval of Government as per the rules vide letter dated 26.2.2014 (Annexure-R/2) and the matter is pending at that stage.

5. Learned counsel for the applicant was heard. He submitted that in view of the position of the case as stated in the Counter, he is only pressing for the claim that the applicant's provisional pension be revised as per the recommendation of the 7<sup>th</sup> CPC and does not want to press other claims when the disciplinary proceeding against him was pending as stated in the Counter. It was further submitted by him that the applicant would pursue other claims after decision in the disciplinary proceedings.

6. Heard learned counsel for the respondents. He submitted that since the disciplinary proceeding against the applicant is pending, his claims cannot be considered at this stage. He submitted that the applicant entered government service on the basis of forged certificates and the charge against him has been established during inquiry and that after detection of his forgery, he could manage to take the VRS.

7. The applicant is admittedly is getting provisional pension and a disciplinary proceeding against him with serious charges of forgery of certificates based on which he was selected for government service was pending at the level of the Respondent No.1 as the letter at Annexure-R/2 of the Counter reveals. It is stated in the Counter that the letter from the school was received by the authorities on 30.9.2008 stating that the certificate was not genuine. It is known under what circumstances the applicant was allowed VRS when such a serious allegation was pending against him. Further, although the matter was referred to the Respondent No.1 on 26.2.2014 (Annexure-R/2 of the Counter),

no action on it appears to have been taken in the matter for reasons not explained in the Counter. **It appears from the facts of the case that there may be attempt to delay the matter without any apparent reason, which needs to be examined and expeditious action as per law is taken by the Respondent No.1.**

8. In view of the circumstances as discussed above and taking into account the submissions of the applicant counsel that he does not want to press other claims except for revision of the provisional pension of the applicant which is recurring cause of action for which the delay in filing the OA to press for such claim will not be an issue, I remit the matter to the Respondent No.1/competent authority to consider revision of the provisional pension payable to the applicant on the basis of the recommendations of 7<sup>th</sup> Pay Commission as per the rules applicable and pass a speaking order under intimation to the applicant within a period of two months from the date of receipt of a copy of this order. It is clarified that while passing the order no opinion has been expressed on other reliefs claimed in the OA alongwith the issue of delay in raising those reliefs. There will be no order as to costs.

9. Registry is to send a copy to the Respondent No.1 for taking necessary action for compliance of the directions/observations in paragraph 7 and 8 above. Copy of this order is to also be handed over to learned counsels for both the parties.

(GOKUL CHANDRA PATI)  
MEMBER (A)