

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 370 of 2018

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

Biswanath Pattanaik, aged 80 years, S/o Late Banchhanidhi Pattanaik, SA-12, Shakti nagar, Rourkela-769014.

.....Applicant

VERSUS

Chief Executive Officer, SAIL, Rourkela Steel Plant, Rourkela – 769011.

.....Respondents.

For the applicant : In person

For the respondents : Mr.T.K.Pattnaik, counsel

Heard and reserved on: 28.2.2020 Order on : 06.03.2020

O R D E R

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) Payment of balance amount of Rs.5,701/- along with simple compound interest (Ref. Annexure-5) @ 10.5% for 22 years i.e. till end of 2017, which comes to Rs.1,55,519.25. And
- (b) Payment of cost of Rs.15,000/- which the applicant has already spent more than this during the period of 1996 to 2018 towards Advocate fees, Travelling cost from Rourkela to Cuttack number of times to pursue and present, computerized typing, Xerox, stationary, postage, case fees etc. And

Any other benefit to the applicant for the sake of natural justice as deemed fit to the affected applicant.”

2. The facts of the case are that the applicant retired from service under the respondent Steel Authority Of India (in short SAIL) on 31.03.1996 and he claims that Rs. 5701/- out of his retirement benefits was not released by the authorities. The applicant had approached Hon'ble High Court in OJC No. 12423/1996 claiming special pay and the said writ petition was disposed of vide order dated 17.4.2006 (Annexure-A/1) directing the respondents to consider the representation of the applicant in this regard. In compliance, it is averred in the OA that the respondents released Rs. 15000/- against the claim of Rs. 20,701/- for the dues and total claim of Rs. 71541/- including interest and cost of litigation as stated in his representation at Annexure-A/2.

3. The applicant again filed the W.P. (C) No. 5118/2006 which was transferred to the Tribunal as TA No. 17/2012 which was disposed of vide order dated 25.2.2016 (Annexure-A/4) directing the respondents to release Rs.

5701/- towards the dues of the applicant which was agreed by the respondents' counsel. Regarding the claim of interest, it was stated in the said order that it "gives rise to a fresh cause of action." The applicant filed a Review Application which was dismissed vide order dated 2.2.2018 (Annexure-A/7) with observation that it is a separate cause of action. Hence, the applicant has filed this OA.

4. It is stated by the applicant that he is about 80 years old and had served for about 37 years under SAIL and he has been demanding payment of interest before Hon'ble High Court as well the Tribunal.

5. Counter filed by the respondents stating as under:-

"That again the applicant filed the present original application before the Hon'ble Tribunal with the same prayer made in T.A.No. 17/2012. For self same issue the applicant has filed the aforesaid original application for the third time is not maintainable and liable to be dismissed.

This deponent further humbly submits that the interest claimed by the applicant in the present original application was also the applicant's prayer before the Hon'ble High Court of Orissa and before this Hon'ble Tribunal in TA No. 17/2012 and therefore the same having been already adjudicated by this Hon'ble Tribunal, it cannot be reagitated in the present application in as much as a petition with self same prayer is not maintainable and hit under the principle of res judicata."

6. Rejoinder filed by the applicant stated that he accepted Rs. 15000/- allowed by the MD towards the final settlement of his dues under protest. The applicant has cited the judgment of Hon'ble Apex Court in the Civil Appeal No. 7113 of 2014 in the case of D.D. Tewari vs. Uttar Haryana Bijuli Bitaran Nigam Ltd. and in the case of State of Kerala vs. M. Padmanavan Nair and the judgment of Hon'ble High Court of Orissa in the case of Nabaghana Rout and others vs. Orissa Lift Irrigation Corporation Ltd. and others in support of his claim for interest on delayed payment.

7. I have heard the applicant who was present in person and the counsel for the respondents and perused the pleadings and documents furnished by both the parties. The applicant had retired from service on 31.5.1996 and thereafter filed the OJC No. 12423/1996 claiming the arrear amount from the respondents. Hon'ble High Court disposed of the said OJC vide order dated 17.4.2006 (Annexure-A/1) with direction to the respondents to dispose of the applicant's representation and to the applicant to appear on 19.5.2006 before the OP No. 1, who was directed to take a decision in the matter after giving the opportunity of personal hearing to the applicant and the aforesaid order was passed without expressing any opinion on the claim of the applicant. In compliance, the respondent No.1 passed the order dated 8.6.2006 (Annexure-A/2 series) by stating as under:-

"Perused the relevant file. It appears the appeal dtd. 30th December, 1995 of Shri Patnaik was not given weightage due to disposal of his grievance by the Grievance Committee as per procedure and the disposal of his grievance was communicated to him. Being aggrieved in the manner of the disposal of his grievance, Shri Patnaik has recanvassed his contention and had filed the writ petition. Shri Patnaik was promoted to a substantive post in the Town Engineering Department in E.3 grade and normally he is to be covered under the norms of the said Department so far as incentives are concerned. However, late communication in this regard has created the confusion and his grievance persists till date. In the meantime, Shri Patnaik has already retired from service.

Under the aforesaid circumstances, keeping in view the ambiguity in communication and for a rational settlement of his grievance and without disturbing in any manner the policy prevalent, the matter can be disposed of in the following manner but not to be cited as a precedent.

Shri Patnaik may be paid a sum of Rs.15,000/- as full and final settlement of his claim arising out of his appeal dtd. 30.12.1995. This shall not be cited as a precedent. Accordingly, the appeal dated 30.12.1995 and all his subsequent appeals/representations on the same subject stand disposed of. Shri Patnaik may be communicated accordingly."

8. The amount of Rs. 15000/- was received by the applicant under protest as stated in this OA and he also submitted a representation dated 19.7.2006 (Annexure-A/2 series) raising the basis on which the amount of Rs. 15000/- was decided by respondent No. 1 and when no decision was taken on it, he filed the W.P. (C) No. 5118/2009 (Annexure-A/3), claiming Rs. 20,620/- as special pay which was denied to him with interest and cost. It is noticed that the order dated 8.6.2006 (A/2 series) by which the respondent No.1 had decided his claim finally as Rs. 15000/- was not impugned by the applicant in the W.P. (C) No. 5118/2009 before Hon'ble High Court. The said writ petition was transferred to the Tribunal and registered as TA No. 17/12, which was disposed of by the Tribunal vide order dated 25.2.2006 (Annexure-A/4), which was as under:-

"Heard Mr.B.Patnaik, applicant appearing in person and Mr.T.K.Patnaik, assisting counsel to Mr.J.Patnaik, learned senior counsel for SAIL. Mr.Patnaik has filed written notes of submission by stating tat out of total claim of Rs.20,701/- towards incentives, applicant has already been paid Rs.15,000/- and the rest of the amount of Rs.5701/- would be paid to the applicant within a period of one month. On the other hand, Mr.B.Patnaik, applicant appearing in person submitted that interest accrued on the total amount is due to him and therefore, a direction may be issued to SAIL authorities to make payment of interest. This, in our considered view, gives rise to a fresh cause of action. However, on the understanding that amount of Rs.5701/- will be paid to the Mr.B.Patnaik, applicant within a period of one month, there is no need to proceed with this T.A. any further."

9. From above, it is clear that the claim of interest is to be considered with reference to the order dated 8.6.2006 (Annexure-A/2 series of the OA), which was not been disputed by the applicant by challenging the said order in subsequent TA or OAs filed by him. As discussed earlier, the respondent No. 1 has decided the claim of the applicant to be Rs. 15000/- as "full and final settlement of his claim arising out of his appeal dtd. 30.12.1995." The fact that the applicant raised the claim of Rs. 20,620/- and the differential claim was

ordered to be paid by the Tribunal vide order dated 25.2.2016 (Annexure-A/4), which has also been accepted by the applicant after his Review Application was dismissed. The applicant did not challenge the order dated 25.2.2016 in accordance with the provisions of law.

10. In the facts and circumstances as discussed above, I am of the considered view that the applicant's claim from the respondents attained finality with the order dated 8.6.2006 (A/2) of the respondent No. 1 and the order dated 25.2.2016 (A/4) of the Tribunal, which were accepted by the applicant without any challenge in accordance with the provisions of law. Further, there is nothing on record to show that there was delay in release of the claim amount by the respondents after the amount payable to the applicant towards his claim was finalized as per the above orders.

11. The applicant has cited the judgment of Hon'ble Apex Court in the case of D.D.Tewari (D) Thr. Lrs. -vs- Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. [AIR 2014 SC 2861] in support of his claim for interest. In that case the issue was release of delayed payment of pension and gratuity amount for which there is provision under the appropriate rules for payment of interest in case of delayed payment. In this case the claim amount of applicant does not relate to any pensionary benefits. Hence the cited judgment in case of D.D. Tewari (supra) is factually distinguishable. The other case cited by the applicant is the judgment of Hon'ble High Court in the case of Nabaghan Rout (supra). In this case, the issue was delay in release of the retirement dues of the petitioners which were withheld by the authorities and hence, it is factually distinguishable. The applicant has also cited the Orissa Electricity Regulatory Commissions Regulations, 2004 which pertains to the payment of interest to be paid on the excess amount charged to a licensee in respect of the bill which will not be helpful for the applicant's case.

12. Further, no rule or policy of the respondents has been furnished by the applicant which permit payment of interest in respect of this claim. As discussed in paragraph 10 of this order, there is nothing on record to show that the respondents have delayed in releasing the amount towards the applicant's claim after the same was finalized by the order dated 8.6.2006 of the respondent No.1 (Annexure A/2 series of the OA) and the order dated 25.2.2016 of the Tribunal (Annexure A/4 of the OA), which have attained finality. Hence, the applicant's claim of interest from the year 1996 is not legally sustainable. As a result, the OA being devoid of merit, is liable to be dismissed. Accordingly it is dismissed with no order as to costs.

(GOKUL CHANDRA PATI)
MEMBER (A)

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