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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

OA No. 566 of 2006
Cuttack, this the 31st day of October, 2008

Swarneswar Gochhi Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.566 of 2006
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C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Swapneswar Gochhi, aged about 56 years, S/o. Late
Bhramarbar Gochhi, At-S-97, Maitribihar, PS-
Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.

.....Applicant

Legal practitioner : M/s. Sharat Kumar Das & Sidhartha
Swain, Counsel.

- Versus -

1. State of Orissa represented through the Commissioner-cum-Secretary, Forest and Environment Department, Bhubaneswar, Dist. Khurda.
2. Principal Chief Conservator of Forests Orissa, At/Po.Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Accountant General, Orissa, Bhubaneswar, Dist. Khurda.

....Respondents

Legal Practitioner :Mr.A.K.Bose, GA (for R-1&2)
Mr.U.B.Mohapatra, SSC(for R-3)

O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

Applicant is an Orissa cadre IFS Officer. He took voluntary retirement with effect from 30.09.2005 (AN). His grievance is that although he retired voluntarily w.e.f. 30.09.2005, in spite of several requests, he has not been paid his dues which he is



entitled under Rules. Hence, by filing this Original Application U/s.19 of the A.T. Act, 19085 he has sought the following relief(s):

- “(i) To direct the Respondents to regularize and update the Service book of the Applicant;
- (ii) To direct the Respondents to sanction the leave dues as reflected in Memo No. 1918 dated 27.10.2005, Annexure-2 of the Conservator of Forests, Sambalpur Circle;
- (iii) To direct the Respondents to finalize and pay the entire dues payable to the Applicant towards his GPS Account No. 11257 F(O);
- (iv) To direct the Respondents to allow the applicant to draw revised scale of pay from the year 1996 with annual increments due to him;
- (v) To direct the Respondents to sanction and pay the applicant his pension;
- (vi) Besides the above, the Respondents may be directed to pay interest to the applicant @ 9% per annum on payment as indicated above;
- (vii) And pass such other orders as may be deemed fit and proper in the facts and circumstances of the case.”

2. On behalf of Accountant General (A&E), Orissa, Bhubaneswar (Respondent No.3) by placing on record a counter, it has been stated that the Respondent No.3 is concerned in regard to the release of Pension/Pensionary benefits and GPF of the Applicant. As no pension papers in respect of Applicant have been received by the Office of Respondent No.3 in spite of the letter under Annexure-R-3/2 the same has not been authorized in his favour and as soon as the necessary pension papers are received, the same would be processed and the pensionary benefits would be released in favour of the Applicant. As regards, payment of the GPF amount it has been stated that on receipt of the applicant's final payment application from the concerned DDO, the due and admissible amount of



Rs.09,18,718/- have been sanctioned in favour of the Applicant vide order under Annexure-R-3/1 dated 09.02.2007. No reply has been furnished in the counter filed by the Respondent No.3, regarding the other prayers of Applicant being not concerned.

3. Respondents 1 and 2 by filing consolidated separate counter have objected to the prayer of the Applicant.

4. Heard Learned Counsel for both sides and perused the materials placed on record.

5. Learned Counsel for the Applicant taking us through various materials placed on record in support of the contentions raised in his pleadings, has argued that for no fault of the Applicant although he took voluntary retirement w.e.f. 30.09.2005 he was not paid any of his retiral dues which he is entitled to; within the stipulated period provided in the Rules/various instructions issued by the Government in regard to timely payment of such dues; in spite of the fact that there has been no disciplinary or criminal case pending against him. He has, therefore, prayed that since there has been abnormal delay in settlement and payment of retiral dues to the Applicant, he is entitled to get all his dues including interest forthwith.

On the other hand, it has been submitted by Learned Counsel for the Respondents that there has been no intentional or deliberate delay in sanctioning the dues of the Applicant. The delay if any caused due to either non-receipt of full information from appropriate authority or non-regularization of Service Book of

Applicant for which the Applicant is also responsible. Relying on the contentions raised in the counter, it has been clarified by him that payment of revised pay and annual increment to the Applicant is under process. But so far as payment of AISPF the same has been sanctioned and sent to AG (A&E), Orissa vide letter dated 034.12.2006 for sanction and disbursement of the amount. It has been stated that as the applicant did not submit the pension papers by giving correct position, there was delay in sanction of the pension. However, on receipt of proposal for sanction of provisional pension in favour of the Applicant from PCCF, Orissa under Annexure-R/2 dated 11.12.2006 provisional pension has already been sanctioned in favour of the Applicant. It has further been stated that the Applicant is responsible for the delay in regularization of the Service Book of Applicant. Moreover, action is being taken in the field level for regularization of Service Book of Applicant and in this connection PCCF, Orissa has been requested to take prompt action regarding early disbursement of terminal benefits of the Applicant. Accordingly, he has prayed for dismissal of this OA.

6. We have given our anxious thoughts to various submissions of the parties. Before proceeding further on the merit of the matter, we may record that the philosophy adopted in various decisions, by the Hon'ble Supreme Court that pension payable to employees of the government is not a charity or bounty dependent on the sweet will of the employer, as was thought during the British days, but is a deferred portion of compensation for past service of the

employee. It has been held by the Hon'ble Apex Court that pension and pensionary benefits which was/were thus accrued is/are a valuable right in the hands of a pensioner and not a matter of bounty. If it is wrongfully withheld or delayed, owing to the culpable negligence of employer, otherwise than in accordance with rules, the pensioner is entitled to interest for such negligence and, in this connection it would suffice to quote the decision of the Hon'ble Apex Court rendered in the case of **State of Kerala v Padmanabhan**, AIR 1985 SC 356.

7. Now coming to the merit of the matter, it is recorded that indisputably, the Applicant took voluntary retirement w.e.f.30.09.2005. Admittedly, there has been no disciplinary or criminal case pending against him till his retirement. Therefore, in ordinary circumstances, he should have been paid his retirement dues soon after his retirement or say within a reasonable period of time i.e. three months; especially because his retirement was other than attaining the age of retirement prescribed under the Rules. It is further recorded that after retirement, the income of a Government Servant suddenly comes to zero which not only causes financial hardship to meet his day to day requirement but also puts his entire dependent family members into enormous financial hardship. Once a person enters to service, one day or other he/she has to face the consequence of retirement and then only he/she realizes the difficulties caused due to non-receipt of his dues timely. Hence, the delay in sanction of the dues in the present case certainly cannot be countenanced to be genuine nor the reason canvassed by the

Respondents for delayed sanction of the dues is in any way attributable to the Applicant. Similarly keeping service record up-to-date primarily is the duty of the authority and, therefore, denying the benefits to the Applicant even for sanction of provisional pension soon after his retirement cannot absolve the Respondents from the liability of paying interest.

8. Viewed the matter from any angle, we find no justifiable ground to approve the delayed action in the sanction of the statutory dues of the Applicant. Therefore, it is but necessary to direct the Respondents to release his dues, along with interest, as per Rules, within a period of ⁶⁰~~45~~ days from the date of receipt of copy of this order. Ordered accordingly.

9. With the observations and directions made above, this OA stands allowed. There shall be no order as to costs.

Kappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

Chatt
(C.R. MOHAPATRA)
MEMBER (ADMN.)

KNM/PS.