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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

OA No.703 of 2013

Cuttack, this the 18th day of December, 2013

CORAM:

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDICIAL)

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Akshaya Kumar Bhoi, aged about 63 years, S/o. Late Puran Bhoi, Ex-UDC, Addl. Commissioner of Income Tax, Rouirkela Range, Rourkela at present Village-Renja, Po/Via-Brajaraj Nagar, Dist. Jharsuguda, PIN-768216.

.....Applicant

(Legal Practitioner — M/s.Suvashish Pattanaik, M.K.Balabantray, A Barik, M.Mohanty)

Versus

Union of India represented through-

1. The Secretary, Ministry of Finance, Central Secretariat, New Delhi.
2. Commissioner of Income Tax, Aayakar Bhawan, Ainthapalli, Sambalpur.
3. Addl. Commissioner of Income Tax, Rouirkela Range, Udit Nagar, Rourkela.
4. Asst. Commissioner, Income Tax (Head quarters), Office of the CIT, Sambalpur.
5. Joint Commissioner, Income Tax, Rourkela Range, Rourkela.

.....Respondents

(Legal practitioner — Mr.G.Singh)

O R D E R

(Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

The instant OA has been filed by the applicant alleging that despite no disciplinary/criminal/vigilance case pending against him though he has retired on reaching the age of superannuation from service on 28.2.2010 while working as Upper Division Clerk in the Income Tax Department he has not been paid his arrear salary from December, 2009 to



February, 2010 and his retirement dues. Further grievance of the applicant is that he has been representing one after the other expecting settlement of his dues but all his efforts when proved in vain he has filed this OA. In this OA the prayer of the applicant is to direct the Respondents to release his arrear salary from December, 2009 to February, 2010 and all other retirement benefits within a short period.

2. Copy of this OA has been served on Mr.G.Singh, Learned Additional CGSC for the Union of India who is present in Court. Heard Mr. A.Barik, Learned Counsel for the Applicant and Mr. G.Singh, Learned Additional CGSC appearing for the Respondents. On being asked he has fairly submitted that he has no immediate instruction as to why his salary from December, 2009 ~~to~~ ^{10/12} February, 2010 and retirement dues have not been released till date though the applicant retired ~~on~~ ^{10/12} 28.02.2010. He has also submitted that he has no instruction about the action taken by the Respondent No.5 after receipt of the letter dated 19th June, 2013 of the Respondent No.4.

3. The philosophy adopted by the Hon'ble Supreme Court in the case of **Nakara v. Union of India and others**, AIR 1983 SC 130 and in the case of **Deokinandan v. State of Bihar**, AIR 1983 SC 1134 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

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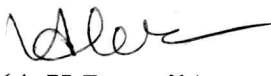
employee. This above view has again been reiterated in the case of **A.I.R.B.R.O.A. vrs. Union of India**, AIR 1992 SC 767 (para-5). It has also been held by the Hon'ble Apex Court in the case of **State of Kerala V. Padmanabhan**, AIR 1985 SC 356 that arrears of pension which was thus accrued in favour of a retired employee is a valuable right and property in the hands of a pensioner and not a matter of bounty. If it is wrongfully withheld or delayed other than in accordance with rules, the Government would be liable to pay penal interest for such negligence. Taking into consideration the various decisions of the Hon'ble Apex Court, Government of India have also issued various instructions for timely payment of the retirement dues to an employee.

4. Despite the above, I do not find as to why such delay is caused in releasing the retirement dues and arrear salary in favour of the applicant when he retired from service w.e.f. 28.2.2010. In view of the above, without expressing any opinion on the merit of the matter this OA is disposed of at this admission stage with direction to the Respondents especially Respondent No.5 to take immediate action on the letter dated 19th June, 2013 to finalize the payment of the arrear salary and retirement dues of the applicant and intimate the result thereof to the applicant within a period of thirty days from the date of receipt of copy of this order and, thereafter, within a period of sixty days to clear up all the dues, to the extent he is entitled to under the rules. No costs.



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5. As prayed for by Mr.Barik, copy of this order be sent to Respondent Nos.4&5 by speed post for compliance at the cost of the Applicant for which Mr.Barik undertakes to furnish the postal requisite within two days hence.


(A.K.Patnaik)
Member (Judicial)

