

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
Original Application No.180/00976/2016**

Wednesday, this the 5th day of September, 2018

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

Saju M.Joseph, S/o.the late M.K.Joseph
aged 58 years, Chief General Manager (Retired)
Hindustan Organic Chemicals Ltd.,
Kochi Unit, Ambalamugal
residing at Mattamana, Thottungal Lane
Petta, Poonithura P.O, Kochi – 682 038

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Applicant

(By Advocate – Mr.O.V.Radhakrishnan,Sr., Mrs.K.Radhamani Amma & Mr.Antony Mukkath)

V e r s u s

1. Hindustan Organic Chemicals Ltd.
Represented by its Chairman and Managing Director
PO Rasayani, Tal, Panvel,
Raigad District, Maharashtra -410 207
2. Unit-in-Charge
Hindustan Organic Chemicals Ltd.,
Kochi Unit, Ambalamugal, Ernakulam District – 682 302
3. General Manager (Personnel and Administration)
Hindustan Organic Chemicals Ltd
Kochi Unit, Ambalamugal, Ernakulam District-682 302
4. Union of India represented by its Secretary
Ministry of Finance,
New Delhi – 110 001

5. Secretary
Ministry of Chemicals and Fertilizers
Department of Chemicals and Petrochemicals
Sasthri Nagar, New Delhi – 110 001

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Respondents

(By Advocate – Mr.V.Krishna Menon for R 1-3 and Mr.N.Anilkumar, Sr.PCGC(R) for R4&5)

This Original Application having been heard on 5.9.2018, the Tribunal on the same day delivered the following:

ORDER (ORAL)

Per: Ashish Kalia, Judicial Member -

The relief sought by the applicant are as under:

“ i. To call for the records leading to Annexure A-23 and to set aside the same to the extent it denies Rs.43,49,294/- towards balance arrears of salary from 01.03.2005 to 31.01.2016 and Rs.16,70,649/- towards earned leave and half pay leave encashment;

ii. To direct the respondents to disburse the applicant the full arrears of salary for the period from 01.03.2005 to 31.01.2016 to the tune of Rs.1,12,49,937/- Gratuity to the tune of Rs.10 lakhs and Rs.1,49,421/- towards medical reimbursement and Rs.12,32,069/-towards the Employer's contribution as admitted in Annexure A-17 and Rs.28,42,108/- towards the value of 513 days Earned Leave and 270 days Half Pay Leave Surrender with penal interest reckoning from the respective dates of entitlement till the date of actual payment expeditiously and at any rate, within a time-frame that may be fixed by this Tribunal;

iii. To direct the respondents to regularise the period of suspension from 01.03.2005 to 14.12.2015 as duty for all purposes in accordance with Fundamental Rules 54-B(3) and (4) forthwith;

iv. To grant such other reliefs which this Tribunal may deem fit, proper and just in the circumstances of the case;

and

v. To allow the above Original Application with costs to the applicant.”

2. Learned counsel for the applicant has drawn this Tribunal's attention to Annexure A-23 wherein the respondents have admitted the amounts of arrears of salary by the respondents. Learned counsel appearing for the respondents submits that due to non-availability of funds the payments could not be made in time though they are duty bound to make the payments to the applicant herein. On being asked the source of fund for the payment, the learned counsel for the applicant has submitted that a certain portion of land (191 acres of land) is being sold by the respondents in order to make the payments to the applicant. This process will take approximately two months time. Thereafter they will make the payment to the applicant herein.

3. During the course of argument, the learned counsel has drawn my attention to page no.9, paragraphs xvii and xviii of the Original Application and submitted that payment of arrears is not calculated correctly. Learned counsel for the respondents submits that during this period the applicant was gainfully employed and thus they have deducted the payment from his arrears of salary etc. Learned counsel for the applicant is not satisfied and insisted for payment of the said amount also.

4. Mr.N.Anilkumar,Sr.PCGC(R), learned counsel for respondent nos.4&5 submitted that respondent nos.4&5 have nothing to do with the disbursement of the payments of the applicant as it is under the domain of Respondent no.1 to 3 only.

5. This Tribunal is of the view that full arrears of salary for the period from 1.3.2005 to 31.1.2016 is required to be paid to the applicant. Accepting the plea of the respondents that they will make the payment within a short period, this Tribunal directs the respondents to release the admitted amount of payment of salary etc within a period of 3 months from the date of receipt of a copy of this order and for other payments i.e, as per paragraph 5(xvii) of the O.A, which is disputed by the respondents as necessary formalities required to be fulfilled in this regard, a detailed representation be made by fulfilling the requirement of the department giving necessary certificates etc. The representation so made shall be decided within a period of 60 days.

6. With this direction the present Original Application is disposed of. In the case of any grievance subsists, the applicant is at liberty to approach this Tribunal again. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

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List of Annexures

Annexure A-1 - Photocopy of the Suspension Order No.CMD:PNL:2005:755 dated 1.3.2005 of the 1st respondent

Annexure A-2 - Photocopy of the letter No.CMD/PNL dated 01.01.2008 of the 1st respondent

Annexure A-3 - Photocopy of the letter dated 22.7.2012 of the applicant to the Executive Director, HOCL

Annexure A-4 - Photocopy of the Inquiry Report along with reply No.HOC/RTI/41/2015/149 dated 19.10.2015 furnished under the Right to Information Act.

Annexure A-5 - Photocopy of the Order dated 3.12.2015 in O.A No.814 of 2015 of this Tribunal

Annexure A-6 - Photocopy of the letter No.P&A/2015/719 dated 11.12.2015 of the 3rd respondent

Annexure A-7 - Photocopy of the Office Order No.PP PART II ORDER No.281/2015/194 dated 17.12.2015 of the 3rd respondent

Annexure A-8 - Photocopy of the Order No.HOC/PNL/CMD/DA/2016/ dated 8.1.2016 of the 1st respondent

Annexure A-9 - Photocopy of the Order PP PART II ORDER No.6/2016/04 dated 20.1.2016 of the 3rd respondent

Annexure A-10 - Photocopy of the relieving Order PP PART II ORDER No.15/2016/11 dated 01-02-2016 of the 3rd respondent

Annexure A-11 - Photocopy of the Service Certificate No.P&A/PF-11100354/11 dated 01.02.2016 of the 3rd respondent

Annexure A-12 - Photocopy of the submission dated 21.12.2015 of the applicant to the 3rd respondent

Annexure A-13 - Photocopy of the application dated 21.12.2015 of the applicant to the 3rd respondent.

Annexure A-14 - Photocopy of the request dated 21.12.2015 of the applicant to the 3rd respondent

Annexure A-15 - Photocopy of the representation dated 15.01.2016 of the applicant to the 3rd respondent

Annexure A-16 - Photocopy of the application dated 24.3.2016 of the

applicant to the Public Information Officer, HOCL, Ambalamughal, Kochi

Annexure A-17 - Photocopy of the reply No.P&A/RTI/2016/251 dated 18.4.2016 alongwith the attachments

Annexure A-18 - Photocopy of the representation dated 4.3.2016 of the applicant to the 2nd respondent

Annexure A-19 - Photocopy of the reminder dated 23.3.2016 of the applicant to the 2nd respondent

Annexure A-20 - Photocopy of the representation dated 7.5.2016 of the applicant to the 1st respondent

Annexure A-21 - Photocopy of the Order dated 21.6.2016 in O.A No.501 of 2016 of this Tribunal

Annexure A-22 - Photocopy of the Order dated 8.9.2016 in M.A No.1027/2016 in O.A /180/501/2016 of this Tribunal

Annexure A-23 - Photocopy of the letter No.CMD/KOCHI/29/531 dated 30.8.2016 of the 3rd respondent

Annexure A-24 - Photocopy of the objection dated 5.9.2016 of the applicant to the 3rd respondent

Annexure A-25 - Photocopy of the statement showing the amounts due to the applicant

Annexure A-26 - Photocopy of the application dated 18.11.2016 alongwith the reply No.P&A/RTI/2016/114 dated 17.12.2016 of the Public Information Officer

Annexure A-27 - Photocopy of the relevant pages of the Personal Manual (Green Book) volume III Leave Rules

Annexure A-28 - Photocopy of the extract print out of the Supplementary Demands for Grants for Expenditure of the Central Government 2017-18 taken from the official web-site of Department of Expenditure

Annexure R1(a) - Copy of a tabulated statement -the details of the utilization of the amount received as per Annexure A-28

Annexure R1(b) - True copy of the list of employees who left the company prior to the retirement of the applicant
