
(2019) 01 JH CK 0113
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1172 Of 2016

Chandramoli Pandey

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

General Financial Rules, 2005 — Rule 209(6)(viii)

Citation : (2019) 01 JH CK 0113

Hon'ble Judges : Dr. S.N.Pathak, J

Bench : Single Bench

Advocate : Suresh Kumar, Rahul Kamlesh, Nitu Sinha

Final Decision : Disposed Of

Judgement

1. Heard the parties.

2. The petitioner has approached this Court with a prayer for a direction upon the respondents for payment of honorarium from April, 2007 till date, as per the notification No. F-15-10/2004-DD-IV dated 12.07.2010 of the Ministry of Social Justice and Empowerment, which stipulates for the enhanced honorarium to District Disability Rehabilitation Centre (for short "DDRC") from 6000/- to Rs.8200/- w.e.f. 01.04.2010. Further prayer has been made for disposing of the representation of the petitioner pending before the Director, Social Welfare, Govt. of Jharkhand, Ranchi.

3. The factual matrix, as envisaged in the writ petition is that DDRC, Hazaribagh was set-up in the year 2001-02 under GPY Scheme and the implementing agency for this DDRC was Artificial Limbs Manufacturing Corporation of India (ALIMCO). As per the Scheme, the implementing agency is to set-up the DDRC and subsequently, the same are to be handed over to the respective State Govt. as a part of "National Programme for Rehabilitation of Persons with Disability" (for short "NPRPD") Scheme of Govt. of India. Later, the scheme was modified with provision of initial funding to the DDRC through SI PDA and thereafter, the

DDRCs are to be funded through Deendayal Disabled Rehabilitation Scheme. It is the case of the petitioner that he was appointed as Prosthetist and Orthotist (O.H.) in DDRC, Hazaribagh, after being successful in the interview held on 26.07.2001 and subsequently, letter of appointment was issued in favour of the petitioner on 27.09.2001, on contractual basis and since then, he has been discharging his duties with utmost satisfaction of the respondent-authorities. It is the case of the petitioner that after set-up of the DDRC, Hazaribagh, the Implementing Agency of the DDRC, namely Artificial Limbs Manufacturing Corporation of India (ALIMCO) requested the Nodal Officer to Constitute the District Management Team to be constituted by the District Collector as envisaged under the GPY scheme for smooth functioning of the DDRCs. Accordingly, the District Management Team has been constituted headed by Deputy Commissioner, Hazaribagh vide letter dated 21.01.2002. The petitioner was being regularly paid his honorarium along with other professionals and staff of the DDRC through the implementing agency, ALIMCO till 31.03.2007.

The Ministry of Social Justice and Empowerment has the responsibility to see the effective functioning of the DDRCs which are set-up by the Ministry but now, nobody has taken care about the plights of the professionals and staff who were working in these DDRCs for last eight years without any remuneration even though time and again they have brought these facts to the notice of Govt. of India as well as the State Authorities. However, after representing before the respondent-authorities on several occasions when no heed was paid, the petitioner has knocked the door of this Hon'ble Court.

4. Mr. Suresh Kumar, learned counsel appearing for the petitioner submits that during the last fourteen years of its existence, DDRC, Hazaribagh has contributed significantly for the welfare of the differently abled persons of the Districts and its surroundings districts. During this period a number of needy people have been fitted with artificial limbs or other prosthetic devices and the petitioner being the Rehabilitation Professional from that Department, has done all these works through financial assistance under ADIP Scheme and other sources. However, the petitioner has not been paid honorarium from 2007 onwards and it was duty of the respondent-State to ask for allotment of the funds from the Central Govt. after recommendation in proper proforma but the same was not done and as such, till date no allotment has been made by the respondent-Union of India and the petitioner did not receive any amount under the head of remuneration. It has been further argued that due to lethargic and lackadaisical approach of the respondents, petitioner has been denied his rightful claim of remuneration and as such, a direction be given to the respondent-authorities to pay the remuneration, which is due from 2007-08 onwards.

5. Per contra, counter-affidavit has been filed. Mr. Rahul Kamlesh, learned counsel appearing for the respondent-State, draws the attention of the Court towards para-6 and 7 of the counter-affidavit dated 22.11.2018 and submits that petitioner has been working in the aforesaid Centre since 2006 and accordingly,

the Deputy Commissioner, Hazaribagh has paid the remuneration to the petitioner regularly in the capacity of Chairman of DDRC as per availability of the funds provided by the Department of Women, Child Development & Social Security, Govt. of Jharkhand, Ranchi. It has been further argued that petitioner has been paid his remuneration till the financial year 2007-08 and thereafter, the aforesaid Department had directed to refund the balance amount vide memo No. 418 dated 07.03.2009 and memo No. 1820 dated 17.11.2009. Accordingly, the respondent-authorities refunded the balance amount of Rs.9,54,642 and Rs.9,471 through demand draft vide memo dated 24.04.2009 and 08.03.2010 respectively. It has been further argued that respondent authorities vide memo dated 30.05.2016 had submitted a proposal to the Department regarding allotment along with the list of the persons working under the DDRC, Hazaribagh, in compliance of letter dated 18.05.2016. It has also been argued that petitioner had not worked as per agreement agreed by him since the inception of the DDRC and even he has not produced any attendance or working activities of the DDRC. Therefore, a Three Member Committee was constituted vide memo No. 4988 dated 12.11.2018 for conducting an enquiry regarding working of the petitioner and activities done by him for which claim has been raised by the petitioner. It has been further argued that respondent-authorities had demanded allotment from the Department vide memo No. 5026 dated 15.11.2018.

6. Mrs. Nitu Sinha, learned counsel appearing for the respondent-Union of India submits that Govt. of Jharkhand had recommended for release of Rs.26,84,000/- to DDRC, Hazaribagh as grant-in-aid for the period from 2007-08 to 2013-14 vide letter No. 493 dated 28.02.2014. The said proposal was processed in consultation with the Finance Division of the Department. As per Rule 209 (6) (viii) of General Financial Rules, 2005 (presently amended as General Financial Rules, 2017) "grant-in-aid may be sanctioned to meet the bonafide expenditure incurred not earlier than two years prior to the date of issuance of the sanction." That was the reason the grant-in-aid for the period from 2007-08 to 2011-12 could not be considered. Further, grant-in-aid for 2012-13 and 2013-14 were considered on reimbursement basis that is as per actual expenditure, as the financial year had lapsed. But since the DDRC had not incurred any expenditure as per the Receipt and Payment Account of 2012-13 and 2013-14 and hence, that could not be approved. The petitioner was informed about the decision vide letter dated 13.08.2015. No further proposal for grant-in-aid has since been received.

7. Be that as it may, having gone through the rival submissions of the parties and from perusal of the counter-affidavits and the averments made therein, this Court is of the considered opinion that the case of the petitioner needs consideration. It is not in dispute that petitioner was working on contractual basis as per the Scheme of DDRC. It is also not in dispute rather admitted that petitioner was paid remuneration till 2007-08 but after 2007-08 though proposals were sent by the State Govt. to the Union of India for allotment of the

funds but the same was not made due to one or the other reasons. As the petitioner is still working and as per the Scheme he is entitled for remuneration, it is the duty of the respondent-State to verify as to whether the petitioner was working or not and whether, as per the Scheme, he has been paid the remuneration which was earlier paid to him till 2007-08. From the averments made in the counter-affidavit filed by the Union of India, it appears that on technical grounds the allotment was not made to the respondent-State/ DDRC for payment of the remuneration/ grant-in-aid to the petitioner. Though a decision has taken regarding rejection of the proposal for allotment of funds for the Financial Year 2013-15 but nothing has been said about the proposals of 2016-18.

8. However, as the representation of the petitioner is still pending with the respondents, the respondents are directed to take a decision on the pending representation of the petitioner and if it is found that the petitioner is still working, respondents should take a decision regarding payment of remuneration, after receiving allotment/ grant-in-aid from the respondent-Union of India. If the proposal have already been received by the Union of India, it is further directed to take a decision to allot the funds accordingly, as per the Scheme and the Policy. If no proposal have been send by the State Govt., the Deputy Commissioner is directed to look into the matter and send further proposal as the Scheme is still in existence. Let the entire decision be taken within a period of 16 weeks from the date of receipt/production of a copy of this order.

9. Needless to say, if the petitioner is found entitled for receiving the remuneration, the same may be extended to the petitioner within a further period of four weeks.

10. With the aforesaid observations and directions, the writ petition stands disposed of.