

(2026) 03 OHC CK 1040

In the Orissa High Court

Case No : Writ Petition (C) No. 1745 Of 2026

Priyanka Swain & Another

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 10-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 21,23, 226, 227, 300A

Citation : (2026) 03 OHC CK 1040

Hon'ble Judges : Ananda Chandra Behera, J

Bench : Single Bench

Advocate : Debabrata Dash, G. Mohanty

Final Decision : Disposed Of

Judgement

Ananda Chandra Behera, J

1. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the petitioners praying for directing the Opp. Parties to pay their arrear monthly remunerations since 29.01.2025 and to pass such other order(s), to which, the petitioners are entitled for.

2. The case of the petitioners is that, the petitioners are two young educated females. They (petitioners) were properly selected and appointed by the Opp. Parties on dated 29.01.2025 as per Letter Nos.103 and 106 vide Annexure-1 series issued by the Opp. Party No.4 (CDPO, ICDS Tangi Choudwar) as Anganwadi workers of Sanadebil and Bandalo-3 Anganwadi centres under Magura and Banipada G.P. of Tangi Choudwar Block in Cuttack District.

Accordingly, since 29.01.2025, they (petitioners) have been discharging their duties properly without any complain as the Anganwadi Workers of the aforesaid two Anganwadi Centres, but till yet since 29.01.2025, they (petitioners) have not been paid a single pie by the Opp. Parties as their remuneration for their aforesaid continuous service as Anganwadi Workers. When the Opp. Parties did not pay the monthly remunerations of the petitioners in spite of availing their

services, then, they (petitioners) approached the Opp. Parties time and again requesting them (Opp. Parties) for payment of their arrear remunerations as well as current remunerations, but, they (Opp. Parties) did not pay any heed to the same. For which, the petitioners approached The Collector, Cuttack (Opp. Party No.2) on dated 22.09.2025 in his grievance cell for payment of their arrear remunerations, for which, the Opp. Party No.2 directed the Opp. Party No.4 (C.D.P.O, Tangi Choudwar) to take steps for the payment of their remunerations, but still then, the Opp. Party No.4 did not take any step for the same.

So, without getting any way, the petitioners filed this writ petition against the Opp. Parties praying for directing the Opp. Parties to pay their arrear remunerations since the date of their joining i.e. since 29.01.2025 as well as their current remunerations along with other relief(s), to which, they (petitioners) are entitled for.

3. Out of all the Opp. Parties, the Opp. Party No.2 (Collector-cum-District Magistrate, Cuttack) submitted counter affidavit supported with an affidavit admitting the appointment of the petitioners as Anganwadi Workers of Sanadebil and Bandalo-3 Anganwadi centres under Magura and Banipada G.P. since 29.01.2025 as well as non-payment of their remunerations since 29.01.2025 stating the reason/cause for the non-payment of the same on the basis of the written informations about the same collected from the Opp. Party No.4 (C.D.P.O, Tangi Choudwar) that, as the names of the petitioners have not been entered in the e-Manadeya portal as yet since the date of their joining as the Anganwadi Workers of Sanadebil and Bandalo-3 Anganwadi Centres due to non-completion of their selection procedures with the signature of the Chairman of the Selection Committee and due to the non-entry of their names in the engagement portal, their remunerations have not been paid, for which, only after the completion of the selection process and after uploading the same in the engagement portal, the names of the petitioners will be entered into the e-Manadeya portal for the payment of their honorarium/remunerations. Before completion of the selection process, she (C.D.P.O, ICDS, Tangi Choudwar-Opp. Party No.4) had issued/given appointment orders to the petitioners on dated 29.01.2025 and accordingly since 29.01.2025, the petitioners have been working/serving as Anganwadi Workers of Sanadevil and Bandolo-3 Anganwadi centres and the Opp. Party No.4 had issued the said appointment letters to the petitioners as per the verbal instructions of the then, D.S.W.O, Cuttack, which is not proper.

4. I have already heard from the learned counsel for the petitioners and the learned Standing Counsel for the State.

5. It is the admitted case of the parties that, the petitioners have been working as Anganwadi Workers of Sanadevil and Bandolo-3 Anganwadi centres under Magura and Banipada G.P of Tangi Choudwar Block in the district of Cuttack since 29.01.2025 on being appointed by the Opp. Parties through issuance of appointment letters vide Annexure-1 series to them by the Opp. Party no.4-(The Child Development Project Officer, ICDS, Tangi Choudwar, Cuttack), but till yet

since 29.01.2025, they (petitioners) have not been paid a single pie by the Opp. Parties as their remunerations for their services as Anganwadi workers.

The Opp. Party No.4 (CDPO, Tangi Choudwar) who had issued appointment letters to the petitioners has stated the cause/reason about the non-payment of their remunerations only due to the non-entry of their names in e-Manadeya portal due to non-completion of selection process.

6. Now, it will be seen whether the aforesaid plea/reason assigned by the Opp. Parties including the Opp. Party No.4 (C.D.P.O, Tangi-Choudwar) for non-payment of the remunerations of the petitioners in spite of availing their services for non-entry to their names in e-Manadeya portal is acceptable under law to excuse the Opp. Parties from the payment of the remunerations of the petitioners?

7. The Opp. Parties are non-else but the State and its officers. The Opp. Parties have appointed the petitioners as Anganwadi Workers in two Anganwadi Centres under Tangi Block since 29.01.2025 and they (Opp. Parties) have been availing the services of the petitioners continuously since 29.01.2025 as Anganwadi workers without paying any remunerations to them (petitioners).

The State being the parents of all citizens, its character should always be a model employer. Therefore, all fairness is to be expected from the State and its Officers i.e. from the Opp. Parties.

So, as per law, it is the duty and obligation of the State (Opposite Party No.1) to protect the rights of its citizens including the petitioners guaranteed under the Constitution of India, 1950 from its infringement in any manner.

8. It is the settled propositions of law that, an employee has no right to work, but, only a right to get salary/remuneration and it is always open to the employer to take work from the employee or not, but, he has to pay salary/remuneration so long as employment of the employee is not terminated in accordance with law or in accordance with terms of the contract. Depriving an employee from payment of his/her salary/remuneration would be a violation of his/her right guaranteed under Articles 21, 23 and 300-A of the constitution of India, 1950. Because, the Right to get remuneration/salary cannot be waived and by no stretch of imagination it can be said that mere non-approaching any Court/Authority by an unpaid employee for the payment of remuneration or delay in filing the petition for the same cannot exonerate the employer from the payment of the remuneration/salary. No employer can be permitted to deprive its employee for his/her rightful salary/remuneration, month after month. State-authorities being the protectors of the fundamental and other rights of its citizens/employees cannot violate the same. Therefore, as per law, State cannot be permitted to hide behind the fig leaf to claim the excuses to deprive its employees in getting their rightful claim of monthly salary/remuneration.

On this aspect, the propositions of law has already been clarified in the ratio of

the following decisions:

I. In a case between Union of India and others vrs. Central Administrative Tribunal and three others Bench at Allahabad and another : reported in 2019 AHC-219045(Allahabad) (D.B.) at Para No.21 that, we cannot forget that, an employee has no right to work, but, only a right to get salary and it is always open to the employer to take work from the employee or not, but, he has to pay salary so long as employment of the employee is not terminated in accordance with law or in accordance with terms of his/her contract.

II. In a case between Sunil Dattatrey vrs. State of Rajasthan through its Secretary and others reported in 2025 SCC Online(Rajasthan)-361(Para-

16) that, Non-payment of salary— denying 97 months salary to the petitioner or for that matter depriving any employee of his salary would be a violation of his rights contained, under Articles 21, 23 and 300-A of the Constitution of India.

It is well established that, Fundamental Rights cannot be waived by any person and, therefore, by no stretch of imagination, it can be said that, mere not filing certain forms and completing the requisite formalities or delay in filing the petition amounts to waiver of the right to get salary. No employer can be permitted to deprive the employees of their rightful salaries, that too month after month. State-authorities cannot be permitted to violate the fundamental rights and human rights of its employees. It cannot be permitted to hide behind the fig leaf to claim the excuses to deprive its employees in getting their rightful claim of monthly salary.

III. In a case between Digambar Nayak Vs. Orissa Legislative Assembly, Bhubaneswar decided on 19.01.2016 in WPC No.11117 of 2015 that, Non-payment of salary as well as other service benefits on plea of illegal appointment and pendency of judicial enquiry, is the violation of Article 300-A of the Constitution of India, because, in no way, such benefits be deprived from the employees.

IV. In a case between Surendra Nath Singh (Dead) Through LR's Vs. U.P. Secondary Education Service Commission & Others reported in 2012 (II) CLR SC Page-22 that, the employer is to pay the salary for the work done by the employee. The employer cannot be exonerated from payment of the salary of the employee after availing the services of the employee.

9. When, as per law, the nature, character and conduct of the Opp. Parties should be as model employers and when it is their duties and obligations to protect and safeguard the rights of its citizens including their employees like the petitioners and when in spite of availing the works/services of their very low paid lady employees i.e. petitioners, they (Opp. Parties) have not paid their remunerations for more than a year infringing their fundamental rights depriving them (petitioners) from their livelihood on the ground of non-entry to their names in e-Manadeya portal and when the petitioners are in no way responsible

for non-entry of their names in e-Manadeya portal and when it is the duty and obligation of the Opp. Parties to enter the names of the petitioners in the e-Manadeya portal promptly soon after their appointments and to pay their remuneration month wise regularly and when the Opp. Parties have violated the fundamental rights of the petitioners guaranteed under Articles 21, 23 and 300-A of the Constitution of India, 1950 depriving them (petitioners) from getting their legitimate dues and when the Opp. Parties have no authority under law to deprive the petitioners from getting their remunerations and when the young educated lady-petitioners are working as Anganwadi Workers in order to maintain their livelihoods for their sustenance as well as the sustenance of their families and when depriving the low paid employees i.e. petitioners from getting their legitimate remunerations, the Opp. Parties have ultimately harassed them (petitioners) and their family members from the bare necessities of their lives and families and when as per law, the Opp. Parties being the protectors of the petitioners from any kind of oppression, they (Opp. Parties) are oppressing/harassing them (petitioners) without paying their remunerations, then, at this juncture, in view of the principles of law enunciated in the ratio of the aforesaid decisions, there is no other alternative for this Writ Court, but to direct the Opp. Parties through a Writ of Mandamus to pay the arrear remunerations of the petitioners since 29.01.2025 till February 2026 with interest at the rate of 15% per annum on their arrear unpaid remunerations calculating the same in month wise arrear basis giving liberty to the State (Opp. Party No.1) to recover the interest amount, which is to be paid to the petitioners for non-payment of their arrear remunerations from the erring officer/officers, for whose negligence, the petitioners were deprived from getting their remunerations since 29.01.2025.

10. Therefore, there is merit in the writ petition filed by the petitioners. The same is to be allowed.

11. In result, the writ petition filed by the petitioners is allowed.

The Opp. Parties including the Opp. Party No.4 (The Child Development Project Officer, ICDS, Tangi Choudwar, Cuttack) are jointly and severally directed through issuance of Writ of Mandamus by this Court to pay the arrear remunerations of the petitioners, to which, they (petitioners) are entitled since the date of their joining i.e. since 29.01.2025 till February 2026 with interest at the rate of 15% per annum on their unpaid arrear remunerations calculating the same in month wise arrear basis within a week from the date of this Judgment giving liberty to the State (Opp. Party No.1) to recover the amount of interest, which is to be paid to the petitioners for non-payment of their arrear remunerations from the salary of the erring officer(s), for whose negligence(s), the petitioners were deprived from getting their remunerations since 29.01.2025.

12. As such, this writ petition filed by the petitioners is disposed of finally.

Free copies of this judgment be supplied to the learned counsels of both the sides.

13. Registry is directed to transmit the copies of this judgment to all the Opposite Parties immediately for the compliances of the directions made in this judgment within the period indicated above.