

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 104 of 2020

1. Shanti Nayak W/o Late K.P. Nayak, aged about 74 years R/o M-2, Rajiv Nagar, Post Shanker Nagar, Raipur Chhattisgarh.....(Petitioner 1A)
2. Dr. Shyamala Singhvi W/o Nitin Singhvi, D/o Late K.P. Nayak, aged about 57 years R/o H.I.G.-3 Sector-3, Shanker Nagar, Raipur Chhattisgarh.....
(Petitioner 1B)
3. Prabha Kamath, W/o Mukund Kamath, D/o Late K.P. Nayak, aged about 54 Years R/o 316, Mahaveer Springs, 15th Main Phase, 17th Cross, J.P. Nagar 5th Phase, Bangalore (Karnataka).....(Petitioner 1C)
4. Satish Nayak S/o Late K.P. Nayak, aged about 53 years R/o M-2, Rajiv Nagar, Post Shanker Nagar, Raipur Chhattisgarh.....(Petitioner 1D)
5. Prashant Nayak S/o Late K.P. Nayak, Aged About 44 Years R/o M-2 Rajiv Nagar, Post Shanker Nagar, Raipur Chhattisgarh.....(Petitioner 1E)
6. Seema Nayak W/o Navin Nayak, D/o Late K.P. Nayak, Aged About 42 Years R/o 1562, Bright Glade Circle, Downingtown Pa, 19335, USA
(Petitioner 1F)

Petitioner No. 01, K.P. Nayak since dead hence, not made a party.

---- Appellants

Versus

1. State of Chhattisgarh Through The Secretary, Urban Administration Department, DKS Bhawan, Raipur Chhattisgarh, Present Address Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh.....
(Respondent No. 1)
2. The Commissioner Municipal Corporation Raipur, District Raipur Chhattisgarh..... (Respondent No. 2)
3. The Chairman Municipal Corporation Raipur, District Raipur Chhattisgarh.....(Respondent No. 3)

---- Respondents

(Case Title has been taken from Case Information System)

For Appellants	: Mr. Saurabh Dangi, Advocate
For Respondent No.1/State	: Mr. Siddharth Dubey, Dy Government Advocate
For Respondents No.2 & 3	: Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, Judge

Judgment on Board

Per, Arup Kumar Goswami, Chief Justice

26.10.2021

This writ appeal is presented against an order dated 12.09.2019 passed by the learned Single Judge in W.P. No. 173/2004, dismissing the writ petition.

2. Heard Mr. Saurabh Dangi, learned counsel for the appellants, Mr. Siddharth Dubey, learned State Counsel appearing for respondent No.1 and Mr. Pankaj Agrawal, learned counsel appearing for respondents No.2 and 3.

3. The writ petition was instituted by one Mr. K. P. Nayak and on his demise on 12.09.2018, the legal representatives stepped into his shoes and the appeal is also preferred by his legal representatives. The predecessor-in-interest of the appellants was in the services of Public Works Department and he retired from the post of Assistant Engineer in the year 1996. Subsequently, his services were engaged as an Engineering Consultant of the respondent No.2 by an order dated 06.03.2000 with effect from 17.02.2000 and he continued in that capacity till 04.03.2004. In the writ petition, the petitioner had prayed for fixing and releasing remuneration in respect of his services as per

provisions of the appointment order. Subsequently, the writ petition was amended, stating that he had submitted his unconditional resignation from the post of Technical Advisor by a letter dated 04.03.2004, as his salary was not paid to him and that he is entitled to a sum Rs.6,89,956/- till February, 2004 as his salary. It is also pleaded that he was served with a letter dated 03.03.2004, intimating him that his appointment is being cancelled with immediate effect in view of a letter dated 05.09.2003.

4. The appointment order dated 06.03.2000, in its translated version, reads as follows :

“OFFICE OF NAGAR PALIKA NIGAM, RAIPUR

ORDER

No.385 / Sa.Pra./Stha.1/2000 Raipur, dated 06.03.2000

In view of the Circular Number F-1412/1999/F-10, dated 04.10.99 of the General Administration Department, Government of Madhya Pradesh, Bhopal, Mr. K. P. Nayak, the retired Sub-Divisional Officer is being purely temporarily appointed as Engineer Consultant till further orders.

The honorarium of Mr. Nayak will be fixed separately.

His services can be terminated at any time.

This appointment will be deemed to be effective from 17.02.2000.

SD/-
Commissioner
Nagar Palika Nigam
Raipur”

5. It appears that though the petitioner was to be paid honorarium, the amount of honorarium was not fixed by the order dated 06.03.2000. No amount was also paid to the petitioner on account of honorarium and this prompted the petitioner to approach this Court by filing the writ petition, out of which this appeal arises.

6. During the pendency of the writ petition, a sum of Rs.1,26,218/- was paid to the writ petitioner as honorarium, which approximates an honorarium to the tune of Rs.2600/- per month.

7. It was argued by the learned State Counsel before the learned Single Judge that Finance Department Circular dated 06.01.1989 provided for fixation of honorarium at the rate of 12.5% of the basic pay or Rs.200/- per month, whichever is less. However, the honorarium was fixed at the rate of Rs.2600/- per month.

8. The learned Single Judge, in the aforesaid backdrop, opined that there was some basis for fixing the honorarium and that it cannot be said that such honorarium was fixed on a totally arbitrary and irrational manner.

9. The learned counsel for the appellants submits that the predecessor-in-interest of the appellants, having retired as an Assistant Engineer and he having provided consultation services to the Municipal Corporation, payment of an amount of Rs.2600/- per month as honorarium is wholly arbitrary and that he was entitled to an honorarium commensurate with the salary that was drawn by him. It is in the aforesaid context, he submits that the order of the learned Single Judge is liable to be interfered with and direction be issued to the respondents to fix appropriate honorarium.

10. We find no force in the submission of the learned counsel for the appellants. As per Concise Oxford English Dictionary, 'Honorary' is 'a nominal payment for professional services' and therefore, an honorarium cannot be equated with salary earned earlier. The predecessor-in-interest of the appellants had also accepted to provide consultancy without the amount of honorarium being fixed in the order dated 06.03.2000.

11. In view of the discussions above, we do not find that the view taken by the learned Single Judge needs any interference. Accordingly, finding no merit, the writ appeal is dismissed. No costs.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge