



RAJASTHAN HIGH COURT
**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 2003/2024

Sunil Dattatrey S/o Shri G.P. Dattatrey Ram, Aged About 47
Years, R/o 74/27-A, Shipra Path, Mansarovar, Jaipur (Raj.)

----Petitioner

Versus

1. The State of Rajasthan, through its Secretary, Panchayati Raj Department, Rajasthan, Secretariat, Jaipur (Raj.)
2. The Additional Chief Secretary, Department of Finance, Government of Rajasthan, Secretariat, Jaipur (Raj.)
3. The Commissioner, State Insurance and Provident Fund Department, Government of Rajasthan, Bani Park, Jaipur (Raj.)
4. The Director, Department of Pension, Jyoti Nagar, Jaipur (Raj.)

----Respondents

For Petitioner(s) : Mr.Akshit Gupta &
Ms.Pragya Seth

For Respondent(s) : Ms.Sara Parveen on behalf of
Mr.Kapil Prakash Mathur, AAG

JUSTICE ANOOP KUMAR DHAND

Order

10/02/2025

Reportable

Non-payment of salary to an employee amounts to depriving him from his livelihood. Such person cannot be allowed to starve at the hands of the authorities without any justified reason.

Article 21 of the Constitution of India guarantees right to life. The right to life includes the right to livelihood. The right to life cannot be subjected to individual fancies of the persons in authority. The sweep of the right to life



conferred by Article 21 of Constitution of India is wide and far reaching. An important facet of that right is right to livelihood, because no person can live without the means of living, i.e., the means of the livelihood.

1. Matter comes up on the applications (I/A Nos.1/2024 & 3/2024) for issuing directions to the respondents to release the due salary of the petitioner.

2. Learned counsel for the petitioner submits that the appeal submitted by the petitioner before the Rajasthan Civil Services Appellate Tribunal, Jaipur (for short, "the Tribunal") was partly allowed vide order dated 09.09.2021 and the respondents were directed to release the due salary of the petitioner after 2016 in terms of the revised pay order, but in spite of passing of considerable time, till date, the order passed by the Tribunal has not been complied with.

3. Learned counsel submits that even this Court, while issuing notices to the respondents on 16.02.2024, directed the respondents to consider the issue of non-payment of salary to the petitioner and pass appropriate orders for release of his due salary, as per the provisions of Rules and inform the Court on the next date. Counsel submits that in spite of passing of more than a year thereafter, not a single penny has been paid to the petitioner by the respondents.

4. Learned counsel for the respondents opposed the prayer and after taking instructions from the concerned Officer In-Charge, apprised this Court that the petitioner was asked to fill certain forms and complete the requisite formalities for release of his salary, but he failed to do so, and on this count, the salary could



not be released to the petitioner, hence, under these circumstances, the petitioner is not entitled to get any interim relief.

5. Heard and considered the submissions made at Bar and perused the material available on record.

6. The right to livelihood is an integral part of the right to life guaranteed under Article 21 of the Constitution of India. The respondent-authorities on the one hand availing the services of the petitioner and on the other hand, declining the salary to him. Such exploitation amounts to depriving the petitioner of his right to livelihood. Hence, the respondent's act of withholding the salary of the petitioner for the period during which he discharged the services cannot be approved. Till date, the respondents have continued to utilize the services of the petitioner without paying salary to him.

7. Payment of salary or pension to the employees is only to eke out their livelihood during their service by way of salary and after retirement by way of pension. If, whole or part of the salary or pension is deferred, it amounts to denial of right to life guaranteed under Article 21 of the Constitution of India. Initially, right to livelihood was not recognized as fundamental right under Article 21 of the Constitution of India. But, later it was recognized as Fundamental Right by judicial interpretation to Article 21 of the Constitution of India.

8. Time and again, the Courts in India held that Article 21 is one of the great silences of the Constitution. The right to livelihood cannot be subjected to individual fancies of the persons in authority. The sweep of the right to life conferred by Article 21



is wide and far reaching. An important facet of that right is the right to livelihood because, no person can live without the means of living, i.e., the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation.

9. In the case of "**Maneka Gandhi Vs. Union of India**" reported in **AIR 1978 SC 597**", the Hon'ble Supreme Court has ruled that the right to livelihood would fall within the expression "life" within Right to Life under Article 21.

10. The right to live with human dignity, free from exploitation is enshrined in Article 21 and derives its life breadth from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at least, therefore, it must include the right to live with human dignity, the right to take any action which will deprive a person of enjoyment of basic right to live with dignity as an integral part of the constitutional right guaranteed under Article 21 of the Constitution of India.

11. The right to salary/wages to which a man is entitled for is so intimately related to his life and personal liberty conferred by Article 21 of the Constitution, that it is proper to hold that right to livelihood is, for all practical purposes, in the case of persons possessed of limited resources, an integral part of their fundamental rights under Article 21 of the Constitution. In the case of persons' possessed of sufficient means other than their salary/wages, a different view may be possible but in the case of persons wholly or substantially dependant on the salary/wages for



their livelihood, the right to get wages or salary must be regarded as a fundamental right under Article 21 of the Constitution.

12. 'Begar' has been prohibited by Article 23 of the Constitution of India and the said Article makes it punishable in accordance with law made by the Parliament. 'Begar' means labour or service exacted by Government or a person in power without giving remuneration for it. For the purpose of constituting the offence of 'Begar' under Article 23 of the Constitution, it is not necessary that there should be a complete denial of the wages or salary which may be payable to the person from whom work is exacted. In order to ensure that the fundamental right under Article 23 of the Constitution may not be frustrated, the expression 'Begar' will have to be liberally construed and if there is deliberate denial of substantial part of salary and wages to which a person is entitled for, offence of 'Begar' may be committed, if there is no other just cause for denying the salary or wages to the worker. To allow the respondents to deny salary and wages to the petitioner would amount to allowing the respondents to contravene the provisions of Article 23 of the Constitution. It is impermissible.

13. Undoubtedly, the Hon'ble Supreme Court in **Olga Tellis v. Bombay Municipal Corporation** reported in **AIR 1986 SC 180** has held the right of livelihood to be the right under Article 21 of the Constitution of India. The same is reproduced as under;

The sweep of the right to life conferred by Article 21 is wide and far reaching. It does not mean merely that life can not be extinguished, or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important fact of that right is the right to livelihood because, no person can live without





the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life.

14. Apart from it the other aspect as to whether under the frame of the Constitution one can be deprived of his wages for the work done by him. It cannot be done so. In the face of the Article 23 of the Constitution, which imposes safeguards against such actions as the non-payment of wages for the work done by a person will amount to 'Begar', which is prohibited under this provision.

15. It is quite shocking and surprising on the part of the State-authorities that they are taking work from the petitioner since 2016 and not paying even a single penny to him towards his salary. This Court finds no valid justification in the contention of the counsel for the State that the petitioner failed to complete the desired formalities. Moreover, no documentary evidence has been placed on record by the respondents to satisfy this Court as to on what occasion, the petitioner was asked to submit certain forms or complete the requisite formalities. Such action on the part of respondents, i.e., withholding the salary of the petitioner is high handed and the same cannot be tolerated. The stand of the



respondents also tantamounts to contempt of the Court in violating the order dated 16.02.2024 passed by this Court.

16. 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 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.

17. The respondents are directed to release the due salary of the petitioner forthwith within a period of one month from today, failing which the matter would be viewed seriously and contempt proceedings would be initiated against the Secretary, Panchayati Raj Department, Rajasthan; the Additional Chief Secretary, Department of Finance, Government of Rajasthan; the Commissioner, State Insurance and Provident Fund Department, Government of Rajasthan; and the Director, Department of Pension. In case, they fail to comply with this order, they are directed to remain personally present before this Court on the next date.



18. In the eventuality of this order being not complied with by the respondents, within the above stipulated period, the Chief Secretary of the State of Rajasthan is directed not to release the salaries of the above officials till further orders.

19. Needless to observe that the respondents would complete all the requisite formalities before paying the due salary to the petitioner.

20. Applications (I/A Nos.1/2024 & 3/2024) stand disposed of.

21. List this matter on 12.03.2025 to see the compliance.

22. Let a copy of this order be sent to the Chief Secretary, Government of Rajasthan and all the respondents for necessary action and compliance of this order.

(ANOOP KUMAR DHAND),J

Aayush Sharma /176