

**BEFORE THE GOA HUMAN RIGHTS COMMISSION**  
**PANAJI – GOA**

**Proceeding No.15/2019**

Dr. Roopa Belurkar,  
R/o F-4, Bldg. E,  
Adwalpalkar Legend,  
Shankarwadi, Taleigao,  
Goa - 403002.

..... Complainant

V/s

- 1) The Principal,  
Parvatibai Chowgule College,  
Gogol, Margao-Goa.
- 2) The Director of Higher Education,  
Directorate of Higher Education,  
Government of Goa,  
Porvorim, Bardez-Goa

..... Respondents

**INQUIRY REPORT/ORDER**

(22<sup>nd</sup> March, 2021)

The Complaint dated 14/01/2019 was received from the Complainant, complaining of violation of her human rights by the Respondent No.1, by delay of her salary payments from July, 2018.

2. The Complainant states that she is Head of the Department of Chemistry of Smt. Parvatibai Chowgule College, Margao. She states that, on 22/02/2018, she had applied for Child Care Leave for 315 days from 20/06/2018 to 30/04/2019 and after several emails to the Respondent No.1, she received letter dated 12/11/2018 from the Respondent No.2 stating that the college had informed Respondent No.2 by letter dated 13/04/2018 that the Child Care Leave of the Complainant had been sanctioned by the college management.

3. The Complainant states that till 19/06/2018, she was not given sanction letter despite her email to the Respondent No.1. She informed the Respondent No.1 that she is proceeding on Child Care Leave on 20/06/2018.

4. The Complainant further states that, to cause her harassment,

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Respondent No.1 sent an email to her that any leave without sanction will be treated as leave without pay. She states that her salary from the months of July 2018 to November 2018 was paid in December, 2018 without any interest on the delayed payments.

5. The Complainant prays before this Commission for taking action against the Respondent No.1 for violating her human rights and to direct the Respondent No.1 to pay interest at the rate of 8% on delayed salary from July 2018 and also for compensation.

6. The Respondent No.1 filed their reply on 12/03/2019 denying the contents of the complaint. They stated that they have followed the standard procedure for processing the application for leave by the staff of the college and as the substitute candidate could not join duties, the sanction letter could not be given to the Complainant to proceed on Child Care Leave. They prayed that the proceedings be disposed with costs.

7. The Respondent No.2 filed their reply on 19/03/2019. They submitted that the Respondent No.1 by letter dated 13/04/2018 had informed the Respondent No.2 that the college management had sanctioned Child Care Leave of the Complainant and had requested for NOC for the appointment or substitute Assistant Professor in Chemistry on contract basis from 20/06/2018 to 30/04/2019. They stated that they conveyed approval for the same with the NOC dated 02/05/2018.

8. They stated that on receiving the application from the Complainant dated 28/09/2018, that her salary has not been credited to her account since July, 2018, they called for the report from the Respondent No.1, who submitted the report dated 24/10/2018.

9. The Respondent No.2 states that by their letter dated 12/11/2018, they informed the Respondent No.1 that the College could not apply

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“Leave without pay”, rule in this case and the College was instructed to pay the salary or they would have to face the consequences and they were also informed that the Complainant has not received salary which is a violation of her human rights.

10. The Complainant filed Affidavit-in-Rejoinder on 03/05/2019 and the Respondent No.1 filed his Affidavit-in Sur Rejoinder on 03/11/2020.

11. The Commission has heard Ld. Advocate Shri Sachin Desai for the Complainant and he also filed his written arguments. So also the Commission heard Ld. Advocate Shri Amey Prabhudessai for the Respondent No.1 and Shri D. N. Rane, Consultant (Administration) for the Respondent No.2.

12. On going through the complaint, replies of the Respondents, affidavits on record and the documents of the parties, the Commission finds that there is no dispute that the Complainant had infact applied for Child Care Leave for 315 days from 20/06/2018 to 30/04/2019 well in advance, i.e. by application dated 22/02/2018.

13. As seen from the letter of the college dated 13/04/2018, the Respondent No.1 had informed the Respondent No.2 that the management has sanctioned Child Care Leave from 20/06/2018 to 30/04/2019 of the Complainant on the condition that NOC to fill up the resultant vacancy is obtained from Respondent No.2 and the NOC was requested. There is also no dispute that the Respondent No.2, by letter dated 02/05/2018 had informed the Respondent No.1 of the NOC for appointment of the substitute Assistant Professor.

14. The Commission agrees with Ld. Advocate Shri Sachin Desai for the Complainant that the Child Care Leave of the Complainant had been duly sanctioned by the Respondent No.1, as communicated to the Respondent No.2 by letter dated 13/04/2018. However, the Respondent No.1 had only not issued the sanction letter to the Complainant.

15. As per the Circular dated 10/08/2012, issued by the Department of Personnel, Government of Goa, it was stated that all Heads of Department/Offices ensure that no Child Care Leave be rejected without approval of the Government.

16. The Child Care Leave of the Complainant having been approved by the Respondent No.1 as per their letter dated 13/04/2018, the Child Care Leave has to be considered as having been duly sanctioned by the Respondent No.1.

17. Ld. Advocate Shri Amey Prabhudesai for the Respondent No.1 contended that the substitute candidate did not join duty on 19/06/2018 and hence, the sanction letter could not be given to the Complainant.

18. However, the Respondent No.1 has not produced any documents to show that the substitute had not joined the duty. It is very relevant that the Complainant had applied under the Right to Information Act, to the PIO of the Respondent No.1 for details in respect of substitute candidate and the payments made to the substitute faculty during the Child Care Leave, by her applications dated 23/12/2020 and 12<sup>th</sup> January 2021, and yet she received no replies.

19. As per the letter of Respondent No.2 dated 12/11/2018, they had informed the Respondent No.1 that there is no question of the Complainant remaining absent from duty without authorization and the College will not be able to apply "Leave without pay" rule in this case. The College had been instructed to pay her salary otherwise they will have to face the consequences.

20. It appears that, thereafter, the Respondent No.1 had paid the salary to the Complainant from July 2018 to November 2018 on 1<sup>st</sup> December, 2018. Again the Ld. Advocate for the Complainant is right that the Respondent No.1 had withheld the salary dues of the Complainant from July to October, 2018 without following any procedure, thereby indicating

that the right of Complainant to receive her salary in time had been violated by the Respondent No.1.

21. The salary dues of the Complainant from July 2018 to October 2018 were paid only on 1<sup>st</sup> December 2018, alongwith the salary dues of November 2018. Thus, there was delay of payments of 4 months salaries. The Commission finds that the Complainant had been deprived of her salary dues from July to October 2018 without following the due procedure of law, by the Respondent No.1 and hence, the Commission holds that the Complainant is entitled for payment of interest on the delayed payments of her salary.

22. In ***Ramesh R. Kurhade vs Financial Advisor and Chief Accounts Officer, Establishment Section, 2019 SCC Online Bom 1060***, where one of the grievances was of withholding salary of the employee, without authority of law, the Bombay High Court by Judgment dated on 20<sup>th</sup> June 2019, directed the payment of simple interest at 7.5 % per annum to the Petitioner on the delayed payment of salary.

23. Guided by the above case law and in the facts of present case, the Commission holds that the Complainant would be entitled to 7.5% interest per annum on the delayed salary amounts from July to October 2018 which were paid only on 1<sup>st</sup> December, 2018 i.e. for interest of 7.5% per annum on the delayed salary amounts (1) of 4 months on her salary of July 2018, (2) of 3 months on her salary of August 2018, (3) of 2 months on her salary of September 2018 and (4) of 1 month on her salary of October, 2018.

24. Under Section 18(a)(i) of the Protection of Human Rights Act 1993, where the inquiry discloses the Commission of violation of human rights, the Commission may recommend to the concerned Government or authority to make payment of compensation or damages to the Complainant as the Commission may consider necessary.

25. Accordingly, the Commission recommends that the Respondent No.2 ensure that the Respondent No.1 makes payments of the interest as calculated above to the Complainant within 30 days from today, towards compensation to the Complainant for the delayed payments of her salary.

In view of the above, the Proceedings stand disposed of.

Date : 22/03/2021

Place : Panaji-Goa

Sd/- (Justice U.V. Bakre) Chairperson Goa Human Rights Commission	Sd/- (Desmond D'Costa) Member Goa Human Rights Commission	Sd/- (Pramod V. Kamat) Member Goa Human Rights Commission
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