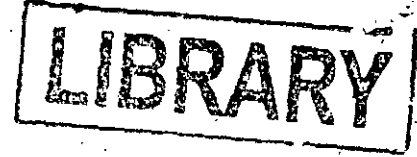


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA



O.A. No.350/00170/2017.

Date of Hearing : 28.01.2020

Date of order : This the 27th Day of February, 2020.



Hon'ble Mrs. Bidisha Banerjee, Judicial Member

Hon'ble -Dr.(Ms) Nandita Chatterjee, Administrative Member

Suwendu Kumar Das
Son of Late Sasti Pada Das
Ex Postal Assistant,
Upper Chalidanga, Asansol Division,
Residing at College Para,
Police Station Suri,
District Birbhum, Pin 731101.

.....Applicant

- Versus -

1. Union of India,
Service through the Secretary,
Ministry of Communication,
Department of Dak Bhawan,
New Delhi - 110001.
2. Chief Postmaster General,
West Bengal,
Yogayog Bhawan,
Kolkata - 700012.
3. Senior Superintendent of Post Offices,
Asansol Division,
Post Office Asansol, Pin Code - 713301.
4. The Superintendent of Post Office,
Head Post Office,
Suri, District Birbhum,
Pin 731101.
5. The General Manager (PAF),
Kolkata - 700069.

.....Respondents

For the applicant : Mr B. Bhushan

For the Respondents : Ms P. Goswami.

ORDER

MS BIDISHA BANERJEE, MEMBER(J)

This application has been preferred to seek the following reliefs :

- "a) To issue mandate upon the respondents and each of them in particular the respondent Nos. 3 to 5 to release the accrued interest of Rs.1,11,461/- approximately on the amount of Rs.4,92,153/- calculated at the rate of 8% which was applicable rate of interest as per the PF Board from August 2011 to July, 2013.
- b) An order directing the respondents, each one of them their men, agents, staffs, subordinate and associates to certify and transmit to this Hon'ble Tribunal relevant documents pertaining to the present, case so that conscionable justice may be administered.
- c) Costs of and/or incidental to this application be borne by the respondents.
- d) Such further and/or other order or orders be passed and/or direction or directions be given, as to this Hon'ble Tribunal may deem fit and proper."



2. Ld. counsels were heard.

3. It transpired at hearing that the applicant has applied for withdrawal of GPF on 24.11.2011 through a representation but he had not furnished duly filled in proforma for release of the same. Aggrieved by non payment of GPF the applicant moved the District Consumer Disputes Redressal Forum in CF Case No.CC/81/O/2012 which disposed the matter on 16.10.2014, having recorded the following (extracted with emphasis for clarity) :

"According to the rule 11(4) if GPF(CS) the GPF amount of the complainant became payable on 10.02.2011 i.e. the day after the date of dismissal (09.02.2011). Besides filing application form for GPF amount on 24.11.2011 the

complainant wrote several reminders to the O.P.No.2. Even as per Right to Information Act 2005 he wanted to know the information about the latest position of the application filed by him. But there was no response from the side of the O.P. No.2.

If we suppose for the sake of argument that the complainant did not submit application in prescribed form, what was the O.Ps duty regarding the reminders of the complainant? Did the O.P.No.2 respond or advice the complainant at all? The O.P.No.2 intentionally remained silence and now he states that the complainant did not make communication in rejecting the claim of his GPF amount.



From the above discussion this Forum observes that the O.P.No.2 has deficiency in service. He has intentionally blocked the amount of GPF of the complainant. The Forum also observes that Rule 11(4), (1) GID(2) below Rule 34, GPF Rules and Rule 12 and note there under says, "If the payment cannot be made within one month after retirement or after the date of receipt of application in the prescribed form, whichever is later, due to administrative reasons, interest is payable on the balance up to six month for the period beyond one month. Interest can be allowed upto one year by the Head of Accounts Office and beyond that period by the immediate Superior to the Head of Accounts Office." (Swamy's Hand Book for Central Government Staff 2009, page 107). This means that there is no bar to allow interest on payment for the period beyond one year. The immediate Superior to the Head of Accounts Office can allow it. So, the complainant should get interest @ 8% on Rs.5,89,355/- from August 2011 to October 2013.

Proper fees have been paid.

Hence,

ORDERED

That C.F. case No.81/2012 be and the same is allowed in part on contest with cost against the O.Ps.

The O.Ps are jointly and severally directed to pay interest @8% on the amount of Rs.5,89,355/- for the period of August 2011 to October 2013 and Rs.5000/- for litigation cost to the complainant within three months from the date of this order failing which the complainant shall be at liberty to resort to due process of law and procedure."

Assailing the said order which explicitly and unambiguously records that the applicant had approached the authorities for withdrawal of GPF on

[Handwritten signature]

24.11.2011, the Post Master General, South Bengal Region, Kolkata approached the State Consumer Disputes Redressal Commission, West Bengal in First Appeal No.A/309/2015 which appeal was allowed and the impugned order passed by District Consumer Disputes Redressal Forum on 16.10.2014 was set aside on the ground that the Government servant cannot approach any forum under the Act for any of the retiral benefit as held by Hon'ble Supreme Court in Civil Appeal No.5476 of 2013. However, the order also records the following :



"There is no dispute that the Respondent/Complainant was an employee under the Appellant/OPs and was terminated from service by his employer, i.e. Postal Department. He applied for release of his accumulated amount under GPF account. He wrote a letter on 24.11.2011 to the OP No.2 but no response was received. He sent reminders and still he got no response. It was only after direction by the Ld Forum below dated 05.02.2013 that prescribed application form were supplied to the Respondent/Complainant. Ld. Forum below observed that the Ops should have released interest on the sanctioned amount of Rs.5,89,355/- for the period from August, 2011 to October, 2013 and accordingly passed the order."

Therefore inarguably and irrefutably the applicant had approached the authorities for withdrawal of GPF on 24.11.2011. Evidently he was not furnished with any withdrawal form. He even approached the Consumer Forum for redressal of his grievances.

3. The respondents have refuted the claim for grant of interest on delayed payment on the ground that the applicant for the first time approached the authorities with a duly filled in proforma on 22.02.2013. The respondents have thus attributed the delay to the applicant and have denied interest on the delayed payment.

4. The issue therefore, to be determined in the present O.A is, whether the delay ought to be attributed to the applicant or to the respondents and in the event ought to be attributed to the respondents whether interest is payable.



5. We noted that (i) inarguably and admittedly applicant had applied for final withdrawal of GPF on 24.11.2011. (ii) Rule 34 of General Provident Fund (CS) Rules makes it imperative for the Accounts Officer to make payment of any amount standing to the credit of a subscriber in the fund that becomes payable. The provisions reads as under :

"34 Manner of payment of amount in the Fund

(1) When the amount standing to the credit of a subscriber in the Fund becomes payable, it shall be the duty of the Accounts Officer to make payment. [as provided in sub-rule (3)]."

The respondents have tried to evade responsibility taking shelter of the provisions as under :

"(2) Interest on final payment of GPF on retirement/quitting of service not payable for one month after submission of application. – Frequent references are being received for clarification regarding the admissibility of interest of final payment to the subscribers who retire on superannuation or other wise, or quite service. Rule 34 of the GPF(CS) Rules 1960, as amended from time to time, lays down the manner of payment of amount in the event of the subscriber's quitting service. The final payment entails two essential requirements before the amount becomes payable-

- (i) the subscriber should have retired or quit service; and*
- (ii) he should submit an application in the prescribed form in writing for final payment.*

Either of the two requirements not being fulfilled, causes delay attributable to the subscriber in claiming the final payment."

We infer from the rules quoted supra that delayed payment of GPF entails payable interest on the accrued sum.

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6. Having noted that the applicant had approached the authorities for final release of GPF but it was the Accounts Office which failed to furnish appropriate proforma to seek release of GPF, the delay was attributable to the respondent authorities while Accounts Officer was duty bound to release payment since it became payable.



7. Further, we note the decision **S.K.Dua Vs. State of Haryana & Anr.**, rendered by the Hon'ble Apex Court in **Appeal (Civil) No. 184 of 2008** on 09.01.2008 where the Hon'ble Apex Court has held as under:

"It is not in dispute by and between the parties that the appellant retired from service on June 30, 1998. It is also undisputed that at the time of retirement from service, the appellant had completed more than three decades in Government Service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. xxx xxx xxx. It also cannot be denied that those benefits were given to the appellant after four years. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of bounty is, in our opinion, well-founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.

12. To us, the plea of the learned counsel for the appellant that the High Court ought to have entered into the merits of the matter which is based on documentary evidence is well-taken. In our considered view, the writ petition ought to have been admitted by issuing Rule nisi and ought to have been decided on merits. The High Court; however, dismissed the petition by a cryptic order which reads thus:

The petitioner seeks only payment of interest on the delayed payment of retiral benefits. We, however, relegate the petitioner to avail of his remedies before the Civil Court, if so advised. Dismissed with the above observations.

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13. The order passed by the High Court, therefore, must be quashed and set aside".

In the instant case we discern that applicable service rules favour grant of interest on delayed payment of GPF.



8. In view of our aforesaid discussion, we hold that the applicant is entitled to interest on delayed payment of GPF withdrawal from the date he had approached the authorities for such release. Ordered accordingly. Respondents to release the interest within 3 months from the date of receipt of a copy of this order. No order as to costs.

(DR (MS) NANDITA CHATTERJEE)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)