

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.3161/2001

New Delhi, this the 15th day of May, 2002

HON'BLE MR. GOVINDAN S.TAMPI, MEMBER (A)

Shri Vijendra Kumar
Ex. - Dy. C.D.A.
R/o A-16/2, Chandra Vihar,
I.P. Extn., Delhi -92.

(By Advocate: Shri S.D. Sharma) ... Applicant

V E R S U S

1. Union of India through.
Secretary, Ministry of Defence,
Govt. of India, New Delhi.
2. Controller General of Defence Accounts
West Block-V, R.K. Puram,
New Delhi.
3. Jt. Controller of Defence Accounts, (Funds)
Meerut Cantt.

(By Advocate: Shri Surender Kumar) ... Respondents

O R D E R

This OA is directed against the alleged recovery of the alleged excess credit made into the GPF amount of the applicant.

2. S/Shri Shesh Dutt Sharma and Surendra Kumar represented the applicant and the respondents respectively.
3. The applicant, who retired as Dy. Controller of Defence Accounts on was informed on 28.2.2001 that an amount of Rs.27,901/- was pending recovery from him on account of excess credit of Rs.2568/- relating to 1974-75 and 1975-76 along with interest of Rs.25,341/- and 1975-76. The applicant's protest dated 22.8.2000 against the "proposed

recovery was not only not accepted but the amount to be recovered was sought to be increased by Rs.100/- + Rs.1119/-. On the applicant's explaining the matter on 24.1.2001, he was informed about the refund of excess debit of Rs.40/- as well as Rs.100/- + Rs.1119/- along with further recovery of wrong credit of Rs.50/- made in 1982-83. Applicant's request for supply of broadsheets for 1974-75, 1975-76 and that of 1966 onwards was turned down by the respondents arbitrarily. According to the applicant, during November 1975, an amount of Rs.2025/- has been correctly credited in his account and nothing remained outstanding against the applicant. Still the needful has not been done leading to the filing of this OA. Grounds raised in the OA and reiterated during the oral submissions by Shri Sharma, are that no recovery can be effected after 25 years, that too without any notice, applicant should not be penalised for the negligence of the respondents, respondents themselves admit of mistake committed by the Accounts, that supply of the relevant broadsheets has been denied and that the recovery was time barred. Reliance was also placed on decisions : F.S. Jain Vs. UOI and Ors. (1996 (34) ATC 579) and D. Chandrasekhara Rao Vs. UOI and Ors. (1994 (27) ATC 343).

4. In the reply, it is submitted that the applicant has no claim at all and the action of the respondents in rectifying any mistake is protected by the Delhi High Court's decision in the case of

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UOI vs. Chandra Dutt Sharma in CWP No.3433/1999, pronounced on 9.9.2001. While the applicant should get the benefit of his credit he cannot seek the benefit of wrong credits from someone else account. The applicant having been a DCDA, was aware of the note and the relevant CCP-9 was being shown to him and he had not objected to it. Only towards the end of his career this excess credit was noticed and he was put on the alert and finally on 28.2.2001, he was given the correct position. As the amount credited in excess did not belong to him, he cannot question its recovery, especially as he had himself verified the accounts. Yet the applicant had sought that it would be necessary to examine and give me credit if the entry of somebody else has been posted in his account and showing that he wanted benefit of someone's credits also. Having been in charge of GPF Accounts, the applicant should have been aware of the procedure and cannot go back on them just to gain, a little advantage monitorily. In the circumstances, there was no ground at all for the respondents to accept the applicant's plea which deserved to be repelled is the prayer of the respondents.

5. Rejoinder is only the reiteration of the plea made in the OA.

6. I have carefully considered the matter and examined the facts brought on record. The applicant who was a Senior Deputy Controller of Defence

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Account is aggrieved that the release of his GPF has been with saddled with some recovery, being an amount credited in excess into his account wrongly over twenty years ago. Respondents, on the other hand, state that recovery of an amount / withholding of an amount which was wrongly credited was legal. While this proposition cannot be assailed fully, there are a lot of judgements, including those referred above, which go against the respondents action and place the applicant in an advantageous position. The respondents, not having produced all the relevant proof in support of their pleas cannot seek shelter behind their belief that the mistake committed by them can be rectified at any time. This cannot be permitted as limitation would act against them. Their right for correcting mistake is unassailable but it cannot be stretched to any extent or any length of time. Respondents have to bear the consequences of their inaction and failure.

7. In the above view of the matter, the OA succeeds and is accordingly allowed. The action of the respondents in effecting recovery of an excess credit not fully proved to be so, that too after nearly quarter of a century is quashed and set aside. The respondents are directed to release to the applicant, the amount held back ⁱⁿ two months' time from the date of receipt of a copy of this order. No costs.

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(GOVINZAN S. TAMBI
MEMBER(A))