CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1927/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 22nd day of February, 2000

Shri V.P.Gupta
s/o Shri D.R.Gupta
r/o 1/31, Rajinder Nagar
New Delhi - 110 060. ... Applicant

(By In Person)

Vs.

1. The Goverment of the National Capital Territory of Delhi through Controller of Accounts, Mori Gate Delhi.

2. The Director of Education Old Secretariate Delhi. ... Respondents

(By Shri Ajesh Luthra, Advocate)

O R D E R (Oral)

By R.K.Ahooja, Member(A)

The applicant, who was a Trained Graduate Teacher (TGT) in the Department of Education, Govt. of N.C.T.Delhi, retired on 31.3.1998. He had, during his service, deposited Rs.10,000, Rs.16,000 and Rs. 17,000 in his General Provident Fund Account during the year 1992-93, 1993-94 and 1997-98 respectively. His grievance is that while releasing the GPF on retirement, the respondents have not allowed interest on the aforesaid deposits on the ground that these constitute arrears of pay which had become due on account of payment of stagnation increments.

2. The matter was earlier heard by a Single Bench and has now been referred to the Division Bench as the Bench found that this case deals with the interpretation of G.P.F. Rules read with Fundamental

2

Rules and the said interpretation will have vide application. We have heard the applicant in person and Shri Ajesh Luthra, learned counsel for the respondents. We find that the crux of the problem lies in the interpretation of Rule 7, 8 and 11 of the GPF (CS) Rules, 1960.

3. The learned counsel for the respondents points out that as per Rule 7 the subscription made by the Government employee to the GPF is to be made monthly. As per Rule 8 the amount of subscription shall be fixed by the subscriber himself, subject to the condition that it will not be less than 6 per cent of his emoluments and not more than his total emoluments. Under Rule 8(4) the amount of subscription so fixed by the employee could be reduced once at any time during the course of the year; enhanced twice during the course of the year; or reduced and enhanced as aforesaid. The learned counsel for the respondents further submits that under Rule 11(1) the interest is to be paid only on the monthly subscription credited in the GPF account of the employee. He also points out that as per the decisions of the Government of India in respect of the arrears of pay due on account of refixation as a result of the recommendations of the Fourth Pay Commission and later of Fifth Pay Commission unless a special dispensation is granted, no interest would be available on deposits made as a result out of the arrears of pay received by the employee. The learned counsel for the respondents also points out that the object of the setting up of the GPF is to encourage

thrift and economy amongst the Government employees and is not to be regarded as a commercial transaction between the employees and the Government.

4. We have carefully considered the submission and have gone through the Rules. Rule 7(1), 8(1), 8(4) and 11(1) are reproduced below:

Rule 7(1): A subscriber shall subscribe monthly to the Fund except during the period when he is under suspension:

Provided that a subscriber may, at his option, not subscribe during leave which either does not carry any leave salary or carries leave salary equal to or less than half-pay or half average pay:

Provided further that a subscriber on reinstatement after a period passed under suspension shall be allowed the option of paying in one lumpsum, or in instalments, any sum not exceeding the maximum amount of arrear subscriptions payable for that period.

Rule 8(1): The amount of subscription shall be fixed by the subscriber himself, subject to the following conditions, namely:-

(a) It shall be expressed in whole rupees;

(b) It may be any sum, so expressed not less than 6 per cent of his emoluments and not more than his total emoluments:

Provided that in that in the case of a subscriber who has previously been subscribing to a Government Contributory Provident Fund at the higher rate of 8 1/3 per cent, it may be any sum, so expressed, not less than 8 1/3 per cent, of his emoluments and not more than his total emoluments.

(c) When a Government servant elects to subscribe at the minimum rate of 6 per cent, or 8 1/3 per cent, as the case may be, the fraction of a rupee will be rounded to the nearest whole rupee, 50p. counting at the next higher rupee.

Rule 8(4): The amount of subscription so fixed may be:-

(a) reduced once at any time during the course of the year;

(b) enhanced twice during the course of the year; or

(c) reduced and enhanced as aforesaid:

-4-

Provided that when the amount of subscription is so reduced it shall not be less than the minimum prescribed in sub-rule(1):

Provided further that if a subscriber is on leave without pay or leave on half-pay or half average pay for a part of a calendar month and he has elected not to subscribe during such leave, the amount of subscription payable shall be proportionate to the number of days spent on duty including leave, if any, other than those referred to above.

Rule 11(1): Subject to the provisions of sub-rule (5), Government shall pay to the credit of the account of a subscriber interest at such rate as may be determined for each year according to the method of calculation prescribed from time to time by the Government of India:

Provided that, if the rate of interest determined for a year is less than 4 per cent, all subscribers to the Fund in the year preceding that for which the rate has for the first time been fixed at less than 4 per cent, shall be allowed interest at 4 per cent:

Provided further that a subscriber who was previously subscribing to any other provident fund of the Central Government and whose subscriptions, together with interest thereon, have been transferred to his credit in his Fund under Rule 35, shall also be allowed interest at 4 per cent, if he had been receiving that rate of interest under the rules of such other Fund under a provision similar to that of the first proviso to this rule."

5. As we read these rules, it is clear that the subscriber has to fix the monthly subscription which he can reduce once a year or mean twice a year. The subscription cannot be less than 6% of the emoluments but will not exceed the total emoluments received by the employee. Further the interest has to be allowed on the balance of GPF credit available of the employee at the end of the each year. We do not find anything specifically prohibiting interest on subscription which are made out of the arrears of pay of whatever kind. The learned counsel for the respondents in this context relies on the Government of India's decision reproduced at page 17 of Swamy's Compilation of General Provident Fund Rules (edition 1999) which states as follows:

"In sub-section (3) of Rule 7 of the old General Provident Fund Rules (1929 edition) it was laid down that the amount of subscription originally fixed by a subscriber was not to be varied during the course of the year on account of any increase or decrease in his rate of pay which might ultimately have been found to be due in respect of the 31st March proceeding or which might take place during the year. For the avoidance of any doubt in the matter, the Government of India have decided that the same principle should be followed under Rule 8 of the General Provident Fund (Central Services) Rules."

6. In our view the aforesaid instruction also does not cover the case of the applicant. If the applicant had sought payment of interest on the assumption that the subscription paid by him should be regarded as deposited in the year to which the arrears related, the position would have been different. For instance, if the arrears had arisen on account of enhancement of pay in 1985-86 but the arrears had been paid only in 1992-93 and the employee claims that the GPF should be treated to have been paid in 1985-86 and the interest paid accordingly then his case would be covered under these instructions. The employee cannot claim notional date of subscription retrospectively for purpose of interest but in our view he can claim interest from the date of actual deposit of the subscription in the GPF.

7. The deposits cannot exceed the total emoluments received by him as required Rule 8(1) but Rule 8(4) permits variation of this rate of subscription by the employee. There is no assertion on the part of the respondents that the applicant had already exhausted the facility available to him under Rule 8(4) in regard to the enhancement of the subscription made by him. The learned counsel for the respondents argued that this enhancement is valid only

if prior intimation is given. However, if the respondents accepts his subscription then they cannot later on raise an objection that no such prior intimation was given by the employee. The learned counsel for the respondents also draws our attention to the meaning of 'subscribe' in the Oxford Concise Dictionary. According to the afore-said dictionary subscribe means contribute (a specified sum) or make or promise a contribution to a fund, project, charity, etc. esp. regularly. We do not see how this definition applies to the case of the respondents. For the applicant whatever he contribute to the fund is a subscription under Rule 8(4) this subscription is not a fixed subscription since discretion is given to the employee to enhance or to reduce such subscription but with the proviso that this can be done a specified number of times. We cannot therefore, accept the argument that the deposits made by the applicant which are subject matter of this controversy were not by definition subscription to GPF.

8. In the result, the OA is allowed. The impugned order is set aside. The respondents are direct to pay the payment of interest from the date of deposits made by the applicant till the date of actual payment within a period of six months from the date of receipt of a copy of this order. No costs.

(R.K.Ahooja)	(V.Rajagopala Reddy)
Member(A)	Vice Chairman(J)

/RAO/