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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 432/98

New Delhi this the ~~16~~ February 1999

Hon'ble Shri R.K. Ahooja, Member (A)

Shri Gajendra Pal Sharma,
S/o Late Shri S.N. Sharma,
Assistant Manager, Dairy Supervisor,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110 008.

Residential Address:
F-20 Patel Nagar I,
Ghaziabad (U.P.) 201001.

(By Advocate: Shri ~~S.C. Luthra~~
Shri ~~D.P. Khokha~~
-Versus-

Union of India

1. The Secretary to the Govt. of India,
Department of Animal Husbandry & Dairying,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi-110 001.
2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110 008.

Respondents

(By Advocate: None)

O R D E R

The applicant who was appointed as an Assistant Manager/Dairy Supervisor in Delhi Milk Scheme, was on the basis of a departmental proceeding, dismissed from service by an order dated 6.2.1986. He thereafter filed an O.A. No. 1005/86 before the Tribunal which by its order dated 3.1.1999 quashed the impugned order of dismissal. The Civil Appeal No. 4226 of 1992 filed by the respondents was also dismissed by the Supreme Court on 11.8.1994. The applicant was reinstated and he rejoined in service w.e.f. 15.10.1994. However, his arrears were paid

only in the month of February 1996. The applicant submits that a sum of Rs. 1,36,800/- was deducted from his arrear of salary for the period 1986-87 to 1994 by way of outstanding subscriptions towards his G.P.F. The grievance of the applicant is that the respondents did not grant him the interest on the subscriptions amounting to Rs. 1,30,303/- and rejected his representation on this pointed vide their Memo. dated 13.2.1997, Annexure A-1.

2. When the matter came up for admission before the Tribunal on 26.2.1998, a notice was sent to the respondents to show cause within four weeks as to why the O.A. be not admitted and disposed of at the admission stage itself. Despite numerous opportunities, no counter had been filed till 20.8.1998 when further three weeks time was granted by way of a last opportunity. Despite this no reply was received and the O.A. was admitted by an order dated 24.11.1998. Though appearance was made on behalf of the respondents, no reply was filed. In view of this persistency failure on the part of the respondents, the O.A. was heard ex-parte on 12.2.1999.

3. The learned counsel for the applicant, Shri S.C.Luthra, has drawn my attention to Rule 11 of the General Provident Fund (Central Services) Rule, 1960. Rule 11(3) reads as follows:

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Rule 11 (3)

"(3) In this rule, the date of deposit shall in the case of recoveries from emoluments be deemed to be the first day of the month in which it is recovered, and in the case of amounts forwarded by the subscriber, shall be deemed to be the first day of the month of receipt, if it is received by the Accounts Officer before the fifth day of that month, but if it is received on or after the fifth day of that month, the first day of the next succeeding month:

Provided that where there has been delay in the drawal of pay or leave salary and allowances of a subscriber and consequently in the recovery of his subscription towards the Fund, the interest on such subscriptions shall be payable from the month in which the pay or leave salary of the subscriber was due under the rules, irrespective of the month in which it was actually drawn:

4. The question to be decided is whether the delay is in the drawal of pay and consequently the recovery of the subscription towards GPF was on account of the applicant or on account of the respondents. The applicant was dismissed from service in 1986 by an order which was held by the Tribunal to be illegal. The appeal against the order of the Tribunal was also dismissed by the Hon'ble Supreme Court. Though liberty was granted to the respondents to start the disciplinary proceedings afresh, a final decision was taken by them not to do so. What is more, the respondents took nearly two years to finalise and pay the arrears of the salary etc. to the applicant after he rejoined service in October, 1994. Clearly, the delay in payment of the salary and the deduction of the subscription therefrom was entirely on account of the action on the part of the respondents. In these circumstances under the proviso to Rule 11(3) of GPF (CS) Rule 1960 extracted above,

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the interest on such recovery of subscription has to be paid from the month in which the pay of the subscriber was due under the rules, irrespective of the month it was actually drawn. The applicant is thus entitled to the relief sought for.

5. The O.A. is accordingly allowed. The respondents will calculate the GPF interest on the subscription recovered from his salary with reference to month in which the pay from which the deductions have been made was so due. The payment of the interest will be made not later than three months from the date of receipt of a copy of this O.A.

R.K. Ahuja
(R.K. Ahuja)
Member(A)

Mittal