

Central Administrative Tribunal  
Principal Bench, New Delhi

CP No. 133/95 in  
OA No. 938/94

New Delhi this the 22nd day of August 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)  
Hon'ble Mr R.K.Ahooja, Member (A)

Deeptilal Sharma  
R/o 1292 Sector 9  
Faridabad

...Applicant

(Applicant in person)

Versus

Union of India through

1. Shri C.G.Somiah  
The Comptroller & Auditor General of India  
New Delhi.

2. The Principal Director of Audit  
Central Revenue II, AGCR Building  
New Delhi - 110 002

...Respondents.

(Through Mr M.K.Gupta, advocate)

O R D E R (oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The petitioner Mr Deeptilal Sharma has filed this contempt petition praying that action under the Contempt of Court Act may be initiated against Shri C.G.Somiah, Comptroller & Auditor General of India and Miss Madhumitha Bhattacharya, DAG, alleging that they have consciously violated the directions contained in the judgement of this Tribunal in OA 938/94 rendered on 16.8.1994. The original application No.938/94 was disposed of with the following directions:

- (a) The respondents are directed to pay the balance of interest @ 12% per annum on the withdrawal amount of the DCRG of Rs.3000/- till it was released on 19.6.1991 though the applicant has been paid @ 7% per annum. The balance of interest amount will be paid within the period of two months from the date of receipt of copy of this order.
- (b) The respondents shall show the GPF account of the applicant to him and the adjustment of the subscription made month to month in his account and the mode of calculation of interest on that subscription in that order. A statement of account, therefore, be furnished to the applicant to show that the interest paid to him on his subscription towards GPF is according with Rule 11 of the Rules. If the applicant has been paid less interest according to the rules then the balance of interest be also paid to him. The respondents will convey to the applicant the above calculations within a period of 3 months from the date of receipt of a copy of this order. In case the applicant has rightly been paid the

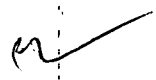
interest then he will not be entitled to any amount by way of interest on GPF or interest on interest as prayed for by him."

(12)

As far as the directions in sub para (a) of para 5 of the judgement are concerned, the same has been complied with, as admitted by the petitioner.

2. The grievance of the petitioner is that the directions contained in sub para (b) of para 5 of the judgement have not been complied with by the respondents in as much as the respondents have not paid to the petitioner the interest for the late credit of the subscriptions of the provident fund. The late credit, it is borne out from the records, was due to the fact that though the DDO had deducted provident fund subscriptions from the pay bills of the applicant during the relevant months, the amount was forwarded to the respondents, namely the lending department <sup>later</sup> and the interest was paid from the date on which the amount was received in the department. However, the petitioner has another grievance that the incentive amount was not paid to the petitioner and this also amounts to wilful defiance of the Tribunal's order.

3. The respondents have filed their reply in which they have stated that in obedience to the directions contained in the judgement, the accounts relating to the provident fund subscriptions of the petitioner, method of calculation of interest etc. were shown to the petitioner; that copies of the relevant documents were sent to the petitioner and that nothing more was due to the petitioner. As far as the late credit of contributions by the petitioner towards GPF while he was on deputation to DDA is concerned, the respondents have indicated in the reply affidavit that the interest has been calculated with effect from the date on which the amount was deposited by the DDA and therefore the respondents have not committed any contempt. They however contend that incentive bonus not being an issue in the OA, the same is beyond the ambit of proceedings in the contempt of court.



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4. We have heard at length the arguments of the petitioner who is present in person and also heard Shri M.K.Gupta, learned counsels for the respondents. We have also gone through the pleadings and connected papers in the contempt petition as well as OA.

5. It is abundantly clear and in fact not in dispute that there has been a considerable delay in the DDA's forwarding the amount of GPF contributions made by the petitioner to the parent department of the petitioner. It is also clear from what is stated above that there has been shortage in the amount of interest on the provident fund contributions of the petitioner on account of the late credit. Thus there can be no doubt that the petitioner has been deprived of a substantial amount by way of interest on the payments made by him towards his GPF. But the question which we have to ask ourselves in this proceedings is whether the respondents have wilfully defied any of the directions contained in the judgement so as to expose themselves to proceedings under the contempt of court act. It is obvious that the petitioner has been shown and was also supplied with copies of the relevant calculations though the petitioner would state that the calculation was not shown. We do not find any reason for the respondents not to have shown the petitioner the account. If as a matter of fact the accounts were <sup>not</sup> shown to the petitioner, he should have made written requests specifying the date on which he was asked to verify the account and thereafter made the complaint that his request was not acceded to. Under the circumstances, we are of the considered view that the respondents have shown the petitioner the accounts and supplied to him the relevant calculations and have not paid him any additional interest because according to their interpretation nothing more is to be paid to him. In a case where two interpretations are possible and if the party bound by the decision has taken as one interpretation, it cannot be said to be a defiance and therefore such an action will not result in contempt of court. Further, according

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to the provisions contained in Rule 10 & 11 of the GPF Rule, in the case of an employee on deputation, the contributions towards GPF are to be credited by the lending department on the deposits being made by the borrowing department though it is <sup>the</sup> duty of the borrowing department to forward the deposits in due time to the lending department. We find in this case that the DDA has delayed considerably in forwarding the GPF contributions of the petitioner to the lending department. The default if at all is of the DDA and not of the respondents. Personnel concerned with maintenance of the GPF account of an employee on deputation to a different department or corporation will make entry in the book only the receipt of deposits. The petitioner has invited our attention to the observations made in the body of the judgement that if for any reason there has been loss caused to the petitioner on account of delay in crediting the PF contributions, the respondents are bound to compensate the petitioner but such observations are not incorporated in the directions contained in para 5 of the judgement. In the absence of a direction in the judgement to pay to the petitioner interest on the delayed deposits of the GPF contributions by DDA to the lending department, we are of the considered view that the respondents cannot be held responsible for that. The responsibility would only rest on the DDA.


6. A careful reading of the reply and the documents annexed thereto has satisfied us that the respondents have substantially complied with the directions contained in para 5 (b) of the judgement. Regarding the incentive bonus, we are of the considered view that this not being a part of the directions contained in the judgement is outside the purview of this contempt petition.

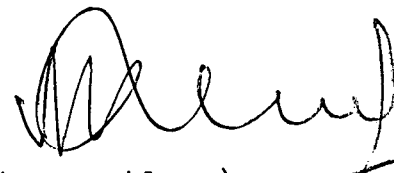
7. In the light of what is stated in the foregoing paras, we are of the considered view that the respondents having substantially complied with the directions contained in the judgement have not committed anything which would expose them to proceedings under the contempt of



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Court Act. We, therefore, dismiss the contempt petition and discharge the notice issued to the respondents. However, it is made clear that in case the applicant feels that any more is due to him by <sup>way of</sup> interest on the contributions made by him towards the GPF, it would be open for him to seek appropriate relief in appropriate proceedings separately instituted in that behalf and that time spent on prosecuting this CP shall stand excluded in case such a relief is sought.

  
(R.K. Ahooja)  
Member (A)

  
(A.V. Haridasan)  
Vice Chairman (J)

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