

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. 1022/96 & 1028/96

Dated :- 4-12-1996

OA 1022/96-Sh.Bhupinder Mohan
Bhatnagar.

OA 1028/96-Sh.Parshotam Lal

.... Petitioner

Sh.V.R Trikha

.... Advocate for the
petitioner.

Vs.

Director General ESI and
others.

... Respondents

Sh.G.R.Nayyar

... Advocate for the
respondents.

CORAM

Hon'ble Smt.Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other
Benches of the Tribunal? *X*

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Member (J)

(5)

Central Administrative Tribunal
Principal Bench.

O.A. 1022/96
&
O.A. 1028/96

New Delhi this the 4th day of December, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

O.A. 1022/96

✓ Bhupinder Mohan Bhatnagar,
S/o late Shri Krishan Bihari Lal Bhatnagar,
R/o J-56, B.K. Dutt Colony,
Jor Bagh Road,
New Delhi.

...Applicant.

By Advocate Shri V.P. Trikha.

Versus

1. Director General,
ESI Corporation,
Panch Deep Bhawan,
Kotla Road,
New Delhi.

2. Financial Adviser,
ESI Corporation,
Panch Deep Bhawan,
Kotla Road,
New Delhi.

...Respondents.

By Advocate Shri G.R. Nayyar.

O.A. 1028/96.

Parshotam Lal,
S/o late Shri Hans Raj,
R/o House No. 2086/5, Chuna Mandi,
Pahar Ganj,
New Delhi.

...Applicant.

By Advocate Shri V.P. Trikha.

Versus

1. Director General,
ESI Corporation,
Panch Deep Bhawan,
Kotla Road,
New Delhi.

2. Financial Adviser,
ESI Corporation,
Panch Deep Bhawan,
Kotla Road,
New Delhi.

...Respondents.

By Advocate Shri G.R. Nayyar.

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

12/ The learned counsel for the parties have submitted

that as the facts and issues involved are similar, both the cases may be taken up together. However, for the sake of convenience, the facts in O.A. 1022/96 (Bhupinder Mohan Bhatnagar Vs. Director General, ESI Corporation and anr.) have been referred to in detail in this order.

O.A. 1022/96.

2. The applicant who was in service of the respondents, has retired on 31.12.1994. Admittedly, he has been paid the amount of General Provident Fund (GPF) due to him on retirement on 11.8.1995 for which he claims 12% interest from 1.1.1995 to the date of payment. Shri Trikha, learned counsel for the applicant, has submitted that in terms of Rule 25(3)(i) of the Employees State Insurance Corporation (General Provident Fund) Rules, 1993 (hereinafter referred to as 'the Rules'), the respondents had failed to give the applicant necessary forms before his retirement which ought to have been given to him one year in advance to the date of his superannuation, i.e. on or before 31.12.1993. This fact has not been disputed by the respondents. However, after the applicant retired on 31.12.1994, it is also an admitted fact that he made the first representation/ of application with regard to the receiving/his Provident Fund dues only on 19.6.1995 i.e. nearly six months after his retirement.

3. The learned counsel for the applicant has also drawn attention to the provisions of Rule 13(4) of the Rules which provides as follows:

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Provided that where the Accounts Officer has intimated to that person (or his agent) a date on which he is prepared to make payment in cash or has posted a cheque in payment to that person, interest shall be payable only upto the end of the month preceding the date so intimated or the date of posting the cheque, as the case may be:

He, therefore, submits that the applicant ought to be paid interest on the Provident Fund amount which had been delayed by the respondents due to their not taking timely action, as required under the rules.

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8. In this case admittedly the respondents, namely, the Head of Office, have failed to give the necessary forms to the applicant to enable him to submit the same duly completed in accordance with the rules and no satisfactory explanation has been given as to why this was not done. However, it is also an admitted fact that for nearly six months, the applicant himself had acquiesced in not getting his Provident Fund dues as he had made the first application only on 19.6.1995.

9. Rule 13(4) of the Rules, however, provides that interest on the Provident Fund amount shall be paid upto the end of the sixth month after the month in which such amount became payable. In other words, as submitted by the learned counsel for the applicant, in any case under the rules, upto a period of six months the applicant is entitled to be paid interest if the Provident Fund which is lying with the respondents has not been paid to him, ~~till the expiry of the period of six months~~ ^{ps}.

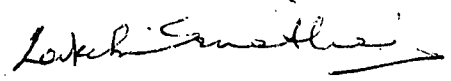
It is a relevant factor that in this case the applicant had submitted ^{the} duly completed necessary forms on 19.6.1995 and the respondents could have paid the amount so due together with interest by the end of the month which they were required to pay, having regard to the provisions of Rule 25(3)(i) read with Rule 13(4) of the Rules.

10. Having, therefore, regard to the facts and ^{this} circumstances of the case, / application is partly allowed. The respondents are directed to pay 12% interest on the Provident Fund amount due to the applicant for a period of six months from 1.1.1995 to 30.6.1995, within a period of one month from the date of receipt of a copy of this order, in accordance with the extant rules/ instructions.

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O.A. 1028/96.

11. In view of the conclusion arrived at in O.A. 1022/96, this O.A. is also partly allowed on similar lines. The respondents are directed to pay 12% interest on the Provident Fund amount due to the applicant for a period of six months from 1.1.1995 to 30.6.1995, within a period of one month from the date of receipt of a copy of this order, in accordance with the extant rules/instructions.
12. Both the O.As are disposed of as above. No order as to costs.
13. A copy of this order shall be kept in the record of O.A. 1028/96.


(Smt. Lakshmi Swaminathan)
Membr(J)

'SRD'