

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).

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:

B

(7)

"13. Interest. (1) to (3) XXXXXXXXXXXXXXXXXXXXXXXXX

(4) In addition to any amount to be paid under rules 20, 21 or 22 interest thereon upto the end of the month preceding that in which the payment is made or upto the end of the sixth month after the month in which such amount become payable whichever of these periods be less, shall be payable to the person to whom such amount is to be paid:

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:

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

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.

4. The respondents have filed their reply denying that any interest is payable on the G.P.F. amount which has already been paid on 11.8.1995. Shri Nayyar, learned counsel for the respondents, has referred to certain instructions issued by the Government of India which are also binding on the respondents, dated 5.8.1994. As per these instructions which are clarificatory in nature to the rules, the interest is payable after one month of the submission of completed forms. He, therefore, submits that in this case since the completed forms ^{only} ~~had~~ admittedly have been submitted on 19.6.1995 and the payment has been made on 11.8.1995, the delay is somewhat negligible and should be ignored and as such, no interest is payable to the applicant on the Provident Fund amount.

B

5. Regarding the instructions dated 5.8.1994, Shri Trikha has strongly put forward the arguments that these instructions were never brought to the knowledge of the applicant at any time prior to his retirement and they were circulated only on 1.8.1995. Prior to this, in any case, he had already submitted the necessary application forms for Provident Fund dues in June, 1995.

6. I have carefully considered the pleadings and the submissions made by the learned counsel for both the parties and the rule position.

7. Rule 25 of the Rules provides for the manner of payment of amount in the Provident Fund. Sub rule (3) of this Rule provides as follows:

"(3) Payment of the amount to be withdrawn shall be made in India only. The persons to whom the amounts are payable shall make their own arrangements to receive payment in India. The following procedure shall be adopted for claiming payment by a subscriber, namely:-

(i) To enable a subscriber to submit an application for withdrawal of the amount in the Fund, the Head of Office shall send to every subscriber necessary forms either one year in advance of the date on which the subscriber attains the age of superannuation or before the date of his anticipated retirement, if earlier, with instructions that they should be returned to him duly completed within a period of one month from the date of receipt of the forms by the subscriber. The subscriber shall submit the application to the Accounts Officer through the Head of office or department for payment of the amount in the Fund. The application shall be made:-

(a) and (b) XXXXXXXXXXXXXXXXXXXXXXXXX"

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~~. 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 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.

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'

Bimla Devi
(बिमला देवी)
(BIMLA DEVI)
कोर्ट अधिकारी/Court Officer
केंद्रीय विधायक नियन्त्रण
Central Administrative Tribunal
पुस्तकालय, अंग्रेजी भवन
Prin. Secy's Branch, Faridkot House
नई दिल्ली/New Delhi-110001