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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2645/97

New Delhi this the 21 Day of August 1998

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

Shri Sri Chandra Dutt Sharma
Retired S.O. 'A',
S/o of Shri Babu Ram,
R/o A-16/2, Chandra Vihar,
I.P. Estate, New Delhi.

Applicant

(By Advocate: S.D. Sharma)

-Versus-

1. Union of India,
through Secretary,
Ministry of Defence, Govt. of India,
New Delhi.
2. Controller General of Defence Accounts,
R.K. Puram, Block V, New Delhi.
3. Jt. C.D.A. (Funds),
Meerut Cantt. Respondents

(By Advocate: Shri K.K. Patel)

ORDER

The applicant retired as Section Officer (A) in the office of CAD (PD), Meerut on 30.4.1997. He submits that the GPF balance amounting to Rs. 33,521/- has not been paid to him by the respondents. In reply to his representation and a legal notice he was informed that a sum of Rs. 6,200/- + Rs. 264/- due to be paid back by the applicant was wrongly re-adjusted by Respondent No. 3 in March 1982. This non refunded advance along with an interest of Rs. 27,057/- had been deducted from his outstanding GPF amount and thus nothing was due to the applicant. Disputing this claim of the applicant, the applicant has made a prayer for a direction to the respondents to release the full outstanding GPF amount to him.

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2. The respondents in reply have said that the applicant had taken a GPF advance of Rs. 7,200/- upto 5/97 of which Rs. 6200/- + Rs. 264/- was outstanding. This was by mistake shown as readjusted in March 1982. On finalisation of the account on the retirement of the applicant this outstanding advance alongwith interest upto 5/97 came to Rs. 33,521/-.

3. I have heard the counsel. Shri S.D. Sharma, learned counsel for the applicant has cited the order of this Tribunal in Harjit Singh Vs. Union of India and Others, (1995) 31 ATC 657 and D. Chandrasekara Rao Vs. Union of India and Another (1994) 27 ATC 343. In the former case it was held that though an allowance was irregularly paid to the applicant, an IPS Officer, between 1977-81 the same could not be recovered after a long period of several years. In the second case also it was held that recovery could not be made on the eve of retirement on the basis of alleged over payment due to wrong fixation of pay over 10 years earlier. Shri Sharma, learned counsel for the applicant argued that following the ratio of these two judgements, recovery could not be made after a delay of 15 years on the eve of applicant's retirement. Learned counsel for the respondents, however, argued that the recovery was strictly in accordance with the Rules and adjustable against the final balance of applicant's GPF account.

4. I have considered the matter carefully. There is no indication as sought to be made out by the learned counsel for the respondents that the outstanding

amount was being shown in the Annual General Provident Fund Statements.. On the other hand, it appears from the reply of the respondents that the outstanding amount came to notice only at the time of checking of records when the applicant was due to retire. Admitting that the amount was actually due, the respondents cannot pass on the blame to the applicant when they themselves admittedly made a wrong re-adjustment as far back as in 1982. Having done so, it is not open to the respondents to raise a claim against the applicant 15 years later. If the outstanding had been shown and intimated in the Annual General Provident Fund Statement there could be no bar against the recovery. The applicant, however, at this stage when he has retired cannot be expected to produce proof that he had refunded the amount 15 years ago. In the circumstances the only alternative is to go by the respondents own records. If they have not corrected the mistake for the past 15 years then recovery at this stage would not be justified following the ratio of the judgements of this Tribunal in Harjit Singh and D.Chandrasekara Rao (supra).

5. The O.A. is accordingly allowed. The respondents are directed to release the outstanding amount of Rs. 33,521/- in the GPF of the applicant within two months from the receipt of a copy of this order.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Mittal