

24

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. NO. 2962 of 1997

New Delhi, dated this the 5th JANUARY 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)

Shri Jagdev Mohan Sharma,
Gali No. 4, 1/20, Biswas Nagar,
Delhi-110031. ... Applicant

(By Advocate: Shri O.P. Minocha)

Versus

1. Directorate of Education,
Government of NCT, Delhi,
Old Secretariat, Delhi through
the Principal,
Government Boys Sr. Secondary School No.1,
Gandhi Nagar, Delhi-31.

2. Principal Accounts Office,
DCA (Pension), Mori Gate, Delhi through
Dy. Controller of Accounts (Funds),
Room No. 106, GPF Cell,
Govt. of NCT, Delhi,
Old Secretariat,
Delhi. ... Respondents

(By Advocate: Shri Bhaskar Bhardwaj proxy
counsel for Shri Arun Bhardwaj)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant had initially filed this O.A. impugning
respondents letter dated 22.1.97 (Annexure A-1) and had
sought

- i) release of GPF w.e.f. 8.10.93 with
interest @ 24% p.a. thereon.
- ii) interest on CGEIS @ 24% p.a. till
realisation.
- iii) payment of remuneration as per rules
applicable.
- iv) Costs.

2. Applicant retired from service as a School Principal
on 31.1.93, and after being given an extension of 9 months,
finally demitted office on 8.10.93. He states that he
was unable to get his retiral dues even after 20 months

and wrote to the Director (Vigilance) in this regard on 19.11.94 (Annexure A-2). He further contends that the calculation of dues as per respondents was also not correct and he wrote to them in this regard also on 20.11.94 (Annexure A-3) but he received no response, upon which he was compelled to send respondents a legal notice on 27.7.95 (Annexure A-4). He states that even the pension adalat to whom he had reported the matter failed to settle the same, compelling him to approach the Tribunal.

3. Respondents in their reply state that all applicant's retiral benefits were paid to applicant except GPF because after the papers were sent to GPF Cell on 7.9.94, the same got misplaced, as a result of which authority for withdrawal of GPF could not be issued but thereafter even the GPF amounting to Rs.1,27,578/- was paid to applicant on 13.2.98 vide cheque No. 739724. In this connection it is stated that applicant was called upon several times orally and also in writing vide letter dated 1.9.97 to prepare duplicate papers for preparation of GPF, but he did not cooperate as a result of which GPF could be released only on 13.2.98.

4. Applicant in rejoinder admits receipt of cheque No. 739724 dated 13.2.98 for Rs.1,27,578/- but asserts that the actual amount which should have been paid to him was Rs.1,47,920/- as it is on record that in 1976 a sum of Rs.14,500-00 was standing in his GPF Account. He also asserts that this sum which was released to him on

13.2.98 should actually have been released to him on 31.1.93 and he is, therefore, entitled to interest @ 24% p.a. for delayed payment. He also states that Group Insurance (Rs.1,00,000/-) was released to him only on 1.11.97 and interest on delayed payment is due to him on that account also.

5. Respondents in their additional affidavit have enclosed details of applicant's GPF Account from 1968 to 1998, from which prima facie it appears that the GPF subscription deducted during the year 1968 to 1975 have been accounted for in applicant's GPF account. Closing Balance of one year was carried forward to the subsequent year and so on. As per enclosed details, applicant had a closing balance of Rs.81,736/- for the year 1992-93 after deducting Rs.1,20,000/- towards GPF withdrawal in November, 1992 vide Bill No. 150 dated 11.11.92 which included interest upto January, 1993.

6. Respondents state that applicant retired on superannuation on 31.1.93 and due date for payment of GPF was 1.2.93. As per rules he should have applied for final payment one year prior to the date of retirement, and GPF subscription was to have been stopped compulsorily before three months prior to his retirement. However, applicant continued to subscribe to GPF till January, 1993 and he applied for final withdrawal only on 27.1.94. Thus interest for the period February, 1993 to February, 1994 which works out to Rs.16,248/- was not paid to him in pursuance of Rule 11(4) GPF Rules read with DP&T O.M.

dated 31.5.94 (Annexure B), as the delay for non-payment of GPF for 12 months plus process period of one month was attributable to applicant. Respondent No.2 denies responsibility for delay in payment of GPF and states that as per their records, final payment papers were sent to Gazetted Officers cell Directorate of Education on 7.9.94 where they were misplaced. It is stated that reasons for non-finalisation of the case till February, 1998 was due to non-receipt of final payment papers from Respondent No.1 which was essential for settlement of the case as per GPF rules. It is further contended that Respondent No.2 has already made excess payment of Rs.16,415/- towards final payment while authorising release of Rs.1,27,578/- as interest was not admissible for the period February, 1993 to February, 1994. It is stated that GPF advance of Rs.4,000/- drawn by applicant in September, 1977 was not found deducted from his GPF Account as shown in ledgers transferred from erstwhile AGCR. It is stated that respondent No.2 undertakes to adjust missing/short credits if applicant feels so after examining the details of his GPF Account provided applicant submits deduction statement from the concerned officer from where he had drawn his salary.

7. Applicant has in turn filed two additional affidavit rebutting these contentions. In his additional affidavit dated 10.2.99 he denies that any GPF advance of Rs.4000/- was ever taken and contends that the figure of Rs.8,736/- shown as his GPF closing balance for 1992-93 is wrong. He contends that the sum of Rs.1,27,578/- released to him in February, 1998 is also based on wrong

calculations. He, however, admits that he applied for release of his GPF only on 27.1.94. In his second affidavit also dated 10.2.99, he has stated that the calculation of Rs.20,342/- claimed by him as balance GPF to be released by respondents is based on the GPF Account outstanding which were unpaid to him for the years 1976-77 with interest upto date thereon. He states that the amount of Rs.1,27,578/- which was paid to him was also short by Rs.500/-.

8. I have heard applicant's counsel Shri O.P. Minocha and respondents' counsel Shri Bhaskar Bhardwaj. I have perused the materials on record and given the matter my careful consideration.

9. Even if, as contended by respondents, applicant applied for final withdrawal of GPF only on 27.1.94, respondents themselves admit that he was paid the same only by cheque dated 13.2.98 i.e. after a lapse of over 4 years. Respondent No.2, has sought to deny responsibility for delay and has contended that Respondent No.1 was responsible for the same, but whether it was Respondent No.1 or 2 who were responsible for the delay, it is clear that applicant should not be penalised for the same. If he had been released his GPF in time, he would have derived benefits from the same including interest if he had chosen to deposit it, and it would be unfair and unjust if, because of the latches of the respondents in releasing the same in time, he is deprived of those benefits. Similarly no satisfactory reasons have been given as to why the

Group Insurance amount was released to him as late as on 1.11.97.

10. In the result this OA is disposed of with the following directions:

- i) Respondents will calculate and pay to applicant interest @ 12% p.a. on delayed release of GPF for the period 1.2.94 until 1.2.98;
- ii) Respondents will also calculate and release to applicant interest @ 12% p.a. on delayed payment of CGEIS for the period 1.2.94 till 1.11.97;
- iii) Any other sums owned by respondents to applicant will be calculated and released to applicant;
- iv) While releasing (i), (ii) and (iii) above to applicant, respondents will ascertain whether any excess payments have been made of sums which were not due to applicant as a part of his retiral dues, and if so those sums will be adjusted before release of (i), (ii) and (iii) above.
- v) Payments will be supported by a detailed calculation chart explaining each item.
- vi) These directions will be implemented as expeditiously as possible and preferably within 3 months from the date of receipt of a copy of this order.
- vii) No costs.

Mr. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).