

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.609/2000

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 24th day of April, 2002

Dr. Y.C.Arya
s/o Shri Naval Kishore
r/o Appartment H-1
Pusa Apartments
Sector 15, Rohini
Delhi - 110 085. ... Applicant

(By Advocate: Shri B.B.Raval)

Vs.

1. Indian Council of Agricultural Research
through its Director-General
Government of India
Krishi Bhawan
New Delhi - 110 001.
2. The Director
Indian Agricultural Research Institute (IARI)
Pusa, New Delhi - 110 012. ... Respondents

(By Advocate: Ms. Anuradha Priyadarshini)

O R D E R

By Shanker Raju, M(J):

Applicant, who retired on superannuation on 31.1.1996 impugns respondents' order dated 7.4.1999, Annexure-A as well as order on his representation dated 20.12.1999, Annexure-B denying him the interest on arrears of revision of pay, deposit in GPF Account beyond 1.4.1989. Applicant has sought interest till its realisation.

2. Briefly stated in pursuance of the Fourth Central Pay Commission's recommendations, for the Scientists of ICAR for revision of pay scale, respondents retrospectively adopted the recommendations w.e.f. 1.1.1986. In October, 1993 applicant was paid arrears of pay w.e.f. 1.1.1986 upto April, 1993. As per the Memorandum issued on

17.3.1987, as well as Memorandum dated 12.11.1990. Applicant was handed over a Cheque towards provisional payment of arrears of revision of payment of April, 1989 to April, 1993 amounting to Rs.94693/- and the rest of the amount was deducted towards the GPF contribution which is supported by the certificate captioned Rebate and Relief under Chapter VIII. Applicant retired on superannuation on 31.1.1996 and a duly completed GPF Pass Book was handed over to him subsequently. As per the Pass Book, credit of subscription of Rs.67456/- for the year 1993-94 as well as Rs.32,784/- for the year 1995-96 was shown as closing balance at the balance credit but interest on which has been denied to him. On making representations, for calculating the interest upto Rs.93000/- + and on reminder, by a letter dated 21.10.1998, addressed to him, it was informed that the case was referred to ICAR and as per the clarification in pursuance of OM 12.11.1990 where the arrears of pay and allowances on account of subsequent revision of pay scale is to be allowed to be deposited in GPF on which interest is to be allowed first of the month succeeding the month in which the orders for such revision of pay scales are issued, an interest of Rs.50649/- was calculated and was observed to be correct and in order.

3. On 7.4.1999 after much delay applicant has been denied interest beyond 1.4.1989 on the arrears by stating that GPF contribution allowed out of arrears beyond 1.4.1989 is unauthorised and interest on that

amount is not admissible. On making further representation the same was rejected without stating reasons.

4. Applicant has also filed written submission and has raised the issue as to for what period the arrears of revision of pay can be contributed and deposited in the GPF account. According to him upon revision of the pay scales w.e.f. 1.1.1986, a total amount of Rs.1,00,240/- has been credited in the balance GPF account as special deposit of the arrears of revision of pay w.e.f. 1.1.1986 upto the month when the arrears have been paid which is in accordance with ICAR order of revision of pay scale dated 9.3.1989 and was in order as per clarification issued by OM 12.11.1990. As per calculations, total interest comes to be Rs.93000/- +. According to the applicant, the respondents have taken two conflicting and divergent views. On one hand the contribution after 1.4.1989 has been observed as unauthorised, but they themselves allowed interest to the applicant on entries upto 1997 without giving any details. Regarding remaining entries the same has been denied. According to him on being furnished complete GPF Pass Book it transpired that interest has not been paid on the aforesaid amount. He also states that GPF contribution from 1.4.1989 is not unauthorised because the same was deducted from the applicant's salary, merged and credited in his GPF Account by the respondents' themselves. It is also denied that the GPF Contribution was not allowable from a part of the full period for which the arrears of pay revision were paid. According to him, in

accordance with GOI's Memorandum dated 12.11.1990, the interest will accrue from first of month succeeding the month in which order for revision of pay scale was issued and in accordance with clarification, as per the ICAR order dated 9.3.1989 GPF contribution of full arrears of pay beyond March, 1986 upto to the month upto which arrears were paid by the respondents. Entire arrears of pay have remained with IARI authorities till 30.4.1996 on which they earned interest as well.

5. According to the applicant, as per the clarification OM dated 12.11.1990, nothing has been mentioned that staff may voluntarily deposit in GPF, their arrears of pay from 1.4.1986 to only the date of revision of the pay scale. Rather it allows the staff to deposit the arrears of pay for the period 1.4.1986 to the month of revision of pay and not the month of revision of pay scale. ICAR Order dated 9.3.1989 the arrears of pay beyond March, 1986 has been clarified on 13.3.1987 to implement arrears of pay upto the month upto to which the arrears of pay have been paid to Group 'A' Officers as such the applicant was entitled to deposit the arrears upto April, 1993. The stand of the respondents that the employee can deposit the arrears of pay upto the date of revision of pay 21.4.1992 is contrary to their own stand in their impugned letter dated 7.4.1999 as such interest on the arrears should have been paid upto this date to the applicant.

6. As regard the calculation of interest on special deposit, it is contended that having failed to file an affidavit, as per the directions of this Court, issued on 17.10.2001, to file a detailed additional affidavit, showing calculation of the interest paid as well as the inconsistent stand taken by the respondents, have lost their right as well estopped from raising contrary pleadings.

7. Respondents, in their reply, denied the contentions of the applicant and further stated that the arrears of pay amounting to Rs.94,693/- have been drawn by the applicant for the period April, 1989 to April, 1993 and an amount of Rs.67,456/- was deposited in the GPF which includes Rs.9456/- towards D.A. arrears and the arrears were further drawn on 23.9.1994 for the period 1.1.1986 to 31.1.1989 and amount of Rs.32,784/- was deposited in the GPF. As per the OM dated 17.3.1987 Group 'A' officers have been allowed to deposit the arrears of pay beyond March, 1986 upto the month to which the arrears are paid in the GPF and vide clarification issued on 12.11.1990 arrears on account of revision of pay scales due to recommendations of Pay Commission, could be deposited in the GPF on 1.4.1986, to the month of order of revision of pay scales and however, the date of accrual of interest on these deposits would be the first of the month succeeding the month in which orders for such revision of pay scales are issued. As the applicant has already drawn arrears w.e.f 1.1.1986 to 30.4.1993, and deposited in GPF, he is only entitled to deposit the arrears of pay into GPF upto the date of issue of the orders of revision, i.e.,

21.4.1992. Thereafter, his arrears of pay would be treated as unauthorised deposits and on this interest is not permissible.

8. On clarification the applicant was allowed an interest of Rs.50,649/- which is correct and in order. It is also stated that the applicant was not allowed interest beyond he is deposited the amount of arrears in GPF after the date of the issue of pay fixation order. Whereas Circular dated 12.11.1990 allowed interest from first day of the month of the order of the revision of pay scale in which the orders were issued. The applicant is not allowed interest from back date.

9. Applicant has also not submitted a detailed calculation for calculating the interest for Rs.93000/-. Lastly, contended that the pay revision orders have been issued in 1992 and he is not allowed to deposit the arrears of GPF after the date of the fixation of order, ie., 21.4.1992 and the deposits made after that date are unauthorised to which the applicant claim interest.

10. In the rejoinder, the applicant has reiterated his pleas taken in the OA and has further controverted the contentions of the respondents.

11. I have heard the learned counsel on either side and also perused the pleadings available on record. Despite directions to the respondents, at the time of reserving the case for orders, to file an affidavit giving details of working out the interest,

the learned counsel for the respondents has not yet furnished to me the aforesaid affidavit. Finding no alternative the matter is being disposed of on the basis of available pleadings on record.

12. In my considered view the stand taken by the respondents is conflicting. On one hand, by the impugned order dated 7.4.1999, the applicant has been denied the interest on the GPF contribution of the arrears by treating it as unauthorised, but on other hand, the applicant has been allowed an interest on the amount deposited upto December, 1997 by an order dated 20.12.1999. Representation of the applicant giving details of his due interest of Rs.94693/- has been disallowed by contending that the GPF rate of subscription once fixed not to be varied is not correct stand. In fact, the decision under Rule 8 of the GPF subscription Rules, and the Government of India's circular dated 10.9.1938 regarding non-authorisation/variation of the GPF subscription has been altered, by a subsequent amendment to Rule (4) providing deduction and enhancement of the subscription one at any time of the year and twice during the course of the year respectively. It is admitted by the respondents that the employee can deposit the arrears of pay into GPF upto 21.4.1992 which is contrary to their statement dated 7.4.1999. Applicant has been paid the arrears of Rs.1,00,240/- from 1.1.1986 to 30.4.1993 only by way of the GPF deposit and not in cash the respondents have drawn GPF contribution pay of arrears in the GPF Account of the applicant. Once these deposits are as alleged by the respondents is unauthorised, and could not earn

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interest in the GPF accounts, the stand of the respondents to pay on interest of Rs.50,649/- clearly shows that the deposits are authorised on which interest is admissible. These contributions are also not unauthorised as per the Govt. of India's OM dated 12.11.1990, the GPF contribution when the arrears of pay and allowances on account of revision of pay scales is to be allowed, on which interest is to be allowed on first of the month in which arrears were paid by the respondents and upto the month of revision. These arrears of pay remained with the respondents throughout. In my considered view in OM 12.11.1990 there is no stipulation to the staff to voluntarily deposit these arrears of pay from 1.4.1989 to the date of revision of pay scales, rather what has been allowed is to deposit the arrears of pay for the period 1.4.1986 to the month of revision of pay and not the pay scale. This has not been controverted by the respondents. As per ICAR order dated 9.3.1989, which allows deposit of Rs.1,00,240/- arrears of pay beyond March, 1986 as well the clarification of 13.3.1987 stipulates that arrears of pay upto the month upto which the arrears are paid to Group 'A' officers. Thus the applicant is entitled to deposit the arrears of pay upto April, 1993.

13. In my considered view as the respondents have failed to furnish or to disclose as to how they had worked out the interest and once they have allowed the interest on arrears of pay as contribution towards GPF upto December, 1997 it is not rationale to deny the remaining interest to the applicant on the contribution of an amount of Rs.1,00,240/-.

14. In the result, having regard to the reasons recorded above, application succeeds. Impugned orders are quashed and set-aside. Respondents are directed to pay to the applicant the interest less the interest paid on the entire amount deposited in the GPF shown to his credit upto 30.4.1996 from the arrears of revision of pay from 1989 onwards. Applicant shall also be entitled to an interest at the rate of 12 per cent w.e.f. 1.5.1996 till realisation. Respondents are directed to comply with aforesaid directions within four months from the date of receipt of a copy of this order. No costs.

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S. Raju
(Shanker Raju)
Member(J)

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