

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 309 /90 199
T.A. No.

DATE OF DECISION 12-10-1990.

Shri P.C.Misra	Petitioner Applicant
Applicant in person	Advocate for the Petitioner(s)
Versus	
Delhi Administration & ers.	Respondent s
Shrimati Avnish Ahlawat,	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P. K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D. K. CHAKRAVORTY, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. D.K.
Chakraverty, Member(A)

The grievance of the applicant, who is an officer of the DANI Civil Services, relates to the date of his becoming the subscriber to the Government Employees Group Insurance Scheme.

2. The applicant joined the DANI Civil Services in 1974. While posted as Deputy Director(Training), Union Territories Civil Services, he exercised his option on 23.3.86 to become a member of the Union Territories Government Employees Group Insurance Scheme 1984 with effect from 1.1.87. The Head Of the Office entertained his option on 31.3.86. The applicant was, however, transferred from the Directorate of Training to the Directorate of Employment in the last week of May 1986. In July 1986, he was again transferred on

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deputation as Executive Officer, Tibia College, Delhi Administration. In October 1986, he was posted as Deputy Director, Social Welfare where he worked upto January 1988.

3. The monthly subscription towards the Insurance Scheme was not deducted from the monthly salary of the applicant though he had requested for the same. In February 1988, while the applicant was posted as Joint Director, Agricultural Marketing, the Drawing & Disbursing Officer deducted Rs.80 towards subscription as a member of the Insurance Scheme. This was, however, discontinued from March 1988. Ultimately, the case was processed by the Controller of Accounts, who observed that there was no fault on the part of the applicant who had exercised his ^{due} option in/time and thereby he became a valid member of the Scheme with effect from 1.1.87.

4. On 12.1.89, the Ministry of Home Affairs informed the Delhi Administration that having exercised his option to become the member of Group Insurance Scheme with effect from 1.1.87, the applicant is the member of this Scheme from that date and not any other date. It was added that the arrears of subscription together with interest thereon have to be recovered from him. The decision of the Government was communicated to the applicant also.

5. The applicant has alleged that it would cause great hardship to him if 36 instalments of the subscription are recovered with penal interest from him. He attributed the delay in taking a decision

solely on the respondents. He also contended that it is not equitable to pay the insurance premium of Rs.24 per month amounting to Rs.900 to the LIC for a period of three years which had already expired. The insurance cover cannot be extended to anyone retrospectively.

6. The applicant has submitted that instead of recovering huge amount as arrears of subscription from him, the amount due could be adjusted in future at the time of terminal payment/refund of the maturity value without any inconvenience to either parties.

7. The respondents have contended in their counter-affidavit that the question of deduction of subscription under the Group Insurance Scheme 1984 from the salary of the applicant would not arise as he had not become a member of the Scheme. The deduction of Rs.80 from his salary bill of February 1988 was done by mistake. He was a member of the old Insurance Scheme and necessary deductions from the month of February 1988 were made to which he never raised any objection. He still continues to be a member of the old Scheme and Rs.5 per month is regularly being deducted from his salary.

8. The respondents sought the advice of the Controller of Accounts in the matter, who advised them that he may be made a member of the New Insurance Scheme on the basis of the option exercised by him that subscription made at the rate of Rs.5 per month may be paid to him in cash and that recovery may be effected from him with effect from 1.1.87 as per the instructions laid down in para 9(1) or 9.8 of the new Scheme. The

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Controllor of Accounts held that the applicant was not at fault in the matter and requested the Finance Department to accord exemption from recovery of interest in his case. The Finance Department sought the advice of the Principal Pay & Accounts Officer, who advised that there is no provision for giving exemption from recovery of interest under the Scheme.

9. The applicant submitted a representation in which he requested for waiver of the interest and alternatively enroll him as member with effect from 1.1.89 instead of 1.1.87. The respondents made a reference to the Government of India whose advice was that the applicant may be treated as member of the new Scheme with effect from 1.1.87 subject to his payment of arrears of subscription together with interest.

10. We have gone through the records of the case and have considered the rival contentions. The upshot of the whole discussion is that the respondents have ultimately decided to enroll the applicant as a member of the new Insurance ^{Scheme} with effect from 1.1.87 on the basis of the option exercised by him on 23.3.86.

The respondents should have recovered the monthly subscription of Rs.80 from him since the date of his enrollment. This was not done for no fault of the applicant. The applicant was being rotated from post to post and the respondents failed to effect recovery of the monthly subscription from his pay bills. In our opinion, in the facts and circumstances of the case, while there may be no objection to treating the applicant as a member of the new Insurance Scheme with effect from 1.1.87, it would be unjust and

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inequitable to proceed with the recovery of the arrears together with penal interest from him with effect from 1.1.87. He may be treated as having become a member of the new Scheme with effect from 1.1.87. The respondents are restrained from effecting any recovery towards his subscription from 1.1.87 as proposed. Subscriptions towards the new Scheme may be realised from his pay bills prospectively. Necessary entries may be made in his service records accordingly.

11. The application is disposed of on the above lines at the admission stage itself. There will be no order as to costs.


(D.K.CHAKRAVORTY)
MEMBER (A)

12/10/90


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(P.K. KARTHA)
VICE CHAIRMAN(J)