

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 989/91 199
T.A. No.

DATE OF DECISION 11 March 1992

Shri Manohar Lal ~~Petitioner~~ Applicant
Shri S.K.Sawhney, Advocate for the ~~Petitioner(s)~~ Applicant
Versus
Union of India & Another Respondents
Shri B.K.Agarwal Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. D.K.Chakravorty, Member(A)

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *no*
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

(DELIVERED BY HON'BLE MR.D.K.CHAKRAVORTY, MEMBER)

The issue for adjudication in this application lies within a very narrow compass. The applicant, Shri Manohar Lal was a Chief Neutral Inspector in the Indian Railway Conference Association. He retired on 31.3.90. His grievance is against inaction of the Respondent No.1 in not making the payment of Provident Fund money which has remained unaccounted for the years 1979-80, 1982-83 and 1985 despite representation dated 20.8.1990 followed by letter of Respondent No.2 to Respondent No.1. The applicant has prayed for issue of a direction to the respondents to make the payment for the periods mentioned above with compound interest under the extant rules from the date of retirement to the date of payment.

2. On his retirement, the applicant was paid his

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retiral benefits including Provident Fund balance and his gratuity. The applicant found, on checking, that certain subscriptions of Provident Fund relating to the years 1979-80, 1982-83 and 1985 recovered from his salary were not accounted for. A certificate in regard to the recoveries for Provident Fund made from his salary for the period from June 1979 to July 1980, while he was posted as Neutral Train Examiner Incharge at Agra has been furnished at Annexure A3 of the paperbook. A similar certificate for recoveries made on account of the Provident Fund subscriptions for the years 1982 & 1983 when the applicant was working in sick line has been enclosed at Annexure A4. Only one entry for the year 1985 relating to the month of October, while the applicant was working at Jhansi, was also found missing. The applicant states that he is entitled to these amounts along with compound interest as prescribed for the respective years, which according to him, were 8.5% for 1982-83, 9% for the year 1983-84, 9½% for the year 1984-85, 10% for the year 1985-86 and thereafter 12% every year. According to the applicant, the amount due to him is approximately Rs.9,000/- as per details given in Annexure A9.

3. In the counter reply, the respondents have admitted the facts of the case. However, they have explained that the delay is due to non-tracing of the credits of the applicant for which the particulars are awaited from Respondent No.1, the Senior DAO, Jhansi in whose office the Provident Fund account of the applicant is maintained. It has been assured that as soon as confirmation of the deductions of the amount is received, the payment will be arranged immediately. A faint effort has, however, been made by the respondents to apportion some of the blame for the delay on the applicant stating that the applicant should have requested the Senior DAO, Jhansi

and the Northern Railway, Lucknow to transfer the amount to the Senior DAO, Northern Railway, New Delhi immediately after his retirement. The applicant took up the matter of his missing credits belatedly in November, 1989 when hardly 4 to 5 months were left before his retirement. After undertaking to effect payment immediately, within a reasonable period after receiving confirmation from the concerned offices, the respondents have stated that there is no question of any interest, what to say of penal interest, as the applicant had never cared to inform the concerned Sr. D.A.O. to transfer his Provident Fund credits to the office where he joined on transfer in time.

4. The nature of the grievances ventilated through this OA is common enough. There are many instances where a Government servant, after retirement, has to pursue the matter relating to some missing credits in his Provident Fund account for the past periods arising due to various factors like transfers during his service career, delay in transmitting the relevant details from one accounting office to another and so on. However, what is disturbing is that although two years are over since the applicant superannuated, no effective action seems to have been taken by the respondents to look into the matter and make the due payments to the applicant. Even after submission of the OA, the matter is not being pursued with ^{the} promptitude one would expect from ^a model employer. Further, the attempt to put some of the blame on the applicant is not well founded. The applicant is not personally responsible for drawal of his salary. He has no method of knowing whether the amount deducted for contribution to his Provident Fund has been properly accounted or transferred to the appropriate

accounting office, ^{and} he does not control his transfers-
all these aspects are exclusively in the domain of
the respondents. We, therefore, reject out of hand the
contention of the respondents in passing on the blame
to the applicant. The amount deducted from month to
month from the salary of a Government employee for credit
to his General Provident Fund is his ^{own} money ^{kept in deposit} which he
is entitled to receive along with appropriate ^p interest
immediately after his retirement. It is for the respondents
to make proper arrangement to ensure that the accounts
are kept updated. In case there are some missing credits
and ~~discrepancies~~ discrepancies, the respondents must, within a
reasonable period, look into the matter, take collateral
evidence, if necessary, and update the accounts. If all
these fail, then the benefit ^{of doubt} must be exercised in favour
of the Government servant ^d since it is not possible for
him to have drawn his salary without deductions of contributions
to the Provident Fund in the course of his service career.
If any amount is missing, the presumption must ^{be that} ~~it is~~ because of
non-accountal and non-transfer of the balance from one
office to the other. Under no circumstances should
a Government employee be penalised for any deficiency or lapse
in the accounting or administrative system.

5. I have heard the learned counsel for both parties
and have gone through the records of the case carefully.
I direct that the missing contribution in the Provident
Fund account of the applicant shall be paid along with
compound interest from year to year at the appropriate
rates to the applicant within a period of two months
from the date of communication of this order. The amount
of interest has to be calculated on monthly basis from
the respective dates when the deductions from the salary
were made. The rates applicable would be what have been

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notified from year to year as the rate of interest on General Provident Fund which has already been indicated by the applicant in the OA. From the year 1986-87 onwards, the rate is 12%. The interest shall be calculated up to the date of actual payment. At the time of making the final payment of these missing credits along with compound interest, a detailed account of the missing credits and the interest allowed thereon shall be furnished to the applicant so that he can satisfy himself that the amounts due to him have been paid. In case, there are still some discrepancies or errors after the payment is finally made, the applicant shall be at liberty to move the Tribunal once again according to law, if so advised.

There shall be no order as to costs.

D. K. Chakravorty
(D.K.CHAKRAVORTY)
MEMBER(A)

11-3-1992