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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

O.A. No.2272 of 1992

New Delhi this the 2nd day of December, 1993

Mr. Justice S.K. Dhaon, Vice-Chairman

Shri M.S. Ginti
R/o Jawaharlal Nehru University,
New Mehrauli Road,
New Delhi-110067.

...Petitioner

By Advocate Shri H.N. Verma

Versus

1. Director of Horticulture,
(Central Public Works Department),
Indraprastha Estate,
New Delhi.110002.
2. Union of India through
Secretary,
Min. of Urban Development,
Nirman Bhawan,
New Delhi.
3. Union of India through
Secretary,
Department of Pension,
& Pension Welfare, 6th Floor,
Nirwachan Sadan,
Ashok Road,
New Delhi-110001.
4. Pay & Accounts Officer,
Central Public Works Department (NDZ),
IIInd Floor, I.P. Bhawan,
Indraprastha,
New Delhi-110002. ...Respondents

By Advocate Shri Jog Singh for Respondents 1 to 3.

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

The principal relief claimed in this application is: "to issue a writ of mandamus, direction or order to the respondents to sanction withdrawal from GPF and give the applicant his other legitimate retirement benefits".

2. The learned counsel for the petitioner has stated at the Bar that the petitioner still continues to be in service. He states that he does not press the second part of the relief that the petitioner may be given his other legitimate retirement benefits. He is confining his prayer to the first part, namely, the respondents may be directed to sanction to the petitioner withdrawal of certain amount from the GPF Account.

3. The Pay & Accounts Officer, Central Public Works Department(hereinafter referred to as CPWD) (NDZ) is cited as respondent No.4 in this petition. The said respondent has been duly served. No one has put in appearance on his behalf.

4. It appears that on or before 15.1.1987 the petitioner was employed with the Directorate of Horticulture, respondent No.1. On that day, he made an application to the Jawaharlal Nehru University (hereinafter referred to as JNU) for being given an appropriate appointment in that Institution. The said application was forwarded by the Directorate of Horticulture. On 21.12.1987 he was given an appointment in the JNU. On 07.12.1990, the Executive Council of the JNU resolved to confirm the services of the petitioner in that Institution with effect from 21.12.1987. The Director of Horticulture has taken the stand that the petitioner ceased to be an employee of the Directorate of Horticulture. This stand is strongly controverted by the petitioner. In view of the order I am about to pass, it is not necessary to go into this controversy.

5. The learned counsel for the petitioner has stated at the Bar that initially when the petitioner was appointed in the Directorate of Horticulture, the Provident Fund Account No. allotted to him was NDZ 3535. He states that the said allotment number continues to exist even now. He also states that all along the petitioner has been making contribution towards Provident Fund and the amount so contributed is being deposited in the said account. Therefore, the only direction required is that the Pay & Accounts Officer of the CPWD (NDZ) may be directed to consider the application of the petitioner for the withdrawal of some amount from the said account. Such a direction,

in my opinion, will steer clear of the controversy as to whether the petitioner ceased to be an employee of the Directorate of Horticulture. I, accordingly direct the Pay & Accounts Officer (respondent No.4) to consider the application of the petitioner, if given, and sanction such amount to the petitioner from his Provident Fund Account No.NDZ 3535 as is permissible under the law.

6. The petitioner contends that he continues to be an employee of the JNU. It is noteworthy that the University has not been impleaded as respondent in this application. In the absence of the University as a party to this application, this question cannot be examined. In fact, counsel urged that the afore-

mentioned resolution of the Executive Council confirming the petitioner is void. If such a plea is pressed, the petitioner is bound to become incompetent as a necessary party (JNU) is not before the Tribunal. Counsel has urged that he may be permitted to implead JNU as one of the necessary party. This prayer cannot be accepted for more than one reasons. First, it is a highly belated prayer and he cannot be allowed to implead JNU as a party at the final hearing stage. Secondly, as stated earlier, the petitioner can get the necessary relief without entering into the controversy whether he was an employee of the Directorate of Horticulture or JNU.

7. With these directions, this application is disposed of finally. There shall be no order as to costs.

S.K.
(S.K. DHAON)
VICE CHAIRMAN
02.12.1993