

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1181/93

New Delhi this the 9<sup>th</sup> day of January, 2001.

Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Keshav Ram Joshi,  
S/o late Sh. Rangi Ram Joshi,  
R/o E-8, Green Park Extension,  
New Delhi-16.

.... Applicant

(through Sh. Sarvesh Bisaria, Advocate)

Versus

1. Union of India through  
Secretary,  
Ministry of Health and Family  
Welfare, New Delhi.
2. The Director,  
National Institute of  
Communicable Disease,  
22, Sham Nath Marg,  
Delhi.
3. Accountant General,  
Central Revenue,  
Ministry of Finance,  
Deptt. of Expenditure,  
New Delhi.

..... Respondents

(through Sh. KCD Gangwani, Advocate)

O R D E R

Hon'ble Dr. A. Vedavalli, Member(J)

The applicant, Keshav Ram Joshi, a retired Government servant seeks in this O.A. the issue of directions to the respondents regarding the release and payment of his GPF amount lying in deposit with the respondents alongwith 18% interest per annum from the due date and interest on the refund of leave salary contribution at the rate of 12% compound interest per annum.

2. Heard the learned counsel for both the parties. Pleadings and the material papers and documents placed on record have been perused.

3. Facts of this case briefly are as under:-

The applicant while working as a Research Officer on ad hoc basis under the respondents was selected for a foreign assignment and went to Zambia in August 1971. On his return from Zambia in December, 1976, the respondents did not allow him to join as Research Officer. He was allowed to join only as a Research Assistant as he was holding the said post on regular basis and his junior was already holding the post of Research Officer on ad hoc basis. The applicant submitted his resignation on 17.05.77 in protest. However, he requested the respondents by letter dated 27.07.77 that the same should be treated as notice for voluntary retirement. His request was rejected by the respondents on 15.12.84. Aggrieved by the said action of the respondents applicant filed OA-29/1985 before this Tribunal which was allowed in part by the order dated 29.04.86 as under:-

- (i) It is declared that the petitioner cannot be deemed to have resigned from service.
- (ii) It is declared that by virtue of the letter given by the petitioner on 27th July, 1977, his original letter of resignation ceased to be operative as such and it became a request for voluntary retirement from service.
- (iii) That his voluntary retirement became effective upon petitioner completing 20 years and 3 months of "qualifying service".

*[Handwritten signature]*

The period of service upto the date when the petitioner's voluntary retirement became effective shall be regularised accordingly by treating it as on duty or leave to which he is entitled.

- (iv) That the period of his foreign assignment cannot be counted towards his "qualifying service" for the purpose of calculation of his pension. The petitioner would be entitled to all consequential benefits of salary and pension as per rules."

4. Thereafter the applicant filed a CCP No. 10/1986 in the said OA against the respondents alleging contempt for not implementing the aforesaid order of this Tribunal. The order of the Tribunal dated 23.06.87 (Annexure-1) in the CCP is as follows:-

" This is a petition for taking proceedings in contempt for not implementing the judgment of this Tribunal dt. 29.4.1986 in OA 29/1985. It is now brought to our notice that in terms of our judgment, the petitioner has been treated as having voluntarily retired after completion of 20 years 3 months service and his pension has been accordingly calculated. He has been paid gratuity vide DCRG Bill No. 1009/NICD for 3/87 and leave encashment vide Bill No. 816/NICD dated 23.1.87. In the circumstances, all further proceedings in contempt petition are dropped and notice in contempt petition is discharged."

5. The applicant claims that though the contempt petition was discharged on the statement made by the respondents, he has not been paid till date the GPF amount due to him except a sum of Rs. 1040/- in terms of advance payment of provident fund on 05.05.88. He contended that the balance amount of GPF has not been

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paid to him inspite of several representation and the respondents are, therefore, bound to pay the said amount with interest as claimed by him in this O.A.

6. The applicant further contended that though the leave salary contribution amount deposited with the respondents in September 1988 amounting to Rs. 826/- has been refunded to him, he is entitled for payment of interest on the said amount at the rate of 12% per annum for the delay involved in releasing the said amount.

7. The respondents in their reply filed on behalf of UOI and NICD and their additional reply filed on 25.05.2000 have submitted that they had already paid to the applicant the amount of GPF which was due to him in full for the period he worked with them and the same was received by him. A sum of Rs. 1042/- towards GPF recovered by National Institute of Communicable Disease (NICD for short) (Respondent No.2) from 07.02.77 to 15.03.78 + interest upto February 1988 was paid to him by cheque dated 15.04.88 which was sent to him by registered post (Annexure R-2 to additional reply). They have also submitted that the amount due to him towards GPF for the period for which the applicant worked in other offices can be paid by the concerned offices and the PAO/AGCR only. Hence the present respondent NICD is not liable to pay the said amount. Other offices/departments where the applicant had worked

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earlier have not been impleaded in this O.A. AGCR who has been impleaded in 1997 vide MA No. 529/97 allowed on 01.05.97 as Respondent No.3 has not filed any reply.

8. Re the leave salary contribution the respondents stated that the applicant went on foreign service under WHO from 01.10.54 to March 1961. As per the terms and conditions for deputation he was to pay leave salary and pension contribution for that period. He deposited a sum of Rs.826/- on account of the same. Later on, Government of India exempted leave salary contribution from applicant. After clarifications from higher authorities, the said amount was refunded to the applicant and was duly received by him. Such recoveries are not subject to interest and hence and hence the claim of the applicant is baseless.

9. I have given my careful consideration to this matter.

10. Re the claim of the applicant with reference to the payment of GPF he himself has admitted that he has received Rs. 1040/- towards GPF from the respondents on 05.05.88. He has not bothered to spell out specifically and clearly the full details regarding the balance amount, if any, due to him from the respondents whom he has impleaded in the present O.A. He has also not been able to establish with adequate supporting material that there has been an unjustified delay on the part of the respondents in making the said

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payment and that he is entitled for the payment of interest on GPF i.e. on the amount received and on the balance due if any. He has also not clarified whether he has raised the aforesaid claim in the earlier OA No. 29/1985 and CCP No. 10/1986 in the said OA. The aforesaid claim of the applicant in the above facts and circumstances of the matter in my view is, therefore, devoid of any merit.

11. Re the claim of the applicant for grant of interest on the amount of Rs. 826/- on account of leave salary contribution which according to his own admission has been refunded to him in September 1988, he has not been able to justify the said claim on any valid and tenable grounds. There is also no explanation as to whether the said claim was raised in any way in the earlier OA and the CCP mentioned supra. In the circumstances, the aforesaid claim also is unsustainable and is rejected.

12. In the facts and circumstances of this case and in the light of the foregoing discussion, I am of the view that the reliefs claimed by the applicant in this OA cannot be granted. In the result, the O.A. fails and is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)  
Member(J)

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