

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(9)

O.A. No. 1705/93  
T.A. No.

199

DATE OF DECISION 8.10.96

<u>Shri G.C. Gupta</u>	Versus	<u>Petitioner</u>
<u>Shri Sohan Lal</u>		<u>Advocate for the Petitioner(s)</u>
<u>U.O.I. &amp; Others</u>		<u>Respondent</u>
<u>Shri P.H. Ramchandani</u>		<u>Advocate for the Respondent(s)</u>

## CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr. \_\_\_\_\_

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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O.A. No. 1705/93

Date of decision 8.10.1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri G.C. Gupta,  
R/O B-1/26/2, Safdarjung Enclave,  
New Delhi-110029

... Applicant

(By Advocate Shri Sohan Lal)

Vs.

1. Union of India through  
its Secretary, Ministry of Urban Development,  
Govt. of India, Nirman Bhawan,  
New Delhi-110011
2. Director General of Works,  
Central Public Works Department,  
Nirman Bhawan, New Delhi.
3. The Chief Controller of Accounts,  
Ministry of Urban Development,  
Nirman Bhavan, New Delhi.11

... Respondents

(By Advocate Shri P.B. Ramchandani,  
Senior learned counsel )

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant who has retired from service from the office of C.P.W.D. Respondent 2. on 31.7.91, has filed this application in respect of non payment of certain retirement benefits in time with interest. In particular, the applicant is aggrieved that the interest due to him on the GPF amounting to Rs 3,24,311-00 has not been paid to him in accordance with the rules ; that the interest on Additional Dearness Allowance for the period from 7/76 to 6/77 <sup>CB</sup> accrued to Rs 4687/- which has been paid upto Aug., 1992, but not till the actual date of payment which was 21.10.93; and <sup>CB</sup> that the difference of the amount of Rs 217/- in the GPF missing credit and interest thereon which has not been paid.



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2. I have heard both the learned counsel and perused the records.

3. The claim of the applicant for payment of interest on GPF for the period from 1.8.91 to 31.3.1992 is based on the provisions of Rule 34(3)(i) read with Rule 11(4) proviso one and the note below this rule of the General Provident Fund (Central Services) Rules, 1960. The relevant portion of Rule 34(3)(i) reads as follows:-

" To enable a subscriber to submit an application for withdrawal of the amount in the Fund, the Head of Office shall send to every subscriber necessary forms either one year in advance of the date on which the subscriber attains the age of superannuation, or before the date of his anticipated retirement, if earlier, with instructions that they should be returned to him duly completed within a period of one month from the date of receipt of the forms by the subscriber. The subscriber shall submit the application to the Accounts Officer through the Head of Office or Department for payment of the amount in the Fund."

(A) and (B) .....

The relevant portion of Rule 11(4) of the Rules reads as follows:-

" In addition to any amount to be paid under Rule 31, 32 or 33, interest thereon up to the end of the month preceding that in which the payment is made, or upto the end of the sixth month after the month in which such amount, became payable whichever of these periods be less, shall be payable to the person to whom such amount is to be paid .:

Provided that where the Accounts Officer has intimated to that person (or his agent) a date on which he is prepared to make payment in cash, or has posted a cheque in payment to that person, interest shall be payable only up to the end of the month preceding the date so intimated, or the date of posting the cheque, as the case may be:

NOTE - Payment of interest on the Fund balance beyond a period of 6 months may be authorised by -

(a) The Head of Accounts Office (which expression includes the Pay and Accounts Officer, where there is one) up to a period of one year ; and

- (b) The immediate superior to the Head of Accounts Office (which expression includes a Controller of Accounts, where there is one or the Financial Adviser to the concerned Administrative Ministry or Department) up to any period ;

after he has personally satisfied himself that the delay in payment was occasioned by circumstances beyond the control of the subscriber or the person to whom such payment was to be made, and in very such case the administrative delay involved in the matter shall be fully investigated and action, if any required, taken."

4. As already mentioned above, the applicant has retired from service on 31.7.91. Admittedly, the respondents had submitted the necessary forms in respect of the retirement benefits on 24.10.1989. In the reply, the respondents have stated that inadvertently they had not given the forms in respect of GPF withdrawal at that time. It is also an admitted fact that as regards the GPF amount ~~Rs~~ of Rs 3,24,311/- the respondents have finally made the payment to the applicant on 20.3.1992, although the authority for making the payment had been issued earlier i.e. on 5.3.1992. In other words, the payment of GPF amount due to the applicant had been made after seven months of the retirement of the applicant from service. However, Shri P.H. Ramchandani, Senior learned counsel for the respondents has submitted that in terms of Rule 34(i) of GPF(CS) Rules, 1960, in addition to the duty of the Accounts Officer to make payment on receipt of a written application in this behalf as provided in sub rule (3), the applicant was also expected to submit the complete written application in time to the Head of Office to take necessary action for making payment in time. He has submitted that the applicant himself had delayed submitting the application for payment of GPF, as he was well aware by that action that he would not be deprived of the interest on that account.

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5. There is no doubt that it would be in the fitness of things that the applicant should also be aware and act in a reasonable manner to submit the **necessary** forms for payment of his retiral benefits in time. However, having regard to the provision of Rule 34(3) of the GPF (CS) Rules, 1960, it is clear that the procedure laid down therein casts a duty not only on the applicant but also <sup>on the</sup> the concerned authority, namely, the Head Of Office and the Accounts Officer in this case, an equal responsibility. Rule 34(3)(i) provides, inter alia, that to enable the subscriber to submit an application for withdrawal of the amount in the fund, the Head of Office shall send to every subscriber the necessary forms one year in advance of the date on which the subscriber attains the age of superannuation. In this case, admittedly, the respondents have failed to do so in not sending the GPF forms for completion in time. Therefore, in the circumstances, to shift the responsibility on the applicant to complete and give the applications to the Accounts Officer in time is not justified. If on the other hand, the application forms had been duly given to the applicant in time as provided under Rule 34(3) of the GPF Rules, and the applicant had delayed the matter in submitting the completed forms within a period of one month as prescribed therein, respondents might have then been able to say that no interest would be payable for such delay. That being not the case here, this application is entitled to succeed. Therefore, in the facts and circumstances of the case, and having regard to the provisions of Rule 11(4), the applicant would be entitled to interest on the GPF in accordance with the rules till the date of actual payment i.e. 21.3.1992.

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6. As regards the second claim for interest from Aug., 1992 to Oct., 1993 on additional dearness allowance of Rs 4687/-, the respondents have submitted in their reply that this amount had been received in the office and has been authorised for payment vide letter No. PAO/CPWD/NDZ/PF(3) FP/1359/13111/Dead A/c 240/741-42 dated 21.9.93. According to the learned counsel for the applicant the amount due on ADA with interest amounting to Rs 4687/- includes the interest only upto Aug., 1992, whereas this amount was actually paid only in Oct., 1993 in pursuance of the authorisation letter dated 21.9.93. From the records, it is seen that the respondents have not satisfactorily explained why the interest which was payable and paid upto Aug., 1992 was not paid thereafter till the actual date of payment in Oct., 93. In the circumstances, the applicant is entitled to succeed on this account also, namely, the respondents are directed to pay interest on the ADA amount due to the applicant from September, 1992 till Oct., 1993 i.e. the date of actual payment in accordance with the rules, as from the records they do not appear to have paid it...

7. The last claim of the applicant relates to an amount of Rs 217/- which he claims is the difference of the amount due in GPF which is Rs 1339/-, against which the respondents have paid only 1122/-. Shri Sohan Lal, learned counsel submits that he would be satisfied if the respondents are directed to give a detail statement in respect of this discrepancy, so that he may be satisfied on this matter also.

8. In the facts and circumstances of the case, this OA succeeds. The respondents are directed to take necessary action in respect of all the payments due to the applicant as given in paragraphs 5 and 6 <sup>above</sup> within a period of three months from the date of receipt of a copy of this order.



If any amount is due to the applicant as referred in para 7, that shall also be paid within the same time, along with the GPF statement details.

9. O.A. is disposed of as above. No order as to costs.

*Lakshmi Suaminathan*

(Smt. Lakshmi Suaminathan)  
Member (J)

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