

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 4rth day of March, 2005.

QUORUM : HON. MR. K.B.S. RAJAN, J.M.

O.A. No. 573 of 2004

Daya Shankar Upadhyay, aged about 62 years, son of Late Baij Nath Upadhyay,
Ex.P.No.6956072, Asstt., O.D. Fort, Allahabad, resident of 118, Madhwapur,
Allahabad.....Applicant.

Counsel for applicant : Sri L.M. Singh & Sri S.K. Yadav.

Versus

1. Union of India through the Secretary, Ministry of Defence, West Block,
R.K. Puram, New Delhi.
2. Controller General of Defence Account, West Block, R.K. Puram, New
Delhi.
3. Joint Controller Defence Accounts (Funds), Meerut Cantt.
4. Commandant, O.D. Fort, Allahabad.

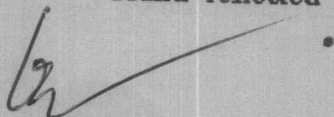
.....Respondents.

Counsel for respondents : Sri Tej Prakash.

ORDER

BY HON. MR. K.B.S. RAJAN, J.M.

The grievance of the applicant in this case is that at the time of payment of terminal benefits which included the P.F. accumulation in his A/C No.189169, an amount of Rs.18,290/- was disallowed from the total credit in the fund account on the alleged ground that in the year 1977, the applicant was paid an advance of Rs.1,200/- which together with the outstanding balance of the previous loan amounted to Rs.1,560/- and this amount of Rs.1,560/- was not found reflected in the P.F. statement for the year 1977-78. As such, the




department has decided to disallow the so called non-debited P.F. advance of Rs.1,560/- and corresponding interest thereon amounting to Rs.18,290/-.

2. The applicant has produced copies of P.F. statements for the year 1975-76, 1976-77, 1977-78 and 1978-79 and also for the further periods. In so far as 1975-76 is concerned, the statement reflects a temporary advance of Rs.1440. Obviously in the year 1976-77 and 1977-78, some amount has been repaid as could be seen from the statements. At the time, when the individual was granted Rs.1,200/- as P.F. advance, a sum of Rs.400/- was balance from out of previous loan of Rs.1,440/-. Thus, when the amount of Rs.1,200/- was paid as advance to the applicant, the total outstanding advance was Rs.1,600/- of which he had paid a sum of Rs.570/- during the period 1977-78. In 1977-78, the applicant was granted yet another loan of Rs.750/- and recovery was made in respect of the consolidated amount of the balance of the previous advance and the current advance of Rs.750/-. In the year 1978-79, the P.F. statement reflects a temporary advance of Rs.1,800/-. It is this Rs.1,800/- which takes into account the amount of Rs.750/- being the loan paid to the individual during the currency of that financial year and the balance namely, ^{1050/-} ~~Rs.1050/-~~ obviously amounts to the earlier balance of the previous loan. Thus, the amount of Rs.1,200/- paid to the individual as advance during the year 1976-77, though not reflected in that year's P.F. statements, had been taken care of in the subsequent P.F. statements. The department has erroneously omitted to consider this amount of Rs.1,800/- shown from the P.F. statement from the year 1978-79 under the column 'Temporary Advance' and in the absence of any entry in the year 1977-78, it has mistaken that amount of Rs.1,560/- which is the consolidated ^{amount, by} ~~was~~ omitted to be reflected in the P.F. account. In reality, no omission as such, has taken place nor has the applicant ~~has~~ ⁴ taken any undue advantage. The mistake~~d~~ is only when the P.F. account was verified at the time of superannuation of the applicant in as much as the department by mistake took it that the sum of Rs.1,560/- being the outstanding

advance in the year 1977-78 was not reflected in that particular years of the P.F. statement.

3. In view of the above I hold that there is no amount due from the individual and the disallowances of Rs.18,290/- by the department from the P.F. account ^{is} ~~the~~ totally erroneous and as such, the applicant is entitled to refund of Rs.18,290/- which is directed to be released to him within a period of eight weeks from today.

4. The applicant has prayed for costs vide para 8(v) of the O.A. The respondents have a battery of Accountant and Senior Accountant Officers and it is expected that they had taken sufficient care before coming to any conclusion of disallowing any amount from the P.F. and all of the terminal benefits P.F. stands in a different footing. It is meant for the family of the Government employee and its employee who has immunity from attachment. As such, ^{any} ~~in~~ truncation from that amount is not permissible. Since in this case, P.F. is involved and it is not on the part of the applicant that any mistake has been committed, the applicant deserves some costs which is quantified at Rs.2,500/-. This amount should also be paid to the applicant within the time stipulated as above.


J.M.

Asthana/