

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 4th day of April 1999.

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Original Application no. 949 of 1989.

Hon'ble Mr. Justice Neelam Sanjiva Reddy, Vice-Chairman  
Hon'ble Mr. G. Ramakrishnan, Administrative Member

Sri R.P. Srivastava, S/o Shri Ram Swaroop, r/o 127/7  
Block 'R' Govind Nagar, Kanpur, at present holding as

Head Clerk in the office of the Regional Provident Fund  
Commissioner, U.P. Kanpur.

... Applicant

C/A Shri B.P. Srivastava, Sri R.K. Pandey

Versus

1. Union of India, through the Secretary, Ministry of  
Labour, New Delhi.
2. The Central Provident Fund Commissioner, 9th Floor,  
Mayur Bhawan Connaught Circus, New Delhi.
3. The Regional Provident Fund Commissioner, U.P.  
Nidhi Bhawan, Sarvodaya Nagar, Kanpur.

... Respondents.

C/R Sri R. Tiwari, Sri N.P. Singh.

ORDER

Hon'ble Mr. Justice Neelam Sanjiva Reddy, V.C.

Heard Shri B.P. Srivastava, learned counsel  
for the applicant. No representation for the respondents.

2. The applicant who was working as U.D.C. in the

Office of the Regional Provident Fund Commissioner, U.P. Kanpur, has filed this O.A. challenging the order of Regional Provident Fund Commissioner, U.P. and Central Provident Fund Commissioner, New Delhi awarding punishment of withholding of one increment without cumulative effect for one year.

3. The article for which he was found guilty during inquiry was that he had not deposited an undisbursed amount of Rs. 178.40 paise in the Employee Provident Fund Account no. II but he kept it in his personal custody for a period of one year and five months as detailed in enclosure to the charge sheet. After due inquiry, Regional Provident Fund Commissioner U.P. found him guilty of the same and awarded penalty of stoppage of one increment without cumulative effect. Aggrieved by that order, the applicant preferred an appeal before Central Provident Fund Commissioner who also after due hearing and consideration did not interfere with the finding of the inquiry officer and also with respect to punishment awarded and in effect the said authority felt that punishment awarded was insufficient but he did not enhance the punishment for the reason that misappropriation occurred in and 77-78/ in 1989 he did not want to enhance the punishment. The applicant has preferred this application questioning the said 2 orders.

4. Shri B.P. Srivastava learned counsel for the applicant submits that this is a case of no evidence and that authority arbitrarily concluded that this was ~~departmental~~ <sup>temporary</sup> misappropriation and penalty of stoppage of one increment without cumulative effect has been imposed in addition to

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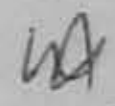
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the punishment of reversion already effected in 1980 and that both orders questioned in this application are liable to be set aside.

5. We have carefully considered the submission of the learned counsel for the applicant and the record. It is not disputed that the amount of Rs. 178.40 paise was with the applicant for a period of one year and five months. If really the amount was required for payment to any body that amount could have been withdrawn again. Mere fact that one person had to be paid did not justify the amount being kept for one year and five months. We do not consider it as a case of no evidence. Moreover nothing has been produced before us to show that the alleged reversion is on account of the charges and in any case the same is under adjudication before the Hon'ble High Court. In the result we do not consider this as a fit one for interference by this Tribunal in the punishment awarded.

6. Accordingly we dismiss this O.A. No cost.

  
Member-A

  
Vice-Chairman

/pc/