

Reserved

Central Administrative Tribunal
Allahabad Bench
Allahabad.

Original Application NO. 66 of 2003.

Allahabad this the 25th day of November 2005.

Hon'ble Mr. K.B.S Rajan, J.M

1. Smt. Malti Devi W/o late Virendra Kumar Srivastava R/o 286/342 Madhawapur, Allahabad.
2. Vinay Kumar Srivastava son of late Virendra Kumar Srivastava R/o 286/342 Madhawapur, Allahabad.
3. Km. Sarita Srivastava D/o late Virendra Kumar Srivastava R/o 286/342 Madhawapur, Allahabad.

.....Applicants.

(By Advocate: Sri O.P. Khare)

Versus.

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Joint Controller of Defence Accounts, G.P.F. (Wing) Meerut Cantt. Meerut.
3. Commandant Central Ordnance Depot, Chheoki, Allahabad.

.....Respondents.

(By Advocate: Sri S. Singh)

O R D E R

The applicant to the OA retired in March, 2001 and after the filing of the OA, he having died, his legal heirs are brought on records. For the purpose of this order, the deceased applicant is referred to the applicant.

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2. Brief facts as contained in the OA are as under:-

(A) Applicant retired voluntarily from the post of Electrician in C.O.D. Chheoki Allahabad working under the respondent NO.3. He applied for final payment of G.P.F balance payable after retirement on 31.3.2001.

(B) The respondent NO.2 on 12.2.2001 issued G.P.F Account Slip for the year 2000-2001 showing a plus balance of Rs.13,868/- which is payable to the applicant.

(C) On 31.10.2001 applicant received a letter from respondent NO.3 that the applicant may be asked to deposit a sum of Rs.9520/- without stating any reasons and details.

(D) Applicant challenged the order dated 31.10.2001 vide letter dated 19.12.2001.

(E) The respondent No. 3 wrote to respondent NO.2 stating therein about the direction for settlement of a sum of Rs.9520/- due to alleged excess payment in 1982-83 and 1984-85 and missing advance in 1987-88.

(F) On 6.5.2002, applicant sent legal notice through the advocate to the respondent NO.3 for payment of the withheld amount. The order of respondent NO.2 for deposit of Rs.9520/= without any reasons which has been revealed in the letter due to the faulty maintenance of records by respondent Nos.2 and 3 and failure to reconcile the G.P.F ledger in the Broadsheet annually before issue of Annual Account Slip to the applicant. The applicant has been made liable to pay heavy interest with amount of Rs.3900/- alleged to have been paid tempt. Advance but has not posted in ledger.

3. The relief sought for by the applicant is as in para 8 of the OA and the same is as under:-

(i) "The Tribunal be graciously pleased to quash the order passed by respondent NO.2 against the principles of natural justice asking the applicant to deposit a sum of Rs.9520/- and illegal adjustment order of Rs.13868/- towards temp. Advance of Rs.3900/- and alleged to have been paid in 1987 plus interest up to 2002 stated in letter of respondent No.2 dated 12.3.2002 (Annexure A-5).

(ii) The order dated 13.3.2002 for recovery of alleged excess credit posted in the ledger for 1982-83 with interest be quashed which has been passed without actual verification of G.P.F recovery schedules with the pay bills which is illegal.

(iii) The respondent Nos. 2 and 3 be directed to pay Rs.13868/- being the balance available variable in G.P.F A/c Slip for 2000-2001 to the applicant by this Tribunal with statutory interest @ 11% per annum. The respondent NO.2 be further directed to respondents to refund the alleged excess credits recovered with interest by the respondent NO.2

(iv) The respondent NO.2 be directed to pay the withheld amount of bonus as well as leave encashment after retirement within specified time with interest @ 18% per annum.

(v)

4. The respondents have contested the OA. Their version is as under:-

(i) Consequent on voluntary retirement of the applicant, final settlement papers alongwith all allied documents were sent to JCDA (Funds), Meerut through Local Audit Office COD Chheoki vide letter dated 29.6.2001 as per rules on the subject for final settlement of GP fund Account and payment to the applicant and no case was preferred for withholding of payment of Rs. 13868/- as alleged. In turn, JCDA (funds), Meerut vide intimation letter dated 16.10.2001 intimated that a sum of Rs. 9520/-

is due from the applicant in final settlement of ~~his~~ debiting from his GP Fund account as Rs. 23167/- + Rs. 221/- (total Rs. 23388/-) as the same has been left over for debiting from his GP Fund Account.

(ii) The case remained under correspondence between the advocate of the applicant and the respondents. Finally, JCDA (Funds), Meerut vide letter dated 2.7.2002 has replied to the Advocates and the case stated to have been closed..

(iii) The JEOA (Punjab) on 28.8.2001, after ~~his~~ his retirement and Amount Rs. 23388/- left over for debiting in GP Fund Account was made known by JCDA (Funds) Meerut, the maintainer of the GP Funds Accounts only on 16.10.2001, hence the allegation of the applicant that he should have been intimated of this fact before the date of his retirement is not tenable.

5. Arguments were heard, the documents perused and I have given my anxious consideration.

6. The deduction sought to be made is contained in the order dated 16-10-2001 vide Annexure 1 to the CA.

7. In so far as the advance (allegedly missing) in 1987-88 is concerned, the respondents themselves have confirmed the posting of the same and recovery

of the advance vide their letter dated 24-12-2001
8th Mar 2002 and 3rd May 2002 ~~and~~ the extract of
which is as under:-

Letter dated 24-12-2001

"It is seen from the B/S 86-87 (copy enclosed) that a sum of Rs.6000/- has been shown as debited on account of final withdrawal in 12186 and refund of Rs.150/- P.M from 1/87 to 7/87 and w.e.f. 2/88 to 9/89 Rs.130/= P.M and Rs.1300/= in 10/89"

Letter dated 8-03-2002

"In this connection, it is mentioned that the adv. Rs.3900/- (Rupees three thousand Nine hundred only) drawn by indl. In 87-88 has already been recovered installments of Rs.130/- P.M and last installment recovered Rs.1300/-. The statement of recoveries duly quoted monthwise DV Nos. is attached with this DO letter for necessary rectification and review of G.P.F final settlement case of individual.

Letter dated 03-05-2002

"The information called for vide letter cited above with regard to Ty. Adv/final W/D taken by individual from 84-85 to 89-90 are forwarded herewith duly verified the recovery statement by A.O.(S) CHD as desired. Photo copies of related C/Bills are also enclosed for ready reference please".

7. In view of the specific mention of the particulars, the contention of the JCDA (F) in their letter dated 16-04-2002 (Para 1) cannot be accepted and thus, there is no question of deduction of Rs 3,900/- plus interest from the individual. In fact when a posting is made in the relevant account of the applicant, it is only the consolidation that is reflected in the Fund Statement. There is absolutely no chance of any omission since the balance as on 31st March is worked out in the account of the applicant and it is the same that is reflected in the fund statement. Assuming without

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accepting that the said contention of the JCDA(F) is true, even then, when there is a full fledged machinery to have periodical internal audit and checking, it was expected of the JCDA(F) to have ensured correct Fund statement at the earliest opportunity, say within a year or so. Having made the applicant to believe about the credit balance in the account, if the JCDA (F), after a score of years, comes up with the plea that it is the responsibility of the applicant to point out the mistake, (vide para 2 of letter dated 2-07-2002 (Annexure A-2) the same is totally illogical. Hence, in so far as the amount of Rs 3,900/- is concerned, there cannot be any deduction of the same, much less interest on the said amount.

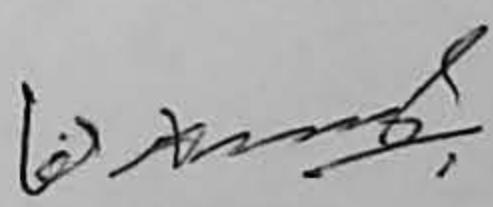
8. As regards the other amounts, Rs 5,936/- and Rs 126/-, (totaling 6,062/-) it is still worse than the earlier as these were stated to be of 1982-83. Of course, there is no conflicting statement amongst the Respondents. Yet, as it is the mistake on the part of the respondents and there being no further proof or documents to evidence omission to debit, the said amount too cannot be allowed to be deducted from the total credit balance of the applicant after more than 20 years.

9. In the end, the OA is allowed. The amount due as contained in the final statement of account i.e. for the year 2000 - 2001 shall be paid without any

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truncation and to the above, would be added element of interest for the period from 2001 - 2002 till date of payment and the rate of interest shall be the same as applicable to the GP Fund for the said years. The same shall be paid to the legal heirs of applicant (i.e. those who have been brought on records). In addition, if any other amount has been withheld by the respondents on account of their erroneous deduction of the GPF credit, the same shall also be released, of course, with simple interest @ 9% per annum. The amount should be paid within a period of three months from the date of communication of this order.

11. The original applicant had expired. His legal heirs had to pursue the case. Had the respondents been slightly more meticulous, this litigation could have been easily avoided. As the respondents have dragged the applicant to the court, the legal heirs are entitled to cost of this litigation, which is quantified at Rs 3,000/-. This amount should also be paid to the legal heirs along with the amount as contained in the preceding paragraph.



Member-J

Manish/-