

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 453/2013

Jodhpur, this the 18th May, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Umaid Singh s/o Shri Tej Singh, aged above 60 years, retired Kushal Sahayak Karmchari in the Central Arid Zone Research Institute, Jodhpur r/o Inside Nathu Nohra, Near Krishna Chowk, Umaid Chowk, Jodhpur

.....Applicant

By Advocate: Mr. Vijay Mehta

Versus

1. Indian Council of Agricultural Research through its Secretary Krishi Bhawan, New Delhi.
2. Director, Central Arid Zone Research Institute, Jodhpur
3. Assistant Administrative Officer, Central Arid Zone Research Institute, Jodhpur

.....Respondents

By Advocate : Mr.A.K.Chhangani

ORDER (ORAL)

In this OA, the applicant has challenged the order dated 7th October, 2013 (Ann.A/1) by which the respondents have proposed a recovery of EPF amount of Rs. 59,955/- from the Leave Encashment amount of the applicant, therefore, he has prayed for restraining the respondents from effecting recovery from Leave Encashment or from any other amount and in case the

same may be directed to be returned with interest @ 12% and the amount of Leave Encashment may be paid without effecting recovery.

2. Short facts of the case, as averred by the applicant, are that the Arid Zone Employees Union raised an industrial dispute for regularization of casual labours and the Labour Court vide its award dated 29.4.1989 passed in case No.16/86 directed the respondents to regularise the services of all those casual labours listed in the appended list who have completed two years services and the respondents were given six months time to frame a scheme and complete this exercise. The award has been upheld by the Hon'ble Rajasthan High Court and Hon'ble Supreme Court, but the respondents did not regularize services of the applicant. Thereafter this Tribunal after referring to award and number of orders passed in different cases vide order dated 12.12.2008 passed in OA no.212/2006 declared that the said 268 casual labours became regular and permanent from 29.10.1989 in terms of the award. The respondents passed order on 15.2.2010 in compliance to the above order and granted temporary status as regular employee w.e.f. 29.10.1989. The applicant has stated that while he remained casual labour he was covered by the EPF Scheme and on being covered by the GPF scheme, the Employees Provident Fund Commissioner organization returned

the entire EPF contribution of the employees including that of the applicant to respondent No.2 by several letters in the year 1997 with direction to pay the same to the applicant and such employees, which was paid in the year 1997. The applicant retired in May, 2013, but he was not paid the Leave Encashment, therefore, he requested to pay the same. In reply to his request, the respondents have informed the applicant that various amounts of Gratuity, Pension Commutation, GPF etc. including the pension have been released from 1.6.2013. However, a sum of Rs. 59,955 is standing due from the applicant on account of payment of EPF made to him, which was required to be deposited with interest which has been calculated as Rs. 59,955/- and in case the applicant does not deposit the said amount, the same shall be deducted from the amount of Leave encashment to be paid to the applicant. The applicant has pleaded that the respondents did not claim refund for the more than 16 years and not a single letter was sent to the applicant to return back the EPF amount paid to him. Now after retirement, the respondents are trying hard to recover the same from the retiral benefits of the applicant that too with interest from the year 1997. The applicant has further stated that the action of the respondents is illegal and is violative of orders Ann.A/3 and Ann.A/4 and is against the principles of natural justice, therefore, he has filed this OA praying for quashing the

3. In the reply to the OA, the respondents have taken preliminary objection to the effect the present OA is identical to OA No.493/2012 filed by the Arid Zone Employee Union which is already pending before this Hon'ble Tribunal. The respondents have further submitted that the applicant is not entitled to get relief prayed for because after regularization of his services he became member of General Provident Fund and therefore, employers contribution in EPF is required to be recovered back because all the employees have given their undertaking that they would return the employers contribution in the event of regularization. Once the service of an employee is regularized, he becomes a member of GPF and ceases to be a member of EPF and thus is under obligation to return the employers contribution made in the EPF. Thus, no illegality has been committed by the respondents in recovering the Government dues and the OA is liable to be dismissed.

4. By filing rejoinder to the reply, the applicant has reiterated the averment made in the OA.

5. Heard both the parties. During the course of hearing, the counsel for the respondents submitted that the respondent department is ready to hear the grievance of the applicant and decide the same within the shortest possible time while treating

the entire OA including the rejoinder as an additional representation on behalf of the applicant.

6. In this context, counsel for the applicant submits that the applicant may be given due opportunity of hearing and the respondents may be directed to decide the matter with in the earliest possible time.

7. In view of the submissions made hereinabove and without going into the merits and details of the case, it is deemed fit to dispose of this OA with certain directions.

(i) The respondents are directed to provide opportunity of hearing to the applicant with regard to his grievances and further the respondents are directed to treat the OA and rejoinder as an additional representation filed on behalf of the applicant and decide the same at the earliest but within four months from the date of receipt of a copy of this order.

(ii) Further, the interim directions of this Tribunal dated 18th October, 2013 that the respondents are directed not to recover Rs. 59,955 in pursuance to order Ann.A/1 for 14 days and since continued, shall remain in operation till the decision by the respondents in the case, as directed above.

The OA is thus disposed of as stated above with no order as to costs.


[Meenakshi Hooja]

Administrative Member

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