

117

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 52/2013

Jodhpur this the 2nd day of May, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms Meenakshi Hooja, Member (A)

Arjun Ram S/o Sh. Thakur Ram aged about 55 years R/o village and post Bhojasar via Aau Tehsil Phalodi District Jodhpur. Presently working on the post of Postal Assistant at head Post Office Jodhpur.

.....Applicant

(Through Advocate Mr. S.K. Malik)

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi
2. The Senior Superintendent of Post Offices, Jodhpur Division Jodhpur.
3. The Senior Post Master Head Post Office, Jodhpur

(Through Advocate Ms K. Parveen)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

By way of this application the applicant has sought following relief(s) :

- (a) By an appropriate writ order or direction impugned order dated 12.11.12 at Annex. A/1 be declared illegal and be quashed and set aside.
- (b) By an order or direction respondents may be directed to release the amount of Rupees Two Lac from final withdrawal from GPF along with 24% interest per annum.
- (c) By an order or direction exemplary cost be imposed on the Respondents for causing undue harassment.

T

4/8

- (d) **Any other relief which is found just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant in the interest of justice.**

2. The short facts of the case as averred by the applicant are that he was appointed on the post of Postal Assistant w.e.f. 17.09.1978 and he filed an application for final withdrawal of GPF amounting to Rs. 2,00,000/- on 20.07.2012 vide Annex. A/2 on account of his son's marriage. The respondent-department refused to make the payment of GPF to the applicant. The applicant filed OA No. 447/2012 before this Tribunal in which vide order dated 05.11.2012 the directions were issued to the respondent No. 2 to dispose off the application of the applicant for final withdrawal of GPF within a period of 7 days from the date of receipt of order. The respondent No. 2, however, vide letter dated 12.11.2012 Annex. A/1 refused to allow withdrawal of Rs 2,00,000/- from his GPF account, hence, this OA has been filed for the relief (s) narrated in para No. 1.

3. On earlier date, time was granted to the counsel for the respondents to file reply and today also respondents have not filed any reply. Therefore, right of the respondents to file reply is closed.

4. Orally heard both the parties. Counsel for the applicant contends that GPF amount cannot be adjusted against any misappropriation amount and respondents are withholding the GPF amount without any reasonable cause. He further contends that

2

Annex. A/1 is not sustainable because this has not been passed in accordance with the relevant rules or provisions or orders of Govt. of India and applicant has the right to make final withdrawal from his GPF account. Counsel for the applicant further contended that the ground for refusal, as referred in Annex. A/1, that sanction of Rs 2 lac from GPF account would not be justified before finalization of departmental proceedings and recovery of loss to Govt. and till the criminal cases pending in the CBI court, is against the rules and therefore, Annex. A/1 needs to be quashed and set aside and withdrawal from GPF be allowed.

5. Counsel for the respondents supported the legality of the Annex. A/1 with the argument that 3 cases are pending against the applicant in CBI court due to the huge loss sustained to the tune of Rs 1,00,62,075/- to the Govt. and applicant as a right cannot claim the withdrawal of Rs 2 lac from his GPF account.

6. It is noted that in similar matter, an Order was passed by this Tribunal on 06.11.2013 in OA No. 321/2012, Panchu Ram Vs UOI & Ors, to pay the GPF payable to the applicant as part of the terminal benefits as per his entitlement within a period of one month. In this case it was held that whatever be the amount under defalcation, GPF is something which cannot be attached or which cannot be used to pay to satisfy the demands of the Government.

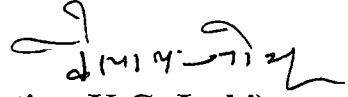
7. Accordingly, this OA is allowed and Annex. A/1 is quashed.

The respondents are directed to pay the GPF from the GPF account of the applicant as asked for by the applicant as per rules and his entitlement, within a month from the date of receipt of this order.

There shall be no order as to costs.



(Meenakshi Hooja)
Administrative Member



(Justice K.C. Joshi)
Judicial Member

SS