

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Original Application No.631/87.

Shri. R.K.Jangam,
Shiv Mandir,
Plot No.116, 117.
Dr.Ambedkar Road,
Mulund (W),
Bombay - 400 080.

... Applicant

Vs

1. Union of India
through
Manager of Western Railway,
Churchgate,
Bombay - 400 020.
 2. Divisional Railway Manager,
Bombay Division,
Western Railway,
Bombay Central,
Bombay - 400 008.
 3. Senior Divisional Accounts Officer,
Western Railway,
Bombay Division,
Bombay Central,
Bombay - 400 008.
- ... Respondents.

Coram: Hon'ble Member (A) J.G.Rajadhyaksha

Appearances:

1. Applicant in
person.
2. Mr.A.L.Kasturey,
Advocate for the
Respondents.

ORAL JUDGMENT

Date: 16-10-1987.

(Per J.G.Rajadhyaksha, Member (A))

Applicant has filed this application on 28th of
September, 1987 under Section 19 of the Administrative
Tribunals Act. There is no impugned order as such, but
his grievance is that though he applied for final withdrawal
from Provident Fund Account No.241403 so far as his Voluntary
Provident Fund Subscription is concerned, for the purpose of
his daughter's marriage and son's betrothal, no decision

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has been taken thereon as yet. He has given an account of the amount at his credit, indicating what according to him ^{are} State Railway Provident Fund & Voluntary Provident Fund amounts and the Bonus which should be standing at his credit. Admittedly, he has withdrawn Rs.5,000/- from the Voluntary Provident Fund for betrothal of his daughter in the year 1983. His application in the month of April, 1987 is for final withdrawal of a sum of Rs.27,000/- (Rs.15,000/- for daughter's marriage and Rs.12,000/- for son's betrothal) and has not yet been sanctioned and hence this application.

2. On 13-10-1987 when the application was admitted, applicant was heard and he showed a letter received from the respondent to the effect that he is entitled to withdrawal of provident fund on the basis of his salary at the old rates. The learned Advocate for the respondent was not available on 13-10-1987.

3. Mr.A.L.Kasturey, who appears for the respondents today, invites my attention to the written statement already filed on 13-10-1987, on behalf of the Divisional Personnel Officer, Western Railway, Bombay, as also to its enclosure which is a letter based on the copy of Railway Board's letter dated 16-10-86. Extract of that letter is reproduced:

"The Department of Rlys have decided that pending issues of amendments to the Railway Rules/orders prescribing revised eligibility conditions in terms of pay fixed in the revised scales of pay promulgated under the RS(RP) Rules, 1986 for drawal of various advances the 'PAY' that would have been drawn by a Rly.servant but for fixation of his pay in the revised scale, should be taken into account for the purpose of determining his eligibility for drawing any regular advance. In respect of Railway servants who are appointed to different posts on or after 1.1.1986 i.e. the date of implementation of the Pay Commission's recommendations, their pay for the purpose of eligibility for these advances will be 'Notional Pay' which they would have drawn in the pre-revised scales but for the introduction of the revised scales."

Mr. Kasturey also makes a statement that Rs.4,200/- have been sanctioned in favour of the applicant being equivalent to 6 months' pay at the old rate (Rs.700/-) for his son's betrothal, as he had already drawn an advance of Rs.5000/- for daughter's betrothal/marriage.

4. It is the applicant's contention that his pay has been revised in terms of recommendations of IVth Pay Commission with effect from 1-1-1986. He further contends that he has also been contributing to the Voluntary Provident Fund at an enhanced rate. He explained that in 1985-86 the State Railway Provident Fund contribution was Rs.80/- per month but his Voluntary Provident Fund contribution was Rs.200/-. In 1986-87 upto September, '86 SRPF was Rs.82/- p.m. whereas his VPF was Rs.300/- p.m. From October, '86 onwards SRPF was Rs.150/- p.m. and March '87 onwards Rs.167/- p.m. whereas his VPF has been Rs.500/- p.m. Thus he has a total of Rs.75,000/- at his credit and he has asked only for Rs.27,000/- These figures are not disputed. Only the rate at which the final withdrawal can be allowed is disputed on the basis of Railway Board's letter dated 16-10-1986.

5. I have seen Railway's Provident Fund Rules about advances and withdrawals from the fund. The rules suggest that withdrawals may be permitted for meeting marriage expenses. The gist of the rules is that withdrawal can be only for the subscriber's children's marriage and not for dependent relatives and that for each marriage the amount of withdrawal will be six months' pay in the case of daughter's marriage and three months' pay in the case of son's marriage, or the amount actually subscribed by a Railway servant along with interest thereon standing to his credit, whichever is less. For betrothal expenses

advances and withdrawals ^{are} allowed provided that the total amount of such advance or withdrawal for the betrothal and marriage does not exceed the limits of advance/ withdrawal laid down in the rules for marriages. The advances or withdrawal may be permitted within that ceiling either for betrothal or for marriage or partly for marriage or partly for betrothal or partly for betrothal and partly for marriage at the discretion of the subscriber. It, ~~is~~ therefore, appears that the ceiling on advance or withdrawal is six months' pay for daughter's marriage and three months' pay for son's marriage, or betrothal and marriage (whether of son or daughter) put together. It is possible for the employer or the Controlling authority to exercise discretion in favour of the subscriber and permit larger withdrawal upto 10 months' pay in special cases, for a daughter's marriage, but the advances or the withdrawal for the marriage should not in any case exceed six months' salary.

6. The only dispute is whether the advance or withdrawal should be permitted in terms of equivalence to six months' or ten months' as the case may be, for daughter's marriage or three months' or six months' pay as the case may be for son's marriage (inclusive of betrothal) according to the old unrevised pay or according to the revised pay. The Railway Board's letter indicates that "pending revision of rules" advances should be governed by the old rates of pay. While it is understandable that these directives can govern advances to be made from the public exchequer for the purposes such as House Building, purchase of vehicle etc. it does not stand to reason that the same directive should govern advances or withdrawal from provident fund specially in so far as they relate to Voluntary Provident Fund of the subscriber i.e. his

own money subject to rules or policy as may later be revised.

7. Though the respondents have a right to amend the rules suitably, ^{in the circumstances of this case} it appears to be necessary to dispose of this application with suitable directions.

I, therefore, order as follows:

- (i) Application is partly allowed.
- (ii) The applicant's application for final withdrawal from Voluntary Provident Fund standing at his credit may be disposed of, if not already disposed of, within a fortnight of the receipt of a copy of this order.
- (iii) The amount of final withdrawal shall be according to the rules in this respect which have been framed by the respondents but the ceiling shall be governed by the rates of pay as are currently being given to the applicant after the implementation of the recommendations of the IVth Pay Commission.
- (iv) The respondents may calculate the maximum amount which can also be allowed to be withdrawn. They are, of course, not prevented from using their discretion to grant any larger advance as may be permissible by rules. They are also at liberty to adjust final withdrawals, ^{if any} have been allowed to the applicant for the same purposes viz. daughter's betrothal/marriage, son's betrothal/marriage, as applied for by him, from the amount that they will determine as payable to him by way of final withdrawal ^{for each marriage}.
- (v) Parties to bear their own costs.

(J. S. RAJADHYAKSHA)
Member (A)