

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title O.A. 196 of 1989 (U)

Name of the parties C-K. Althara

Applicant.

Versus

Union of Indes

Respondents.

Part A, B, C.

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This files without (Bench)

Certified that no further action is required to be taken
and that the case is fit for consignment to the record room. (U)

9/7/12

File B/C destroyed on 09-5-12

Rgn

(A)

9/8/89.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 196 of 1989 (L)

APPLICANT(S) C.K. Asthana.
A. Sonpal.

RESPONDENT(S) Union of India & Others.

| Particulars to be examined | Endorsement as to result of examination |
|---|---|
| 1. Is the appeal competent ? | Yes |
| 2. a) Is the application in the prescribed form ? | Yes |
| b) Is the application in paper book form ? | Yes |
| c) Have six complete sets of the application been filed ? | Yes |
| 3. a) Is the appeal in time ? | Yes |
| b) If not, by how many days it is beyond time? | No |
| c) Has sufficient case for not making the application in time, been filed? | Yes |
| 4. Has the document of authorisation/ Vakalatnama been filed ? | Yes |
| 5. Is the application accompanied by B.D./Postal Order for Rs.50/- | Yes |
| 6. Has the certified copy/copies of the order(s) against which the application is made been filed? | Yes |
| 7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Yes |
| b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Yes |
| c) Are the documents referred to in (a) above neatly typed in double space ? | Yes |
| 8. Has the index of documents been filed and paging done properly ? | Yes |
| 9. Have the chronological details of representation made and the out come of such representation been indicated in the application? | Yes |
| 10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | No |

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| <u>Particulars to be Examined</u> | <u>Endorsement as to result of examination</u> |
|---|--|
| 11. Are the application/duplicate copy/spare copies signed ? | yes |
| 12. Are extra copies of the application with Annexures filed ? | yes |
| a) Identical with the Original ? | yes |
| b) Defective ? | no |
| c) Wanting in Annexures | |
| Nos. _____ pages Nos _____ ? | |
| 13. Have the file size envelopes bearing full addresses of the respondents been filed ? | yes |
| 14. Are the given address the registered address ? | yes |
| 15. Do the names of the parties stated in the copies tally with those indicated in the application ? | yes |
| 16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? | yes |
| 17. Are the facts of the case mentioned in item no. 6 of the application ? | yes |
| a) Concise ? | yes |
| b) Under distinct heads ? | yes |
| c) Numbered consecutively ? | yes |
| d) Typed in double space on one side of the paper ? | yes |
| 18. Have the particulars for interim order prayed for indicated with reasons ? | yes |
| 19. Whether all the remedies have been exhausted. | yes |

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A. No. 196 of 1988(L)
REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

C.K. Asthana

VERSUS

DEFENDANT
RESPONDENT

A.G. U.P. Alld & ors

| trial number of order and date | Brief Order, Mentioning Reference if necessary | How complied with and date of compliance |
|---|---|--|
|---|---|--|

10/8/89

Hon' Mr. D.K. Agrawal, J.M.

Heard the learned counsel for the applicant.
ADMIT. Issue notice to respondents to file
counter affidavit within six weeks to which
the applicant may file rejoinder within two
weeks thereafter.

As regards interim relief, issue notice
to show cause as to why the relief asked
for be not granted. Notice will be sent by
the office in routine manner according to the
rules. The applicant may, if he so likes,
serve the copies to respondents out side the
court on his own. Fix on 23-8-89 for disposal
of interim prayer .

List this case on 2-11-1989 for orders/hearing
as the case may be.

J.M.

(sns)

OR
notice issued
11/8/89
OR P.D. Chandra has
notice on behalf of C.K.A.
Notices were
issued to the respondents
on 11.8.89.
Neither reply nor
any unserved reply
has been received
as far as
submitted for order
on interim matters.

h
22/10

Offg as Investor -
 - Expenses charges.
 19.11.89. ① Pensioner's account & saved sum of
 ② charges from.
 ③ - 3pm recovery -
 All high malpractices.

Infopw 10-7-89 - order to make recovery ^{from Pensioner's} of overdrawn.
 A5 - amount of GPF. - The applicant has overdrawn
 Rs 27327.00 from his GPF

App returned on 31.7.87
 Seen Amount withdrawn between 1972-73 & 1982-83. - recovery ordered @ Rs 4000/- pm.
 Rule 73 CEs Pensioners: Recovery of

- Provision ^{by HOF} 2 years before date of release, & can collect 8 months before date of release.

- Due, assessed withholding doubtful contribution subsequently & remain outstanding till date of release, shall be subject of recovery.

Rule 73 CEs Pensioners: Recovery of Provision may be made from Pensioner's Relief (ie DA on pension)

Under para 7. The employee who has fraudulently withdrawn the amount cannot get protection; follow in the amount paid by mistake of office is protected because it is not his fraud.

1987 (3) ATC 545, Sri Benilal
 PB
 1988 (8) ATC 26 R.D. Sharma
 PB
 401 n/m
 401 n/m

[The amount there was drawn by the applicant when he was on deputation: Para 6 GPF: HC.
 Regd. Pen 4

Rule 15(2) of GPF Rules: The sanctioning authority shall be responsible -

With form for withdrawal, the employee has to indicate the amount at credit & debit withdrawal.

If amount has been recovered then proceed under Rule 9 of the CEs (Pension) Rules shall be

C.M. No. 369/09(L)

CA 196/05(L)

:: 2 ::

Serial
Number
of
order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and
date of
compliance

26.XII.1989 Hon. D.K. Agrawal, JM

Sri R.S. Srivastava, learned Counsel for the Applicant and Dr. Dinesh Chandra, learned Counsel for the Respondent nos. 1 to 3 are present.

Misc. Appln. No. 369/89(L) taken up. Let its reply be filed within 2 weeks. Let it on 16.1.1990 to order.

26.XII.89
Kug

Dep
JM

16-1-90

Hon. J. P. Sharma, JM

Put up tomorrow

Le
JM

17-1-90

Hon. J. P. Sharma, JM

Heard. The learned Counsel for the applicant is present. The matter is ready for final hearing. The learned Counsel for the applicant pressed an Authority of Benu Prasad reported in (1907)(3) A.T.C page 545 & (1900)(01) A.T.C page 26. The declaration ordered by stopping payment of pensionary benefits to the applicant suffers from illegality as Rule 9 of C.C.S. Pension Rule 1979 held not to be without-law.

On the other hand the L/C for the respondents referred to para 7 at page 549 of Benu Prasad's case (Supra). The grant of Interim relief to the parties will be heard on the next sitting. Pize on 29-1-90 on the priority basis before the Bench at SI. No. 1.

Dinesh

JM

OR.

This case was ordered to be listed for interim order on 16-1-90.

In the meantime notice for reply to no 5 was to be issued through Chief Standing Counsel for State Govt. which could not be issued so far.

Counsel for applicant has filed an application for expediting the order on application for Interim Prayer after serving it in the counsel for OP No. 1 to 4.

Case is submitted for order.

27/1/90

OR
order given off

28/1/90

Case is submitted for order in C.M. No. 369/09(L)

15/1

OR Case is for hearing

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~ALLAHABAD~~
Lucknow Circuit Bench

O.A. NO. 196 1939 (L)
T.A. NO.

DATE OF DECISION 21st Feb. 1950

C. K. Asthana PETITIONER
R. S. Srivastava Advocate for the
Petitioner(s)

VERSUS.

A.G. (A&E) UP Alld. *Others* RESPONDENT
Dr. Dinesh Chandra Advocate for the
Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. M. M. V.

The Hon'ble Mr. K. J. Raman, Am.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *73*
2. To be referred to the Reporter or not ? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *-*
4. Whether to be circulated to other Benches ? *NO*

Dinesh/

(A5)

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH
Registration O.A. No.196 of 1989(L)

C.K. Asthana Applicant

Versus

The Accountant General (A&E)-I
U.P. & Others. Opposite Parties.

Hon. Justice K.Nath, V.C.

Hon. K.J.Raman, A.M.

(By Hon. Justice K.Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing the orders of opposite party No.1 contained in his letter No. PAO/PEN/C.No.1023/87-88 dated 10.7.89^{Ann. A5} and for payment of Rs.18,553-30 with interest as the G.P.F. Account of the applicant for the financial years 1986-87 to 1988-89.

2. The impugned order, Annexure-A5 is a direction to stop payment of the amount of relief on pension admissible to the applicant in view of the fact that the applicant had overdrawn a sum of Rs.27,329/- from his G.P.F. Account. The Allahabad Bank, Aminabad Branch, Lucknow through which the applicant draws his pension has been directed by the impugned order to recover the overdrawn amount from the amount of relief on pension in monthly instalments of Rs.400/-.

3. It is admitted that the applicant retired as an Audit Officer in the Office of the Accountant General (Audit-I) U.P. on 31.7.87 and that during

9.

1972-73 and 1982-83 he had obtained withdrawals from his G.P.F. Account. According to the opposite parties the withdrawals were in excess of the amount to the credit of the applicant; the total excess withdrawal is said to be Rs. 27,329/-. The learned counsel for the applicant has not been able to specifically deny the amount of alleged overdrawal.

4. The dispute before us is confined to the mode of its recovery. The learned counsel for the applicant says that the amount of relief on pension is part of pension and even if no recoveries can be made from pension under the Rules, recoveries can also not be made from the amount of relief on pension. According to the opposite parties relief on pension is not part of pension and therefore is not exempt from satisfying the dues of the Govt. Reliance has been placed on Govt. of India Decision No.7 under Rule 73 of the CGS(Pension) Rules, 1972. The learned counsel for the applicant contends that the decision of the Govt. of India has been held to be ultra vires by the Principal Bench of this Tribunal in the case of Beni Prasad Vs. Union of India & Others 1987(3) ATC 545 followed in the case of R.D.Sharma Vs. Union of India & Others 1988 (8) ATC 26.

5. Rule 73 says that for dues other than those pertaining to occupation of Govt. accommodation of the Office shall take steps to assess the Govt. servant two years before.

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- 3 -

Govt. servant is due to retire which should be completed eight months prior to the retirement. The Rule goes on to say that the dues so assessed including dues which come to notice subsequently and which remain outstanding till the date of retirement of the Govt. servant shall be adjusted against the amount of Death-cum-Retirement Gratuity becoming payable to the Govt. servant on his retirement. Prima facie the Rule authorises recovery of dues from the amount of Death-cum-Retirement Gratuity. Decision 7 of the Govt. of India under Rule 73 published at page 121 of Swamy's Compilation as corrected upto 1st June, 1985 says that pension relief is not covered by Pension Act. and there may be no objection to the recovery of the Govt. dues from the pensioner's relief without the consent of the pensioner. In the case of Beni Prasad Vs. Union of India & Others (Supra) this Tribunal has clearly held that relief in pension in all respects is part of pension and the prohibition contained in Rule 9 of the Rules is equally applicable to relief in pension. On attention being drawn to the decision of the Govt. of India under Rule 73 referred to above, the Tribunal found ^{it} to be ineffective and erroneous because it was held that relief in pension is part of pension. The view taken is that relief in pension cannot be withheld for adjustment towards any Govt. dues in contravention of Rule 9 of Pension Rules; Rule 9 contemplates holding of certain disciplinary proceedings before pension is withheld or withdrawn in full or in

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part. No such enquiry has been held in the present case and therefore the overdrawal of G.P.F. amount drawn by the applicant is not capable of being recovered from the amount of relief in pension granted to the applicant.

6. Dr. Dinesh Chandra appearing for the opposite parties however refers to para 7 of the Decision in Beni Prasad's case (supra) to contend that the view taken by the Tribunal has been expressly held to be inapplicable to a case where the Govt. servant himself is guilty of a fraud in getting his pension released. But in that eventuality also some sort of enquiry would have to be held on the principles of natural justice to enable the applicant to contest any allegation of fraud or misrepresentation.

7. The view taken by the Tribunal in Beni Prasad's case (supra) has been reaffirmed in the case of R.D. Sharma Vs. Union of India & Others (supra) which has also observed in so many terms that the decision dated 7.2.78 of the Govt. of India "will have no legal binding force". The result is that the impugned order dated 10.7.89 contained in Annexure-A.5 must be quashed and any recovery made from the applicant through the concerned bank out of the relief in pension amount must be refunded to the applicant.

8. The claim in respect of the recovery of the outstanding amount of Rs.18,553-20 from the G.P.F. Account must however fail in the light of the decision in the case of Beni Prasad Vs. Union of India & Others (supra) para 9. There the applicant had also claimed

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recovery of Rs.924/- still due to him under his G.P.F. Account. It was held that that part of the claim must be rejected because there had been excess payment from the G.P.F. to the applicant which together with interest over the excess payment amounted to Rs.5,537/-. The Bench held that the question of the respondents being directed to pay Rs.924/- with interest or any amount whatsoever to the applicant did not arise.

9. The learned counsel for the opposite parties Dr. Dinesh Chandra comments that it is very unfortunate that an officer of the Audit Department of the Accountant General has been able to secure an overdrawal of the G.P.F. amount and yet is not fair enough to the Govt. to make good the wrongful ^{gain} which he has secured causing wrongful loss to the Govt. His comment cannot be brushed aside; and one may wonder whether the excess amount received by the applicant may still not be recoverable through a proper proceeding in the appropriate forum because, according to general law, where there is a right there is a remedy, unless remedy itself is barred by limitation.

10. In the result the application succeeds in part and the impugned order contained in letter No.PAO/PEN/C-No.1023/87-88 dated 10.7.89, Annexure-A.5 is quashed and it is directed that the opposite parties shall refund to the applicant such of the amount, if any, which has already been recovered from the applicant

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A10

- 6 -

through the concerned bank from the amount of relief in pension admissible to the applicant. In all other respects, the application is dismissed. Parties shall bear their costs.

h. Rawan

Member (A)

Ph

Vice Chairman

Dated the 21st Feb., 1990.

RKM

(112)

FOR USE IN TRIBUNAL'S OFFICE.

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| X | Date of filing | <u>9-8-89</u> |
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| X | Date of Receipt by post | <u>19/89(L)</u> |
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

C.K.ASTHANA, s/o late Sri Roshan Lal Asthana,
aged about 61 years, resident of A-8, Avadhpur,
Sarvodayanagar, Lucknow, retired Audit Officer
of Accountant General, Audit-I, U.P., Allahabad.

.... Applicant.

Versus

1. The Accountant General (A & E)-I,
U.P., Allahabad.
 2. The Accountant General, Accounts-II,
U.P., Allahabad.
 3. The Accountant General, Audit-I,
U.P., Allahabad.
 4. The Director of Audit, Food,
New Delhi.
 5. Administrative Officer, Ranganga Project,
Command Area Development Authority, Kalagarh.
 6. Manager, Allahabad Bank, Aminabad Branch,
Lucknow.
- Respondents.

Pill

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, Deputy Registrar(J)

LUCKNOW BENCH, LUCKNOW.

O.A. APPLICATION NO. 196 OF 1989 (L)

C.K. Asthana

Applicant.

Versus

The Accountant General, U.P.

Allahabad & Others.

Respondents.

FORM I

Application under Section 19 of the Administrative Tribunal Act, 1985.

...

Title of the Case : Recovery from relief on pension of Alleged overpayment of G.P.F.

...

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| 3. | Copy of letter No.PAO/Fund/486, dated 25.8.88. Annexure A-2. | 20 |
| 4. | Copy of letter No.PAO/Fund/861, dated 23.12.88. Annexure A-3. | 21 |
| 5. | Copy of letter No.PAO/Fund/1122, dated 28.2.89. Annexure A-4. | 22-23 |
| 6. | Copy of letter No. PAO/PEN/C-No.1023, /87-88, dated 10.7.89. Annexure A-5. | 24 |
| 7. | Copy of G.P.F.A/c Slip for the financial year 84-85. Annexure A-6. | 25 |
| 8. | Copy of GPF A/C Slip for financial year 83-84. Annexure A-7. | 26 |
| 9. | Copy of G.P.F. A/C Slip for financial year 82-83. Annexure A-8. | 27 |
| 10. | Copy of G.P.F. A/c Slip for financial year 85-86. Annexure A-9. | 28 |
| 11. | Copy of letter dated 1.2.89 written by applicant to PAO Allahabad regarding balance at retirement be above Rs. 16000.00. Annexure A-10. | 29 |
| 12. | Vakalatnama | 30 |

Date: August 8, 1989.

Place : Lucknow.

SIGNATURE OF THE APPLICANT.

Filed today
10.8.89R.S. Srivastava
A.M. SatiLine up for signature
J. G. S. S. S.
Adm

Chasthana

A12

FOR USE IN TRIBUNAL'S OFFICE.

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| X | Date of filing | <u>9-8-89</u> |
| X | or | |
| X | Date of Receipt by post | <u>—</u> |
| X | Registration No. | <u>19/89(L)</u> |
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| X | SIGNATURE: | X |
| X | FOR REGISTRAR. | X |
| X | | X |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

C.K.ASTHANA, s/o late Sri Roshan Lal Asthana,
aged about 61 years, resident of A-8, Avadhपुरी,
Sarvodayanagar, Lucknow, retired Audit Officer
of Accountant General, Audit-I, U.P., Allahabad.

.... Applicant.

Versus

1. The Accountant General (A & E)-I,
U.P., Allahabad.
 2. The Accountant General, Accounts-II,
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New Delhi.
 5. Administrative Officer, Ranganga Project,
Command Area Development Authority, Kalagarh.
 6. Manager, Allahabad Bank, Aminabad Branch,
Lucknow.
- Respondents.

Crashhans

Details of Application.1. Particulars of the Order against which the application is made.

Letter No. P.A.O./PEN/C No. 1023/87-88, dated 10.7.89 written by A.G. (A&E)-I, U.P., Allahabad to Accounts Officer P.E.(C), A.G. U.P. A/Cs-II, Allahabad directing him to stop payment of relief in pension and also to direct the Allahabad Bank, Aminabad Branch, Lucknow to withhold payment of relief of pensioner, the bank from which the Applicant is at present drawing his pension. (being filed as Annexure A-5).

2. Jurisdiction of the Tribunal:

The applicant declares that the subjectmatter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. LIMITATION.

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE.

4.1: That the Applicant was appointed as U.D.C. in the office of the Accountant General U.P. Allahabad in the year 1951. He passed the departmental examination of S.A.S. in the year

Chashman

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: 3 :

1960 and was promoted as Superintendent/Section Officer. He was placed on deputation with the Administrative Officer, Ranganga Project, Command Area, Development Authority, Kargahar from 4/72 to 1/74 and with the Director of Audit (Food) New Delhi from 1/74 to 4/80. He was promoted as Accounts Officer in March, 1976. Consequent on restructuring of cadres in I.A.A.D., the applicant was appointed as Audit Officer in March, 1984 in the office of A.G.Audit, I.U.P. Allahabad. He retired from Government Service on 31.7.1987 A.N.

4.2: That he submitted his application for final payment of his G.P.F. A/c No. CAU/1254 to his employer, A.G.Audit-I, U.P., Allahabad who transmitted the same to the P.A.O., A.G.(A & E)-I, U.P. Allahabad, on 31.7.1987. For arranging the payment of the amount at the credit in the said account.

4.3: That the Pay & Accounts Officer, A.G., U.P. (A.E-I) Allahabad, who is maintaining the account of G.P.F. of the applicant, intimated to the applicant vide his letter No. P.A.O. /Fund/486 dated 25.8.88 (copy of which is being filed as Annexure A-2) that the ^{debts} details of Rs.17608.00 passed over by the Office of the Director of Audit (Food), New Delhi were adjusted in the account of G.P.F. of the applicant and the balance was certainly ^{to} resulted in minus.

Chashtans

4.4: That the Pay and Accounts Officer, Allahabad vide letter No. PAO/Fund/861, dated 23.12.1988, (copy of which is being filed as Annexure No. A-3) intimated to the applicant that after adjusting total debits and credits and the interest thereon, final position has resulted in minus balance of Rs. 27329.00. The total amount of debits adjusted was Rs. 20008.00 and that of credits was Rs. 1245.00. The applicant was further asked to refund the said amount of Rs. 27329.00 which came in minus balance.

4.5: That the applicant wrote to the Pay and Accounts Officer, Allahabad on 1.2.1989 (A copy of letter being filed as Annexure A-10) that since he remained out of Allahabad after 4/72, he had not received the old Accounts slips and requested the ~~XX~~ P.A.O. Allahabad to send the position of accounts for financial years from 72-73 to 82-83. It was also mentioned by the applicant that the balance of credit of the applicant on the date of retirement (31.7.87) should be above Rs. 16000.00.

4.6: That the Pay and Accounts Officer, Allahabad vide his letter No. PAO/Fund/1122, dated 28.2.89 (A copy of which is being filed as Annexure A-4), sent the statement from 70-71 to 88-89 showing therein the minus balance of Rs. 27329.00, at the end of March, 1989. The debits and credits adjusted pertained to financial years 72-73 to 1979-80.

Chaudhary

4/6

: 5 :

4.7: That the Accounts Slips which were issued by P.A.O. Allahabad earlier for the Financial years 1982-83 to 1985-86 depicted different picture as detailed below:-

| Financial Year. | O.B. | Deposits | Interest | Withdrawals | Closing Balance |
|-----------------|----------|----------|----------|-------------|-----------------|
| 82-83 | 28313.80 | 2100.00 | 1548.00 | 19625.00 | 12336.80 |
| 83-84 | 12336.80 | 7651.50 | 1602.00 | - | 21590.30 |
| 84-85 | 21590.30 | 7500.00 | 2304.00 | 18000.00 | 13394.30 |
| 85-86 | 13394.30 | 9600.00 | 1889.00 | - | 24883.30 |

4.8: That the Accounts slips for the years 1986-87 and 87-88 and 88-89 were not sent by P.A.O. Allahabad to the applicant. However, after taking into consideration the O.B. Deposits and withdrawals and C.B. as per the statement sent by P.A.O., Allahabad, the overall position for the years 86-87 to 88-89 (without calculation of interest) will ^{emerge} ~~average~~ as under:

| Financial Year. | O.B. | Deposits | Interest | Withdrawals | Closing Balance |
|-----------------|----------|----------|----------|-------------|-----------------|
| 86-87 | 24883.30 | 12855.00 | - | 24185.00 | 13553.30 |
| 87-88 | 13553.30 | 5000.00 | - | - | 18553.30 |
| 88-89 | - | - | - | - | 18553.30 |

4.9: That the Pay and Accounts Officer, Allahabad has nowhere indicated in the Accounts Slips for financial years 82-83 to 85-86 that certain debits and credits were wanting and hence the applicant treated them as authentic and final. Withdrawals in 1982-83, 84-85 and 86-87 for Rs. 19625.00, 18000.00 and Rs. 24185.00 respective.

Chashtani

ly were sanctioned by the Accountant General, U.P. Allahabad after satisfying himself that the amounts in question were available in his Account and the same were disbursed to the applicant.

- 4.10: That Rule 15(2) of General Provident Fund (Central Services) Rules made by the President in exercise of the powers conferred by Article 309 & clause (5) of Article 148 of the Constitution, cast a statutory duty on the authorities sanctioning withdrawals to the extent that they should ascertain the balances at the credit in the Account of the Subscriber while giving sanctions and copies of sanctions should invariably be endorsed to the Accounts Officer and an acknowledgement should be obtained from the Accounts Officer that the sanction has been noted in the ledger account of the subscriber.

Government of India decision No.6(3) under Rule 11 lays down that whatever be the reasons of the overdrawals, since the subscriber cannot draw the amount unless it is sanctioned, the sanctioning and/or accounts authority also have a responsibility in the overdrawal. Instructions may therefore, be issued that all requests for advances, withdrawals are to be closely scrutinized and the cases where overpayments occur, responsibility should be fixed and action taken both against the administrative and the accounts authorities at fault.

CHASMANA

Reasons for minus balances resulting in the applicant's account have been attributed to non-booking of debits of past years (72-73 to 79-80) in the account of the applicant.

Even if the position as arrived at by P.A.O., Allahabad is taken to be true for the time being, the question of ~~reversing~~ recovery of overpayments from the applicant does not arise in view of the provisions of rules cited above.

Opposite Parties ^No. 1, 3, 4 and 5 are directly responsible for these omissions and lapses and the applicant cannot be held responsible. In case responsibility has to be fixed for over-payment, the same falls on opposite parties no. 1, 3, 4 and 5 who are responsible for sanctioning the advances/withdrawals and payments thereof. It will thus be against the statutory rules if responsibility for balance resulting in minus is not fixed on above opposite parties and amount not recovered from them. A copy of telex given by the A.G., Audit-I, Allahabad to Director of Audit, Food, New Delhi is being filed as Annexure A-1, which will indicate that the P.A.O. Allahabad was at fault by not indicating wanting credits and debits in the accounts slips.

4.11: That sending the debits of past years (72-73 to 79-80) by the opposite parties no. 4 and 5 to the Accounts Officer after a lapse of 9 to 15 years shows utter disregard of statutory rules and dereliction of statutory duty cast on them. Sanctioning of withdrawals

Chasmana

of Rs. 19625.00, 18000.00 and 24185.00 in the financial years 82-83, 84-85 and 1986-87 (~~without~~ adjustment of past debits as mentioned above) ~~definitely~~ shows lack of irresponsibility of opposite party no.1 and opposite party no.3. The Accounts slips of 82-83 to 85-86, copies of which are being filed as Annexures A-8, A-7, A-6 and A-9, which were issued by P.A.O., Allahabad are purported to have included the debits indicated above but the position which ^{emerges} ~~evergoes~~ from statement sent by P.A.O. Allahabad being filed as Annexure A-4. For financial year 71-72 to 88-89 indicates that these debits were not posted in account of applicant and Accounts Slips were issued without recording that so and so debits and so and so credits were wanting. Obviously opposite parties no. 1 and 3 were equally responsible for above omission and they too did not perform their statutory duty which resulted in ^{chaos} ~~less~~ of the entire account of the applicant.

4.12: That definition of pension as given in Article 366 (17) of the Constitution of India is as under:

-Pension means a pension whether contributory or not of any kind whatsoever payable to or in respect of any pension, and includes retired pay so payable a gratuity so payable or any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto of subscriptions to a provident fund.

Crashana

The words 'any sum or sums so payable by way of return' includes Relief in Pension as the retired Government Servant receives it by way of return only in lieu of rendering services before retirement. Hence R.I.P. is an essential part of pension and cannot be separated from it.

Dearness allowance relief granted to pensioners is primarily intended to offset high rise in prices and cost of living. What is considered to be reasonable pension payable to a pensioner on the date of his retirement is rendered illusory by the steep rise in price of commodities. That is sought to be offset by Sanctioning dearness allowance to serving employees and relief on pension to pensioners. It is in fact the depreciated value of rupee that is sought to be compensated by ^{granting} gratuity relief to a pensioner. It is an amount paid for service rendered in past. Relief in pension therefore forms a component part of pension.

4.13: That Rule 8 of the Central Civil Services (Pension) Rules, 1972 lays down that future good conduct shall be an applied condition of every grant of pension and its continuance under these rules.

It further lays down that the appointing authority may, by order in writing, withhold or withdraw a pension or a part thereof whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

Ceras Henry

The applicant has neither been convicted or a serious crime nor has been found guilty of grave misconduct and hence the pension of the applicant can neither be reduced or stopped under this rule.

4.14: That Rule 9 lays down that the President reserves to himself the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government if in any departmental or judicial proceedings, the pensioner is found ~~found~~ guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement. The applicant neither caused any financial loss to the Government by his negligence nor he has been found guilty of grave misconduct or negligence in any departmental or judicial proceeding and hence stoppage of R.I.P. is wholly illegal and arbitrary.

4.15: That the stoppage of R.I.P. has been proposed by A.G. (A & E) I, U.P., Allahabad by giving a reference to Government of India Decision No.7 under Rule 73 of C.C.S. (Pension) Rules, 1972, A copy of letter of A.G. is being filed as Annexure A-5. The Rule lays down that the Ministry of Finance has clarified in their U.O. No. 718EV(A) dated the 7th February, 1978 that the pensioner's relief is not covered by the Pension Act and there may be no objection to the

Chashtana

recovery of Government dues from the Pensioner's relief without the consent of the pensioner. The above U.O. is in fact an administrative instruction. The administrative instructions could be issued only when the statutory rules are silent on any issue. In the case of stoppage of or recovery to be made from pension (including RIP) the comprehensive rules are contained in C.C.S. (Pension) Rules, 1972. These rules were framed by the President by exercising the powers conferred by the proviso to Article 309 and Clause 5 of Article 148 after consulting the C.A.G.. These rules are self contained and leave no room for issuance of any administrative instructions as far as recovery or stoppage of pension (including RIP) is concerned. The procedure for this is contained in rule 8 and 9 as stated above. The administrative instructions cannot override the provisions contained in statutory rules and hence the U.O. dated 7th February, 1978 cannot have any legal force and is not sustainable in the eyes of law. This is supported by decision of C.A.T. New Delhi in case of R.D. Sharma versus Union of India and others (1988) 8 ATC 26. Since the R.I.P. is an essential component of pension, it could not be stopped unless procedure as laid down in Rule 8 and 9 is followed. This is also supported by above case and case of Sri Beni Prasad Vs. Union of India (1987) 3 A.T.C. 545. The action of A.G. (A.E.I) Allahabad for recovery of the alleged overpaid amount from the applicant's pension & relief is not in conformity with the accepted canons of law and was wholly illegal and irrational.

Chashtana

4.16: That the Departmental remedies to be exhausted ~~remains~~ could not be located in Pension Rules and the applicant is filing the present application before the Hon'ble Tribunal for redressal of his grievances.

5: Grounds for relief with legal provisions:

5.1: Because the advances/withdrawals were sanctioned by competent authorities and drawn accordingly.

5.2: Because Pay and Accounts Officer, Allahabad, working under opposite party no.1 had issued Accounts slips for the financial years from 1982-83 to 85-86 without specifying wanting credits and debits.

5.3: Because last three withdrawals of Rs.19625.00, 18000.00 and Rs. 24185-00 respectively were sanctioned during 1982-83, 84-85 and 86-87 and these withdrawals were sanctioned by A.G.U.P. Allahabad after taking into consideration the balances shown in respective Accounts slips.

5.4: Because balances worked out on the basis of above account slips indicate that the balance at the close of 1987-88 comes to plus Rs.18553.30 the amount which is payable by P.A.O. to the applicant. The Account Slips once issued without any remarks regarding outstanding debits and credits are final and P.A.O. is estopped from going back from from the balances shown therein.

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5.5 Because the balance as shown by P.A.O. Allahabad in his statement at close of 88-89 comes to (-) Rs. 27329.00. This minus balance cannot be accepted in view of ~~xxx~~ observations made in paragraph 5.4 above.

5.6: Because the Relief in Pension has been treated as component of Pension by the Hon'ble Tribunal New Delhi in cases cited below:

(i) Beni Prasad Petitioner

Versus

Union of India & Others. Respondents.

(1987) 3 A.T.C. 545.

(ii) R.D.Sharma Applicant.

Versus

Union of India & Others. Respondents.

(1988) 8 A.T.C. 26.

5.7: Because proposal for stopping the R.I.P. without the consent of applicant is wholly illegal, unjustified and irrational. The stoppage of pension could only be made under Rules 8 and 9 of the Pension Rules, 1972.

5.8: Because procedure as laid down in Rules 8 and 9 was not adhered to and orders were issued for stoppage of R.I.P. which were arbitrary, illegal and uncalled for.

Chashtana

5.9: Because as per rules, the Administrative and Accounts Authorities are responsible for over payments and not the applicant.

6. Details of the remedies exhausted:

No such provision exist in the pension rules.

7. Matters not previously filed or pending with any Court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8: Reliefs sought

grounds

In view of the facts and circumstances mentioned above, the applicant prays for the following relief(s):

(i) The impugned orders contained in letter No.PAO/ Pen./C No. 1023/87-88, dated 10.7.89 of A.G.(AEI) U.P. Allahabad addressed to Accounts Officer PE(C), A.G. U.P.II Accounts, Allahabad may be declared illegal and be quashed.

(ii) The opposite party no.1 may be directed not to implement the orders contained in letter No.PAO/ Pen/C No. 1023/87-88, dated 10.7.89 as a measure of

Chasman

interim relief during the pendency of this application.

(iii) The O.P.No.1 (The Pay and Accounts Officer, Allahabad working under opposite party no.1 and maintaining the G.P.F. account of the applicant) may be directed to make payment of Rs. 17553.30 ^{to the applicant along with interest} for the financial years 1986-87 ~~xxx~~ to 88-89.

(iv) Any other relief/reliefs as deemed fit by the Hon'ble Tribunal as per the circumstances of the case.

(v) The cost of the application.

9. Interim order if any prayed for:

Pending final decision on the application the applicant seeks the following interim relief:

The operation of the impugned orders contained in letter No. PAO/Pen/C No. 1023/87-88, dated 10.7.88 written by A.G.(AEI)U.P., Allahabad to Accounts Officer, PE(O), A.G.U.P.II(Accounts) Allahabad, maybe stayed till the finalisation of the application to enable the applicant to draw the pension regularly including R.I.P. from the bank.

10. The application is not being sent by post but is being submitted in office of the Tribunal.

11. Particulars of Bank Draft/Postal order filed in respect of the application fee.

Postal order NO. DD 795086 dated 7.8.89 issued from Gokhale Marg, Post Office Lucknow. Chashtant

12. List of Enclosures:

One postal order as detailed in paragraph 11 above together with copies of Annexure A-1 to Annexure A-10 as per index and six big envelopes with addresses of opposite parties written on them.

V E R I F I C A T I O N

I, C.K.Asthana, son of late Shri Roshan Lal Asthana, aged about 61 years, retired as Audit Officer from the office of the Accountant General, Audit-I, U.P., Allahabad resident of A-8, Avadhpuri, Sarvodaya Nagar, Lucknow, do hereby verify that the contents of paragraphs 1 to 12 except paragraphs 4.15 and 5.6 are true to my personal knowledge and paragraphs 4.15 and 5.6 believed to be true on the basis of legal advice and that I have not suppressed any material fact.

Date: August 8, 1989.

Place : Lucknow.

C.K.Asthana
SIGNATURE OF THE APPLICANT.

In the Central Administrative Tribunal, Lucknow bench, Lucknow
C.K. Asthana Applicant
A.G. (A&E) I - Allahabad & Others Respondents - 24
OFFICE OF THE ACCOUNTANT GENERAL (A&E), I- U.P.
ALLAHABAD

REGISTERED

A5

A28

NO: P.A.O./PEN./C.NO.1023/87-88/

Dated.10.7.89

To,

The Accounts Officer P.E.(c).
A.G.U.P. A/cs-II ALLAHABAD.

SUB:- To stop payment of relief in pension in respect of
Shri Chandra Kumar Asthana Retd. Audit Officer.
(P.P.O. NO. PAO(Pen) A.G. A/cs-I/702).

Sir,

I am to invite a reference to this office letter No. P.A.O./Pen/C.No.1023/87-88/505 dated 10.2.88 and to state that Sri C.K.Asthana Retd. A.O. has overdrawn of sum of Rs.27329=00 (Rupees twenty seven thousand three hundred twenty nine only) from his G.P.F. account that is to be recovered from his pension relief. In this regard Principal Accountant General has ordered to advice his bank i.e. Allahabad Bank Aminabad Branch Lucknow A/c No 7881 (through which Sri Asthana is drawing his pension) to stop payment of relief on pension to recover the amount in terms of G.I. Decesion No.7 under rule 73 of C.C.S.Pension Rules.

It is therefore, requested a necessary instructions to concerned bank i.e. Allahabad Bank Aminabad Branch lucknow A/c No.7881 may kindly be issued to stop payment of Relief on pension with immediate effect and the recovered amount may please be sent through bank draft in ^{favour of} Pay & Accounts Officer O/e the A.G.(A&E)I, U.P. Allahabad.

Kindly acknowledge receipt this may please be treated as MOST URGENT.

Yours faithfully

No. PAO/Pen/C.No.1023/87-88/150 PAY & ACCOUNTS OFFICER(Pen.)
Oct. 10.7.89

Copy to:-

- (1) Section officer, P.A.O. (Fund) W.r. to his letter No. PAO/Fd./223 dated 15.6.89.
- (2) Shri Chandra Kumar Asthana, 44 Shastri Nagar, Lucknow U.P.
- (3) Section Officer, P.A.O. (Gazetted) o/e the A.G. U.P. A/cs-I Allahabad.

T.c.

Attested

R. S. Srivastava

R. S. Srivastava
Advocate

High Court, Central
and State Services Tribunals
4/553, Vikasnagar, Kursi Road,
LUCKNOW.

PAY & ACCOUNTS OFFICER

Chasimang

TELEX

In the Central Administrative Tribunal, Lucknow bench,
Lucknow.

FROM

C.K. Asthana Applicant

VS

TO

UPAUDITEK
ALLAHABAD

AG. (AEI), Allahabad

Respondents

ARGEL
NEW DELHI

2. Others

A₁

REPEAT: DIRECTOR OF AUDIT FOOD,
NEWDELHI

(A29)

FOR SMT. MALASHRI PRASAD FROM MAHAJAN

REFER YOUR D.O.No.2508-GE.II/11-88 KW DATED 10TH
AUGUST 88 ABOUT DELAY IN FINAL PAYMENT OF PROVIDENT
FUND OF SHRI C.K. ASTHANA, RETIRED AUDIT OFFICER (I) ON
A SCRUTINY OF THE GPF ACCOUNT OF SHRI ASTHANA IN THE
OFFICE OF THE PAO/IAD, ALLAHABAD, THE FOLLOWING CREDITS
HAVE BEEN FOUND MISSING AND DETAILS THEREOF, CALLED FOR
FROM DIRECTOR OF AUDIT (FOOD), WHERE HE WAS WORKING
THEN, HAVE NOT BEEN RECEIVED DESPITE A NUMBER OF LETTERS
TO THAT OFFICE INCLUDING A D.O. REMINDER TO SHRI SUSHIL
KUMAR, DEPUTY DIRECTOR IN THAT OFFICE:-

10/74, 11/74, 3/75, 11/75, 11/78 & 3/80

I AM CONTACTING DIRECTOR OF AUDIT (FOOD) TO EXPEDITE
THE DETAILS OF REMITTANCE, ETC.

2. THERE IS ALSO A POSSIBILITY THAT SOME OF THE DEBITS
IN RESPECT OF ADVANCES/WITHDRAWALS DURING THE PERIOD
JANUARY 74 TO APRIL 80 WHEN SHRI ASTHANA WAS WORKING
WITH THE DIRECTOR OF AUDIT (FOOD), HAVE NOT BEEN RECORDED
IN HIS ACCOUNT, DETAILS OF WHICH HAVE ALSO BEEN CALLED
FOR FROM THAT OFFICE AS MENTIONED ABOVE AND SIMILAR
ACTION IS BEING TAKEN IN THAT RESPECT?)

3/74 : SINCE CONTRIBUTION WAS REDUCED FROM RS.205/- P.M.
TO RS.160/- P.M. AND SOME ADJUSTMENT TOWARDS
OUTSTANDING OF THE PREVIOUS ADVANCE AND
NEW ADVANCE MAY HAVE BEEN MADE

Tc.
A. K. Singh
R. K. Singh
Advocate

CONTD.---P.2

A30

6/77 :SINCE CONTRIBUTION WAS RAISED BY RS.20/-FROM
THE FOLLOWING MONTH

3/78 :SINCE CONTRIBUTION WAS RAISED BY RS.118/-
FROM THE FOLLOWING MONTH

5/78 :SINCE CONTRIBUTION WAS RAISED BY RS.9/-FROM
THE FOLLOWING MONTH

11/78 SINCE CONTRIBUTION WAS RAISED BY RS.14/- FROM
THE FOLLOWING MONTH

3. ANOTHER CREDIT FOR 6/73 FOR RS.205/- IS ALSO MISSING ()

DURING THIS PERIOD SHRI ASTHANA WAS WITH REMGANGA COMMAND AREA
DEVELOPMENT AUTHORITY () I AM SENDING SOMEBODY TO THE
OFFICE OF THE AUTHORITY AT KANPUR TO GET THE DETAILS
ALONG WITH THE INFORMATION WHETHER ANY ADVANCE WAS
PAID TO HIM IN 4/73 SINCE CONTRIBUTION WAS RAISED FROM
THE FOLLOWING MONTH FROM RS.105/- TO RS.205/- P.M.()

4. INCIDENTALLY, ONE CREDIT FOR 4/82 WHILE SHRI ASTHANA
WAS POSTED WITH U.P.JALNIGAM, LUCKNOW, IS ALSO MISSING
AND I AM GETTING THE DETAILS COLLECTED FROM THERE ()

5. I WILL REVERT TO THE SUBJECT ON GETTING FURTHER
DETAILS () INCIDENTALLY, SHRI ASTHANA WAS GIVEN ACCOUNT
SLIPDS EVERY YEAR BY OUR PAO HERE AND HE HAD NEVER
POINTED OUT ANY DISCREPANCY () OF COURSE OUR PAO IS ALSO
AT FAULT IN NOT INDICATING IN THE ACCOUNT SLIPS UPTO DATE
LIST OF MISSING CREDITS AND SUSPECTED DEBITS ()

Not to be telexed.

Dated: August 17, 1988

(V.A. Mahajan)
Accountant General (Audit)-I

TC
A. Mahajan
R. Mahajan
A. Mahajan

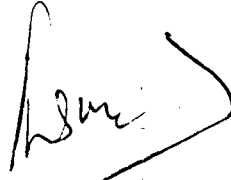
AB1

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)-I, U.P.
ALLAHABAD

No. PAO/Fd./PF/ 443.

Dated: August 17, 1988

Copy forwarded to Shri C.K. Asthana, 3/70 Vikas Nagar,
Kursi Road, Lucknow.



(V.N. Singh)
, Pay & Accounts Officer

Tc Adhik
Rentals
Advocate

In the Central Administrative Tribunal, Lucknow Bench, Lucknow

CK. Asthana - Applicant Respondents. - 20 -
AG (AEI) - Accounts & Others
OFFICE OF THE ACCOUNTANT GENERAL: I(A&E), U.P.,
ALLAHABAD

No. PAO/Fund/486

Dated: 25.8.1988

To

Shri C.K. Asthana,
3170, Vikas Nagar,
Kursi Road, LUCKNOW.

Sub:- Regarding Final Payment of Sri C.K. Asthana, G.P.F. A/c No. CAU/1254 of (Self).

Sir,

I am to invite a reference to your letter No. NIL dated 12.7.88 addressed to C. & A.G. of India and to state that the details of missing debits in your G.P.F. Account ^{have been} furnished to this office by Office of The Director of Audit (Food), New Delhi vide letter No. 134/D.A.(F)/P.F. C.K.A./E.11/2351 dated 17.8.88. The missing debits given below were sanctioned to you vide..

Sanction/Bill No. & Date

Amount (Rs.)

- | | |
|--|------------------|
| 1. No. B-165, dt. 18.7.77 | 2,220/- Advance |
| 2. No. B-208 dt. 8.4.78 | 2,052/- do- |
| 3. No. 44-DA(F)/GPF/E.11/79-80/3379, dated 23.8.79 | 10,000/- P.W. |
| 4. No. B.2 504, dt. 14.11.79 | 3,336/- Advance. |

Total: 17,608/-

Regarding the missing credit of 10/74, 11/74 @ Rs.160/-, 3/75 @ Rs.60/-, 11/75 @ Rs.60/- 11/78 @ Rs.547/- and 3/80 @ Rs.300/- P.M. a telegram has been sent on 22.8.88 to Deputy Director Audit (Food), New Delhi to furnish the details of missing credits; and the details of one missing credit of 4/82 amounting Rs.300/- has been called for from the office of U.P. Jal Nigam, Lucknow while you were on deputation & to this office. The details of one missing debit in 4/73 and credit of 6/73 amounting Rs.205/- has been called for from the Office of the Ram Ganga Project Command Area Development Authority Sharda Nagar, Kanpur.

So after adjusting the awaited amount of missing credits and the missing debits amounting Rs.17,608/- mentioned above along with interest thereon the final calculated balance in your G.P.F. Account will certainly come in minus. Final position will be intimated to you after getting details of missing credits.

Yours faithfully,

(V.N. Singh)
Pay & Accounts Officer

TC
Asthan
Rasthag
Admarte

In the Central Administrative Tribunal, Lucknow Bench, Lucknow

C.K. Asthana Applicant

vs.

REGISTERED/A.D.

AG. (AET), Allahabad & Others

Respondents

OFFICE OF THE ACCOUNTANT GENERAL: I (A&E), U.P.,
ALLAHABAD

P.A.O./FUND/861

Dated 23.12.1988

To

Shri C.K. Asthana,
3170, Vikas Nagar,
KURSI ROAD,
LUCKNOW.

Sub:- Regarding Final Payment of Sri C.K. Asthana, G.P.F. A/c No.
CAU-1254 of (Self).

Sir,

I am to invite a reference to this office letter No. PAO/
Fund/486 dated 23.9.88 on the subject cited above and to state
that besides the details of missing debits of Rs.17,608.00, fur-
nished by the office of the Director of Audit Food, New Delhi
the details of one missing debit of Rs.2,400.00 in 3/73 and credit
of 6/73 have also been furnished to this office by Accounts Office:
Lekha Sangh, Kalagarh and details of missing credits of 10/74, 11
11/74, 3/75, 11/75 and 11/78 and 3/80 have also been furnished
by Director of Audit Food, New Delhi.

So after adjusting the total amount of debits of
Rs.20,008.00 and credits of Rs.1,245.00 along with interest thereon,
the final calculated balance in your G.P.F. account has come
to minus Rs.(-27,329.00 (Rupees Twenty Seven thousand three
hundred twenty nine only). As such the over payment of Rs.27,329/-
has been done to you from G.P.F.

You are therefore now requested to deposite a sum of Rs.27
Rs.27,329.00 before 31.12.1988 and thereafter alongwith interest
at the rate of 12% per annum thereon.

Yours faithfully,

Pay & Accounts Officer

TC.
Alkhan

Ramdas

Advocate

पोस्ट बॉक्स सं० } 15
Post Box No. }
तार-प्रधान महालेखा
Telegraph-PRINCACCTT



In the Central Administrative Tribunal, Lucknow
bench, Lucknow

C.K. Asthana -
Applicant
VS

दूरभाष } 2625 to 2629
Telephone } 3351 to 3354
टेलिक्स/Telex-0540-204

AG (A.E.) I Allahabad
and others -

Respondents

कार्यालय महालेखाकार (लेखा एवं हकदारी)-प्रथम, उ० प्र०, इलाहाबाद
Office of the Accountant General (A & E)-I, U. P., Allahabad

पत्र सं०
Letter No. P.A.O./Fund/1122

दिनांक
Date 28-2-1989

To

Sri C.K. Asthana
3/70 Vikas Nagar
Kursi Road, Lucknow

Subject:- Regarding statement of calculation of G.P.F. of Sri C.K. Asthana.

Sir,

I am to invite a reference to your letter dated 1.2.89 and to enclose here with the statement of calculation after incorporating all the missing credits and debits from the year 1970-71 to 1988-1989.

Encl:-

Te
Alkash
Razamtey
Advocate

(V.N.Singh)
Pay & Accounts Officer

- 23 -

Statement of Calculation after incorporating
all the missing credits & Debits of Sri C.K.
Asthana G.P.F. A/c No CAU-1254.

| YEAR | O.B. | DEPOSITE | INTEREST | TOTAL | W.D | BALANCE |
|-------|-----------|----------|----------|-----------|--------|------------------------|
| 70-71 | 4473= | 1520= | 192=00 | 6185= | 2000 | 4185= |
| 71-72 | 4185= | 1953=35 | 288= | 6426=35 | 1080 | 5346=35 |
| 72-73 | 5346=35 | 1260= | 350= | 6956=35 | 2400 | 4556=35 |
| 73-74 | 4556=35 | 2360= | 347= | 7263=35 | - | 7263=35 |
| 74-75 | 7263=35 | 1400= | 584= | 9227=35 | - | 9227=35 |
| 75-76 | 9227=35 | 720= | 279= | 10326=35 | 8000 | 2326=35 |
| 76-77 | 2326=35 | 3502=00 | 124= | 5963=15 | 3000 | 2963=15 |
| 77-78 | 2963=15 | 3967= | 266= | 7196=15 | 2220 | 4976=15 |
| 78-79 | 4976=15 | 5032= | 434= | 11242=15 | 3585 | 7657=15 |
| 79-80 | 7657=15 | 6419= | 265= | 14341=15 | 13336= | 1005=15 |
| 80-81 | 1005=15 | 3400= | 22= | 4427=15 | 5000= | -573=15 |
| 81-82 | -573=15 | 4200= | 133= | 3760=15 | - | 3760=15 |
| 82-83 | 3760=15 | 3751= | -656 | 6855=15 | 19625= | -12769=85 |
| 83-84 | -12769=85 | 5100= | -1248 | -8917=85 | - | -8917=85 |
| 84-85 | -8917=85 | 7200= | -875 | -2592=85 | 18000= | -20592=85 |
| 85-86 | -20592=85 | 9600= | -2194 | -13186=85 | - | -13186=85 |
| 86-87 | -13186=85 | 12855= | -1815 | -2146=85 | 24185= | -26331=85 |
| 87-88 | -26331=85 | 5000 | -3318 | -24649=85 | - | -24649=85 |
| 88-89 | -24649=85 | - | -2679⑧ | -27328=85 | - | -27329=00 (rounded) |

Remark:-

① Interest upto 12/08.

② Panel Interest at the rate of 2½% per annum is charged from the year 1983-84 under G.P.F. Rule.

TC

Handwritten signature
R. Gomath
B. D. D. D.

PAO

2012

In the Central Administrative Tribunal Lucknow Bench, Lucknow
 C.K. Ashtaing Applicant, उत्तर प्रदेश (लखनऊ)
 भविष्यनिधि लेगा का वार्षिक विवरण
 (लेगों का वर्ष 1983-84)
 (ब्याज को दर प्रथम 40,000-00 तक पर 10% उसके ऊपर 9%)

यदि आप 100पीपी0फन्ड के सदस्य थे
 तथा यदि उस निधि का धनराशि जो 0पी0 फन्ड
 में अभी सम्मिलित न हुई हो तो दोनों निधियों
 का लेगा नम्बर शीघ्र सूचित करें।

| लेगा संख्या | अभिदाता का नाम | अर्ध शेष | जमा/वसूलिया | वर्ष में जमा गया ब्याज | निकाली गई राशि | प्रोत्साहन बोनस | शेष | गुप्त क्रेडिट/डेबिट |
|-------------|----------------|----------|-------------|------------------------|----------------|-----------------|-----|---------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1254 | C.K. Ashtaing | 95.06518 | 95.251 | 95.251 | 6 | 7 | 8 | 9 |

शेष (क लम-8) की राशि शब्दों में 90 (भुलाने के लिये) (भुलाने के लिये)
 * इसमें नोंदें दिये गये व्योरे के अनुसार पिछले वर्ष में वसूल की गई लेकिन अभिदाता के अर्ध में दर्ज की गई है।
 पिछली अभिदाता से अनुरोध है कि वह विवरण के सही होने के बारे में अपनी तसल्ली कर ले और यदि कोई गलती हो तो इसका प्रामाणिकता प्रमाण प्रस्तुत करें।
 माह के अन्दर उसकी लेगाधिकारी के ध्यान में ले जायें।
 वृष्या प्रति माह इस बात की जांच कर ले कि आपके बैंक बिल के संलग्नक जो 0पी0रफो शिफ्टपूल में आपका
 लेगा संख्या सदा-सदा अंकित हो रहा है या नहीं। गलती हो तो तुरन्त सुधार करें।

हस्ताक्षर
 पदनाम
 अनुभाग अधिकारी
 तारीख
 अनुसन्धान अधिकारी
 उनके लेखा का निधि
 कार्यालय महालेखाकार (लखनऊ)

महालेखाकार उत्तर प्रदेश (1), इलाहाबाद को लोटाया जाय।
 19 वर्ष के मेरे भविष्य निधि लेगों के वार्षिक विवरण के संदर्भ में।
 मैं पुष्टि करता हूँ कि मेरी जानकारी और सूचना के अनुसार उसमें दिखाया गया शेष सही है।
 मैं यह बतलाता हूँ कि अगर दिखाने गये कारणों के कारण उसमें दिये गये शेष को मैं सही स्वीकार नहीं करता।

निधि लेगा संख्या

लिया गया है और 3 वें अतिरिक्त
क्रम निगम की लिज में अतिरिक्त
निगम में लिया गया है !

| Account | No. of Subscriber |
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| 99 | 99 |
| 100 | 100 |

Ck. Ashkonia - vs Applicant
AG AEI Allocated & - - Respondants
Withdrawal ~~of~~ + closing
during the She-Is Balance.
year.

$$R_3 \cdot 21590 = 30$$

(Rs Twenty one thousand five hundred ninety and fifty paise)

टिप्पणी— यदि अधिदत्ता ने शुरु में परिवार में होने के कारण किसी व्यक्ति/व्यक्तियों को जो इसके परिवार के सदस्य नहीं थे, नामित किया हो और जब बाद में वे उसका परिवार ही बना हो तो उसको अपने परिवार के सदस्य/सदस्यों के नाम नाम नमन्त्र प्रस्तुत करा देना चाहिये ।

नोट - उपर्युक्त प्रति मार इस बात की जुर्र का है कि आपके वेतन किल के सलमक को O बा O भाग O गिराए लाल
के पायेका लेना संभ्या तरीकरी अंकित हो रहा है या नहीं ! गवर्नी ही जो तुन्त सुधार करे ।

19—तब मैंने मेरा निवेदन (वेब) उत्तर देकर रत्नमाला को बोलाया उसने मेरी जानकारी दी।

१. **संज्ञा**
 २. **व्युत्पत्ति**
 ३. **वर्ण**
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ASX

आप के लेंगे से लुप्त अंशदाता तथा लुप्त डेविट के विवरण के लिए कृपया पूछ भर्ना दें। उनके समायेन न के लिए हरे प्रश्न 'अ' तथा 'ब' के अनुसार वांछित सूचनाये शीघ्र ही इस कार्यालय का भेजें।

फार्म-80

(देखिये पैरा 431)

कार्यालय महालिका, उत्तर प्रदेश-2, इलाहाबाद
भविष्य-निधि लेंगे का वार्षिक विवरण
(लेंगे का वर्ष 1982-83)

A8

इति शेष पर प्रोत्साहन बोनस 1% दिया गया है यदि 3 वर्ष तक जीवन बीमा निगम की कितने अतिरिक्त अग्रिम न लिया गया हो।

In the Central Administrative Tribunal, Lucknow Bench - Lucknow Applicant - CK Ashtana VS. Allahabad Rsp. provided

| Account No. | Name of Subscriber | Opening Balance | Deposits/Recoveries during the year | + Interest allowed during the year | Total | Withdrawal during the year | Bonus + Closing Balance |
|-------------|--------------------|-----------------|-------------------------------------|------------------------------------|----------|----------------------------|-------------------------|
| 1254 | C.K. Ashtana | 28313.82 | 21.00 | 1548.00 | 31961.82 | 19625 | Rs. 12336.80 |

* इसमें नीचे दिये गये व्योरे के अनुसार पिछले वर्षों में वसूल की गई लेकिन अभिदाता के हाते में इस वर्ष दर्ज की गई रकम भी शामिल है।

बिक्ली अवधिया से सम्बन्धित क्रेडिटों पर व्यय भी शामिल है।

- टिप्पणी - 1- यदि अभिदाता ने शुरू में परिवार न होने के कारण किसी व्यक्ति/व्यक्तियों को जो इसके परिवार के सदस्य नहीं थे, नामित किया हो और जब बाद में उसका परिवार हो गया हो तो उसको अपने परिवार के सदस्य/सदस्यों के नाम नामन-पत्र प्रस्तुत कर देना चाहिये।
- 2- अभिदाता से अनुरोध है कि वह विवरण के सही होने के बारे में अपनी तसल्ली कर ले और यदि कोई गलती हो तो इसकी प्राप्ति दे मास(सो) के अन्दर उसकी लेखाधिकारी के ध्यान में ले जायें।

सम्बन्धित निधि नियमावली के अनुसार भरा जाय।

नोट - कृपया इति माह इस बात की जांच कर ले कि आपके वेतन बिल के संगनक जी.सी.ओ.सी. 0 शिड्यूल में आपका लेंगे सही-सही अंकित हो रहा है या नहीं। गलती हो ता तुरन्त सुधार करें।

हस्ताक्षर
पदनाम
अनुभाग
तारीख

मह लिका, उत्तर प्रदेश-2, इलाहाबाद को लौटाया जाय।

19 वर्ष के मेरे

मै प्रमाणित करता हूं कि मेरी जानकारी और सूचना के अनुसार दिया गया शेष सही है।

निवेदन है कि अगर दिया गये कारणों के कारण उसमें दिये गये शेष को मैं सही स्वीकार नहीं करता।

हस्ताक्षर
नाम (मोटे अक्षरों में)
निधि लेख सत्या

27
A380

C.K. Ashana - Applicant

आप, मैं दोनों से तुल्य अंशदाता होया तुल्य है।
 निम्नलिखित है जिस वृत्ता पुरु भूग देनी। उनके समायोजन
 के लिए यदि हुए प्रपत्र 'अ' तथा 'ब' के अनुसार व्यक्ति
 धुवनही शीघ्र ही इस कार्रजिय की भेजी।

*(G/AEI) Accredited & Responsible
 पत्र 80 धुवन
 (देखिए पत्र 431)
 कर्मलिय मरलिआर (लेजा) प्रथम
 उत्तर प्रदेश, इलाहाबाद

भविष्य निधि लेनी का वार्षिक विवरण
 0 लेनी का वर्ष 1985-86
 व्याज की दर 10-1/2%

A9

| Account No. | Name of Subscriber | Opening Balance | *Deposits/ Recoveries during the year. | +Interest allowed during the year. | Total | Withdrawal during the year | Bonus | Grossing balance |
|-------------|--------------------|-----------------|--|------------------------------------|----------|----------------------------|-------|------------------|
| 1254 | Sri C.K. Ashana | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| | | 13394-38 | 9688-00 | 1889-00 | 24883-38 | — | — | 24883-30 |

* इसमें नीचे दिये गये व्योरे के अनुसार बिकले वर्षों में वसूल की गई लेखन अभिदाता के अति में इस वर्ष दर्ज की गई — पैसे की

रहम भी शामिल है।
 बिकली अवधियों से सम्बन्धित ड्रेडिटों पर व्याज भी शामिल है।
 गुम ड्रेडिटों के लिये दृष्टा पुरु भाग देखें।

टिप्पणी - 1- यदि अभिदाता ने शुरू में परिवार न होने के कारण किसी व्यक्ति / व्यक्तियों को जो इससे परिवार के सदस्य नहीं थे, सम्मिलित किया हो और जब बाद में उसका परिवार हो गया हो तो उसकी अपनी परिवार के सदस्य / सदस्यों के नाम नामन पत्र प्रस्तुत कर देना चाहिये।

2- अभिदाता से अनुरोध है कि वह विवरण के सही होने के बारे में अपनी तसल्ली का है और यदि कोई गलती हो तो इसका प्रमाण के मास (सी) के अन्दर उसकी लेखिकारी के ध्यान में ले आवे।

सम्बन्धित निधि नियमावली के अनुसार भरा जाय।

नोट :- कृपया प्रति माह इस बात की जांच कर लें कि आपके बैंक बिल के संलग्नक जी 00पी 00एफ 0 शिष्टयुल में आपका लेखा सही सही-सही अंकित हो रहा है या नहीं। गलती हो तो तुरन्त सुधार करें।

हस्ताक्षर
 पदनाम

अनुभाग अधिकारी
 कामाज्य महा भवन, 30 प्र०,
 इलाहाबाद

महानिवाकर (सा) प्रथम उत्तर प्रदेश इलाहाबाद को भेजा जाय।
 भव्य निधि लेनी के वार्षिक विवरण के संदर्भ में।

9- वर्ष के मोर

प्रमाणित करता है कि मेरी जानकारी और सूचना के अनुसार दिया गया सही है।

इदन है कि अगर दिखाने गये गलत कार्यों के कारण उससे दिये गये शेष को मैं सही खोकार नहीं करता।

हस्ताक्षर

नाम (मोटे अक्षरी में)

In the Centre Administrative Tribunal Lucknow Bench, Lucknow

CK. Ashana

Applicant

AG (AEI)

Allahabad & others
The Pay and Accounts Officer

Respondents.

29

A-10

W/o AG (AEI)

Allahabad

A-10

Sub Regarding C.P. Fund No. CAU-1254 of CK Ashana

Sir,

I am to invite a reference to your letter No P.A.O/Fund/861 dated 23.12.88 and to state that the refundable amount due to me on adjustment of certain debts has not been correctly arrived at. In this regard I request for the following information and clarifications:-

1. I have not received my yearly account-statement and I remained out of Allahabad after 1/1/72. Kindly arrange to supply me position of Annual Account of my C.P. Fund No. CAU/1254 for 1973-74 to 1982-83. Please give me a Channel to ascertain that the so called unadjusted advances were not accounted for at any subsequent stage.

2. Kindly present a copy of working sheet showing as to how the refundable amount has been arrived at.

3. It appears that the balance appearing in my account at the time of retirement has not been adjusted against the so called unadjusted debts. The balance on retirement (31.7.87) must be above Rs. 16000.

Kindly look into the matter again and inform me the exact position along with the information requested above.

Yours faithfully

TC
Attested
Roshan
Advocate

CK Ashana

3/75 Vihar K. Apt
Kirti Road, Lucknow

u

PM

In the Central Administrative Tribunal at Allahabad

Circuit Bench Lucknow

Case No. OA 196 of 1989 (L)

C.K.Asthana Applicant

Vrs.

The Accountant General U.P.
Allahabad

Respondent

Counter affidavit on behalf of Respondent, 143

1989.
AFFIDAVIT
82
HIGH COURT
ALLAHABAD

I, K.C.Agrawal, aged about 55 years, son of
Late Radha Raman, Deputy Accountant General (Admn)
office of the Accountant General (A&E), U.P. Allahabad
do hereby solemnly affirm and states as under:-

1. That the deponent as the Deputy Accountant
General (Admn) in the office of the Accountant General
(A&E) U.P., Allahabad and as such is fully conversant
with the facts deposed hereinafter.

2. That the deponent has gone through the
application filed by the applicant and has fully
understood the contents of the same.

3. That the deponent is competent to swear this
affidavit on behalf of the Respondent.

4. That the contents of paras 1 to 3 of the
application need no comments.

5. That the contents of para 4.1 and 4.2 of
the application are admitted.

6. That the receipt of the letter mentioned
in para 4.5 of the application is acknowledged. The
applicant asked for his G.P.F. account from financial
year 1972-73 to 1982-83, during the period he was on
deputation to Ram Ganga Project Kalagarh and to
the office of Director of Audit (Food) New Delhi.

K. Agrawal

2-11-89
ALLAHABAD

(P42)

But it is very intriguing to find that the G.P. Fund withdrawals were sanctioned to him without ascertaining the balance at the credit of the applicant. Obviously the applicant must not have declared correct balance of the G.P. Fund at the time of applying for the withdrawals from his G.P. Fund. It is further submitted that the applicant during that period was himself the Drawing and Disbursing Officer and drew his own pay and allowances. It was his duty in his individual capacity and also as Drawing and Disbursing Officer to intimate all the withdrawals from his G.P. Fund account to the Accountant General, Allahabad. But the applicant deliberately and wilfully did not intimate the Accountant General when his G.P. Fund ledger is maintained about such withdrawals.

7. That the contents of para 4.7 are admitted.

8. That in reply to paras 4.7 to 4.9 of the application it is stated that the Account slip for the period 1982-83 to 1985-86 referred to by the applicant showed the closing balances at the time when the withdrawals and deposits made during the period when the applicant was on deputation were not accounted for in the G.P. Fund account maintained in the office of the Accountant General. On receipt of the information regarding the withdrawals and deposits from the department, the G.P. Fund account of the applicant was re-cast which showed an excess payment to the applicant to the tune of Rs. 27329.00.

9. That in reply to the contents of para 4.10 it is stated that Rule 15(2) of General Provident Fund (Central Services) Rules casts preliminary responsibility on the subscriber to the extent that he has to satisfy the Competent Authority about the amount standing to his credit



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in the G.P.F account with reference to the latest available statement of G.P.F account together with the evidence of subsequent contribution, the Competent Authority may itself sanction withdrawal within the prescribed limit, as in the case of refundable advances."

It is further stated that the advance is to be applied in the prescribed proforma (proforma 2 of Part II of Appendix D) wherein the subscriber is required to certify that the particulars given in the proforma are correct and complete to the best of his knowledge and belief and that nothing has been concealed by him.

The applicant had deliberately refrained from following correct procedure on the basis of facts about the withdrawals and had managed to get withdrawal's sanction in the absence of account slip. In short his argument is circular and self contradictory and the fact remaining that the withdrawals have to be deducted when the final payment is to be made.

It is for consideration that in the absence of the Account slips, as alleged by the applicant in earlier paragraphs, how the applicant managed to satisfy the sanctioning authority about the balance at the credit of the applicant while giving the above certificate.

10. That in reply to para 4.11 of the application it is stated that the position has already been explained in paras 8 and 9 above.

11. That in reply to para 4.12 it is stated that the applicant has not correctly interpreted the definition of pension as provided in Art.366(17) of the Constitution



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of India particularly the phrase "any sum payable by way of return."

12. That in reply to para 4.13 and 4.14 of the petition, it is admitted that Rule 8 and 9 of the Central Civil Services (Pension) Rules, 1972 are not applicable to the subject matter of the present application.

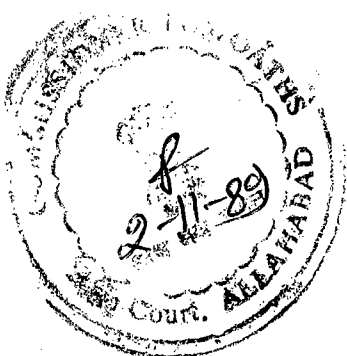
13. That in reply of para 4.15 of the application it is stated that the ~~sub~~ administrative decisions are issued under the provisions of the Rules and have got the force of law as far as their applicability to a particular case is concerned. Accordingly decision No.7 of Rule 73 of the C.C.S. (Pension) Rules 1972 is applicable to the present case.

14. That in reply to para 4.16 it is stated that it was obligatory on the part of the applicant to exhaust all departmental remedies available to him before coming to the Tribunal for relief. As such the application is pre-mature and is liable to be dismissed on this account only.

15. That it is most respectfully submitted that an over-payment of Rs.27329.00 was made to the applicant on account of deliberate and wilful concealment of the withdrawals made by the applicant from his G.P. Fund account.

16. That the ground taken by the applicant in para 5 are not tenable in fact and law, the petition lacks merit and is liable to be dismissed with cost.

17. That in reply to para 6 of the petition it is stated that the applicant has not exhausted the alternative departmental remedies available to him.



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18. That the relief sought in para 8 and 9 of the application are not admissible in view of the submission made in foregoing paragraphs.

19. That the contents of para 10, 11 and 12 of the application are formal and need no comments.

K. Aggarwal
Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 19 are true to the best of my knowledge and those of paras are true on my belief, No part of it is false and nothing material has been concealed. So help me God.

Signed and verified 2, Day of Nov 1989.
at Lucknow.

K. Aggarwal
Deponent

I identify the deponent who has signed before me.
or by name known to me

D. Chandra
Advocate

Solemnly affirmed before me on 2-11-89

by the deponent *K. C. Aggarwal*.

at 9-30 A.M/P.M. who is identified by

Shri *D. Chandra*

Advocate, High Court, Lucknow bench Lucknow

I have fully satisfied that he understand the contents of this affidavit which has been explained by me to him.



Rajendra
DAITHI COMMISSIONER
High Court, Allahabad
Lucknow Bench
82/11708
2-11-89

Page

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

O.A. No. 196 of 1989 (L)

C.K. Asthana Applicant.

Versus

Accountant General, A & E I
Allahabad and others. ... Respondents.

REJOINDER OF THE APPLICANT IN REPLY TO THE COUNTER
AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS NO. 1 TO 3.

The Applicant, above-named, most respectfully
states as under:-

1. That the applicant has gone through the counter affidavit and has fully understood the contents of the same.
2. That the Applicant is fully conversant with the facts deposed hereinafter.
3. That the contents of paragraphs 1 to 5 of the counter affidavit need no comments.
4. That the averments made in paragraph 6 of the counter affidavit are not wholly true. It is submitted in this connection that the Applicant was Drawing and Disbursing Officer at Ramganga Project, Kalagarh where he was posted from 4/72 to 1/74. The applicant was not working as Drawing & Disbursing Officer at Office of Director of Audit Food, New Delhi. He was posted at Lucknow and worked as Section Officer and Regional Audit Officer. Thus the allegation

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that the Applicant was D.D.O. is not correct as regards the office of Director of Audit, Food, New Delhi. The allegations that G.P.Fund withdrawals were sanctioned without ascertaining the balances at credit & further that the Applicant must not have declared the correct balances of G.P.Fund are all presumptive and are not based on facts. The allegations are unauthoritative because the Respondents No. 1 to 3 were neither the sanctioning authorities nor the Disbursing Authorities. The C.A./W.S. when received from Respondents 4 to 5 could only throw light over these allegations. The Applicant was D.D.O. at Ram Ganga Project, Kalagarh from 4/72 to 1/74. During this period only an advance of Rs.2400.00 was sanctioned. The CA/WS when filed by Respondent No. 5 would indicate whether the sanctions were sent to the AG, U.P., Allahabad or not.

The applicant therefore was not under obligation to have intimated to A.G., U.P. Allahabad and as such he never acted willfully and deliberately to hide any thing.

5. That the contents of paragraph 7 of the counter affidavit need no comments.
6. That in reply to the contents of paragraph 8 of the counter affidavit, it is submitted that the Respondent No.1 was under the statutory duty to have indicated the details if any not booked

was there

in the years in A/C Slips for the years 1982-83 to 1985-86 which were issued by him.

It was also a serious lapse on the part of Respondent No.1 that debits of past years 1971-72 to 1980-81 were never called for earlier and it was only after the retirement of the Applicant that the Respondent No.1 took action for this. The Applicant had taken the balances of the years 1982-83 to 85-86 authoritative only on the basis of A/c Slips issued by Respondent No.1. Thus the Applicant was at no stage at fault for minus balance of Rs. 27329.00.

7. That the allegations made in paragraph 9 of the counter affidavit are all presumptive. The basic formalities were fulfilled by the Applicant and only the Respondents No. 4 and 5 would be able to throw light on the fact as to how and under what circumstances the sanctionsto Advances/ Withdrawals from G.P.Fund were accorded.
8. That the contents of paragraph 10 of the counter affidavit need no comments.
9. That in reply to paragraph 11 of the counter affidavit it is submitted that the interpretation has been done correctly of pension as provided in Article 366(17). Para 27 of the decision by C.A.T. New Delhi in the case R.D.Sharma Vs. Union of India and others may also be referred

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to in this connection. (A.T.C. 1988) 8 page 26.

10. That in reply to para 12 of the counter affidavit it is stated that Rule 8 & 9 of the Central Civil Services (Pension) Rules, 1972 contain specific provisions regarding recovery or withholding of pension and as such are wholly applicable to the case of Applicant.
11. That in reply to paragraph 13 of the counter affidavit it is submitted that administrative decisions could be issued only when there was any gap in the Rules. Since the C.C.S. (Pension) Rules, 1972 are comprehensive and issue of Administrative Instructions would mean to supplant them which would be wholly illegal. Moreover, Decision 7 of Rule 73 of Central Civil Services (Pension) Rules 1972 has no legal force in view of decision in the case cited in para 9 above.
12. That in reply to the contents of paragraph 14 of the counter affidavit it is stated that there is no provision in the Central Civil Services (Pension) Rules, 1972 of such remedies. The question of exhaustion therefore does not arise. Respondents should have specifically indicated the Remedies to be exhausted. Stating simply that Departmental remedies were not exhausted carries no weight. Moreover, it is not always necessary to exhaust Departmental remedies. The application could be entertained by the Hon'ble Tribunal in

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exceptional and emergent cases.

13. That in reply to paragraph ¹⁵16 of the counter affidavit it is submitted that the Applicant is not at all responsible for any overpayment. Unless the Application is decided by the Hon'ble Tribunal, it cannot be concluded that there has been overpayment. The contents of para 4.8 of the original application indicates that a sum of Rs.18553.20 ~~with interest~~ is due to the Applicant for payment which is to be paid by the Respondent No.1.
14. That in reply to paragraph 16 of the counter affidavit it is stated that grounds on which application is based are wholly supported by legal decisions cited in para 5.6 of the original Application and ~~hence~~ the Application is liable to succeed on merits.
15. That ~~the~~ reply to paragraph 17 of the counter affidavit ~~it~~ is the same as given in paragraph 12 above.
16. That in reply to paragraph 18 of the counter affidavit it is stated that the reliefs sought in paragraphs 8 and 9 of the application are all genuine and based on legal decisions and hence are likely to be granted by the Hon'ble Tribunal.
17. That the contents of paragraph 19 of the counter

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affidavit need no comments.

LUCKNOW: DATED:

November 7, 1989.

C.K. Asthana
(C.K.ASTHANA)
APPLICANT.

VERIFICATION

I, C.K.Asthana, son of late Shri Roshan Lal Asthana, aged about 61 years, resident of A-8 Avadh-puri, Sarvodaya Nagar, Lucknow do hereby verify that the contents of paragraphs 1 to 8, 10, 12 to 17 are true to my personal knowledge and those of paragraphs 9 and 11 are based on legal advice which I believe to be true and that I have not suppressed any material fact.

LUCKNOW: DATED:

November 7, 1989.

C.K. Asthana
(C.K.ASTHANA)
SIGNATURE OF THE APPLICANT.

THROUGH:

R.S. Srivastava
(R.S.SRI VASTAVA)
ADVOCATE
COUNSEL FOR THE APPLICANT.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Miscellaneous Petition No. 369 of 1989. (4)

In Application No.: OA/L/196/89.

C.K.Asthana Applicant.

Vs.

Accountant General A & E I

Allahabad & Others. Respondents.

APPLICATION FOR EXPEDITING ORDERS ON APPLICATION TO
INTERIM RELIEF.

The applicant, above named, most respectfully
states as under:-

1. That in the above application following interim
relief was prayed for:

" The operation of the impugned order contained
in letter No.PAO/Pen/c No: 1023/87-88, dated 10.7.89
written by A.G.(A & E I) Allahabad to Accounts Officer
PE(C), AG, U.P.II Accounts Allahabad may be stayed till
the finalisation of the application to enable the
applicant to draw the pension regularly including
Relief in Pension from the bank.

2. That the applicant is drawing his pension from
Allahabad Bank, Aminabad Park, Lucknow.

3. That though no orders have yet been passed by
the Hon'ble Tribunal in respect of interim relief
and the next date fixed is 16th January, 1990.

C.K.Asthana

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4. That meanwhile the applicant has received a letter No. 391, dated 14.12.1989 from Manager, Allahabad Bank, Aminabad Park, Lucknow intimating that the A.G., U.P., Allahabad has directed the bank authorities not to pay Relief in Pension (D.A.) to the applicant in future and the bank authorities have stopped payment of R.I.P. to the applicant with immediate effect consequent on the above directions of the A.G., U.P., Allahabad (Copy is being filed as Annexure M-1).

5. That the applicant shall suffer irreparable loss if the bank authorities are not restrained by the Hon'ble Tribunal not to act upon the directions given by A.G., U.P., Allahabad for stoppage of R.I.P. (Letter of bank filed as Annexure M-1).

P R A Y E R

Wherefore, it is, prayed that the Hon'ble Tribunal may graciously be pleased to direct the O.P.No.6 not to act upon directions given by A.G.U.P., Allahabad and continue to make me R.I.P. till the Interim Relief sought for by the applicant is finally decided by the Hon'ble Tribunal.

V E R I F I C A T I O N

I, C.K.Asthana, son of late Shri Roshan Lal Asthan aged about 61 years, retired Audit Officer of A.G.U.P.I Audit Allahabad and residing at A-8, Avadhपुरी, Sarveday nagar, Lucknow do hereby verify that the contents of paragraphs 1 to 5 are true on legal advice and I have not suppressed any material fact.

LUCKNOW: DATED:
December 20, 1989.

C.K. Asthana
SIGNATURE OF THE APPLICANT.

THROUGH:

R. S. Srivastava
(R.S. SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE APPLICANT

(भारत सरकार का उत्तर) प्र० का० २ नेताजी सुभाष रोड, कलकत्ता-१।



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उत्तर प्रदेश इलाहाबाद
Uttar Pradesh Allahabad

— 30 —
In the Central Administrative Tribunal
Lucknow

वदालत श्रीमान

महोदय

(वादो) अपीलान्त

C. K. Asthana

Applicant

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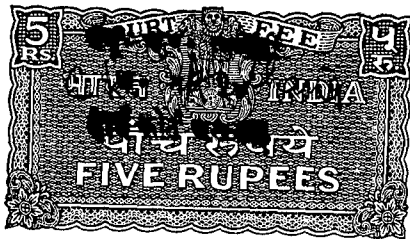
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प्रतिवादी रेंसाडन्ट

Vs.

A. G. (A.E.I.) P.P.

Allahabad —



वकालतनामा

वादी (अपीलान्त)

Respondent

प्रतिवादी (रेंसाडन्ट).

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ऊपर लिखे मुकदमा में अपनी ओर से श्री TR. S. Srivastava, Advocate

4/553 Vikasnagar, Kursi Road

Lucknow

वकील

होदय

एडवोकेट

को अपना वकील नियुक्ति करके प्रतिज्ञा इकरार करता हूं और लिखें देता हूं इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रूपया वसूल कर या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावे या कोई रूपया जमा कर या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें— वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरबी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Tr. S. Srivastava

Accepted

Tr. S. Srivastava

Advocate

R. S. Srivastava

साक्षी (गवाह) Advocate

High Court, Central

and State Services Tribunals

4/553 Vikasnagar, Kursi Road,

LUCKNOW.

साक्षी (गवाह)

महीना

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