

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:-

8 JUN 1994

APPLICATION NUMBER: 945 of 1993.

APPLICANTS:

Sri. Syed Hayat
T.

RESPONDENTS:

v/s. Secretary, M/o. Science & Technology,
New Delhi and Others.

1. Sri. B. B. Mandappa, Advocate, No. 115/3,
Balappa Building, Seshadripuram Circle,
Bangalore-560020.
2. The Director General of Training Institute,
C.S.T. and M.P. Survey of India, Uppal,
Hyderabad-39.
3. Sri. M. Vasudeva Rao, Addl. Central Govt.
Stg. Counsel, High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 01-06-1994.

S. Shanmugam
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

Of
Issued
Ln

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 945/1993

WEDNESDAY, THE 1ST DAY OF JUNE, 1994

Shri V. Ramakrishnan

... Member (A)

Shri A.N. Vujjanaradhya

... Member (J)

Syed Hayat, S/o Syed Garoor,
Aged about 70 years,
Retired Head Accountant,
Survey Party 1940, Survey of India,
Bangalore and residing in Tippunagar,
Ramanagar Town,
Bangalore District.

... Applicant

(By Advocate Shri B.B. Mandappa)

Vs.

1. The Secretary to Government of India,
Ministry of Science and Technology,
New Delhi - 110011.
2. The Survey General of India,
Dehradun, State of Uttar Pradesh.
3. The Director General of Training
Institute, C.S.T. & P.S. Survey of
India, Uppal, Hyderabad.
4. The Regional Pay and Accounts Officer,
Survey of India, Kendriya Sadan,
II Floor, Block-1, Sathan Bazar,
Hyderabad - 500 198.

... Respondents

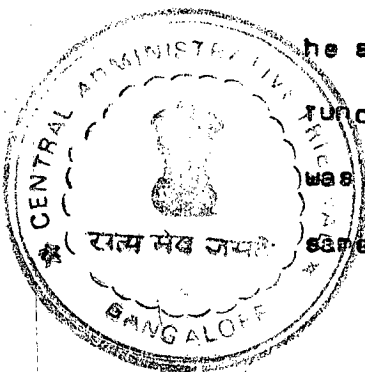
(By Advocate Shri M. Vasudeva Rao,
Addl. Standing Counsel for Central Govt.)

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant Shri Syed Hayat has sought for a direction that he should be paid interest at the appropriate rate on the provident fund amount of Rs. 6,109/- for the period till 14.5.93 when the amount was actually released to him, as he contends that the interest on the same has not been credited for a number of years.

....2/-



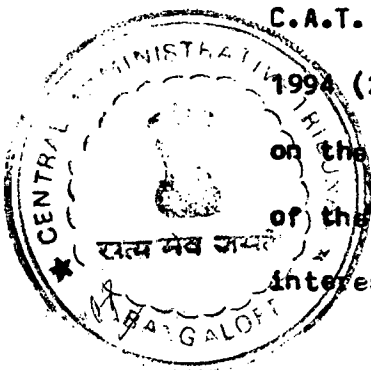
2. The facts of the case are as follows:-

The applicant joined as Upper Division Clerk in the Southern Circle, Survey of India at Bangalore on 25.8.54. In course of time, he got promotion ^{as} to Head Accountant and was transferred to Survey of India, Hyderabad in 1964. While working as Head Accountant, he proceeded on leave with effect from 4.8.69 and extended it from time to time upto 25.7.71. This position is not denied by the applicant. He was sanctioned leave on his initial application and subsequent applications for extension of leave upto 25.7.71. The department claims that the applicant neither reported for duty on 26.7.71 nor sought extension of leave from that date onwards. It is further noted that he also did not reply to communications issued to him and accordingly he was treated as being unauthorisedly absent from duty. The applicant's counsel, Shri B.B. Mandappa, however, states that he had applied for extension of leave but the department had not taken any action. Be that as it may, the applicant states that on 1.5.78 he submitted a letter seeking voluntary retirement with effect from 7.8.78 when he would have attained the age of 55 years. The department admits the receipt of this application but did not take any action as according to them, his case for the period of unauthorised absence was not sorted out. In September, 1980, the department initiated proceedings against him and in response to the same the applicant put in some defence by filing a statement of objections towards the end of October, 1980. ^{Thereafter} Therefore, on 7th August, 1981, the applicant attained the age of 58 years, the age of superannuation. He moved the Tribunal vide OA No. 49/92 in 1992 putting forth his claim for pension, gratuity and other retirement benefits. This application was disposed of by an order dated 19.2.93 by which the department was directed to complete and conclude the departmental enquiry initiated against the applicant within six months from the date of that order, namely, 19.2.93. There was also a direction that

some provident fund amount which was due to the applicant which was held up by the department should be released to him. The department in compliance with the order regarding provident fund had paid to the applicant a sum of Rs. 6,109/- which was received by him in May 1993. The applicant is before us claiming that the amount released to him does not reflect the correct calculation as the department had not given the interest due on the same.

3. The department's defence is that the applicant had not put in any claim for release of GPF balance when the same was due and it was treated as lapsed deposit, but after the direction of this Tribunal, the amount was released to the applicant by way of refund of lapsed deposit. In the absence of any claim from the official, the balance did not carry any interest and the applicant was not entitled to the same. The department draws our attention to the relevant rules of the Central Government Account (Receipts and Payment) Rules 1983 in particular, Rule 182 and Rule 189.

4. We have heard Shri Mandappa for the applicant and Shri M.V. Rao for the department. The contention of Shri Mandappa is that the stand taken by the department is totally erroneous and the Rules quoted by the department are not relevant for disposal of this application. The provisions contained in the Provident Fund Rules are relevant and not the Central Government Receipts and Payment Rules. Shri Mandappa also draws our attention to the decision of the Madras High Court in W.P. No. 424 of 1989 decided on 31.3.1989 between V. Mahalingam Iyer versus The Accountant General, reported in 1989 (4) SLR 572. He also refers to the decision of the Madras Bench of the C.A.T. in S.V. Sundaram vs. Union of India and Another, reported in 1994 (26) ATC, 184. According to Shri Mandappa in those cases interest on the arrears of provident fund were awarded till the date of receipt of the money. He claims that the applicant herein should also be paid interest upto the receipt of payment, in May 1993. Shri M.V. Rao



disputes the claim and states that as the provident fund amount ~~and~~ remained unclaimed for more than three years, it was treated as lapsed deposit and the money had lapsed to the government. The amount however was repaid after directions from the Tribunal vide its order dated 19.2.93. There is, therefore, no question of paying any interest on the money which had lapsed to the government and was no longer due to the applicant. *at the relevant time* 17

5. We have sought for certain records to find out the method of calculation of the provident fund balance of the applicant and as to how the department had reached *the figure of* at Rs. 6,109/-. The department has not been able to produce the detailed records on the ground that they are not traceable at this late stage. We, however, notice that there is a letter to the applicant from the Director, STI dated 25.2.72 *(produced by the applicant)* that the closing balance of the applicant for 1969-70 was Rs. 4,232/-. It is also seen from Annexure A-6 attached to the application which is the application-cum-bill for refund of lapsed deposit that a sum of Rs. 6,109/- was treated as lapsed deposit to the government in the year 1984. On the authority of the Pay & Accounts Officer letter dated 23/29-4-93 the same was refunded from the relevant head in 1993. The applicant, however, has written a letter in May 1993 to the department as at Annexure A-7 where *he* has annexed a statement which shows that as in 1993 he was entitled to get over Rs. 37,000/- that even in 1980-81, the amount due to him should have been Rs. 11,352/- and that in 1983-84 when the amount was treated as lapsed deposit, the figure should have been Rs. 14,767/-.

6. It is not in dispute that the applicant was entitled to get back the balance which stood to his credit in the GPF account without making any adjustment for any due from him to the government by way of house building advance, etc. The question that arises is whether what has been paid to him as GPF balance represents what is legitimately due to him.

7. Rule 32 of the GPF (Central Services) Rules states that the amount standing on the credit of the subscriber in the GPF shall upon application made by him in that behalf to the Accounts Officer, become payable to the subscriber. Apart from the letter dated 1.5.78 which is at Annexure A-1 where the applicant had sought voluntary retirement and had also requested for settling his provident fund amount early, the applicant had not been able to show to us any material to indicate that he had put in any application for withdrawal of the amount to his credit in the GPF account in August 1981 when he attained the age of superannuation. The letter at Annexure-A1 for Voluntary Retirement was not acted upon by the department. Certain articles of charges were delivered to the applicant on 25.9.80 and in response, the applicant had offered some defence on 29.10.80. Even if it is contended that the voluntary retirement should have taken effect from August 1978, the applicant should have followed up his earlier request in his letter dated 1.5.78 for release of GPF balance by further steps when according to him the voluntary retirement actually took effect. He has not been able to show any material that either in August, 1978 or on any subsequent occasion including in August, 1981, when he attained the age of 58 years he had put in any claim for release of GPF balance due to him. As far as we can see, he referred to this claim only when he filed an application before us in O.A. No. 49/92 which



was disposed of on 19.2.93. From the materials before us, it is seen that the department after having waited for a long time have treated the amount as lapsed in 1984. We cannot fault the department's action in as much as the applicant had not reported for duty for a number of years and he had not also been able to show any material whatsoever which would indicate that he had asked for refund of GPF amount when it actually fell due for final withdrawal. As regards the actual amount due to him on the date of his retirement without taking into account any interest accrued after that date, the applicant's contention is that the amount due to him should be much more on that date than Rs. 6109/-, whereas it is seen from Annexure-10 that the amount of lapsed deposit was only Rs. 6109/-. Here again, we have not been told as to how the applicant had arrived at this figure as he has not produced any Provident Fund statement after 1969-70. While, he had retained the GPF Statement for 1969-70, it is not clear as to why he had not done the same for subsequent years or as to why he had not followed up with the department if he had not received the statement for subsequent years. In view of this, we are inclined to hold that the amount as shown in the official communication has been properly calculated when the same could not be rebutted by any cogent evidence by the applicant.

8. As regards the claim for interest upto date of receipt, we may refer to the first proviso of Rule 11(2) General Provident Fund (Central Services Rules), which states as follows:

"Provided that when the amount standing to the credit of a subscriber has become payable, interest shall thereupon be credited under this rule in respect only of the period from the beginning of the current year or from the date of deposit, as the case may be, upto the date on which the amount standing to the credit of the subscriber become payable".

The interest on the GPF ~~has~~ therefore ceased when the applicant retired. As already brought out, there is no doubt that the applicant was remiss in pursuing the claim and he cannot now seek to get at this late stage a windfall by way of substantial interest payment. As regards the cases referred to by Shri Mandappa, we find that ¹⁶⁵⁷ ~~it~~ do not assist the applicant. In Mahalingam Iyer's case the applicant was a teacher and there was a delay on the part of the government in remitting the amount. In that case it was observed that the facts of the case ~~has~~ to be considered while deciding on the question of payment of interest. The facts of that case are different from the applicant's case. Also in Sundaram's case disposed of by Madras Bench of CAT, there was a problem of locating missing credit and there was delay by the department in releasing the amount to the applicant, even when the applicant had rigorously followed up the matter. The Tribunal had directed the respondents to release bonus/interest in that case. Here again, the circumstances are easily distinguishable from the applicant's case.

In the facts and circumstances of the case, we are of the view that the applicant has not been able to establish the claim that he is legally entitled to amount over and above Rs. 6,109/- which he had received in 1993 from the department by way of refund of G.P. Fund balance. Accordingly, we dismiss this application with no order as to costs.



TRUE COPY

(A.N. Vujjanaradhya)
Member (J)

(V. Ramakrishnan)
Member (A)

TCV

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE