

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

8.6.2011

OA 234/2011

Mr.R.D.Sharma, counsel for applicant.

Heard learned counsel for the applicant. The OA stands disposed of at admission stage, by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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Som
8/6/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

Jaipur, the 8th day of June, 2011

ORIGINAL APPLICATION No.234/2011

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Smt.Lalita Devi Thanwal
W/o Late Shri Rajender Kumar Thanwal,
R/o B-4, Residency Higher Secondary School,
C-Scheme, Jaipur,
Legal representative of Late Shri Rajendra Kumar Thanwal,
Ex-employee of Employees Provident Fund Organisation,
Regional Office, Jyoti Nagar,
Jaipur.

... Applicant

(By Advocate : Shri R.D.Sharma)

Versus

1. Union of India through
Labour Secretary,
Ministry of Labour & Employment,
Government of India,
Sham Shakti Bhawan,
New Delhi.
2. The Central Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Head Office, Bhavishyanidhi Bhawan,
Bhikajikama Place,
New Delhi.
3. The Regional Provident Fund Commissioner,
Nidhi Bhawan, Vidyut Marg, Jyoti Nagar,
Jaipur.

... Respondents

(By Advocate : - - - -)

ORDER (ORAL)

Anil Kumar

This OA has been filed by the applicant praying for the following relief :

- "b) That the impugned show-cause notice dated 11.3.2010 being illegal, unconstitutional and unjustifiable may kindly be quashed and set aside.
- c) That the respondents may kindly be directed not to withhold any of the amount pursuant to the impugned show-cause notice and letter dated 3.5.2011."

2. Learned counsel for the applicant argued that a show-cause notice dated 11.3.2010 (Ann.A/1) was issued to the late husband of the applicant, while he was in service, to explain the reason as to why recovery of 60% of the total amount i.e. Rs.4,55,427/- may not be made from him. He was required to submit his explanation to the respondents within 15 days of receipt of the notice.

3. Learned counsel for the applicant further argued that late husband of the applicant had submitted his explanation to the said show-cause notice on 25.3.2010. However, the same has not been disposed of by the respondents so far.

4. In the earlier OA [No.285/2010], filed by the late husband of the applicant, this Tribunal had issued the following direction :

"So far as the second prayer of the applicant is concerned that the respondents may also be restrained not to effect recovery pursuant to show-cause notice dated 11.3.2010 (Ann.A/28), suffice it to say that the case of the applicant in the main OA is confined to the impugned order dated 3.12.2009 and not in respect to show cause notice dated 11.3.2010 (Ann.A/28), as such it is not permissible to grant interim relief in respect of a matter which is not covered in the main OA. Needless to say that in case the applicant is aggrieved by the order dated 11.3.2010, he may make grievance before the appropriate authority at the first instance and thereafter the applicant can challenge the order by filing substantive OA. It is only thereafter this Tribunal may consider the desirability of granting interim stay to the applicant at that stage."

Anil Kumar

5. In the interest of justice and without going into the merit of the case, I deem it appropriate to direct that in case the respondents have not decided the representation dated 25.3.2010 (Ann.A/3) filed by late husband of the applicant, they are directed to decide the same by a speaking order within a period of one month from the date of receipt of a copy of this order. They are also directed not to recover the amount Rs.2,73,256/-, which is 60% of the total amount involved in the fraud case, as per Ann.A/1, till a decision is taken on the representation filed by the deceased employee. Needless to add that in case the applicant feels aggrieved by the order to be passed by the respondents on the representation made by her late husband on 25.3.2010 (Ann.A/3), she will be at liberty to file a substantive OA.

6. It is, however, further made clear that in case the representation of the deceased employee dated 25.3.2010 (Ann.A/3) has already been decided by the respondents then the interim order of stay of the recovery will not be effective. No order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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