

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 23.01.2014

OA No. 490/2011 with MA No. 318/2011

Mr. P.N. Jatti, proxy counsel for
Mr. Sorabh Purohit, counsel for applicant.
Mr. Mukesh Agarwal, counsel for respondents.

At the request of learned proxy counsel for Mr. Sorabh Purohit, counsel for applicant, put up the matter on 27.01.2014 for hearing.


(G. GEORGE PARACKEN)
JUDICIAL MEMBER

Kumawat

27.01.2014

OA No. 490/2011 with MA No. 318/2011

Mr. P.N. Jatti, proxy counsel for
Mr. Sorabh Purohit, counsel for applicant.
Mr. Mukesh Agarwal, counsel for respondents.

Heard learned counsel for the
parties.

D. A. and M. A. are disposed
of by a separate order on the
separate sheets for the
reasons recorded therein.


Anil Kumar

[Anil Kumar]
Member (CA)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 490/2011
WITH
MISC. APPLICATION NO. 318/2011

Jaipur, the 27th day of January, 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Nanak Ram M. Ram Dasani son of Shri Hemu Mal Ram Dasani, aged about 63 years, resident of House No. 118, DC-V, Apna Ghar, Adipur (Kattch), Gujrat.

... Applicant

(By Advocate: Mr. P.N. Jatti proxy to Mr. Sorabh Purohit)

Versus

1. Union of India through its Secretary, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi.
2. Director Accounts (Postal), Department of Post, Government of India, Ministry of Communication & IT, Department of Posts, Jaipur (Rajasthan).
3. Post Master General, Southern Region, Ajmer.
4. Senior Superintendent of Post Offices, Ajmer.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed this OA claiming for the following reliefs:-

"8 Relief Sought:

In view of the facts mentioned in the preceding paras above, humble applicant prays for the following relief:-

- (a) That by appropriate orders, directions, instructions the reply dated 03.08.2010 (Annexure A/1) be quashed and set aside.
- (b) That by appropriate orders, directions, instructions, the respondents be directed to refund the illegally deducted amount of Rs.36,611/- of the GPF Account No. JP/380 to the applicant.

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- (c) That by appropriate orders, directions, instructions, respondents be directed to refund the illegally recovered amount of Rs.8270/- of the Travelling Allowance to the applicant.
- (d) That by appropriate orders, directions, instructions, respondents be directed to pay the interest @ 18% per annum to the applicant on the illegally recovered/deducted amount w.e.f. the date it became due till the payment is made to him.
- (e) Any other relief which the Hon'ble Tribunal thinks just and proper in the circumstances of the case in favour of the humble applicant may also be allowed.
- (f) Cost of the OA be awarded to humble applicant along with the legal fee and expenses incurred by the applicant."

2. At the outset, the learned counsel for the respondents submitted that the OA is not maintainable because the applicant has prayed for more than one relief not connected with each other.

3. The learned counsel for the applicant submitted that in the present OA he is not insisting for the relief relating to the refund of traveling allowance to the applicant i.e. relief 8 (c) and he will argue the case with regard to the relief relating to GPF amount. Therefore, the OA was heard with regard to the relief relating to GPF Account.

4. The brief facts of the case, as stated by the learned counsel for the applicant, are that after retirement actual balance amount of the GPF of the applicant as per Postmaster, Ajmer ledger was Rs.85,816/- against which the applicant was paid Rs.49,205/-. Thus Rs.36,611/- were paid less to the applicant without any rhyme or reason.

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5. Under Right to Information Act, the applicant has been informed that he had taken final withdrawal of Rs.1860/- in the year 1980, which was left unaccounted by mistake at that point of time. As such while making final payment the same was taken note of and the said amount alongwith interest has been recovered. That before making any recovery, no notice has been issued to the applicant nor any explanation has been sought. Thus the recovery of Rs.36,611/- has been effected without giving any opportunity of hearing. Hence the said action of the respondents is highly arbitrary and violative of the principles of natural justice.

6. The learned counsel for the applicant also prayed that he has been raising his grievances from time to time and due to ill health, he could not come to Jaipur to file the OA within the prescribed limitation, therefore, the delay in filing the OA may be condoned.

7. The learned counsel for the applicant submitted that if the final withdrawn of Rs.1860/- was not adjusted in the year 1980 on account of the mistake of the respondents, then the applicant cannot be held responsible for the mistake of the Department. The respondents cannot recover the said amount. They have also imposing the penal interest, which is contrary to law since they penalize the applicant for their own fault. Therefore, the OA be allowed and the respondents be directed to make the payment of Rs.36,611/-, which they have adjusted from the final payment of GPF.

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8. On the contrary, the learned counsel for the respondents submitted that during the finalization of the case in PAO, Jaipur, it was found that an advance being final withdrawal taken by the applicant in the month of January, 1980 from the Postmaster Beawar HO (DDO) under Bill No. B-18 June 1980 of Beawar HO from the GPF fund to the tune of Rs.1860/- was not taken into account i.e. not debited from the balance of the funds. The said amount was found noted in the remark column of the GPF ledger card of the official. Thus, due to mistake, his account balance was increased and interest on this amount was allowed to him from the year 1980-81 to December, 2008.

9. When the case was rechecked/recalculated then this final withdrawal of Rs.1860/- taken in the year 1980 and interest thereon was adjusted. As per the revised calculation, the amount of Rs.49,205/- became due to the applicant and it was paid accordingly on 27.02.2009.

10. The learned counsel for the respondents denied any penal interest on the amount of advance/final withdrawal of Rs.1860/- has been charged but whenever the balance of the funds goes in minus, the interest is liable as per Rule 11 (7) of the GPF Rules, 1960. Hence, the final payment amount of Rs.49,205/- was in order and correct.

11. Heard the learned counsel for the parties and perused the documents on record. The MA No. 318/2011 for condonation of

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delay in filing the OA is allowed for the reasons recorded therein. The delay is condoned and the OA is heard on merits.

12. I have carefully perused the pleadings of the applicant in the OA. It has not been disputed by the applicant in the pleadings that he had taken an advance/final withdrawal of Rs.1860/- in the year 1980. During the course of arguments also, the learned counsel for the applicant did not dispute the fact that the applicant had taken an advance/final withdrawal of Rs.1860/- in the year 1980. On the contrary, the respondents have given the details of the order vide which the applicant was allowed advance/final withdrawal of Rs.1860/- in their reply. By mistake, this advance/final withdrawal of Rs.1860/- was not taken into account and debited from the balance of the funds of the applicant.

13. On account of this mistake, the total amount credited of the applicant had increased to the extent of Rs.1860/- and the applicant was allowed interest on this increased balance which also included the amount of Rs.1860/-, which was finally withdrawn by the applicant. Therefore, the applicant is not entitled for the re-payment of Rs.1860/- which he had withdraw in the year 1980 and also the interest thereon from 1980 till the date of his retirement. At the time of his retirement, a balance of Rs.85,816/- was shown but when the mistake was noticed then finally the applicant was paid Rs.49,205/-. Thus he was not paid Rs.36,611/- because of the fact that the applicant had taken Rs.1860/- as final withdrawal from his GPF, which was not debited from his GPF account and he was also paid interest thereon w.e.f.

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1980-81 till 2008. Certainly, the applicant was not entitled for this amount of Rs.1860/- which he had already withdrawn way back in the year 1980 and also the interest thereon from 1980-81 till December, 2008. Therefore, when the respondents found this mistake, they have taken corrective measures. I do not find any illegality in their action. The applicant cannot claim any amount which is not due to him, which was shown due to mistake of the respondents. A mistake can always be corrected.

14. Since it is not a case of recovery, therefore, in my opinion, there was no need to issue a show cause notice to the applicant. It is a case of adjustment at the time of final payment. Moreover, if a show cause notice would have issued it would not have made any difference since the fact of withdrawal of Rs.1860/- in the year 1980 has not been disputed by the applicant. Thus even the principle of natural justice has not been violated. Applicant cannot claim any amount which is legally not due to him. The applicant has failed to make out any case for the interference by this Tribunal.

15. The OA has no merit. Consequently, it is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ