

(Reserved on 13.08.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Original Application No. 330/00392/2016

This the **28th** day of **August, 2018**

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)

Rajendra Chaubey, son of Shri R.S. Chaubey , Ex. SPM / Moradabad City, R/o 11/127, Nai Colony, Jwala Nagar, Rampur (U.P) – 244901 (Dead),

1/1. Smt. Rama Chaturvedi, a/a 41 years, w/o Late Rajendra Chaubey

1/2 . Sunil Chaturvedi, a/a 41 years, s/o Late Rajendra Chaubey

1/3. Sharad Chaturvedi, a/s 36 years, S/o Late Rajendra Chaubey

1/4. Sanjay Chaturvedi, a/a 34 years, S/o Late Rajendra Chaubey

All are resident of 11/127, Nai Colony, Jwala Nagar, Rampur (U.P) – .

.....Applicants

By Advocate: Shri Bhagirathi Tiwari

Versus

1. Union of India through Secretary, Ministry of Communication, Government of India, Dak Bhawan, New Delhi.
2. Director of Accounts (Postal), U.P. Circle, Lucknow.
3. Director, Postal Life Insurance, Kolkata.
4. Post Master General, Barielly Region, Bareilly.
5. Senior Superintendent of Post Offices, Moradabad Division, Moradabad.

.....Respondents

By Advocate : Shri L.P. Tiwari

O R D E R

DELIVERED BY:-

HON'BLE MR. GOKUL CHANDRA PATI, (MEMBER-A)

By way of the instant original application, following reliefs have been prayed for:-

“(I).to quash the impugned orders dated 21.10.2015 (Annexure A-1) and 29.10.2015 (Annexure A-2) and direct the respondents to release the withheld amount of matured PLI Bond with 18% interest on the payments.

(II). to impose the exemplary cost of Rs. 50,000/- as compensation on the respondents for making harassment and mental agony, causing the family also.”

2. Shri Rajendra Chaubey late husband of the applicant no. 1/1 (referred hereinafter as deceased employee) had worked as an Assistant Post Master (in short APM) under the respondents at Rampur Head Post Office, when a Money Order fraud was detected by the respondents and after due inquiry, criminal proceedings as well as the departmental proceedings were initiated against the applicant. The criminal case was investigated by the CBI, which charge-sheeted him and the criminal case against the applicant and two other employees was filed, which led to conviction by the criminal court vide judgment dated 18.10.2012 and the applicant filed appeal in High Court. He was granted bail and appeal was admitted. The disciplinary proceedings after inquiry, ended in punishment order dated 11.9.2013 and the appeal against the punishment order was rejected vide order dated 18.10.2013. The applicant has filed OA No. 1721/2013 in the Tribunal against the punishment orders.

3. In the meantime, three Postal Life Insurance (in short PLI) bonds of the applicant matured and he applied for releasing the PLI bonds to the respondents. The grievance of the applicant is that the respondents have withheld the PLI bonds without any authority of law, for which he has filed this OA.

4. The following reasons have been advanced by the applicants for his OA:-

- Although he had reported to the respondents about irregular practices in the Money Order section, but no action was taken, for which the concerned clerk got opportunity to misappropriate Rs. 1,11,74,868 resulting in the loss to the government.
- The disciplinary authority passed the punishment order in a casual manner for which he has challenged in separate OA.
- The respondents filed proceedings under public demand recovery with Tehsildar, for which the applicant filed a writ petition in High Court and the recovery proceedings were stayed by the High Court vide order dated 12.2.2015 (Annexure A-10).
- Discharge of PLI bonds are under the law relating to insurance and according to the provisions of law, the PLI bonds cannot be attached or withheld for discharging any liability.
- Respondents have passed the impugned order dated 21.10.2015 (Annexure A-1) and order dated 29.10.2015 (Annexure A-2) both are issued by the respondent no. 5.

- No recovery has been established against the applicant under Rule 106 of the Postal Manual Vol-III and without that, it is not legally permissible to initiate recovery against the applicant. Hon'ble High Court, considering the legal aspects, has stayed the recovery of the dues as public demand.
- It was presumed that PLI is exempted under section 118(c) of the Insurance Act, 1938, as stated in the impugned order dated 29.10.2015 without examining the liability for discharge of the policy bonds on maturity.

5. The respondents have filed the counter affidavit (in short CA) stating that in a case of misappropriation of Govt. money the applicant was charge sheeted under rule 14 of CCS (CCA) Rules, 1965. Matter was also reported to the CBI, Ghaziabad in which the applicant was convicted and sentenced to 07 years. Thereafter, the applicant was dismissed from service vide Memo dated 11.09.2013. In the meantime, the applicant applied for payment of final GPF on 16.01.2014, which was submitted to ASPO's, Rampur for verification on 18.01.2014. Thereafter, the matter was returned to the Senior Post Master, Moradabad, who forwarded the application of the applicant to DAP, Lucknow on 23.01.2014 for accrued sanction of payment. The DAP, Lucknow had issued sanction order for Rs. 54,461/- on 04.03.2014 and thereafter, it was deposited in saving bank account of the applicant. It is further stated the claim of Rs. 45,484/- was also sanction vide DAP, Lucknow letter dated 16.10.2014. It is Further stated that since the applicant was involved was convicted in a fraud case of payment of money orders, therefore, for making recovery of embezzled amount from the applicant, his SB account was seized and the matter was referred to the Regional Office, Bareilly on 03.11.2014. However, on receipt of instructions from the higher authority, the respondent No. 5 has issued release order for payment of Rs. 54,484/- towards CHEGIS. It is further stated that since the applicant was responsible for fraud being supervisory authority, a recovery order of Rs. 37,24,956/- under PAD Act was issued against the applicant, hence after making necessary recovery from the applicant, the amount towards GPF and CGEGIS have been paid to him.

6. Learned counsel for both the parties were heard. The applicant's counsel has submitted written arguments giving a copy to the respondents' counsel on 21.8.2018, but no written argument was filed by the respondents' counsel. In the written argument, the applicants' counsel stated that the applicant had died on 27.7.2016 and his wife is also at fag end of her life. The respondents delayed filing of the counter affidavit. It is stated that the deceased employee

was charge-sheeted for negligence of duty/supervision and also dismissed. Under rule 37 to 39 of the PLI rule, 2011 stated in para 4.12. of the OA, the applicant is entitled to get the PLI bond amount.

7. The dispute involving the release of PLI bond is whether the action of respondents to withhold the PLI bond dues payable to the deceased employee is legally tenable. In para 4.12 of the OA, the rule 37 and 38 of the PLI Rule, 2011 has been quoted as under:-

“37. A person who has once been admitted to the benefits of the Post Office Life Insurance Fund shall not forfeit his right or interest in any life insurance policy purchased by him under these rules by reason of his quitting the service in which he is employed, from any cause whatsoever except that referred to in Rule 39, provided that all payments due under the rules are regularly made.

38. All persons, who are admitted to the benefits of the Post Office Life Insurance Fund, Rural Post Office Insurance Fund have government security for the payment, at the proper time, of the money due to them.”.

8. The respondents, in reply to the para 4.12 in para 16 of the counter affidavit, have not contradicted the Rule 37 and 38 as quoted in para 4.12. That implies that the rules 37 and 38 as indicated in the OA are correct. As per these rules, the beneficiary is entitled to get the amount of maturity, unless the contract is declared to be void for furnishing false information as provided under the rule 39 of the PLI Rules, 2011. It is not the case of the respondents that the PLI in question here are withheld on account of false information as stated in the rule 39. Hence, under the rule 37 and 38, the PLI bonds cannot be withheld for adjustment against any dues of government. In any case, for recovery of the government dues, the respondents have taken recovery action which is under litigation. No provisions of law or Rules have been cited by the respondent in support of their action to withhold the amount due to be paid to the legal heirs of the deceased employee. The impugned order dated 29.10.2015 states that the withholding of the bonds has been done on the basis of the opinion of the Assistant Solicitor General who had opined not to pay the amount till final disposal of the case filed in High Court. The legal opinion is not an adequate justification for non-payment of the PLI bond amount.

9. Further, in the disciplinary proceedings against the deceased employee, the punishment imposed is dismissal from service and no recovery punishment has been imposed as the order dated 11.9.2013 (Annexure A-6) shows. Hence, there is no order of any authority for recovery of any amount from the deceased employee or from his legal heir. The public demand recovery proceeding has

been stayed vide order dated 12.2.2015 (Annexure A-10), Hon'ble High Court has directed not to take any coercive action for recovery mainly on submission that no specific order of recovery has been made in this case.

10. In view of the discussions above, non-payment of the PLI bond dues to the deceased employee on the ground of disciplinary action or for recovery of Rs. 37,24,956/- from the deceased employee as stated in the impugned order dated 21.10.2015 (Annexure A-1), is not tenable as there is no penalty order imposed on the deceased employee for the stated loss of government money by the competent authority. Accordingly, the impugned orders dated 21.10.2015 and 29.10.2015 have no legal force. Hence, these impugned orders are set aside and quashed. The respondents are directed not to withhold the PLI bond amount on the account of the disciplinary proceedings against the deceased employee or stated recovery for loss and to release the same with interest as applicable as per the provisions of law within one month from the date of receipt of a copy of this order.

11. The OA is allowed as above. No order as to costs.

(GOKUL CHANDRA PATI)
MEMBER-A

Anand...