

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE**

ORIGINAL APPLICATION No. 170/00370/2017

TODAY, THIS THE 23rd DAY OF AUGUST, 2018

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER**

Divakar Morey,
S/o. Late Shri R. Krishnaji Rao,
Age 59 years,
647, 11th Main, HAL II Stage,
Indiranagar,
BANGALORE : 560 008

... Applicant.

(Applicant present in person)

v e r s u s

1. Union of India
Rep. by its Principal Secretary,
Prime Minister's Office,
South Block,
New Delhi
2. Secretary,
Dept. of Atomic Energy,
CSM Marg,
Mumbai – 400 020
3. Chairman,
Nuclear Power Corporation of India Ltd.,
Anushakti Nagar,
Mumbai : 400 094

... Respondents

(By Advocate Shri Ashok N. Nayak)

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The request of the applicant is to settle his Provident Fund claims immediately with 18% interest per annum, besides penal damages under Section 14-B of EPF Act, 1952, and also to declare that the deductions made under various heads in the order No. NPCIL/RR site/DGM(F&A)/S/ dated 16.10.2008 (Annexure A-5), from the P.F amount payable to the applicant, as null and void. He has also requested to direct the respondents to furnish a true and fair account of the P.F dues payable to the applicant and make the

payment to him with interest @ 18% per annum from 31.05.2001, the date of his termination till date of actual payment.

2. The respondents have denied the claim of the applicant saying that they have already paid the entire dues. The respondents have also alleged that this Tribunal has no jurisdiction to decide this matter since Nuclear Power Corporation of India Limited (NPCIL) has not been notified as one of the Organisations brought under the purview of the Central Administrative Tribunal Act, 1985. They have further alleged that the applicant has already tried to get similar reliefs from the Hon'ble High Court of Karnataka and Employees' Provident Funds Appellate Tribunal, Bengaluru, and has come to this Tribunal only after failing to get any relief there.

3. The applicant, in his rejoinder, has stated that the reply of the respondents is silent about the amount of Provident Fund contribution of Rs. 35042/- received from the applicant's previous employer, M/s. Indian Petrochemicals Corporation Limited (IPCL), which was transferred to NPCIL in January, 2001. The applicant has also submitted that his main contention in the O.A about deducting alleged dues towards car advance etc. has also not been properly responded to. He alleges that the undertaking given by him for recovery of dues towards car advance was obtained from him under duress. The parties also filed written arguments to support their cases.

5. After going through the pleadings and hearing both the sides, it is clear that the applicant has been agitating for these reliefs for quite some time. Hon'ble High Court of Karnataka in their judgement dated 29.08.2012 in Writ Petition No. 14110/2009 had closed the matter by saying that "if the petitioner still feels that, there is any amount due to him, it is open to the petitioner to sue for recovery or take such action as permissible in law." Apparently, the

applicant chose a wrong forum, the Employees' Provident Funds Appellate Tribunal, Bengaluru, where the case was found to be not maintainable, by their order dated 27.03.2017.

6. Ignorance of law is no excuse, and, if the applicant has been challenging his case in the wrong fora, it cannot extend the period of limitation available for seeking a remedy. Thus this case, prima facie, appears to be barred by period of limitation. The applicant has also not given very convincing argument to support that this Tribunal has jurisdiction, except by saying that there has been a decision by the Madras Bench of this Tribunal in O.A. No. 1488/1993 (P. Ravindran vs. NPCIL), which was challenged by the NPCIL before the Hon'ble High Court of Madras in W.P. No. 15509 of 1998. However, taking a lenient view, and in consideration of the fact that the applicant is a senior citizen who has been agitating this case for long, we dispose off this matter as follows:

7. We find that the difference between the applicant's claim and what the respondents have admitted, is an amount of Rs. 14777/- (without considering the interest). This is the difference between the principal amounts of Rs. 243203 claimed by him in Annexure A-3 and Rs. 49566 + 158972 (Annexure R-6) + 19888 (Annexure R-7) = Rs. 228426, as admitted by the respondents. The applicant had agreed to have the car advance deducted, though he claims, it was done under duress. Be it as it may, the applicant has nowhere said that this amount was not due from him. The fact remains that the respondents have not explained what happened to Rs. 35042/- allegedly received by them from the IPCL and how Rs. 19888/- remained unpaid at the time when they first settled his claim. The interest of justice will therefore, be served in this case by directing the respondents to provide one full

consolidated date-wise statement of the total PF amount due and paid to the applicant to make it abundantly clear that there are no further outstanding dues. If the accounts reveal that any amount is still due to be paid, the same shall be paid to him with interest at the prevalent PF interest rate. The respondents will do so within one month from the date of receipt of a copy of this order.

8. The O.A is disposed of accordingly. No orders as to costs.

(Dinesh Sharma)
Administrative Member

(Dr. K.B. Suresh)
Judicial Member

Cvr.

Annexures referred to by the applicant in O.A :

- Annexure A-1 : Transfer of PF balance Rs.130639 by the previous employer- M/s. Indian Petro Chemicals Corporation Ltd., Nagothane, dated 15.05.1999.
- Annexure A-2: Copy of the letter transferring Rs. 35042/- by IPCL, Nagothane, Maharashtra, dt. 17.01.2001.
- Annexure A-3: Copy of net payable calculation.
- Annexure A-4: Copy of letter towards final settlement for Rs. 49566/- dt. 30.01.2004.
- Annexure A-5: Copy of the order of final settlement by NPCIL dt. 16.10.2008.
- Annexure A-6: Copy of order of Hon'ble High Court of Karnataka, Bangalore, dt. 29.08.2012.
- Annexure A-7: Copy of order of Hon'ble Employees' Provident Funds Appellate Tribunal, Bangalore, dated 27.03.2017.
- Annexure A-8: Transfer advice for transfer of P.F. balance of Rs. 196272/- by NPCIL, Mumbai, to RAPP 3&4, Rajasthan, dated 16.02.2001.
- Annexure A-9: NPCIL letter dated 22.07.2016 reg. the fact that NPCIL EPF Trust is under Provident Fund Act, 1925.
- Annexure A-10: Termination order dated 28.05.2001.
- Annexure A-11: Correspondence with NPCIL dt. 12.05.2017.
- Annexure A-12: Correspondence with NPCIL dt. 06.06.2003
- Annexure A-13: Correspondence with NPCIL dt. 16.09.2003

Annexures filed by the respondents alongwith the reply:

- Annexure R-1: Copy of judgement in W.P.No. 14110/2009 of Hon'ble High Court of Karnataka.
- Annexure R-2: Copy of order passed by the Provident Funds Appellate Tribunal dt. 27.03.2017
- Annexure R-3: Copy of consent letter dt. 03.05.2005 given by the applicant to adjust his motor car advance against P.F. balance.
- Annexure R-4: Intimation letter dated 20.07.2001
- Annexure R-5: Intimation letter dt. 28.12.2001 in respect of settlement of outstanding dues.
- Annexure R-6: Communication by the respondents dt. 16.10.2008 regarding settlement of final dues.
- Annexure R-7: Provident Fund slips for the years 2002-2003 to 2009-10 of the applicant.
