

**Central Administrative Tribunal
Madras Bench**

OA/310/00307/2017

Dated Monday the 3rd day of September Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

Dr. R. Thangavelu
Principal Scientist
ICAR-NRC Banana
Trichy – 102.

.. Applicant

By Advocate **M/s. C. Vigneswaran**

Vs.

1. Union of India
Represented by Secretary to Government
Ministry of Agriculture
New Delhi – 110 001.
2. ICAR - National Research Centre for Banana
Rep. by its Director
Thogamalai, Thayanur Post
Tiruchirapalli – 620 102.

.. Respondents

By Advocate **Mr. S.R. Sundaram**

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA seeking the following reliefs:-

“i. To quash the order of the 2nd respondent in F.No. 8(11)/2017-C&B/6686 dated 27.01.2017.

ii. Consequently allow the applicant to pay the monthly interest in the instalments as per the sanction order.

iii. Pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case”

2. It is submitted that the applicant was aggrieved by Annexure A10 note dated 27.01.2017 by which he was directed to refund an amount of Rs. 79,931/- as outstanding including penal interest in one lumpsum on the car advance of Rs. 1,74,000/- availed of by him on 15.02.2005 and for non-compliance of the terms and conditions indicated in the relevant sanction order. The action was allegedly taken under Rule 28 of General Financial Rules.

3. This OA was filed on 20.2.2017 and came up for admission on 01.03.2017. An interim relief of stay of recovery was granted by this Tribunal on the said date with a direction to the applicant to take out notice to the respondents. The respondents entered appearance on 20.04.2017 through one Mr. S.R. Sundaram, Advocate. However no reply has been filed since despite sufficient opportunity. It is also seen that there was no representation for the respondents on 28.08.2017, 08.02.2018, 28.02.2018, 13.04.2018 and 13.08.2018. In between, the case had

been adjourned by general notifications and no proceedings have been written recording the attendance or otherwise of the parties. Today also there is no representation for the respondents.

4. Learned counsel for the applicant submits that the respondents had made a recovery of the entire amount from the applicant even before the interim order was passed by this Tribunal rendering the same infructuous. However, there is no justification for the respondents to not file a reply despite repeated opportunities.

5. As regards the merits of the case, learned counsel for the applicant would draw attention to Rule 28 of the GFR which had been invoked by the authorities to effect recovery against the applicant. It is submitted that the applicant was sanctioned a car advance of Rs. 1,74,000/- on 11.02.2005 and as per Rules he had to submit the registration documents to the respondents within one month as evidence of having purchased a vehicle. However the applicant could not comply with the condition as the registration took place only on 22.08.2005 and immediately thereafter he made available the relevant documents to the respondents as evidence of purchase of the vehicle. The respondents never invoked the penal provision for as long as nearly 11 years.

6. The applicant was advised by Annexure A4 order dated 03.05.2016 for refund of an amount of Rs. 73,931/- which included penal interest allegedly for the entire period of the loan. Rule 28 of GFR which has been invoked by the respondents in effecting the recovery is produced below:

“Rule 28. Unless Government Servant, who is sanctioned an advance for the purchase of a motor car, completes the purchase of, and pays for, the motor car within one from the date on which he draws the advance, he shall refund forthwith the full amount of advance drawn

together with interest on that amount for one month.

NOTE 1.- A Department of Central Government, an Administrator or a Head of Department may, in exceptional cases, extend the period of one month prescribed in this rule to two months.

NOTE 2. - Where a Government servant refunds the full amount of the advance before the end of the month in which it was drawn for the purchase of a car, the interest may be recovered for the actual period the advance was retained by the Government servant.”

Attention is also drawn to Government of India OM dated 24.09.1985 reproduced below:

“(4) Penal interest to be charged if registration book is not submitted within the stipulated period – The authority sanctioning advance for the purchase of conveyance should also ask the Government servant concerned to produce the registration book of the vehicle within a period of one month from the date of purchase of the vehicle or within two months from the date of drawal of advance, whichever is earlier, to show that the vehicle purchased by him has actually been transferred in his name by the competent authority, failing which he shall be liable to pay penal interest on the entire amount of advance as per Government of India's Decision (1) below Rule 2 of the Compendium, from its date of drawal to the date of submission of registration book. In case it is established that the delay in submitting the registration book is not attributable to the Government servant, the penal interest may not be charged for the late submission of the registration book for the period of such delay.”

It is accordingly contended that while the respondents would be justified in charging penal interest beyond the period of one month till the date of submission of the registration book, charging penal interest for the entire period till 03.05.2016, the date of issue of Annexure A4 note is not in accordance with the rules. He would accordingly pray for the OA to be allowed.

7. I have considered the matter. While Annexure A4 communication dated 03.05.2016 indicates the total interest plus penal interest payable by the applicant

as Rs. 1,22,815/-, Annexure A10 communication dated 27.01.2017 shows the total penal interest payable by the applicant as Rs. 1,22,815/-. It is thus not clear whether the amount of Rs. 1,22,815/- represents the total interest including penal interest or penal interest alone. If it is penal interest alone, it would appear that the applicant's allegation that he had been subjected to penal interest for the entire period of the loan is not baseless. On the other hand, if the said amount represents total interest including penal interest, the applicant is entitled to know the exact amount of penal interest charged along with the period for which it is charged.

8. Learned counsel for the applicant alleges that since the respondents had unilaterally made the recovery they are neither interested in filing a reply to this OA nor answer any query in this regard from the applicant seeking clarification. As such, I am of the view that the ends of justice would be met in this case if the respondents are directed to convey to the applicant the exact amount of penal interest recovered from him along with details of the period for which as also the rate at which such penal interest had been charged within a period of one month from the date of receipt of a copy of this order. If penal interest is found to have been charged for the entire period, it is needless to say that the respondents shall review their decision in the light of the rule cited supra and the decision of the Government of India recorded thereunder and pass fresh orders.

9. OA is disposed of with the above said direction.

(R.Ramanujam)
Member(A)
03.09.2018

AS