

**Central Administrative Tribunal
Principal Bench**

OA No. 1756/2018

New Delhi this the 5th day of July, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Thawar Dass Kukreja,
S/o late Dharam Dass Kukreja,
R/o G-10, Lajpat Nagar IIInd ,
New Delhi-110024

- Applicant

(Applicant in person)

VERSUS

1. Secretary to GOI,
Ministry of Tribal Affairs,
7th Floor, A Wing, Shastri Bhawan,
New Delhi 110001
2. Secretary to GOI,
National Commission for Scheduled Tribes,
6th Floor, B Wing, Lokanyak Bhawan,
Khan Market, New Delhi-110003
3. National Scheduled Tribunal Finance
And Development Corporation,
5th Floor, NBC Tower,
15 Bhikajee Cama Place,
New Delhi 110066

- Respondents

(By Advocates: S/Sh. JP Tiwary, Gyanendra Singh and KS Negi)

ORDER

This OA has been filed by the applicant, seeking the following reliefs:-

“8.1 It is humbly prayed that applicant having engaged/employed by Respondent No.1 and Respondent No.2, hence being employer are liable for contribution of pension share for the period of deputation duty of this applicant in their offices during 2008-09 and 2012-15 respectively, therefore above Respondents may please be directed by the Hon'ble Tribunal for remitting the contribution of their respective share, as demanded by Respondent No.3(Parent organization), within definite time frame.

8.2 Further, it is humbly prayed that in the interest of justice, Respondent No.1 and Respondent No.2 may please also be directed for payment of interest charges on account of abnormal delay of in remitting principal amount of pension share to the respondent no.3, as due to non remittance by them (R-1 & R-2) respective share of pension contribution for deputation duty period, this applicant is suffering financial loss due to non receipt of commuted portion and monthly pension payable out for employer share to be contributed by Respondent No.1 and Respondent No.2 respectively.”

2. The applicant appearing in person states that the payment for contribution of pension share for the period of deputation duty with the respondent nos. 1 and 2 was delayed and hence, he should receive interest on the period of delay in remitting the principal amount of pension share to respondent no.3 as due to non-remittance of the respective share of pension contribution for the deputation duty period by respondents. As such, the applicant deserves to be compensated.

3. The applicant does not dispute that respondent nos. 1 and 2 have paid the amounts due but he kept emphasizing on the fact the respondent no.3 requested the respondent no. 1, i.e. Ministry of Tribunal Affairs for remitting Rs.73,330/- as pension contribution for deputation duty with respondent no.1 from May 2008 to July 2009. He also drew the Court's attention to the fact that a letter No.NSTFDC/FIN/TDKukreja/2017-18/910 dated 18.09.2017 from respondent no.3 was sent to respondent no.2, i.e., National Commission for Scheduled Tribes for remitting Rs.3,38,260/- as pension contribution for the deputation duty of the applicant with respondents.

4. Counsel for the respondents drew the attention of the Court to the fact that as soon as they received the aforesaid letter dated 18.09.2017, they have paid the amounts vide order dated 26.07.2018 as demanded by the respondent no.3. The CCS (Pension) Rules with regard to the same provides as under:-

“58. Preparation of pension papers

Every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government is due to retire on superannuation, or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

59. Stages for the completion of pension papers

(1) The Head of Office shall divide the period of preparatory work of two years referred to in Rule 58 in the following three stages :-

(a) First Stage. - Verification of service :

(i) The Head of Office shall go through the service book of the Government servant and satisfy himself as to whether the certificates of verification for the entire service are

recorded therein.

- (ii) In respect of the unverified portion or portions of service, he shall arrange to verify the portion or portions of such service, as the case may be, with reference to pay bills, acquittance rolls or other relevant records and record necessary certificates in the service book.
- (iii) If the service for any period is not capable of being verified in the manner specified in sub-clause (i) and sub-clause (ii), that period of service having been rendered by the Government servant in another office or Department, a reference shall be made to the Head of Office in which the Government servant is shown to have served during that period for the purpose of verification.
- (iv) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in sub-clause (i), or sub-clause (ii), or sub-clause (iii), the Government servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service, and shall, at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall in support of such declaration produce all documentary evidence and furnish all information which is in his power to produce or furnish.
- (v) The Head of Office shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, admit that portion of service as having been rendered for the purpose of calculating the pension of that Government servant.

(b) Second Stage. - Making good omission in the service book. -

- (i) The Head of Office while scrutinizing the certificates of verification of service, shall also identify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension.
- (ii) Every effort shall be made to complete the verification of service, as in Clause (a) and to make good omissions, imperfections or deficiencies referred to in sub-clause (i) of this clause. Any omissions, imperfections or deficiencies including the portion of service

shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in Clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the service book.

(iii) Calculation of average emoluments. - For the purpose of calculation of average emoluments, the Head of Office shall verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service. In order to ensure that the emoluments during the last ten months of service, have been correctly shown in the service book the Head of Office may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a Government servant, and not for any period prior to that date.

¹(c) Third Stage. - As soon as the second stage is completed and in any case not later than ten months prior to the date of retirement of the Government servant, the Head of Office shall take the following action :-

- (i) He shall furnish to the retiring Government servant a certificate regarding the length of qualifying service proposed to be admitted for purpose of pension and gratuity as also the emoluments and the average emoluments proposed to be reckoned with for retirement gratuity and pension. In case the certified service and emoluments as indicated by the Head of Office are not acceptable to him, he shall furnish to the Head of Office the reasons for non-acceptance, *inter alia*, supported by the relevant documents in support of his claim.
- (ii) In case of any difficulty in determining the length of qualifying service on account of non-availability of service records, the retiring Government servant shall be asked to file a written statement of service as provided in Clause (ii) of sub-rule (1) and sub-rule (2) of [Rule 64](#).
- (iii) Forward to the retiring Government servant and [Form 5](#) advising him to submit the same duly completed in all respects so as to reach the Head of Office not later than eight months prior to his date of retirement.

(2) Action under Clauses (a), (b) and (c) of sub-rule (1) shall be completed eight months prior to the date of retirement of the Government servant".

60. Completion of pension papers

The Head of Office shall complete Part-I of Form 7 [not later than six months of the date of retirement] of the Government servant.”

5. The factual position in this case is that the demand for payment towards pension contribution for the deputation duty with respondent no.1 and respondent no.2 were issued on 18.09.2017, while the actual payment appears to have been made on 26.07.2018. Hence, the respondents are directed to calculate the interest on the delay of remitting principal amount of pension share by respondents 1 and 2. If any delay is found to have occurred after receiving of demand for payment letter issued on 18.02.2017, then interest for such period will be paid at the GPF rate for the period of delay between the date of issue of order for payment of pension contribution for deputation duty which is 18.09.2017 and the date when the actual payments were made, i.e., 26.07.2018. The respondents 1 and 2 are directed to pay the interest, if any, is due to the applicant within 90 days of receipt of a copy of this order.

6. With the above directions, the OA is disposed of. No costs.

(Nita Chowdhury)
Member (A)

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