

(2007) 12 DEL CK 0020
In the Delhi High Court
Case No : LPA 1294 of 2007

D.T.C.	Vs	APPELLANT
Narinder Singh Bhatia		RESPONDENT

Date of Decision : 04-12-2007

Acts Referred:

Citation : (2007) 12 DEL CK 0020

Hon'ble Judges : Dr. M.K. Sharma, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Vibhu Shankar and Jyoti Shankar, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard learned Counsel for the appellant-DTC on this appeal, which is filed challenging the legality of the order dated 8th December, 2006 passed by the learned Single Judge.
2. The appellant is aggrieved by the said order to the extent that the learned Single Judge has held that the respondent herein, i.e. the petitioner before the learned Single Judge, is liable to pay compound interest @ 12% per annum with effect from 21st March, 1997 and not from 4th July, 1989 onwards till 20th March, 1997. It is submitted by the learned Counsel for the appellant-DTC that the respondent herein is liable to pay interest for the aforesaid period on the employer's share of contribution towards provident fund of Rs. 29,730/- as the said amount was paid on 23rd June, 1989 out of the contributory provident fund for construction of a dwelling house.
3. The respondent herein was an employee of DTC and retired on 30th June, 2003 from service on attaining the age of superannuation. However, he was not paid pension and vide letter dated 25th May, 2004 was directed to deposit Rs. 1,33,551/- within one month with DTC Superannuation Pension Trust, New Delhi on account of refund of Rs. 29,730/- with 12% compound interest accrued

thereon from 23rd June, 1989 onwards. The respondent herein disputed the claim of interest and as a result DTC refused to pay pension.

4. It may be relevant to state here that employees of DTC on retirement were earlier entitled to and covered by the Contributory Provident Fund. On 27th January, 1992, DTC introduced a pension scheme for its working employees, who were to be governed by the scheme unless they specifically opted to remain out of the scheme. The scheme also provided for refund of the employer's share of provident fund that had been received by an employee with interest thereon. However, the rate of interest was not specified and stated. The implementation of the scheme got delayed till 1997 for various reasons.

5. The Provident Fund Trust issued order No. 58 dated 21st March, 1997, which reads as under:

The Delhi Transport Corporation Employees Provident Fund Trust, in its meeting held on 28.2.97 has approved that any employee who has opted the DTC Pension Scheme and has drawn Non refundable advance from the Employers share of CPF contribution is hereby required to deposit the same with 12% Compound interest up to 31.7.97.

6. This was followed by another order dated 4th February, 1998, which reads as under:

It is notified for information and necessary action by all concerned that the Delhi Transport Corporation Employees Provident Fund Trust in its meeting held on 10.12.97 have resolved vide item No. 8 as under:

The cases of those employees, who are covered under the Pension Scheme and had withdrawn the Management share or had been paid the Management share by the Management on their dismissal/removal were also discussed. It was decided that the Management share of the Provident Fund may be accepted, if any of such employee requests in writing for the refund of the same in lumpsum or in installments with compound interest @ 12% in not more than 24 Installments.

7. Before the said date, DTC did not stipulate and provide for rate of interest on the amount paid to an employee from employer's share of Contributory Provident Fund. It may be relevant to state here that while making the aforesaid payment of Rs. 29,730/- in 1989 certain terms and conditions were imposed by the appellant-Corporation including restriction on selling of dwelling house and deposit of title deeds for a period of five years.

8. Learned Single Judge has balanced equities while passing the impugned order. The pension scheme did not specify the rate of interest and no office order was also issued specifying the rate of interest till 1997. As the respondent herein was an existing working employee, it was open to the appellant-DTC to recover the employer's contribution of Rs. 29,730/- from the salary, that was being paid. Admittedly, in view of the deeming clause, the respondent herein was covered

and governed by the said scheme and there is no reason why the said recovery was not made. On the other hand, the respondent herein was allowed to retire on 30th June, 2003 and then for the first time vide letter dated 25th February, 2004, the respondent herein was asked to pay Rs. 1,33,551/- @ 12% compound interest from 1989. It may be noted here that the pension payable to the respondent herein has not been paid, due to non-payment of Rs. 1,33,551/-. The pension payable with effect from 30th June, 2003 has been withheld.

9. In these circumstances, we feel that learned Single Judge was justified in holding that the respondent herein is liable to pay compound interest @ 12% annually with effect from 21st March, 1997 as on the said date, circular was issued clearly stating that the existing employees should refund non-refundable advance paid from employer's share of Contributory Provident Fund contribution along with 12% compound interest.

We find no merit in the appeal and the same is dismissed.