
(2018) 02 J&K CK 0026
In the Jammu And Kashmir High Court
Case No : 1499 of 2006

M.K.Raina

APPELLANT

Vs

State and others

RESPONDENT

Date of Decision : 02-02-2018

Acts Referred:

[General Provident Fund Rules Svt, 1981](#), Rule 20

Citation : (2018) 02 J&K CK 0026

Hon'ble Judges : Tashi Rabstan

Bench : Single Bench

Advocate : P.N.Goja, Tarun Sharma, R.S.Jamwal

Final Decision : Allowed

Judgement

1. Petitioner was holding the post of Junior Engineer Grade-I under the State in Mechanical and Irrigation Construction Department when he superannuated on 30.06.2004. His case for grant of terminal benefits including the contribution made towards GP Fund together with bonus and interest, was submitted and processed as per the Rules. The then Executive Engineer Irrigation Division Jammu on 19.07.2004 submitted petitioner's case to Executive Engineer, MICD, Srinagar, where petitioner was working before migration.

2. It is contended that initially certain queries were raised by Executive Engineer, MICD, Srinagar, vis-a-vis petitioner's case, forcing him to file writ petition, bearing SWP no. 1529/2004. This Court vide Order dated 28.04.2005 held that the objections raised were untenable and accordingly, respondent-State assured finalization of the pension case of the petitioner notwithstanding the objections raised within a period of four months. As a consequently, payment order for an amount of Rs.9,38,423/- was

ordered to be issued. However, later on, respondent no.3 refused to pay interest and, therefore, payment order to the tune of Rs 8,66,649 /- was issued. Being aggrieved, petitioner represented his case. It is by virtue of impugned order that the interest on GP Fund has been refused. This has forced him to approach this Court with writ petition on hand seeking quashment of Order no.GPP/Mig/971-72 dated 14.06.2006 passed by respondent No.3, with a direction to respondents to pay interest which has accrued on the G.P. Fund at the statutory rate.

3. Objections have been filed on behalf of respondents wherein it is insisted that petitioner superannuated on 30.06.2004 and his GP fund case was processed by the Executive Engineer Irrigation, Division Jammu, on 19.07.2004. It is further averred that respondent no.3 received the case of the petitioner only on 10.04.2006, as such, he declared the claim of interest as time barred in view of the fact that the case for payment of GP Fund was not submitted within 06 months of the retirement of the employee. It is on the basis of such delay that the amount of interest claimed has been refused. Other ground taken by the respondents is that for having received the case of the petitioner after more than 06 months from the date of retirement, as such, in terms of Rule 20 of General Provident Fund Rules Svt. 1981 and the case having been settled before the passing of SRO 254 of 2008, the petitioner was not entitled to the interest as the deposit does not earn interest in terms of the aforesaid Rule. It is during the pendency of the petition that Executive Engineer MICD Srinagar came to be added as party respondent, who came to be directed to produce the record.

4. Heard learned counsel for the parties and perused the record.

5. J&K Civil Service Regulations, Vol. II, Appendix XVI-A contains Rules regulating the General Provident Fund (Refer) JK'S Manual of Employees Provident Funds (3rd Ed. 2012) P-141). Rule 7 provides for interest on G.P. fund deposits. It empowers the Government to reduce the rate of interest prescribed under the Rules. It also provides that before the amount at an officer's credit in the fund is finally paid under rules, his account is to be credited with interest upto the end of the month preceding that in which the payment is made which means that interest is to be added till the amount to the officer's credit is in the fund is finally paid. Rule,

accordingly, lays down that the interest would be added till the employee retires or stops making subscription to the fund. Further, Rule visualized that the final payment of deposits may take some time without any fault on the part of the retired government employee, the retired government employee cannot be penalized on account of delay in submitting the GP fund case, which delay is not attributable to the employee. Rule 20 inter alia lays that sums remaining unclaimed for a period of exceeding 06 months are to be transferred to the deposit at the end of the year, (however the period of 06 months stands amended to 02 years). The case being prior to 2008, as such, 06 months period is to be taken into account in terms of un-amended Rule 20.

6. That conjoint reading of these two Rules make it abundantly clear that an employee is to submit his case for payment of GP fund within 06 months from the date of his retirement and in case he fails to make such application within the period mentioned in Rule 20, i.e., 06 months, the amount to his credit in the fund is not to earn interest, however, rigor of Rule 20 does not apply in case the employee has made the application within the period prescribed i.e. 06 months (now 02 years) and a delay caused by the department cannot be attributed to the employee and he is entitled to the interest on the deposits made. The above said view has also been taken by co-ordinate Bench of this Court in SWP No. 178/2011 reported as 2014(1) JKJ 10 (HC).

7. Viewed thus, writ petition is allowed and Order no.GPP/Mig/971-72 dated 14.06.2006 quashed. Respondent no.3 is directed to pay the interest to the petitioner together with interest on the said amount from the date it has been withheld till its final payment at the rate prescribed in the Rules on regular GP Fund deposit. Let this be done within a period of three months from the date of receipt of copy of this order.

8. Disposed of as above along with connected MP(s).