
(2016) 05 DEL CK 0266
In the Delhi High Court
Case No : LPA No. 230 of 2016

Rajeshwar Rawat @ Rajesh Rawat

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 19-05-2016

Acts Referred:

Contract Act, 1872 — Section 70
Public Provident Fund Act, 1968 — Section 12, 3

Citation : (2016) 158 DRJ 597

Hon'ble Judges : Jayant Nath, J.

Bench : Single Bench

Advocate : Mr. R.K. Saini, Ms. Minal Sehgal and Mr. Varun Nagrath, Advocates, for the Appellants; Mr. S.L. Gupta and Ms. Tarunika Sharma, Advocates, for the Respondent No. 1/SBI; Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor and Mr. Pranav Agrawal, Advocates, for the

Final Decision : Disposed Off

Judgement

Jayant Nath, J.—By the present appeal, the appellant seeks to impugn the order of the learned Single Judge dated 01.02.2016 dismissing the writ petition of the appellant.

2. The appellant filed the writ petition seeking a writ of certiorari for quashing communication dated 08.01.2014, 27.01.2014 and 11.07.2014 issued by respondent No.1-Bank. A writ of mandamus was also sought to direct the Bank to refund the entire amount standing to the credit of the Public Provident Fund Account (in short ?PPF Account?) of the appellant including the deposit of Rs.1 lac for the first year i.e. 2012-2013 together with interest.

3. The brief facts as available from the pleadings are that the appellant is a Non-Resident Indian (NRI). On 02.05.1991 while he was residing in Spain, he opened a PPF Account with the respondent Bank under the Public Provident Fund Scheme, 1968 (hereinafter referred to as ?PPF Scheme?). The Scheme is framed under Section 3 of the Public Provident Fund Act, 1968. The appellant states that

he gave the address of Spain while opening the said account. Thereafter, the appellant is said to have shifted his residence to France and intimated the same to the respondent Bank in 1992. He has thereafter been continuously living in France.

4. The term of the PPF account expired on 31.03.2007 on expiry of 15 years. On the request of the appellant, the PPF account was allowed to be extended for a period of five years. The period of five years expired on 31.03.2012.

5. On 01.07.2012 when the appellant sought to deposit Rs. 1 lac by debit from his NRO Savings Account, the respondent Bank declined inasmuch as the extended term of the PPF account expired on 31.03.2012. The appellant therefore on 27.07.2012 submitted the prescribed form as requested by the respondent Bank for continuance of his PPF account for a further block period of five years. It is the stand of the appellant that the respondent Bank on 03.10.2012 informed the appellant that the PPF account tenure has been extended till 31.03.2017. On the request of the appellant on 02.12.2012, a sum of Rs. 1 lac was credited to his PPF account on 03.12.2012 after debiting the said sum from his NRO Savings account. On 07.12.2013 for the financial year 2013-2014, the appellant made another request for deposit of Rs.1 lac by debiting the same sum from his NRO Savings account. However, the respondent Bank did not do the needful and sent a communication to the appellant on 01.01.2014 stating that as per Government instructions, an NRI cannot continue with his or her PPF account after maturity. On 27.01.2014, the respondent Bank forwarded form "C" to the appellant for closure of his account on the date of maturity i.e. 31.03.2012. Subsequent to several follow ups by the appellant, the respondent Bank on 11.07.2014 pointed out that the PPF account could not be extended in terms of Gazette Notification dated 25.07.2003.

6. As per the counter affidavit filed by respondent-2, Union of India, the PPF Scheme was launched in 1968 and initially NRIs were allowed to open the PPF account. However, pursuant to Gazette Notification dated 25.07.2003, an amendment was made in the Scheme and NRIs ceased to be eligible to open a PPF Account. However, an exception was provided that the residents who subsequently became NRI during the currency of maturity period, may continue to subscribe to the fund till its maturity on a non-repatriation basis. It is stated that the account of the appellant matured on 31.03.2007 and the respondent SBI has wrongly in contravention of the Scheme permitted extension of the account for a further period of five years. Similar is the case regarding the extension on 31.03.2012 when the respondent Bank has allowed the appellant to deposit Rs. 1 lac in his account on 01.07.2012 in contravention of the Scheme. It is clarified that the respondent No. 1 Bank is only a Nodal Agency and the fund is managed by the Ministry of Finance, Department of Economic Affairs.

7. The appellant had before the learned Single Judge moved CM No.8506/2015 seeking directions to release the amount with interest up to 31st March 2012. The respondent Bank in response stated that it has no objection if the amount

lying in the PPF account of the appellant along with interest up to 31.03.2012 was released to the appellant without prejudice to the rights of the parties. Hence on 25.08.2015, the application of the appellant was disposed of by the learned Single Judge with a direction to release the amount lying in the PPF account of the appellant along with interest up to 31.03.2012. Hence, the only controversy which survived before the learned Single Judge was the interest on the amount from 31.03.2012 till release of the payment to the appellant.

8. The learned Single Judge noted that as per the rules, the appellant was not entitled to extension of the PPF account and being bound by the rules, he could not seek benefit of interest. As the rules prohibit the continuance of the Scheme, the court concluded that this court could not award interest contrary to the rules.

9. We have heard the learned counsel for the parties and perused the record.

10. The Public Provident Fund Scheme is governed by the Public Provident Fund Act, 1968. Section 3 and 12 of the Act reads as follows:

"3. Public Provident Fund Scheme.-

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Public Provident Fund Scheme for the establishment of a provident fund for the general public and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme.

(2) Subject to the provisions of this Act, the Scheme may provide for all or any of the matters specified in the Schedule.

(3) The Scheme shall have effect notwithstanding anything contained in any law for the time being in force other than this Act or in any instrument having effect by virtue of any law other than this Act.

(4) The Central Government may, from time to time, by notification in the Official Gazette, add to, amend or vary the Scheme. xxx

12. Scheme to be laid before Parliament-

The Scheme shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any provision of the Scheme, or both Houses agree that any provision in the Scheme should not be made, the provision of Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision."

11. The PPF Scheme has been framed in exercise of powers under Section 3 of

the Act. The Scheme is statutory in nature. The scheme was amended by Gazette notification dated 25.07.2003, relevant portion of which reads as follows:-

"2. In the Public Provident Fund Scheme, 1968, in paragraph 3, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

"(3) Non-Resident Indians (NRIs) are not eligible to open an account under the Public Provident Fund Scheme:

Provided that if a resident who subsequently becomes NRI during the currency of maturity period prescribed under Public Provident Fund Scheme, may continue to subscribe to the Fund till its maturity on a non-repatriation basis."

12. Hence, with effect from 2003, the appellant became ineligible to open a PPF account. In 2007 when his account matured, the Bank had wrongly and contrary to the PPF Scheme extended the period of the scheme for a term of five years up to 2012 and subsequently, in 2012 also had wrongly extended the scheme but stopped operations in 2013. In any case, the Bank has acted fairly and returned the entire amount with interest up to 31.03.2012 i.e. up to the expiry of the first extension of the account.

13. Regarding interest after 31.03.2012, learned counsel for the appellant has not been able to cite any provision to claim interest. At best a claim may have been made under principles of unjust enrichment which finds recognition in Section 70 of the Indian Contract Act. However, Section 3 of the PPF Act states that the Scheme will have effect notwithstanding anything contained in any law for the time being in force other than the Act.

Accordingly, the Contract Act would not help the case of the appellant. Therefore, the appellant cannot claim interest for the period as sought in as much as the extension of the Scheme beyond 31.03.2012 was illegal being contrary to the statutory scheme.

14. Even otherwise the appellant cannot escape the fact that he has himself been depositing amounts in the PPF Account contrary to the statutory scheme. It is settled legal position that ignorance of law can be no excuse. [Ref: The Swadeshi Cotton Mills Co. Ltd. v. The Government of U.P. & Ors., (1975) 4 SCC 378 and Bharat Electronics Ltd. v. Dy. Commissioner of Commercial Taxes (Assets) & Anr., (2005) 4 SCC 295]. Hence, the appellant cannot turn around and seek payment of interest for acts done contrary to the statutory scheme.

15. We see no merit in the present appeal and the same is dismissed.