(2010) 05 DEL CK 0175

In the Delhi High Court

Case No : WP (C) No. 3034 of 2010

Ramesh Chander APPELLANT

Vs

DTC RESPONDENT

Date of Decision : 05-05-2010

Acts Referred:

Citation : (2010) 05 DEL CK 0175

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : Anil Mittal, for the Appellant; Sarfaraz Khan, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner, who is a retired employee of DTC has impugned the order dated 15th January, 2010 passed by the Central Administrative Tribunal, Principal Bench in OA No. 1330/2009 titled as Ramesh Chander Vs. DTC, dismissing his Original Application seeking quashing of order dated 8th October, 2003 and 9th August, 2007.

2. The petitioner had retired from service of the respondent on 30th June, 2000 and by letter dated 22nd August, 2000, the Provident Fund amount payable to the petitioner was cleared after adjusting the amount which the respondent had to deduct from his provident fund except the loan amount of Rs.40,000/- which was availed by the petitioner. Since, the petitioner had opted for pension scheme by letter dated 4th December, 2000, the other unpaid dues of the petitioner such as bonus, increase in rate of DA etc. were also granted to him on 3rd July, 2001.

3. Though, the respondent had taken a loan of Rs. 40,000/- from his provident fund, however, that amount was not deducted while clearing the provident fund amount, which was paid to him by letter dated 22nd August, 2000. The respondents, therefore, demanded refund of amount of Rs. 40,000/- by communication dated 14th October, 2003. Since, that amount of Rs. 40,000/-, which was taken as loan was to be deducted from his provident fund amount,

which was not deducted and was utilized by the petitioner, Interest on the said amount was also claimed.

4. The petitioner did not pay the loan amount of Rs. 40,000/ with interest in lump sum and offered to pay the amount of loan only in installment but without interest, which was not agreed to by the respondent and consequently, the amount was started to be deducted from the pension of the petitioner which was challenged by the petitioner by filing an Original Application before the Tribunal which has been dismissed by order dated 15th January, 2010 which is impugned before this Court.

5. The Tribunal relied on the fact that the petitioner was unable to disclose any reason as to why the loan amount of Rs. 40,000/- was not refunded even in 2003, when the demand was made. It was also relied on by the Tribunal that the petitioner had retired in 2000 and in August, 2000, the amount of provident fund was given to him without deducting the loan amount of Rs. 40,000/-. The Tribunal also noticed that on the amount, which was credited in the provident fund account of the petitioner, the interest was paid by the respondent. Though, the discrepancy was detected and communicated to the petitioner in 2003, however, he failed to pay the loan amount and interest thereon.

6. Since, the aforesaid loan amount has been used by the petitioner from 2000, the Tribunal has held that he is also liable to pay interest on delayed payment and the decision of the authorities to charge interest from the petitioner cannot be faulted. The learned counsel for the petitioner has very emphatically contended that the petitioner was not aware of non deduction loan amount from his provident fund amount on his retirement. This, however, cannot be believed in the present facts and circumstances.

7. The amount of Rs. 40,000/- taken as a loan was not refundable and was to be adjusted from his provident fund amount. Even if, the petitioner was not aware of not deducting the amount of non-refundable loan, the fact that this amount has been utilized by the petitioner from August, 2000 cannot be denied. If the petitioner has utilized the amount of Rs. 40,000/-, he is liable to pay the interest. Had the petitioner paid the amount of Rs. 40,000/- in 2003 which was demanded after the mistake was detected, which amount was not deducted in year 2000, the plea of non-payment of interest on the said amount in year 2003 could be considered. However, even till the time the amount is adjusted in installment from his pension, the amount was not paid by the petitioner and was utilized by him and in the circumstances, the petitioner cannot contend that he is not liable to pay interest on the amount of loan which was availed by him and has been utilized.

8. For the foregoing reasons, we do not find any illegality or irregularity or any perversity in the order of the Tribunal so as to interfere with the order of Tribunal impugned in this writ petition. The writ petition is therefore, without any merit and it is, therefore, dismissed.

