
(2014) 12 RAJ CK 0066
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6139/2007

Teja Ram

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Citation : (2014) 12 RAJ CK 0066

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Vijay Mehta, Advocate for the Appellant; K.D. Singh, Advocate for the Respondent

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner has prayed that the respondents be directed to make payment to the petitioner or to deposit the CPF/GPF contribution deducted from his account which they have wrongfully withheld from October, 1983 to December, 1992 and also to make payment of interest accrued thereon to the tune of Rs. 21,430/- for the period 7.8.93 to 31.7.2007.

2. The respondents have filed a reply claiming that the petitioner was required to submit a bond on a non judicial stamp and thereafter only, the amount could be paid to him. They claim that as the petitioner did not submit the requisite bond a non judicial stamp despite several reminders, he is not entitled to claim any interest whatever as his claim was time barred. It is alleged in the reply that the petitioner submitted the bond in the year 2011 i.e. after a delay of more than 18 years and as such he is not entitled to claim any interest.

3. Counsel for the petitioner submits that the respondents wrongfully and unjustly withheld the petitioner's CPF/GPF contribution over a long period of time and the petitioner is entitled to get his CPF/GPF contribution amounting to Rs. 8153/- along with interest accrued thereupon till the date of realisation.

4. Counsel for the respondent submits that in view of Rule 100(2) of the General

Finance & Accounts Rules, it is required that whenever any belated claim for payment is made against the Government, the claim cannot be satisfied unless the claimant files a bond on a non judicial stamp. He submits that as the petitioner himself delayed submitting the bond despite repeated reminders, the respondents are not liable to make payment of interest.

5. I have heard learned counsel for the parties and perused the material on record. I have also gone through the conditions prescribed in the aforesaid clause of General Finance and Accounts Rules. Depositing the CPF/GPF contributions in the account of the employee is the obligation of the employer. The employee cannot be caused monetary loss due to the lethargy on part of the employer in depositing such amount in the employee's account. If any delay is caused, then as a consequence, the said amount would carry interest. Admittedly, in the case at hand, the CPF/GPF amount was deposited after a delay of five years. As such the respondents are not entitled even to contest the petitioner's claim for the loss caused to him on account of the delay solely caused at their end. As a matter of fact, the respondents should have identified the concerned officer who was responsible for causing the delay and should have held him personally liable to make payment of the amount due to the petitioner. Rule 100 Sub-clause 2 of the G.F. & Accounts Rules, which is relied upon by the counsel for the respondent as it then stood is reproduced hereinbelow for the sake of convenience:-

6. On a bare perusal of the above Rule, it is evident that the Rule is of no avail to the respondents whatsoever.

7. There is a specific exception set out in the Rule itself wherein it has been specified that this rule would not apply to the claims pursuant to the pension or to satisfy claims covered by specific rules or under the orders of the Government. The CPF/GPF contributions deducted from an employee's salary are governed by the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short hereinafter the Act of 1952) and consequently, it is obvious that the exception would come into play and there would be need of submitting the bond when reimbursement of such amount is claimed.

8. The petitioner has claimed that the respondents wrongfully and unjustly withheld his CPF/GPF amount and thus he is entitled to claim the amount alongwith interest.

9. Depositing the contributions towards CPF/GPF is the obligation of the employee under the statute. Thus, obviously the prayer for reimbursement of such contributions upon retirement would be covered by the exception. The hyper technical approach of the respondents in insisting that the petitioner should file a bond so that the amount should be deposited in his account is also highly arbitrary. Despite that the petitioner's case is, that no sooner respondents intimated him to file the bond, he submitted bond with them immediately thereafter. The deductions made from an employee's salary towards CPF/GPF

contributions are deposited in his CPF/GPF account and carry specified rates of interest prescribed by the Government from time to time. Therefore, as soon as the amount is deposited in the account of the employee the interest would generate thereupon. Had the contribution been deposited in the petitioner's CPF/GPF account timely it would have started earning interest as per the provisions of the Act of 1952. Thus, the failure to deposit the CPF/GPF contribution of the employee in his account has caused undue unwarranted loss to him and he would be entitled to receive interest on the amount as per the prevalent rates prescribed by the Government on the CPF/GPF accounts for the relevant period.

10. Consequently, the writ petition deserves to be and is hereby allowed. The respondents are directed to deposit the amount of Rs. 8153/- in the CPF/GPF account and to calculate the interest thereupon at the prevalent rates and in the manner specified for calculating interest on the CPF/GPF contribution as per the relevant rules from the date of accrual till the date of realization within a period of four weeks from the date of receipt of copy of this order. If the amount is not paid within the aforesaid period of four weeks, it shall carry an interest @ 18% for the delay caused thereafter.

11. No order as to costs.