

Court No. - 49**Reserved****Case :-** WRIT - A No. - 9936 of 2024**Petitioner :-** Smt. Urmila Sharma**Respondent :-** State of U.P. and others**Counsel for Petitioner :-** Mr. Manoj Kumar Dubey, Advocate**Counsel for Respondent :-** C.S.C.**Hon'ble J.J. Munir,J.**

1. This writ petition, in substance, prays that a *mandamus* be issued to the respondents to pay the petitioner's balance G.P.F., a part of which has been paid to the petitioner.

2. The petitioner, Smt. Urmila Sharma, was appointed as an Auxiliary Nurse Midwife with a Community Health Centre on 20.08.1981. She was promoted to the post of a Health Visitor in the year 2012 and retired as such on 31.08.2016, upon attaining the age of superannuation. The petitioner has instituted the petition with a case that since her retirement, she had not been paid a single *paisa* towards her G.P.F., though she had approached the District Magistrate, Ghaziabad, the Chief Medical Officer, Ghaziabad and the Medical Superintendent, Community Health Centre, Murad Nagar, Ghaziabad, a number of times over in this regard. It is next averred in the writ petition that after her retirement, the petitioner and her husband represented her cause on 14.09.2022, 25.02.2023 and 20.05.2024 to the Chief Medical Officer and the Medical Superintendent of the C.H.C. last mentioned, but to no avail. The petitioner further says in the writ petition that from the year 2016, she went about the office of the Chief Medical Officer, Ghaziabad and the District Magistrate, Ghaziabad, but both the competent Authorities did not pay heed to the petitioner's request and turned a deaf ear.

3. The petitioner was employed in the establishment of the Chief Medical Officer, Ghaziabad, who is a district level officer, serving under the Department of the Medical Health and Family Welfare, Government of Uttar Pradesh, Lucknow. It must be remarked at the outset that this Court fails to understand why the petitioner approached the District Magistrate, Ghaziabad for the redressal of her grievance. The Chief Medical Officer of the district is not part of the District Magistrate's establishment or subordinate to him in any manner. The ill-advised resort to the District Magistrates by the citizens, relating to independent functionaries of the State or Departments, where this Magistrate has no role, creates uncalled for complications. More often than not the District Magistrate is tempted to usurp jurisdiction in matters, where he has none, and direct independent district level officials, over whom he has no control. The practice amongst citizens of reporting or complaining to the District Magistrate, irrespective of the fact whether he is competent to hear that complaint, must be discouraged, if not deprecated.

4. The petitioner goes on to allege that she was not paid her G.P.F., because a number of pages from her G.P.F. Passbook were removed by a clerk in the establishment of the Medical Superintendent, C.H.C. Murad Nagar (now posted at Moradabad), called Ravindra Babu. It was in these circumstances that when this petition came up for admission on 19.07.2024, we issued a notice in terms that the Chief Medical Officer shall file his own affidavit, showing cause why the petitioner's G.P.F. has not been paid. On 05.08.2024, when the matter came up again, there was no personal affidavit by the Chief Medical Officer, but instructions alone furnished to the learned Standing Counsel. We then directed the Chief Medical

Officer to file his personal affidavit, warning him of the consequences of non-compliance. On 12.08.2024, a compliance affidavit was filed on behalf of respondent Nos.2, 3 and 4 by the Medical Officer, Community Health Centre, Murad Nagar, Ghaziabad, but not the Chief Medical Officer. This affidavit, on behalf of respondent Nos.2, 3 and 4, reported the payment of a sum of Rs.2,64,817/- to the petitioner and a further sum of Rs.81,539/- on 01.05.2024 and 08.08.2024, respectively. This Court then made the following order on 21.08.2024:

“A personal affidavit/affidavit of compliance has been filed by Akhilesh Mohan, Chief Medical Officer, Ghaziabad today in Court. It is taken on record.

There is a serious dispute raised by the petitioner about the quantum of GPF credited to the petitioner's GPF account. A sum of Rs. 2,64,817/- was credited to his Bank account on 01.05.2024, whereas a further sum of Rs. 81,539/- has been credited on 08.08.2024 after our last order dated 05.08.2024.

Learned Counsel for the petitioner states that the petitioner retired from the position of something mysteriously described by an abbreviation as 'H.B.' in the writ petition. She was an Auxiliary Nurse Midwife from 20.08.1981 and promoted to that inexplicable position of H.B. in the year 2012 and retired on 31.08.2016. The submission of learned Counsel for the petitioner, on instruction received, is that the petitioner has been cheated of her PF dues inasmuch, as according to the petitioner there is far greater credit than what has been paid to the petitioner towards GPF.

Since the respondents are the Establishment and hold all PF documents, let the complete PF accounts relating to the petitioner be produced in Court in original by a responsible officer in the office of the Chief Medical Officer, Ghaziabad dealing with accounts duly instructed to explain matters in Court. The papers relating to the PF accounts of the petitioner shall be produced before the Court by the instructed official appearing in person on 28.08.2024.

*Lay this matter as **fresh** on 28.08.2024 at 02:00 p.m.*

*Let this order be communicated to the Chief Medical Officer, Ghaziabad through the Chief Judicial Magistrate, Ghaziabad by the Registrar (Compliance) **within 24 hours.**”*

5. It was in response to the last order dated 21.08.2024 that a personal affidavit was filed by the Chief Medical Officer,

Ghaziabad. The stand taken in the personal affidavit filed by the Chief Medical Officer, quoted for every word of it, that is material, reads:

"5. That the brief facts of the case are that after attaining the age of superannuation on 31.07.2016 the petitioner was retired. In regards to the claim of G.P.F. it is submitted a copy of G.P.F. Milan-Patra dated 19.10.2022 was received in the office of Respondent no. 3, on which the petitioner filed objection on 14.12.2022 before the respondent no. 3/ Chief Medical Officer, Ghaziabad, in pursuance of the said objection the respondent no. 3 forwarded all the relevant documents along with G.P.F. passbook before the officer of Auditor General at Prayagraj on 25.02.2023 for tally of the correct entries in the G.P.F. pass-book of the petitioner. True copy of the G.P.F. Milan-Patra dated 19.10.2022, objection of the petitioner dated 14.12.2022 as well as the forwarding letter dated 25.02.2023 are being collectively filed herewith and marked as **Annexure No. 4** to this affidavit.

6. That by order dated 21.12.2023 the respondent no. 3 / Chief Medical Officer, Ghaziabad sanctioned an amount of Rs. 2,64,817/- (Two lacs sixty four thousand eight hundred seventeen) as final amount for payment of G.P.F. of the petitioner. The aforesaid G.P.F. amount of Rs. 2,64,817/- credited in the account of the petitioner through UTR No. RB11232446268475 on 01.05.2024. A true copy of the sanction order dated 21.12.2023 as well as the receipt of payment dated 01.05.2024 are being collectively filed herewith and marked as **Annexure No. 5** to this affidavit.

7. That by letter dated 05.08.2024 issued from the office of Senior Finance and Account Officer, Directorate of Family Welfare at Lucknow, it is communicated that as per the G.P.F. passbook of the petitioner. That 90% of total outstanding amount i.e. Rs. 81,539/- is also sanctioned for payment and a recommendation for the payment of the said amount is also forwarded before the concerned office. It is also requested from the office of the Auditor General, Allahabad that the remaining 10% amount of G.P.F. of the petitioner may also be credited in the account of petitioner. A true copy of letter dated 05.08.2024 is being filed herewith and marked as **Annexure No. - 6** to this affidavit.

8. That on 08.08.2024 an amount of Rs. 81,539/- credited in the account of petitioner / Urmila Sharma through UTR No. RBI2222441476395. A true being filed herewith and marked as copy of the receipt dated 08.08.2024 **Annexure No. 7** to this affidavit.

9. That the deponent by the letter dated 09.08.2024 again requested from the Mahalekahkar, Lekha ewam Hakdari-(Second), Prayagraj Uttar Pradesh for the payment of 10% remaining G.P.F. of the petitioner. A true copy of the letter dated 09.08.2024 is is being filed herewith and marked as **Annexure No. - 8** to this affidavit.

10. That in the said circumstances in compliance of the order dated 19.07.2024 and 05.08.2024 the entire G.P.F. amount payable on the part of answering respondents credited in the account of the petitioner."

6. On 31.08.2024, when the writ petition came up for admission, the original records, relating to the petitioner's Provident Fund, were laid before the Court and duly perused. On the said date, the parties having exchanged affidavits, the writ petition was admitted to hearing, which proceeded forthwith. Judgment was reserved.

7. Heard learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

8. The records were produced before the Court by Mukesh Saxena, an Administrative Officer in the establishment of the Chief Medical Officer, Ghaziabad, through a memo dated 27.08.2024. All the records, except the Passbook for the petitioner's G.P.F. Account while she was a Class-IV employee, that were produced by the learned Standing Counsel for this Court's perusal, though described as records in original and forwarded by hand through Mukesh Saxena, are xerox copies; not originals. The xerox copies have been authenticated by some officer in the office of the Chief Medical Officer, Ghaziabad, who is the Drawing and Disbursing Officer. This

Court must, therefore, record the fact that most of the record, that has been placed before us, is not the original at all. For some reason, that cannot be regarded as *bona fide*, the Chief Medical Officer has kept back the original records relating to the petitioner's G.P.F. from this Court. Our orders made on 21.08.2024 were as clear as mirror about the fact that the respondents had to produce before us the complete P.F. Accounts related papers for the petitioner in original through a responsible officer in the office of the Chief Medical Officer, Ghaziabad. There is no escape from the conclusion that the Chief Medical Officer has deliberately withheld from this Court's scrutiny the original records relating to the petitioner's P.F. Our suspicion about the intent of the Chief Medical Officer, Ghaziabad in holding back information from the Court is all the more strengthened by the fact that the written instructions dated 27.08.2024, produced before us by the learned Standing Counsel, say:

"अतः मा० उच्च न्यायालय में प्रस्तुत उक्त वाद में आदेश दिनांक 21.08.2024 के अनुपालन में कार्यालय मुख्य चिकित्सा अधिकारी गाजियाबाद से श्री मुकेश सक्सेना प्रशासनिक अधिकारी मूल दस्तावेज के साथ आपके एवं न्यायालय के समक्ष मूल अभिलेख को प्रस्तुत करना सुनिश्चित करें, एवं मा० न्यायालय को मूल पत्रावली से संतुष्ट कराने का कष्ट करें।"

(emphasis by Court)

9. The fact that though through the instructions the Chief Medical Officer, Ghaziabad informed the Chief Standing Counsel, that he is forwarding papers in original relating to the petitioner in compliance with the orders of this Court, yet what was produced before us, are but photostat copies of documents, attested by the Drawing and Disbursing Officer in the office of the Chief Medical Officer, Ghaziabad is very reprehensible conduct of the Chief Medical Officer. Surely, a government servant would understand the difference between

the original and an authenticated copy of original.

10. The P.F. Passbook, that has been produced, relates to the petitioner's service, when she was a Group-D employee and that service-book is a duplicate book; not the original. The case of the petitioner that some pages from her G.P.F. Passbook were removed by a clerk, called Ravindra Babu, gains credit by the fact that for the longer period of the petitioner's service in Group-D, a duplicate of her G.P.F. Passbook has been produced and not the original. In what circumstances, the original was lost, is not much known or explained to the Court's satisfaction. A duplicate service-book for the period of the petitioner's service as a Group-D employee, bearing Account No. M-43, has apparently been posted on the basis of some ledger. The passbook records deposits of G.P.F. for the financial years 1982-83 successively until the financial year 2020-21.

11. Apparently, the petitioner was promoted to Group-C service during the financial year 2012-13. The other copies of records, that have been produced, show that a different P.F. Account number was assigned to the petitioner, once she was promoted to Group-C, being G.P.F. Account No. PHU-406070. Nevertheless, it is all mystery why entries of G.P.F. deposit/ withdrawal right up to the financial year 2022-23 have been made in the duplicate service-book, relating to G.P.F. Account No. M-43 of C.H.C. Murad Nagar. The petitioner admittedly retired on 31.08.2016 during the financial year 2016-17, but the respondents have continued to hold back the petitioner's G.P.F. after retirement for no good cause. It is also noticed from a perusal of the duplicate G.P.F. Account that it has been posted, as it must be, in a single hand, may be on the same day, by the Medical Officer, C.H.C., Murad Nagar on the basis of ledger entries. Two pages for each financial year in the account book,

commencing 1st April and ending 31st March, bear reference to a ledger folio. Apparently, this book has been posted drawing information from a G.P.F. Ledger maintained for each employee, including the petitioner. Nevertheless, the ledger folio number has not been mentioned in the duplicate book. All of this makes the entries in the duplicate G.P.F. passbook utterly suspicious and unreliable.

12. It would be noticed that two G.P.F. accounts were in operation for the petitioner i.e. M-43 relating to Group-D cadre and PHU-406070 for the Group-C simultaneously. Sound practice would require the subscriber's balance in his old G.P.F. Account i.e. M-43 relating to Group-D service to be transferred to the new G.P.F. Account i.e. PHU-406070. It is not clear if the respondents have done this, because the duplicate passbook does not disclose transfer to the new account relating to Group-C service, assigning a separate number for it, or may be a separate passbook. A perusal of the duplicate G.P.F. passbook and other papers show that a sum of Rs.2,64,817/- had been paid to the petitioner on 01.05.2024 with interest, whereas interest would be payable on the G.P.F. for the Group-D service up to 30th April, 2024, as the said sum of money was credited to the petitioner's account on 01.05.2024. Interest would, thus, be payable on the outstanding G.P.F. for the Group-D service up to 30.04.2024 and not merely 30th September, 2023.

13. The petitioner had availed a loan or drawn an advance from her G.P.F. Account in the sums of Rs.2800/- and Rs.5000/- during the financial years 1994-95 and 1995-96, that is to say, from her G.P.F. Account No. M-43, but both the sums of money withdrawn are not posted in the respective financial years, showing the date of withdrawal. There is nothing to show the date of sanction for the advance/ loan or the date when it was

withdrawn. In the absence of those dates, calculation of accurate interest would suffer. The respondents have deducted both the withdrawals from the total dues payable in G.P.F. Account No. M-43. Turning to G.P.F. Account No. PHU-406070, relating to Group-C service, the respondents have computed the final sum payable as a figure of Rs.90,599/- with interest up to the month of August, 2016. They have paid 90% of the said sum of money towards the petitioner's G.P.F. due on account of her Group-C service. The aforesaid payment has been directed by the Additional Director, Department of the Medical Health and Family Welfare, Meerut Zone, Meerut *vide* his memo dated 06.08.2024. It directs payment of a sum of Rs.81,539/-, leaving 10% for the Accountant General to reconcile.

14. There is a letter from the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj dated 19.10.2022, addressed to the Chief Medical Officer, Ghaziabad. It does not appear that the said letter has been taken into account by the respondents. The payment of G.P.F., relating to the Group-C service, has been made by the respondents based on the letter of the Additional Director, Department of the Medical Health and Family Welfare, Meerut Zone, Meerut with interest up to the month of August, 2016. Interest ought have been paid upon the 90% of P.F., that was paid to the petitioner on 08.08.2024, due until that date. Ten percent of the total G.P.F. payable to the petitioner is still retained for reconciliation by the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj relating to Group-C service. The Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj is the Authority to reconcile the balance payable for the petitioner's Group-C service. Ten percent of the petitioner's provident fund relating to the Group-C service has not been paid pending reconciliation by the

Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj.

15. In the considered opinion of the Court, though the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj might not be concerned with the Group-D service, this is a matter where there is too much of suspicion about the maintenance of the petitioner's account and withholding of her dues. The original G.P.F. Passbook has been lost and a clerk has been blamed for removing pages thereof. The duplicate passbook, that has been constructed and sent to this Court by the respondents, also seems to be irregularly maintained, the discrepancies therein being pointed out earlier in this judgment. Moreover, the interest payable on the G.P.F. paid to the petitioner, both for her Group-D and C service, way beyond her retirement, is to be paid together with interest, which we think in this case should be 9% *per annum* simple, from the date that it became payable until the date of actual payment. Whatever is in balance towards the petitioner's G.P.F., for whichever reason, should carry interest at the rate of 9% *per annum* simple when the balance is paid. But, before all this is done, the records relating to the petitioner's G.P.F. ought be produced by the respondents before the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj and the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj shall be under a command of the Court to carefully scrutinize the entire original records, including the issue of loss of the original G.P.F. Passbook for the petitioner's Group-D service and finally determine the total G.P.F. payable to the petitioner. The Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj shall be responsible for certifying the total sum of money payable to the petitioner, which the respondents shall

make good together with 9% interest simple on what is due, reckoned from the date when the relative sum of money became payable until actual payment of the sum due or the balance due. The determination of the aforesaid sum of money shall be done together by the Chief Medical Officer, Ghaziabad, the Medical Superintendent, Community Health Centre, Murad Nagar, Ghaziabad and the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj within a period of two months from the date of communication of this order to the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj, the Chief Medical Officer, Ghaziabad and the Medical Superintendent, Community Health Centre, Murad Nagar, Ghaziabad.

16. This writ petition is **allowed in part** in terms of the aforesaid orders. The respondents (not the Accountant General) shall pay the petitioner a sum of Rs.10,000/- in costs.

17. Let a copy of this order be communicated to the Accountant General (Accounts and Entitlement)-II, U.P., Prayagraj, the Chief Medical Officer, Ghaziabad and the Medical Superintendent, Community Health Centre, Murad Nagar, Ghaziabad by the Registrar (Compliance).

18. Let the original record be returned forthwith to the learned Standing Counsel for its onward transmission to the respondents concerned.

Order Date :- 24.2.2025
Anoop

(J.J. Munir)
Judge