HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.384 of 2003

ORDER:

This writ petition is filed to declare the inaction of respondents in not releasing CPF contributions along with interest upto 31.03.2002 amounting to Rs.49,945/- is illegal, arbitrary, unconstitutional and consequently direct respondents to forthwith release the CPF contributions along with interest calculated upto 31.03.2002 amounting to Rs.49,945/- besides directing respondents to pay subsequent interest at 24% per annum till realization.

2. Petitioner herein retired as Superintending Surveyor of Works in a Military Engineering Service (MES). He contended that he joined MES as Surveyor Assistant Grade-I on 08.04.1963 and deputed to serve Engineering Projects (India) Limited at Kuwait from February 1979 to 30.01.1981 and as per the existing rules Contributory Provident Fund (CPF) was recovered from his salary during the said period and the amounts so recovered were transferred to the Head Office i.e., Engineering Projects (India) Limited, New Delhi, for credit to his G.P.F. account being maintained. However, the amounts so recovered amounting to Rs.2,300/- during the period he was on deputation along with the CPF contributions of the Engineering Projects, New Delhi, i.e., respondent No.4, has neither transferred to his parent department nor paid along with the GPF contributions at the time of his retirement on superannuation on 31.12.2000. According to petitioner, he has taken up the matter with respondent No.2 and EPF Trust Authorities through representation dated 23.12.2000, 27.01.2001, 29.01.2002 and finally through letter dated 05.02.2002 and again by representation dated 03.06.2002, but he was not granted the relief in spite of his representations. According to petitioner, he is entitled to Rs.49,945/- with interest and as respondents are keeping silence over the matter, he has no other remedy except to approach this Court to give a Mandamus declaring

the inaction of respondents in not releasing the contributions and other CPF contributions along with interest calculated upto 31.03.2002 amounting to Rs.49,945/- is illegal, arbitrary and unconstitutional.

3. Respondent Nos.1 to 3 filed counter disputing the affidavit averments of petitioner and according to counter, petitioner did not take any follow up action while he was on deputation. It is contended that Provident Fund of the MES is maintained by the Joint Controller Defence Accounts (Funds), Meerut (JCDA (F), Meerut) and they always issues yearly GPF account statement. It is further contended that petitioner ought to have pointed out if there is any discrepancy in the statement or if the Provident Fund was not credited to his account but without raising objection and sleeping over the matter for 20 years amounts to latches. It is contended that petitioner alone is responsible for not pointing out any discrepancy during his service career and if the Employees Provident Fund Trust had transferred the PF account of petitioner to the account maintained by JCDA (F), Meerut, the amount could have been paid immediately on retirement. Respndent Nos.1 to 3 are nothing to do with the claim of petitioner and writ petition has to be dismissed against these respondents.

4. Respondent Nos.4 and 5 have not filed any counter.

5. Heard arguments.

6. Advocate for petitioner contended that petitioner was not paid his GPF amounting to Rs.49,945/- in spite of repeated representations and there is no response from the respondents with regard to payment of GPF contributions and therefore, respondents may be directed to pay Rs.49,945/- with interest at 12% p.a.

7. On the other hand, advocate for respondent Nos.1 to 3 submitted that writ petition is not maintainable because if the contributions towards GPF and CPF are not paid, the remedy of petitioner is to file appropriate proceedings for recovery, but he cannot invoke the writ jurisdiction.

8. Now the point that would arise for my consideration is :

Whether petitioner is entitled for the relief claimed?

POINT :

9. According to petitioner, he contributed at the rate of Rs.100/- per month while he was on deputation at Kuwait and his employer i.e., MES has to contribute CPF as per rules and the amount paid towards GPF while he was on deputation is not credited to his account and that amount was not paid at the time of his superannuation. According to petitioner, in spite of his repeated representations no amount is paid, therefore, he is compelled to approach this Court. As seen from the material filed along with writ petition, petitioner submitted all his representations to 2nd respondent i.e., Engineer-in-Chief, Army Headquarters, New Delhi, contending that GPF contributions are not properly credited. As rightly pointed out in the counter, every employee will be issued GPF account statement and any discrepancy in the statement, the employee is entitled to raise objection and bring it to the notice of the employer as to the non credit of GPF contributions. There is no answer from the petitioner with regard to the statements received by him for his GPF contributions, the complaint of the petitioner with regard to missing of credits, is of the year 1979 to 1981 and all his representations are from 2000 onwards i.e., nearly 19 years after the alleged discrepancy to his GPF credits. There is no explanation from petitioner as to why he has not pointed out the discrepancy while he was in service though he was expected to raise objection as to the correctness of entries in the GPF account statement. There is no whisper in the affidavit filed in support of the petition with regard to receipt of yearly GPF slips showing the balance amount and contributions of that year. The petitioner himself is responsible for not pointing out the discrepancy of his GPF contributions/missing credits while he was in service and he started giving representations only after his retirement. On a scrutiny of the entire material, I am of the view that petitioner failed to make out any case to show that the action of respondents is illegal,

arbitrary, unconstitutional and contrary to the principles of natural justice. On the other hand, the material on record would show that there are latches on the part of petitioner. He has not explained delay of nearly 20 years for not taking any steps for the missing credits in the GPF, therefore, petitioner is not entitled for the relief claimed.

10. Accordingly, this writ petition is dismissed.

11. Miscellaneous Petitions, if any, shall stand dismissed. No costs.

S. RAVI KUMAR, J

29th January 2016.

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