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HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 155 of 1999

P.K.Damodaran, S/o Krishnan, aged 60 years, Retd. Sub Engineer, R/o Frezarpur, Jagdalpur

---- Petitioner

Versus

1. The State of C.G. through : The Secretary, Public Administration, Mantralaya Raipur
2. Municipal Corporation Jagdalpur, through :Commissioner, Jagdalpur
3. Nagar Panchayat Sakti through :Chief Municipal Officer, Sakti Bilaspur
4. Accountant General AGMP Gwalior

---- Respondents

For Petitioner	:	Shri Harshal Chouhan, Advocate,
For State/Res. No.1	:	Shri Satish Gupta, Govt. Advocate
For Corporation/Res. No.2	:	Shri Sourabh Sharma, Advocate
For Corporation/Res. No.3	:	Shri Shobhit Koshta, Advocate under instructions from Shri Vishnu Koshta, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/08/2017

Heard.

1. The dispute arising in this petition, raised at the instance of retired employee, is with regard to payment of GPF from the GPF account of the petitioner maintained in various Municipalities where the petitioner remained posted from time to time during his service.

2. The facts which are borne out from the records of the case are that the petitioner was initially appointed in the year 1958 as Overseer in the

Municipal Council Sakti. In the year 1969, he was transferred to Municipal Council Jagdalpur. From Jagdalpur, he was transferred to Municipal Council Kanker and finally, while he was continuing in service at Kanker as Sub Engineer, he retired on 30.4.1996.

Though there is no dispute with regard to amount payable to the petitioner by the Municipal Council Kanker, the petitioner raised a grievance that whatever has been paid to him from the GPF A/c maintained at Sakti and Jagdalpur council, is less than what the petitioner is entitled to.

Upon retirement, the petitioner was paid Rs.17,984/- in the month of May 1996 and Rs.2398/- in 1997 by the Municipal Council, Jagdalpur towards full satisfaction of the GPF dues payable to the petitioner. Rs.1,852/- was paid to the petitioner from his GPF account maintained in Sakti.

The petitioner, however, disputed and claimed higher amount and when it was not paid to him, he filed this petition.

3. Learned counsel appearing for the petitioner submits that as per the calculation prepared by the petitioner, in respect of GPF payable to him from GPF A/c maintained in Nagar Palika/Nagar Panchayat Sakti, the petitioner was entitled to Rs.16101.85, against which, he has only been paid Rs.1852/-.

In so far as payment of GPF from GPF account maintained at the then Municipal Council Jagdalpur, learned counsel for the petitioner submits that he has been paid a total of Rs.20312/- whereas, the petitioner was entitled to Rs.36,128/-. In support of this contention, a chart of calculation (Annexure P-2) has been placed on record.

4. Learned counsel for the petitioner submitted that in the matter of General Provident Fund payable to the employees of Municipal Council, the rate of interest which are applicable to State Govt. employee are to be applied as required under Rule 24 of the MP/CG Municipal Employees (Recruitment and Condition of Service) Rules, 1968 (for short "*the Rules of 1968*"). He

submits that the petitioner has carried out the calculation of due payment to be made by Jagdalpur Municipal Council and Sakti Municipal Council by applying the rates which were applicable from time to time in the State Govt. services and granted to their employees.

5. In the present case, no return has been filed by Nagar Panchayat Sakti. However, Shri Shobhit Koshta, Advocate, submits that the calculations which have been submitted by the petitioner appears to be based on application of interest @18%, which is not correct. He submits that the payment has been made to the petitioner only after due calculation as per the applicable rates.

6. Learned counsel appearing for Municipal Corporation Jagdalpur, the then Municipal Council, Jagdalpur, submits that payment have been made to the petitioner only after due calculation in the matter and the rate of interest of 18% as claimed by the petitioner is not correct.

7. The only legal issue arising for consideration for this Court is as to what is the rate of interest applicable to an employee of the Municipal Council/Corporation. The answer to this question lies in Rule 24 of the Rules of 1968, which reads thus:

> "**24 Provident Fund** :-The Madhya Pradesh General Provident Fund Rules, as amended from time to time, shall apply to a Municipal Employee in same way as are applicable to a Govt. servant of similar status except in so far as they are not inconsistent with the provision of the Act, and these rules:
>
> [Provided that this rule will not apply to those Municipal employees who opt under proviso (c) of Rule 23 (2)]."

This Rule clearly provides that the rate of interest for GPF which are applicable for the State Govt. service will be applicable in Municipal Services also.

8. The difference in the calculation made by the petitioner and actual payment made by respondents with regard to amount payable under GPF A/c can be resolved only when the rates which are applicable in the Govt. service are made applicable in respect of the deduction made from the petitioner's salary and contribution made by the employer to the GPF account of the petitioner maintained in Nagar Panchayat/Municipal Council Sakti and Municipal Council/Corporation Jagdalpur, during the period the petitioner remained posted in these two local bodies. This would require a proper calculation to verify whether the petitioner has been paid two amounts of GPF at the proper rates applicable as per Rule 24 of the Rules of 1968.

9. Once it is held that the rates applicable in the case of the petitioner would be those which were applicable in the State Govt. services, the only other thing which is required to be made is to carry out calculation. This may be done only by the Accounts Department of the respective local bodies.

10. In these circumstances, this petition has to be disposed off with a direction to respondent No.2-Municipal Corporation Jagdalpur and Respondent No.3-Nagar Panchayat/Municipal Council Sakti to re-calculate the GPF amount of the petitioner by applying the rate of interest which were applicable from time to time as prescribed in Govt. service to the contribution made by the petitioner and employer in the GPF A/c for the period during which the petitioner remained posted in the respective local bodies.

11. This petition was filed way back in the year 1999 and has remained pending for all these years. What interest should be paid is now settled. The only thing would be to carry out appropriate calculation. Therefore, looking to the fact that the petitioner is an old aged employee, retired long back, the two local bodies/respondents No. 2 & 3 are directed to be sensitive enough to ensure that calculation are made at the earliest. Let copy of this order be produced by the petitioner before two local bodies. Thereafter, within a period of 60 days, fresh calculation on the basis of rate applicable as per Rule 24 of the Rules of 1968 shall be applied and the amount due and

payable would be arrived at. If the amount arrived at is the same as has already been paid, no other payment would be required to be made. However, if any amount is found due and payable more than what has been already paid to the petitioner, the said amount shall be paid to the petitioner within next 60 days. The entire claim of the petitioner will be accordingly settled within a maximum period of 4 months and not beyond that. If any amount more that what has already been paid is found due and payable, the petitioner would be entitled to interest @10% from the date of actual payment. This view has already been taken by this Court in WPS No.5117 of 2005 decided on 18.1.2013 (*Bhikham Prasad Sharma Vs. Nagar Palika Parishad, Dhamtari and Anr.*).

12. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen