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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24th August, 2020

\+ **W.P.(C) 4880/2020 and CM APPL. 20159/2020, 20160/2020**

ANUSHREE JAIN ..... Petitioner

Through: Ms. Rajul Jain, Advocate (M: 9868224103).

versus

EPFO & ORS. ..... Respondents

Through: Mr. Abhik Mishra, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been held through video conferencing.

2. The Petitioner in this case has been forced to approach this Court by way of present writ petition, owing to the Respondents' callous attitude in not crediting the Petitioner's statutory dues under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter, '*EPF Act'*) to her Employee Provident Fund (hereinafter, '*EPF*') Account and not releasing the entire EPF amount available to her bank account.

3. The Petitioner was working since September, 2012 with M/s Genpact India/Respondent No. 4. Thereafter, she left the said employment and joined M/s Midland Credit Management India Pvt. Ltd. in May, 2014. On 13th April, 2015, she had submitted her claim for transferring her Provident Fund from her old EPF account to the new EPF account in terms of Section 17A of the EPF Act, 1952. Both the employers had approved the transfer of funds. However, in 2016, when she repeatedly checked the website of the

Provident Fund authorities and also called the help line number, she was informed that her former employer has not submitted the requested fund into the EPF account. She, thereafter, had to approach her previous employers, who then informed her that the amount was transferred way back in 2015 itself.

4. The Petitioner had, after 2016 moved on to working with KPMG Global Services Private Limited in February, 2017 and also proceeded to pursue an MBA at the University of Bremen, Germany, from September, 2018. She was again in need of funds and requested the Respondents to transfer the funds to her account. An online grievance was filed by the Petitioner on the website of Respondent No.1, to which she received an email confirming that the grievance had been forwarded to the concerned Grievance Officer. However, she did not get a satisfactory response to the said grievance. After the outbreak of the pandemic, she again filed an online grievance at the EPFO portal, requesting withdrawal and transfer of funds from her old PF account to new PF account. However, again the authorities took a stand that the transfer cannot be made as no funds have been received. Under these circumstances, she filed the present petition.

5. On 4th August, 2020, the status report was called from the authorities. The status report has now been filed and reveals a completely different scenario. As per the status report, the Respondents have explained that the PF Account of M/s Midland Credit Management Pvt. Ltd. is presently maintained in the Employees Provident Fund Organization (hereinafter '*EPFO*'), Regional Office, Delhi South. However, prior to the bifurcation of EPFO North, both the companies that the Petitioner worked in i.e. M/s Genpact and M/s Midland were handled by EPFO North itself. Since the

bifurcation of EPFO North, the Petitioner's EPF Account got transferred to EPFO South. After the writ petition was filed, the EPFO South contacted the EPFO North on 29th July, 2020 and it is now confirmed that the entire amount due to the Petitioner was lying un-reconciled in the cash book of EPFO North. The status report now confirms that the entire amount along with interest has been transferred to the Petitioner's EPF account in EPFO South. The said Status Report is extracted below:

> *"1. That M/s Genpact India (DLCPM0020846/00E/0115167) from where the PF accumulation of the Petitioner had to be transferred is maintained by Employees Provident Fund Organisation, Regional Office, Delhi North, Wazirpur, Delhi-110052 (hereinafter "EPFO North").*
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> *2. That M/s Midland Credit Management Pvt. Ltd. (DLCPM0031199/000/0004920) where the PF Accumulation of the Petitoner had to be credited is presently maintained at Employees Provident Fund Organisation, Regional Office, Delhi South, Dwarka, New Delhi (hereinafter "EPFO South").*
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> *3. That before the bifurcation of EPFO North into five Regional Offices both the accounts of M/s Genpat India and M/s Midland Credit Management Pvt. Ltd. was handled by EPFO North.*
>
> *4. that after the bifurcation of EPFO North the PF account of M/s Midland credit Management Pvt. Ltd. got transferred to EPFO South.*
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> *5. That after receiving a copy of the present writ petition for non-transfer of PF accumulation, EPFO South on 29.07.2020, contacted the EPFO North and it came to their knowledge that the past accumulation of the petitioner was lying unreconciled in cash book of EPFO North.*
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> *6. That PF accumulation with up to date interest transferred from EPFO North has been credited in*

the Petitioner's PF account of M/s Midland credit Management Pvt. Ltd. maintained at EPFO South.

7. That amount of Rs 1,71,482/-(Rs 1,23,833/- transfer in amount together with interest of Rs 47,649/-) has been credited in PF account no. DLCPM0031199/000/0004920. A copy of member ledger card is Annexed as Annexure-P-1. It is further pertinent to mention that the interest has been allowed for the period of 2018-2019 and at the time of withdrawal the up to date interest as applicable shall be allowed. If the Petitioner desires to withdraw the said PF balance, she may apply online by filing claim Form 19 and 10C.

8. That updation of Annual accounts is pending due to pandemic covid-19 and because of non-updation of Annual Accounts, online credit of transferred amount that is 1,71,482/- and Rs. 47,649/- (interest) is not reflecting in the Passbook of the Petitioner member.

9. That the delay in transfer of the fund was due to bifurcation of EPFO North into five Regional Offices which took considerable time for transferring huge and bulky records from one region to another."

6. Upon these amounts having been credited, a fresh application has now been moved by the Petitioner, being CM APPL. 20159/2020, wherein the Petitioner states that, in order to get the amount transferred to her bank account, she repeatedly went online and submitted the relevant forms. However, she encountered huge difficulties because it was insisted upon by the EPF Authorities that her Aadhar Card ought to be connected to her mobile number in order to obtain a One Time Password i.e. OTP. Since the Petitioner, is in Germany, she cannot receive an OTP and hence the amount has not been credited in her bank account till date.

7. Ms. Rajul Jain, ld. counsel appearing for the Petitioner submits that the interest for the year 2019-20 period has also not been credited to the Petitioner's account.

8. Mr. Mishra, ld. counsel for the Respondents now submits that the Petitioner should submit a further form, give her Pan Card, Aadhar Card and a certificate from the previous employer, in order for the amounts to be transferred to her bank account.

9. The above chronology of events and facts shows that for a simple process of obtaining her own PF money, the Petitioner has been waiting since 2015 when she first filed her claim. Despite appointing Grievance Officers, creating Grievance Cells, none of the Respondent authorities or officers have been able to fulfil the Petitioner's simple request and the same has been caught up in red-tapism. The basic expectation from any Grievance Officer would be that when a grievance is filed, the Grievance Officer ought to check up with the relevant branch and ensure that the grievance is resolved. Simply sending standardized e-mails to persons who are seeking their own funds in such dire circumstances would not be an answer. The stand of the authorities even today is that the Petitioner needs to fill up a further form and get a certificate from her previous employer.

10. In the opinion of this Court, this is nothing but pure harassment to the Petitioner. A perusal of the forms placed on record shows that the Petitioner's Aadhar Card already stand verified on the portal of the Respondents. Under such circumstances, to again insist, even when her identity is clear and her Aadhar card is verified, that the OTP ought to be generated and is to be submitted, completely sets the online process at naught, especially when the Petitioner is living in Germany. This cannot be

the purpose of any digital or online process/mechanism. Online processing ought to make steps simpler for citizens rather than complicating them. The bifurcation of EPFO North is not the concern of the Petitioner. These are internal management issues of EPF offices and no citizen ought to be made to go through such frustrating circumstances due to the bifurcation of the EPFO office. The Grievance Officer had a duty to refer the Petitioner to the correct EPFO Department. Immediately upon the filing of this writ petition the EPFO has been able to trace the entire amount and it is thus clear that the harassment for the last three years is completely inexplicable and unjustified. The relevant officers in the EPF Authorities ought to take note of the fact that the Grievance Officers have also not performed their duties properly when the grievance was sent by the Petitioner.

11. Under these circumstances, it is directed as under:-

(i) The entire interest for the years 2019-20 if not credited, shall also be credited to the Petitioner's account immediately.

(ii) The Bank accounts details are stated to have already been submitted by the Petitioner. In any event the same are set out here below:-

> *"Anushree Jain*
> *Bank Name-CITI Bank.*
> *IFSC Code- CITI0000002*
> *Account Number- 5674673224"*

(iii) The Petitioner shall now be credited the entire amount in her bank account along with the up to date interest on or before 1st September, 2020.

(vi) If the said amount is not credited on or before 1st September, 2020, an amount of Rs. 25,000/- would be liable to be paid as costs to the Petitioner by the Respondents.

12. In future, EPF authorities and Grievance Officers working there shall ensure the grievances of the citizens/applicants like the present Petitioner are dealt with efficiently and in a manner so as to resolve the grievance rather than simply sending standardised or templated e-mails.

13. The present order be communicated to the Central Provident Fund Commissioner, EPFO Head Office, Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi-110066, by Mr. Krishan Kumar (Legal Manager) who is instructing Mr. Mishra today.

14. A copy of this order be also sent to the Secretary, Ministry of Labour and Employment.

15. Mr. Mishra, ld. counsel assures this Court that the order will also be communicated to all the Commissioners of EPFO authorities, in order to ensure compliance in future and to ensure that grievances of people similarly situated to the Petitioner are dealt with, in a timely manner.

16. The petition, along with all pending applications is disposed of, in the above terms. The next date of hearing i.e. 8th September, 2020 is accordingly cancelled.

PRATHIBA M. SINGH
JUDGE

AUGUST 24, 2020
MR/A