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HIGH COURT OF CHHATTISGARH BILASPUR

Judgment Reserved on 10.02.2021
Judgment Delivered on 16.02.2021

Writ Appeal No.539 of 2019

(Arising out of order dated 26.08.2019 passed in Writ Petition (S) No.6421 of 2019 by the learned Single Judge)

Rajkumar Verma S/o Gurusharan Verma Aged About 30 Years R/o Village Bhusuda, Post Office Sarora (Gosadan) Tahsil Tilda, District Raipur Chhattisgarh.

---- Appellant

Versus

1. Zonal Manager, Dena Bank (Now Bank of Baroda) Second Floor, LIC Investment Building, Behind Jeevan Bima Marg, Raipur, District Raipur Chhattisgarh.
2. Deputy General Manager, Dena Bank (Now Bank of Baroda), Zonal Office, Second Floor, LIC Investment Building, Behind Divisional Office, Pandri, Jeevan Bima Marg, Raipur, District Raipur Chhattisgarh.
3. Branch Manager, Dena Bank, (Now Bank of Baroda), Gariyaband Branch, District Gariyaband Chhattisgarh.

---- Respondents

For Appellant	: Shri Govind Ram Miri, Shri Mohan Lal Sen and Shri Basant Kaiwartya, Advocates.
For Respondents	: Shri Vinod Deshmukh, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Judgment

P.R. Ramachandra Menon, Chief Justice

1. Denial of the claim for interest on the provident fund contribution is the subject matter projected in this appeal filed by the former employee of the Respondent-Bank.

2. The Appellant was given appointment as Single-Window Operator in the Respondent-Bank as per the appointment order dated 23.05.2014

with a basic salary of Rs.7,200/- per month issued by the 2nd Respondent, pursuant to which, he joined at Gariyaband Branch of the Bank. After working for a period of two years, the Appellant resigned from the post by submitting letter of resignation dated 08.06.2016 and was relieved from the service of the Bank vide proceedings dated 15.06.2016, copies of which are collectively filed.

3. Alleging lapse on the part of the Respondent-Bank, the Appellant/Writ Petitioner filed Writ Petition (S) No.2504 of 2019 with the following prayers :

> “10.1 That, this Hon'ble Court may kindly be pleased to allow the writ petition filed by the petitioner and for grant of a direction to the concerned respondent to allow the rate of interest applicable to EPF during period of 02 years and thereon @ 12% per annum from the date the bank has credited the amount in their suspense/current account in favour of petitioner within period of 30 days, in the interest of justice.
>
> 10.2 Any other relief, which may deem fit and proper in the facts and circumstances of the case, may also be allowed.”

4. The insinuation levelled against the Respondent-Bank was rebutted by them pointing out that, the Bank was ready to release the amount due to the Appellant, provided that the Appellant furnished all the requisite details and completed the formalities required for releasing the provident fund, including by providing the Permanent Retirement Account Number ('PRAN') to the Respondent-Bank. Based on the said submission, the matter was disposed of as per Annexure A/3 order dated 05.04.2019; the operative portion of which as contained in paragraph-3 is as given below :

> “3. Given the aforesaid submissions made by the respondents counsel, this court is of the opinion that ends of justice would meet if the petitioner is directed to approach the respondent Bank and provide all necessary details as is required likewise PRAN number etc. and complete the formalities and thereafter the respondent Bank shall ensure that the entire provident fund amount on the completion of the formalities is released to the petitioner without any further delay within a further period of 60 days from the date of completion of his formalities.”

5. Pursuant to above direction, the Bank effected payment of an amount of Rs.88,003.04, which in fact was kept in the 'suspense account', on satisfaction of the requirements by the Appellant. The Appellant took a contention that the amount released to him would constitute only the contribution to the provident fund (effected both by the employee and the employer) under the Defined Contribution Pension Scheme ('DCPF') and that there was lapse and delay on the part of the Bank by virtue of which, the Bank was liable to satisfy a sum of Rs.40075/- towards interest for the relevant period. The claim was opposed from the part of the Bank with reference to the lapse on the part of the Appellant in completing the formalities; such as furnishing of PRAN and as such, no interest was liable to be paid as amount was kept only in the 'suspense account'. The writ petition was dismissed by the learned Single Judge as per Annexure A/1 verdict dated 26.08.2019; observing that, the Court had not granted or made any observation for grant of interest in the previous writ petition and that the Appellant did not pray for any interest as well in that writ petition, by virtue of which, he cannot file any subsequent writ petition claiming interest and compensation. The learned Judge made a categoric

observation that the delay for releasing the retiral dues cannot be attributed upon the Respondent-Bank and that the Appellant had to complete certain formalities by furnishing the relevant particulars, which was complied only pursuant to the direction given by the learned Judge in Writ Petition (S) No.2504 of 2019. Hence, it was held that there was no deliberate delay from the part of the Respondent-Bank in releasing the retiral dues, which in turn is under challenge in this appeal.

6. Shri Govind Ram Miri, the learned counsel for the Appellant submits that the observation made by the learned Single Judge in paragraph-3 that the Appellant 'had not prayed for interest' in the earlier writ petition is not correct as it was specifically incorporated as part of the prayer, which appears to be correct. But whether this by itself will advance the case of the Appellant any further, is the point to be considered.

7. As rightly observed by the learned Single Judge in paragraph-3 of the verdict under challenge, the Court had not granted or made any observation for payment of interest in the previous round of writ petition. The claim for interest was being resisted by the Respondent-Bank referring to clear lapse on the part of the Appellant, in completing the procedural requirements to have the retiral dues to be released. But, there is a contention for the Appellant as raised in Ground No.4 of the memorandum of appeal, that during the period of two years of service in the Respondent-Bank, the Appellant was never asked or reminded for obtaining the PRAN and that the application submitted by the employee for PRAN had to be verified and details to be authenticated by the employer to have allotment of PRAN. It is stated that there was failure on the part of the Respondent-Bank who were deducting the contribution

every month and it was being remitted to the controlling office along with employer's contribution.

8. The Respondent-Bank has filed a reply-statement dated 02.12.2020 in the appeal; referring to the lapses and failure on the part of the Appellant in completing the procedural formalities including submission of PRAN and seeking to justify the rejection of the claim for interest. It is pointed out that, the Appellant had not submitted the prescribed form for National Pension Scheme ('NPS') registration during his tenure in the erstwhile Dena Bank (now Bank of Baroda) and his NPS Account could not be generated. As a result of this, his PF contribution (towards Member's contribution + Bank's contribution) from the monthly salary was getting accumulated till his resignation from the Dena Bank, which came to a total sum of Rs.88,003.04. As the DCPF contribution was kept in the current account of the PF Department, no interest had accrued on it and hence, no interest was payable by the Bank. After resignation from the service of the Bank from 15.06.2016, the requisite formalities were completed by the Appellant, only pursuant to the direction given by the learned Judge in Writ Petition (S) No.2504 of 2019 and it was thereafter, that the amount was transferred to his NPS account with the Bank (presently Bank of Baroda) on 17.06.2019.

9. In the reply-statement, the Bank has also mentioned about the various occasions the Appellant was reminded as to the necessity to submit the NPS application form and other details. The contents of paragraphs-5, 6 & 7 are relevant and hence are reproduced below :

> “5. That, Bank had on many occasions reminded Shri Rajkumar Verma to submit the required application form and other details (i.e. 1. Bank's PF settlement form, 2. Attested copy

> of PRAN card of current employer, 3. Application for transfer of PF amount to present employer for onward deposit to PRAN (covered there under NPS) duly forwarded by the present employer. But, Shri Rajkumar Verma vide his email dated 02.09.2017 submitted that he was not willing to fill the form.
>
> 6. Further concerned office had also sent various emails to Shri Rajkumar Verma advising him to submit the required application and other details in order to settle his PF claim. Meanwhile various communications were also sent by Raipur Zonal office to Shri Rajkumar Verma in this regard.
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> 7. As per letter dated 26.09.2017 by Branch Manager, Gariaband Branch, he confirmed that as per Branch record Shri Verma had never submitted PRAN registration form to the branch. Hence it is a negligence on part of Mr. Verma. Copy of the communication through e-mail and by post are being filed here **Annexure R/1**."

10. From the above, it is evident that the Appellant was required to submit the particulars (1. Bank's PF settlement form, 2. Attested copy of PRAN card of current employer, 3. Application for transfer of PF amount to present employer for onward deposit to PRAN (covered there under NPS) duly forwarded by the present employer. But, the Appellant, vide his email dated 02.09.2107 submitted that he was not willing to fill the form. The 2nd Respondent sent a letter dated 23.09.2017 by 'Registered AD' to the Appellant with reference to the e-mail dated 19.09.2017 received from the PF Department to the Head Office at Mumbai in connection with the claim. The Appellant was thus again alerted of the various requirements.

We find it appropriate to extract the said letter for easy reference :

देना बैंक
DENA BANK
(A Govt. of India Enterprise)
Telephone : 0771-2229563, 2228852, 2535337,
E-mail : ro.raipur@denabank.co.in Fax : 0771-2533008.
Zonal Office, 2nd floor, LIC Investment Building-II
Behind L.I.C. Divisional Office, Pandri
Jeevan Bima Marg, Raipur-492004(C.G.)
Zonal Manager : 0771-2536629; Dy. Zonal Manager : 0771-4049308

RZ/HR/AT/492/2017 Date: 23.09.2017

Mr. Raj Kumar Verma
Shayam Charan Verma
Vill- Bhursudha
Teh- Tilda, Raipur
Chhattisgarh- 493113

Regd + Ad

C-64

Dear Sir,

Re: DCPF withdrawal claim of Shri Raj Kumar Verma (ecode-118507), Ex-SWO-A, Gariaband Branch.

With reference to captioned subject, we are in receipt of e-mail dated 19-09-2017 from PF Department, Head Office Mumbai, regarding your submission of DCPF withdrawal claim form.

In this connection we would like to inform that, in order to settle your claim and transfer the amount to your present employer for credit in your PRAN a/c, we need following documents as mentioned below:-

1. Duly filled and signed DCPF settlement form alongwith combined certificate and advance receipt. (Format attached)
2. Last month salary slip.
3. Duly attested copy of PAN Card.
4. Duly attested copy of PRAN Card.
5. Letter duly forwarded by present employer.

In this regard, you are advised to submit immediately your DCPF withdrawal claim form duly filled in prescribed format for further settlement of your DCPF claim.

Yours faithfully,

Dy. Zonal Manager
Encl. As stated above

CC.

- The Chief Manager, Dena Bank, PF Dept HO, Mumbai...For information please.
- The Branch Manager, Dena Bank, Gariaband Branch, Raipur.

True Copy
(Vinod Deshmukh)
Advocate

11. It is relevant to note that the above specific averments raised by the Respondent-Bank in reply-statement dated 02.12.2020, have not been rebutted from the part of the Appellant by filing any rejoinder.

12. The sequence of events shows that, the procedural formalities were not completed by the Appellant to the satisfaction of the Respondent-Bank and that the said requirements were satisfied only pursuant to the direction given by this Court in Writ Petition (S) No.2504 of 2019. This being the position, the observation made by the learned Single Judge in the judgment under challenge, that no delay or lapses can be attributed on the part of the Respondent-Bank, is not liable to be interdicted.

13. In the result, there is no merit in the appeal. It stands dismissed accordingly.

Sd/-	**Sd/-**
(P. R. Ramachandra Menon) **Chief Justice**	**(Parth Prateem Sahu)** **Judge**

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