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

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Date of Decision: 24.07.2024+ **LPA 584/2022 and CM Nos. 44675/2022 and 40498/2023**

AMAR NATH GUPTA

..... Appellant

versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Santosh Kumar Sahu, Advocate
with Petitioner in person.

For the Respondents : Ms. Monika Arora, CGSC with Ms. Jyoti
Tiwari and Mr. S. Saha, Advocates for R-
1/UOI.
Mr. Mohinder JS Rupal and Mr. Hardik
Rupal, Advocates for R-3/University of
Delhi.
Mr. Santosh Kumar., Ms. Nidhi Rani and
Ms. Adithya Ramni, Advocates for R-
5/Shyam Lal College.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MS. JUSTICE TARA VITASTA GANJU****JUDGMENT****TARA VITASTA GANJU, J.:**

1. This Appeal impugns an order dated 29.07.2022 passed by the learned Single Judge in a batch of petitions [hereinafter referred to as 'Impugned Judgment']. The Impugned Judgment was rendered in



four petitions preferred by the Petitioners, which were substantially allowed, and Respondent No.3/University of Delhi was directed to make payment of pension to the Petitioners within 8 weeks, failing which the amount payable would be liable for interest at the rate of 8% p.a. from the date of judgment.

2. The grievance of the Appellant in the present case is limited to the extent that he has not been granted interest from the date when his pension was due but from the date of the Impugned Judgment.
3. It is the case of the Appellant that he is entitled to pension under pension scheme as applicable [hereinafter referred to as 'Pension Scheme'] and not to the Contributory Provident Fund Scheme [hereinafter referred to as 'CPF Scheme'] benefits, since he exercised his option to avail of the CPF Scheme after the cut-off date and an option exercised after the cut-off date was not valid. It is further contended that Respondent Nos.3 and 5 did not implement Office Memorandum No. 4/1/87-PIC-I dated 01.05.1987 [hereinafter referred to as 'OM'] in its true spirit. The Appellant did not apply for CPF Scheme before the cut-off date of 30.09.1987, as stipulated in the OM. After superannuating on 31.10.2016, the Appellant had been requesting for his pension payment with arrears, however, his request was not being acceded to by the Respondents.
- 3.1 The Appellant has contended that the CPF benefits granted to him were recovered from him by Respondent No.3/University of Delhi with 8% interest. Thus, it is contended, that since the disbursal of pension to the Appellant has been delayed, he is entitled to be



compensated for the said delay, at the same rate of interest which was recovered from him.

- 3.2 The Appellant relies on a letter dated 26.08.2022 sent by Respondent No.3/University of Delhi, wherein it is stated that the CPF Scheme (employer contribution) has to be recovered from the Appellant with simple interest at the rate of 8% p.a. The Appellant thus contends that his arrears of pension from 01.11.2016 need also be paid with interest at the rate of 8% per annum.
4. Learned counsel appearing on behalf of Respondent No.5/Shyam Lal College has contended that the pension is disbursed as per applicable rules and these rules do not provide for payment of any interest, thus, no interest is payable. He further submits that the pension was not disbursed on time not on account of any default of the Respondents but because of the fact that the Appellant had opted for the CPF Scheme and had also deposited funds under the CPF Scheme. Once the Appellant had opted for the CPF Scheme, he was not eligible for any pension, thus, the Respondents cannot be faulted for non-disbursal of his pension under the Pension Scheme.
- 4.1 The learned counsel of Respondent No.5/Shyam Lal College here has further placed on record the judgment of ***Bank of India v. K. Mohandas***,¹ wherein the Supreme Court refused to grant interest on the delayed release of retirement benefits to bank employees as the delay was not attributable to the authorities involved, to submit that in similar circumstances, the Supreme Court found it not to be

¹ (2009) 5 SCC 313



appropriate to award interest on the delayed payment of the retirement benefits.

5. The learned counsel for Respondent No.3/University of Delhi submits that Appellant is not entitled to any interest on the pension amount, as there is no culpable delay on the part of the Respondents, which is an essential ingredient to grant interest on payment of any delayed release of pension.

5.1 The learned counsel for Respondent No.3/University of Delhi places reliance on judgements of the Supreme Court in *D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.*², and *S.K. Dua v. State of Haryana and Ors.*³, to submit that both granted interest on the delayed release of the pension amount, as there was culpable delay by the authorities involved therein, which is absent in the present case.

6. In his rejoinder submissions, the learned counsel of Appellant, relies on the judgment of a Single Bench in *N.C. Bakshi v. Union of India*⁴, which was affirmed by the Supreme Court in *University of Delhi v. Shashi Kiran*⁵, to contend that it is immaterial if the employee had positively affirmed to switch to CPA Scheme, if such affirmation is given after the cut-off date as provided by the OM.

6.1 The Appellant relies on the following judgments of the Supreme Court: *Dr. A. Selvaraj v. C.B.M. College and Ors.*⁶ and *Calcutta State Transport Corporation & Ors. v. Ashit Chakraborty &*

² MANU/SC/0658/2014

³ MANU/SC/7048/2008

⁴ 2014 SCC OnLine Del 2798

⁵ (2022) 15 SCC 325

⁶ (2022) 4 SCC 627



*Ors.*⁷ and a judgement of the learned Single Judge of the Telangana High Court titled ***Professor M. Haragopal Rao v. Govt. of Andhra Pradesh***⁸, to submit that it is no longer *res integra* that where delays in payment of pension are made, interest is also awarded. The Appellant also relies on an e-mail communication dated 05.11.2016, addressed by the Appellant to the Respondent Nos.3 and 5, immediately upon his retirement stating that his option exercised is of “no consequence” being exercised belatedly.

- 6.2 The learned counsel of Appellant also relies on Rule 65 of the Central Civil Services (Pension) Rules, 2021 [hereinafter ‘CCS Pension Rules’] to submit that this Rule provide for payment of interest on delayed retiral benefits.
7. In rebuttal, learned counsel for Respondent No.3/University of Delhi points out that Rule 65 of the CCS Pension Rules is applicable only in cases of delay in payment attributable to administrative reasons or lapses. Since, there was no such administrative delay, interest cannot be paid to the Appellant.
8. Briefly, the undisputed facts are that the Appellant was appointed as Lecturer in Commerce at Respondent No.5/Shyam Lal College on 21.07.1973. After 43 years in service for Respondent No.5/Shyam Lal College, the Appellant attained superannuation on 31.10.2016. By the OM of 01.05.1987, a direction was passed by Respondent No.1/Ministry of Personal, Public Grievances & Pensions, that all

⁷ 2023 SCC OnLine SC 594

⁸ W.P. (TR) No. 1450/2017 Order dated 06.10.2023



Central Government employees who were in service on 01.01.1986 would be deemed to have come over to the Pension Scheme on that date, unless they specifically opted out to continue with the CPF Scheme. Clauses 3 and 3.2 of the OM setting forth these instructions are reproduced below:

“3. All CPF beneficiaries, who were in service on 1.1.1986 and who are still in service on the date of issue of these orders will be deemed to have come over to the Pension Scheme.”

3.2. The employees of the category mentioned above will, however, have an option to continue under the CPF Scheme, if they so desire. The option will have to be exercised and conveyed to the concerned Head of Office by 30.09.1987 in the form enclosed if the employees wish to continue under the CPF Scheme. If no option is received by the Head of Office by the above date the employees will be deemed to have come over to the Pension Scheme.”

[Emphasis is ours]

- 8.1 The cut-off date as provided for in the CPF Scheme was 30.09.1987. It is the contention of the Appellant that the Appellant did not opt for the CPF Scheme between the period of 01.05.1987 and 30.09.1987 despite which the Respondent Nos.3 and 5 failed to process his pension papers to ascertain his pension amount and to commence payment of pension from his date of retirement. The Appellant thus prays for payment of his arrears of pension be paid at 8% p.a. from 31.10.2016 [date of his retirement] till the date of release of the arrears.
9. By the Impugned Judgment, the learned Single Judge allowed the Writ Petition of the Appellant directing that the judgment of the Supreme Court in ***Shashi Kiran*** case would apply to the facts of the



present case. The learned Single Judge directed that the Appellant be paid pension within 8 weeks from the date of the judgment, failing which the amount would be liable for interest at the rate of 8% p.a.

10. As stated above, the limited grievance of the Appellant is that he has not been granted interest from the date when pension was due, i.e., 01.11.2016 but 8 weeks from the Impugned Judgment dated 29.07.2022.
- 10.1 The Respondent No.3/University of Delhi in its counter affidavit filed before this Court has stated that the pensionable benefits as per the Impugned Judgment were fixed by letter dated 26.08.2022 which was sent to Respondent No.5/Shyam Lal College by the Respondent No.3/University of Delhi. The Respondent No.3/University of Delhi, through its Registrar further affirms that the terminal benefits of the Appellant along with payment of arrears thereof have already been released to the Appellant and that the Appellant is receiving a monthly pension from August 2022 onwards. Respondent No.3/University of Delhi further maintains that the judgment in the **Shashi Kiran** case was passed on 10.05.2022 and no interest was awarded by the Supreme Court in that case nor was any direction for payment of interest contained in the Impugned Judgment, hence interest cannot be granted to the Appellant.
11. The facts in the **Shashi Kiran** case were similar to the facts of the present case. On 22.05.1987, the Delhi University adopted the OM to enable its teachers and the teachers at various colleges to exercise the option. A notification was issued by the Respondent No.3/University



of Delhi on 22.05.1987 that all CPF Scheme beneficiaries in service would be deemed to have ‘*come over*’ to the General Provident Fund and Pension Scheme [hereinafter referred to as ‘GPF Scheme’] unless they opted to continue under the CPF Scheme by the cut-off date of 30.09.1987. Several employees of the University opted to continue with the CPF Scheme while the rest of the employees by virtue of the notification were deemed to have come over to the GPF Scheme.

11.1 The Respondent No.3/University of Delhi however granted extensions on 05.10.1987 and 21.01.1988, to continue under the CPF Scheme, and thereafter, 11 further extensions were granted for a switch over from CPF to GPF Scheme until 31.01.1999. Since this Option was exercised by several hundred University employees, *albeit* at different times, three batches of cases were created by the learned Single Judge. Relevant for this judgment, is the batch which was termed as the ‘N.C Bakshi batch’ which included N.C Bakshi and other persons who chose to remain under the CPF Scheme but opted for the CPF Scheme after the cut-off date, presumably, under one of the several extensions granted.

11.2 The petitions filed in the ‘N.C. Bakshi batch’ of cases were allowed by the learned Single Judge based on the stand of Respondent No.3/Delhi University that the extensions granted under the CPF Scheme were invalid. The Division Bench affirmed the judgment of learned Single Judge in the case titled as ***Shashi Kiran & Ors. v.***



*Union of India*⁹. This led to the Respondent Nos. 3 and 5 approaching the Supreme Court.

12. The Supreme Court in *Shashi Kiran* case while dealing with the batches of cases, including the ‘NC Bakshi batch’, found that several hundred employees exercised the option after the cut-off date was extended, but if no switch over could be allowed after the cut-off date, such exercise of the option was *non-est* in the eyes of law and dismissed the appeal as well. The relevant extract is reproduced below.

“14.2 Employees who had not exercised the option by the cut-off date contemplated under the Notification dated 1-5-1987 and were thus deemed to have “come over” to GPF; however, such employees had exercised the option to remain under CPF scheme during first two extensions granted by the University between 1-10-1987 to 29-2-1988; and were now praying that they be allowed to be under GPF. This batch of cases was described to be “N.C. Bakshi batch of cases” in the decisions rendered by the High Court.

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39. Theoretically, extension of the same principle would be that if no option was exercised before the cut-off date, but an option was exercised after the cut-off date was extended; and if no switch over could be allowed after the cut-off date, the decisions rendered by the learned Single Judge and the Division Bench in N.C. Bakshi batch of cases were also quite correct. Consequently, irrespective of the fact that the employees concerned had exercised the option to continue to be under CPF, such exercise of option would be non est in the eye of the law. That in fact is the ratio of the decision in S.L. Verma case. Thus, both these batches of cases were rightly decided by the learned Single Judge and the Division Bench. We, therefore, dismiss the appeal in N.C. Bakshi batch of cases.”

[Emphasis is ours]

⁹ 2016 SCC OnLine Del 4819



13. Undeniably, the facts in the present case are akin to Batch II of the ***Shashi Kiran*** case, the ‘N.C Bakshi batch’, where the Supreme Court found that the option could not have been exercised belatedly, under these extensions.

13.1 The Appellant relies on an e-mail dated 05.11.2016 sent by him to Respondent No.3 and Respondent No.5, where he has contended that he is entitled to grant of payment under Pension Scheme in terms of OM of 01.05.1987. It is reiterated in the said e-mail that he had applied to remain in the CPF Scheme in February 1988. However, since, this option was exercised by him after the cut-off date of 30.09.1987, the option was invalid as per the judgement of the Supreme Court in ***Union of India & Anr. v. S.L. Verma & Ors.***¹⁰. The e-mail further records the Appellant’s protest of continuing in the CPF Scheme and the employer contribution to CPF Scheme, by the deposit of a cheque in his bank account on 01.11.2016 by Respondent No.5/Shyam Lal College. The e-mail also records the Appellant’s willingness to refund the CPF with interest when permitted. The relevant extract of this e-mail is set out below:

*“...Subsequently, the Hon’ble Delhi High Court, vide. its judgements dated 30.04.2014 and 24.08.2016 upheld the entitlement of **Category I** employees (those who had opted for CPF after 30.09.1987, the cut-off date stipulated in the said O.M. dated 01.05.1987) to transfer from CPF to GPF/Pension. **In view of the said legal interpretations and my specific requests on record,** the ‘Employer Contribution to CPF’ cheque bearing no. 010383 dated 01.11.2016 of **Rs. 30,09,837/-** was not to be deposited in my bank account. But, the said amount has been unilaterally transferred (by the college through RSGT/NEFT) and credited to my bank account (CBI/SLC) No. 1247800770 without my consent or permission; and **I vehemently protest the said transfer.**”*

¹⁰ (2006) 12 SCC 53



Under the circumstances, the said employer's contribution amount of CPF may either be taken back by the college or, if not permitted (to do so), the same may be assumed to be accepted by me 'UNDER PROTEST'; and I undertake to refund the said amount (with appropriate interest) as and when permitted by your good-self."

[Emphasis is ours]

- 13.2 Thus, almost immediately upon his superannuation, the Appellant had been requesting that he be given his pension under the Pension Scheme. Since, the request of the Appellant was not responded to, the Appellant was constrained to file a petition before the learned Single Judge which petition was allowed by the Impugned Judgment.
14. The Appellant has placed reliance on the judgments in ***Dr. A. Selvaraj*** case and ***Calcutta State Transport Corporation*** case to submit that where there is a delay in paying retirement or pensionary benefits, the Supreme Court has allowed payment of interest to the employee pensioner. In ***Dr. A. Selvaraj*** case, the retiral benefits of the Appellant - retired professor at a College in Coimbatore was delayed, the Supreme Court set aside the order passed by the Division Bench as well as the learned Single Judge, denying interest on the delayed payment of the retiral benefits and directed payment of interest in the following terms:

*"13. In view of the above discussion and for the reasons stated above, present Appeal Succeeds. The impugned judgment and order [A. Selvaraj v. C.B.M. College, 2021 SCC OnLine Mad 10636] passed by the Division Bench of the High Court and that of the learned Single Judge [A. Selvaraj v. C.B.M. College, 2020 SCC OnLine Mad 8446] denying the interest on delayed payment of retirement benefits to the appellant is hereby quashed and set aside. **The Management/Trustees/College are hereby directed to pay the interest on the delayed payment of retirement benefits to the Appellant, from the date of retirement till the actual payment***



***was made**, subject to the final decision that may be taken by the Government on the objections to the enquiry report that may be filed by the former Secretary and/or the College and it will be open for the College/Management/Trustees to recover the same from the person, who, ultimately is held to be responsible for the delay.*

14. The payment of interest on delayed payment of retirement benefits to be paid strictly within a period of six weeks from today. In the meantime, the Government to pass a final order on the enquiry report after giving an opportunity to the College/Management/ former Secretary. It goes without saying that it would be open to the aggrieved party to challenge the said decision before the appropriate forum.”

[Emphasis is ours]

- 14.1 Similar directions were passed by the Supreme Court in the ***Calcutta State Transportation*** case where the employee had submitted his option within the prescribed period to avail the Pension Scheme. The Supreme Court in that case found that, as the option was submitted by the employee within the stipulated time and that the State Transport Corporation was at fault in not acting upon the option exercised by such employee. The claim of the employee was allowed by the learned Single Judge. It was contended by the Corporation before the Division Bench, that the employee had not waived or abandoned his right to receive pension. This contention was rejected by the Division Bench and also by the Supreme Court. It was held that there was no conscious abandonment by the employee to receive his Pension. The Supreme Court found that the Corporation was at fault in not correctly implementing the regulations and for such fault of the Corporation, the employee could not be made to suffer and directed payment of interest @ 6% per annum on the delayed pension, to such employee.



15. Quite clearly, the Appellant had sent several communications to the Respondent No. 5/Shyam Lal College, including within a few days of his retirement on 05.11.2016, pointing out that the option to be exercised under the OM was exercised by him belatedly and was thus invalid, making him eligible for payment under the Pension Scheme. These communication(s) sent by the Appellant were not acted upon by the Respondents. The stand of the Respondents in the Counter-Affidavits filed before the learned Single Judge was that there were several cases with regard to the '*switching over from the CPF to the Pension Scheme*' which were heard by the learned Single Judge, and which culminated into the **Shashi Kiran** case. It was contended in the Counter-Affidavit that the Appellant by his conduct continued in the CPF Scheme for more than 20 years, cannot now turn around and rely on benefits under the Pension Scheme as a matter of right. The Respondents relied upon the '*invalid option exercised*' by the Appellant to submit that since the Appellant has already exercised an option to remain in the CPF Scheme, although wrongly, he is deemed to have opted to remain in that Scheme.

15.1 We find this contention of the Respondent to be without merit. There was no abandonment of the Appellant of his right to Pension. After the initial exercise of the option *albeit* belatedly in the year 1988, the Appellant had sent several communications to the Respondent No. 3/Delhi University and Respondent No. 5/Shyam Lal College for his Pension clarifying his position that he had automatically moved to the Pension Scheme. The Appellant, being an Advocate, also set out the position of law in this regard including through communications



dated on 12.01.2011, 04.05.2014, and 17.05.2014. The relevant extract of one such communication dated 12.01.2011 is reproduced below:

“....IN VIEW OF THE ABOVE, IT IS SUBMITTED THAT THE OPTIONS OF ALL THE TEACHING AND NON-TEACHING EMPLOYEES, WHO EXERCISED THE OPTION TO CONTINUE IN THE CPF SCHEME AFTER THE CUT OFF DATE i.e., 30.09.1987, BE IGNORED AS THE SAME ARE INADMISSIBLE, UNDER THE RULES OF GOVERNMENT OF INDIA.

THEREFORE ALL EMPLOYEES (who did not opt specifically for CPF between the period 01.05.1987 to 30.09.1987) ARE DEEMED TO BE GOVERNED BY THE GPF/PENSION SCHEME AND NOT BY THE CPF SCHEME.

[Emphasis is ours]

16. The position of the law has been consistently in favour of the Appellant's remaining under the Pension Scheme. The Supreme Court in an earlier judgment in *S.L. Verma* case, in the year 2006 itself, had, in a case with similar facts, held that where the employee had not opted for the CPF Scheme in time, he would continue as a member of the Pension Scheme. The relevant extract is below:

*“7. The Central Government, in our opinion, proceeded on a basic misconception. By reason of the said office memorandum dated 1-5-1987 a legal fiction was created. Only when an employee consciously opted for to continue with the CPF Scheme, he would not become a member of the Pension Scheme. **It is not disputed that the said respondents did not give their options by 30-9-1987. In that view of the matter Respondents 1 to 13 in view of the legal fiction created, became the members of the Pension Scheme.** Once they became the members of the Pension Scheme, Regulation 16 of the Bureau of Indian Standards (Terms and Conditions of Service of Employees Regulations, 1988) had become ipso facto applicable in their case also. It may be that they had made an option to continue with the CPF Scheme at a later stage but if by reason of the legal fiction created, they became members of the*



Pension Scheme, the question of their reverting to the CPF would not arise....”

[Emphasis is ours]

- 16.1 In addition, akin to the Appellant’s case, the Single Bench¹¹ on 30.04.2014 and thereafter a Division Bench¹² of this Court had on 24.08.2016, in the N.C. Bakshi Cases taken a clear view that, the extensions granted by the University to switch over to CPF Scheme, were invalid and any option exercised to switch over to CPF Scheme exercised post the cut-off date were inconsequential. Thus, Respondent No.5/Shyam Lal College, after the superannuation of the Appellant on 01.11.2016, had ample clarity that the Appellant was entitled to the Pension Scheme. However, the Respondents choose not to follow these decisions – leading to the Appellant filing the present petition.
- 16.2 This Court had consistently been holding in cases akin to the Appellant’s, that the option exercised belatedly, would not be considered to be valid and all persons in a similar situation would be deemed to have switched to the Pension Scheme. Despite these judgments and unblemished service of 43 years, it delayed the release of the pension, to the Appellant, until after the Impugned Order was passed.
17. Respondent No.5/Shyam Lal College has relied on *Mohandas* case to submit that interest cannot be granted on unpaid and delayed release of pension amount. We are unable to agree. In the *Mohandas*

¹¹ 2014 SCC OnLine Del 2798

¹² 2016 SCC OnLine Del 4819



case, the employees of several Banks were seeking enforcement of their pension pursuant to their opting for voluntary retirement under a 'VRS 2000 Scheme' after completing 20 years of service. An issue was raised as to whether these employees could be treated at par with those who have opted for voluntary retirement under the applicable Pension regulations. On this aspect, different High Courts had diametrically opposite views. The Supreme Court examined the matter and held that the employees under the VRS 2000 Scheme were also entitled to the benefit of the Pension regulations. However, in view of the difference of opinion between the various High Courts, requiring a resolution by the Supreme Court, it was held that the circumstances do not warrant grant of interest. The relevant extract is below:

"65. Insofar as the present group of appeals is concerned, the employees are not seeking to resile from the Scheme. They are actually seeking enforcement of the clause in the Scheme that provides that the optees will be eligible for pension under the Pension Regulations, 1995. According to them, they are entitled to the benefits of Regulation 29(5). In our considered view, plea of estoppel is devoid of any substance; as a matter of fact it does not arise at all in the facts and circumstances of the case.

*66. We hold, as it must be, **that the employees who had completed 20 years of service and were pension optees and offered voluntary retirement under VRS 2000 and whose offers were accepted by the banks are entitled to addition of five years of notional service in calculating the length of service for the purposes of that Scheme as per Regulation 29(5) of the Pension Regulations, 1995.** The contrary views expressed by some of the High Courts do not lay down the correct legal position.*

67. The only question now remains to be seen is whether the employees concerned are entitled to interest on unpaid pension.

*68. Although it has been held by us that the subject employees are entitled to the weightage in terms of Regulation 29(5) of the Pension Regulations, 1995, **but we are satisfied that any award of***



interest on unpaid pension would not be in the interest of justice. It is so because different High Courts did not have unanimous judicial opinion on the issue. The Punjab and Haryana High Court and the Division Bench of the Kerala High Court upheld the contention of the employees with regard to applicability of Regulation 29(5) to the optees who had completed 20 years of service while the Division Bench of the Calcutta High Court and a Single Judge of the Kerala High Court took exactly an opposite view. The stance of the banks, although found not meritorious, cannot be said to be totally frivolous. We, accordingly, hold that the subject employees are not entitled to interest on unpaid pension.”

[Emphasis is ours]

17.1 In the ***Mohandas*** case the Supreme Court also reiterated the principle that a precedent must be considered in the light of and in the circumstances of the case in which it was laid down. The circumstances in the present case are clearly distinguishable from the ***Mohandas*** case. The Supreme Court held as follows:

“54. **A word about precedents,** before we deal with the aforesaid observations. The classic statement of Earl of Halsbury, L.C. in *Quinn v. Leatham* [(1901) 1 AC 495 (HL)] is worth recapitulating first: (AC p. 506)

“... before discussing ... *Allen v. Flood* [1898 AC 1 : (1895-99) All ER Rep 52 (HL)] and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, **that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case** in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all.”

(emphasis supplied)

This Court has in long line of cases followed the aforesaid statement of law.



55. *In State of Orissa v. Sudhansu Sekhar Misra [AIR 1968 SC 647]* it was observed: (AIR p. 651, para 13)

“13. ... A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it.”

56. *In the words of Hidayatullah, J.: (Abdul Kayoom v. CIT [AIR 1962 SC 680] , AIR p. 688, para 19)*

“19. ... Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.”

57. *It was highlighted by this Court in Ambica Quarry Works v. State of Gujarat [(1987) 1 SCC 213] : (SCC p. 221, para 18)*

“18. ... The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it.”

58. *In Bhavnagar University v. Palitana Sugar Mill (P) Ltd. [(2003) 2 SCC 111]* this Court held that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

59. *This Court in Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani [(2004) 8 SCC 579]* emphasised that **the courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed.** It was further observed that the judgments of courts are not to be construed as statutes and the observations must be read in the context in which they appear to have been stated. **The Court went on to say that circumstantial applicability, one additional or different fact may make a world of difference between conclusions in two cases.**”

[Emphasis is ours]



18. There is an additional fact in play in the present case. The Respondent Nos. 3/5 by its letter dated 26.08.2022 recovered monies paid for CPF Scheme (employer contribution), from the Appellant along with interest at the rate of 8% per annum. A Division Bench of this Court in ***Delhi Transport Corporation v. K.K. Berry***¹³, found it unfair and arbitrary under Article 14 of the Constitution for the Government/Employer to charge interest on the refunded amounts of Employee Provident Fund (EPF) and Gratuity from employees, but not pay interest on the commuted pension amounts. The Court rejected the Employer's argument that the delayed release of the pension was due to the matter being under litigation and therefore did not entitle the employees to any interest. The Court while dealing with the doublespeak of the Employer, held as follows:

“15. The learned Single Judge noted that upon retirement, the respondents pensioners were entitled to receive the commuted value of pension in terms of Rule 6(1)(i-a) of the Central Civil Services (Commutation of Pension) Rules, 1981 (‘1981 Rules’) on the date following the date of retirement. The learned Single Judge thereafter observed as under:—

“It seems unreasonable that on the amount which the Respondents are asking Petitioner No. 1 to refund, they are claiming interest but on the amount which they are giving to him, they are not paying any interest. The Respondents cannot have their cake and eat it too. Either they should not demand interest from Petitioner No. 1 on the EPF or if they do so, they should pay interest to Petitioner No. 1 on the commuted value of pension which was not paid to him on the due date. Alternatively, the Respondents may adjust both the amounts and on the balance, interest may be calculated.”

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18. There is also no answer by the appellants to the point made by the respondent pensioners that while the award of pension is

¹³ 2006 SCC OnLine Del 1032



*calculated on the basis of the pension likely to be earned by the retiring person during the next ten years depending on his age factor, the full pension is received only after 15 years and not after 10 years. Therefore, obviously, the portion of the commuted value of pension paid in advance is recovered back together with the interest that such amounts could have earned. There appears to be no specific denial by the appellant to this averment made in para 12(iii) of the writ petition. **The only stand by way of reply is that there is no specific provision in the 1972 Rules for payment of such interest. We are of the view that the absence of a provision to pay interest on the commuted value of the pension cannot be offered as an explanation for answering the charge of arbitrariness and unreasonableness resulting from the denial of the payment of such interest, particularly in view of the fact that the Government, and now the appellant, have chosen to arm themselves with specific powers to charge such interest from the pensioners on the amounts that they seek to recover from them by way of refund of the EPF dues.***

[Emphasis is ours]

18.1 In similar circumstances as those of the Appellant, a Coordinate Bench of High Court of Madhya Pradesh in ***Ram Dayal v. Union of India***¹⁴, has granted interest at the rate of 6% per annum on the arrears of pension. The relevant extract reads as follows:

*“11. Accordingly, Writ Petition stands allowed. The impugned order dt. 28.03.2023 passed by the Tribunal is set aside. The relief claimed in the O.A. is allowed. Orders dt. 07.04.2015 and 05.11.2018 (A-1 and A-2 in the O.A.) are hereby quashed. **The respondents are directed to release the pension in favour of the petitioner from the date of retirement i.e. 01.10.2008 with arrears at the rate of 6% p.a. subject to the surrender of the amount received by the petitioner under CPF with simple interest 8% p.a. as directed by the Apex Court in the case of University of Delhi (supra).**”*

[Emphasis is ours]

19. In the present case, undisputedly, the Appellant, had, even prior to his retirement, been regularly communicating with the Respondent No.

¹⁴ 2024 SCC OnLine MP 3299



5/Shyam Lal College that he was to be shifted to the Pension Scheme and that the option exercised by him after the cut-off date was invalid. In addition, immediately upon his retirement, the Appellant sent an e-mail again requesting for his pension under the Pension Scheme. This was not acted upon by the Respondent No.5/Shyam Lal College with alacrity, however, recoveries were made from the Appellant *qua* the 'employer contribution' to his CPF with interest of 8% per annum. Applying the principles of the *Delhi Transport Corporation* and the *Ram Dayal* cases, we hold the Appellant is entitled to the grant of interest from the date of his superannuation.

20. In view of the foregoing discussions, given the facts of the present case, it will be appropriate to grant the interest on the arrears of pension paid to the Appellant at the rate of 6% per annum from 01.11.2016 to the date the arrears were paid.
21. The Appeal is, accordingly, allowed. All pending Application(s) stand disposed of.

(TARA VITASTA GANJU)
JUDGE

(VIBHU BAKHRU)
JUDGE

JULY 24, 2024/pa