

Case of Saubhagyawati Devi

File No.1905/09

Applicant is present. The District Provident Fund Officer, Nalanda appeared on behalf of the other side.

The applicant has approached the Commission seeking its intervention in the matter of payment of his provident fund dues. He retired on the post of Sub-Divisional Audit Officer on 31.1.1996. According to him, his provident fund dues have not been paid in full. The file was closed by order dated 15.2.2010 in view of the report of the District Statistical Officer, Cooperative Societies, Nalanda to the effect that the dues have been paid. The Commission noted that the grievance appears to have been redressed. On receipt of the order the applicant filed application seeking reconsideration of the decision contending that part of the dues remains unpaid. Since the order dated 15.2.2010 had been passed without oral hearing, the matter was fixed for hearing and that is how this matter came up for consideration today.

The dispute which remains outstanding relates to interest. The case of the Department is that the applicant did not subscribe to the new scheme which came into vogue in 1985 and therefore he is entitled to interest on the contributions/deductions @10 ½ % and not 12 ½ %. It was stated that as per the terms of the new scheme notified under notification no.4184 dated 13.7.1985, the non-gazetted employees were required to contribute 12 ½ % of their salary in the provident fund account, and since the applicant's contribution was less than the prescribed minimum, interest @ 10 ½ % was payable on the deductions/contributions. In course of hearing it transpired that vide Finance Department's letter no.5596 dated 23.11.1996 the government took a policy decision to the effect that the employees would be paid interest @ 12 ½ % for the year in which their deduction/contribution was less than 12 ½ % of their salary; and 10 ½ % for the year in which the deduction/contribution was less than 12 ½%. In other words, the government allowed a flexible or floating rate of interest. Thus, irrespective of the fact that the contribution was less than 12 ½ % in a particular year, the employees would still be entitled to 12 ½ % interest for the year in which he contributed 12 ½ % of his salary in the provident fund account. It may be mentioned that by virtue of an earlier circular, the employee was required to make good the deficiency by depositing the short amount together with compound interest which was done away with and the entitlement was simplified by allowing particular year-wise interest @ 12 ½ % or 10 ½ %, as the case may be, in the manner indicated above.

The Commission pointedly asked as to whether the employee was required to submit any declaration – in a prescribed format or otherwise – expressing his volition to opt for the new scheme. The District Provident Fund Officer categorically stated that no such formality was required to be observed. The mere act of contributing 12 ½ % of salary in the PF account amounted to subscribing to the new scheme. The Commission is of the opinion that by reason of the subsequent decision, referred to above, the condition laid down in Finance Department's circular no. 1606 dated 27.10.1995 stood diluted or relaxed. By virtue of the subsequent circular dated 23.11.1996, failure to deposit 12 ½ % salary in the PF account in the first year (after coming into force of the new scheme in 1985) would not amount to forgoing the benefit of interest @ 12 ½ % for all times as if he missed the bus for all times to come. By making the rate (of interest) flexible, the relevant term of the scheme stood diluted. That being the legal position, the applicant would be entitled to 12 ½ % interest on the deposit/ deduction/contribution for the year(s) in which his deposit/deduction/ contribution was more than the prescribed minimum. The applicant stated that if his entitlement is worked out in this manner, he would be entitled to a further sum of Rs.34,508 being the amount of difference for the period 1989-1995. In fairness to the Department it must be observed that the Commission does not wish to go into the correctness of the said amount which is for the Department to calculate, preferably settle with the applicant across the table.

Having rejected the case of the Department on the point of interest as above, the Commission would direct the concerned authority to calculate his entitlement and pay the differential amount to the applicant within six weeks.

Copy of this order may be sent to the applicant as well as District Provident Fund Officer, Nalanda.

Justice S.N. Jha
Chairperson