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कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)
मुख्य कार्यालय / Head Office
भविष्य निधि भवन, 14-भौकाजी कामा प्लेस, नई दिल्ली-110 066.
Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066.

LC-4/5/13/judgement/pt.

Date: 30.09.2016

To

All Addl. Central P.F Commissioner(Zone)
All Regional P.F Commissioners
Regional Offices/Sub-Regional Offices

24 OCT 2016

Sub:- Forwarding of important judgement by DCDRF Malappuram in CC No. 158 of 2015, Unnikrishnan K Vs. RPF, Kozhikode- regarding.

Sir,

Please find enclosed herewith a copy of the judgement delivered by CDRF, Malappuram in CC No. 158 of 2015 dated 31.05.2016 (copy enclosed).

2. In the instant matter, while dismissing the above case, Hon'ble CDRF Malappuram held that the complainant is not entitled to any interest as he has not submitted application seeking transfer of his Provident Fund benefits to his present account for over a period of 36 months as provided for under para 72(6)(ii) and Para 60(6) of the EPF Scheme, 1952.

3. Therefore, this order of Hon'ble CDRF, Malappuram may be kept in mind while defending the similar cases. RPFs (In-charge of the Regions) are also requested to forward important orders/judgments passed by Courts in favour of EPFO to Head Office for circulation.

Yours faithfully,

Encl: As Above


(Samarendra Kumar)
Regional P. F. Commissioner-I(Legal)

(Handwritten mark)

DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, MALAPPURAM

(Present: Sri. A.A.Vijayan, President
Smt. R.K.Madanavally, Member
Smt. Mini-Mathew, Member)

PA to RL
22/26
10/8
[Handwritten signature]



Date of filing: 25-05-2015

Date of Order: 31-05-2016

C.C.No.158/2015

Unnikrishnan.K,
Krishana Vilas, Kizhuparamba, Areacode,
Malappuram, Kerala – 673 639.

Complainant

Vs

The Regional Provident Fund Commissioner,
The Employees Provident Fund Organisation,
Bhavishyanindhi Bhavan, Eranipalam.P.O,
Kozhikode – 673 006.

Opposite parties

ORDER

By: Smt. R.K.Madanavally, Member

The complainant's case in brief is that he was an employee of Calicut Airport School from 26 May 2013 to 31 march 2009. His PF Account number was KR/KKD/14126/43. After leaving from the above school, he had joined in Delhi International School, Valancheri. In that school, he was continued to be a contributing employee under a new account ie, A/C No KR/KKD/0023721/000/0000001 with out affecting any break in service.

As he was in need of money in connection with his son's marriage, he applied for transfer the above amount from his old account to the new account. Though the transfer was effected on 2.3.15,

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the interest due on the amount was not credited.

There after he submitted a complaint to the Regional Provident Fund Commissioner, Kozhikkode. As per his reply, the complainant is not entitled for the interest as he had failed to apply for transfer /withdrawal within a period of 36 months. Hence this complaint.

Opposite party filed version. As per their records, the complainant had left service in KR/14126 ON 31.3.09 as per records and the matter had been informed to the complainant vide letter dated 16.3.15. The complainant had applied for transfer on 26.2.15 and their office effected the transfer on 2.3.15. The application for transfer was made after a lapse of more than five years. So the complainant is not eligible for interest. While joining in a new establishment, it is the duty of the employee to furnish the details of the previous employment and get the Provident Fund Accumulations transferred to the new account. The employer is also duty bound to enquire into the previous employment of the Employees Provident Fund organisation, for affecting transfer.

The averments of the complainant that he was not ceased in employment is not true and so denied. On resignation from previous employment, he has ceased to be employed in the previous establishment. The new employment has no link with earlier employment till the information of Previous employment is furnished to their office. Since the amount was not claimed by the complainant for a period of 36 months and by not preferring an application for transfer the amount was transferred to in operative account as per their procedure. The complainant is not eligible for interest as per the provisions of the amendments. More over it is not a service provided by their organisation, since it is a matter relating interpretation of the Employees Provident Fund Act and Scheme Provisions. There fore the issue is beyond the jurisdiction of the Forum. Hence opposite party prays for the dismissal of the complaint.

The issues arises for our consecration here in are;

- 1) Whether the opposite party is deficient in service?
- 2) Relief and cost.

Point No.1

The complainant filed Chief Affidavit and Ext. A1 was marked. The Ext. A1 is a letter issued by the opposite party infavour of the complainant. Opposite party also filed affidavit, but no documents were filed and marked.

One of the salient features of the E.P.F.Act and scheme is sited by the opposite party in their version and affidavit.

As per the amendments in 2011, the paragraph 72 and paragraph 60 of the EPF Scheme read as;

Para 72 (6)(ii) "accumulation in respect of any member who has either ceased to be employed or died but no application for withdrawal under paragraphs 69 or 70, or transfer, as the case may be has been preferred within a period of 36 months from the date it becomes payable, or if any amount remitted to a person, is received back undelivered, and is not claimed again within a period of 36 months from the date it becomes payable, shall be transferred to an account to be called "in operative account".

Para 60 (6) Interest shall not be credited to the account of a member from the date on which it has become in operative account, under the provisions of sub paragraphs (6) of paragraph 72.

Hence, as per Ext. A1 sufficient replay was sent by the opposite party in reply of the complaint. There is no proof or document before us for granting interest infavour of the complainant.

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The complainant has not submitted the reason for his non-appliance for the claiming of interest within a period of 36 months. Hence it is crystal clear that the complainant has not followed the provisions of EPF Act. So we are of the view that complainant himself was negligent. We cannot find any deficiency in service upon the opposite party. Hence we have no other way except to dismiss the complaint. The 1st point is answered accordingly.

Point No.2

In view of the above discussions we are hereby dismissing the complaint. No cost.

Dated this 31st day of May, 2016

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Witness examined on the side of the complainant : Nil
Documents marked on the side of the complainant : Ext.A1
Ext.A1 : Letter issued by opposite party infavour of the complainant.
Witness examined on the side of the opposite party : Nil
Documents marked on the side of the opposite party : Nil



8/8/16

Sd/-
A.A.VIJAYAN, PRESIDENT

MINI MALAYALAM MEMBER

Sd/-
MADANAVALLY R.K MEMBER

By order of the Forum

District Commissioner
Rengasal Forum, Malappuram