

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI**

T.A. No. 419/2009

[W.P. (C) No. 7299/09 of Delhi High Court]

Cfn/VM Mahendra Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh.D.S. Kauntae, Advocate.

For respondents: Ms.Rashmi Singh, Advocate for Mr.Mohan
Kumar, Advocate.

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER
27.03.2010**

1. The present petition has been transferred from Hon'ble Delhi High Court to this Tribunal on its formation.
2. Petitioner by this petition has prayed that respondents be directed for early disbursement of provident fund amount i.e. Rs.18,615/- lying with respondent no.5 with 14% interest per annum with effect from 03.03.1994 till actual date of payment in

his favour in his bank account no.1036, Syndicate Bank, Branch Dautana, District Mathura, Uttar Pradesh.

3. Brief facts which are relevant for the disposal of present petition are that petitioner was enrolled in EME Corps Army as a Cfn/VM. He was granted 60 days annual leave from 03.01.1994 to 03.03.1994. While he was on leave, he sustained injury due to falling of a stone slab on his head at his residence, as a result of which he lost his memory as well as consciousness and remained under treatment for a long time and as such he could not join back his duty. Accordingly, he was dismissed from services with effect from 20.05.1997 u/s.20 of the Army Act, 1950 without issuing show cause of action to him or without having any such information from the department. He was found to be deserter. Thereafter, he requested respondent no.3 for release of outstanding/balance amount lying with them including the undisbursed provident fund amount but without any result. Consequently, he approached the Hon'ble Delhi High Court by filing present writ petition which was transferred to this Tribunal on its formation.

4. A reply was filed by the respondents wherein they pointed out that in order to release the provident fund balance to the petitioner some requisite documents were sent to him for completion and early return through Zilla Sainik Board vide EME Records letter dated 07.06.1999 but he did not submit the said documents in time and instead submitted applications dated 12.12.2003, 02.02.2004 and 16.03.2004 for the desired relief. In reply to said applications, they again forwarded a set of requisite documents for completion and early return vide office of EME Records letters no.07.02.2004, 21.02.2004 and 25.03.2004 addressed to his advocate. It is alleged that on receipt of contingent bill and mode of payment certificate duly completed in all respect from the petitioner, the same were forwarded to PAO (OR) EME, Secunderabad, the audit authority, for pre-audit and early issue of cheque for Rs.18,615/- in favour of Syndicate Bank, Mathura (UP) vide office of EME Records letter no.14593331K/DES/4A/NE-II, dated 22.05.2004. Accordingly, a cheque bearing no. AS-863269 dated 30.11.2004 for the said amount was issued by CDA, Secunderabad and forwarded to PDA of the petitioner i.e. Syndicate Bank, Dautana Branch, PO Dautana, Mathura District, UP vide PAO(OR) EME (Fund Cell) letter no. IEM/1017/

1104 dated 10.11.2004 for crediting the same in the petitioner's bank account no.1036. Thereafter, petitioner had never approached/complained the respondents regarding non-credit of said amount in his bank till 06.05.2008 and also the said cheque has not been received back from the bank by CDA Secunderabad. Hence, on not being received any representation from the petitioner for above amount, it is presumed that amount had been received by the petitioner. Thereafter, petitioner filed the present petition for disbursement of provident fund amount. It is pointed out that they have already appraised with Syndicate Bank, Dautana, Mathura and CDA Secunderabad for resolve the issue by issuing duplicate cheque vide office of EME Records letters no.14593331/Court Case/Pen dated 24.03.2009 and 14593331/Court Case/Pen dated 12.04.2009 and consequent to it PAO (ORs) EME has issued a fresh cheque for Rs.18,615/- on account of AFPP fund balance vide cheque no.011098 dated 19.05.2009 and same was forwarded to PDA of the petitioner i.e. Syndicate Bank Dautana, Mathura for the payment of same. According to the petitioner, it was received by him in June, 2009. Therefore, now the question remains is payment of interest.

5. Learned counsel for the petitioner submitted that so far as the provident fund is concerned, it is brought on credit balance sheet every year in the month of February. The amount of Rs.18,615/- was stood when the petitioner was in service i.e. in the year 1994. Thereafter, petitioner because of head injury could not report and ultimately he was dismissed from service on 20.05.1997. Therefore, learned counsel for the petitioner submits that petitioner is entitled to interest on the amount of Rs.18,615/- for a period of three years i.e. from the date when he was in service i.e. 1994 till the date of his dismissal and he is also entitled to interest on the amount in question till June, 2009 when actual amount has been received by him.

6. After going through the reply filed by the respondents it appears that it is a case of sheer heartlessness on the part of the respondents. A man is dismissed from service in the year 1997 and he could not get provident fund till June, 2009, what can be more sad state of affairs than this. It is the responsibility of the respondents that they should have ensured that the amount of provident fund be released to the petitioner forthwith or as far as possible within three months from the date of order of his

dismissal i.e. 20.05.1997. But the respondents did not react and the petitioner had been writing constantly to the respondents and requesting for the release of the payment of the provident fund and they said that the certain papers were sent to the petitioner for fulfilling the requirements and that was only completed somewhere in the year 2004. Who is responsible for this delay in the matter? When a soldier is dismissed from service because he could not join back on account of injury, there should have been some responsibility on the part of the respondents to see that the amount is worked out and immediately given instead of entering into the unnecessary filling up of some papers. Even if it was required to be done then it should have been completed within three months time from 20.05.1997 i.e. up to August, 1997 instead of entering into an unnecessary correspondence. It is too much to expect from a poor Sepoy to understand the implications of these documents. Respondents have many agencies like Sainik Board etc. One courier could have been sent to his house or the services of Sainik Board could have been utilised to get all the necessary documentation completed within three months. But that was not done. It only shows great apathy on the part of the

respondents in dealing with the matters of poor Sepoys. Therefore, petitioner is entitled to interest.

7. In this situation, we direct that the provident fund of the petitioner with interest from the year 1994 till 20.05.1997 when he was dismissed should be worked out. After adding the interest from 1994 till 20.05.1997, from first September, 1997 i.e. after three months period given to them to clear all the formalities till he got the amount i.e. June, 2009, he is entitled to interest @ 12% per annum. The entire amount should be worked and paid to the petitioner within a period of three months.

8. The petition is allowed with cost in the sum of Rs.10,000/- for unnecessary driving the petitioner from pillar to post.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
March 29, 2010.