

## Kailash Pati Singh Yadav Vs Union Of India & Ors

**Court:** Central Administrative Tribunal - Allahabad Bench, Allahabad

**Date of Decision:** March 24, 2023

**Acts Referred:** Uttar Pradesh Cooperative Societies Act, 1965 " Section 70

**Hon'ble Judges:** Mohan Pyare, Member (A)

**Bench:** Single Bench

**Advocate:** O.P. Gupta, Chakrapani Vatsyayan

**Final Decision:** Dismissed

### Judgement

Mohan Pyare, Member (A)

1. Shri O.P. Gupta, learned counsel for the applicant and Shri Chakrapani Vatsyayan, learned counsel for the respondents are present.

2. By means of this OA, the applicant has sought the following reliefs :

“(i) To declare that the deduction of Rs.258045/- from the GPF amount of the applicant was not required in the manner as the same was

done by the Resp. No.2 and 3 and that too when sufficient amount of the retiring funds of Late Amar Nath is still available in the department

and family of Late Amar Nath has refused to receive the same and more particularly, widow of late Amar Nath is paying every month

Rs.5000/- or sometimes Rs.10000/- as informed under the RTI information.

(ii) To direct the respondent No.1 to 4 to refund to the applicant entire deducted amount Rs.258045/-immediately along with the interest at

the market rate.

(iii) Any other order or direction to which this Court may deem fit and proper in the facts and circumstances of the present case may also be

passed.”

3. The brief facts of the case are that the applicant has stood surety alongwith one Shri Ram Sagar Prasad for Amar Nath, employee in the office of

SRO, Varanasi, who has taken loan of Rs.588000/- from U. P. Primary Postal Cooperative Bank Ltd., Varanasi. The said Amar Nath died in the

month of July, 2012 leaving unpaid loan amount. The respondents did not take efforts for recovery of said loan amount either from the retiral benefits

of Late Amar Nath or from his legal heirs. Rather, decided to recover the loan amount from the sureties. Out of the outstanding balance 50% was

recovered from the applicant which is illegal. As per the information collected by the applicant through R.T.I. Rs. 56,698/- was paid to Smt. Saroj

Devi widow of the deceased and Rs. 3,27,194/- is lying with the department. From the further information through R.T.I., the applicant came to

knowledge that Smt. Saroj Devi is continuously repaying back in the outstanding balance against her deceased husband. The applicant further submits

that he has made the representations for refund of deducted amount along with the interest at the market rate to Respondent.

4. The respondent Nos.1 to 4 have filed short counter affidavit and have submitted that Shri Amar Nath died on 18.07.2012 leaving behind the

recoverable amount against the loan taken by him from R.M.S. with two sureties, the applicant being one among them. As the deceased employee did

not make any nomination in his service record Rs. 3,27,194/- is still pending in the department for want of Certificate and procedural formalities. They

have further submitted that Smt. Saroj Devi wife of the deceased employee submitted a letter dated 27.07.2022 and intimated that she has paid all the

outstanding amount and claimed to make payment of credited amount of Rs.3,27,194/- lying with the department (Annexure-SCA-2). The U.P. Postal

Cooperative Bank, Varanasi has issued a Certificate, which is part of SCA-2. The relevant portion of the Certificate is given below :-

“This is certified that Mr./Mrs./Kumari/Ms AMAR NATH I S/o D/o HS/o SALIK RAM Address K-47/221 KATAWARU PURA VARANASI

is/are maintaining Account No.232304740101 with us. The said account shows a credit balance of Rs. 0.00 (zero Rupees).

As instructed by R.O., Prayagraj, the case was forwarded to learned ASGI, High Court for obtaining the legal opinion so that factual material may be

filed in the counter affidavit against the OA on behalf of the respondents. The U.P. Postal Cooperative Bank, Varanasi Branch intimated that vide

letter No.47401/114-06/RMS Vsi/22-23 dated 27.12.2022 mentioned that all the outstanding loan against the deceased employee has been repaid

(Annexure-SCA-4). Learned ASGI has opined that it not disputed that the loan amount has already been paid by the wife of Late Amar Nath, the

department also does not dispute. And, therefore, any deduction made by the department from the retiral benefits dues of the applicant who stood

surety in the loan is illegal and un-warranted. The ASGI has also opined that Smt. Saroj Devi could have been made the respondents in the present

OA and submitted that the OA should be dismissed.

5. The respondent No.5 in their counter affidavit have submitted that the applicant has not availed the remedies available to him as per Section 70 of

U.P. Cooperative Societies Act 1965 and has filed the present OA and have submitted to dismiss the OA.

6. Heard both the counsels except Respondent No.5 who has been continuously absent and analysed the submissions made by both the sides and

analysed the document available in this OA.

7. It is very clearly by established that as on date there is no outstanding dues pending against the deceased employee for whom the applicant has

been surety. The outstanding amount of the society has been made good, the department who have released the money of the applicant kept pending

with them. The claim of the applicant is right and deserves to be allowed. Accordingly, the OA is allowed. The competent authority/respondents is

directed to make payment of the withheld amount of the applicant along with 6.5% interest rate calculated annually. No order as to costs.