

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1398/2002  
M.A. NO.1107/2002

New Delhi this the 21st day of April, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

1. Central Provident Fund Employees' Union  
(Regd. No.2689)  
Bhavishya Nidhi Bhawan  
14, Bhikaji Cama Place  
New Delhi-66  
Through  
  
Shri J.C.Thukral  
General Secretary  
S/O Late Shri P.N.Thukral  
R/O C-581, Brij Vihar  
P.O. Chander Nagar  
Ghaziabad-201011.
2. Shri Lalit Kumar  
Assistant  
S/O Shri Chander Prakash  
A-5/52B, Paschim Vihar  
New Delhi-63.
3. Shri Raj Kumar  
Superintendent  
S/O Late Shri Ram Chander  
R/O WZ-15-A, Titar Pur  
New Delhi-110 027. ....Applicants

(By Shri M.K.Bhardwaj, Advocate)

vs.

1. Employees' Provident Fund Organisation  
Through its Chairman, Executive Committee  
Central Board of Trustees, (EPF)  
(and Secretary, Ministry of Labour)  
Shram Shakti Bhawan  
Rafi Marg  
New Delhi-1.
2. Central Provident Fund Commissioner  
and Secretary  
Central Board of Trustees (EPF)  
Bhavishya Nidhi Bhawan  
14, Bhikaji Cama Place  
New Delhi-66. ....Respondents.

(By Advocate: Shri M.M.Sudan)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

MA No.1107/2002

MA No.1107/2002 for joining together in OA No.1398/2002 is granted.

OA No.1398/2002

2. Though the applicants had originally filed the application to direct the respondents to implement the decision taken by the Executive Committee of the Central Board of Trustees (EPF) under Item No.5 in its 38th meeting held on 4.12.2001 but by virtue of the amendment claimed, now concentration of argument was on the relief pertaining to the subsequent order passed on 20.8.2002 by the Chairman, Executive Committee, Central Board of Trustees (EPF). The applicant wanted the said order to be set aside.

3. The order so passed referred to above reads:-

"The undersigned is directed to refer to the decision taken under item No.5 of the minutes of 38th meeting of the Executive Committee of CBT, EPF on the above subject. As per the decision, the Secretary (Labour) in his capacity as the Chairman, Executive Committee, CBT, EPF has considered the proposal for up-gradation of pay scale of Assistants and Superintendents in the Head Office, EPFO and amendment proposed to the Recruitment Rules. The proposal has been

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examined afresh in consultation with FA (Labour) and it has not been found feasible to agree to the proposed revision of pay scales as well as revision of recruitment rules. In such circumstances status quo may be maintained."

4. The argument of the applicants' learned counsel in this regard was that a decision has already been taken by the Committee leaving the matter for implementation by the Chairman of the Committee. According to the learned counsel, vide the impugned order instead of implementing the proposal, the matters had been reconsidered and totally shelved and that the learned counsel contended that this is contrary to the law because the Chairman does not have such a power.

5. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952) had been enacted to provide for the institution of provident funds and deposit-linked insurance fund for employees in factories and other establishments. Section 5A provides for setting up of a Board of Trustees, while Section 5AA provides for Executive Committee to be constituted. Section 5AA reads as under:-

"5AA. Executive Committee- (1). The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions."

Under Section 5E, the Central Board can delegate to the Executive Committee or to the Chairman of

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the Board or to any of its officers and a State Board subject to conditions and limitations some of its powers as may be deemed necessary.

6. It is not in dispute that in exercise of the said powers conferred on the Committee, following decision had been taken:-

"Item No.5: Implementation of notified Recruitment Rules and the same pay scale of Section Officer in Central Secretariat for the post of Superintendents to be re-designated as Section Officer and the same Recruitment Rules and pay scale of Assistant cadre to the Assistant in Employees' Provident Fund Organisation.

After deliberations and observations of the members, the Committee approved the proposal as contained in the Memorandum leaving the manner of implementation of the proposal to be decided by the Chairman of the Committee."

7. Once a decision had been taken and the Chairman was authorised to decide the manner of implementation, necessarily, he could not consider the same afresh or disagree with the same. Our attention has not been drawn to any such power vested in the Chairman to override the decision. The decision of the Committee to the manner of implementation would not include the overriding or considering the same afresh unless the Committee itself considers necessary to do so. Therefore, the impugned order passed by the Chairman of the Executive Committee cannot be sustained.

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8. For these reasons, the present application is allowed and the impugned order is quashed. It is directed that the Chairman referred to above shall consider and pass appropriate orders in accordance with law in terms of Item No.5 of 38th meeting of Executive Committee. It is further directed that decision in this regard should preferably be taken within four months from the receipt of a copy of this order. No costs.

Announced.

(Govindan S. Tampi)  
Member (A)

/sns/

(V.S. Aggarwal)  
Chairman