

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
ORIGINAL APPLICATION NO.170/00883/2019**

DATED THIS THE 20th DAY OF DECEMBER, 2019

**HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER
HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER**

Sri.Maneesh Agnihotri
Aged 48 years
S/o Late Sri R.K.Agnihotri
Formerly working as
Regional Provident Fund Commissioner
Bengaluru: 560 001.
And presently working as RPFC
Zonal Office Delhi & Uttarakhand
Bhavishya Nidhi Bhawan
Vajirpur Industrial Area
Delhi: 110 052.

....Applicant

(By Advocate Sri P.A.Kulkarni)

Vs.

1. Union of India
to be represented by its Secretary
Ministry of Labour & Employment
Shram Shakti Bhawan
Rafi Marg
New Delhi-110 001.
2. Employees Provident Fund Organisation
by its Central Provident Fund Commissioner
Ministry of Labour & Employment
Government of India
Bhavishya Nidhi Bhawan
No.14, Bhikaji Cama Place
New Delhi: 110 066.
3. Central Provident Fund Commissioner
Ministry of Labour & Employment
Government of India
Bhavishya Nidhi Bhawan
No.14, Bhikaji Cama Place
New Delhi: 110 066.
4. The Secretary

Ministry of Labour & Employment
Government of India
& Chairman Departmental Promotion Committee
Ministry of Labour & Employment
Shram Shakti Bhawan
Rafi Marg, New Delhi: 110 001. ...Respondents

(By Advocates Smt.Shwetha Anand & Sri K.S.Venkata Ramana for R1 to R3)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The case of the applicant is that while working as Regional Provident Fund Commissioner-II at SRO Bhopal, he accidentally came across certain suspicious settlements of PF claims occurred in SRO Bhopal pertaining to the year 2000-2003 during which period he was functioning as Assistant Provident Fund Commissioner(APFC)(Accounts) in the said office. He immediately reported the matter to Regional Office Indore on 18.8.2005 and also complained to CVC on 11.11.2005 under 'Public Interest Disclosure Resolution' and the 'Whistle Blower's Protection Act 2011' (Central Act 17/2014). Based on which, in house preliminary investigation was held and a report dtd.19.10.2005 came to be submitted wherein applicant's role in uncovering the extent of fraud is appreciated. However, CVC by way of first stage advice was of the view that, although the applicant's role in uncovering the extent of fraud cannot perhaps be ignored, however there appears to be gross negligence on his part in not taking due care while passing these claims and therefore, only major penalty proceedings may be adequate and prosecuting him is not called for. Resultantly, he was served with a charge memo on 12.8.2010 by the Headquarters on the following articles of charge:

“While functioning as APFC (Accounts) in Sub-Regional Office Bhopal during the year 2000-2003, acted in gross and wilful negligence of duties and

responsibilities mandated by the MAP on APFC (Accounts), his duty work in the best interest of EPFO and its Members, his duty as a supervisory officer to ensure conduct of his sub-ordinates; that his actions (omissions and commissions) were unfair to his duties and responsibilities, were without due care and attention and unlike what a prudent person would do and, as a result, his actions can't be categorized as honest, bonafide or reasonable; that his actions (omissions and commissions) were in effect a participation in and facilitation of the processing, authorization, sanction and pay out of 46 fraudulent PF claims with the aid of manipulated and falsified internal data/documents; that his actions (omissions and commissions) caused a wrongful pecuniary loss to Employees' Provident Fund Organization equivalent to a sum of Rs.1,53,78,885.

Thus, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of an employee of the Central Board of Trustees, EPF, and he failed to take all possible steps to ensure integrity and devotion to duty of his sub-ordinates and thereby violated rule 3(1) (i), 3(1) (ii), 3(1) (iii) and 3(2) (i) of the CCS (Conduct) Rules 1964 which are applicable, mutatis mutandis, to employees of Central Board, EPF by virtue of regulation 27 of the EPF (Staff and Conditions of Service) Regulations, 1962."

2. The CPF Commissioner has passed the punishment order dtd.3.6.2014 in the name of Chairman CBT EPF by imposing a penalty of 'reduction to a lower stage in the time scale of pay by two stages for a period of two years without cumulative effect and it will not adversely affect his future increments of pay'. The applicant had filed appeal 21.7.2014 to the appellate authority. Govt. of India acting as Appellate Authority after noticing that the charge memorandum dtd.12.8.2010 issued to the applicant was never approved by the disciplinary authority which is against the procedure laid down under the rules as well as advice tendered by DoPT in a similar situation, was pleased to set aside the penalty order dtd.3.6.2014 vide order dtd.11.12.2014 with liberty to the

disciplinary authority to take disciplinary action afresh under the rules. However, no further action was initiated against the applicant and he even came to be promoted as RPFC-I by order dtd.3.6.2015(Annexure-A1) with the approval of the Chairman and vigilance clearance.

3. The applicant submits that when he was due for promotion to the next grade of Additional Central PF Commissioner and he was legitimately expecting this promotion in his own right being the 2nd senior most waiting for this promotion, apprehending initiation of the disciplinary proceedings once again with a view to frustrate the legitimate claim of his promotion, he filed OA.No.1713/2018 before this Tribunal which has passed interim order on 7.11.2018 staying the proceedings dtd.11.12.2014 of the appellate authority(Annexure-A2). During the pendency of the OA, the authority issued a charge memo dtd.20.12.2018 in exercise of the liberty reserved by the appellate authority. This led to filing of Contempt Petition No.10/2019 before this Tribunal for disobeying the interim order in question. However, the charge memo was withdrawn immediately after receipt of the contempt notice and hence the CP was closed on 1.3.2019(Annexure-A3) by this Tribunal. The OA.1713/2018 was also allowed on 28.6.2019(Annexure-A4). Even thereafter, administration's harassing attitude towards the applicant has not been changed. In fact it is aggravated. Even though his juniors are promoted to the next grade of Additional Central PF Commissioner vide order dtd.24.7.2019(Annexure-A5), his promotion has not been ordered. By an office order dtd.25.6.2019, he is shifted from Bangalore on transfer to Zonal Office Delhi and Uttarakhand with headquarters at Delhi(Annexure-A6). Pursuant to the transfer order, the Addl.Central PF Commissioner issued relieving order on the same day with direction to report for

duty immediately without availing joining time while allowing TA/DA admissible under the rules in respect of the transfers ordered in the interest of service(Annexure-A7). Thereafter, he reported at Delhi on 28.6.2019 afternoon(Annexure-A9). The applicant submits that this sudden stray transfer is also in retaliation of his filing a case before this Tribunal. Although he is presently working at Delhi, the DPC consideration for placement to the promotional grade of Addl.Central PF Commissioner was held on 25.6.2019 when he was working in Bengaluru. Therefore, even though promotion orders in this case came to be issued on 24.7.2019, these promotions are based on the DPCs recommendations dtd.25.6.2019. Hence, the cause of action for this OA partly arising with reference to DPC date of 25.6.2019, in terms of Rule 6(1) (ii) of CAT(Procedure) Rules 1987, the OA is maintainable.

4. The applicant further submits that there are no mitigating circumstances existing for the administration for denying the promotion to the post of Addl.Central PF Commission to him and the present action of the administration transferring him from Bangalore to Delhi is highhanded and motivated. His further apprehension is that although his APARs for the relevant years in respect of this promotion are understandably 'outstanding', still DPC's recommendations in his case appears to have been based on the same issue which was the subject matter of the previous OA i.e. disciplinary proceedings in respect of his functioning pertaining to the period 2000-2003. But with his promotion from RPFC-II to RPFC-I on 3.6.2015 after that episode and allowing of the previous OA by this Tribunal, DPC has no scope to look into the same issue in respect of his promotion to the grade of Addl.Central PF Commissioner. Hence, the action of the respondents in denying him promotion while promoting his juniors to the said grade by promotion

order dtd.24.7.2019(Annexure-A5) is totally highhanded. Being aggrieved by the same, the applicant has filed the present OA seeking the following relief:

- a. Call for the DPC records and proceeds leading to issue of promotion order bearing No.HRM-I/A11 (I) 2019/ACC/4673, dated 24.7.2019, Ann-A5 from Respondent No.3 and to peruse the same.*
- b. Hold that denial of promotion to the grade of Additional Central PF Commissioner is without any justification and applicant is entitled for promotion on par with his juniors as evidenced by the promotion order dated 24.7.2019 Ann-A5 and accordingly direct the Respondents to extend the benefit of promotion of the Additional Central Provident Fund Commissioner forthwith on par with his juniors in the above promotion list with all consequential benefits including the monetary benefits flowing there from.*
- c. Pass any other order or direction that this Hon'ble Tribunal may deem it fit and necessary in the facts and circumstances of the present case and in the interest of justice and equity.*

5. The respondents, on the other hand, have submitted in their preliminary statement of objection that neither was the applicant posted within the territorial jurisdiction of this Tribunal at the time of submission of this OA nor did the alleged cause of action arise at Bangalore. He was posted at Delhi at the time of submission of this OA. Therefore, this Tribunal does not have territorial jurisdiction over the alleged cause of action. The applicant filed the present OA arguing that he has not been promoted to the post of Addl.Central PF Commissioner. However, his application is premature. The recommendations of DPC are yet to be acted upon by the appointing authority in his case. Therefore, no cause of action has arisen yet. The applicant has moved this OA anticipating the result of a pending process. Such an application is not maintainable. Apart from the above, the applicant has not impleaded the necessary and proper parties in this OA. The Tribunal cannot adjudicate the OA without hearing the candidates who were junior to the applicant and whose names are mentioned in

the order dtd.24.7.2019. Hence, the OA suffers from non-joinder of necessary and proper parties to the dispute. The prayers made in the OA are not maintainable because they are contrary to the settled principles of judicial review of promotion process. The applicant sought a direction to review the DPC records and consequently promote him to the post of Addl.Central PF Commissioner ahead of his juniors. In effect, he has prayed the Tribunal to take over the role of DPC itself. Moreover, this prayer has been made where the decision on applicant's promotion is still pending before appointing authority. He has not challenged either the composition of or the conduct of DPC. Admittedly, he has been considered for promotion by DPC. Hence, no fault can be found against DPC. The respondents have relied on the judgments of the Hon'ble Apex Court in the case of *State of Mysore v. C.R.Sheshadri* [AIR 1974 SC 460] and *State of Madhya Pradesh v. Srikant Chapekar* [(1992) 4 SCC 689] in support of their contentions.

6. The respondents submit that a fraud that was committed under the charge and responsibility of the applicant while he was posted as a Regional Provident Fund Commissioner, Gr.II at Sub Regional Office, Bhopal. He has incorrectly described his role in the said fraud which occurred due to his gross negligence and unprofessionalism. While no criminal action was initiated against him, he was visited with a punishment in disciplinary proceedings. The rationale behind these disciplinary proceedings was never set aside, albeit the punishment was set aside for a technical reason by the Appellate Authority namely the charge memorandum issued to the applicant was not approved by the competent authority. Even this Tribunal in OA.No.1713/2018 has merely mitigated the rigours of the said order in view of the lapse of time since the issuance of the

said order. Selection process adopted by DPC is governed by OM dtd.10.4.1989 issued by DoPT. However, it must be stated that DPC has the complete authority to view the applicant's entire career record in order to submit its recommendations to the Appointing Authority. It is the Appointing Authority that has to take a final decision in the matter. Since the final decision is yet to come, no cause of action arises for this OA as yet. The OA.1713/2018 was partly allowed. The Tribunal merely modified the appellate authority's order in view of the developments that had occurred subsequent to the passing of the appellate authority's order. It did not interfere with the reasons of the order of disciplinary authority or the appellate authority. The appellate authority has also set aside the order of punishment for a technical reason and hence it permitted issuance of a fresh charge sheet against the applicant. The issue in the present OA pertains to the applicant's promotion to the post of Addl.Central PF Commissioner and this promotion was never the subject matter of the said OA. Therefore, his reliance on the said OA is wholly misplaced.

7. The respondents further submit that no presumption of harassment can be drawn as urged by the applicant. All the candidates were considered for promotion by DPC. Individual recommendations were made in respect of each of the candidates. The applicant was transferred in due course of his employment. Under the transfer policy approved by Central Board of Trustees, an officer can serve at his or her station for a period of 3 years. The applicant had served at Bangalore for more than a period of 3 years. Thus he was due for annual general transfer out of Bangalore in the end of 2018 itself. However, he had requested for an extension of his stay at Bangalore for personal reasons. His request was allowed and he was permitted to stay. Therefore, his transfer was in due course

of his service. But he has misrepresented the facts. He was posted at Zonal Officer Delhi. DPC met at Delhi and appointing authority is also situated at Delhi. Hence, under Rule 6(1)(ii) of CAT Procedure Rules, the Tribunal at Delhi has territorial jurisdiction over the alleged cause of action. However, no cause of action has arisen yet as the decision on applicant's promotion is yet to be taken by the appointing authority.

8. The applicant has filed rejoinder stating that there is no reason forthcoming from the respondents in the reply statement as to why appointing authority has chosen to order promotion of his 11 juniors vide promotion order dtd.24.7.2019 while withholding the decision in respect of his promotion. Even thereafter, during the pendency of this OA, one more promotion order is issued on 10.10.2019 by the appointing authority relating to Sri Animesh Mishra(Annexure-RJ1) who is also junior to the applicant. It indicates that at this stage also the appointing authority has not chosen to take a decision in respect of his promotion. In spite of applicant's apprising his victimization by the administration to the Chairman of the EPFC Board of Trustees, no action is taken so far to redress his legitimate grievance so far. With the sole motive to harass him, the interim order passed by this Tribunal on 22.8.2019 in this OA to cause promotion of this applicant in case his juniors are already promoted, came to be challenged by the respondents before Hon'ble High Court of Karnataka in WP.No.41647/2019(S-CAT) on technical grounds wherein the Hon'ble High Court has passed the order(Annexure-RJ2) observing that the present OA is required to be decided on merits uninfluenced by their order.
9. The respondents have filed additional reply statement reiterating the submission made in the reply and submit that against the order dtd.22.6.2019 passed in

OA.1713/2018, the department has filed appeal in WP.No.41646/2019 before the Hon'ble High Court of Karnataka wherein the Counsel appeared for the applicant had undertaken that he will not precipitate the matter for a period of 4 weeks and on 20.9.2019, the said WP was listed for B-Group but however, for want of time it was adjourned. Meanwhile, the applicant has filed the present OA wherein the order dtd.22.8.2019 passed by this Tribunal to give promotion to the applicant was challenged before the High Court of Karnataka in WP.No.41647/2019 and the said WP was allowed on 10.10.2019. When the initiation of disciplinary proceedings against the applicant is yet to be decided by the Hon'ble High Court of Karnataka in view of the order passed by this Tribunal in OA.No.1713/2018, decision to take disciplinary action is pending for consideration which is subject to result of WP.No.41646/2019. In such scenario, seeking promotion by the applicant is not tenable. Therefore, the present OA is premature and the same is liable to be dismissed.

10. We have heard the Learned Counsels for both the parties and perused the materials placed on record in detail. The respondents' Counsel has submitted a Memo enclosing therewith a list of documents. The applicant has filed written arguments note. The applicant in this case has requested for the intervention of this Tribunal to enable his promotion to the grade of Additional Central Provident Fund Commissioner on par with his juniors as evidenced by the promotion order dtd.24.7.2019(Annexure-A5) and to extend the benefit of such promotion with all consequential benefits. The respondents have challenged the present OA on the following grounds:

The first ground taken by them is that the impugned order was issued on 24.7.2019 on which date the applicant had already been transferred to Delhi and

therefore, this application would have to be agitated before the Principal Bench of this Tribunal at New Delhi. The applicant would contend that the relevant date to be considered is the date of Departmental Promotion Committee(DPC) held on 25.6.2019 on which date he was very much posted in Bangalore and he joined the post at New Delhi only on 28.6.2019. Further the action to be taken against the applicant has already been discussed in detail in OA.No.1713/2018 by this Tribunal vide order dtd.28.6.2019 which is under challenge before the Hon'ble High Court of Karnataka at present. Since the relevant date so far as this application is concerned is the DPC of 25.6.2019, it is clear that this Tribunal has the jurisdiction to pass necessary orders in this application even though the actual promotions and the impugned order are dtd.24.7.2019 on which date the applicant was certainly working in New Delhi, he having joined on 28.6.2019.

11. The second main ground taken by the respondents is that the prayer for promoting him to the post of Additional Central Provident Fund Commissioner is premature since the decision on the applicant's promotion is still pending before the appointing authority. The respondents have also cited the Hon'ble Apex Court judgment in the *State of Madhya Pradesh vs. Srikant Chapekar (1992) 4 SCC 689* wherein it has been categorically stated that 'when the Tribunal or Court comes to the conclusion that a person was not considered for promotion or the consideration was illegal, then the only direction which can be given is to reconsider his case in accordance with law. It was not within the competence of the Tribunal, in the facts of the present case, to have ordered the deemed promotion of the respondent'. The respondents would also state that the applicant has not challenged either the composition or the conduct of DPC. Admittedly the applicant has been considered for promotion by DPC. They would

state that the final decision on the applicant's promotion is still under consideration before the appointing authority and therefore no cause of action would arise for the present application. They also would state that the DPC recommendations are not binding upon the appointing authority and the appointing authority may take a final decision independent of DPC recommendations. Therefore, they have concluded that since the final order is yet to be issued, DPC recommendations cannot be judicially reviewed prematurely. We are in agreement with the above point stressed by the respondents. At the same time, we called for the proceedings of the DPC dtd.25.6.2019 and we find that the applicant has been considered for promotion in the said proceedings but he has not been found fit to be promoted as Additional Central Provident Fund Commissioner. A confidential note is enclosed with the DPC proceedings wherein the Committee was informed about the earlier case wherein the applicant was involved in a matter of fraudulent settlement of 43 claims involving an amount of Rs.1.54 crores. The Committee was informed that this was a composite case wherein other officials were involved and of the 11 officials involved, 8 of them have been imposed with the penalty of dismissal from service and penalty of withdrawal of pension has been imposed upon 3 others who had superannuated. The Committee was also informed about the disciplinary proceedings initiated against the applicant, the penalty imposed upon him, the orders of the appellate authority and the fact that the proceedings were quashed on procedural lapses as having been issued without the approval of the disciplinary authority and not on merits. The Committee was also informed that the appellate authority had given liberty to the disciplinary authority to issue fresh charge sheet. The Committee was informed about the orders of this Tribunal

relating to the earlier OA.No.1713/2018 in which a stay was granted on the orders of the appellate authority which permitted the respondents to issue a fresh charge memo without any infirmities. The Committee has finally concluded that taking a holistic view of the matter and the gravity of the facts, the opinion of the Committee is that the officer is not fit for promotion. While we would not like to pass any judgment and slip into the shoes of the Departmental Promotion Committee with respect to the fitness or otherwise of the applicant for the promotion, we need to keep in mind the various orders of the Hon'ble Apex Court relating to the disciplinary proceedings and the their effect on the promotions as cited by the applicant in *UOI & Ors, vs. Sangram Keshari Nayak in Civil Appeal No.3691/2005* decided on 27.4.2007 wherein the Hon'ble Apex Court held that 'the right to be considered for promotion is a fundamental right and promotion can be denied only on the basis of valid rules'. The Hon'ble Apex Court held that 'the suitability or otherwise must be left to be decided by the DPC but the DPC must determine suitability according to applicable rules'. The Hon'ble Apex Court also ruled that the adoption of sealed cover procedure before issuing of charge sheet is invalid and therefore results in wrongful denial of promotion to an employee. The issue of sealed cover procedure has been comprehensively dealt with by the Hon'ble Apex Court in *UOI & Ors. vs. K.V.Janakiraman & Ors* reported in (1991) 4 SCC 109 wherein the Hon'ble Apex Court held that 'the consideration of an employee for promotion cannot be withheld merely on the ground of pendency of any preliminary inquiry/criminal investigation against him, that the sealed cover procedure can be adopted only after the date of issuance of charge memo/charge sheet and also that such procedure can be adopted where the employee is placed under suspension. The final outcome of a disciplinary

case as well as a criminal case has also been comprehensively dealt with by the Hon'ble Apex Court in the said judgment. A similar decision is apparent in the case of *UOI vs. Anil Kumar Sarkar in Civil Appeal No.2537/2013*. The Hon'ble Apex Court had also upheld the order of this Tribunal in the Principal Bench, New Delhi in *UOI & Ors. vs. Smt. Sudha Salhan* vide dtd.7.1.1998 wherein the Hon'ble Apex Court stated that 'when a person is neither under suspension nor has any departmental proceedings been initiated against him, his name, if he is found meritorious and suitable, has to be brought on the select list and the sealed cover procedure cannot be adopted'. The Hon'ble Apex Court has consistently held that the sealed cover procedure for withholding the promotion of any of the employees of the Government can be done only if a charge memo has been issued and the disciplinary proceedings commenced. In this case, as we have already seen, the DPC has taken a holistic view and has considered the punishments meted out to the others and due to the gravity of the facts therein has decided to consider the applicant as unfit for the promotion. This, in our opinion, is clearly against all the settled wisdom relating to the withholding of promotion on the basis of the contemplated disciplinary proceedings as has been categorically laid down by the Hon'ble Apex Court. At the same time, it is also clear that the respondents' hands cannot be constrained by a judicial intervention into their decision when it is backed by appropriate rules. In this case, we find that no charge memo has been issued against the applicant on the date when the DPC sat viz. on 25.6.2019. Therefore, the respondents are clearly in the wrong when they had considered other issues which were not germane to the particular promotion; their intention to deny the applicant a further promotion is patent even though they had given a similar promotion as late as in the year

2015. The respondents have once again gone into the issue of the earlier proceedings wherein the applicant would claim that he was a whistle blower whereas the respondents would claim that sensing a CBI inquiry relating to an office in Gwalior, the applicant transforming himself into the role of a whistle blower after having been a party to at least 46 claims involving Rs.1.54 crores. Apparently, the applicant was involved in the final approval in these claims but at the same time it is also clear that he had sent a letter in August 2005 wherein he had specifically mentioned about the person who was earlier posted in the Bhopal office etc. Subsequently, he had also sent a detailed whistle blower complaint to the Central Vigilance Commission in November, 2005. The Central Vigilance Commission(CVC) vide its letter dtd.5.3.2007 had fairly examined his role and had subsequently stated that while gross negligence on the part of the applicant is apparent, his role in uncovering the extent of fraud cannot perhaps be ignored. The CVC went on to state that the CBI had registered a case on 24.6.2005 for two cases of fraud in 1999 and since the said suspect in those two cases was posted earlier at Bhopal, the applicant had conducted discreet inquiries and found some suspected cases processed by him involving the same modus operandi. The CVC has specifically noted that on his reporting, the matter has been taken up by the Vigilance and subsequently the case was referred to CBI. In fact in the CBI case filed with regard to the case in Bhopal, the applicant's name figures as the complainant. The CVC also comments that the vigilance investigation had taken note of the applicant's initiative in bringing out the fraud and preserving the documents calling for vigilance investigation and rendering full co-operation. The short point is that the applicant had a very major role in exposing the magnitude of the fraudulent claims made, while at the same time he

was also guilty of sanctioning certain claims without obviously verifying the original records. Even though he may take the plea that being a final sanctioning authority, he cannot be expected to verify each and every claim, the fact that he did not verify the details is apparent. Therefore, the respondents have every right to proceed against him despite the fact that the magnitude of the scam was brought out in full measure by his taking up the case at the initial stages based on the details and records he had furnished. But then, as we have seen in the OA.No.1713/2018, even as late as 2014 i.e. a decade after the event and the charge memo being issued only in 2010, the appellate authority had considered it in a holistic manner and suggested that the respondents may reconsider the issue of fresh charge sheet while ordering promotion of the applicant in the year 2015. It is now up to the respondents to decide whether or not they want to pursue the issue against the applicant. The only fact we have to examine is whether the DPC was justified in taking the so called holistic view and deciding that the applicant was unfit for the promotion even though he had in fact been promoted to the next higher level in the year 2015 with the benefit of the promotion notionally w.e.f. 8.2.2013 itself. While we would not like to state anything about the continued bias or otherwise against the applicant, it is clear that there was no charge memo pending on the date of DPC and but for bringing in additional factors, the applicant would certainly have been considered for promotion to the level of Additional Central Provident Fund Commissioner. We, therefore, direct the respondents to consider him for being promoted as Additional Central Provident Fund Commissioner with effect from the date his juniors were promoted vide Annexure-A5 within a period of two(2) months from the date of issue of this order. It is always open for the respondents to take a

decision either to proceed against the applicant or otherwise based on the facts of the case and appropriate decision at their level.

12. The OA is allowed with the above direction. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in OA.No.170/00883/2019

Annexure A1: Copy of the promotion order dtd.3.6.2015 as RPFC-I

Annexure A2: Copy of the order sheet from 30.10.2018 to 6.12.2018 in

OA.1713/2018

- Annexure A3: Copy of the order dtd.1.3.2019 passed in CP.10/2019
- Annexure A4: Copy of the CAT BG final order dtd.28.6.2019 passed in OA.1713/2018
- Annexure-A5: Copy of the impugned promotion order dtd.24.7.2019
- Annexure-A6: Copy of the transfer order dtd.25.6.2019
- Annexure-A7: Copy of the relieving order dtd.25.6.2019
- Annexure-A8: Copy of the charge report dtd.26.6.2019
- Annexure-A9: Copy of the joining order dtd.28.6.2019

Annexures with preliminary submissions filed by the respondents:

-NIL-

Annexures with rejoinder:

- Annexure-RJ1: Copy of the one more promotion order dtd.10.10.2019 issued by the administration during the pendency of the OA
- Annexure-RJ2: Copy of the High Court order dtd.10.10.2019 in WP.No.41647/2019(S-CAT)

Annexures with additional reply:

- Annexure-R1: Letter dtd.18.8.2005
- Annexure-R2: Letter dtd.11.11.2005
- Annexure-R3: Letter dtd.19.12.2005
- Annexure-R4: Copy of the preliminary investigate report dtd.19.10.2005
- Annexure-R5: Copy of the Office Memorandum dtd.5.3.2007
- Annexure-R6: Copy of the order dtd.3.6.2014
- Annexure-R7: Copy of the order dtd.11.12.2014
- Annexure-R8: Copy of the order sheet in OA.2431/2013
- Annexure-R9: Copy of the office order dtd.3.6.2015
- Annexure-R10: Copy of the order sheet in OA.No.1713/2018
- Annexure-R11: Copy of the order in CP No.10/2019
- Annexure-R12: Copy of the FIR dtd.24.6.2005
- Annexure-R13: Copy of the FIR dtd.8.11.2005
- Annexure-R14: Copy of the SP report
- Annexure-R15: Copy of the FIR 13.1.2006
- Annexure-R16: Copy of the SP report
- Annexure-R17: Copy of the FIR 16.3.2006
- Annexure-R18: Copy of the SP report
- Annexure-R19: Copy of the FIR 31.5.2006
- Annexure-R20: Copy of the SP report
- Annexure-R21: Copy of the FIR 4.1.2007
- Annexure-R22: Copy of the SP report
- Annexure-R23: Copies of the orders passed by Govt.

List of documents submitted along with Memo dtd.10.12.2019 filed by the respondents:

Document-1: Copy of the memorandum dtd.10.8.2010 along with Articles of

Charge vide Annexure 1

Document-2: Copy of the Form No.19 under EPF Scheme 1952 in respect of one Mr.B.K.Tanka, pertains to Account No.MP/3477/109 along with claim sanction documents

Document-3: Copy of the Form No.19 under EPF Scheme 1952 in respect of one Mr.Ravi Khandare, pertains to Account No.MP/3477/934 along with claim sanction documents

Document-4: Copy of the Form No.19 under EPF Scheme 1952 in respect of one Mr.Rajendra, pertains to Account No.MP/3477/954 along with claim sanction documents

Document-5: Copy of the Form No.19 under EPF Scheme 1952 in respect of one Mr.Manish Gaur, pertains to Account No.MP/4508/02 along with claim sanction documents
