

**Central Administrative Tribunal
Madras Bench**

OA/310/01910/2017 & OA/310/01922/2017

Dated the 6th day of February Two Thousand Twenty

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

OA 1910/2017

S.Sitharthan,
S/o S.Swaminathan,
26, EPF Staff Quarters,
Dr Thirumurthy Nagar,
Nungambakkam,
Chennai 600 034. .. Applicant
By Advocate **M/s.P.Ulaganathan**

Vs.

1. Union of India, rep. by
Secretary to Government of India,
M/o Labour,
Shram Shakti Bhawan,
New Delhi 110 001.
2. The Central Provident Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi 110 066.
3. Additional Central Provident Fund Commissioner,
EPF Organization,
M/o Labour & Employment,
Zonal Office, (Chennai & Puducherry),
37, Royapettah High Road,
Chennai 600 014.
4. Smt. Celine Pinto, Private Secretary (Retd.).

Through: Regional PF Commissioner-I,
EPF Organisation, Regional Office,
No.13, Raja Ram Mohanroy Road,
Bengaluru 560 025.

5. Shri R.J. Tuli, Private Secretary,
EPF Organisation,
Regional Office, Bhavishya Nidhi Bhawan,
Panchayat Nagar Chowk, University Road,
Rajkot 360 005.
6. Shri K.Radhakrishna, Private Secretary (Retd.),
Through: Regional PF Commissioner-I,
EPF Organisation, Regional Office,
3-4-783, Barkatpura, Chaman,
Hyderabad 500 027.
7. Shri Chandra Prakash,
Private Secretary,
EPF Organisation, Head Office,
14, Bhikaiji Cama Place,
New Delhi 110 066.
8. Shri Dharam Raj Singh,
Priave Secretary,
EPF Organisation, Head Office,
14, Bhikaiji Cama Place,
New Delhi 110 066.
9. Shri R.K.Mehra,
Private Secretary,
PDUNASS,
30-31 Institutional Area,
Janakpuri, New Delhi 110 058.
10. Shri Gaja Nand,
Private Secretary,
PDUNASS,
30-31 Institutional Area,
Janakpuri, New Delhi 110 058.
11. Shri Rakesh Kapoor,
Private Secretary,
EPF Organisation, Regional Office,
S.C.O. 4-7, Sector-17D,
Chandigarh.
12. Ms.Paramjeet Kaur,
Private Secretary,
EPF Organisation, Head Office,
14, Bhikaiji Cama Place,

New Delhi 110 066.

13. Shri Harish Makhija,
PS/Deputy Registrar(On Deptn.),
EPF Appellate Tribunal,
4th Floor, Core-2,
Scope Minar, Laxmi Nagar,
Delhi 110 092.

14. Shri M.A.Taher,
Private Secretary,
EPF Organisation, Regional Office,
Bhavishya Nidhi Bhawan,
Nyalkal Road,
Nizamabad 503 001.

15. Mrs. Kiran Rawal,
Private Secretary,
Regional office, Bhavishyanidhi Bhawan,
28, Community Centre, Wazirpur Industrial Area,
Delhi 110 052.

16. Sri Vinod Kumar Grover,
Private Secretary,
EPF Organisation, Head Office,
14, Bhikaji Cama Place,
New Delhi 110 066.

17. Shri R.D.Thakur,
Private Secretary,
EPF Organisation, Regional Office,
Bhavishya Nidhi Bhawan,
1st and 2nd Floor,
34, SDA Complex,
Shimla 171 009 (Himachal Pradesh).

18. Smt. N.V.V. Satya Sai,
Private Secretary,
EPF Organisation, Regional Office,
3-4-783, Barkatpura, Chaman,
Hyderabad 500 027.

19. Mrs. P.Y.Wagh,
Private Secretary,
EPF Organisation, Regional Office,
Bhavishya Nidhi Bhawan,
Ashram Road, Near IT Circle,
Ahmedabad 380 014.

20. Shri Anand Kumar,
Private Secretary,

EPF Organisation, Head Office,
 14, Bhikaji Cama Place,
 New Delhi 110 066. .. Respondents
 By Advocate **Mr.V.Vijay Shankar (R1-3)**

OA 1922/2017

N.S.Jayanthi,
 W/o G.Raghavan,
 6/5, K.V.Colony III Street,
 West Mambalam,
 Chennai 600 033. .. Applicant
 By Advocate **M/s.P.Ulaganathan, S.K.Sekar**

Vs.

1. Union of India, rep. by
 Secretary to Government of India,
 M/o Labour,
 Shram Shakti Bhawan,
 New Delhi 110 001.
2. The Central Provident Commissioner,
 Employees Provident Fund Organisation,
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3. Additional Central Provident Fund Commissioner,
 EPF Organization,
 M/o Labour & Employment,
 Zonal Office, (Chennai & Puducherry),
 37, Royapettah High Road,
 Chennai 600 014.
4. M/s. Johnson,
 Private Secretary (Retd.),
 Through: Regional PF Commissioner-I,
 EPF Organisation, Regional Office,
 No.36/685-A, Kaloor,
 Kochi-682017.
5. Smt.Mona Nichani,
 Private Secretary (Retd.),
 Through EPF Organisation, Head Office,
 14, Bhikaji Cama Place,
 New Delhi 110 066.
6. Smt. Celine Pinto, Private Secretary (Retd.),

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Hyderabad 500 027.
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10. Shri Dharam Raj Singh,
Priave Secretary,
EPF Organisation, Head Office,
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New Delhi 110 066.
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Private Secretary,
PDUNASS,
30-31 Institutional Area,
Janakpuri, New Delhi 110 058.
12. Shri Gaja Nand,
Private Secretary,
PDUNASS,
30-31 Institutional Area,
Janakpuri, New Delhi 110 058.
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S.C.O. 4-7, Sector-17D,
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14. Ms.Paramjeet Kaur,
Private Secretary,
EPF Organisation, Head Office,
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Private Secretary,
Regional office, Bhavishyanidhi Bhawan,
28, Community Centre, Wazirpur Industrial Area,
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1st and 2nd Floor,
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Private Secretary,
EPF Organisation, Regional Office,
Bhavishya Nidhi Bhawan,
Ashram Road, Near IT Circle,
Ahmedabad 380 014.

22. Shri Anand Kumar,
Private Secretary,
EPF Organisation, Head Office,

14, Bhikaji Cama Place,
New Delhi 110 066. .. Respondents
By Advocate **Mr.M.T.Arunan**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief(s):-

OA 1910/2017:

“a) ...call for the records on the file of Regional Provident Fund Commissioner-I, HRM, in the office of the 2nd respondent in connection with the Office Order No.HQ/HRM-VI/2/Promotion/PS/4/2017/6961 dt. 03.7.17 with regard to the promotion of the applicant as Private Secretary and set aside the same insofar as it gives effect to the promotion prospectively and grant promotion to the applicant from 14.7.1997 notionally and with monetary benefit from 26.9.2000, at par with the private respondents R4-R20;

b)call for the records on the file of Regional Provident Fund Commissioner-I, HRM, in the office of the 2nd respondent in connection with the Office Memorandum No.HRM-IV/10(35)2013/Seniority List/PS/12873 dt. 09.11.2017 with regard to the Final Seniority List of Private Secretary and set aside the same;

c) ...call for the records on the file of Regional Provident Fund Commissioner-I, HRM, in the office of the 2nd respondent in connection with the Office Order No.HQ/HRM-IV/11/(01)/2017/Promotion-PPS536 dt. 29.11.2017 and set aside the same promoting the juniors to the post of Principal Private Secretary; and

d) Direct the 2nd respondent to revise the Seniority List in the Post of Private Secretary, placing the applicant above the private respondents i.e. R-4 to R-20, who are his juniors, as per the seniority list of Personal Assistant as on 03.3.2001 dt. 27.12.2002 and make promotion to the post of Principal Private Secretary based on the seniority list of Private Secretary, so revised, with all consequential benefit including pay-fixation and grant of arrears of pay and allowances or pass any other order or direction or grant any other relief, in the circumstances of the case and thus render justice.”

OA 1922/2017:

“...to call for the records on the file of the 2nd respondent in connection with the office order No.HQ/HRM-VI/2/Promotion/PS/4/2017/6961 dated 03.7.2017 and set aside the same insofar as it fails to accord promotion to all those who were left out for promotion including the applicant herein and direct the respondents 1 to 3 to promote the applicant to the post of Private Secretary with effect from 14.7.1997 notionally and with monetary benefit from 26.9.2000 till 18.6.2008, the date of her retirement on voluntary basis, at par with her juniors i.e. R-4 to R-22, with all consequential benefit including pay-fixation and grant of arrears of pay and allowances or pass any other order or direction or grant any other relief, in the circumstances of the case and thus render justice.”

2. As the issue involved in all these applications is identical and the relief sought for also is similar, these applications have been heard together and are being disposed off by this common order.

3. In view of the fact that both the applicants have filed OAs for similar relief and the facts are also similar, for the sake of convenience the OA 1910/2017 is taken as leading case.

4. The applicant became a Stenographer Gr.III in the office of the respondents at Chennai on 06.5.1988. He became Stenographer Gr.II on 23.11.98 and became Personal Assistant (PA) on 15.9.2000. Thereafter, on 03.7.17 he became Private Secretary w.e.f. 03.7.17.

5. The cadre of Steno/PA/PS in the Employees Provident Fund organisation (EPFO) was restructured as per decision of the Executive Committee on 14.7.97. The Recruitment Rules (RR) on the basis of it was notified only on 02.1.99. The

restructuring was done as per DOPT instructions contained in OM 10/10/87.

6. Prior to this, these posts were operated on regional basis. After the notification of new Rules of 1998, all these posts of Stenographers were operated on an All India Basis. The applicant was promoted as Personal Assistant on 18.9.2000 as per RR 1998 on the basis of seniority list published on 31.3.99.

7. During this time some Stenographers (who are juniors) filed OA 2243/03 before the Principal Bench, Delhi, challenging the rules 1998. The Tribunal ordered the respondents to consider the granting of promotions as PA w.e.f. 14.7.97 i.e. date of Resolution of the Executive Committee.

8. The order of the Principal Bench in ***OA 2243/01 Vinod Kumar Gover & Others v. U.O.I. & Others*** was implemented by the respondents as per order dt. 23.10.03 granting promotion to 40 Stenographers (who are juniors to the applicant) as PA in Pay Scale Rs.5500-175-9000 notionally w.e.f. 14.7.97 with monetary benefit from 26.9.2000. On 12.12.2003, the respondents promoted the applicant as well as 53 others as PA notionally w.e.f. 14.7.97 to bring them on par with others.

9. 4 other Stenographers filed an ***OA 237/04 (B.T.Krishna Rao & Others v. Union of India & Others)*** before the Hyderabad Bench seeking a direction to consider the cases of those applicants to the vacancies that arose before 02.1.99 (new notification of RR) on the basis of Resolution of the Executive Committee of EPFO dt. 14.7.97 and on the basis of the Existing Recruitment Rules, 1992. The Hyderabad Bench following the Principal Bench Order in OA 2243/01 held that the applicants

are entitled to be considered for promotion w.e.f. 14.7.97 under the then existing RR 1992. It was also held that the All India Seniority can be made effective only w.e.f. January 1999. The said order was implemented on the basis of region-wise seniority.

10. As per the instructions issued by the respondents in Circular dt. 22.8.06, the vacancies/posts for the post of PSs are to be filled up by the senior most officials in the Stenographical Cadre in the region. The subsequent clarification issued after the CAT, Hyderabad order dt. 27.9.06 cannot be made use off as it was not in existence when the order was given.

11. The 2nd respondent had promoted the applicant and 8 others as PS as per order dt. 3.7.17. Since the applicant was not given retrospective promotion on the basis of region-wise seniority, many of his juniors are above the applicant. The applicant seeks that he may be given retrospective promotion from the date on which his juniors were promoted. He seeks to set aside the promotion order HQ/HRM-VI/2/Promotion/PS/4/2017/6961 dt. 03.7.17 promoting him prospectively and grant promotion to the applicant notionally w.e.f. 14.7.97 with monetary benefits w.e.f. 26.9.00 on par with juniors R4 to R20.

12. The respondents filed a detailed reply admitting the implementation of the orders of the Principal Bench in ***Vinod Kumar Gover & Others v. U.O.I. & Others (OA 2243/01)*** and the order of the Hyderabad Bench of this Tribunal in ***B.T.Krishna Rao & Others v. Union of India & Others (OA 237/04)***. It was also admitted that in

the case of those applicants, promotions were given on the basis of rules that were in existence (RR 1992) and seniority was considered region-wise.

13. When the matter came up for hearing, the counsel appearing for the applicant had produced copy of the order passed by Bangalore Bench in *P.S.Jayasree v. Union of India & Others (OA 42/2018)* wherein the applicant who was promoted as PS by DPC held on 03.7.17 with prospective effect was the applicant. The Bangalore Bench has ruled that the applicant is entitled to get her seniority refixed on region-wise and is entitled to get promotion from 14.7.97 from which date her juniors were promoted. The counsel for the applicant filed a copy of judgment stating that the facts and circumstances of the above case are similar and he is entitled to get the same benefit. But the counsel for the respondents did not file or raise any objection nor attempted to distinguish the above judgment from the applicant's case even after adjournments.

14. We had perused the pleadings and documents. Heard the CFA. We had also gone through the judgments in OA 2243/01, OA 237/04 and OA 42/18 produced before us. The facts are similar and applies to the case in hand.

15. In view of the decisions in *Vinod Kumar Gover, B.T.Krishna Rao* and *P.S.Jayasree*'s case (referred supra), we are of the view that the applicants are also entitled to the benefits of re-fixing their seniority (region-wise) w.e.f. 14.7.97.

16. **Accordingly, we hereby set aside the order of promotion dt. 03.7.17 of the applicants and direct the respondents to conduct a review DPC in the light of the**

above findings and consider the granting of retrospective promotion to the applicants notionally from the date of their juniors in the Regional Seniority-List were promoted with consequent fixation of pay.

It is also made clear that they will be entitled to arrears of pay, if any, only from the date of filing these OAs i.e. 12.12.2017.

17. Accordingly, OAs 1910 and 1922 of 2017 are allowed to that extant. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

06.02.2020

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