

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.463/2001

New Delhi, this 17th day of September, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

1. K.B. Yadav,
Addl. CPFC, Hqrs.
2. A.Viswanathan
Addl. CPFC, Hqrs.
Both c/o 14, Bhikaji Cama Place
Bhavishya Nidhi Bhavanh, New Delhi
3. R.D. Chetival
Addl. CPFC posted as Director
National Academy for Trng. & Research in
Social Security
30-31, Institutional Area, Janak Puri
New Delhi
4. A.N. Roy
Addl. CPFC (Retired)
6, Bhavishya Nidhi Enclave
Malviya Nagar Road, New Delhi .. Applicants

(By Shri E.X. Joseph, Sr. Advocate with Shri
S.S.Sabharwal, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Labour
Shram Shakti Bhavan, New Delhi
2. Chairman
Employees Provident Fund, Central Board
of Trustees, Shram Shakti Bhavan
New Delhi
3. Chairman-cum-Secretary
Executive Committee of the
Central Board of Trustees
Shram Shakti Bhavan, New Delhi
4. Central Provident Fund Commissioner &
Member Secretary, Central Board of
Trustees, Employees Provident Fund Orgn.
Hqrs., 14, Bhikaji Cama Place
Bhavishya Nidhi Bhavanh, New Delhi .. Respondents

(By Shri M.M. Sudan, Sr. Counsel for R-1 and
Shri V.S.R. Krishna, Advocate for R-2 to R-4)

ORDER(oral)

By Shri M.P. Singh

In this OA applicants have challenged the orders
dated 5.2.2001 and 13.2.2001 whereby a decision had been
taken to reduce their pay scale from Rs.16400-20000 to
Rs.14300-18300.



2. Out of the four applicants, first three are working as Additional Central Provident Fund Commissioners (ACPFC, for short) while the fourth applicant has retired from service as ACPFC on superannuation on 31.7.2000. According to them the Central Board of Trustees (CBT), Employees' Provident Fund (EPF) is a statutory body, set up under Section 5A of the EPF & Misc. Provisions Act, 1952. It is stated by the applicants that a sub-committee was constituted based on the decision of the Executive Committee for considering adoption of Vth Central Pay Commission pay scales. The sub-committee gave its recommendations in regard to the pay scales of Group A officers. The Executive Committee is empowered by the statute and therefore its decision approving the recommendations of the sub-committee are binding on the respondents. According to the recommendations of the sub-committee, the applicants were granted the pay scale of Rs.16400-20000 and were paid the arrears w.e.f. 1.1.96. The Central Government vide its letter dated 5.2.2001 has informed that the proposal for revision of pay scale of ACPFC etc. has not been agreed to in view of inadequate functional justification and repercussion on similar organisations. Aggrieved by this, applicants have filed this OA seeking directions to the respondents to quash and set aside the orders dated 5.2.2001 and 13.2.2001 and to grant them the scale of Rs.16400-20000 with consequential benefits.

3. Respondent No.1 in his reply has stated that under section 5D(3), the CBT may appoint ACPFCs, RPFCs etc. subject to the condition that the maximum scale of pay should not exceed the limit as may be specified in the scheme. Under the ~~provision~~ ^{provision} of para 22A of the EPF Scheme,



1952, the CBT is empowered to make appointment in relation to the posts carrying the maximum scale of pay of Rs.14300-18300 (revised). According to them, while upgrading the post of FA & CAO and ACPFCs from the scale of pay of Rs.14300-18300 to the scale of Rs.16400-20000, the EPF organisation exceeded its power and decided contrary to the provisions of section 5D(3) read with para 22A of the EPF Scheme, 1952. It is further stated by R-1 that the post of ACPFC in pay scale of Rs.14300-18300 in EPF organisation is equivalent to the post of Director in Ministries/Departments of the Govt. of India. This is a settled hierarchical structure, which negates all averments made in the OA. In view of the aforesaid submissions, the reliefs prayed for by the applicants are liable to be rejected.

4. Heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicants drew our attention to sections 5D(1) to 5D(7) of the Act. He submits that as per section 5D(3), the Central Board may appoint as many ACPFCs, Dy. PF Commissioners, Regional PF Commissioners, Asstt. PF Commissioners and other employees as it may consider necessary for the efficient administration of the Scheme. Section 5D(7)(a) provides that the method of recruitment, salary and allowances, discipline and other conditions of service of the ACPFC etc. shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central govt. drawing corresponding scales of pay, provided that where the Central Board is



of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government. Section 5D(7)(b) provides that the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Govt. and in case of any doubt, the Central Board shall refer the matter to the Central Govt. whose decision thereon shall be final.

6. Learned counsel for the applicants submitted that R-1 has wrongly taken the view that EPF organisation exceeded its power and decided contrary to the provisions of Section 5D(3) read with para 22A of the EPF Scheme, 1952. As per para 22A, the power is vested in Central Board with regard to the appointment in relation to posts carrying the scale of pay of Rs.14300-18300. It does not restrict the power of the Central Board with regard to the grant of pay scale to the ACPFC. According to him the power of the Central Board with regard to the determination of corresponding scale of pay is vested under Section 5D(7)(b) of the Act. Para 22A of the EPF Scheme flows from Section 5D(3) which provides for regulating appointment authority only of officers and staff by the Central Board.

7. On the other hand, the learned counsel for respondents drew our attention to Section 5D(3) and para 22A of the Scheme. Para 22A specifically states that only officers who are in the pay scale of Rs.4500-5700 (pre-revised) now revised to Rs.14300-18300 shall be appointed by the Central Board under sub-section (3) of

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(9)

A section 5D of the Act. The sub-committee recommended functional pay scale of Rs.16400-20000 for the post of ACPFC, FA & CAO which is beyond their jurisdiction. He also stated that the Central Board has referred the matter to the Central Government regarding revision of pay scale of ACPFC, FA & CAO but the Ministry of Finance have not agreed to the proposal made by the Central Board. He further submitted that the Central Board is not vested with the power of determining the corresponding pay scales of its officers with that of Central Government officers beyond the scale Rs.14300-18300 (revised) as per the provisions of para 22A of the Scheme.


8. We have carefully gone through the relevant sections of the Act. Para 5D(7) clearly states that the method of recruitment, salary and allowances and other conditions of service of ACPFC etc. of Central Board shall be in accordance with the rules and orders applicable to the officers and employees of the Central Govt. drawing corresponding scales of pay. The pre-revised pay scale attached to the post of ACPFC was Rs.4500-5700. This was the pay scale granted to the officers of the rank of Director in the Central Government. After the recommendation of the Vth Pay Commission, the pay scale of the post of Director was revised to Rs.14300-18300 w.e.f. 1.1.1996. Therefore the ACPFCs who were in the pay scale Rs.4500-5700, corresponding to the scale of pay of Director in the Central Government, ought to have been given the pay scale of Rs.14300-18300. In case the Central Board wanted to grant revised pay scale to ACPFC

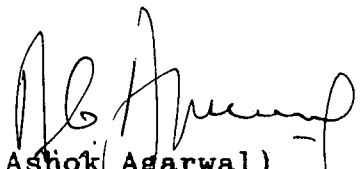


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higher than Rs.14300-18300, the matter should have been referred to the Central Government for approval under the proviso of Section 5D(7)(a) of the Act.

9. A careful reading of the relevant provisions of the Act including Section 5D(7)(a) of the Act and para 22A of the Scheme clearly establishes that the Central Board does not have the power to grant higher pay scale to ACPFC than the corresponding officers and employees of the Central Government drawing corresponding pay scale. In this case, the matter has been referred to the Central Government with regard to revision of the pay scales of FA, CAO etc. for approval, but the same has not been agreed to. It is a settled law by the Supreme Court that the revision/grant of pay scale to the incumbent of a particular post is to be looked into by an expert body like the Pay Commission and the Court should not interfere in such matters. In view of the aforesaid position, we do not want to interfere with the impugned orders dated 5.2.2001 and 13.2.2001. In the result, the OA deserves to be dismissed and we do so accordingly. Interim order passed on 13.3.2001 stands vacated. There shall be no order as to costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

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