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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

Review Application No.55/87
in O.A. No. 961/ 1987.
T.A. No.

DATE OF DECISION August 28, 1987.

Shri R.N.Goyal,

Petitioner

Shri G.D.Gupta,

Advocate for the Petitioner(s)

Versus

Central Provident Fund Commissioner Respondents.
and another

Shri U.K.Choudhary,

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to other Benches ? No



(Kaushal Kumar)
Member
28.8.1987.



(K.Madhava Reddy)
Chairman
28.8.1987.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

Review Application No.55/87 in August 28,1987.
O.A. No. 961/87.

Shri R.N. Goyal Applicant.
Vs.

Central Provident Fund
Commissioner & Another .. Respondents.

CORAM:

Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

Hon'ble Mr. Kaushal Kumar, Member.

For the applicant ... Shri G.D.Gupta, counsel.

For the respondents ... Shri U.K.Choudhari, counsel.

(Order of the Bench delivered by Hon'ble Mr. Justice K.Madhava Reddy, Chairman).

This is an application for review of our order dated 14.7.1987. The main ground for filing this application is that at the time we pronounced the judgment dated 14.7.1987, the applicant could not place before the Tribunal the circulars enunciating the Policy of Transfer of the officers of the

Executive Cadre to support his contention. In support
No.P-III/11(20)

of this Review Application, letter/dated 5.10.1985 issued by the Office of the Central Provident Fund Commissioner is produced which reads as under:-

"The question regarding the exemption of the office bearers of recognised Unions/Federation from rotational transfers has been re-examined in consultation with the Govt. It has since been decided that a maximum number of 4 (four) office bearers of recognised Federation and recognised regional (not Sub-Regional) union may be granted protection from the rotational transfers to Sub-Regional Offices. These 4 office bearers could be President/Organising President General Secretary or Secretary General

(Chief Executive), one of the Vice-Presidents, Treasurers (or any other office bearers as per the choice of the Union/Federation concerned).

2. An individual employee shall not be entitled to get the protection beyond two years; i.e. once as per some criterion like rotational transfer of Head Clerk/U.D.C. on seniority basis his turn for transfer comes, at the most for 2 years he may get the benefit of exemption from transfer from existing Headquarters as per this convention; after that he has to go on rotational transfer. This convention (regarding non-transfer of 4 office bearers of recognised Union/Federation) will not apply in the case of officials in Executive Cadre (like Inspector or Enforcement Officer) who has completed 5 years at one station.

3. You are, accordingly requested to write to the Recognised Union of your region to intimate the names and designations of 4 office bearers, who are to be granted exemption from transfer for each year. The four office bearers as intimated by the union may be granted exemption from the transfer from Headquarters."

2. Relying upon this letter, it is argued that the applicant who had not completed 5 years of service at Delhi after he was promoted to the Executive Cadre as Enforcement Officer was not liable to be transferred. We are unable to agree with this contention.

3. He was previously in the Clerical cadre and has been at Delhi nearly for the last 25 years. This letter speaks of a convention and ~~merely~~ states that officers in the Executive Cadre who have not completed



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should not be transferred. 5 years at one station. It does not state that the officers should have completed 5 years at one station in the Executive Cadre. In other words, the convention of retaining an officer for 5 years at a particular station where he is an office bearer of recognised Union does not apply if a person who is in the Executive Cadre has completed 5 years of service at one station whether in the Clerical Cadre or in the Executive Cadre. He loses the protection of this convention if the officer has completed 5 years at one station in any capacity whatsoever.

4. Shri G.D.Gupta, learned counsel for the applicant, places reliance for his contention that the Transfer Policy enunciated in the aforesaid letter actually envisages the office bearers of the recognised Union of the Executive Cadre who have completed 5 years of service at one station in the Executive Cadre, by referring to the answer given by the Minister of State in the Ministry of Labour Shri P.A. SANGMA in response to Unstarred Question No.4262. Part (a) of that Question reads as: "4262 Shri Naresh Chandra Chaturvedi:

Will the Minister of Labour be pleased to state:

(a) Whether it is a fact that some officers have been retained in the Central Office of the Employees Provident Fund Organisation for more than 10 years even after their promotion as Assistant Commissioner; ..."

The answer to this Question is as under:

"(a) According to the instructions issued by the Government, officers of the Employees'

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Provident Fund Organisation would not be retained at any particular station beyond 5 years. However, posts of Assistant Provident Fund Commissioner (Grade-II) are available only in the Central Office of the E.P.F. Organisation. As such, Assistant Provident Fund Commissioners (Gr.II) are not subject to transfer. No Assistant Provident Fund Commissioner (Grade-I) who has been promoted from the cadre of Assistant Provident Fund Commissioner (Grade-II) has been retained in the Central Office after their completing the period of 5 years from the date of promotion."

5. It will be seen that neither the question nor the answer deals with the contention that is now raised before us. The question was whether any officer of the Provident Fund Organisation was retained for more than 10 years at the Central Office even after his promotion as Assistant Commissioner. The answer was that none was retained at any particular station beyond 5 years of service. However, the posts of Assistant Provident Fund Commissioner (Grade-II) are available only in the Central Office of the Employees Provident Organisation and they are not subject to transfer and as such the Assistant Provident Fund Commissioner (Gr.I) who has been promoted from the cadre of Assistant Provident Fund Commissioner (Grade-II) has been retained in the Central Office after completing the period of 5 years from the date of promotion. There is no statement that an officer of the Executive cadre would not be transferred unless he has completed 5 years at one station in that cadre. Any reference to the period of 5 years cannot

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be taken out of the context of the answer to a Parliament Question to understand the Policy of Transfer enunciated in the letter dated 5.10.1985 (supra). The words therein are very clear that it refers to the office bearers in the Executive Cadre who have completed 5 years at one station. The applicant cannot get the benefit of being retained at one station until he completes 5 years in the Executive Cadre for he has been at Delhi for now/25 years either in the Clerical cadre or Executive Cadre.

In the result, we find no merit in this Review Application and is accordingly dismissed with no order as to costs.

It is stated by the applicant that his son has suffered multiple fracture in an accident and is under treatment at Delhi. In the circumstances we, therefore, direct that if the applicant applies for leave even at Delhi, without reporting for duty at the place to which he is transferred, the same may be considered favourably.



(Kaushal Kumar)
Member
28.8.1987.



(K. Madhava Reddy)
Chairman
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