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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

C.P. NO.254/2004

in

O.A. NO.970 /2004

This the 19<sup>th</sup> day of August, 2004.

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)**

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

1. Employees Provident Fund Officers' Association  
through its Secretary General,  
T. R. Ramachandra Kumar S/O T. Ramachandraiah,  
R/O Ground Floor, Bhawishya Nidhi Ehclave,  
24, Patto Plaza, Panjim, Goa.  
And employed as : Regional Provident Fund  
Commissioner-II in the Employees Provident  
Fund Organization, 24 Patto Plaza,  
Panjim, Goa.
2. Surjeet Kumar Khanna S/O Yash Pal Khanna,  
R/O 3-4-763, Barkatpura Chaman,  
Hyderabad.  
And employed as Additional Central Provident  
Fund Commissioner in Employees Provident  
Organization (south Zone),  
No.3-4-763, Barkatpura Chaman,  
Hyderabad.

... Applicants

( By Shri B. B. Raval, Advocate )

-versus-

1. Shri Ajai Singh,  
Central Provident Fund Commissioner,  
Employees Provident Fund Organization,  
Bhavishya Nidhi Bhawan  
14, Bhikaji Cama Place,  
New Delhi.

... Respondents

( By Shri V. S. R. Krishna, Advocate )

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### ORDER

**Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :**

While OA No.970/2004 has been pending before this Tribunal for adjudication, it has been alleged through this petition that respondent has issued a chargesheet dated 15.7.2004 against applicant No.2 under Rule 10 of the EPF Staff (CCA) Rules, 1971. The learned counsel contended that respondent has issued this chargesheet with *mala fide* intention in order to put mental and material pressure on applicant No.2 to prevent him from proper prosecution of the related OA. The learned counsel relied upon decision of the Apex Court in the case of **Gurcharan Das Chadha v. State of Rajasthan**, 1966 (2) SCR 678. He further relied on **Asharam M. Jain v. A.T.Gupta & Ors.**, AIR 1983 SC 1151.

2. On the other hand, the learned counsel of respondent stated that the chargesheet issued against the applicant vide memorandum dated 15.7.2004 relates to applicant's alleged misconduct which occurred three years ago and has been the culmination of detailed investigation over a number of years and protracted correspondence between the Organization, Ministry of Labour and Central Vigilance Commission. The learned counsel stated that the subject matter of the present OA is totally unrelated to the alleged imputation of the misconduct of applicant. As such, respondents have not committed any contempt of court by initiating the disciplinary proceedings against the applicant. He further pointed out that while there are 38 applicants in the OA, the

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disciplinary proceedings have been initiated against one of them only. The learned counsel further contended that the judgment of the Hon'ble Supreme Court in the case of **Gurcharan Das Chadha** (supra) is distinguishable and not applicable to the facts of the instant case. He also relied on **Security and Finance (P) Ltd. & Anr. V. Dattatraya Raghav Agge & Ors.**, AIR 1970 SC 720. He also relied on **Saibal Kumar Gupta & Ors. V. B.K.Sen & Anr.**, AIR 1961 SC 633.

3. We have considered the rival contentions and gone through the material on record. The contention of the respondents is established that the present petitioner is one of the 38 applicants in the OA. From Annexure CPR-I which is the sequence of events in chronological order submitted by the respondent, it is established that the issuance of memorandum of chargesheet against the applicant is certainly in a matter in which CBI investigation had been going on for a number of years, i.e., long before the filing of the OA and on which correspondence had taken place among the Organization, CVC and CBI. The imputation of the alleged misconduct has also nothing to do with the issue involved in the OA. In the case of **Gurcharan Das Chadha** (supra), the petitioner had been proceeded against under the provisions of IPC and the Prevention of Corruption Act. He had moved the Supreme Court under Section 527 Cr.PC praying for transfer of his case to another State on various grounds. In support of his petition, he had referred to many incidents and filed many documents. He had apprehended

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that certain persons would interfere with the trial of the case in Rajasthan and that the transfer of the case outside the State was in the interest of justice. While the petition was pending, the State Government served the petitioner with a notice and a chargesheet to show cause why he should not be proceeded against for breach of Rule No.8 of the All India Services (Conduct) Rules, 1954, because he had communicated "directly/indirectly official documents and information to Government servants/other persons to whom he was not authorized to communicate such documents/information". It was found that there was an indirect pressure brought upon the petitioner in the prosecution of his petition for transfer before the Supreme Court. Clearly, the facts of both cases are distinguishable. In the present case, chargesheet against the applicant has been the result of investigation of quite a few years and he is just one of the applicants against whom the chargesheet has been issued. The contention of the applicant that the chargesheet will interfere with the administration of justice is not well founded.

4. Furthermore, in the case of **Security and Finance (P) Ltd.** (supra) holding of enquiry in good faith by an authority having jurisdiction was held not to involve any contempt.

5. In the case of **Saibal Kumar Gupta** (supra) criminal proceedings were pending against the officer of Calcutta Corporation. Enquiry was instituted against him by the Corporation to discover *mal practices* on part of Corporation's employees. It was held that the sub-committee was not holding a parallel enquiry on



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matters pending decision by a court of law and, therefore, their action did not tend to interfere with the course of justice. The ratios of the cases of **Security and Finance (P) Ltd.** (supra) as also **Saibal Kumar Gupta** (supra) are squarely applicable to the facts of the present case as the chargesheet against the applicant has nothing to do with the present OA. As such the case for contempt is not made out against the respondent.

6. Resultantly, the contempt petition is dismissed. However, to a suggestion of the Court that the respondent may not proceed further with the disciplinary proceedings against this applicant, the learned counsel Shri V. S. R. Krishna agreed to the suggestion. As such respondent is refrained from proceeding further with the enquiry till the disposal of this OA.

S. Raju  
(Shanker Raju)  
Member (J)

/as/

V. K. Majotra  
(V. K. Majotra)  
Vice-Chairman (A)

19.8.04