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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 970/2004
MA 1531/2006

New Delhi, this the 19th day of July 2007

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)
HON'BLE MR. V.K. AGNIHOTRI, MEMBER (A)

1. Employees Provident Fund Officers' Association
Through its Secretary-General
T.D. Sudheendra Kumar
S/o: Shri T. Ramachandraiah,
Aged about :52 years,
R/o Ground Floor,
Bhawishya Nidhi Enclave,
24, Patto Plaza, Panjim, Goa.
And Employed As :
Regional Provident Fund Organisation,
24, Patto Plaza,
Panjim, Goa
2. Surjeet Kumar Khanna
S/o Late Shri Yash Pal Khanna,
Aged about : 52 years
R/o 6, Bhavishya Nidhi Enclave,
Malviya Nagar,
New Delhi
And Employed As :
Additional Central Provident Fund Commissioner
In Employees Provident Fund Organisation,
(South Zone),
No. 3-4-763, Barkatpura Chaman,
Hyderabad.
3. Kamlesh Chandra Pandey,
S/o Late Shri J.P. Pandey
Aged about: 51 years,
R/o C-43, Balram Nagar,
Loni, Ghaziabad.
And Employed As :
Regional Provident Fund Commissioner-I,
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
4. S.K. Pandey,
S/o Late Shri N.P. Pandey,
Aged about: 58 years,
R/o RZ1-34, Old Som Bazar Gali, Mahabir Enclave,
New Delhi-110045.
And Employed As :
Regional Provident Fund Commissioner-I

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- In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
5. S.R. Joshi
S/o Late Shri H.N. Joshi,
Aged about: 51 years,
R/o 127/F-25, Sector 3,
Rohini, Delhi-110085.
And Employed As :
And Employed As :
Regional Provident Fund Commissioner-I
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
6. V. Shyam Sunder
S/o Sri M.R. Narasimham,
Aged about : 44 years,
R/o 138-F, Munirka Village,
New Delhi
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
7. Animesh Mishra
S/o Shri A.K. Mishra,
Aged about : 35 years,
R/o B-3/3231, Vasant Kunj,
New Delhi.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
8. K. Ganesh Babu
S/o Shri K. Pullana,
Aged about : 50 years,
R/o 42, Bhawishya Nidhi, Malviya Nagar,
New Delhi
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
9. Chandramauli Chakraborty,
S/o Shri B.G. Chakrabarti,
Aged about : 36 years,

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R/o: B-6/100, Safdarjung Enclave,
New Delhi-110029.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.

10. Ravikant
S/o Shri G.C. Sharma,
Aged about: 31 years,
R/o C-3/40, IInd Floor,
Janakpuri,
New Delhi-110058.
And Employed As :
Assistant Provident Fund Commissioner.
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
11. Suraj Sharma
S/o Shri S.K. Sharma,
Aged about: 30 years,
R/o A-77, 1st Floor,
Dayanand Colony,
Lajpat Nagar, New Delhi
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
12. Rakesh Sahrawat,
S/o Late Shri Ram Narain,
Aged about 35 years,
R/o 29, Sahipur,
Delhi-110052.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
13. Navendu Rai
S/o Shri S.N. Rai,
Aged about : 33 years,
R/o B-303, Parijat,
Sector 4, Plot No.28,
Dwarka,
New Delhi-110045
And Employed As :
Assistant Provident Fund Commissioner

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In the Employees Provident Fund Organisation,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.

14. S.C. Sharma
S/o Shri Babu Ram,
Aged about : 42 years,
R/o C-1/56, Sector 55,
NOIDA
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
15. Jaideep Chakarabarti
S/o Shri M.P. Chakrabarti,
Aged about : 32 years,
R/o Qr.No.98, Type-III,
Sector II, Sadiq Nagar,
New Delhi-110049.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
8th and 9th Floor,
Mayur Bhawan,
Connaught Place,
New Delhi.
16. Pramod Uniyal
S/o Shri N.L. Uniyal,
Aged about: 34 years,
R/o: S-7, Plot 118,
Sector 4, Vaishali,
Ghaziabad
And Employed As :

Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
8th and 9th Floor,
Mayur Bhawan,
Connaught Place,
New Delhi.
- 17 A.K. Gupta,
S/o Shri J.L. Gupta,
Aged about: 48 years,
R/o:31, Park View Apartment,
Sector 15, Gurgaon
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Plot No. 565, Near Sector 4-7 Crossing,
Railway Road, Gurgaon

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18. Uttam Prakash,
S/o Late Shri Sheo Pujan,
Aged about: 31 years,
R/o EA-114, Maya Enclave,
Hari Nagar,
New Delhi-110064.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
19. R.K. Kondru
S/o Shri Akkeswara Rao,k
Aged about: 36 years,
R/o EA-23, Maya Enclave,
Hari Nagar, New Delhi-110064.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
20. Bhupendra Singh,
S/o Late Shri R. Karan,
Aged about: 36 years,
R/o:166-D, Pocket IV,
Mayur Vihar Phase-I,
New Delhi-110092.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
21. Shyam Veer Tonk
S/o Shri Rahuveer Sharan Tonk
Aged about: 32 years,
R/o 6124/4, D-6,
Vasant Kunj,
New Delhi-110070
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
22. Rahul Arya,
S/o Shri C.L. Arya,
Aged about: 35 years,
R/o A-3/30, Paschim Vihar,



New Delhi-110063.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.

23. Robert W. Kapai,
S/o Shri K. Ngareophung
Aged about: 30 years,
R/o D-120, IInd Floor,
Lane No.V,
Safdarjung Enclave,
New Delhi-110029.
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
24. Saurabh Jagati,
S/o Shri A.C. Sah,
Aged about 32 years,
R/o L-5, Savita Vihar,
New Delhi
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
25. Vipin Kumar Sharma
S/o Shri D.N. Sharma,
Aged about: 36 years,
R/o 457-B, Ashoka Enclave,
Phase-III, Faridabad
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
8th and 9th Floor.
Mayur Bhawan,
Connaught Place,
New Delhi-110001.
26. Vikram Angurala
S/o Shri B.R. Angurala
Aged about : 30 years,
R/o: 6055/8, D-6,
Vasant Kunj
New Delhi-110070
And Employed As :
Assistant Provident Fund Commissioner
In the Employees Provident Fund Organization,



Bhawishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-11006.

27. Rajeev Bisht,
S/o Shri R.P.S. Bisht,
Aged about: 32 years,
R/o 1516, Sector "A",
Pocket "B" & "C",
Vasant Kunj,
New Delhi-110070.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
7th and 8th Floor, Jaina Tower-II,
District Centre, Janakpuri,
New Delhi.
28. Rambir
S/o Shri Dhanpat,
Aged about: 33 years,
R/o: 281, Sector 17,
Gurgaon
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Gupta Complex, Second Floor,
Inderlok, Delhi.
29. Ajay Kumar Mehra
S/o Shri S.S. Mehra,
Aged about: 34 years,
R/o D-1, PF Enclave,
Ranjit Avenue,
Old Jail Road, Amritsar
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
9, Basant Avenue,
Old Jail Road, Amritsar.
30. P. Sudhakar Babu
S/o Shri P.C. Veerappa,
Aged about: 50 years,
R/o Bhavishyanidhi Niwas,
24, Patto Plaza, ED Complex, Goa
And Employed As :
Regional Provident Fund Commissioner-I
In the Employees Provident Fund Organization,
24, Patto Plaza, ED Complex, Goa.
31. A. Kulshrestha
S/o Late Shri A. R.I. Kulshrestha
Aged about: 51 years,
R/o A-28, Jagatambrawati Apartments
Baily Road, Patna



And Employed As :
Regional Provident Fund Commissioner-I
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
R-Block, Road.06,
Serpentine Road,
(Near MLA Flats), Patna.

32. Rajesh Bansal
S/o Shri Vinod K. Gupta,
Aged about: 45 years,
R/o 82, Vaibhav Bungalows-Part-I,
Near Sun-n.Step Club,
Memnagar, Ahmedabad.
And Employed As :
Regional Provident Fund Commissioner-I
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
Near Income Tax Circle,
Ashram Road,
Ahmedabad
33. V.P. Ramaiah
S/o Shri V. Sreemannarayana,
Aged about: 51 years,
R/o G-1, EPF, Staff Quarters,
Barkatpura, Chaman,
Hyderabad
And Employed As :
Regional Provident Fund Commissioner-I
In the Employees Provident Fund Organization,
No.3-4-763, Barkatpura Chaman,
Hyderabad.
34. B.S.V. Sarma
S/o Shri B.S. Subramaniam
Aged about 52 years,
R/o Quarter No.8,
Bhawishya Nidhi Enclave,
Vamanjore, Mangalore
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
P.B. No.572,
Silva Road, Highlands,
Mangalore.
35. Francy Joseph
S/o Late Shri N.P. Joseph,
Aged about : 55 years,
R/o 303, Saikrishna Nilayam,
D.D. Colony, Hyderabad
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,



3-4-763, Barkatpura Chaman,
Hyderabad.

36. P.M. Mathew
S/o Shri P.C. Matahi,
Aged about: 51 years,
R/o Quarter No.1,
Bhavishya Nidhi Enclave,
Vamanjore, Mangalore.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
No.13, Raja Ram Mohan Roy Road,
Bangalore.
37. Sanjay Kumar
S/o Dr. Rajendra Thakur,
Aged about: 35 years,
R/o Qr. No.4, Nidhi Vihar,
Jyoti Nagar, Jaipur.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
Jyoti Nagar, Jaipur.
38. Radha Krishan,
S/o Shri Bhagirath,
Aged about: 40 years,
R/o Block No.6, Sector 5,
New Shimla, Phase-III
Shimla-9.
And Employed As :
Regional Provident Fund Commissioner-II
In the Employees Provident Fund Organization,
Bhawishya Nidhi Bhawan,
Block No.34, I & II Floor,
SDA Complex, Kasumpti
Shimla-09.

...Applicants.

(By Advocate Shri L.R. Khatana)

Versus

1. Union of India
Through the Secretary,
Ministry of Labour,
Government of India,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi-110001.
2. Central Board of Trustees,
Employees Provident Fund
Through: Chairman,
Shram Shakti Bhawan,



Rafi Marg,
New Delhi-110001

3. Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
4. Shri R.K. Mahajan,
Additional Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110066.
5. Dr. (Mrs.) Satbir Silas,
Additional Central Provident Fund Commissioner
And Director (NATRSS),
30-31, Institutional Area,
Janakpuri,
New Delhi-110058.
6. Shri Laik Ram Dabas,
Additional Central Provident Fund Commissioner
(North Zone),
30-31, Institutional Area,
Janakpuri,
New Delhi-110058.
7. Shri Somesh Arora,
Additional Central Provident Fund Commissioner,
Bhavishya Nidhi Bhawan,
41, Bandra East,
MUMBAI.
8. Shri Rajeshwar Yadav,
Additional Central Provident Fund Commissioner, and
Officer on Special Duty to Hon'ble Union Labour Minister,
And Chairman, Central Board of Trustees,
Employees Provident Fund Organization,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi-110001.
9. Shri L.K.s. Dehiya,
Additional Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
9th Floor, Mayur Bhawan,
Connaught Circus,
New Delhi-110001.
10. Shri S.S. Rana,
Regional Provident Commissioner Grade-I,
Bhavishya Nidhi Bhawan,
Sector 15-A, Near Fire Brigade,



Faridabad-121 007.

11. Shri O.P. Chaudhary,
Regional Provident Fund Commissioner Grade-I,
Pradhikaran Bhawan,
6th – 9th Floor,
7, Dr. R.s. Bhandari Marg,
(Race Course Road)
Indore- 452003.

... Respondents.

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

O R D E R (ORAL)

By Mukesh Kumar Gupta:-

OA had been earlier dismissed in default vide order dated 12.12.2005. Immediately thereafter, MA 2402/2005 was filed by applicants for revival of said OA and recalling of aforesaid order, dismissing OA in default. No specific order restoring said OA has been filed till date. In view of statement made by Sh. V.S.R. Krishna, learned counsel for respondents that he has no objection to recall of said order & restoring OA to its original number, order dated 12.12.2005 dismissing OA in default is recalled and it is restored to its original number.

2. Present application has been filed by Employees Provident Fund Officers' Association along with its 37 members holding various posts in the organization known as Employees Provident Fund Organization, challenging validity of appointment of respondent nos.4-11 on deputation in the cadre of Additional Central Provident Fund Commissioner / Regional Provident Fund Commissioner Grade-I (hereinafter referred as Additional CPFC / RPFC Grade-I). They further seek direction to respondents to consider them for said posts & grade for promotion in their place, in terms of rules, which were notified on 30.8.1999. Contention raised is that appointment on deputation of respondents no.4-11 violated the provisions of said rules particularly when they (applicants) were eligible for promotion to the said post, were ignored from consideration, though some of them were granted adhoc promotion





instead of regular promotion. As per aforesaid rules, Additional CPC had sanctioned strength of eight, while for the grade of RPFC Grade-I, sanctioned strength was 28. Respondent nos.4-9 were taken on deputation as Additional CPC while respondent nos.10-11 were appointed as RPFC Grade-I on deputation.

3. Sh. L.R. Khatana, learned counsel for applicants fairly stated that period of deputation of respondent nos.4-11 have since expired and all of them stood repatriated to their parent department. As on date none of them is occupying said post of either Additional CPC / RPFG Grade-I. What has been emphasized by applicants is that their right of consideration cannot be defeated and those who were granted adhoc promotion, have to be treated as regular from the date they became eligible and were granted such adhoc promotion so that their future career prospects is not adversely affected particularly when respondents failed to take administrative steps of convening DPCs & to consider them for promotion, as required under rules & law on the said subject.

4. Shri V.S.R. Krishna, learned counsel for official respondent nos.1-3, on the other hand, contended that it is no doubt true that there was vacancies available in different cadres of Additional CPFC / RPFC Grade-I but contended that since applicants were not eligible for concerned posts, they could not be promoted on regular basis. Those who were eligible were granted at least adhoc promotion. In the absence of eligible persons being available, the recourse was taken to appointment on deputation basis. Such action cannot be termed either unjust or arbitrary what to say illegal.


5. We heard learned counsel for parties & perused the pleadings.



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6. As respondent^s nos.1-2 is statutory body and governed by an Act of Parliament, known as Employees Provident and Miscellaneous Provisions Act, 1952, as well as various regulations framed under said Act, respondents being "State" as well as "other authority" under the provisions of Article 12 of Constitution of India, ^{or} ~~is~~ duty-bound to regulate public appointments in terms of rules & regulations on the said subject.

7. We have given thoughtful consideration to all aspects of case and are of the view that respondent nos.3-11 being no longer serving respondents' organization in the capacities in which they had been taken on deputation in various years, validity of their appointment at this stage need not be adjudicated, as the issue raised had been rendered only academic in nature, and in such circumstances we would not like to go into these aspects at this belated stage. However, we are of the considered view that respondents have to consider those who were eligible and within zone of consideration viz-a-viz number of clear vacancies available in the cadre of Additional CPFC / RPFC Grade-I based on rules, as noticed hereinabove as well as law laid down by Hon'ble Supreme Court in **Union of India vs. N.R. Banerjee** by holding year-wise DPCs. If applicants who are / were eligible at least on the date when respondents had taken respondent nos.4-11 on deputation, they should by holding year-wise DPC consider them and if they are found fit in accordance with rules & law, they are required to regulate their appointment, seniority as well as fixing their pay on notional fixation but without any arrears. It goes without saying that in case some persons, who are promoted from earlier dates, have retired in the meantime, their pensionary benefits will have to be regulated in accordance with rules & law and based on orders passed.



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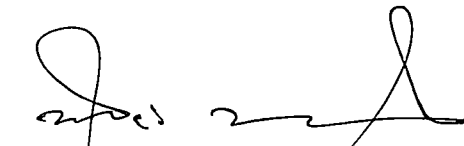
8. We have passed aforesaid order keeping in view the latest Hon'ble Supreme Court law on the subject that even in cases where orders passed by concerned authorities either of dismissal or termination, are held to be violative of rules & law as well as on various grounds in the given situation, arrears can't be paid as a matter of right.

9. Aforesaid exercise shall be carried out by respondents within a period of four months from the date of receipt of a copy of this order. We are also of the view that if some of applicants, who were promoted on adhoc basis to the concerned posts, are found to be not suitable for any reasons, detailed, reasoned & speaking order should be passed in respect of each claimant and eligible officer.

9. With above directions, OA stands disposed of. No costs.



(V.K. Agnihotri)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

/gkk/