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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 159 OF 2004

Cuttack, this the 29th day of September, 2005

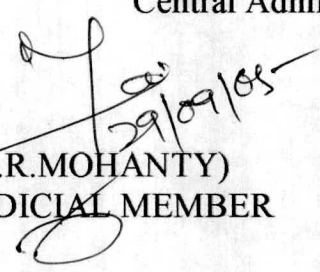
Krishna Choudhary Applicant


Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? NB
- 2) Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not? SD


(M.R. MOHANTY)
JUDICIAL MEMBER


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 159 OF 2004

Cuttack, this the 30th day of September, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, JUDICIAL MEMBER

.....
Krishna Choudhary, aged 44 years, son of late Baldeo Chaudhary,
Prasari, P.O. Prasari, District Nawada, Bihar, at present serving as
Assistant Provident Fund Commissioner, Sub Regional Office,
Bhabishya Nidhi Bhawan, Panposh Road, Rourkela,
Dist.Sundargarh Applicant

The applicant appeared in person.

Vrs.

- 1) Union of India, represented through Secretary to Government of India, Ministry of Labour, New Delhi.
- 2) Central Provident Fund Commissioner, Employees Provident Fund Organization, Bhabishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi 110 006.
- 3) Regional Provident Fund Commissioner, Orissa, Janapath, Bhubaneswar, Dist. Khurda.
- 4) Mrs. Sahira K. Sangma, Regional Provident Fund Commissioner-II, Bhavishyanidhi Bhawan, D.K.Block, Sector 2, Salt Lake City, Kolkata 700 091, W.B.
- 5) S.Durga Prasad, Regional Provident Fund Commissioner-II (under suspension), Chennai, through Regional Provident Fund Commissioner-I, Regional Office, Chennai, No. 37, Royapettali High Road, Opp: Swagat Hotel, Chennai 600 014, Gujrat.
- 6) Sri P.Veerbhadr Swamy, Regional Provident Fund Commissioner-II, Bhavishyanidhi Bhawan, Near Income Tax Circle, Ashram Road, Ahmadabad 380014, Gujrat.
- 7) Sri V.Kurumilla, Regional Provident Fund Commissioner-II, Midhi Bhawan, Chitrakut Nagar, Bhuwana, Udaipur 313001, Rajasthan.
- 8) Sri N.S.V.Pillai, Regional Provident Fund Commissioner-II, Bhavishyanidhi Bhawan, Pattom, Thiruvananthapuram 695004, Kerala.

- 9) Sri T.R.Balakrishna Menon, Regional Provident Fund Commissioner-II, Bhavishyanidhi Bhawan, Near Income Tax Circle, Ashram Road, Ahmedabad, Pin 380014, Gujrat.
- 10) Megha Ram, Regional Provident Fund Commissioner Gr.II, Employees Provident Fund Organization (Hqrs), Bhavishyanidhi Bhawan, 14, Bhikaji Cama Place, New Delhi 110066.
- 11) Mrs.Abraham Kavitha George, Regional Provident Fund Commissioner Gr.II, Chennai, No. 37, Royapettah High Road, Opposite Swagat Hotel, Chennai 600 014, T.N.

..... Respondents.

Advocate for the Respondents 1 to 3 - Mr.S.S.Mohanty

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Krishna Chaudhari has filed this Original Application, being aggrieved by the order of Respondent No.2 dated 21.7.2003 appointing officers of the grade of Assistant Provident Fund Commissioner, who are juniors to the applicant, to the grade of Regional Provident Fund Commissioner Grade II (Rs.10,000-325-15,200) on regular basis. He has, therefore, approached the Tribunal to quash the promotion of Respondent Nos. 4 to 11, to direct Respondent Nos. 1 and 2 to promote him retrospectively from 21.7.2003 when Respondent Nos. 4 to 11 were promoted to RPFC Grade II and to direct Respondent Nos. 1 and 2 to pay the applicant all financial benefits retrospectively.

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2. The Respondents have opposed the Original Application by filing a detailed counter. They have opposed the Original Application being without merit on the ground that the applicant's case for promotion could not be materialized because a charge memo under Rule 10 of the EPF Staff (CCA) Rules, 1971 was served on him on 8.7.2003. Therefore, his case for promotion has been kept in the sealed cover. They have also stated that a DPC meeting took place on 25.6.2003 in which the case of the applicant for promotion was considered. However, as no vigilance clearance certificate was available in respect of the applicant at the time when the DPC considered his case for promotion, the recommendation of the DPC was kept in the sealed cover. They have, therefore, denied the claim of the applicant that his name was included in the select list prepared by DPC on 25.6.2003.

3. We have heard the applicant in person and the learned counsel for the Respondents and have perused the records placed before us. We have also perused the File No. XIII (1)02/Vol.II/Vig. Of Vigilance Section of the office of CPFC and found that the disciplinary authority had taken the decision on 16.6.2003 to initiate major penalty proceeding against the applicant and therefore, the recommendation of the DPC was correctly put in the sealed cover. However, the applicant had challenged the initiation of the disciplinary proceeding against him on the grounds of mala fide and delay in OA No.158 of 2004. The said O.A. has

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since been disposed of by us holding that the disciplinary action initiated against the applicant is not sustainable and have quashed the charge memo by our order delivered on 29.09.2005.

4. In view of our decision in OA No.158 of 2004, this Original Application No. 159 of 2004 succeeds. We, therefore, direct the Respondent Nos. 1 and 2 to convene a Review DPC to consider the case of promotion of the applicant from the date his juniors were promoted to the rank of Regional Provident Fund Commissioner Grade II and grant him all service and financial benefits. Liberty is also granted to Respondent Nos. 1 and 2 to consider the case of the applicant for ad hoc promotion in the meantime should they take some time to convene a Review DPC. With the above order, this Original Application is disposed of. No costs.


(M.R. MOHANTY)
JUDICIAL MEMBER


(B.N. SOM)
VICE-CHAIRMAN

AN/PS