

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Review Petition No. 80/97 in
Original Application No. 475/96.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Hon'ble Shri M.R. Kolhatkar, Member(A)

Regional Provident Fund
Commissioner,
Maharashtra and Goa,
Bhavishya Nidhi Bhavan,
341, Bandra (E),
Mumbai.

Central Provident Fund
Commissioner,
New Delhi.

... Applicants.

(Original Respondents)

V/s.

Smt. V.M. Desai,
C/o Office of Regional
Provident Fund Commissioner,
341, Bhavishya Nidhi Bhavan,
Bandra(E), Mumbai.

... Respondent

(Original Applicant.)

Tribunals order on Review Petition No.80/97 in O.A. 475/96
by Circulation.

((Per Shri B.S. Hegde, Member (J)

Dated: 4.9.97

This Review Petition has been filed by the respondents in O.A. 475/96 seeking review of the judgement dated 23.12.96. Though the order was passed on 23.12.96 the same was received by the present petitioner on 13.1.97, and the Review Petition has been filed on 9.5.97 a delay of nearly three months.

The applicant has filed O.A. 475/96 challenging the memorandum dated 6.11.95 and to revoke the suspension. When the matter came up for hearing Shri Shetty, counsel for the respondents submitted

that as against the order of the Disciplinary Authority the applicant has preferred an appeal to the Appellate Authority, which is pending for consideration. It is further stated that the Appellate Authority has already passed the order on 21.11.96 by which the prayer made in the O.A. under clause 8(b) and (c) has already been granted. Prayer 8(a) relates to quashing and setting aside of impugned order dated 6.11.95, which is not relevant for the purpose of deciding the O.A. Accordingly the Tribunal observed that the O.A. is premature and infructuous. Accordingly the O.A. was dismissed.

The Appellate Authority, considering the various contention raised in the appeal has reduced the penalty imposed by the Disciplinary Authority by withholding of two increments instead of five with cumulative effect. Regarding the regularisation of period of suspension underwent by the applicant, the Appellate Authority has stated that the terms and conditions of DOPT O.M. dated 3.12.95 will apply to the facts of this case for regularisation. Thus in our view, there is no scope to file the Review Petition, which is nothing but futile exercise of judicial power. The Appellate Authority has already passed the order reducing the penalty and in so far as the period of suspension is concerned it will be dealt with as per DOPT O.M. dated 3.12.95.

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Admittedly the Review Petition filed by the petitioner is a belated one. They ought to have filed the Review Petition within a period of 30 days from the date of receipt of the order, which they did not do so. The letter of the applicant dated 17.3.97 seems to be in consonance with the order of the Tribunal, therefore any further enquiry in view of the Appellate Authority orders does not arise.

We have not gone into the merit of the Appellate Authority's order which we were not required to do so, even though the department is not barred in passing appropriate order regarding suspension of the applicant in terms of DOPT O.M. dated 3.12.95 which is in accordance with Appellate Authority's order.

In the result, we do not see any merit in the Review Petition. Accordingly the Review Petition is dismissed by circulation.

M. R. Kolhatkar
(M.R. Kolhatkar)
Member(A)

B.S. Hegde
(B.S. Hegde)
Member(J)

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order dated 4/9/97
to be dispatched
on 18/9/97
to applicant(s)
23/9/97