

31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD  
O.A. No. 539 of 1992.

Between

Dated: 6.4.1995,

B. Seetharama Rao.

...

Applicant

And

1. The Regional Provident Fund Commissioner, A.P.  
Barkathapura, Hyd.

...

Respondent

Counsel for the Applicant : Sri. Y. Suryanarayana

Counsel for the Respondent : Sri. V. Afzalpurkar, SC for P

CORAM:

Hon'ble Mr. A.V. Haridasan, Judicial Member

Hon'ble Mr. A.B. Gorthi, Administrative Member

Contd:...2/-

-2-

O.A. 539/92.

Dt. of Decision : 06-04-95.

ORDER

X As per Hon'ble Shri A.B. Gorthi, Member (Admn.) X

The applicant was appointed as UDC in the office of the Regional Provident Fund Commissioner, AP. Hyderabad with effect from 01-12-1989. The applicant in support of his statement that he belonged to Kondakapu furnished certain documents to the respondent. He had also addressed a representation to the Mandal Revenue Officer on 09-12-1989 requesting him to furnish a fresh community certificate in the prescribed proforma. As no further action was taken by the MRO, the applicant approached the High Court of AP with Writ Petition No. 7941/90. Pursuant to the order passed by the High Court of AP on 22-10-91, MRO Addatigala passed an order dated 23-03-92 rejecting the representation of the applicant for grant of certificate that he belonged to Kondakapu community. While thus rejecting the representation of the applicant, the MRO stated in para-8 of his order that if the applicant was aggrieved by the same, he could appeal before the Revenue Divisional Officer. It is the case of the applicant that he preferred an appeal accordingly to the RDO concerned but the same has not <sup>yet</sup> been disposed of. In the mean time, the department issued notice to termination dated 15-06-1992 stating that the service of the applicant would stand terminated with effect from the date of expiry of a period of one month from the date of the notice. The prayer of

the applicant is for setting aside the impugned notice issued by the Regional Provident Fund Commissioner, AP, Hyderabad.

2. The respondents in their reply affidavit have not disputed most of the material facts averred in the application but ~~has~~ stated that according to them there was no information that the applicant filed an appeal against the order of the MRO to the RDO concerned. In this context we are now shown <sup>by the applicant's counsel</sup> the receipts acknowledged by the office of the RDO, which are annexed to the rejoinder filed by the applicant. It would thus be evident that the applicant did file an appeal to the RDO, Rampachodavaram, and that the same is pending with the said authority.

3. The MRO, Addatigala while rejecting the representation of the applicant vide order dt. 23-3-92 categorically allowed the applicant to file an appeal before the RDO, Rampachodavaram, if aggrieved by the MRO's order. The applicant having exercised the opportunity given to him to submit the appeal, the department should not have rushed with the impugned order of notice of termination of service. The issue should have been <sup>finally</sup> ~~properly~~ decided by the RDO before <sup>any</sup> ~~final~~ action <sup>to</sup> contemplated by the respondents.

4. In view of what is stated above, we are of the considered view that the notice of termination dt. 15-06-92 issued by the Regional Provident Fund Commissioner, AP, Hyderabad cannot be sustained and the same is therefore set aside.

5. As the applicant is continuing in service by virtue of our interim order dated 07-07-1992, it is needless to add that he shall be permitted to continue in service till the question of whether or not he belongs to Kondakapu commun

is finally decided by the RDO, Rampachodavaram. It is open to the respondents to proceed further in the matter in accordance with law on receipt of final orders of the said RDO.

5. The OA is ordered accordingly. No order as to costs.

6. OA ~~is~~ <sup>being</sup> disposed of ~~order~~ <sup>as</sup> above, and MA ~~is~~ also stands disposed of.

*ABG*  
(A.B. Gorchi)  
Member(Admn.)

*A.V. Haridasan*  
(A.V. Haridasan)  
Member(Judl.)

Dated : The 6th April 1995.  
(Dictated in Open Court)

*Anu Regi*  
Anu Regi  
Deputy Registrar (Judl.)

Copy to:-

SPR

1. The Regional Provident Fund Commissioner, A.P. Barkathpur Hyd.
2. One copy to Sri. Y. Suryanarayana, advocate, CAT. Hyd.
3. One copy to Sri. Vilas V. Afzalpurkar, SC for PF, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

Rsm/-