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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

MISC. APPLICATION NO. 291/00267/2014
IN
ORIGINAL APPLICATION No. 291/00101/2014

DATE OF ORDER : 29.05.2014

CORAM :

**HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER**

Nand Ram Meena son of Sh. Shri Lal, aged about 44 years, working as Regional Provident Fund Commissioner (Grade-II). Resident of 250/42, Pratap Enclave, Pratap Nagar, Jaipur.

... Applicant
(By Advocate: Mr. S.K. Bhargava)

Versus

1. Central Board of Trustees, Employees Provident Fund through Central Provident Fund Commissioner & Secretary, CBT, EPF, 14-Bhikaji Cama Place, New Delhi.
2. Chairman, Central Board of Trustees, Employees Provident Fund Organization, 14-Bhikaji Cama Place, New Delhi.
3. Central Provident Fund Commissioner, Employees Provident Fund Organizaion, 14, Bhikaji Cama Place, New Delhi.

... Respondents
(By Advocate: Mr. Amit Mathur)

ORDER (ORAL)

Heard on MA for staying the operation of the impugned order dated 09.01.2014 (Annexure A/1) vide which the applicant has been placed under suspension w.e.f. 20.12.2013. The applicant has challenged this suspension order on the ground that it has been passed by an incompetent authority. He submitted that order of suspension has been passed by the Central PF Commissioner but he is not the appointing authority. He drew our attention to Rule 6(1) of The Employees' Provident Fund Staff

Anil Kumar

[Classification, Control & Appeal] Rules, 1971 which deals with suspension. Rule 6(1) is quoted below:-

"6(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Central Govt./ Central Board may place an employee under suspension:-

....."

2. He argued that since Central PF Commissioner is not the appointing authority, therefore, he could not have issued the suspension order. He further submitted that Central Government/ Central Board have not empowered him to issue suspension of the applicant. Therefore, the operation of the suspension order dated 09.01.2014 issued by an incompetent authority be stayed till the final disposal of the OA.

3. On the other hand, the learned counsel for the respondents submitted that proviso of Rule 6(1) of The Employees' Provident Fund Staff [Classification, Control & Appeal] Rules, 1971 provides that an authority lower than the appointing authority can also suspend an employee. However, such authority shall forthwith report to the appointing authority the circumstances in which the order was made. The Proviso 6(1) is quoted below:-

"Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made."

Therefore, he argued that Central PF Commissioner was competent to issue the suspension order.

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4. Moreover, the learned counsel for the respondents also showed us the note sheet of the relevant file in which the suspension of the applicant has been approved by the Minister, Labour & Employment, who is also the Chairman of the Central Board. He submitted that since the order of suspension has been issued with the approval of the Chairman, Central Board, therefore, mere issuance of the order under the signature by the Central PF Commissioner would not make that order illegal.

5. The learned counsel for the respondents also submitted that the applicant has filed an appeal to the Chairman, Central Board against this suspension order. Therefore, at this stage he cannot avail two remedies at the same time i.e. one before the Appellate Authority and second before the Tribunal. Therefore, the MA has no merit and it should be dismissed.

6. Heard the learned counsel for the parties and perused the documents on record. From the perusal of the Proviso of Rule 6 (1) of The Employees' Provident Fund Staff [Classification, Control & Appeal] Rules, 1971, it is clear that the suspension order can be made by an authority lower than the appointing authority. In such an eventuality, such an authority has to report to the appointing authority the circumstances under which the order was made. In this case, the respondents have shown us the photocopy of the note sheet where suspension of the applicant has been approved by the Minister, Labour & Employment, who is also the Chairman of the Central Board. Therefore, it cannot be said that the order of

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suspension dated 09.01.2014 (Annexure A/1) was issued by the Central PF Commissioner.

7. Even for the sake of arguments, the contentions of the learned counsel for the applicant are accepted that this order has been issued by the Central PF Commissioner then it is covered under the Proviso 6(1) of The Employees' Provident Fund Staff [Classification, Control & Appeal] Rules, 1971, as quoted above. Therefore, we do not find any illegality perse in the suspension order dated 09.01.2014.

8. Moreover, we also agree with the arguments of the learned counsel for the respondents that the applicant cannot avail two remedies at the same time. The learned counsel for the applicant had admitted at Bar that the applicant has also filed an appeal against this order of suspension dated 09.01.2014 before the Chairman of the Central Board. Therefore, even on this ground, the applicant is not entitled for any interim relief in this MA.

9. Thus looking from any angle, we are not convinced that the applicant has made out any case for any interim relief at this stage.

10. Consequently the MA for staying the operation of the impugned order dated 09.01.2014 is dismissed.

RP. *[Signature]*
(M. NAGARAJAN)
MEMBER (J)

[Signature]
(ANIL KUMAR)
MEMBER (A)

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