

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH, JABALPUR

Original Application No.5 of 2005

INDORE, THIS THE 17th DAY OF AUGUST, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Om Prakash Choudhary, S/o Late
Shri Ramsingh Choudhary, aged
About 41 years, R/o 1-Nidhi Vihaar,
Kesarbagh Road, Indore M.P.

Applicant

(By Advocate – Shri M.K. Verma)

VERSUS

1. Union of India, through Secretary,
Ministry of Labour, Shrim Shakti
Bhawan, Rofi Marg, New Delhi.
2. The Chairman, Central Board of
Trustees, Employees Provident Fund,
Ministry of Labour, Shrim Shakti
Bhawan, Rofi Marg, New Delhi.
3. Central Provident Fund Commissioner,
14-Bhikhaji Cama Palace, New Delhi.
4. State of M.P. Through Principal
Secretary, Department of Forest,
Vallabh Bhawan, Bhopal (M.P.).
5. Union of India, through Secretary
Ministry of Environment, Paryavaran
Bhawan, CGO Complex, Lodhi Road,
New Delhi.

(By Advocate – Shri S.C. Sharma Sr.Adv. alongwith Shri Harshit Patel)

ORDER

By M.P. Singh, Vice Chairman –

By filing this Original application, the applicant has sought
the following main reliefs :-



"8.2 ...to quash and set aside the impugned order dated 27.12.2004 (Annexure A-3), in the interest of justice.

8.3 ...to restrain the respondents from taking any coercive action in lieu of order dated 27.12.2004 (Annexure A-3)."

2. The brief facts of the case are that the applicant is a member of the Indian Forest Service of Madhya Pradesh cadre. He was appointed as Regional Provident Fund Commissioner Grade-I at Indore on deputation for a period of four years vide order dated 28/29.1.2003. The respondents have repatriated him back to his parent department vide order dated 27.12.2004 without following the procedure and intimation of reasonable period to the lending Ministry/Department and to the employee concerned. Hence, this Original Application.

3. The respondents in their reply have stated that the applicant Shri O.P. Chaudhary, an officer belonging to Indian Forest Service and posted in Bhopal, Madhya Pradesh, was appointed on deputation on 28.1.2003 for a tenure of four years and until further orders. His appointment on deputation was primarily made in the post of Regional Provident Fund Commissioner (Grade-I) when there were no eligible officers in the feeder posts for making regular promotion and or in administrative interest to bring expertise and experience from other organized services. At the same time, promotions of the eligible officers in the feeder posts are also to be made to safeguard the interests of departmental officers.

3.1 The respondents have further submitted that the EDP Officers Association representing the regular cadre officers community got aggrieved of the appointments made by the organization on deputation. They had filed an Original Application No. 970/2004 before the Principal Bench of this Tribunal in May, 2004 to challenge the appointment of the officers from the All India Services and the Central Services on deputation in Employees Provident Organization as having made in violation of

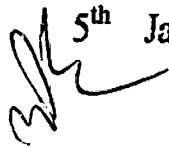
the Recruitment Rules. The said OA is still pending before the Principal Bench of the Tribunal for final disposal.

3.2 The respondents have also averred that the present Chairman, Central Board of Trustees, EPF had reviewed the matter of appointments made on deputation in Employees Provident Fund Organization and had issued directions to repatriate 6 (six) officers, including the applicant Shri O.P. Chaudhary, after terminating their deputation prematurely in December, 2004. Based on his directions, all the six officers have been repatriated to their parent departments vide office order dated 27.12.2004. Only one officer who happens to be a senior IAS officer is continuing on the post of Additional Central Provident Fund Commissioner. The resultant re-arrangements have also been made by the organization in administrative exigencies for redistribution of the present charge falling vacant to the existing regular cadre officers. The applicant was looking after the charge of Regional Provident Fund Commissioner, Madhya Pradesh, and the charge of the said post has been taken over by Shri T.M. Adiga, Regional Provident Fund Commissioner Grade-1 with effect from 28.12.2004. According to the respondents, the applicant has no locus standi in filing the present case.

3.3 The respondents have relied upon the judgment of the Hon'ble Supreme Court in the case of Kunal Nanda Vs. Union of India, (2000) 5 SCC 362, and also other decisions of this Tribunal as mentioned in their reply.

4. Heard the learned counsel of both the parties.

5. The learned counsel for the applicant has submitted that the applicant, who was appointed on deputation for a tenure of four years, has been prematurely repatriated to his parent department without following the prescribed procedure, and in violation of the instructions issued by the Government of India, Department of Personnel & Training vide OM No.2/29/91-Estt(Pay-II) dated the 5th January, 1994, reproduced in Chapter 51 of Swamy's



Compilation on Establishment and Administration, Ninth Edition-2003. Para 9 of the said instructions is reproduced below:

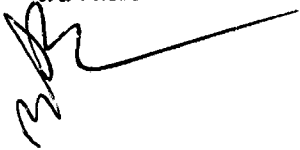
"9. Premature reversion of deputationist to parent cadre.-

Normally, when an employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arise for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving advance intimation of reasonable period to the lending Ministry/Department and the employee concerned".

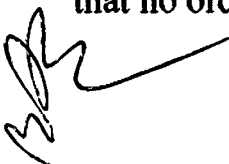
The learned counsel has submitted that in this case neither the applicant nor his department i.e. State of M.P. has been intimated about his premature repatriation. He has stated that in a similar matter in O.A.1091/2004 (K.C.Pandey Vs. Union of India and others), this Tribunal vide an interim order dated 6.12.2004 has stayed the order of premature reversion of the applicant in the said case. The learned counsel has, therefore, argued that since in the present case the respondents have also prematurely repatriated the applicant without following the prescribed procedure, the impugned order of premature repatriation of the applicant is bad in law and is liable to be quashed.

6. On the other hand, the learned counsel for the respondents has submitted that the State of Madhya Pradesh, which is the lending department and is also impleaded as a party in this OA, have not objected to the premature repatriation of the applicant. He has further contended that the Hon'ble Supreme Court in the case of Kunal Nanda (supra) has clearly held that "a deputationist can always and at any time be repatriated to his parent department at the instance of either borrowing department or parent department. There is no vested right in such a person to continue for long on deputation or get absorbed in borrowing department".

7. We have given careful consideration to the rival contentions advanced on behalf of both the parties.



8. We find that the applicant was appointed on deputation as Regional Provident Fund Commissioner for a period of four years. However, he has been repatriated before completing the period of four years. It is because of the reason that the persons in the feeder grade, who were eligible for promotion, were aggrieved of the appointments made by the organization on deputation. They had filed an Original Application No.970 of 2004 before the Principal Bench of this Tribunal challenging the appointment of the officers from the All India Services and the Central Services on deputation in Employees Provident Organization. They had also represented to the Chairman, Central Board of Trustees in this regard. Therefore, the Chairman, Central Board of Trustees, EPF had reviewed the matter of appointments made on deputation in Employees Provident Fund Organization and had issued directions to repatriate 6 (six) officers, including the present applicant, after terminating their deputation prematurely in December, 2004. Based on his directions, all the six officers have been repatriated to their parent departments. Moreover, we find that the parent department i.e. the State of Madhya Pradesh have not filed their reply and have also not objected to the premature repatriation of the applicant. It appears that the State of Madhya Pradesh has accepted the applicant and the applicant is also working under them. We also find that the post of Regional Provident Fund Commissioner vacated by the applicant has already been filled ^{in 2} by, and an incumbent is working on the said post since 28.12.2004. We also find that in the case of K.C.Pandey (supra) relied upon by the applicant, only an interim order was passed by the Tribunal on 6.12.2004. However, the said OA 1091/2004 has been finally disposed of vide order dated 16.12.2004, with a direction to the respondents to pass fresh orders after following the due procedure as laid down in the rules. In the instant case we find that no order of stay has been passed in favour of the applicant, and



the order of premature repatriation has already been implemented by the applicant.

9. In the conspectus of the aforesaid facts and circumstances of the case and in view of the law laid down by the Hon'ble Supreme Court in the case of Kunal Nanda (supra) we are of the considered view that the applicant who was appointed on deputation does not have any vested right to continue in the borrowing department for his full term. Therefore, the present O.A. is liable to be dismissed.

10. In the result, the Original Application is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

Rkv.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पलिलिपि अर्चो धित:-

- (1) सविब, उच्च न्यायालय कार एमोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) कांयफरल, कोप्रअ., जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

M/s Verma & Co. 288
S.C. Sharma Sr. 288

26/8 उके रजिस्ट्रार

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