

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
CIRCUIT SITTING AT INDORE
OA No. 276/02

Indore this the 2^{1st} day of July, 2004.

CORAM

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

Sushri Tanuja Malkani
D/o late Shri Hashmat Rai Malkani
Lower Division Clerk
O/o Regional Provident Fund Commissioner
7 Race Course Road
Indore.

...Applicant

(By advocate Shri S.K.Nagpal)

Versus

1. Central Provident Fund Commissioner
Bhavishya Nidhi Bhawan
14 Bhikaji Cama Place, New Delhi.
2. Regional Provident Fund Commissioner
Madhya Pradesh
7, Race Course Road, Indore (MP)
3. Regional Provident Fund Commissioner
Maharashtra & Goa
341, Bhavishya Nidhi Bhawan
Bandra (East), Mumbai.

...Respondents

(By advocate - None)

ORDER(Oral)

By Madan Mohan, Judicial Member

The applicant seeks the following reliefs:

- (i) Adjust the applicant in the grade of UDC on her transfer from Regional Office, Indore to Regional Office, Mumbai w.e.f. 3.3.97 with bottom seniority in grade of UDC but protecting her pay last drawn by her in the scale of UDC in the office of Regional Provident Fund Commissioner, Indore.
- (ii) Adjust the applicant in the scale of UDC on her transfer from RPFC Mumbai to RPFC Indore w.e.f. 2.3.98 with the seniority she had before her transfer from Indore to Mumbai and protecting her pay in the scale of UDC which she was entitled to draw before her transfer from Mumbai to Indore.
- (iii) To re-fix the pay of the applicant in the grade of UDC in view of (a) and (b) above with all consequential benefits including arrears of pay and allowances.
- (iv) To pay interest @ 18% on the amount of arrears of pay and allowances from the date of entitlement to the date of payment.



2. The brief facts of the OA are as follows:

The applicant was appointed as LDC in the office of the Provident Fund Commissioner, Indore by order dated 7th July, 1981 (Annexure A1) in the scale of Rs.260-400. She was promoted to the post of UDC in the scale of Rs.330-560 on temporary adhoc basis by order dated 29.9.84 (Annexure A2). The adhoc promotion to the scale of UDC was continued and was followed by regular promotion. The applicant got married in 1997 and since her husband was based at Mumbai she requested for a transfer to Mumbai. The request of the applicant was accepted and by order dated 13.2.97 (Annexure A3) she was transferred to Mumbai. According to the conditions laid down in Annexure A3, she would be adjusted in the Maharashtra Region, Mumbai as junior most LDC but her pay which she was drawing in the scale of UDC at Indore would be protected. Applicant joined her duty in the office of Regional Provident Fund Commissioner, Mumbai on 3.3.97. According to the order dated 13.2.97 (A-3), the applicant's pay on her transfer to Mumbai was to be protected based on the pay drawn by her at Indore in the scale of UDC whereas according to order dated 9.3.97 (A-4) her pay was to be protected in the scale of LDC. Thus the order dated 9.3.97 (A-4) was contradictory to the A-3 order. Unfortunately the applicant had some family problems and she was compelled to seek her transfer back to Indore. Her request was accepted and by order dated 27.2.98 (Annexure A5) the applicant was transferred to Indore on the condition that she would be accommodated at Indore as junior most LDC and her pay in the post of LDC drawn by her at Mumbai would be protected. The applicant joined in the office of the Regional Provident Fund Commissioner,



Indore on 2.3.98. The applicant submitted a representation dated 17.3.98 (Annexure A6) with the request that since she was working earlier as UDC in the office of Regional Provident Fund Commissioner, Indore, her promotion to the post of UDC should be restored. This request was rejected by order dated 27.4.98 (Annexure A7). The applicant submitted another representation dated 22.7.98 (Annexure A8) to the Central Provident Fund Commissioner, New Delhi but there was no response. Hence the OA was filed.

3. Heard the learned counsel for the applicant. It was argued on behalf of the applicant that the applicant had requested for a transfer to Mumbai and this was accepted by order dated 13.2.97 (Annexure A-3). Since the seniority was on zonal basis, the applicant could have been transferred to Mumbai with the condition that she would be placed at the bottom seniority among the UDCs working at Mumbai so that the seniority of other UDCs working at Mumbai would not be affected but there was no justification at all to downgrade her to the post of LDC with bottom seniority. The applicant had sought her transfer back to Indore due to compelling family circumstances and she should have been restored to her original position as UDC with the seniority she was holding before her transfer to Mumbai. The action of the respondents in downgrading the applicant from the post of UDC to LDC and also reducing her pay subsequently was arbitrary, unjust and illegal.


4. The respondents, in their reply have stated that as per the terms and conditions of the applicant's transfer, it was stipulated that the applicant would be accommodated as junior most LDC in Maharashtra Region and her pay would be protected in the post of LDC cadre. However, due to



typographical error in the A-3 order, it was incorrectly mentioned that the applicant's pay in the cadre of UDC would be protected. On noticing the error, a modified order dated 21.12.2001 was issued to the applicant which was duly acknowledged. Hence the OA had no merit and was liable to be rejected.

5. After hearing the learned counsel for the applicant and perusing the records carefully, we find that as per Annexure A3 order dated 13.2.97 the pay of the applicant was ordered to be the same which she was drawing in her earlier post (as UDC). As she was transferred to Mumbai the applicant was ordered to be placed at the bottom seniority (as LDC) which condition the applicant had accepted. The respondents had issued another order dated 21.12.2001 correcting the typographical error contained in A-3 order stating that it was wrongly mentioned that the applicant's pay would be protected as UDC. The order dated 21.12.2001 was passed much later while the applicant had joined at Indore on 2.3.98. Therefore the order dated 13.2.97 (A-3) seems to be correct as per rules. We are of the opinion that this OA deserves to be allowed. Hence the OA is allowed. The respondents are directed to adjust the applicant in the scale of UDC on her transfer from RPFC Mumbai to RPFC Indore w.e.f. 2.3.98 with the seniority she had before her transfer from Indore to Mumbai and protect her pay in the scale of UDC which she was entitled to draw before her transfer from Mumbai to Indore. However, the applicant's claim for interest is disallowed.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman