

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

11.10.2012

OA No. 707/2012

Mr. V.D. Sharma, Counsel for applicant.

Heard learned counsel for the applicant.

The OA is disposed of by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

(Justice K.S.Rathore)
Member (J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 707/2012

DATE OF ORDER: 11.10.2012

CORAM

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

1. Purshottam Valimiki S/o Shri Hangaram, aged about 39 years, R/o Laxmi Colony, Near Sanganer Station, Jaipur. Presently working as Section Supervisor, EPFO, Jaipur.
2. Prakash Chandra Meena S/o Late Shri C.L. Meena, aged about 50 years, R/o Plot No. 73-74, Shree Phree Vinayak Apartment, Mohan Colony, Swez Farm, New Sanganer Road, Jaipur-19. Presently working as Section Supervisor, EPFO, Jaipur.
3. Prem Chand S/o Shri Rang Lal Deshantri, aged about 45 years, R/o B-31, Ashirwad Nagar, Udaipur (Rajasthan). Presently working as Section Supervisor, EPFO, Udaipur.
4. Sanjay Jain S/o Shri Prem Chand Jain, aged about 42 years, R/o 69, Nidhi Vihar, Jyoti Nagar, Jaipur. Presently working as Section Supervisor, EPFO, Jaipur.
5. Naresh Singh Rana S/o Late Shri Kishan Singh Rana, aged about 52 years, R/o 377, Gayatri Nagar 'A', Maharani Farm, Durgapura, Jaipur, Rajasthan. Presently working as Section Supervisor, EPFO, Jaipur.
6. Ajay Namdev S/o Shri Kishan Namdev, aged about 39 years, R/o 3-D-17, Hatundi Near Housing Board, Kota. Presently working as Section Supervisor, EPFO, Kota.

...Applicants

Mr. V.D. Sharma, counsel for applicants.

VERSUS

1. Union of India through the Secretary, Ministry of Labour, New Delhi.
2. The Employees Provident Fund Organization through the Central Provident Fund Commissioner and Secretary Central Board of Trustees, Employees Provident Fund Organization, Bhavishya Nidhi Bhawan, 14 Bhikaji Kama Palace, New Delhi - 110066.
3. The Commissioner, Regional Office, Employees Provident Fund Organization, Nidhi Bhawan, Jhoti Nagar, Jaipur - 302005.

... Respondents

ORDER (ORAL)

The present Original Application has been preferred by the applicants praying that by an appropriate order or direction the impugned order dated 20.09.2012 (Annexure A/1) may kindly be quashed and set aside.

2. From bare perusal of the impugned order dated 20.09.2012 (Annexure A/1), it reveals that the respondents have passed this order pursuant to the order dated 09.05.2012 passed by the Central Administrative Tribunal, Ahmedabad Bench in O.A. No. 263/2010 (Aji K. Varghese & Ors. vs. Union of India & Ors.) and the competent authority has decided to accept and implement the order passed by C.A.T., Ahmedabad Bench in O.A. No. 263/2010 (supra).

3. The C.A.T., Ahmedabad Bench vide its order dated 09.05.2012 while allowing the O.A. No. 263/2010 (supra) has observed as under: -

"15. Summing up the entire discussion, we hold that merit list prepared on declaration of the result of departmental examination cannot operate in perpetuity. It has to be confined to the number of vacancies determined in terms of para-3 of the scheme and for which examination concerned was held. Such examination cannot be merely a qualifying examination. The departmental examination partakes the character of direct recruitment which would always be based on merit and not mere passing the examination. The respondents have misconstrued the said para 5 of the Examination Scheme.

16. Thus O.A. is allowed. Respondents are required to act strictly in term of findings recorded herein above. However the regular promotions already made would not be disturbed. No costs."

4. It is submitted on behalf of the applicants that the order dated 09.05.2012 passed by C.A.T., Ahmedabad Bench in O.A.



No. 263/2010 (supra) has been challenged by the private respondents in the said O.A. before the Hon'ble High Court of Gujarat, and the same is pending for consideration.

5. We have considered the submissions made on behalf of the applicants and carefully gone through the pleadings as well as relief claimed by the applicants. The main relief of the applicants is only to quash and set aside the Annexure A/1 order dated 20th September, 2012, which has been passed by the respondents to implement the order dated 09.05.2012 passed by C.A.T., Ahmedabad Bench in O.A. No. 263/2010 (supra). The order dated 09.05.2012 passed by C.A.T., Ahmedabad Bench in O.A. No. 263/2010 (supra) is sub-judice before the Hon'ble High Court of Gujarat. In such eventuality, the relief, which has been claimed by the applicants herein in this O.A., can only be claimed before the Hon'ble High Court of Gujarat by making appropriate application as per rules. This Bench of the Tribunal cannot sit over as an appellate court on the order passed by a Coordinate Bench of the Tribunal. In view of the above facts, we do not want to interfere in the matter; as such the present Original Application deserves to be dismissed.

6. Consequently, in view of the discussions made hereinabove, the present Original Application stands dismissed in limine without issuing notice to the respondents. There shall be no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)