

**Central Administrative Tribunal
Principal Bench, New Delhi**

CP No.560 of 2015
IN
OA No.1351 of 2015

This the 30th day of September, 2015

**HON'BLE MR. G.GEORGE PARACKEN, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

M. Vijayaraj,
Aged about 65 years,
S/o Sh. M. James,
Additional CPF Commissioner (Retd.)
R/o H.No.3-4-495/1, Flat No.301,
Jyoti Soudha Apartments, Barkatputra,
Hyderabad-50027.

... Petitioner
(By Advocate: Shri M.K. Bhardwaj with Shri Sanjeet Ranjan)

Versus

Union of India & Ors. Through its Secretary

1. Sh. Shankar Agarwal,
Secretary,
Ministry of Labour
Shram Shakti Bhawan, New Delhi.
2. Sh. Bandaru Dattatreya,
The Chairman, CBT
EPFO,
Ministry of Labour,
Shram Shakti Bhawan, New Delhi.
3. Sh. Krishan Kumar Jalan,
Central Provident Fund Commissioner,
EPFO,
Ministry of Labour,
Bhavishya Nidhi Bhawan,
14 Bhikaji Cama Place,
New Delhi.

.....Respondents
(By Advocate: Ms. Aparna Bhat)

ORDER (ORAL)

SHRI G.GEORGE PARACKEN, MEMBER (J) :

This Contempt Petition has been filed by the petitioner
alleging non-compliance of Order of this Tribunal dated

10.4.2015 in OA 1351/2015. The operative part of the said Order reads as under:-

“4. In view of the above, we dispose of this OA with direction to the respondents to consider the aforesaid legal notice dated 15.9.2014 and pass appropriate order under intimation to the applicant within a period of one month from the date of receipt of a copy of this Order. No costs.”

2. Today when the matter was taken up for consideration, learned counsel for the respondents has submitted that the competent authority has quashed the charge Memo dated 29.4.2010, a copy of the said Order has also been produced before us. The said Order reads as under:-

“ORDER

WHEREAS, disciplinary proceedings under Rule 10 were initiated against Shri M. Vijayraj, Additional CPFC (now retd) vide Memorandum No.Vig.X(14)2007/1715-1719 dated 29.4.2010 on the charge that he, while working as RPFC-I in-charge of Hyderabad Region during the period 2006-09 committed serious irregularities in the capacity of Appointing Authority in recruitment of canteen staff which culminated in the irregular appointment of 7 personnel who were not eligible for such appointment.

2. WHEREAS Shri M. Vijayraj, Addl CPFC superannuated on 30.4.2010 and the disciplinary proceedings got converted to Presidential Proceedings and are pending at inquiry stage.

3. WHEREAS Shri M. Vijayraj, Addl CPFC(retd) submitted a legal Notice dated 15.9.2014 to EPFO alleging non approval of charge sheet by the competent authority, as specified in the Supreme Court Judgment dated 05.09.2013 in the case of Shri B.V. Gopinath (CA No.7761/2013). Further, having not received any reply, he filed an OA before the CAT, Delhi (No.-1351/2015) challenging validity of the Charge Sheet. The Tribunal vide its Order dated 10.4.2015 directed the respondents to consider legal Notice given by the Charged Officer and pass a speaking order within a period of one month.

4. WHEREAS, a proposal for implementation of the direction of Hon'ble CAT in OA No.-1351/2015 was submitted to the competent authority. In the meantime, the Charged Officer filed a Contempt Petition before the Hon'ble CAT against which Notices have been issued for 30.9.2015.

5. AND WHEREAS, in the legal Notice dated 15.9.2014, the main plea taken by the Charged Officer is that Charge Memorandum dated 29.4.2010 is bad in law for the reason that the same was not approved by the competent authority. The records of the case, including the judgment of Honble Supreme Court in the case of B.V. Gopinath have been gone through by the competent authority and has observed as under:-

“The Judgment is very clear and there is no ambiguity with regard to mandatory requirement of approval of the DA at different stages, including before issuance of Charge Sheet. In the instant case, Charge-Sheet has been issued without approval by the competent authority and thus, is not tenable before law.

For the reasons stated above, I quash the Charge Memorandum dated 29.4.2010 issued to Shri M. Vijayraj Addl CPFC (now retired) without prejudice to taking disciplinary action afresh.”

[By order and in the name of the President]

Sd/-

(Ajay Malik)

Under Secretary to the Govt. of India

To,

Shri M. Vijayraj, Addl. CPFC(retd)
[Through CPFC]

Copy to:
CPFC, EPFO”

3. In view of the above position, this Contempt Petition is closed. Notices issued to the alleged contemnors are discharged. No costs.

(SHEKHAR AGARWAL)
MEMBER (A)

/ravi/

(G.GEORGE PARACKEN)
MEMBER (J)