

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

C.P.No.451/2017 in O.A.No.1933/2017

Order reserved on 23rd May, 2018

Order pronounced on 29th May, 2018

**Hon'ble Mr. Justice Dinesh Gupta, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Tapas Kumar Ghosh
Assistant P F Commissioner, aged 57 years
s/o late Vivekananda Ghosh, resident of
Santiniketan, Netajee Para
Jalpaiguri (WB) – 735101

(Mr. H D Sharma and Mr. S K Khanna, Advocates)

..Petitioner

Versus

1. Sh. V P Joy
Central Provident Fund Commissioner
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi – 110 066
2. Sh. S B Sinha
Additional Central Provident Fund Commissioner
D K Block, Sector II, Salt Lake City
Kolkata – 700091
3. Sh. Umesha
Regional Provident Fund Commissioner
Amar Complex, Hijiguri, A T Road
Tinsukia

..Respondents

(Mr. Keshav Mohan, Advocate)

O R D E R

Mr. K N Shrivastava, M (A):

The petitioner was promoted to the post of Assistant Provident Fund Commissioner (EPFC), on *ad hoc* basis, to meet administrative exigencies,

vide office order dated 29.12.2008 and posted at Regional Office (RO), Tinsukia. He was also facing disciplinary enquiry (DE) proceedings, which resulted in imposition of penalty of “reduction by one stage in the time scale of pay for a period of one year without cumulative effect” on him vide order dated 01.07.2016 (Annexure A-3 in O.A.) of the disciplinary authority.

2. The respondents in terms of Department of Personnel & Training (DoPT) O.Ms. dated 24.12.1986 and 14.09.1992, as a consequential action, withdrew the *ad hoc* promotion of the petitioner and reverted him to his substantive post of Enforcement Officer (EO) and issued Annexure A-1 order dated 22.05.2017 to that effect. The order also transferred him from RO, Tinsukia to RO, Jalpaiguri. The petitioner has challenged the Annexure A-1 order in O.A. No.1933/2017.

3. On 30.05.2017, when the O.A. was taken up for admission, while admitting the O.A. and issuing notices to the respondents, the Tribunal passed the following interim order:-

“In the meantime, the status quo with regard to the present status in respect to the impugned order shall be maintained by the respondents. This order shall be subject to the objections from other side.”

4. This C.P. has been filed for alleged non-compliance of the interim direction issued vide order dated 30.05.2017. The petitioner has stated that the respondents have disobeyed the order of the Tribunal, inasmuch as they have not only transferred and relieved him from RO, Tinsukia but have also reverted him to the post of EO/Accounts Officer (AO) and posted him to

RO, Jalpaiguri, vide their orders dated 19.06.2017 and 20.06.2017 (Annexure CP-6). It is further stated that the petitioner submitted a representation dated 20.06.2017 (Annexure CP-7) to the Central Provident Fund Commissioner (CPFC), New Delhi, clearly bringing to the notice that Annexure CP-6 orders are in gross disobedience of the Tribunal's order dated 30.05.2017. As no action was taken on the representation by CPFC, the petitioner has filed the instant C.P.

5. The reply has been filed on behalf of respondents wherein broadly it has been stated as under:-

5.1 Vide impugned Annexure A-1 order dated 22.05.2017, the petitioner had been reverted from the post of APFC (*ad hoc*) to the cadre of EO and was transferred and posted as EO/AO at RO, Jalpaiguri.

5.2 The respondent-Department, after going through the interim order of the Tribunal dated 30.05.2017 wherein status quo was ordered to be maintained, bona fide believed that the status quo was in regard to the status then existing. Since the petitioner had already been reverted to the post of EO and posted at RO, Jalpaiguri, it was felt that maintaining that status was in the compliance of Tribunal's order. As the petitioner was on leave from 22.05.2017 to 31.05.2017, the relieving order dated 24.05.2017 was sent to him by Speed Post.

5.3 The petitioner subsequently reported for duty on 01.06.2017 at RO, Tinsukia and also submitted a copy of Tribunal's order dated 30.05.2017. However, the respondent-Department felt that maintenance of status quo

as on 30.05.2017 would be the true compliance of the Tribunal's order, and accordingly, it was done.

5.4 The currency of the penalty imposed on the petitioner vide order dated 01.07.2016, as referred to in paragraph (1) above, expired on 30.06.2017. The Departmental Promotion Committee (DPC) was convened on 30.08.2017 and as per its recommendations, the petitioner, along with some other officers, was promoted to the grade of APFC and posted to RO, Bellary. In the meanwhile, the petitioner filed yet another O.A., being O.A. No.3012/2017, in which the Tribunal has passed an interim order dated 04.09.2017 staying the order dated 20.06.2017 of the respondent-department whereby he was directed to report for duty at RO, Jalpaiguri as EO/AO in terms of order dated 22.05.2017 and relieving order dated 24.05.2017. The respondents have not committed any willful disobedience of the Tribunal's order.

6. Arguments of learned counsel for the parties were heard on 23.05.2018.

7. We have considered the arguments of learned counsel for the parties and have perused the pleadings.

8. As is evident from the records, the petitioner was on leave from 22.05.2017 to 31.05.2017. The reversion-cum-transfer order dated 22.05.2017 could not be served on him at Tinsukia and it was sent to him by Speed Post. The respondent-Department has also passed the relieving order dated 24.05.2017. The Tribunal issued directions for maintenance of

status quo on 30.05.2017 at the admission stage itself without hearing the other side. It is, however, stated in the order that it would be subject to the objections from the other side.

9. The respondent-Department has clarified that according to its interpretation, maintenance of status quo as on 30.05.2017 would have been the true compliance of Tribunal's order and accordingly it did. On that day, the petitioner stood reversed to the post of EO/AO and posted at RO, Jalpaiguri. In view of this submission, we are of the view that the respondents have not committed any willful disobedience and that the status quo ordered by the Tribunal vide order dated 30.05.2017 was misunderstood by them.

10. In view of this, we close this C.P. and order for discharge of the notices.

(K.N. Shrivastava)
Member (A)

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(Justice Dinesh Gupta)
Chairman