

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

C.P.No.639/2017 in O.A.No.3012/2017

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, Age 57 years
Aged 57 years
Father's name: Late Vivekananda Ghosh,
resident of Santiniketan, Netajee Para
Jalpaiguri (WB) – 735101

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

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. K.v. Sarveswaran
Additional Central Provident Fund
Commissioner (Hqrs.),
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi – 110 066
4. 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 has filed O.A. No.3012/2017 seeking quashment of impugned Annexure A-1 office order dated 20.06.2017 therein, which reads as under:-

“Sri T.K. Ghosh, APFC (Ad-hoc) may refer to his joining report dtd. 01.06.2017 submitted alongwith the copy of interim order of the Hon’ble Principal Bench CAT, New Delhi in OA NO. OA/100/1933/2017 dtd. 31.05.2017 which was forwarded to the Addl. Central P.F. Commissioner (KZ) vide letter No. SRO/TSK/Adm/P. file/T.K. Ghosh/772 dtd. 01.06.2017 (copy enclosed) for necessary orders. In response to the said letter Zonal Office, Kolkata vide letter No. EPFO/ACC/KZ/85/NER/Legal/526 dtd. 15.06.2017 (copy enclosed) directed not to allow Sri T.K. Ghosh, APFC (Ad-hoc) to join at RO, Tinsukia for maintaining the status quo i.e. relieving of Sri T.K. Ghosh, APFC (Ad-hoc). This office vide letter No.SRO/TSK/ADM/P.file/T.K.Ghosh/996 dtd. 19.06.2017 (copy enclosed) has sought guidance from Addl. Central P.F. Commissioner, Zonal Office, Kolkata. In response, the Addl. Central P.F. Commissioner, Zonal Office, Kolkata vide letter No.EPFO/ACC/KZ/85/NER/Legal/558 dtd. 19.06.2017 (Copy enclosed) has conveyed that as Sri T.K. Ghosh, APFC (Ad-hoc) had been relieved from R.O Tinsukia to report for duty as EO/AO at R.O Jalpaiguri vide relieving order dtd. 24.05.2017 (copy enclose), hence this status quo is to be maintained in the light of CAT order dated 31.05.2017.

In view of the above Sri T.K. Ghosh, APFC (Ad-hoc) is advised to comply with the direction of Addl. C.P.F.C., Zonal Office, Kolkata as pointed out in his letter dtd. 19.06.2017.”

2. When the said O.A. came up for admission, the Tribunal passed an interim order dated 04.09.2017 staying the aforesaid impugned Annexure A-1 office order dated 20.06.2017 and directing the respondents to allow the petitioner to continue at RO, Tinsukia till further orders.

3. Explaining their stand, the respondents, in their reply, have broadly stated as under:-

3.1 The respondent-Department, after going through the interim order of the Tribunal dated 30.05.2017 passed in O.A. No.1933/2017, wherein status quo was ordered to be maintained, bonafidely 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 would be 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.

3.2 The petitioner has obtained the *ex parte* interim order dated 04.09.2017 from this Tribunal by suppressing and concealing the relevant material fact that vide office order dated 31.08.2017, the applicant was promoted to the post of Assistant Provident Fund Commissioner (APFC) at Regional Office, Bellary on the recommendations of the Departmental Promotion Committee (DPC), which was convened on 30.08.2017.

3.3 After coming to know of the order dated 04.09.2017, the respondents moved an Application, being M.A. No.3675/2017, seeking vacation of order dated 04.09.2017.

3.4 It is stated that had the aforesaid fact of his promotion been disclosed to the Tribunal, the Tribunal would not have directed the respondents to allow the applicant to continue at RO, Tinsukia, till further orders. As such, the respondents have not committed any willful disobedience of the Tribunal's order.

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

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

6. We are of the view that there was genuine misunderstanding at the end of the respondents in interpreting the interim order dated 30.05.2017 in O.A. No.1933/2017. The petitioner has also not disclosed the factum of his promotion to the post of APFO vide order dated 31.08.2017 when the order dated 04.09.2017 was passed by the Tribunal. It is seen that the present C.P. has been filed on 12.09.2017, before which the promotion order of the applicant has already been issued by the respondents. Hence, we are of the view that the respondents have not committed any willful disobedience of the Tribunal's order.

7. 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