

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/01037/2012

Date of CAV : 05-09-2018
Date of Order : 20-09-2018

Between :

P. Padmavathi W/o B. Muttaiah,
Age : 52 years, Worked as Head Clerk,
(removal from service),
R/o 2-4-380, Kranthinagar, Ramnagar,
Hanumakonda, Warangal District.

....Applicant

AND

1. The Regional Provident Fund Commissioner,
EPF Organisation, Regional Office,
3-4-763, Behind Khadi Bhavan,
Barkatpura, Hyderabad.
 2. The Government of India,
Rep by its Under secretary,
Ministry of Labour & Employment,
New Delhi.
 3. The Central Provident Fund Commissioner
EPF Organisation, Head Office, New Delhi.
 4. The Additional Central Provident Fund Commissioner &
Appellate Authority, Employee Provident Fund, Zonal
Office, South Zone, Barkatpura, Hyderabad.
- ...Respondents

Counsel for the Applicant: Mr. M. Surender Rao
Counsel for the Respondents : Mrk.G.Jaya Prakash Babu, SC for EPF

CORAM :

THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER
THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the Administrative Tribunals Act, 1985, for the following relief : -

- (a) The proceedings issued by the 1st respondent in Memo No. AP/Adm.Vig/DD-336/2003/409, dated 15.12.2003 which was confirmed by the 4th respondent on 22.12.2005 and further confirmed by the 3rd respondent dated 14.11.2008 is illegal, arbitrary, violative of articles 14 & 16 of the Constitution of India;
- (b) And further declare that applicant is entitled to be reinstated into service with all consequential benefits;
- (c) And pass such order or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that, while the applicant was working as Head Clerk/Section Supervisor in the office of SRO, Warangal, the 1st respondent issued proceedings in No. ADM.Vig/2001/1500-8-9, dated August, 2001, placing him under suspension on the ground that criminal case was booked against him. A charge memo was issued to the applicant on 19.6.2002 with the following charges :

“Article-I

That the said Smt. P. Padmavathi, while functioning as Section Supervisor in the Sub-Regional Office, Warangal during 2000-2002 is alleged to have committed the following irregularities omission and lapses.

That the said Smt. P. Padmavathi processed 33 claims pertaining to settlement of PF accounts without checking the correctness of the particulars with the basic and relevant documents available in the office.

That the said Smt. P. Padmavathi failed to notice the variations in the details mentioned in the claim forms from those entered in basic documents like Form-2 and Form-9 of the respective account holders.

That the said Smt. P. Padmavathi also failed to check and make

suitable entry in the withdrawal register at the time of settlement of claims.

That the said Smt. P. Padmavathi thus violated the provisions of Manual of Accounting procedure while submitting the claims for settlement.

This action on the part of the said Smt P. Padmavathi resulted in irregular settlement of the claims.

That the said Smt P. Padmavathi by acting in the manner aforesaid exhibited lack of devotion to duty and behaved in a manner unbecoming of an employee of the Employee's Provident Fund Organisation and thereby violated clauses (ii) & (iii) of Sub-Rule 1 of Rule 3 of CS (Conduct) Rules, 1964 read with Regulation 27 of EPF (Staff and Conditions of Service) regulations 1962."

3. The applicant also states that, at Annexure-III to the Charge Memo list of documents by which the articles of charge framed against the applicant are proposed to be sustained or given around are 35 documents were shown as list of documents. At Annexure-IV list of witnesses by whom the article of charge framed against the applicant are proposed to be sustained is given. None of the persons were shown as witnesses and it was stated as nil. Applicant submitted her explanation denying the charge. However, without considering explanation of the applicant, one Sri France Joseph, RPFC.II, SRO, VIG was appointed as enquiry officer vide proceedings AP/ADM/Vig.DO-336/2002/1982, dated 23.9.2002. On the same day the 1s respondent appointed one Sri SVKSR Murthy, SRO Guntur as Presenting Officer.

4. The applicant also contends that the charge framed in the Criminal Case and Departmental proceedings are one and the same. Therefore applicant made a representation to the Enquiry Officer and as well as to the

Disciplinary Authority to stay the departmental proceedings till the completion of the Criminal Case and the same was rejected by orders dated 29.1.2003. The applicant further submits that, she had sought for certain documents vide letter dated 07.04.2003 as they are vital for the purpose of deciding the case and the same were not furnished. The applicant also contends that the enquiry officer without providing sufficient opportunity, concluded the enquiry and submitted his report on 28.04.2003. The applicant submitted her explanation to the show cause notice dated 29.07.2003. Without considering the explanation of the applicant, 1st Respondent passed the order dated 15.12.2003 removing the applicant from service and the same was also confirmed by the Appellate Authority. The applicant also filed further appeal dated 29.12.2005 to the concern Minister. The applicant also filed revision petition dated 25.09.2006 to the 3rd Respondent and the same was rejected by proceedings dated 14.11.2008. Hence this application.

5. Respondents have filed reply statement stating that the Inquiry Officer has followed the prescribed procedure and given enough opportunity to the applicant to defend her case and provided relevant records for his examination. It is upto the Inquiry Officer to accept / reject the documents requested and the same has been conveyed vide notice dated 01.04.2003 by the Inquiry Officer and hence the points raised by the applicant are not correct. The Respondents also contend that the Inquiry Officer has concluded the enquiry without providing sufficient opportunity to the applicant. However, the Inquiry Officer has issued enough

opportunity to the applicant to defend her case. Based on the documentary evidence only charges were framed and with relevant proof the Inquiry Officer has concluded the departmental enquiry.

6. The Respondents also contends that, the representation dated 14.08.2003 on the Inquiry Report submitted by the applicant has been examined by the Disciplinary Authority in detail with reference to the analysis of evidence and the connected findings furnished by the Inquiry Officer and found that the points raised by the applicant with regard to inquiry are incorrect. The Respondents also state that, after careful examination, the inquiry findings and the evidence on record, the Disciplinary Authority / Regional Provident Fund Commissioner, Hyderabad has imposed a penalty of "removal from service which shall be a disqualification for future employment under the Central Board" on the applicant vide an order No. AP/Adm.Vig/DD-336/2003/409/379(C), dated 15.12.2003. It is also contended in the reply statement that the Inquiry Officer has conducted the enquiry as per the procedure prescribed and the findings of the Disciplinary Authority and Appellate Authority are warranted by the evidence on record. The penalty imposed is also commensurate with the gravity of offence.

7. The Respondents also state that, the orders passed in OA Nos.959/2009 and 961/2009, dated 21.10.2011 filed by S/Sri K. Suryanarayana and S. Ramesh Babu were challenged before the Hon'ble High Court in WP No.31975 of 2011 and WP No.31974 of 2011. The Respondents also submit that the claim settled by the applicant and others

is the subject matter of the Criminal RC Nos.780/2011 & 779/2011 before the Hon'ble High Court. With the above said submissions, Respondents pray for dismissal of the OA.

8. We have heard Mr. M. Surender Rao, learned counsel for the applicant and Mr. G. Jayaprakash Babu, learned Standing Counsel for the Respondents.

9. After hearing counsel on both sides carefully and on going through the material placed on record, we find that the documents produced by the Department in the Disciplinary Proceedings were not public documents. They were also not certified copies of any judgment or order passed by any judicial forum. Therefore those documents could not have been marked automatically, in the absence of any formal proof of the same through any witnesses, specifically when the delinquent officer had not given consent for making of those documents. In fact the applicant has all along raised objection in the disciplinary proceedings and also before the appellate authority and revisional authority on the ground that those documents are required to be proved through any particular witness. In the absence of any formal proof of those documents and when no witness was examined by the Department in the Departmental Proceedings, this Tribunal finds that this is a clear case of no evidence. Therefore, the action taken against the applicant in the Departmental Proceedings is illegal and the same cannot be sustained.

10. Accordingly the impugned orders issued by 1st respondent in Memo

No. AP/Adm.Vig/DD-336/2003/409, dated 15.12.2003 which was confirmed by the 4th respondent on 22.12.2005 and further confirmed by the 3rd respondent dated 14.11.2008 are quashed and set aside. In the result, the applicant is directed to be reinstated in service with all consequential benefits within three months from the date of receipt of copy of this order.

11. Accordingly the OA is allowed with no order as to costs

(SWARUP KUMAR MISHRA) (B.V.SUDHAKAR)
JUDICIAL MEMBER ADMINISTRATIVE MEMBER

Dated : September, 2018.

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