

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

CP No.37/2016 in OA No.263/2010

This the 19th day of December, 2018

**Coram : Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

1. Aji S/o. Kuruvilla Varghese
Male, Aged 40 years
E-14, Suvas Apartment
Nr. Gulab Tower, Sola Road
Ahmedabad 380 054.

2. Mihir S/o. Himanshuray Mankad
Male, Aged 40 years
MIG 404, Sector-4
K.K.Nagar, Ghatlodia
Ahmeabad 380 061.

3. Chetan S/o. Rameshchandra Trivedi
Male, Aged 41 years
A-15, Desai Park
Nr/ Hotel Cambay Sapphire
Jivraj Park, Ahmedabad 380 013.

4. Shailendra S/o. Natvarbhai Dutt
Male, Aged 40 years
H-24/121, Happy Home Appartment
Shastrinagar, Naranpura, Ahmedabad 380 013.

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5. Mahendrakuji S/o. Dhruvcharan Shivhare
Male, Aged 39 years
B-12, Vibhag-2
Purnpurshottam Society, Opp. Nirnaynagar
Ranip, Ahmedabad 382480.

6. Avani W/o. Minesh Shrivastava
Female, Aged 35 years
C-103, Divyajivan Residency
New C.G.Road
Chandkheda, Ahmedabad 382424.

7. Shambhoo Kumar S/o. Mahendra Mahto
Male, Aged 39 years
B-201, Devraj Residency
Opp Shreeji Bungalow
Haridarshan Char Rasta, Nava Vadaj
Ahmedabad 382330.

8. Pradeep S/o. Kanaiyalal Kadia
Male, Aged 36 years
26, Shivanand Bungalow
Vastral, Ahmedabad 382418.

9. Bishnu Kumar Bharati S/o. Pawankumar Sharma
Male, Aged 39 years
E-302, Devraj Residency
Opp Shreeji Bungalow
Haridarshan Char Rasta, Nava Vadaj
Ahmedabad 382330.

10. Sindhu W/o. Sidharthan Sidharth

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Female, Aged 44 years
D-35, Shivdhara Apartment
Nr. Hind Super Market
Thaltej, Ahmedabad 380 059.

11. Daksha Dutt W/o. Ranjit Shikari
Female, Aged 42 years
L-1, Vardhman Nagar Flat
Nr. C.P. Nagar Vibhag-I
Bhuyangdev Char Rasta
Ghatlodia, Ahmedabad 380 061.

12. Abeena W/o. N.S. Chandran
Female, Aged 42 years
I-36, Shivdhara Apartment
Nr. Hind Super Market
Thaltej, Ahmedabad 380 059.

All Applicant presently serving as Social Security Assistants

(By Advocate : Shri N.S. Kerial)

Versus

1. Dr. V.P. Joy
Central Provident Fund Commissioner
Employees Provident Fund Organisation
Head Office, Bhavishya Nidhi Bhavan
14- Bhikaji Cama Place, New Delhi 110066.

2. Mr. Radha Krishan Singh

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Additional Central Provident Fund Commissioner
(Gujarat and Madhya Pradesh)
Bhavishya Nidhi Bhawan, Nr. New RBI
Income Tax Circle, Ashram Road,
Ahmedabad 380 014.

3. Mr. Ajeet Kumar
Regional Provident Fund Commissioner-I
Bhavishya Nidhi Bhawan, Nr. New RBI
Income Tax Circle, Ashram Road,
Ahmedabad 380 014.

4. Mr. Amit Singh
Regional Provident Fund Commissioner-I (HRM)
Employees Provident Fund Organisation
Ministry of Labour and Employment
Govt. of India, Bhavishya Nidhi Bhavan
14- Bhikaji Cama Place,
New Delhi 110066..... Respondents

(By Advocate : Shri Joy Mathew)

O R D E R – O R A L

Per : Hon’ble Shri M.C.Verma, Member (J)

Instant one is an application for contempt, allegedly
commissioned by respondents for non compliance or

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disobedience of the Order dated 13.3.2015 passed in OA No.263/2010 by the Official respondents of the OA.

2. In OA No.263/2010, issue was with respect to the post of Section Supervisor (Regional Offices). The Recruitment to the post of Section Supervisor is governed by the Employees Provident Funds Organisation [(Section Supervisor)(Head Clerk) (Regional Office)], Recruitment Rules, 1992. As per Recruitment Rules, 1992 post of Section Supervisor is required to be filled in by direct recruitment or by promotion. Rules provides that 2/3rd% posts were required to be filled in by promotion on the basis of seniority, subject to rejection of unfit whereas 1/3rd% by promotion, through departmental examination. Dispute in OA No. 263/2010 was with respect to the second category i.e. of filling of 1/3rd% post by way of promotion through departmental examination from amongst

Social Security Assistant. This Tribunal vide its Order dated 13.3.2015 disposed of the OA giving direction to the respondents, which reads : *“The respondents are directed to operate impugned Select List dated 09.1.2009 upto the extent of five reported vacancies for filling up of Examination Quota, if any, and that 49 vacancies that have been additionally sanctioned in Head Office letter dated 26.12.2008 annexed to the additional are available before the finalisation of Select List of 9.1.2009.....”*.

3. Being aggrieved by said Order, respondents of OA preferred SCA No.2534/2016, on the file of Hon’ble High Court, and Hon’ble High Court taking note of legal and factual entirety, passed a detailed Order. The operative portion of judgment of Hon’ble High Court is in para 7.12, and reads : *“Thus, for the reasons stated above, we are of the opinion that the learned tribunal has not committed any error in observing and holding*

that the merit list prepared on the basis of the particular departmental examination cannot be permitted to be operated in perpetuity and/or till it is exhausted and the same cannot be permitted to be operated for filling up the posts which are declared / notified and/or which have fallen vacant subsequently. We are in complete agreement with the view taken by the learned tribunal and the same is not required to be interfered with by this Court in exercise of the powers under Article 227 of the Constitution of India.”

4. Instant Contempt Petition has been preferred by Applicant of OA. Reply has been filed by the respondents. Matter is at the stage of final hearing. A query was put to learned counsel: *“whether the Order of Tribunal has not merged into the Judgment passed by the Hon’ble High Court in SCA No.5231/2015 and if it is so how this Tribunal is competent to*

entertain this application for clarification of the Order, which already has merged into the Judgment passed by Hon'ble High Court''

5. Learned counsel drew our attention to the Order dated 14.07.2016 passed by Hon'ble High Court in the MCA and submits that in view of the said Order, this Contempt Petition may be entertained and steps be taken to punish the wrongdoers. Learned counsel to buttress his submission placed reliance on Order datd 14.7.2016 passed by Hon'ble High Court in Misc. Civil Application (For direction) No.1477 of 2016 (Annexure A-7). Learned counsel for respondents controverted the submissions of counsel of applicants.

6. Considered the submissions. The Order passed in MCA No.1477/2016 in SCA No.5231/2015 permission has

been granted by the Hon'ble High Court to approach the Tribunal for seeking appropriate relief and with that observation, said MCA was disposed of as withdrawn. The question that arise whether alleged violation, if there is any came within the ambit of contempt and if so whether Contempt Petition would lies before this Tribunal. As has been noted above, the Order of the Tribunal has merged into the Order of Hon'ble High Court, so Contempt Petition, if any, does not lies before this Tribunal. Restraining ourselves to observe whether there is violation or not, this Contempt Petition thus is dismissed. MA No.607/2016 also stands disposed off.

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)

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