

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1188/2012

New Delhi, this the 25th day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Kanwal Singh,
Aged about 55 years,
S/o Late Shri Badlu Ram,
R/o VPO Garhi Harsaru,
Distt. Gurgaon (Haryana) – 123505. .. Applicant

(None for the applicant)

Versus

1. Union of India through
The Secretary,
Ministry of Labour, Govt. of India,
Shram Shakti Bhawan,
New Delhi.
2. The Additional Central Provident
Fund Commissioner (DL & UK),
Employees Provident Fund Organization,
Ministry of Labour, Govt. of India,
28, Community Centre,
Wazirpur Industrial Area,
Delhi-110052.
3. The Regional Provident Fund Commissioner-I,
Delhi-North,
Employees Provident Fund Organization,
Ministry of Labour, Govt. of India,
28, Community Centre,
Wazirpur Industrial Area,
Delhi-110052. .. Respondents

(By Advocate: Shri Satpal Singh with Ms. Neetu Mishra)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant joined the service of the Employees Provident Fund Organisation in the year 1982 as LDC. He was promoted as UDC in the year 1999 and 10 years thereafter, he was put in the Selection Grade and was designated as SSA.

2. A charge memo was issued to him, on 11.01.2007. Six Articles of charge were incorporated therein. The allegation was about the late coming to office, or the failure to discharge the official functions and non-attending the assigned work. The applicant submitted an explanation in that behalf, denying the charges. Not satisfied with the same, the Disciplinary Authority appointed the Enquiry Officer. In his report, the Enquiry Officer held the Articles I, V and VI as fully proved and Articles II, III and IV as partly proved. The Disciplinary Authority accepted the report and forwarded a copy of the same to the applicant. A representation dated 06.07.2010 was submitted by the applicant. Taking the same into account, the Disciplinary Authority passed an order on 27.08.2010, imposing the punishment of compulsory retirement.

3. The applicant filed an appeal before the Appellate Authority feeling aggrieved by the punishment of compulsory retirement. The Appeal was rejected vide order dated 02.08.2011.

4. During the pendency of the disciplinary proceedings, the applicant was issued an order dated 05.05.2010, through which the penalty of 'Censure' was imposed on the allegation that he was reporting office late on numerous occasions.

5. This O.A. is filed challenging the order of punishment dated 27.08.2010, the order of censure dated 05.05.2010 and the order of Appellate Authority dated 02.08.2011. The applicant contends inter alia that since charges are not serious in nature, punishment of compulsory retirement is too harsh.

6. Respondents filed the counter affidavit opposing the O.A. It is stated that the applicant was habitual later comer to the office and on numerous occasions, he remained absent without even applying for leave. It is also stated that despite issuance of several memos, the applicant did not attend his routine work and the respondents were left with no other option but to impose the punishment on the applicant.

7. The O.A. was filed way back in the year 2012 and has undergone 35 adjournments so far. At one stage, the applicant

wanted to argue the case himself and acceding to his request, an adjournment was given. Subsequently, an Advocate appeared and thereafter he also represented him.

8. Today, there is no representation of any sort whatsoever. Therefore, we perused the record and proceeded to decide the case, as provided under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987; and heard Shri Satpal Singh assisted by Ms. Neetu Mishra, learned counsel for the respondents.

9. The Articles of charge framed against the applicant reads as under:

**“STATEMENT OF IMPUTATION OF MISCONDUCT
OR MISBEHAVIOR IN SUPPORT OF ARTICLE OF
CHARGES FRAMED AGAINST SHRI KANWAL
SINGH, SSA R.O, DELHI-NORTH**

Shri Kanwal Singh, SSA while posted and functioning in that capacity in R.O. Delhi North failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of an employee of the Central Board thereby violating Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules 1964 which are applicable to employees of EPFO by virtue of Regulation 27 of the EPF (Staff and Conditions of Service) Regulation, 1962 as amended from time to time.

ARTICLE-I

Shri Kanwal Singh, SSA is a habitual latecomer and has proceeded to absent himself from several occasions without prior sanction of the Competent Authority, violating the instruction as contained under CCS (Leave Rules), 1972. An Office memo dated 04.05.2005 was issued to him enclosing list of late coming and application awaited for sanction of leaves [Annexure ‘A’]

and subsequently Office Memo dated 01.08.2006 was issued wherein Sh. Kanwal Singh, SSA was directed to explain why the period as mentioned in Annexure 'A' should not be treated as unauthorized absence. Consequently, Memorandum dated 28/29.09.2006 was issued by RPFC-II [Local Administration] for dies non of the period for unauthorized absence of Sh. Kanwal Singh, SSA.

By the aforesaid act, Shri Kanwal Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.

ARTICLE-II

Shri Kanwal Singh, SSA had failed to furnish his reply to the following Office Memo No: Adm 6(29)/SAO/JKP/05/110 dated 04.05.2005 and subsequent Office Memo No: Adm 6(29)/SAO/JKP(WP)/06/65 dated 01.08.2006 wherein he was directed to furnish his explanation within 03 days alongwith the application of sanction of leave and request to join the duties. Office Memo No: Adm 6(29)/SRO/JKP/WP/2006 dated 03.08.2006 wherein he was directed to explain the reason for variations in the name of his wife in two different forms i.e. Attestation Form submitted at the time of joining the service and the Nomination Form for Death-cum-Retirement Gratuity, Form-IV for appointment of beneficiary and form for nomination of SPF and family particulars as submitted by him on 20.06.2006. Office Memorandum No: Adm.3 (499)/2006 dated 22.09.2006 wherein he was directed to explain as to why he had signed on cross marked in the attendance register in the month of August, 2006 and September, 2006 and had not submitted leave applications for 07.08.2006, 10.08.2006, 17.08.2006, 20.08.2006, 21.08.2006, 31.08.2006, 05.09.2006, 19.09.2006 & 20.09.2006.

By the aforesaid act, Shri Kanwal Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (il) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of

Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.

ARTICLE-III

Shri Kanwal Singh, SSA was directed to clear the receipt of claims of August, 2006 [71 claims] within 15 days vide Office Memo dated Nil which was received by him on 07.09.2006. In response to above, Sh. Kanwal Singh, SSA inspite of furnishing any satisfactory reply, he had affixed remarked that the same may be given to him through Chief Justice of Supreme Court. The drawer of Sh. Kanwal Singh, SSA was opened on 20.11.2006 and it has been found that 69 cases of his seat were lying pending which were received by him from 11.08.2006. List of the claims duly attested by Assistant P.F.Commissioner, Account Group-83 is listed in Annexure-III.

By the aforesaid act, Shri Kanwal Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.

ARTICLE-IV

Shri Kanwal Singh, SSA had failed to comply with the order of concerned Section Supervisor / Assistant Account Officer / Assistant P.F.Commissioner as per noting Page 01 to 07 of Account Group-83 and noting dated 14.11.2006 of Account Group-83.

By the aforesaid act, Shri Kanwal Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.

ARTICLE-V

Shri Kanwal Singh, SSA was restrained from entering in Account Group-83, unless he marks his attendance vide this office order No: Adm-1/Vig.VII/1117/06/2090 dated 15.11.2006 and this office Part-1 order no: 512 of 2006 he was transferred from Account 83 with the direction to report to the Section Supervisor of

Administration-I for duty but he had failed to comply with these orders.

By the aforesaid act, Shri Kanwal Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (iii) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.

ARTICLE-VI

Shri Kanwal Singh, SSA was directed by his branch officer to mark his attendance before putting up any file to his superior on 14.11.2006 as per noting page 1 & 2 of Account Group-83, but he had failed to comply with the orders of his superior officers.

By the aforesaid act, Shri Kanwal. Singh, SSA failed to maintain absolute integrity and devotion to duty and conducted himself in a manner unbecoming of an employee of the Central Board in violation of Rule 3(1)(i), (ii) & (ii) of CCS (Conduct) Rules, 1964 which are mutatis mutandis applicable to him by virtue of Regulation 27 of the EPF (Staff and conditions of Service) Regulation, 1962.”

10. The applicant submitted an explanation and the Disciplinary Authority was not satisfied with the same. In his report the Enquiry Officer held that Articles I, V and VI as ‘fully proved’ and Articles II, III and IV as ‘partly proved’. An important aspect to be taken note is that the applicant reported late in the office, nearly 100 occasions and absented without leave, for several days even while the disciplinary proceedings were pending. An order dated 05.05.2010 was passed imposing the punishment of ‘Censure’. The 1st para of the said order reads as under:

“Whereas Disciplinary Proceedings under Rule-12 of EPF Staff (CC&A) Rules, 1971 were initiated against

Sh. Kanwal Singh, Sr. SSA vide Memorandum No. Adm-I/Vig.VII/1446/2010/2459 dated 10.02.2010 for his habitual late reporting office on the following dates:-
24.07.2009, 27.07.2009, 28.07.2009, 29.07.2009,
30.07.2009, 31.07.2009, 10.08.2009, 11.08.2009,
12.08.2009, 13.08.2009, 18.08.2009, 19.08.2009,
20.08.2009, 21.08.2009, 25.08.2009, 26.08.2009,
27.08.2009, 28.08.2009, 31.08.2009, 08.09.2009,
30.09.2009, 28.10.2009, 04.11.2009, 05.11.2009,
18.11.2009, 27.11.2009, 14.12.2009, 15.12.2009,
16.12.2009, 17.12.2009, 29.12.2009, 30.12.2009,
31.12.2009, 05.01.2010, 06.01.2010, 07.01.2010,
08.01.2010, 15.01.2010, 18.01.2010, 25.01.2010,
27.01.2010 & 29.01.2010. Also Sh. Kanwal Singh, Sr. SSA attended office late on 03.08.2009, 06.08.2009,
17.08.2009, 02.09.2009, 03.09.2009, 09.09.2009,
10.09.2009, 11.09.2009, 15.09.2009, 18.09.2009,
29.09.2009, 13.10.2009, 15.10.2009, 23.10.2009,
12.11.2009, a red ink cross was marked in the attendance register and Sh. Kanwal Singh, Sr. SSA had allegedly signed/initialed on the red ink cross mark which is wilful disobedience of instructions. Sh. Kanwal Singh, Sr. SSA of Receipt Section has unauthorisedly absented himself without prior permission/sanction of his leave from the competent authority on 04.08.2009,
05.08.2009, 07.08.2009, 24.08.2009, 16.09.2009,
07.10.2009, 08.10.2009, 16.11.2009, 04.01.2010,
11.01.2010, 12.01.2010, 13.01.2010, 01.02.2010,
02.02.2010 & 05.02.2010.”

11. If the coming late or unauthorised absence of an employee is occasional, any office can put up with that. However, if it is the matter of habit, the very purpose of having such an employee in the office would be defeated. The applicant did not mend his nature of functioning, even after several memos were issued. In addition to that, large amount of work assigned to him was pending and the result was that the decision on many important files could not be taken. When such is the consistent negligence misconduct and indiscipline on the part of the applicant, even

punishment of dismissal would have been justified. The respondents were totally justified in passing an order of 'Compulsory Retirement', so that the applicant is entitled to draw pension and other retirement benefits.

12. The Appellate Authority has also dealt with the matter in detail. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to cost.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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