

Vacation Court

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD

(This the 11th Day of JUNE, 2019)

Hon'ble Ms. Ajanta Dayalan-A.M.

Original Application No.330/01462/2017

(U/S 19, Administrative Tribunal Act, 1985)

1. Sandeep Kumar Singh, S/o Sri Ramesh Kumar Singh 110/6, Babupurwa Colony, Kidwai Nagar, Kanpur-208001 aged about 32 years. Applicant No. 1.
2. Vinod Thakur, S/o Sri Bhola Nath 541-A, Safipur-1, Harajendra Nagar, Kanpur-208007 aged about 34 years. Applicant No. 2.
3. Saurabh Tiwari, S/o Late Ashok Kumar Tiwari, R/o 127/265, U Block, Nirala Nagar, Kanpur-208014. Applicant No. 3.
4. Prabhat Pandey, S/o Sri Devi Prasad Pandey, 3/107, Vipul Khand, Gomti Nagar, Lucknow-226010. Applicant No. 4.
5. Pankaj Kumar Jain, S/o Sri Narendra Kumar Jain, 12/9, Labour Colony, Hathras-204101. Applicant No.5.

..... **Applicants**

By Advocate: Shri P.K. Shukla.

Versus

1. (C.P.F.C.) Central Provident Commissioner, Bhavishya Nidhi Bhawan, Head Office, 14-Bhikaji Cama Place, New Delhi-110066. Opp. Party No. 1.
2. Regional Provident Commissioner-1, Regional Office EPFO, Nidhi Bhawan Sarvodaya Nagar, Kanpur-208005. Opp. Party No. 2.
3. Delhi North Region, EPFO, Bhavishya Nidhi Bhawan 28, Community Center, Wazipur Industrial Area, Delhi-110052. Opp. Party No. 3.
4. R.P.F. C-1, Delhi (South) Region EPFO Complex, Plot No. 23, Sector-23 Dwarka New Delhi-110075. Opp. Party No. 4.
5. Mrs. Vandana Pandey S.S.A.
6. Sri Naveen Pandey S.S.A.

Regional Office H.P.F.O. Nidhi Bhawab Sarvodaya Nagar, Kanpur
PIN-208005. Opp. Party No. 5 & 6.

7. Sri Pankaj Srivastava S.S.A. Sub Regional Office EPFO United
Town Second & Third Floor, 52, Leader Road, Allahabad-211003.
Opp. Party No. 7.

..... Respondents

By Advocates: **Shri S. Mukherji**
 Shri R.K. Dixit.

ORDER

Heard Shri P.K. Shukla, counsel for the applicants, Shri Satyajeet Mukherji, learned counsel for official respondents and Shri R.K. Dixit, counsel for private respondents.

2. Counsel for the applicants states that he was not able to serve the notice to the respondents. He is directed to give a copy formally to the respondents' counsel.

3. Counsel for the applicants states that the case is for allowing the applicants to appear in the limited departmental competitive examination for the post of Section Supervisor from Kanpur where he is presently posted on temporary basis for five years. The applicants are also seeking relief that their seniority be counted with reference to their present posting in Kanpur. The counsel for the applicants states that as the said examination is to take place in July 2019, the matter requires urgent hearing and at least interim order to allow them to appear provisionally in the said examination and for fixing their seniority with reference to their present posting may be passed.

4. Counsel for the respondents states that the applicants had already filed an OA in 2017 in which their reliefs were basically two fold (i) to redetermine the seniority of the applicants on the post of Social Security Assistant keeping in view the length of service

rendered by the applicants at their initial posting in Delhi; and (ii) to effect the permanent transfer from RO Delhi to the concerned RO in Uttar Pradesh. Counsel for the respondents states that in this OA, no final order has been passed as yet and no stay order is existing as on date. He also states that as per offer of appointment, the cadre of Social Security Assistants is a local cadre and their seniority in service is to be counted in their parent cadre based on their initial posting in Delhi and not based on their temporary posting at Kanpur. He also states that the applicants are not only seeking relief for appearing in the examination on provisional basis but also seeking the relief with regard to counting of their seniority based on their present posting to which they are not entitled as per relevant rules. Counsel for the respondents seeks time of at least 10 days to get instructions from the department in the matter.

5. Counsel for the private respondents in the main OA states that the present hearing is on the MA which is not maintainable at all as the relief sought in this MA is based on fresh cause of action i.e. issue of notice for examination to be held for the post of Section Supervisor. Hence, it is not linked to the relief sought in the OA filed in 2017 and is not maintainable. He further states that the applicants have never approached the department for the said relief and as such they have not exhausted alternative remedy and hence, the MA is not maintainable on this ground as well.

6. Counsel for the applicants confirms that the applicants have not made any representation with regard to the present relief sought in the OA from the department. He further states that as the reliefs sought in the MA are consequential to the reliefs sought in the OA, the OA is maintainable according to him.

7. It is noted that the applicants are not informing the exact date of examination which is statedly to be held in July 2019. They have also

moved the MA only now even though the notice for examination was issued on 20.05.2019 (Annexure-2 to the OA). It is also noted that the applicants have never approached the department for the relief they are now seeking through the present M.A.

8. At this point, counsel for the applicants states that he will be satisfied in case directions are issued to the respondents to decide in a time bound manner the representation that the applicants will be filing within the next seven days. Counsel for the respondents has no objection to this limited prayer of the applicants.

9. In view of the limited prayer of the applicants' counsel and with no opposition from the respondents' counsel, I direct the applicants to make a self contained representation to the competent authority amongst the respondents within one week from the date of receipt of certified copy of this order. The competent authority amongst the respondents will pass a reasoned and speaking order on the representation so made by the applicants keeping in view the rules and other relevant factors, within one week after receipt of the representation. The decision so taken shall be communicated to the applicants.

10. Accordingly, the OA is disposed of.

11. Needless to mention, this order be not construed as any expression or opinion on the merits of the case. No order as to cost.

[Ajanta Dayalan]
Member-A

/Arun/