

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 4th day of December Two Thousand And Eighteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1403/2016

1. Employees' Provident Fund Staff Union
Affiliated to All Indian EPF Staff Federation, New Delhi,
Represented by its General Secretary, Shri R. Krupakaran,
having Administrative Office at No.37,
Royapettah High Road, Chennai-14;

2. Shri N. Nagendran,
S/o. E. Natarajan,
Section Supervisor, Gr.17,
EPFO, RO, Chennai.Applicants

(By Advocate: M/s. K.S. Govinda Prasad)

Versus

1. Union of India Rep. by
The Central P.F. Commissioner,
EPFO, 14, Bhikaji Cama Place,
New Delhi- 110 066;

2. The Additional Central Provident Fund Commissioner, HQ (HRM),
EPFO, Head Office, 14 Bhikaji Cama Place,
New Delhi- 110 066;

3. The Additional Central PF Commissioner (TN& KR),
EPFO, Zonal Office, 37, Royapettah High Road,
Chennai- 600 014;

4. The Regional Provident Fund Commissioner-I &
EPFO Regional Office,
37, Royapettah High Road, Chennai- 14;

5. The Regional PF Commissioner-II/OIC
EPFO, Sub Regional Office, Ambattur,
TNBH Office Complex, Muggapair High Road,
Chennai- 600 037;

6. The Regional PF Commissioner-I & Assistant PF Commissioner (Admn), EPFO, Regional Office, Tambaram, Municipal Building, 3, Rajaji Salai, Tambaram (W), Chennai- 600 045;
7. The Regional PF Commissioner -II /OIC EPFO, Sub Regional Office, S1, TNBH Phase III, Sathuvachary, Vellore- 632 009;
8. The Regional PF Commissioner-II/OIC EPFO, Sub Regional Office, Venni Commercial Complex, Olandai Keerapalayam, 100 feet Road, Puducherry;
9. The Regional PF Commissioner-I, EPFO Regional Office, 1, Lady Doak College Road, Chokkikulam, Madurai- 625 002;
10. The Regional PF Commissioner-II/OIC, EPFO, Sub Regional Office, Tirunelveli;
11. The Regional PF Commissioner-II/OIC, EPFO, Sub-Regional Office, Nagercoil;
12. The Regional PF Commissioner-I EPFO, Regional Office, Dr. Balasundram Road, Coimbatore;
13. The Regional PF Commissioner-II/OIC, EPFO, Sub-Regional Office, Swarnapuri, Salem;
14. The Regional PF Commissioner-II/OIC, EPFO, Sub Regional Office, Madurai Road, Trichy.

.....Respondents

(By Advocate: Mr. V. Vijay Shankar)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. This O.A. has been filed seeking the following reliefs:-

"(i) to call for the records/files relating to the impugned orders passed by the 2nd respondent herein bearing no. HRM-IV/60(1)2013/SSA/Pt/15398 dated 05.11.2015 (A-7) and no. TN/RO/TBM/Adm/A-1/MACP/2015-16 dated 25.02.2016 (A-10) of the 6th respondent herein quash and set aside the same as non-est in the eye of law and thus render justice;

(ii) To call for the records/files relating to the impugned order dated 12.01.2016 (A-8) bearing No. TN/RO/MDU/Adm/A2(104)/MACP/2015 of the 9th Respondent herein namely the RPFC-1, EFPO, 1, Lday Doak College Road, Madurai 625 002 quash and set aside the same as non-est in the eye of law and thus render justice;

(iii) to call for the records/files relating to the impugned orders dated 22.04.2016 (A-11)(A-12) and (A-13) of the 6th respondent herein namely the Assistant PF commissioner (Adm), EPFO, RO, Chennai 14, quash and set aside the same as non-est in the eye of law and thus render justice; and

(iv) To consequently direct the respondents herein to restore and refix the pay of the 2nd applicant and the members of the 1st Applicant's Union in the grade pay of Rs. 4600/- in the post of Sr. S.S.A and thus render justice."

2. Learned counsel for the applicant submits that the applicant did not wish to press the relief with regard to the setting aside of pay re-fixation orders. However, as a majority of the first applicant's members are Group-C & Group-D employees, no recovery should be made from them of any excess payment in terms of the decision of the Hon'ble Apex Court in 'State of Punjab And Ors. vs. Rafiq Masih (White Washer)' and the O.M. of the DOP&T dated 02.03.2016 in acceptance thereof, it is urged. Accordingly, the applicants would be satisfied if a direction is issued to the respondents to consider waiver of the recovery in terms of the law as laid down by the Hon'ble Apex Court.

3. Learned counsel for the respondents would submit that the respondents had contested the case on strong grounds as the order passed by them for re-fixation of pay of the 2nd applicant was fully justified. However, he would admit that the matter of recovery did not appear to have been considered under the O.M. of DoP&T dated 02.03.2016, presumably on account of the fact that no such representation was received from the applicants for waiver.

4. In view of the submission, I deem it appropriate to dispose of this O.A. with liberty to the applicants to submit a comprehensive representation for waiver of the recovery in terms of the Hon'ble Apex Court orders in 'State of Punjab And Ors. vs. Rafiq Masih (White Washer)' and 'DoP& T O.M. dated 2.3.2016' issued in this regard within a period of two weeks from the date of receipt of copy of this order. On receipt of such representation, the respondents shall consider the same in accordance with law and pass a

reasoned and speaking order within a period of three months thereafter. Interim order of this Court dated 29.08.2016 staying the recovery of excess pay shall continue till then.

5. The OA is disposed of in the above terms. No costs.

(R. RAMANUJAM)
MEMBER (A)

04.12.2018

Asvs.