

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION Nos.813/2017 & 197/2019

Date of Decision: 13rd November, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

OA NO.813/2017

1. Nitin Tinkhede, aged 50 years,
occ. Service, r/o Manohar Tinkhede,
122, Rukmini Nagar, Nagpur 440 024.
2. Kishori Ravindra Pande, aged major,
occ. Service, R/o 2, Shreekrishna
Gorley layout, Jaitala Road,
Nagpur 440 022.
3. Sanjay Shriram Agrawal, aged 47 years,
occ. Service, r/o c/o Shriram Agrawal,
797, New Nandanvan, Nagpur.
4. Ajay R. Ghate, Aged 47 years,
occ. Service, Type III qtr. No.21,
EPFO Colony, Shymabag, Umrer Road,
Nagpur.
5. Beena Singh, aged 47 years,
c/o Sukhvinder Singh, 285, Yajurved,
Dixit Nagar, Nari Road, Nagpur 26.
6. Vijay C. Thakre, aged 45 years,
occ. Service, c/o o/c EPF
Organization,
132, A Ridge Road, Raghujji Nagar,
Nagpur.
7. Anil Bhkaji Gaikar, aged 48 years,
r/o Flat No.08, Raviraj Pride, Tidke
Nagar, Untwadi, Nashik 422 008.
8. Prakash Bhanudas Kulkarni, aged 48,
occu. Service, R/o 12, Om Siddhya
Ichhamani Nagar, Nashik 422 009.
9. Nitin Dattatraya Mahajan,
aged 48 years,

flat No.1, Viraj Vihar Apartment,
Opp. Subhash Nagar Bus Stop CIDCO,
Nashik 422 009.

10. Ulhas Shankarrao Aherrao,
aged 48 years,
r/o flat No.6, Install Apartment,
Abhiyanta Nagar, Kamtawade,
Nashik 422 008.

11. Urmila Landge, aged 48 years, r/o 3,
Shri Ganesh Apartments, Indira Nagri,
Kamthawadi Shiwar, B/h Satyakhedkar
Hospital, Nashik 422 008.

12. Sanisa Uday Dandekar,
alias Aparna Vasudeo
Barve, aged 44 years,
c/o Uday Dandekar,
3/30 Swarna Society, Panchpakhadi
Thane (West), 400 602.

13. Mrs. Medha Rajendra Sawant,
Aged 50 years,
14/101, Samantanagar CHS Pkharan Road
No.1, Thane 400 606.

14. Mrs. Jayashree Pratap Shetty,
aged 44 years, C/o Pratap Vittal
Shetty, 55/B Wing 504,
Jeevan Prakash CHS,
Nehru Nagar, Karla (East),
Mumbai 400 024.

15. Shilpa Nalwade, Aged 44 years,
903/A Wing,
Ambika Tower Pump House Andheri East
Mumbai 400 093.

16. Abhay Jagannath Parab, aged 47 years,
r/o Shivkunj, 43/1271, Pan Nagar,
Ghatkopar (East), Mumbai 400 075.

17. Kavita Prabhakar Sabbani,
aged 49 years,
r/o 19, Dolly House, 1st Floor,
K.G.Marg,
Khedgalli, Prabhadevi Mumbai 400 025.

18. Gopikrishna Atmaram Ghadigaonkar,
aged 49 years, r/o B-304, Lingbeshwar

Apartment, RB Kadam Marg,
Near Saraswat
Bank, Bhatwadi, Ghatkopar (West),
Mumbai 400 084.

19. Jyoti Rajesh Kamat, aged 43 years,
r/o 11A/29, Jnanendra,
Sudhindra Nagar,
Dahisar East, Mumbai 400 068.

20. Mrs. Seema Jagdish aged 43 years,
Occ. Service, R/o B-304,
Narayan Heritage,
Off. New Link Road, Kanderpada,
Dahisar West, Mumbai 400 068.

21. Shalan Pitre, aged 50 years,
bldg. no.23A/7, Govind Nagar, Sodawala
Lane, Borivli West, Mumbai 92.

22. Seema Benkar, aged 44 years,
Chandra Kan Benkar,
Hariom CHS Bldg no.C4,
Flat No.A3, Borivli West, Mumbai 92.

23. Vivek Gopa, Redgaonkar, aged 51 years,
Occ. Flat No.17, Devdatta Apartment,
Gangapur Road, Nashik 422 013.

24. Ashok Pundalik Jadhav, Aged 57 years,
plot no.63, room No.C/38, Gorai (I)
Saiprasad Coop.Hsg. Society, Boriwali
(West), Mumbai 400 091.

25. Uday Prabhakar Kulkarni,
aged 49 years,
c/o c/o P.Kulkarni, flat No.704,
A Wing,
7th Floor, Kriushnadarshan Apartment,
Shivshakti Nagar, Near Janata Tel.
Centre, CIDCO, Nashik 422 008.

26. Neeta Ravindra Pathak, aged 53 years,
r/o 102, Sudanwa CHS Gopal Nagar
Lane No.3
behind Manjunath School,
Dombivli (E) 421 201.

27. Mrs. Mini S. Nair, aged 44 years,
r/o 14/104, Kailash Nagar Ambernath
(East) District Thane 421 501.

28. Smt. Varsha Virendra Chogale, aged 43 years, C/o Virendra Damodhar Chogale, 3/602, Vasunand CHS Parsik Nagar, Kharegaon, Thane West 400 605.
29. Mrs Prachi Pradip Dalvi, aged 51 years, C/o Pradip Tukaram Dalvi, 7/1501, Amrut Angan, PH-II, Parsik Nagar, Kharegaon Naka Kalwa Mumbai 400 605.
30. Vrushali Vijay Kalambate, aged 50 years, r/o B-303, Laxmi Niketan CHS Kharegaon Naka Kalwa Mumbai 400 605.
31. Smt. Sharmila Prasad Parab, aged 45 years, 6/702, Shubharambh Society, Phase 1 Tikujini Wadi Road, Manipada Thane West Mumbai 400 610.
32. Smt. Neelima Dinesh Kurkure, aged 47 years r/o 3/24, Oswal Park, Chandrabhaga Coop. Housing Society Ltd. Pokharan Road No.2, Thane (West) Mumbai 400 601.
33. Smt. Roshini K. Janardhan, aged 42 years, C/o Shri K.K.Janardhan 1103, B.Jasmine CHS Sundervan Park, Kusumgraj Marg, Samata Nagar, Thane West Mumbai 400 604.
34. Mrs. Regina Anthony Ferdandes aged 47 years, occ. Service, r/o B/207, Blue Bird CHS Kolbad Road, Thane West, Mumbai 400 601.
35. Smt. Geeta Prakash, aged 45 years, c/o Prakash Narayanan, 1/76, 0:1, New Heaven CHS Sector 4, Nerul (West) Navi Mumbai 400 706.

36. Sunil Upadhye, aged major,
occ. Service,
B-202, Swapnil Apartment,
New Mahadwar Road, Mangalwar Peth,
Kolhapur 416 012.

37. Someshwar Salgudle, aged 47 years,
occ. Service, R/o Plot No.66,
Yogi Rajendra Nagar, Mashal Vasti,
Bijapur Road, Solapur.

38. Anil Palaskar, R/o 29/D-1
Rajyog Society,
Near Lokmat Press, Lagadmala Vadgaon
Khurd, Pune 411 041.

39. Mahesh Vinayak Dabak,
aged 50 years,
1296, Sadashiv Peth,
Waman Smruti Apartments, Pune 411 030.

40. Anmol Deshpande, aged 48 years,
flat no.C2/204, S.No.33/1, Miami
Majestic Properties,
Behind Lokmat Press,
Near Rajyog Society, Sinhgad Road,
Dhayri, Pune 411 401.

41. Sagir Sheikh, aged 50 years,
S/o S.Shekikh, Ashtavinayak Colony,
B.No.3,
Near EPFO Office, MIDC, Satpur,
Nashik 422 007. **Applicants**

(By Advocate Shri Vicky Nagrani)

VERSUS

1. Central Board of Trustees,
O/o Regional Provident Fund
Organization,
Bhavishya Nidhi Bhavan, No.14,
Bikaji Cama Palace,
New Delhi 110 066.

2. Additional Central Provident Fund
Commissioner, O/o Provident Fund
Organization, Zonal Office, HQ
Bhavishya
Nidhi Bhavan, 345 Bandra (East),
Mumbai 400 051.

3. Regional Provident Fund
Commissioner/I,
O/o RPFC, 132-A, Ridge Road,
Rahuji Nagar,
Nagpur 440 009. **Respondents**

(By Advocate **Shri R.R.Shetty**)

OA No. 197/2019

1. Prakash Kulkarni,
Son of Bhanudas Kulkarni
Age 48 years, Occ. Service,
working as Section Supervisor (Adhoc)
Residing at: 12, Om Siddhay Icchamani
Nagar, Nashik 422 009.
2. Kishori Ravindra Pande, Age 49 years,
Occ. Service, Residing at 2,
Shreekrishna Gorley Layout,
Jaitala Road,
Nagpur 440 022.
3. Sanjay Shriram Agarwal,
Son of Shriram Agarwal,
Age 47 years,
Occ. Service; Residing at 797,
New Nandanvan, Nagpur 440 009.
4. Ajay R. Ghate, Age 47 years,
Oc. Service, Residing at Type III
Qtrs No.21, EPFO Colony, Shyambag,
Umrer Road, Nagpur 440 024.
5. Beena Singh, Son of Sukhvinder Singh,
Age 47 years, Occ. Service,
Residing at 285, Yajurved Dixit Nagar,
Nari Road, Nagpur 440 026.
6. Vijay C. Thakre, Age 45 years,
Occ. Service, Residing at C/o o/c EPF
Organization, 132, A Ridge Road,
Raghujji Nagar, Nagpur 440 024.
7. Nitin D. Mahajan,
Son of Dattatraya Mahajan,
Age 48 years, Occ Service,
Residing at Flat No.1, Viraj Vihar
Apartment, Opp. Subhash Nagar Bus

Depot,
CIDCO, Nashik 422 009.

8. Urmila Landge, Age 48
Occ. Service, Residing at 3,
Shri Ganesha Apartments,
Indira Nagri,
Kamthawadi Shiwar, Behind
Satyakhedekar Hospital,
Nashik 422 008.
9. Sanisha Uday Dandekar,
Alias Aparna Vasudeo Barve,
Age 44 years, Occ. Service,
Residing at: C/o Uday Dandekar,
3/30, Swarna Society, Panchpakhadi,
Thane (W) Pin 400 602.
10. Mrs. Medha Rajendra Sawant,
Aged 50 years,
Residing at: 14/101, Samant Nagar CHS,
Pokhran Road No.1, Thane 400 606.
11. Mrs. Jayashree Pratap Shetty,
Age 44 years
Occ. Service, Residing at: C/o Pratap
Vithal Shetty, 55/B Wing 504,
Jeevan Prakash CHS, Nehru Nagar,
Kurla (W), Mumbai 400 024.
12. Shilpa Nalawade, Age 44 years,
Occ. Service, Residing at Ambika
Tower, Pump House, Andheri (E),
Mumbai 400 093.
13. Abhay Jagannath Parab, Age 47 years,
Occ. Service, Residing at: Shivkunj,
43/1271, Pant Nagar, Ghatkopar (E),
Mumbai 400 075.
14. Kavita Prabhakar Sabbani,
Age 49 years,
Occ. Service, Residing at: 1st Floor,
K.G.Marg, Khedgalli, Prabhadevi,
Mumbai 400 025.
15. Gopalkrishnan A. Ghadigaonkar,
Age 49 year
Occ. Service, Residing at: B-340,
Lingbeshwar Apartment, R.B.Kadam Marg,
Near Saraswat Bank, Bhatwadi,

Ghatkopar (W), Mumbai 400 084.

16. Jyoti Rajesh Kumar, Age 43 years, Occ. Service, Residing at:11A/29, Jnanendra, Shailendra Nagar, Dahisar (East), Mumbai 400 068.
17. Mrs. Seema Jagdish Kamat, Age 43 years, Occ. Service, Residing at:B-304, Narayan Heritage, Off New Link Road, Kanderpada, Dahisar (W), Mumbai 400 068.
18. Shalan Pitre, Age 50 years, Occ. Service, Residing at:23A/7, Govind Nagar, Sodawala Lane, Borivli (W), Mumbai 400 092.
19. Seema Benkar, Age 44 years, Occ Service, Residing at: Chandra Kan Benkar, Hariom CHS Bldg. No.C4, flat No.A3, Borivli (W), Mumbai 400 092.
20. Uday Prabhakar Kulkarni, Age 49 years, Occ. Service, Residing at:C/o P.Kulkarni, Flat No.704, A Wing, 7th Floor, Krishnadarshan Apartment, Shivshakti Nagar, Near Janata Tel. Centre, CIDCO, Nashik 422 008.
21. Mrs. Mini S. Nair, Age 44 years, Occ. Service, Residing at:14/104, Kailash Nagar, Ambernath (East), Dist. Thane 421 501.
22. Smt. Varsha Virendra Chougale, Age 43 year Occ. Service, Residing at: C/o Virendra D. Chogale, 3/602, Vasunand CHS, Parsik, Khargaon, Kalwa (W) 400 605.
23. Mrs. Prachi Pradip Dalvi, Age 51 years, Occ. Service, Residing at C/o Pradip

T. Dalvi, 7/1501, Amrut Angan, Ph-II,
Parsik Nagar, Kharegaon,
Kalwa (W), 400605.

24. Vrushali Vijay Kalambate,
Age 50 years,
Occ. Service, Residing at:B-303,
Laxmi Niketan CHS, Kharegaon,
Kalwa (W) 400 605.

25. Smt. Sharmila Prasad Parab,
Age 45 years,
Occ. Service, Residing at:6/702,
Shubharambh Society, Phase 1,
Tikujini Wadi Road, Manpada,
Thane (W) 400 610.

26. Mrs. Regina Anthony Fernandes,
Age 47 years, Occ. Service,
Residing at: B/207, Blue Bird CHS,
Kolbad Road, Thane (W) 400 601.

27. Sunil Upadhye, Age 50, Occ. Service,
Residing at: Swapnil Apartment,
New Mahadwar Road, Mangalwar Peth,
Kolhapur 416 012.

28. Someshwar Salgudle, Age 47 years,
Occ. Service, Residing at: Plot No.66,
Yogi Rajendra Nagar, Mashal Vasti
Bijapur Road, Solapur 413 004.

29. Anil Palaskar, Occ. Service,
Residing at: 29/D-1, Rajyog Society,
Near Lokmat Press, Lagadmal, Vadgaon Khurd, Pune 411 041.

30. Amod Deshpande, Age 48 years,
Occ. Service, Residing at: Flat
No.C2/204,
S.No.33/1, Miami Majestic Properties,
Behind Lokmat Press,
Near Rajyog Society,
Sinhgad Road, Pune 411 401.

31. Sagir Sheikh, Age 50 years,
Son of S.Sheikh, Occ Service,
Residing at: Ashtavinayak Colony,
B.No.3, Near EPFO Office, MIDC,
Satpur,
Nashik 422 007. **Applicants**

(By Advocate Shri Vicky Nagrani)

VERSUS

1. Union of India, Through the Secretary, Ministry of Labour & Employment, Government of India, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi 110 066.
2. Central Provident Fund Commissioner, Employees Provident Organization, Bhavishya Cama Place, New Delhi 110 066.
3. The Additional Central Provident Fund Commissioner (H.R., H.Q.), Ministry of Labour & Employment, Government of India, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi 110 066.
4. Regional Commissioner I, Bhavishya Nidhi Bhawan, (Provident Fund Building), Ramdas Nayak Road, 341, Bandra (East), Mumbai 400 051.
5. Additional Central Provident Employees Provident Fund Commissioner, Bhavishya Nidhi Bhawan, (Provident Fund Building) Ramdas Nayak Road, 341, Bandra (East), Mumbai 400 051.
6. Regional Provident Fund Commissioner, O/o RPFC, 132-A, Ridge Road, Raghaji Nagar, Nagpur 440 024. . . . Respondents

(By Advocate Shri R.R.Shetty)

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

These applications have been filed on 22.12.2017 and 11.03.2019 respectively under

Section 19 of the Administrative Tribunals
Act, 1985 seeking the following reliefs:-

"8(a) quash and set aside the communication dated 11.12.2017 issued by respondent No.1 which is at Annexure A-1 being illegal, arbitrary and issued with malafide intention.

(b) Order and direct the respondents to regularize the ad-hoc promotion of the applicants to the post of Section Supervisors from the respective dates of appointment on the ad-hoc basis on regular basis against the available vacancies from 2008 or as a matter of fact as on 31.03.2017.

(c) Further order and direct the respondents to accordingly refix the pay of the applicants in the post of Section Supervisors in the pay scale of Rs.9300-34800/- with grade pay of Rs.4600/- from their respective dates of appointment as ad-hoc or regular Section Supervisors with the increments available to them as per rules.

(d) Order and direct the respondents to pay arrears of salary to the applicants of the post of Section Supervisors as well as other monetary benefits available to them with interest @12 percent per annum;

(e) Costs be saddled on the respondents.

(f) Grant any other relief deemed fit in the circumstances of the case in favour of the applicant"

2. The applicants in OA No.813/2017 and 197/2019 are commonly placed by their claim to be adversely affected by the orders of

respondents stated to be in implementation of the orders of this Tribunal, Ahmedabad Bench in OA No.263/2010. Considering that the applicants are similarly placed and the consent of learned counsels for the applicants and the respondents, a common order is being passed in both these cases taking the lead case for recording facts and averments as OA No.813/2017.

3. The applicants numbering 41 in OA No.813/2017 and 31 in OA No.197/2019 have challenged the orders contained in internal directions issued by Respondent No.1 to his Regional Offices represented by Respondent No.3, in letter No.HRM -IV/5(2)2017/SS/Seniority/Vacancy/Pt./20288 dated 11.12.2017 advising them to take timely action for making promotion to the post of Section Supervisor and to intimate vacancies for holding the examination for Departmental Examination quota. These instructions record at the concluding para as below:-

“4. In this regard, attention is also drawn to Headquarters Circular No., HRM-5/2(13)2013/SS/Seniority/Vol.I/1127 dated 13.04.2017 regarding implementation of the Order of Hon'ble CAT, Ahmedabad bench in OA No.263/2010. Therefore, while confirming the vacancy position it is to be

ensured that the said instructions have been followed and actions have completed to revert the officials who were working on regular/ad-hoc basis appointed in excess of the vacancies from the erstwhile panel. The Zonal Addl. CPFC shall also intimate to Headquarters whether there are any other matter pending before Hon'ble CAT and whether any interim stay order has been passed by the CAT or otherwise.

5. This issues with the approval of Central PF Commissioner."

4. These instructions refer to a previous letter issued by the same authority - respondent No.1, in letter No.HRM-5/2(13)2013/SS/Seniority/Vol.I/1127 dated 13.04.2017 with the subject heading "Implementation of order dated 13-3-2015 of Hon'ble CAT, Ahmedabad Bench in OA No.263/2010 – Promotion to the post of Section Supervisor under Examination Quota" and directing as follows:-

"8. Considering the facts of the case and that all the legal recourse/remedy available for the Department have exhausted, RPFC Gujarat has been directed to implement the order dated 13.03.2015 passed by the CAT, Ahmedabad Bench vide letter dated 15.3.2017. It has been further decided that in case of all the regions other than Gujarat, the candidates who were declared qualified in the above examination or the examinations conducted for Section Supervisor earlier and have been promoted under examination quota in SS cadre in excess of the vacancies as shown Annexure I and the posts created in SS cadre vide HO letter dated 26.12.2008 (Annexure-II) may be issued show cause notice as to why they should not be reverted to their original cadre. However, the officials among them who can be promoted to the post of SS under Seniority quota in view of the implementation of cadre restructuring report in the normal course may be promoted immediately by conducting DPCs and

details of remaining officials who are left out and reverted may be sent to Head Office through concerned Zonal Office by 30.04.2017 positively.

5. The applicants have filed these OAs stating that the respondents have reverted the applicants who were working on ad-hoc as well as on regular basis as Section Supervisor after passing LDCE Examination held in December 2007 in breach of principles of natural justice and without giving show cause notice to the applicants. They urge that they had been promoted in 2009 and that there were additional posts both in Gujarat wherein Ahmedabad Bench of this Tribunal had passed orders and also in Maharashtra. They refer to the 33^{1/3%} vacancies available under examination quota by which they should have been considered and further urge that if they are compelled to undergo examination under the amended recruitment rules consequent to the reversion, they will be adversely affected. On this basis, the applicants sought the above reliefs and further sought interim orders in which the compelling circumstances of the request for interim order have been considered by this Tribunal on 22.12.2017 in

OA No.813/2017 and status quo was ordered in regard to the current posting on ad-hoc basis of the applicants and these interim orders continue till date.

6. The applicants have also enclosed but not challenged Annexure A-2 which is a letter communicating a draft show cause notice to be issued to seven persons of Nagpur/Nashik/Pune/Solapur/Thane offices of the respondents in consequence of the decision taken by their head office and in compliance of the directions issued letter dated 13.04.2017 (supra). In the case of these seven persons, it would appear that show cause notice was issued on 08.08.2017 by the concerned office , viz. Solapur and seems to have been enclosed in a representative capacity. However, no details have been enclosed of the show cause notice, if at all issued to the remaining applicants. There are no details of any representations filed by the applicants in reply to such show cause notice issued on 08.08.2017 in respect of Solapur and on or around that date in respect of other offices of the respondents. The applicant has

enclosed two representations given by one Beena Singh on 14.08.2013 and 31.07.2017. It is necessary to note that this later letter records knowledge of the letter of respondents (supra) dated 13.04.2017 but does not disclose the fact of any show cause notice. Therefore, it would appear that none of the applicants have filed any response to the show cause notices if indeed issued by the respondents to them as asserted in the reply affidavit. The applicants have been alerted by the impugned order of respondent No.1 dated 11.12.2017 advising regional offices on the need for timely action and then even without providing relevant information on the receipt of any show cause notice or reply given in respect of such show cause notices that may have been received by any of the applicants, the applicants rushed to this Tribunal on 22.12.2017 and 11.03.2019 respectively without addressing any of their grievances to the respondents. On that date, then learned counsel for the applicants, Shri A.J. Thakker, pressed for urgent circulation and on the basis of the specific averment

made that no show-cause notice had been issued, he was granted interim relief by way of protection against reversion. However, the reply filed by respondents that they had indeed issued such show-cause notice points to the falsity of averments and pleadings made in Court by the then counsel for applicants.

7. The present learned counsel for the applicants was heard and was asked to furnish his views on details of any show cause notices that had been received by the applicants and whether any replies had been furnished which had remained unresolved. No detailed information was provided. Learned counsel for the applicants further submitted that interim protection may be extended for one week in case directions are to be given to the respondents to consider the replies, if already given, based on the show-cause notices.

8. Learned counsel for the respondents submits that the respondents are quite ready to provide full details of the vacancies and the circumstances and the results for each of the applicants who may be subject to

reversion, or for promotion, or for retention in the promoted capacity depending on the available vacancies on the crucial date. The respondents would also pass orders expeditiously on the matter.

9. In the above circumstances, the respondents are directed to verify that all the applicants and other persons who are serving as ad-hoc are served through show-cause notices, if relevant to their cases or if not served earlier, within a period of one week. Further each of the applicants shall have the liberty to file a representation in reply to the show-cause notices already issued to them or which are now issued to them, within a period of 10 days from the date of receipt of such notices or from the date of passing of these orders and the respondents are further directed that upon receipt of such replies, they shall pass a reasoned and speaking order giving details of the vacancy position and relevant information including the decision that would be apply to the concerned applicant in regard to the list of promotees, within a period of eight weeks

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from receipt of such reply, and communicate these orders to the applicants within a week thereafter.

10. The Original Applications stand disposed of with the above directions. In the circumstances of these cases, we are unable to grant any extension of the interim orders which now stand withdrawn. However there shall be no order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

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