

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No 125 of 2015

IN

Civil Writ Jurisdiction Case No 20398 of 2010

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- 1 The Union of India through the Chairman, Central Board of Trustees, Employees Provident Fund Organization, Shram Shakti Bhawan, New Delhi
 - 2 The Central Provident Fund Commissioner, Employees Provident Fund Organization, Bhavishya Nidhi Bhawan, 14, Bhikhaji Cama Place, New Delhi
- Petitioner/s

Versus

B P Shrivastava, son of late Tapeswar Lal, resident of Chandra Villa, Just East of MIG Sector – VI, Bahadurpur Housing Colony, Patna, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajiv Kr Verma, Sr Advocate with
M/s Prashant Sinha & S K Sinha, Advocates

For the Respondent/s : Mr Alok Kumar Sinha, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE MR JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 18-09-2015

In our view, this review application is misconceived. It is virtually seeking a rehearing on the issues which were never raised either before the Tribunal or before this Court at the first instance.

2 As we have already noticed that the Central Civil Services (Pension) Rules, 1972 (For brevity, *the CCS (Pension) Rules*) were for the first time adopted vide Gazette Notification amending the Employees Provident Fund and Miscellaneous Provisions Act (For brevity, *EPF Act*) in terms of Section 5D (7) thereof on 25th of September, 2008 which was notified in the Gazette of India on 31st of

October, 2008. It is by this notification that Employees Provident Fund (Officers and Employees' Conditions of Services) Regulations, 2008 was framed in supersession of the earlier Regulations of 1962. Nothing has been brought on record to show that the Regulations of 1962 had been amended in accordance with law adopting the CCS (Pension) Rules, 1972 at any point of time.

3 We may also note that on similar facts, the Apex Court dealing with a similar case whereby upon superannuation of the employee of the Provident Fund in 2006, proceedings were sought to be started which proceedings appeared to have been quashed on similar ground by the Madras High Court against which the Chairman, Central Board of Trustees, filed Civil Appeal No 2059 of 2014 before the Apex Court which, considering the fact that the Rules did not permit continuance of disciplinary proceedings after superannuation, the Civil Appeal was dismissed by judgment and order dated 29.01.2014 (*Chairman, Central Board of Trustees – Versus- V S Paulraj*).

4 Even in present review application, it is not stated that there was any notified decision taken, which as we have already held, was necessary. The notification was only issued in the year 2008, as noted above.

5 It is also pointed out by the respondent that previously

Section 5D of the EPF Act, that is prior to its amendment on 01.08.1988, provided that by virtue of Section 7 thereof provided that method of recruitment, salary, allowances, discipline and other conditions of service of other officers and employees of Central Board shall be such as may be specified by the Central Board with approval of Central Government. Nothing has been said that the decision, that was taken in the year 1985, had the approval of the Central Government. Further, to us, it appears that the decision related to the quantification of pension and not with regard to disciplinary proceedings.

6 The review application is, thus, misconceived and is dismissed accordingly.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

M.E.H./-

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