

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3441 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 7279 of 2015

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Pankaj Kumar, son of Late Vijay Kumar Gupta, resident of Village - Rikabganj, Durga Asthan, P.O. - Tikari, P.S. - Tikari, District - Gaya, at present a Group-'D' Employee (MTA) in the E.P.F.O Office at Munger.

.... Petitioner/s

Versus

1. The Union of India through the Central Provident Fund Commissioner, Employees' Provident Organization, Bhavishya Nidhi Bhawan, New Delhi.
2. The Additional Central Provident Fund Commissioner (U.P. & Bihar), Employees' Provident Organization, Nidhi Bhawan, Sarvoday Nagar, Kanpur.
3. The Regional Provident Fund Commissioner, Employees' Provident Organization, Bhavishya Nidhi Bhawan, Road No. 6, R. Block, Patna - 1.
4. Mr. Rajesh Kumar Singh, the Regional Provident Fund Commissioner - II, Employees' Provident Organization, Sub - Regional Office, Laxmi Chowk, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey, Advocate
For the Respondent/s : Mr. Rajiv Kumar Verma, Senior Advocate
Mr. Prashant Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-10-2016

The present is an application for review of the order



passed by this Court on 17th of August, 2016 wherein, it was found that the Employees' Provident Fund Staff (Classification, Control & Appeal) Rules, 1971 (hereinafter referred to as '1971 Rules') are applicable in respect of suspension of the applicant and not the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as '1965 Rules').

2. Learned counsel for the applicant pointed out that as per Rule 28 of 1971 Rules, the 1965 Rules has been applied to the employees of the Central Board *mutatis mutandis* so far as these relate to and are not inconsistent with any of the provisions of the 1971 Rules. Reliance is also placed upon the Circulars dated 21st of November, 2005 and 16th of February, 2015 wherein the applicability of 1965 Rules has been circulated.

3. We find the present review petition is wholly misconceived. Rule 28 of 1971 Rules to which reference has been made specifically contemplates that provision of 1965 Rules shall not apply if they are inconsistent with any of the provisions of 1971 Rules. This Court in the impugned order has returned a categorical finding that two Rules are inconsistent inasmuch as 1971 Rules does not contemplate periodical review after 90 days as is condition in the 1965 Rules. Mere fact that there was no mention to Rule 28 of the 1971 Rules in the order under review will not alter the ratio of the order

passed by this Court.

4. The present petition is without any merit and, thus, is

dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F. R
CAV DATE	N. A.
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