



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM

The Hon'ble Mr. Justice PARESH UPADHYAY  
and  
The Hon'ble Mr. Justice A.D.JAGADISH CHANDIRA

W.P.No.12099 of 2022

R.V.Mohan Dass

.. Petitioner

Vs

1.Union of India Rep. By  
its Secretary to the Government,  
Ministry of Labour & Employment,  
Shram Shakti Bhavan,  
New Delhi - 110 011.

2.The Central Provident Fund Commissioner  
Employees Provident Fund Organization,  
(Bhavishya Nidhi Bhavan),  
No.14, Bhikagi Cama Place,  
New Delhi - 110 066.

3.The Additional Central Provident Fund Commissioner,  
Zonal Office (Chennai & Puducherry),  
No.37, Royapettah High Road,  
Chennai - 600 014.

4.The Regional Provident Commissioner - I,  
Employees Provident Fund Organization,  
Regional Office, Chennai South,  
No.37, Royapettah High Road,  
Chennai - 600 014.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the entire records pursuant to the interim order of the Hon'ble Central Administrative Tribunal, Madras Bench dated 29.04.2022 in O.A.No. 263 of 2022, quash the same.

For Petitioner : Mr.S.Saravanan  
For Respondents: Mr.Rajesh Vivekandanthan  
for R1  
Mr.V.Vijay Shankar  
for R2 to R4



ORDER  
(Made by PARESH UPADHYAY, J.)

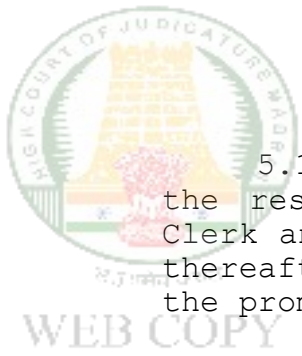
1. This petition is by the applicant before the Central Administrative Tribunal, Madras Bench in O.A.No.310/00263/2022. The Central Administrative Tribunal has refused to grant stay against reversion of the applicant and it is that interim order dated 29.04.2022, which is impugned in this writ petition by the said employee.

2. Heard Mr.S.Saravanan, learned advocate for the petitioner, Mr.Rajesh Vivekandanthan, learned advocate for the first respondent and Mr.V.Vijay Shankar, learned advocate for respondents 2 to 4 for the respondent authorities.

3. Learned advocate for the writ petitioner / applicant before the Central Administrative Tribunal has vehemently submitted that, in view of the provisions contained in Ad Hoc Appointments/Promotions Rules, the reversion of the petitioner was unsustainable and therefore the Central Administrative Tribunal ought to have granted protection against reversion. It is noted that, learned advocate for the petitioner has taken this Court extensively through the seniority position, the promotion order of the petitioner's junior dated 05.04.2021 and his reversion order dated 14.03.2022. It is submitted that this petition be entertained and the relief as prayed for be granted.

4. On the other hand, learned advocate for the respondent authorities has submitted that the promotion of the petitioner was not against the vacancies available for promotion but it was ad-hoc against the vacancies available under the quota of appointment after examination. It is submitted that, the continuance of the writ petitioner on the said post was subject to availability of selected candidates and therefore on the availability of those regular selected candidates (after examination) for the quota reserved for them, the petitioner could not have been continued, which resulted in dis-continuance of his promotion, which is not the reversion in any manner - either on punitive ground or for any other reason. It is further submitted that, on the basis of the service record and other relevant material, the petitioner was even otherwise not found suitable for promotion and his supersession was already a matter on record (vide order dated 05.04.2021) and that is not challenged by him before the Central Administrative Tribunal. It is submitted that, the Central Administrative Tribunal has not committed any error by not granting interim relief in favour of the writ petitioner and therefore this petition be dismissed.

5. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds as under.



5.1 The petitioner had initially joined the services with the respondent Department in the year 1991 as Lower Division Clerk and in due course was promoted as Upper Division Clerk and thereafter as Senior Social Security Assistant and thereafter the promotion was due on the post of Section Supervisor.

5.2 As per Rules, the said promotion is by two modes. One is by way of promotion and the second is by way of competitive examination (limited to the departmental candidates). Since for administrative reasons, the examinations could not be conducted, those who were working in the feeder cadre were given ad-hoc promotion on 15.09.2015.

5.3 The petitioner approached the Central Administrative Tribunal challenging the order dated 14.03.2022. By the said order, as many as 75 persons are reverted to the lower post.

5.4 We find that the cause of action for the writ petitioner was the order dated 14.03.2022, whereby along with the writ petitioner, other 74 persons' ad-hoc promotion has also been discontinued. It is not in dispute that except the present petitioner, no other person has been protected by any of the judicial forum. The case of the petitioner can not be seen or examined in isolation.

5.5 The argument on behalf of the writ petitioner that the department can not revert any employee after one year of ad-hoc promotion, on the basis of some disciplinary proceedings, will not have any applicability in the facts of this case, because that factor is already taken into consideration by the department while giving promotion to the persons similarly situated to the writ petitioner including his junior vide order dated 05.04.2021. The consequence of the initiation of disciplinary inquiry against the writ petitioner has already been taken note of by the Department by not promoting the petitioner on 05.04.2021 and that supersession is not the subject matter of the Original Application before the Central Administrative Tribunal and therefore necessarily it can not be the subject matter of this writ petition, which arises from an interim order of the Central Administrative Tribunal. The non promotion of the writ petitioner on the higher post along with his junior vide order dated 05.04.2021 is therefore not being examined by this Court.

5.6 Independent of the above, the action of the respondent authorities of not-continuing as many as 75 persons on the promotional post, who were occupying the vacancies against the quota not meant for them, in the facts of this case, can not be



said to be illegal or arbitrary in any manner. We do not find any infirmity in the the order dated 14.03.2022 and the Central Administrative Tribunal can not be said to have committed any error by not granting protection in favour of the Original Applicant against the said reversion order.

6. For the above reasons, the following order is passed.

6.1 This petition is dismissed. The interim order dated 06.05.2022 (recorded on this petition) is vacated.

6.2 We make it clear that the observations made in this order are for the purpose of deciding this writ petition and the Central Administrative Tribunal be not influenced by the observations made while deciding the Original Application, if otherwise the applicant is entitled to any relief.

6.3 No costs. W.M.P.No.11553 of 2022 would not survive.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssm/82  
To:

- 1.The Secretary to the Government,  
Union of India Rep. By  
Ministry of Labour & Employment,  
Shram Shakti Bhavan,  
New Delhi - 110 011.
- 2.The Central Provident Fund Commissioner  
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Copy to:

The Registrar,  
Central Administrative Tribunal,  
Madras Bench.

+1 cc to Mr.Rajesh Vivekandanthan, Advocate Sr.NO. 37496

+1 cc to Mr.V.Vijay Shankar, Advocate Sr.NO. 38013

+1 cc to Mr.S.Saravanan, Advocate Sr.NO. 37859

W.P.No.12099 of 2022

ssd(CO)

A.SK(28/06/2022)