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W.P.Nos. 17472 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.No. 17472 of 2020
and WMP.No. 21655 of 2020**

A.Ambrose Kulandai Raj

..Petitioner

Vs

1.The Secretary to the Government of India
Ministry of Labour,
Employees Provident Fund Organisation
Shram Shakthi Bhawan, Rafi Marg,
New Delhi-110001.

2.The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Ministry of Labour, Government of India,
Head Quarters, Bhavishya Nidhi Bhawan,
14, Bhikaiji Cama Place, New Delhi-110066.

3.The Regional Provident Fund Commissioner-I,
Employees Provident Fund Organization,
Regional Office, No.3, Rajaji Salai,
Tambaram, Chennai -600045.

..Respondents



W.P.Nos. 17472 of 2020

Prayer : Writ petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari mandamus, calling for the records of the Central Administrative Tribunal, Chennai Bench relating to its order dated 27.08.2019 made in M.A/310/00346/2019 in O.A.No. 310/01229 of 2012 and quash the same.

For Petitioners : Ms. Manne Ramya

For Respondents : Mr V.Vijayshankar – R1 to R3

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Aggrieved by the order passed by the tribunal M.A/310/00346/2019 in O.A.No. 310/01229 of 2012 dated 27.08.2019, the present writ petition has been filed.

2. The learned counsel for the petitioner has submitted that the writ petitioner has joined in the Employees Provident Fund Organization in the year 1974 as a Lower Division Clerk. Subsequently he was promoted as Enforcement Officer/Assistant Accounts Officer in the year 1988 and he was appointed on regular basis w.e.f. 03.03.1990 by the Authority of CPFC on 24.02.1992. He was promoted as Assistant Provident Fund Commissioner (APFC) on regular basis on 26.12.2011 after 23 years. The 2nd respondent



W.P.Nos. 17472 of 2020

by order dated 11.07.2005 issued order of promotion to 19 EO/AAOs as APFCs on adhoc basis. In the said orders, the petitioner's name was found at serial number 2. Subsequently, he was served with a charge-memo dated 25.04.2005, which was served on him on 18.07.2005. Due to the said charge memo, his promotion as the APFC was withheld and subsequent promotion list was also with held.

3. The learned counsel for the petitioner has further submitted that the writ petitioner had filed an application in O.A.No.1229 of 2012 before the tribunal to direct the respondents to consider for promotion to the post of Regional Provident Fund Commissioner along with service and monetary benefits on par with his junior namely J.C.Thukral. and the same was disposed of by the tribunal giving liberty to the petitioner to submit representation and the same shall be considered by the respondent authority ad pass speaking orders. Since no records have been submitted to the petitioner, the petitioner has filed an application in M.A.No. 346 of 2019 for execution of the order passed by the tribunal in O.A.No.1229 of 2012, dated 13.07.2016. Challenging the said dismissal order, the present writ



W.P.Nos. 17472 of 2020

petition has been filed.

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4. The contention of the petitioner is that the tribunal has considered the application in O.A.No. 1229 of 2012 filed by the petitioner on merits and observed that his seniority cannot be decided without verifying the all India seniority list. Whereas, in the Miscellaneous Application filed by the petitioner seeking directions to the respondents to extend the said order of the tribunal dated 13.07.2016 was dismissed by the tribunal without considering the fact that the 3rd respondent did not furnish the seniority list to the petitioner.

5. Admittedly, the tribunal, while allowing the application in O.A. No. 1229 of 2012 dated 13.07.2016 filed by the petitioner, has observed as follows;

“The respondent authority concerned shall permit the applicant to peruse the concerned seniority lists and relevant rosters within a period of one month from the date of receipt of a copy of this order; whereupon the applicant is given liberty to make effective representation based on those documents which shall be considered by the respondent authority concerned within a period



of two months thereafter, after giving a personal hearing and pass a speaking order and communicate the same to the applicant”

6. It is seen from the records, the petitioner, pursuant to the said order of the tribunal, has made representation the respondents and the same was considered and detailed order was passed on 22.12.2017. Thereafter, the petitioner has again approached the tribunal seeking directions to extend the benefits granted in the said order.

7. Though the petitioner has raised several grounds against the rejection order passed on the Miscellaneous Application by the tribunal, the petitioner without challenging rejection order dated 22.12.2017 passed by the respondent before the appropriate forum, has approached the tribunal by way of miscellaneous application, which is not maintainable in law. Therefore, this Court is of the view that the rejection order passed by the tribunal on the Miscellaneous Application is perfectly valid and does not require any interference by this Court.



W.P.Nos. 17472 of 2020

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Consequently, connected Miscellaneous Petition is closed. It is open to the petitioner to work out his remedy before the appropriate forum, if so advised and if permissible in law.

(D.K.K., J.) (K.B., J.)

02.04.2024

Index: Yes / No

Internet: Yes

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WEB COM

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