



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7317-2024 (O&M)

Reserved on: 03.04.2024

Pronounced on: 14.02.2025

Employees' Provident Fund Officers'
Association, Ludhiana and another

...Petitioners

Vs.

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Kamal Sehgal, Advocate
for the petitioners.

DEEPAK MANCHANDA, J.

1. Through this instant petition, petitioners have sought quashing of order dated 07.03.2024 (Annexure P-9), passed by the Central Administrative Tribunal, Chandigarh (for short 'CAT') in OA No. 1157 of 2023; order dated 05.10.2023 (Annexure A-15) and the consequential proceedings taken by the respondents including the minutes dated 10.02.2024 (Annexure P-8).
2. The facts emanating from the record are that petitioner No.1 is an Association of the officers of the PF Department and petitioner No. 2 is a member of the said Association, who approached the CAT by filing original application No.60/1157/23 dated 07.03.2024, seeking therein declaring of the action by respondent No. 1 in issuing the letter dated 05.10.2023 to respondent No. 2 being without jurisdiction with the further prayer for setting aside the same and deciding the representation filed by petitioner No. 2. The facts cited

in the Original Application reveals that petitioner No. 2, on the recommendation of UPSC, was appointed as an Assistant Provident Fund Commissioner on 20.02.2006 in the Employees Provident Fund Organisation (EPFO) which is a statutory/autonomous body under the Ministry of labour and employment, Government of India i.e. respondent No.2 and was later on promoted as a Regional Provident Fund Commissioner Grade II and thereafter was further promoted as Regional Provident Fund Commissioner Grade I.

3. The service conditions of the employees of EPFO are governed by the Employee's Provident Funds and Miscellaneous Provisions Act 1952. The rules known as Employees Provident Fund Staff (classification, control in appeal) Rules 1971 framed by respondent No.2 in the exercise of powers conferred under sub Section 7 of Section 5(a) of the Employees Provident Fund Act, 1952. In 2008, respondent No. 1 notified regulations known as Employees Provident Fund (officers and employees conditional services) Regulations, 2008 in suppression of Employees Provident Fund (staff condition and service regulation 1962). As per these regulations, as notified on 25.09.2008, various provisions were provided governing the conditions of service of employees working in the employees' provident fund organisation. Subsequently, by notification dated 04.06.2010, respondent No.4 exercising powers conferred by sub Section 7 (A) of Section 5-D of the Employees Provident Fund and Miscellaneous Provisions Act 1952 amended the Employees Provident Fund Staff (classification, control and appeal) Rules, 1971 and again sought to clarify posts as group A, B, C and D in terms of the recommendations of the 6th Central Pay Commission. Thereafter, the benefit of a non-functional selection grade was finally granted to petitioner No. 1 Association. However, the

respondents refused to grant the benefit of non-functional upgradation given through the notification dated 19.09.2000 and this was despite the representation given by the petitioners. When nothing happened, OA No. 758 of 2000 was filed, which was disposed of vide order dated 21.08.2023, with the directions to the respondents to decide the representation of the petitioners by passing the speaking order within two months.

4. On 05.10.2023, respondent No.1 passed the order whereby the classification of the posts, i.e. group A, B and C was held not applicable in the EPF Organisation. After passing of the order dated 05.10.2023, petitioner No. 1 submitted a representation dated 06.10.2023 and prayed for non-implementation of the order dated 05.10.2023. It may be noted that despite the representations made by the petitioners, respondent No. 4 failed to take any action on the same. The resultant effect was that because of the order dated 05.10.2023 passed by respondent 1, respondent No. 2 initiated the process of removal of the classification of the employees of the EPF Organisation without even amending the Act of 1952 and the applicable Rules and Regulations. After considering the submissions made by the petitioners, the Tribunal dismissed the OA vide order dated 07.03.2024 as being premature. Aggrieved by the same, the petitioners have filed the present writ petition.

5. Learned counsel for the petitioners contends that petitioners approached the CAT by filing the petition under Section 19 of the Act seeking therein quashing of the order dated 05.10.2023 passed by respondent No. 1 whereby the classification of post, i.e. group A, B and C was held not applicable in the EPF organisation, as the said order was without jurisdiction as respondent No.1 did not have any jurisdiction to impose any changes in the

service conditions of the employees working in the respondent No. 4 organisation. He further contends that the impugned order dated 05.10.2023 is illegal and has been issued in violation of the provisions of the Employees Provident fund and Miscellaneous Provisions Act 1952, Employees Provident Fund Staff (classification, control and appeal) Rules, 1971 and EPF Staff (CCA) Amendment Rules 2010, wherein classification of posts have been expressly stipulated. Respondent No. 4, being the competent authority under Section 5 (D) (7) (a), could not amend the regulation at the behest of Respondent 1. It has been further argued that the CAT without appreciating the facts on record, dismissed the petitioners' original application by passing a non-speaking order and without deciding the core issues.

6. We have heard the learned counsel for the petitioners and have also perused the material available on the record.

7. A bare perusal of the pleadings would show that the CAT has dismissed the petitioners' application as being premature after observing that the same was a pre-emptive action on behalf of the petitioners to influence the authorities to get relief in their favour. The pleadings further reveal that the petitioners have reiterated all the grounds they took in the original application on merit but have failed to rebut the findings recorded by the CAT regarding their OA being premature. After going through the contents of the letter dated 15.10.2023 (Annexure A-15) which had been impugned before the CAT, this Court finds that the same has been misconstrued by the petitioners by transcribing it as an order. As per impugned order dated 07.03.2024 the CAT has observed that DOPT has clarified its position based on Rules as contained in CCS (CCA) Rules, 1965 and as per Rule 6 (b) (C) CCS (CCA) Rules, 1965,

that classification is only applicable to civil posts under the Union to whom these Rules apply and not to any other posts. Moreover, DOPT sent classification/advice to respondent No. 2 through letter dated 05.10.2023 (Annexure A-15) explaining the reasons for its advice and respondent No. 2 forwarded the same to EPF/CBT for consideration being an independent legal entity to take decisions regarding service conditions of its employees. EPF boards/CBT did not decide the matter as same was under consideration. The findings recorded by the learned Tribunal are reproduced here below:-

“43.We find that the applicants in this O.A are seeking directions from the Tribunal to declare action of respondent No.1 In issuing letter dated 05.10.2023 (Annexure A-15) to respondent No.2 MoLE as without jurisdiction, illegal and direct Respondents No.3 and 4 not to tinker with the classification as provided under EPFO and Ni Act Applicants are also seeking setting aside impugned order 05.10.2023 as well as all subsequent proceedings arising out of impugned order clalming the same is without jurisdiction and implementation of Annexures 168.17.

44. In this context we have perused in detail submissions made by applicants as well as respondents and facts and documents on record as discussed supra. We find that DOPT clarified that its position is based on rule position as contained in CCA (CCA) Rules, 1965. As per Rule 6 (b)c, CCS (CCA) Rules, 1965, Classification of posts is only applicable to the civil posts under the Union to whom these Rules apply and not to other posts to whom these Rules do not apply. In the instant case, as CCS (CCA) Rules, 1965 are not applicable on EPFO employees, it has advised Ministry of Labour and Employment accordingly.

Sr.No.	Name of Judgments	Court	Citation
1.	Purtabpur company Ltd. Vs. Cane Commissio0ner	Supreme Court of India	AIR 1970 SC 1986
2.	Chandrika Jha Vs. State of Bihar	Supreme Court of India	AIR 1984 SC 322
3.	Trilochan Dev Sharma Vs. State of Punjab	Supreme Court of India	AIR 2001 SC 2524
4.	Manohar Lal Vs. Ugrasen	Supreme Court of India	AIR 2010 SC 2210
5.	Anirudhsinhji Jadeja and others Vs. State of Gujarat	Supreme Court of India	AIR 1999 SC 2390

6.	The Joint Action Committee of Airlines Pilots Vs. DGCA	Supreme Court of India	AIR 2011 SC 2220
7.	Pancham Chand and others Vs. State of Himachal Pradesh	Supreme Court of India	AIR 2008 SC 1888

45. *In all these cases cited here, action was taken by the authority not competent to do so while here EPFO/CBT i.e. R-3&4 are the competent authority to take the decision regarding staff service conditions and have been taking the decisions as evident from amendments to RRS in 2008 and 2010 and accepting pay scales as per 6th Pay Commission. Hence the case, laws cited do not apply on facts and circumstances of this case.*

46. *To sum up, we find that EPFO Board Initially classified in 1962 notification posts as Group I, II, III, IV duly approved by Central Govt. In the subsequent amendments of 25.09.2008 and June 2010 it sought to adopt nomenclature/classification as Gr. A B C. Statements it Annexures A-16 and A-17 that through this nomenclature the service of EPFO mirror those of Central Govt. is confusing and causing administrative chaos.*

47. *We find that DoPT has sent clarification/advice to Ministry of Labour and Employment vide letter dated 05.10.2023 (Annexure A-15) explaining the reasons for its advice. Ministry of Labour and Employment has forwarded the same to EPF/CBT for consideration as it's an independent legal entity to take decisions regarding service conditions of Its employees. EPF Board/CBT i.e., R-3 and 4 are yet to take a considered decision in the matter. The prayer of applicants for continuation of nomenclature/confusing with equivalence has to be decided by EPFO Board/CBT, I.e., Respondents No.3 and 4 by applying its mind to the objections raised by DOPT based on rule position as contained in CCS (CCA) Rules, 1965.*

48. *To conclude, we find that this O.A is not maintainable, as EPF Board has not taken any decision on Annexure A-15 as yet which can be said to have caused a grievance to the applicants, i.e., Group A employees or for that matter any employee. In our view this O.A is a pre-emptive*

attempt by applicants to influence the decision making process of EPF Board & CBT. The O.A is misconceived as in the garb of nomenclature equivalence is being pushed by applicants. In the light of discussions above, we find no merit in the O.A and the same is dismissed. No costs.”

8. The CAT dismissed the OA as being premature as a pre-emptive attempt by the petitioners to influence the decision-making process of the EPF board and CBT. Even the contents of the letter dated 05.10.2023 would show that same is a communication between one Department to another and not an order. After going through the same, we agree with the observations made by the CAT, which is found to have rightly dismissed the petitioners' original application being premature. Moreover, the observation of the CAT regarding the matter being premature is further strengthened by the grounds taken in the present writ petition, wherein they have admitted on page 84 para-vii that the Ministry of Labour and Employment on 08.02.2024 had already given instructions to EPF to place agenda before the Central Board of Trustees on 10.02.2024 which includes the agenda item for removal of classification of course and thus admitted that the agenda to be placed before the CBT was yet to be notified by the government. Further, the petitioners have pleaded that the CAT misdirected itself by rejecting the application and ought to have examined the legality of the impugned communication dated 05.10.2023 rather than dismissing the same to await the decision has no basis and cannot be accepted as it is petitioner's pleadings, that before perpetuation of any further illegality by the respondents the CAT should have interfered with the issues raised by the petitioners through their original application.

9. We have also perused the drafted minutes of the meeting dated

10.02.2024, which have also not yet culminated into a formal order or notification. Hence, all the issues raised through this writ petition seem to be based on apprehension only.

10. Given the above discussion and concurring with the impugned order passed by the CAT, the present writ petition is dismissed. However, liberty is granted to the petitioners to avail any appropriate remedy available in law on any fresh cause of action or any adverse order which may be passed by the authorities in the future.

11. Petition is dismissed.

12. Since the main case is dismissed, pending application(s), if any, have also been rendered infructuous.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

14.02.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No