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EMPLOYEES PROVIDENT FUND OFFICERS' ASSOCIATION

(Recognised)

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Government in the affairs of the administration of Funds. These are contained in Sections 5D and 20 of the Act.

Proviso to S. 5D (7) (a) provides *“that where the Central Board is of the opinion that it is **necessary to make a departure from the said (service) rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government”***.

S. 5D (7) (b) provides that *“In determining the corresponding scales of pay of officers and employees under clause a, the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and **in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.”***

And finally, S. 20 declares *“The Central Government may, from time to time, give such directions to the Central Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Central Board shall comply with such direction.”*

Thus the Board can refer the matter to the Central Government in following two cases:

- (i) where ***necessary to make a departure from service rules*** of the Central Government, or
- (ii) where the **Board entertains any doubt in determining the corresponding scale of pay** between officers and staff of the Board vis-à-vis those of Central Government, and

Finally, the Central Government can give direction to the Board for the defined purpose of efficient administration of the Act.

As against the statutory scheme of almost total autonomy of the Board and very limited role of the Central Government in the affairs of Central Board, the actual practice is quite different. In fact almost every matter relating to personnel management including routine matters like holding of D.P.C., grant of promotion, NFSG scales, decision whether a court order would be challenged, matters related to transfers of officers and the like are referred to the Labour Ministry [that discharges the functions of Government of India in terms of Government of India (Allocation of Business) Rules, 1961 and Government of India (Transaction of Business) Rules, 1961] without any rhyme or

reason. This practice, that runs counter to the express statutory provisions, shows no sign to abatement.

Recently a proposal to upgrade certain posts of Commissioners and to draw parity with service conditions of IRS cadre, in furtherance of the mandate of Section 5D (7) (a) of the Act, was placed before the Executive Committee which was approved it unanimously. Instead of being implemented, the same was referred to the Ministry in a routine matter even though none of the contingencies envisioned in the Act for such reference, as laid out above, had occasioned. Most importantly proposals for those posts (upto Director level, as per Para 22 A of the E.P.F. Scheme, 1952), which the Board is competent to create without any reference to anyone, were also sent to the Ministry.

Now I come to the aspect of non-implementation of those decisions taken by the Central Board. The Board, in its special meeting held on September 18, 2008, had adopted the accepted recommendations of the 6th CPC for applying to its officers and employees. The E.P.F. Head Office circular dated September 18, 2008, through which the event of accepted recommendations of the 6th Central Pay Commission having been adopted by the Board for implementation in E.P.F.O. reads as follows *"The C.B.T. in its special meeting held on 18.09.2008 has adopted the Resolution No. 1/1/2008-1C dated 29.08.2008 issued by the Government of India accepting the recommendations of the 6th CPC for applying to its officers and employees."* One of the accepted 6th CPC provisions adopted by the Board requires non-functional upgradation across all scales of Group 'A' officers in E.P.F.O., by allowing them the same pay scales as allowed to a member of I.A.S. who is junior by two batches. **This provision (I.A.S. – 2 provision) is not yet implemented in E.P.F.O. in clear defiance to the Board's direction.**

It is pointed out that unpermitted references to the Ministry and non-implementation of decisions taken by the Central Board is neither an isolated event nor an intermittent activity; it is state of affairs that runs counter to the statutory scheme and creates free-for-all in E.P.F.O.

This state of affairs have many adverse implications, some of which are listed below:

- I. It is violative of the statutory scheme of the EPF Act, 1952, as elaborated above.
- II. It is destructive of autonomy and independence of the Central Board that is guaranteed through the statute and it amounts to abdication of the function and surrender of authority of the Board in the hands of Government.

- III. It amounts to unpermitted intervention in the affairs of the Board by the Central Government. This sentiment is also echoed in a recent judgment of the CAT **[Annexure I]** and affirmed by the Hon'ble Punjab and Haryana High Court **[Annexure II]** in **Chandok Case**.

- IV. It retards the process of administrative decision making and generates duplication of office work; first at all levels in E.P.F.O. and then again at all levels in the Ministry. It results into many references and counter references of little utility. Thus it creates inefficiency in the administration of the Funds, in contrast to statutory provision that created the Board for the efficient administration of the Funds.

- V. It (non-implementation of the Board's decisions in IAS-2 pay scale and other matters) lowers the authority of the Board and leads to arbitrariness and disorder in the administration of the Funds.

It is therefore requested, Sir, to take up these matters in the coming meetings of the Executive Committee and the Central Board and to set right these aberrations.

Following specific measures may be considered for implementation:

- A. The secretariat of the Central Board may be clearly defined and set up wherein the matter may go directly to the Chairman, Central Board, without being routed through any functionary of the Ministry, after the same is processed by the Central Commissioner. This secretariat may have a non-overlapping structure separate and apart from the Ministry and the Board's affairs may be dealt through this secretariat alone without any reference to the Ministry.

- B. The proposal regarding parity with IRS cadre and upgradation of posts which have already been approved in the 72nd meeting of the Executive Committee (item number 3) held on July 14, 2011, may be implemented immediately, in so far as the posts upto Director level are concerned, without waiting for the outcome of the Govt. decision. In any case the

referring the matter to the Government is a pure surplus and also counter to statutory requirements.

- C. The IAS -2 pay scales which are not implemented in the E.P.F.O., despite its adoption by the Central Board in its special meeting held on September 18, 2008, may be implemented without loss of further time.

I hope that these measures, if implemented, will go a long way in sound administration of the Funds and restoration of Constitutionalism in the affairs of the Board.

Thanking you.

Yours faithfully



Sudarshan Kumar
Secretary General
E. P. F. Officers' Association