



ED 09996340 01N



कर्मचारी भविष्य निधि संगठन  
EMPLOYEES' PROVIDENT FUND ORGANISATION  
(अम एवं रोजगार मंत्रालय, भारत सरकार)  
(MINISTRY OF LABOUR & EMPLOYMENT, GOVT. OF INDIA)

मुख्यालय-HEAD OFFICE

भविष्य निधि भवन

BHAVISHYA NIDHI BHAWAN

14, भीकाजी कामा प्लेस, नई दिल्ली-110066

14-BHIKAJI CAMA PLACE, NEW DELHI-110066

Website : [www.epfindia.gov.in](http://www.epfindia.gov.in)

No. HRM-II/C-1(25) 2012/14072-14119

Dated: 1 .10.2013

- 4 NOV 2013

ORDER

**Sub: In the matter of OA No.3571 of 2012 and M.A. No.2995 of 2012 - Shyam Veer Tonk & Others Vs. UOI & Anr. - Order pronounced by the CAT Principal Bench, New Delhi on 13.9.2013 - Regarding.**

1. Shri Shyam V. Tonk (referred to as Applicant no.1 in subsequent paras) and 46 others had filed an Original Application No. 3571/2012 before the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as "Tribunal") on 16.10.2012. They also filed a Miscellaneous Application No. 2995/2012 on this date before the principal bench.

2. In the Original Application, the applicants had prayed for relief regarding grant of Senior Time Scale with financial benefits from the respective dates of their completing 05 years of regular service from their respective dates of joining in the service. Since their grievances were common, the above said Miscellaneous Application was filed for the purpose of joining them to the above mentioned one Original Application.

3. The facts of the case of the issue at hand is that all the applicants had joined the services in the Employees Provident Fund Organisation (hereinafter referred to as "EPFO") as Assistant Provident Fund Commissioners (hereinafter referred to as "APFC") on different dates and have been working with the EPFO ever since. According to the applicants, there have been the instances of stagnation in the promotional aspects in the cadre of APFC as a large number of APFCs were appointed together in 1998-99 against cumulative vacancy of previous five years. Their main contentions before the Hon'ble Tribunal were as follows:

i. That the Central Board of Trustees (CBT) in its meeting held on 11.11.2008 had approved the recommendations of a Sub-Committee which interalia recommended grant of Sr. Time Scale after five years of regular service from the date of joining. The expenditure of Rs.52.73 crores for the implementation of aforesaid recommendation was also approved.

ii. That, the due date of grant of benefits as approved by the CBT can not be shifted to a uniform date of 11.11.2008.

11/11/13  
RPF (Admin)

11/11/13

1397  
11.11.13

- iii. That, the statutory provisions support the grant of benefits equal to the benefits granted to similarly placed central government employees.
- iv. Those, by implementing the said benefit on a uniform date, the applicants were put to disadvantage as they had completed their five years during 2003 to 2005. Thus, the benefits have been denied for almost five years.
- v. That, the retrospective implementation of grant of senior Time Scale can be done in the same manner as per retrospective implementation of 6<sup>th</sup> Central Pay Commission.
- vi. That, no approval from the central government was taken for changing the date of implementation to 11.11.2008.
- vii. That, by neither allowing personal hearings nor relying to the representations, the principles of natural justice have been violated.

4. After hearing the contentions of the applicants and the pleas of the panel advocate for the respondent associated with the case, the Hon'ble Tribunal had disposed the Original Application vide their order pronounced on 13.09.2013. The operative portion of the order is as below:

*"5. In our opinion, this O.A. can be disposed off by directing the respondents to decide the pending representations of the applicants by passing a speaking and reasoned order within a period of 8 weeks from the date of receipt of a certified copy of this order. In case, the applicants are aggrieved by the decision of the respondents, they will be at liberty, if they so desire, to challenge the same by means of appropriate judicial proceedings. No costs."*

5. As per above order of the Hon'ble CAT, the representations dated 12.01.2009 (Annexure A-6 of the OA), 13.07.2010 (Annexure A-8 of the OA), 22.02.2011 (Annexure A-8 of the OA), 04.06.2012 (Annexure A-8 of the OA) filed by the applicant no. 01 to the Original Application have been studied. These representations have been annexed to the order as Annexure A, B, C & D. These be read as part of the order. These representations have mainly raised the following issues:

- i. Since the applicant no. 1 joined EPFO on 31.12.1998 as APFC and completed 5 years of service on 30.12.2003, the benefits of Senior Time Scale be given w.e.f. 30.12.2003 and not from 11.11.2008.
- ii. The order dated 02.07.2010 be modified to the extent that the benefits already granted to the applicant no.01 w.e.f. 11.11.2008 be made effective from 30.12.2003 in compliance of the agenda of Item no. 03 placed before the 184<sup>th</sup> CBT held on 11.11.2008.
- iii. The issue of grant of time scale to APFCs on completion of 5 years from the date of their joining was considered and recommended by the sub-committee of CBT in its meeting held on 03.10.2008. The then CPFC had explained to the CBT that the recommendation of the sub-committee was made in line with the provisions that exist in other central group "A" and the total expenditure on implementation of the re-recommendation would be to the tune of Rs. 52.73 crores and therefore the scales should be given as per Group A officers in other services.

*Handwritten signature/initials*

6. The detailed recommendation of the Sub Committee as mentioned in 5 (iii) above is reproduced below:

Sl.No.	Issues/Suggestions Raised	Comments of Sub Committee
1.	The report proposes that APFCs on completion of 5 years regular service shall be given the senior time scale (Rs.10,000-15200). The members suggested that irrespective of the grade, the benefit of next hierarchal scale after 5 years should be allowed to all the grades commencing from SS/EO/AAO, RPFC II/RPFC-I and Addl. CPFCs	The senior time scale of Rs. 10,000 – 13,500 (pre-revised) was recommended by the Sub Committee for the APFCs who have completed 5 years for the reason that the Direct recruit APFCs are not getting promotion even after completing more than 7 – 9 years of regular service in the grade. In Central Govt. departments when the initial recruitment is done in the junior time scale of Group A services the senior time scale is also given within 5 years. This is proposed to be implemented in the EPFO also.

7. As regards issue of orders, it is borne out of records that Xavier Labour Relation Institute, Jamshedpur (XLRI) was appointed in 2002-2003 to recommend the measures for cadre review and organization restructuring in EPFO. After the receipt of a report on this issue from XLRI, a sub-committee of Central Board was constituted in September 2007 with the purpose to examine the said report. The interim report of the sub-committee was placed before the special CBT held on 18.09.2008. After deliberations, the special CBT decided that all suggestions made by the members be examined by the sub-committee and its findings be placed before the CBT along with the interim report. As per the decision, the said interim report was again placed before the 184<sup>th</sup> CBT meeting held on 11.11.2008. In the meeting, the Central Board of Trustees, EPFO had approved the agenda placed before it thereby approving the recommendations of the sub-committee of CBT on this issue. Accordingly, an office order no. HRD/1(1)2006/XLRI/pt-III/71171 dated 30.12.2008 was issued to implement the decision and the time scale of Rs. 10000-15200 to all APFCs on completion of five years regular service, without promotion to the next grade of RPFC-II as on 11.11.2008 (the date the board took such decision), was allowed with immediate effect. The benefit, however, was made available to those APFCs who fulfill minimum prescribed ACR benchmarks for promotion as RPFC-II.

8. To implement the order as above, a screening committee was constituted by the then CPFC which included one officer of the rank of RPFC-II, namely, Shri G. R. Suchindranath, RPFC-II. Vide UO note dated 30.12.2009, the report submitted by the screening committee was sent for approval of Chairman, CBT. However, the same was returned by Ministry of Labour & Employment vide their letter No. A-32022/2/2010-SS.I dated 03.02.2010 with an advise to constitute the committee of officers from the grade of

*Reply*

Regional P. F. Commissioner-I. As such another committee was constituted. Vide UO Note dated 27.04.2010, the proceedings of the re-constituted screening committee was forwarded for approval of Chairman, CBT, EPF. The approval of Chairman, CBT, EPF was communicated vide Ministry of Labour & Employment letter no. A-32022/2/2010-SS.I dated 29<sup>th</sup> June 2010. In the said letter, it is clearly mentioned that the benefits be granted with effect from 11.11.2008 (the date the Board took such decision). As such, the order dated 02.07.2010 was issued and the benefits were disbursed to all the eligible officers. The name of the applicant no. 01 was mentioned at Sl. No. 37 of the Ministry's letter dated 29<sup>th</sup> June 2010.

9. The issues raised in representations have also been gone into details. Further, the entire matter, especially the assessment of Rs. 52.73 crores for grant of this benefits, was personally discussed with some of the officers aggrieved on this issue, especially Shri Shyam Vir Tonk (applicant no. 1 in CAT OA No. 3571/2012 and Shri Navendu Rai (applicant no 18). They were offered an opportunity to describe the details of the calculations for determining the amount of Rs. 52.73 crores. On 26.09.2013, a calculation sheet was submitted by them. However, a careful analysis bring out some infirmity in the said calculation, viz., the discrepancies in actual number of total beneficiaries of this benefit, wrong determination of actual HRA by taking only a flat rate for all beneficiaries, not taking into account the projections towards increments, increase in DA in the calculation made for 60 months, etc. It also did not take into account the spiral effect the retrospective application would have on previous batch officers. Further, the calculation sheet submitted by the applicants also did not determine the cost pay outs in relation to the Time Scale benefits given to APFCs of subsequent batches of Direct Recruits and departmental promotees. In a wider analysis the cost pay out for granting senior time scale benefits to the Group A officers in EPFO will be more than Rs. 52.73 Crores.

10. In view of the deliberations made in the foregoing paragraphs and also on perusal of departmental records connected with the case, it is felt that there is no merit in the contentions made out by the applicants, specifically on the following grounds :-

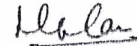
- i. The Central Board of Trustee, EPF in its 184<sup>th</sup> meeting held on 11.11.2008 had not approved any specific date of retrospective implementation of senior time scale. Under this situation implementation of senior time scale with retrospective effect would be beyond the mandate.
- ii. The proposed expenditure for an amount of Rs.52.73 Crores, as mentioned in minutes is an approximation. The applicants themselves could not bring out the proper and accurate assessment of the anticipated expenditure for senior time scale benefit. The expenses for this policy is much more than the amount of Rs.52.73 Crores.
- iii. The Ministry of Labour & Employment and Chairman, CBT, EPF had also concurred with the date of implementation as 11.11.2008 (i.e date Central Board took the decision) while approving the proposal for grant of such benefit as detailed in para 7 above.
- iv. It is a normal convention that any scheme /policy is implemented with prospective effect, unless date of retrospective implementation is in-built in that scheme. In this case no such date for retrospective implementation was mentioned by the Central Board.

llsl

- v. The Group A officers in EPFO are enjoying few benefits which are more than their counterparts in other Central Government Group A services viz. Lease Accommodation Facility, Fixed Medical Allowance etc with the approval of the Central Board/Central Government. Thus deviations from the provisions applicable to the corresponding Central Government Group A services is permissible in this Organisation. Thus the comparison with Group A services of the other organizations is not made out.

11. A copy of this order to be sent to all the applicants for information so as to dispose their individual representations for a common cause since the Hon'ble CAT has also allowed the MA no. 2995/2012.

12. However, in the event of any justifiable contentions/points raised by the applicants subsequent to this order, a complete proposal may be submitted for placing it before the Central Board of Trustees for re-consideration of the effective date of implementation, if deemed fit.



(K. K. JALAN)

CENTRAL P.F. COMMISSIONER

To

Shri Shyam Vir Tonk, RPFC-II  
(Through RPFC (ASD), Head Office)

Copy to:

1. All the remaining applicants to the Original Application no. 3571/2012.
2. ACC (HR) -for submission of a draft agenda to be placed before the CBT.
3. RPFC (HRM) -to place a copy of this order in the personal files of all applicants concerned.

Annexure - A

28

Annexure A-6

12.1.09

To,

The Director,  
NATRSS, New Delhi.

128

Sub : Implementation of Office Order No. HRD/1(1)2006/XLRI/pt-III/71171 dated  
30.12.2008 - reg.

Sir,

With reference to above, I wish to inform that I joined EPFO on 31.12.1998 as a direct recruit, Assistant P F Commissioner. I have completed 5 years of Service in the Organization on 30.12.2003. In view of this it is requested that I may be given the next higher scale of pay w.e.f. due date as per Office Order dated 30.12.2008 as mentioned above.

Thanking You,

Yours faithfully,

(Shyam V. Tonk)  
APFC, NATRSS

Annexure

3

ANNEXURE A-81

13.07.2010

(Through Proper Channel)

The Hon'ble Chairman, CBT, EPF &  
Union LEM  
Shram Shakti Bhawan  
Rafi Marg  
New Delhi - 110 011

134

(By name to: Sh Mallikarjun Kharge, Chairman, CBT, EPF)

Sub: - Grant of Senior Time Scale (STS) on completion of five years as Assistant P F Commissioner (APFC) - regarding.

Sir,

I invite your kind attention to EPF Headquarters, New Delhi orders dated 2<sup>nd</sup> July 2010 (copy enclosed) granting STS to all Assistant PF Commissioners (APFCs) with five years regular service, who have not been promoted as RPF-C-II. This benefit has been granted w.e.f. 11.11.2008 i.e., from the date of approval by the CBT.

In this regard I would like to submit the following for your kind consideration:

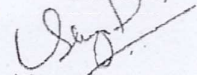
- The agenda of the 184<sup>th</sup> CBT held on 11.11.2008 at Item 3, Para 7.11 read: *APFCs on completion of five years of regular service without promotion to the next grade of RPF-C-II be allowed time scale of Rs. 10,000-15,200 from their date of joining, subject to achieving ACR benchmarks and vigilance clearance.*
- CBT EPF approved this agenda in its meeting on 11-11-2008.

I joined the services of EPFO as a direct recruit APFC on 31.12.1998 and completed five years as a regular APFC on 30.12.2003. I was still APFC as on 11-11-2008, the date on which CBT EPF approved grant of STS to APFCs with five years regular service from their date of joining. In view of this fact, I should have been allowed STS w.e.f. 31-12-2003 in accordance with approval of CBT, EPF. But, vide order dated 2<sup>nd</sup> July, 2010, the same is granted to me w.e.f. 11.11.2008.

In view of the above, I humbly request you to kindly issue directions to correct the Order dated 2<sup>nd</sup> July, 2010 and grant me STS w.e.f. 31.12.2003 as approved by CBT EPF.

Thanking you,

Yours faithfully



(Shyam V. Tonk)

Regional P F Commissioner-II  
NATRSS, New Delhi.