



Civil Aviation Employees' Guild (India)

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Shri R K Srivastava, IAS
Chairman, AAI
Rajiv Gandhi Bhawan
New Delhi-110003

Shri K K Jalan, IAS
CPFC, 14 Bhavishya Nidhi Bhawan
Bhikajikama Place
New Delhi-110066

Subject: Dissolution of irrevocable CPF trusts and constitution of illegal EPF trust to siphon public money (GPF & CPF)-CBI FIR RC2 (3)/2007/EOW-I/DLI 29.09.07 regarding.

Sir,

Print & electronic media in recent past left sole impression to our countrymen that only politicians are involved in scams involving public money. This case reveals that how unholy nexus of officers, in their endeavor to bury CPF Trust scam, badly compromised sanctity of acts passed by Parliament and delegated legislations made therein.

A special CBI court in Ghaziabad framed charges of corruption, cheating and forgery against six retired district judges and 65 others in a multi crore, PF scam, but in similar scam, prosecution sanction was denied to CBI by Chairman AAI and those responsible for siphoning public money (GPF & CPF) went unpunished. In 2009 irrevocable CPF Trusts were dissolved in violation of section 18(6) of AAI Act, 1994 and illegal EPF Trust was constituted to bury CPF scam and to save all those who remained unaccountable till date for various criminal acts affecting public interest at large.

Civil Aviation Employees Guild (India) staged **DHARNA** in front of Rajiv Gandhi Bhawan from 03.02.2014 to 11.02.2014, to expose the burial of this scam. Hindustan Times, Jansatta and other newspapers reported our protest but officially no action resulted because AAI Board gave approval of dissolving scam ridden CPF Trusts. Officers responsible for dissolving irrevocable CPF Trusts are liable to face **Privilege motion** before Parliament & also liable for prosecution under Income Tax Act for claiming/allowing tax exemption without filing revise returns under EPF Act.

A **Parliamentary Committee** during its visit to National Airports Authority (NAA) revealed that NAA has not framed PF rules for its employees under NAA Act, 1985 and from 1988 statutory CPF deduction was being deposited in an illegal CPF Trust, which has no sanctity under section 10(2), 38, 39 and 40 of NAA Act, 1985. In this background NAA CPF & Family Pension Regulation was notified on **24.01.1995** in gazette of India under section 38(4) of NAA Act, 1985 by Shri Anand Mohan Bhardwaj, IAS, Chairman NAA & Joint Secretary (Administration) Ministry of Civil Aviation. NAA Employees CPF & Family Pension Trust was constituted thereafter under rule 3 of the said regulation.

International Airports Authority (IAAI) Act, 1971 & NAA Act, 1985 were repealed on **16.09.1994** and Airports Authority of India (AAI) was constituted on 01.04.1995 under section 3 of AAI Act, 1994 (**55 of 1994**). Erstwhile authorities constituted under IAAI Act, 1971 (**43 of 1971**) and NAA Act 1985 (**64 of 1985**) became two divisions namely International Airports Division (IAD) & National Airports Division (NAD) under clause (a) & (b) of section 18(1) of AAI Act, 1994.

In terms of section 18(2), of AAI Act, 1994, Employees of both the divisions were to remain under respective service conditions for a period of one year extendable to another one year. On expiry of two years period on 31.03.97, AAI Board in pursuance to section 18(7) of AAI Act, 1994 adopted statutory resolution thereby continuing same service conditions as existing in erstwhile IAAI & NAA. Adoption of old service condition for respective divisions as new terms and condition of service of AAI was held legally sound on 31.03.97 by Ministry of Law & Justice. Irrevocable PF Trusts of IAAI & NAA were also functioning independently under Section 18(6) of AAI Act, 1994:-

18 (6) The trusts of the provident fund and group insurance and superannuation scheme of the International Airports Authority or the National Airports Authority and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Authority as was being done hitherto in the International Airports Authority or the National Airports Authority and tax exemption granted to Provident Fund or group Insurance and superannuation scheme would continue to be applied to the Authority.

History repeats itself, "First as tragedy second as farce" is a well known proverb by author, philosopher **Karl Marx**. This is what happened in Airports Authority of India. Irrevocable NAA CPF Trusts constituted in 1995 to ratify illegal CPF Trust constituted in 1988 was again dissolved & amalgamated with IAAI CPF Trusts in 2009. Illegal PF trust similar to as existing in 1988 was again created on 27.02.09 by same methodology of trust deed registered before Sub Registrar V Delhi. Amalgamation was done so that money lost in the scam can be adjusted from the reserve funds of erstwhile IAAI & NAA CPF trusts. This shows how officers responsible for such acts made **mockery of parliamentary democracy** of our country which is detailed below:-

In February, 2005 print media reported scam in CPF Trust of NAA. Instead of ordering CAG audit, internal audit was done by AAI. Internal audit took 18 long months because President of Trust Shri M Dey responsible for making dubious investments of CPF Trust fund was creating hindrance by delaying information sought by audit team and being General Manager (Finance) was not providing sufficient manpower to audit team so as to delay audit and grab next promotion. Delay in internal audit facilitated him promotion in March 2006 as Executive Director (Personnel & Administration). Thus scam tainted officers got promoted as disciplinary authority of honest AAI employees.

CBI registered **FIR RC2 (3)/2007/EOW-I/DLI** on 28-09-07 in NAA CPF Trust scam on the basis of internal audit report, which does not reflect the whole scam. Prosecution sanction was denied to CBI and AAI hatched criminal conspiracy to bury scam in connivance with the then Additional Provident Fund Commissioner, Shri S K Khanna who is also charge sheeted by CBI in 169 crores PF Scam of M/s B L Kashyap & Sons.

Statement of objects and reasons of EPF & MP Act, 1952 laid down before Parliament reveals "The bill provides for institution, in the first instance of Contributory Provident Fund in the six major organized industries named in **Schedule-I**, except the undertaking owned by a Central or State Govt. Similarly clause c of sub section 1 of section of EPF & MP Act, 1952 Act also provides that:-

16. This Act shall not apply to- 1(c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits;"

Nine thousand Government employees belonging to CAD & CPWD absorbed in NAA are governed by CCS Pension rules 1972 and those appointed by IAAI & NAA were governed by respective CPF Regulation. CPF of such employees was being deposited in respective IAAI & NAA CPF Trusts cited under section 18(6) of AAI Act, 1994.

IAAI & NAA and AAI being Central undertaking are not listed under **Schedule-I** issued by Labour Ministry, but Shri Vilas Bhujang G.M (Pers.) apprised Shri S K Khanna on 17.08.07 that superannuation benefits rules of AAI employees appointed after 01.04.95 are not framed by AAI. On this ground approval of EPF Act was obtained on 17.08.07. Assistant PF Commissioner (NZ), Shri S N Sharma issued coverage of EPF Act, on AAI on 22.08.07. This all happened so fast within 5 days with pre-determined understanding between EPFO & AAI, despite 18th & 19th August being holidays.

Shri K K Jha (IRS-IT-1979), former Director (Establishment) under Ministry of Personnel & Training (1995-2001), Income Tax Commissioner, CVO, MMTC (2004-2008) joined Airports Authority on 16.01.2009 as Member (Personnel & Administration) for 5 years. Irrevocable CPF Trusts continuing under section 18(6) of AAI Act, 1994 were dissolved on his joining AAI. Being former Income Tax Commissioner, Shri K K Jha knew well that tax exemption was applicable only to IAAI & NAA CPF Trust, therefore revise IT returns from 01.04.95 were not filed and intimation regarding new trust was concealed.

Airports Authority Officers Association informed RPFC (NZ) in 2007 itself that Govt. absorbees in AAI are governed by CCS Pension Rules 1972, in terms of O.M. 05.07.89. This was also clarified to AAI by Department of Pension & PW through O.M 30.08.10 but no action was taken by both the parties due to unholy nexus. EPFO also accepted EPF contribution of Govt. absorbees & AAI employees against own approval dated 17.08.07 and subsequently held that contribution under EPS-1995 beyond 6500/- is erroneous contribution. AAI being well aware of legal position sought no legal remedy.

Shri K K Jha who defeated larger public interest was given extension beyond 5 years. Extended tenure from 16.01.2014 to 30.11.2014 was in violation of section 5(1) of Airports Authority of India Act, 1994. Shri K K Jha and Shri Vilas Bhujang are also liable for contempt of court proceedings before Delhi High Court, for allowing same petitioner seeking legal remedy under O.M. 05.07.89 before Andhra High Court and contrary to this under EPF Act, 1952 before Delhi High Court in W.P (c) 5991/2012. Uploading order passed in frivolous writ petition on website of AAI and concealing judgments pronounced by High Court of Andhra Pradesh on 18.01.2012 in W.P. (C) 8172/1997 & by Delhi High Court in W.P. 807/1991 on 06.01.93 also amount to contempt of court.

AAI Board headed by Dr. K Ramalingam & Shri V P Agarwal, EPFO officials and Trustees of IAAI & NAA ECPF Trusts who consented to dissolve lawful CPF Trusts and also those responsible for constituting illegal CPF Trusts on 27.02.09 are accountable for their respective criminal acts which are cognizable and non bailable offence under Indian penal code and prevention of corruption act. These offences were committed solely to cover up scam and to destroy scam tainted record. These officials in their endeavor to bury scam violated service rules of absolute integrity and defeated larger public interest. They are also liable to face Privilege motion before Parliament for dissolving irrevocable CPF trusts functioning section 18 (6) of AAI Act, 1994 and constituting illegal trust.

Chairman AAI & CPFC are requested to initiate all appropriate action including for restoration of NAA & IAAI ECPF Trust. It is also requested that till the recovery of CPF & GPF lost in scam retirement benefits of officials responsible for above said acts be put on hold. We shall feel highly obliged if assurance of action is communicated to us.

Thanking you.

Yours faithfully


(Dr Arjun Singh)

General Secretary

Acts referred above are available on our website caequild.org