

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2872/2002

This the 11th day of August, 2003

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HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Mrs. Renu Bala Joshi,
R/O C-3/57-B, Lawrence Road
(Keshav Puram), New Delhi-110035
Employed as : Librarian,
Kendriya Vidyalaya, Balubagh (UP)

... Applicant

(By Mrs. Avnish Ahlawat, Advocate)

-versus-

1. Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
2. Union of India through
Secretary, Ministry of Personnel, Public
Grievances and Pension,
Department of Pensioners' Welfare,
New Delhi. ... Respondents

(By Shri S. Rajappa, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has challenged Annexure-A dated 2.8.2000 whereby her request for switching over to General Provident Fund (GPF) from Contributory Provident Fund (CPF) in terms of instructions contained in circular dated 1.9.1988 (Annexure-B) has been rejected.

2. Applicant has been working with Kendriya Vidyalaya Sangathan (KVS) as Librarian since 3.7.1978. She has been a subscriber to CPF eversince. KVS decided to implement the Government decision for change-over from CPF to pension scheme. Employees joining KVS on or after

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1.1.1986 were to be governed by GPF and were not to have any option for CPF scheme. However, in terms of circular dated 1.9.1988 (Annexure-B/Annexure R-1) all CPF beneficiaries who were in service prior to 1.1.1986 could have an option to continue under the CPF scheme. This option could be exercised and conveyed to the Principal of the concerned School by 31.1.1989. Applicant's case is that she never opted to remain under the CPF scheme and as such in terms of circular dated 1.9.1988 she was to be given coverage under the GPF scheme automatically. She made several representations to respondents for conversion of her CPF account to GPF account vide letters dated 20.1.2000, 28.4.2000, 14.7.2000 and 6.2.2001 (Annexure-C colly.) in this regard, but to no avail. Through the present OA applicant has sought quashing and setting aside of the impugned order and direction to respondents to convert her CPF account to GPF account.

3. In their counter reply, respondents have stoutly refuted the claims made by applicant. According to them, circular dated 1.9.1988 was circulated and employees were required to give their option for change-over from CPF to GPF by saying 'yes' or 'no'. At the bottom of the circular, among 39 staff of the School where applicant was working, applicant against her name at sl. no.24 indicated 'no', which implied that she had intended against switching over to GPF and wanted to continue as CPF subscriber. Thereafter respondents revised applicant's CPF account number, i.e., 2665 which was intimated to her vide letter dated 10.1.1991 (Annexure R-2) which was issued after allotment of

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revised CPF account number. Respondents have further stated that if applicant had any grievance with regard to continuance under CPF scheme and allotment of revised CPF scheme, she ought to have agitated immediately in 1991. Agitation at the belated stage in the year 2002 disentitles her for any relief.

4. We have heard the learned counsel of both sides and considered the material on record carefully. The learned counsel of applicant referring to Annexure-B dated 1.9.1988 which relates to change-over of KVS employees from CPF to pension scheme stated that in terms of the scheme employees who were in service on 1.1.1986 and were CPF beneficiaries were deemed to have come over to the pension scheme. However, they had an option to continue under the CPF scheme which was required to be exercised and conveyed to the Principal by 31.1.1989 in the enclosed format. If no option was received by the Principal by 28.2.1989, the employees were to be deemed to have come over to the pension scheme. The learned counsel stated that applicant never filled up and submitted an option to continue under the CPF scheme. As such she should have received automatic coverage under the GPF-cum-pension scheme.

5. On the other hand, the learned counsel of respondents stated that vide Annexure R-1 the Principal had circulated among the employees of the School the circular dated 1.9.1988 and required the employees "to change over from CPF to GPF" and to "give their option in Yes or No". He stated that at sl. no.24 applicant

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herein had indicated by stating 'no' that she wanted to continue under CPF and not change-over to GPF. In this regard, the learned counsel of applicant stated that even if applicant had written 'no' to the GPF on Annexure R-1, the same does not have any legal value as the circular dated 1.9.1988 had required an option to continue under the CPF scheme to be conveyed to the Principal by 31.1.1989 in the prescribed format which was never submitted by applicant. The learned counsel stated that applicant has been pursuing with respondents her request for change-over from CPF to GPF which was never considered by respondents.

6. The learned counsel of respondents contended that applicant's option for continuance of CPF against GPF recorded and signed by her on Annexure R-1 and later acted upon by respondents by Annexure R-2 dated 10.1.1991 by allotting her revised CPF account number, in the absence of any protest against the same immediately after issuance of Annexure R-2, establishes applicant's acquiescence to continuance under CPF coverage. The learned counsel further stated that cause of action for applicant had arisen several years ago but she started making her representations in April, 2000 onwards.

7. Objection raised on behalf of applicant that she had not exercised her option in the prescribed format in terms of circular dated 1.9.1988 is merely a technical objection raised at this belated stage while cause of action, if any, had arisen in 1989 or at the most, on 10.1.1991 when Annexure R-2 regarding allotment of

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revised CPF account number was issued to her. We have perused the contents of the format in which option was required to be submitted. The ^h format mentions written particulars such as name of the employee, designation, date of appointment, name of KV/office where working, CPF account number, and option whether the employee wanted to continue in CPF. The Principal circulated the circular dated 1.9.1988 and required the employees to give their option for change-over from CPF to GPF by saying 'yes' or 'no'. Among 39 staff, applicant's name was shown at sl. no.24. Applicant had stated 'no' and initialled against her name. This, according to respondents, was an unequivocal stand taken by applicant that she wanted to continue her CPF account. The Principal, no doubt changed the procedure for receiving option from the employees. Instead of the prescribed format under circular dated 1.9.1988 he obtained the option at the bottom of the circular itself when the same was circulated among employees. In the prescribed format, the usual particulars were to be mentioned along with the option. Through the methodology adopted by the Principal, option for continuance in CPF or switch-over to GPF was obtained in no uncertain terms and when the concerned employees including applicant had indicated 'yes' or 'no' against their names and initialled also, there could be no doubt about their identity. The technical objection taken on behalf of applicant does not make any substantial difference to the intention indicated by applicant for continuance of CPF. There is no denying that the revised CPF account number was allotted and conveyed to applicant vide Annexure R-2

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dated 10.1.1991. She did not object to continuance of the CPF at that stage. She expressed her wish for conversion of CPF to GPF on 28.4.2000 when she made her representation and intended to proceed on voluntary retirement from service. In her representation dated 14.7.2000 also she has stated that she had been contributing towards CPF account and asked for conversion of CPF into GPF. A delay of about a decade had intervened between the time when the cause of action arose and when applicant sought conversion from CPF to GPF. Her claim suffers from delay and laches as well. could have While she pursued her rights and remedies, if any, promptly in 1991-92 at the most, she slept over her rights, if any, for an inordinately long time.

8. In our considered view, as discussed above, applicant had certainly indicated her option for continuance of CPF, acquiesced to its continuance when she did not raise any objection to the same within a reasonable period of 10.1.1991 when Annexure R-2 was issued, and did not take any remedial action for several years though cause of action appears to have arisen at the most in 1991. Applicant has failed in establishing any merit in her case.

9. Consequently, the OA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V. K. Majotra)
Member (A)

/as/