

**Central Administrative Tribunal  
Principal Bench**

**OA No.3783/2013**



New Delhi, this the 04<sup>th</sup> day of February, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**  
**Hon'ble Mr. A.K. Bishnoi, Member (A)**

Kaushalya Devi,  
W/o Late Sh.Rahubir Singh,  
R/o Vill & PO Mundka,  
Rohtak Road,  
Delhi-41.

...Applicant

(By Advocate : Shri U. Srivastava )

**Versus**

Delhi Transport Corporation through

1. The Chairman cum Managing Director,  
DTC Head Office,  
Indraprastha Estate,  
New Delhi.
2. Dy. CGM Pension,  
DTC Head Office,  
Indraprastha Estate,  
New Delhi.

...Respondents

(By Advocate : Shri Chandra Shekhar Goswami for Shri  
Karunesh Tandon)

**ORDER (ORAL)****Justice L. Narasimha Reddy, Chairman :-**

The husband of the applicant was working as Assistant Traffic Inspector in the Delhi Transport Corporation (DTC), the respondent herein. He died on 17.02.1990, while in service. The Provident Fund and other death-cum-retirement benefits were extended to the members of his family.

2. The respondents introduced the Pension Scheme through a Circular dated 27.11.1992. According to that, an existing employee as well as those who retired w.e.f. 03.08.1981, would have the option to be covered under the Pension Scheme or the Employees Contributory Provident Fund, which was already in force. The option was required to be exercised within 30 days from the date of issue of the order, for implementation of the Scheme, as directed for by the Government of India. Another condition was that those who have retired on or after 03.08.2981 and the existing employees, who have drawn the employer's share, under the EPF Act, shall be under obligation to refund the same with interest in the event of their opting for the Pension Scheme.



3. The applicant states that she came to know about the Pension Scheme in the year 1997 and ever since then, she was making representations to extend the benefit thereof. She is also said to have submitted a form on 01.10.2003 and complains that no action has been taken thereon. The applicant has also filed a Mercy Petition to the respondents. In this background, she filed this OA with a prayer to direct the respondents to extend the benefit of the Scheme, framed by them through Circular dated 27.11.1992.

4. The respondents filed counter affidavit opposing the OA. It is stated that the Scheme was introduced way back in the year 1992, but the husband of the applicant died two years earlier to that. It is also stated that the operation of the Scheme would depend on exercise of option as well as refund of Provident Fund, received by an employee or his dependents and since that did not take place, the applicant cannot claim the benefit. The applicant has also filed rejoinder.

5. The OA was heard at length in the year 2018 and was dismissed on the ground that it is barred by



limitation. Thereafter, the applicant filed Review Application together with an Application of Condonation of delay. It was mentioned that the fact that an MA was filed for condonation of delay and that the same was ordered, was not taken note of. The RA was allowed on 06.12.2019 and the OA was restored to its filed.

6. Today, we heard Shri U. Srivastava, learned counsel for applicant and Shri Chandra Shekhar Goswami for Shri Karunesh Tandon, learned counsel for respondents.

7. It is not in dispute that the husband of the applicant was an employee of the respondent Corporation and that he died on 17.02.1990. The Scheme was framed and implemented by the respondents, as contained in the Circular dated 27.11.1992. The Circular reads as under:-

“The introduction of Pension Scheme for the employees of the DTC has been sanctioned by the Central Government and conveyed by the Ministry of Surface Transport vide letter No.RT-12019/21/88-TAG dated 23.11.1992 as on the same pattern as for the Central Government employees, subject to the following conditions:-

- 1) The Pension Scheme would be operated by the LIC on behalf of DTC.



- 2) The date of effect of pension scheme would be 3.8.1981.
- 3) All the existing employees including those retired w.e.f. 3.8.1981 onwards would have the option to opt for the Pension Scheme or the Employees Contributory Provident Fund as at present, within 30 days from the date of issue of this O.O. for the implementation of the Pension Scheme is approved by the Govt. of India.
- 4) The Pension Scheme would be compulsory for all the new employees joining DTC w.e.f. 23.11.92, the date of sanctioned of the scheme.
- 5) The Pension Scheme would be operated by the LIC on behalf of DTC. The employer's share in the EPF A/C of the DTC Employees who opt for Pension Scheme would be transferred to the LIC, for operating the Pension Scheme on behalf of DTC and the amount deposited in the Central Govt./State Govt./ Guaranteed Securities would be encashed on maturity.
- 6) The employees who have retired on or after 3<sup>rd</sup> August 1981 and the existing employees, who have drawn the employer's share, under the E.P.F.Act, partly or wholly shall have to refund the same with interest in the event of their opting for the Pension Scheme. The total amount to be refunded by the retired employees/existing employees would be the amount that would have accrued, had they not withdrawn the employer's share.
- 7) Excess amount of gratuity, if already paid to ex-employees and which is not admissible under the Pension Scheme, will have to be refunded by them

before any benefit under the Scheme, if granted to them.



- 8) A due and drawn statement would be prepared in respect of retired employees opting for pension scheme and the amount to be paid/refunded, would be worked out by the concerned unit, where from the employee had retired from service.
- 9) If any of the employee of DTC who does not exercise any option within the prescribed period of 30 days or quit service or dies without exercising an option or whose option is incomplete or conditional or ambiguous, he shall be deemed to have opted the Pension Scheme Benefits.

Application forms for exercising option would be available with the Unit Officers and all the employees including retired employees wishing to exercise option, should do so with the Unit of their present working where from they retired within a period of 30 days from the date of issue of this Office Order.

The Unit Officers, after receiving the options from the ex-employees, will take further necessary action for getting the necessary forms completed, which will be supplied, to them by the LIC for Pension etc. They will also ensure the recovery of E.P.F. and Gratuity from the Ex-employees before forwarding their applications as mentioned above. The cases of all Officers will be dealt with at Headquarters.

The option received from the existing employees for not opting Pension may be kept in their personal file and entry be made in their service book”



8. From a perusal of this, it becomes clear that it would be operative from 03.08.1981, and the existing employees as well as those who retired subsequent to 03.08.1981 are required to exercise their options. If a retired employee has withdrawn the PF and an existing employee has withdrawn any part thereof, such amounts are required to be refunded with interest. Clause 9 of the Circular directs that if an existing employee of the Corporation fails to exercise the option within 30 days, or the employee dies without exercising option, he shall be deemed to have been covered by the Scheme. It does not operate vis-a-vis the employees who have retired from service prior to 27.11.1992. Equally, it does not apply to the dependents of the employees who died before that date. Retrospective operation of the Scheme is possible for a retired employee only when the option is exercised and the amount of PF withdrawn by him or his dependents, is refunded. Clause 9 deals with cases of retrospective operation. The applicant is not able to place before us, any material to the effect that dependent of the applicant who died before the date of the Circular was extended the benefit of Pension Scheme. What the applicant filed in the year 2003 before the Authorities is an application or a form, which is prescribed for

“Surviving Retired Employees only”. Admittedly, the applicant does not answer that description.



9. We do not find any merit in the OA and the same is, accordingly, dismissed.

There shall be no orders as to costs.

( A.K. Bishnoi )  
Member (A)

( Justice L. Narasimha Reddy )  
Chairman

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