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Central Administrative Tribunal
Principal Bench

O.A.No.1539/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 3rd day of June, 1998

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Shri V.P.Arora
s/o Shri Gobind Ram
r/o H-1534, Chitaranjan Park
New Delhi.

... Applicant

(By Shri S.K.Bisaria, Advocate)

Vs.

1. Union of India through
Secretary
Ministry of Human Resource Development
Shastri Bhawan
New Delhi.

2. Lt. Governor through
Chief Secretary
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi.

3. Director of Education
Old Sectt.
Govt. of NCT of Delhi
Delhi.

... Respondents

(By Shri Anoop Bagai, Advocate)

O R D E R

The applicant was initially recruited as Trained Graduate Teacher (TGT) in Municipal Corporation of Delhi. As per the terms and conditions of the service, he was entitled to the benefit of Contributory Provident Fund (CPF). In 1970 his services were transferred to Delhi Administration as the Middle School in which he was working was taken over by Director of Education, Delhi Administration. As the Teachers working in Delhi Administration were entitled to GPF and Pension Scheme an OM was issued on 1.5.1987 to enable all those persons who were enjoying the benefit of CPF Scheme to give their option to continue in the said Scheme or to convert the same into GPF and Pension Scheme. The last date for giving the requisite option was 30.9.1987. It was also

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made clear that the option once given would be final. The applicant says that he initially opted to continue with the CPF Scheme vide letter dated 15.9.1987 but realising his mistake and considering the facts and circumstances he submitted another letter on 18.9.1987 requesting the respondents to permit him to withdraw the earlier option letter dated 15.9.1987 and to permit him to get the benefit of conversion of the CPF to GPF and Pension Scheme. He claims that the said letter was duly recommended and forwarded to the PAO, GPF Cell, Delhi Administration by the Principal, where he was working, on 19.9.1987. Having given his change of option before the last date, i.e., 30.9.1987, he expected that he would be given the benefit of GPF and Pension Scheme but as that did not happen he made a number of representations to the respondents. As a result of the representation, the Dy. Controller of Accounts had issued a letter dated 27.2.1997 addresses to Respondent No.3, the Director, Department of Education to solve his problem and other similarly situated persons. As his problem remains unsolved, he has approached this Tribunal to issue Writ Order or directions to the respondents to accept his option exercised for conversion from CPF Schme to GPF and Pension Scheme and to pay all the consequential benefits and for all purposes.

2. The respondents in their reply have stated that applicant had given his option to continue in the CPF Scheme. They deny that the applicant wrote a letter on 18.9.1987 and state that no such communication was received by them.

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3. I have heard the counsel. Two issues arise, firstly whether any option was given by the applicant for shifting to the GPF and Pension Scheme and secondly even if such an option was given whether the same was valid or not. As regards the first issue the learned counsel for the applicant points out that as per the Annexure-3 dated 19.9.1997 which is a copy of letter written by the Special Secretary Education, Directorate of Education, Old Secretariat it has been unequivocally stated that the applicant had sent a revised option/request on GPF Pension Scheme on 18.9.1987 and the same had been forwarded to the PAO, Government of N.C.T. of Delhi by the Head of Office. On the other hand, the learned counsel for the respondent has submitted that this reference is only on account of the representations of the applicant and merely reflects the claim made by him. He submitted that any letter to cancel the earlier option and to shift to pension scheme was never given at the relevant time and it has now ^{been} interpolated into the school record; even the ^{were} signature of the Principal on the alleged letter and his other notations in office records are palpably different.

4. I have considered the matter carefully. As to whether such a letter had been written is a disputed fact. While the applicant claims to have copies of both his letter dated 18.5.1987 as well as forwarding letter dated 19.5.1987, the respondents say that there never ^{were} any such letters received by them. Two factors ² militate against the assertion of the applicant. Firstly he started following his case for pension only from 1996 and came to file this petition in 1997. Since he was apparently aware that he had not been given the pension

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option from 1987 and no GPF number had been allotted to him, he was expected to agitate the matter much earlier. Secondly he has annexed a letter dated 16.7.1996 addressed to the Accounts Officer which is Annexure A2 of the OA. In this he has stated that he had been given CPF without giving his consent for the option for either of the Schemes at any time. This is a indirect contradiction to his assertion in the OA that he had given a revised option for transferring to the GPF Pension Scheme.

5. In view of this position, I do not consider that a direction can be given to the respondents to treat him as having opted for GPF Pension Scheme. However, as respondents themselves have taken note of his case and referred it to the Department of Pension and Pensioners Welfare as per Anneuxre 3 vide their letter dated 19.9.1997, the rejection of this OA should not, in any way, preclude the consideration of his case by Government of India on the proposal of the N.C.T. of Delhi that the remaining teachers who are left with CPF should be allowed to switch over to the GPF Pension Scheme. Since the applicant has already retired, the respondents may convey their decision to the applicant within four months from the date of receipt of a copy of this order.

The OA is disposed of as above. No costs.

R.K.Ahooja
(R.K.Ahooja)

Member(A)

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