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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 1713/2004

New Delhi this the 20th day of July, 2004

Hon'ble Shri Sarweshwar Jha, Member (A)

Dr. Tuhi Ram Tyagi,
Village & P.O. Mandola,
Distt. Ghaziabad (UP),
Pin Code - 201102

..Applicant

(By Advocate Shri Kishore Rawat)

VERSUS

1. Council of Scientific & Industrial
Research Anusandhan Bhawan,
Rafi Marg, New Delhi
through its Director General.

2. National Physical Laboratory,
Dr. K.S. Krishnan Road,
Through its Director.

..Respondents

O R D E R (ORAL)

Heard the learned counsel for the applicant.

2. This application has been filed against the order of the respondents dated 9.3.2004 whereby the petition/representation of the applicant for allowing him option for pension has been rejected by respondent No.1 (Annexure A).

3. The applicant has retired on superannuation from respondent No.2, i.e., National Physical Laboratory from the post of Scientist -F on 31.12.1996. Prior to his retirement in December, 1996 he had given an intent note in consultation with CSIR that he would like to switch over to G.P.F. (pension) as and when such option is open in future. A reference has also been made by the applicant to the condition put forth by the respondents that he shall have to

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return the CPF benefits as per rules as and when such switch over is allowed. The applicant had agreed to the said proposition. The applicant had filled the proforma as made available to Scientists in April, 1997 in that regard. He also submitted his option for the said switch over vide his letter dated 19.2.1999 (Annexure 'C and 'D'). He was, however, informed that his case could not be considered as he had already retired with CPF benefit (Ann.E). This was followed up by him vide his representation dated 22.5.2000 addressed to Respondent No.2. He has submitted his grievance that his letter of intent which had been submitted in December, 1996 had not been duly considered and that his case be reviewed and re-considered in the light of the said letter of intent. He again made request on 4.12.2001 for re-consideration of his case (Ann.G). The same position was taken by the respondents in the reply dated 20.12.2001 reiterating that he had already retired and therefore, the said option to switch over to GPF (Pension) was not considered.

4. The applicant has referred to the circular which was issued by the respondents in the year 1991 in which the Scientists had been asked to exercise option for pension. The applicant, however, did not get a copy of the said circular and therefore he was deprived of an opportunity to exercise that option. In this connection, he has referred to the requirement that the said circular was to have been notified to the individual Scientists so as to enable them to furnish written consent in favour or against the modification of the terms and conditions to their respective

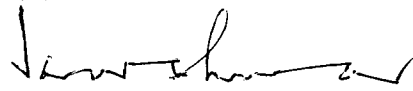


Heads of offices. In this connection, specific reference is invited to para (d) of the letter dated 14.5.1991 as issued by the Council of Scientific and Industrial Research (Ann.K). The applicant has also, in this connection, cited the decision of the Hon'ble Delhi High Court in **M.L.Khullar Vs. Union of India and Ors.** in CW No.6112/1999 as passed on 12.12.2002 in which, among other things, it has been held that "since the contents of the pension scheme were not brought to the notice of the petitioner his right to exercise the option survived inspite of the fact that the last date to exercise his option had expired. It has also been held in the said judgement of the Hon'ble High Court that "respondents cannot be permitted to turn around to say that "awareness" of the scheme was a sufficient notice to a retiree to exercise his option". Seriousness with which this aspect of the matter has been taken by the Hon'ble High Court may be seen in para 11 of the said judgement.

5. It is observed that, after having exercised his option to join GPF (pension) in December, 1996, the applicant continued pursuing the matter with the respondents from time to time. It is also observed that he has submitted a detailed representation to the respondents in the matter to facilitate their doing the needful. This was also followed up by the applicant vide his letter dated 4.12.2001 (Ann. G) The respondents do not appear to have given fresh consideration to the case of the applicant in spite of the fact that he himself ensured that in the event of his being allowed GPF (Pension) he shall have to return the CPF benefits as per rules.



6. In consideration of the facts and circumstances of the case and particularly keeping in view the decision of the Hon'ble Delhi High Court as referred to hereinabove, I am of the considered view that this OA can be disposed of at the admission stage itself without issuing any notice to the respondents, with a direction to them that they give fresh consideration to the subject matter of this case in the light of the facts as submitted by the applicant and also the decision of the Hon'ble High Court as relied upon by him, treating this OA as another representation as filed by the applicant and to dispose it of under the relevant rules and decisions on the subject within a period of three months from the date of receipt of a copy of this order.



(Sarveshwar Jha)
Member (A)

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