

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 10th of MAY 2011)

Hon'ble Mr. A.K. Bhardwaj, Member (J)

Original Application No. 69 of 2005.

(U/S 19, Administrative Tribunal Act, 1985)

S.V. Sachan, aged about 63 years, son of late G.P. Sharma, resident of 210, Navsheel Dham, Kalyanpur Bithoor Road, Kanpur Nagar 208017, previously employed as Educational Officer, Kendriya Vidyalaya Sangathan, Regional Office, Lucknow.

..... Applicant

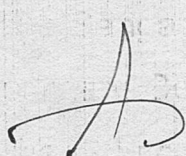
Versus.

1. Union of India through the Secretary, Ministry of Human Resource Development, Government of India, New Delhi.
2. Kendriya Vidyalaya Sangathan, 18-Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016, through the Commissioner, Kendriya Vidyalaya Sangathan.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Lucknow Region, Sector J Aliganj, Lucknow 226024.

..... Respondents

Present for Applicants : Shri N.K. Nair/
Shri M.K. Upadhyaya

Present for Respondents : Shri N.P. Singh



ORDER

The applicant has filed the present O.A making the following prayer:-

“The respondents be directed to grant the benefit of pension to the applicant as a retired officer of the Kendriya Vidyalaya Sangathan in terms of the requirement of the provisions contained in the office memorandum dated 1.8.1988 issued by the K.V. Sangathan (Annexure A-5) after the quashing of the decisions dated 8.3.2004, 27.4.2004 and 4.10.2004 (Annexures A-1, A-2 and A-3 respectively)”

2. Shri M.K. Upadhyaya learned counsel for the applicant states that he has no instruction to press the O.A. Thus, I proceed to hear Shri N.P. Singh, learned counsel for the respondents.

3. The contention of the applicant is that in terms of office memorandum of Kendriya Vidyalaya Sangathan dated 1.9.1988 he is entitled to GPF -cum- pension. Referring the O.M NO. 152-1/79-80/KVS/Budget/Part.II dated 1.9.1988, learned counsel for the respondents submits that in terms of said O.M, employees falling in the category mentioned in para 2 of the O.M had the option to continue under C.P.F. Scheme and in terms of such option available to applicant, he had exercised his option dated

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21.12.1988 (Annexure 3 to the C.A.). Said option reads as under:-

**"FORM OF CONTINUOUS RETENTION OF
CONTRIBUTORY PROVIDENT FUND SCHEME**

(O.M No. 152-1/79/80/KVS/Budget Part II dated 1.9.88)

I, S.V. Sachan joined service in the Sangathan enjoy regular appointment on PGT (Maths) with effect from 24.6.1969 at K.V. No.2, A.S.C Bareilly I have been allotted contributory provident fund (CPF) Account No. 109 LRC and opt to continue under this scheme.

The option exercised above for continuous in CPF is final and irrecoverable.

Signature

Name of Full S.V. Sachan

CPF Account NO. LRC 109

Present Designation: Principal

Place of present posting: KV CMERI 4.

Durgapur-9

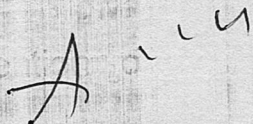
Dated; 21.12.88

Countersigned

Head of Office/Principal

(seal of office/KV)"

4. It is the contention of learned counsel for the respondents that not only applicant alone but as many as 15 more employees had exercised the option for retention of benefit of Contributory Provident Fund Scheme and only one employee namely Shri D. Purohit PGT (Eng.) had opted for benefit of G.P.F. Letter dated 22.12.1988 of



Principal Kendriya Vidyalaya Sangathan (C & E) New Delhi

reads under:-

"To

The Joint Commissioner

K.V.S (H.Q)

New Delhi – 67.

Sub: Change over of the Kendriya Vidyalaya Sangathan employees from the Contributory Provident Fund Scheme to pension.

Sir,

In compliance with your letter No. 152-1/79-80/KVS/Budget/Part II dated 1.9.88 please find enclosed herewith 16 option forms of continuous retaintion of Contributory Provident Fund Scheme of the following staff members of this Vidyalaya for necessary action at your end.

Sl. NO.	Name of the Account employee (CPF)	No. (for No. 152-1/79-80/KVS/Budget/Part II dated 1.9.88)
1.	Sh. S.V. Sanchan	LRC 109
2.	Sh. J. Chakroborty	CEC 570
3.	Sh. R. Singh	CEC 1026
4.	Sh. S.K. Dey	CEC 1159
5.	Miss. N. Ghosh	CEC 1214
6.	Smt A. Roy (Mukherjee)	CEC 1637
7.	Sh.A.S. Bajpayee	CEC 2017
8.	Sh. N.L. Ruldas	CEC 2018

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- 9 Sh. T.P. Sinharoy CEC 2293
 10 Sh. P. Roy CEC 2981
 11 Miss. Supala CEC 3000
 Sinha
 12. Smt. Sampati CEC 3394
 Dome
 13. Smt. M. Chopra CEC 3507
 15 Sh. R.K. Jha CEC 3545
 16 Smt. Shantha CEC 3637
 Kaleswaran

This is also to inform you that Sh. D. Purohit PGT (Eng) Account NO. CEC 3549 has decided to change for G.P.F.

Enclosed: As above

Yours faithfully

(S.V. Sachan)

Principal, KVS

Durgapur"

5. It is the contention of learned counsel for the respondents that in view of option of applicant for C.P.F., he was paid an amount of Rs. 702224/- as Contributory Provident Fund including interest. The detail of such amount as contained in letter placed on record at Annexure 5 to the reply reads as under:-

"Sir

With reference to your telephonic discussion on the subject, the details on final payment of CPF dues i/r/o Sh. S.V. Sachan ex. 80

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(A/c No. CP 2586) and retired on 28.2.2001 from this office, are cited below:-

	Own share	Mqt Share
1. Opening balance as on 1.4.2000 to the Fy. 2000-01 as per Transfer advice received from RO Patna vide 16-37/2000-01/KVS(PR)/A/CS/80739 dt. 2.3.2001.	532580	291856
2. Subscription recd during the year.	36000	16043
3. P.F. withdrawal from own share in the month of Nov.2000.	(-) 250000	-----
4. Interest allowed upto date of retirement i.e. 28.2.2001	46347	29428
	Total 364397	337327

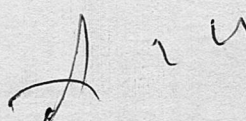
Accordingly the total dues of Rs. 702224/- only were paid to the individual vide DD No. 353336 dt. 22.3.2001 itself.

Yours faithfully.

(Omvir S. Sheorar)

Audit & Accounts Officer"

6. Learned counsel appearing for the respondents submits that request of applicant for changing his option of retention Contributory Provident Fund and giving him



benefit of General Provident Fund cum pension was declined on 07/08-08-2001, as last date for exercising the option was 31.1.1989.

7. In view of O.M dated 1.9.1988, in terms of which the G.P.F. compensation scheme was introduced in K.V.S, all C.P.F. beneficiaries who were in service on 1.1.1986 were entitled to be governed by General Provident Fund Scheme. Para 2 and 3 of said O.M. read as under:-

"2. It has, accordingly, been decided that persons joining service in the Sangathan on or after 1.1.1986 shall be governed only by the G.P.F. cum-pension scheme and will have no option for C.P.F. Scheme. However, for all CPF beneficiaries, who were in service on 1.1.1986 the decision taken shall be implemented in the manner hereinafter indicated.

3. All CPF beneficiaries, who were in service on 1.1.1986 and who are still in service on the date of issue of these orders will be deemed to have come over to the Pension Scheme".

8. However, in para 3.2 of said O.M, it was clearly provided that employee who was covered by category mentioned in paras 2 and 3 were at liberty to exercise an

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option to continue under the C.P.F. Scheme, if so desire. Such option was to be exercised and conveyed to Head Office by 31.1.1989 in duplicate in the prescribed format. In case of non-exercise of any option in terms of para 3.2 of O.M dated 1.9.1987, the employee of specific category mentioned in para 3.2 of O.M were to be deemed to have opted the Pension Scheme. In the present case, it was not so that the applicant had not exercised any option, rather he had specifically exercised the option for Contributory Provident Fund Scheme. He was also allotted C.P.F No. 109. Last date for exercising such option was dated 31.1.1989.

9. Having exercised the option in terms of O.M. dated 1.9.1988 and availed the benefit of Contributory Provident Fund Scheme, the applicant cannot seek payment of General Provident Fund and grant pension to him. O.A. is devoid of merits and same is accordingly dismissed. No costs.


Member (J)

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