

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00376/2015

HYDERABAD, this the 15th day of April, 2021

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



P.Bhavani W/o Late P.Prasad,
(ID No.3034, Engineer Gr.III),
Aged about 56 years, Occ : Housewife,
R/o H.No.10-148/40, Sainagar,
Balanagar, Hyderabad.

2.A.Manochary, (ID No.3011),
Aged about 71 years, Occ : Retd. Sr.Technician,
R/o 49-289/1, Padmanagar Phase-I,
Chital, Qutubullapur, RR District.

3.G.Narayana (ID No.6031),
Aged about 60 years, Occ : Retd. Labour cum Sweeper,
R/o H.No.1-302/4, Dasaram Basthi, Babunagar,
S.R.Nagar, Hyderabad.

4. K. Rama Rao S/o late K. Nagabhushan,
(ID No.4001), Aged about 68 years,
Occ : Retd. Technician Gr.I (Design),
R/o H.No.6-10-6/1/3/307, Vinayaknagar,
Pallavai Apts. Balanagar, Hyderabad.

5.B.Arunjyothi, W/o Late B.Narsing Rao (Ex Helper),
Aged about 59 years, Occ : Housewife,
R/o H.No.10-123/A, Sainagar, Balanagar, Hyderabad.

6.L.Srihari S/o L.Balanarasaiah,
Aged about 61 years, Occ : Engineer Gr.III,
R/o H.No.10-148/40/1, Plot No.94, Sainagar,
Near Saibaba Temple, Balanagar, Kukatpally,
Hyderabad.

7. P.Bhasker (ID No.2009),
Aged about 64 years, Occ : Asst. Stores Officer (Retd.),
R/o H. No. 10-116, Nagaparijatha Nilayam,
Vinayaknagar, Balanagar, Hyderabad.

8.Ch.V.R.V.Prasada Rao S/o V.Subba Rao,
Aged about 60 years, Occ : Retd. Asst.Admn.Officer,
R/o H.No. 14-205/5, Flat No.103, Raghavanagar
Colony, TKR Engineering College, Meerpeta,

Saroornagar, RR Dist.

9.V.Rangarajan S/o Venkataraman,
(ID No.3014), aged about 77 years,
Occ : Retd. Technician, R/o H.No.8-2-1/5,
Panjagutta Colony, Khairatabad, Hyderabad.

(Applicants 1 & 5 are the wives and their husbands are worked in the
CITD along with applicants 2 to 4, 6 to 9)

...Applicants



(By Advocate : Mr. J. Sudheer)

Vs.

1. Union of India, Rep by its Secretary,
Ministry of Micron, Small and Medium Enterprise,
Govt. of India, Nirman Bhavan, 7th Floor,
Moulana Azad Road, New Delhi – 110 108.

2. The Chairman,
Central Institute of Tool Design & Development,
Commissioner, Micron, Small and Medium Enterprise,
Ministry of MSME, Nirman Bhavan, New Delhi.

3. The Principal Director,
Central Institute of Tool Design,
Balanagar, Hyderabad-500 037.

4. The Secretary,
Department of Pension & Pensioners' Welfare,
Ministry of Personnel, P.G. & Pensions,
Govt. of India, North Block, New Delhi.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA has been filed for non grant of Pension and Pensionary benefits under CCS (Pension) Rules, 1972 and not extending the benefits of the OM dt.01.05.1987 of the Dept. of Pension and Pension Welfare.



3. The applicants 1 & 5 are the spouses of the retired employees and the applicants 2 to 4 & 6 to 9 are the retired employees of the respondents organization. The applicants joined the respondents organization in different posts during the periods from 1970 to 1979 and retired on superannuation from 1995 to 2014 and the respective husbands of the applicants 1 & 5 died while in service. The respondent organization i.e. Central Institute of Tool Design (CITD) was established in 1968 and registered as an autonomous society on 31.3.1970 under A.P (Telangana Area) Public Societies Registration Act, 1350 Fasli and Memorandum of Association plus the rules and regulations were framed. The 4th CPC has recommended that all CPF beneficiaries who were in service on 1.1.1986 shall be deemed to have come under the Pension Scheme unless they opt to continue under CPF. Accordingly DOP&PW issued OM dated 1.5.1987, which states that all the CPF beneficiaries who were in service as on 1.5.1987 and are still in service on the said date will be deemed to have come over to the Pension Scheme. Employees were to exercise their option by 30.9.1987, otherwise they will be deemed to continue under CPF. In its first meeting, the governing council of CITD on 24.4.1970 decided to adopt

the GOI rules in respect of its employees till service rules are framed and the CPF (Contributory Provident Fund) scheme on lines existing in SIET. Applicants submitted representations in November 2013. Later the representation of the applicants was rejected on 24.10.2014 stating the Governing Council had decided in its 4th meeting held on 10.3.1971 to cover its employees under CPF scheme w.e.f. 01.04.1981. The applicants obtained information under the RTI Act to the effect that the following Central Government autonomous bodies who were operating CPF have implemented the OM dt. 01.05.1987 and allowed its employees to be covered by CCS (Pension) Rules, 1972:

- (i) Central Council for Research in Yoga & Naturopathy, New Delhi;
- (ii) Central Council for Research in Unani Medicine, New Delhi;
- (iii) Central Council for Research in Homeopathy, New Delhi,
- (iv) National Institute of Rural Development, Hyderabad and
- (v) National Institute of Mentally Handicapped, Hyderabad

4. The contentions of the applicants are that The Hon'ble Principal Bench has allowed OA 2037/2008 and directed the National Water Development Agency on 8.8.2010 to implement the Pension Scheme. The Hon'ble Delhi High Court has allowed the W.P (C) 11371/2006 covering a similar matter relating to Coal India Ltd on 4.4.2013. The Governing Council in its meeting on 24.4.1970 has resolved to adopt GOI rules till its own service rules for the institute are framed. However, the said resolution is superseded by OM of May 1987. Therefore, the impugned orders issued

negating the request made are illegal and arbitrary and violative of Articles 14 & 16 of the Constitution.

When other autonomous bodies have followed the pension scheme, there is no reason as to why the respondents should not follow the same. Respondents should not discriminate the employees in view of the favourable decisions taken in respect of the issue by other autonomous bodies. The request of applicants has been rejected without application of mind. Besides, when the applicants joined the respondents, they were covered by CPF and on confirmation against a permanent post, the employees are deemed to have opted for GPF, unless they exercise an option to continue with CPF. The retiral life of the applicants is adversely affected by many factors like inflation, low rate of interest on CPF, etc and the denial of pension scheme will be another aggravating factor. The policy of the Government is to ensure that the pensioners' live decently, independently and with self respect. Pension is not a matter of grace.

5 Respondents filed a detailed reply statements contesting the OA.

6. Heard the learned counsel and perused the pleadings on record.

7(I) Recently, this Tribunal adjudicated a similar issue against the self-same respondents in OA No.1329/204 & batch, vide order dt. 21.12.2020.

Relevant observations made in the said order are as under:

“7. xxxx

The Governing Council exercising the power vested in it, in its 5th meeting held on 30.7.1971, the Council approved the CITD CPF scheme duly vetted by the Internal Finance, Ministry of Industrial Development and it was implemented w.e.f. 1.4.1971. It is important that at the relevant point of time the CPF Rules (India) 1962 were in vogue and yet the Governing Council choose to have its own CPF scheme.

III. However, after the representations were being received from the staff, the matter was placed before the Governing Council on 26.2.1988 wherein it was decided to recommend to GOI for implementing the pension scheme to the CITD employees. The Ministry of Industry has responded by its letter dated 24.10.1988 by intimating that the internal finance wing has negated the proposal by observing as under:



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“ The instructions contained in the Dept of Pension and Pensioners’ Welfare O.M No. 4/1/87-PIC dated 1st May, 1987 are not applicable to the employees of autonomous bodies and hence pension scheme cannot be introduced in CITD, Hyderabad, under those orders”

IV. More over, clause 6.1 of the letter dated 1.5.1987 reads as under:

6.1 These orders apply to all civilian Central Government Employees who are subscribing to the contributory Provident Fund under the Contributory Provident Fund Rules (India) 1962. In the case of other contributory provident funds, such as Special Railway Provident Fund or Indian Ordnance Factory Workers Provident Fund or Indian Naval Dockyard workers Provident Fund etc the necessary orders will be issued by the respective administrative authorities.

By telescoping the above clause to CITD, we find that it has introduced its own CPF scheme in 1971 and when it proposed the introduction of the pension scheme, it was turned down by the Ministry vide its letter dated 24.10.1988. Therefore, it cannot be said that CITD has not attempted to implement the pension scheme.

V. The clause 6.1 has referred to Civilian Government Employees and the question that has to be answered is as to whether the CITD employees are qualified to be referred to as Civilian Government employees. Applicants have not submitted any evidence to prove that they are Government employees. While dealing with a similar issue concerning NWDA, which is also an autonomous organization, the Hon’ble Supreme Court in T.M. Sampath V Secretary, Min. of Water Resources in CA 712-713/2015 & batch on 20.1.2015, relied upon by the respondents, has observed as under:

Thus, by reason that the employees are governed by NWDA CPF Rules, 1982, the O.M. dated 01.05.1987 is not applicable to the appellant-employees. Further, as they have not established that they are Central Government employees, at par with their counterparts, their claim of parity with Central Government Employees is also defeated.

Hence, the contention of the applicants that they are to be deemed to have come under the pension scheme, in light of the above observations, is not tenable.

VI. We also observe that the rules and regulation of the CITD employees have not been framed under Article 309 of the Constitution exclusively for them and therefore, considering the applicants as Govt. Servants would not be in the realm of reason. CITD, being a autonomous

body, is governed by its own set of bye laws/ rules and regulations. Governing Council can adopt or drop the rules adopted depending on the requirements of the organization and the environmental demands. We take support of the observations of the Hon'ble Supreme Court of India in *Dharmendra Prasad v. Sunil Kumar* on 6 December, 2019 in Civil Appeal No. 9247 of 2019 (Arising out of SLP (Civil) No. 23787 of 2018), as under, in making the above observations:



2. The High Court vide impugned order has directed the Uttarakhand Pey Jal Nigam, a creation of the Statute i.e. the Uttar Pradesh Water Works and Sewer Arrangement Act, 1975, to determine the seniority of the Junior Engineers strictly as per Regulation 23 of the 1 for short, 'Nigam' Uttar Pradesh Jal Nigam Subordinate Engineering Service Regulations, 19782. Regulation 23 contemplates that the seniority of a person appointed in any branch of service in any category of post shall be made as per the date of substantive appointment.

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19. We do not find any merit in the argument raised by the State that the seniority has to be fixed as per Rule 5 of the Uttarakhand Government Servant Seniority Service Rules, 2002. Such Rules were not adopted to be applicable to the Nigam. The Rules were approved by the Board of the Nigam on 24th September, 2007 proposing that the provision shall be made in the proposed service regulations but the Rules were made applicable in the year 2011 only. Such is the finding recorded by the High Court which is not disputed by the appellants or by the writ petitioners. Such Rules have been framed under the proviso to [Article 309](#) of the Constitution and they are not applicable to a creation under a Statute. These Rules are applicable to government servants in respect of whose recruitment and condition of service Rules may be or have been made by the Government under the proviso to [Article 309](#) of the Constitution. Since the employees of the Nigam are not government servants nor are their service conditions governed by Rules framed under the proviso to [Article 309](#) of the Constitution, therefore, such Rules unless adopted by the Nigam cannot be extended to the employees of the Nigam.

In the context of the Hon'ble Apex Court observation cited supra, the OM dated 1.5.1987 would not be applicable to the applicants and also the verdict of the Hon'ble High Court of Delhi in WP. No. 15695/2000 cited by the applicants would not be any assistance to them.

VII. Besides, applicants claimed that in similar other autonomous organisations like NIRD, NIMH, Counsel for Research in Homeopathy, Central Counsel for Research in Yoga and Naturopathy, National Institute of Rural Development etc the pension scheme was extended as confirmed by the information obtained through RTI from the respective institution. Hence not extending the benefit to the applicants would tantamount to discrimination. The bye laws as well as the rule & regulations of different institutions would be different and depending on organizational needs of each institution, decisions are taken by the competent body. One cannot compare institutions on a simplistic dimension of autonomy. Discrimination would arise when employees are similarly placed in the same institution and are governed by similar rules and not, when they are working for different institutions as observed by the Hon'ble Apex Court in *T.M.Sampath* supra, as under:



Even if it is presumed that NWDA is "State" under [Article 12](#) of the Constitution, the appellants have failed to prove that they are at par with their counterparts, with whom they claim parity. As held by this Court in [Union Territory, Chandigarh v. Krishan Bhandari](#), (1996) 11 SCC 348, the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under [Article 12](#). Thus, the employees of NWDA cannot be said to be 'Central Government Employees' as stated in the O.M. for its applicability.

VIII. *Even though the Governing Council of CITD recommended the introduction of pension scheme though it had its own CPF scheme, the Ministry has not agreed to, since the letter dated 1.5.1987 has not mentioned anywhere that the scheme is applicable to autonomous bodies. The administrative Ministry decision is binding on CITD in view of Rule 46 (xi) b. Applicants have also contended vociferously that the decision of the Ministry is binding on CITD. Further, when the CITD has its own CPF scheme, it would be prudent on part of the Tribunal to adopt an approach of non interference in the decision of the CITD/its Ministry, to have its own scheme, as observed by the Hon'ble Apex Court in T.M Sampath, *supra*, as under:*

In light of the facts and circumstances of this case and the submissions made by the learned counsel on both sides, it can be concluded that NWDA had framed its regulation the CPF Rules, 1982 and they were duly approved by the Governing Body of NWDA. As NWDA is an autonomous body under the Ministry of Water Resources, it has framed its own bye-laws governing the employees. It has been time and again reiterated that the Court must adopt an attitude of total non-interference or minimal interference in the matter of interpretation of Rules framed by autonomous institutions. [In Chairman & MD, Kerala SRTC vs. K.O. Varghese and Others](#), (2007) 8 SCC 231, this Court held:

"KSRTC is an autonomous corporation established under the [Road Transport Corporation Act](#), 1950. It can regulate the service of its employees by making appropriate regulations it that behalf. The High Court is not correct in thinking that there is any compulsion on KSRTC on the mere adoption of Part III of KSR to automatically give all enhancements in pension and other benefits given by the State Government to its employees."

Thus, as the appellants are governed by the CPF Rules 1982, the O.M. applicable to Central Government employees is not applicable to them.

IX. *The applicants have heavily banked on the judgment of the Hon'ble Principal Bench decision in OA 2037 of 2008, which is in favour of the applicants. However, the Hon'ble Delhi High Court had gone into the question of applicability of OM dated 1.5.1987 to the employees of NWDA as well as the correctness on part of the Hon'ble Principal Bench of this Tribunal to rely on S.L.Verma's case and held that NWDA employees are not Civilian Central Govt. employees as NWDA is an autonomous body and its employees are governed by NWDA CPF Rules,*

1982 and not by CPF (India) Rules 1962 and therefore, they are covered by clause 7.2 of the May 87 OM and not by the clauses 6.1/7.2 of the OM. It was further held that the rules of the Central Govt shall be applicable where the NWDA has not framed its rules as per by law 28 of NWDA but in case of CPF the NWDA has framed CPF rules of 1982. Thus the order of the Hon'ble Principal Bench in T.M.Sampath and ors v U.O.I was revised by the Hon'ble High Court of Delhi and upheld by the Hon'ble Supreme Court. Hence, the Hon'ble Principal Bench judgment cited would not come to the rescue of the applicants.



One another judgment relied upon by the applicants is Sri R.K.Gupta v NCDC in WP 11371 /2006, wherein the petitioner was an employee of the Ministry of Coal and was eligible to be covered by the Pension scheme till he was deputed to NCDC and one another factor, which was in his favour was that he was not informed about the option to switch over. Thus, there are two elements in this judgment, the first and foremost is that the petitioner was from the Ministry to which the pension scheme rules apply when he was working the Ministry. The second aspect was that he was not informed of the scheme by those concerned. The applicants do not come under the ambit of both these factors and hence, even this judgment would not apply to the case of the applicants.

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XI. Another argument made by the applicants is that the Governing Council has resolved to implement mutatis mutandis the rules of the Central Government on 24.4.1970. However, the said resolution also states that the adoption of Central Govt. rules will hold good till the CITD frames its own rules. In regard to CPF, CITD has come up with its own scheme in 1971 and therefore, there is no violation of the resolution referred to.

XII. xxxx

XIII. It was also reiterated that information was collected from CITD by the Ministry and therefore, it is incumbent on part of the Ministry to take a positive decision. Collecting information from the lower formations is to evaluate the proposal and it would not mean that a favourable decision has to be necessarily taken. Collection is just one step of the managerial decision making process and there are many other factors that do influence the outcome, like the concurrence of the Internal Finance wing, affordability and so on. Finally, we do also note that the pension scheme has not been extended to any other Tool room employee under the Ministry.

XIV. Therefore, in view of the above circumstances, viewed from any angle, be it from the point of view of rules or law, the OAs lacks merit and hence, are dismissed, with no order as to costs.”

II. In view of the above order of this Tribunal on the same issue, we are of the view that the applicants in the present OA are not entitled for any relief. Hence, the OA is liable to be dismissed and is accordingly, dismissed. There shall be no order as to costs.



(B.V.SUDHAKAR)

ADMINISTRATIVE MEMBER

evr

(ASHISH KALIA)

JUDICIAL MEMBER