

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA**

O.A/350/277/2021

Date of Order: 26.07.2021

**Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member**

Shri Nibir Nag, son of late Nirmal Kumar Nag, aged about 48 years, working for gain as Master Craftsman, Per No. 6734, under the General Manager, Gun & Shell Factory, Cossipore, Kolkata - 700002 and residing at Balia East, P.O.- Garia, Kolkata- 700084.

.....Applicant

-VS-



1. The Union of India service through the Secretary, Ministry of Defence, Department of Defence Production, South Block, New Delhi- 110011.
2. Ordnance Factory Board service through the DGOF & Chairman, Ordnance Factory Board, 10-A, S. K. Bose Road, Kolkata- 700001.
3. The General Manager, Gun & Shell Factory, Cossipore, Kolkata - 700002.
4. The Jr. Works Manager/DS, Gun & Shell Factory, Cossipore, Kolkata - 700002.

.....Respondents

For The Applicant(s): Mr. N. P. Biswas, counsel

For The Respondent(s): Ms. S. Sarkar, counsel

ORDER (ORAL)

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsel for both sides.

2. This application has been preferred to seek the following reliefs:

"a) An order/direction may be issued to cancel, withdraw and/or rescind the impugned order No. A/29/DS/NPS-OPS/NN, dated 07.11.2020, passed by the Jr. Works Manager/DS, for General Manager, refusing to accept the requests of the applicants to grant membership of the General Provident Fund (GPF) and Pensionary Benefits, under the CCS (Pension) Rules, 1972, and as contained at Annexure A-6.

b) To direct the respondent authorities and each of them, their subordinates and/or agents, to grant to the applicant conversion into the statutory pension scheme under CCS (Pension) Rule, 1972, from the National Pension Scheme in terms of the DOP& PW/OM dated 17.02.2020 and as has been done for all other similarly placed employees.

c) To direct the respondents to stop all recoveries from pay and allowances of the applicant towards New Pension Scheme and adjust the amount so far recovered, towards the contributions to General Provident Fund (GPF) and collect further contributions for the General Provident Fund (GPF).

d) An order directing the official respondents to produce all the relevant records pertaining to the case before the Hon'ble Tribunal for proper adjudication of the matter.

e) To grant costs pertaining to this application.

f) And/or to pass such order or further order or orders and/or direction or directions as may be deemed fit and proper in the facts and circumstances of the case."



3. Brief facts of the case as submitted by Id. Counsel for the applicant are that, the applicant was completed training as Trade Apprentices under the General Manager, Gun & Shell Factory, Cossipore during the period 1992 to 1995. On 29.08.200, the Ordnance Factory Board having accorded sanction to the G. M, Gun & Shell Factory, the later recruited 60 industrial employees in semi-skilled grade. The applicant was selected by the Selection Board on 22.12.2003 for appointment to the semi-skilled grade.

Ld. counsel submits that it is clear that the vacancy arose in 2003. The applicant had joined after 01.1.2004 dues to administrative delay, and he made representation to the authorities to grant him the benefits of Old Pension Rules, but the respondent authorities rejected his prayer stating that the result was declared after 01.01.2004. Being aggrieved and highly

dissatisfied with the inaction of the respondent authority, the applicant has approached this Tribunal.

4. Ld. Counsel for the respondents submits that the result was declared after 01.01.2004, therefore, the applicant would not be eligible for pension under Old Pension Rules in terms of the DOPT OM dated 17.02.2020.

5. At hearing, Ld. Counsel for the applicant would submit that he would be fairly satisfied if a direction is issued to the competent authority to consider the case of the applicant in the light of DOPT OM Dated 17.02.2020 and in terms of the Hon'ble Apex Court decision in **UOI Vs. Shabad Prakash Punia** SLP (C) NO. 7373/2021 where it has affirmed the decision of the Hon'ble High Court of Delhi in WP 9252/2020 granting benefits under Old Pension Rules of 1972 to persons selected against vacancies occurring before 01.01.2004, even where the selection was completed after 01.01.2004 i.e after the date when New Pension Scheme was effected. The ld. Counsel for the respondents would not object to disposal of his grievance by the authorities first.



6. Accordingly, with the consent of both the sides, we dispose of this O.A with a direction upon the competent authority to consider the case of the applicant in the light of the DOPT circular and the judgment supra, and decide the claim of the applicant in accordance with law within a period of 3 months from the date of receipt of copy of this order. In the event the applicant deserves the relief as prayed for, an appropriate order in accordance with law be issued within the said period.

7. It is made clear that we have not entered into the merits of this matter and, therefore, all points are kept open for consideration.

8. This OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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