

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

LIBRARY

Date of Order: 11.08.2021

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

1. OA 350/1198/2021 ABHISHEK CHAKRABORTY
2. OA 350/1199/2021 SOUMABRATA MALLIK
3. OA 350/1200/2021 SHASHANKA BANERJEE
4. OA 350/1214/2021 SUMIT MALLIK
5. OA 350/1215/2021 RUPAK SEN
6. OA 350/1216/2021 SUBIR ROY CHOUDHURI
7. OA 350/1217/2021 ARUN NASKAR
8. OA 350/1218/2021 AJOY SARKAR



--Applicants

-vs-

1. Union of India, through the Secretary, Department of Defence Production, Ministry of Defence, Government of India, South Block, New Delhi - 110011.
2. The Director-General-cum- Chairman, Ordnance Factory Board, Ministry of Defence, Government of India, 10 A, Shaheed Khudiram Bose Road, Kolkata 700001.
3. Sr. General Manager/General Manager, Indian Ordnance Factories Metal & Steel Factory, Ishapore, Post Office - Ishapore Nawabganj, District 24 Parganas (North) Pin 743144.
4. The Secretary, Govt. of India, Department of Pension & Pensioners' Welfare, Lok Nayak Bhavan, Khan Market, Sujan Singh Park, New Delhi - 110003.

--Respondents

For The Applicant(s): Mr. B. R. Das & Mr K. K. Ghosh Counsel

For The Respondent(s): Ms. A. Banerjee, Counsel

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### ORDER (ORAL)

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

Heard ld. counsel for both parties.

2. Due to parity in the nature of grievance, facts pleaded and relief claimed, these cases are being heard out analogously, upon due notice and with consent of all the sides, to be disposed of by this common order.

3. For the sake of brevity, facts of OA. No. 1198/2021 is being delineated and discussed hereunder:

4. The applicant, who joined service after 01.01.2004 and wants to be governed by the old pension scheme, has preferred this O.A to seek the following reliefs:

"Direct the respondents to consider/reconsider the representation dated 02.07.2021 (Annexure A-1) in accordance with the judgement & order of the Hon'ble High Court in WP © 756/2020 and as upheld by Apex Court in SLP (C) No. 173/2021 so as to allow the petitioner to switch over from National Pension System (NPS) i.e Defined Contribution Pension Scheme (DCPC) to Old Pension Scheme as per CCS (Pension) Rules, 1972 for all intents and purposes.

ii) Certify and transmit the entire records and papers pertaining to the applicants' case that after causes shown thereof conscionable justice may be done unto the applicant by way of grant of reliefs as prayed for in (i) to (iii) above

iii) Any further order/orders and/or direction or directions as to your Lordships may seem fit and proper.

iv) Costs"

5. At hearing, ld. counsel for the applicant would cite the DOPT OM dated 17.02.2020 on admissibility of old pension scheme to employees appointed after 01.01.04 that is after introduction of New Pension Scheme. The illustrative examples being as under:



"(i) The result for recruitment was declared before 01.01.2004 but the offer of appointment and actual joining of the Government servant was delayed on account of police verification, medical examination etc.

(ii) Some of the candidates selected through a common selection process were issued offers of appointments and were also appointed before 01.01.2004 whereas the offers of appointment to other selected candidates were issued on or after 1.1.2004 due to administrative reasons/constraints including pending court/CAT cases.

(iii) Candidates selected before 01.01.2004 through a common competitive examination were allocated to different Departments/organization. While recruitment process was completed by some Department(s)/Organization on or before 31.12.2003 in respect of one or more candidates, the offers of appointment to the candidates allocated to the other Department/organization were issued on or after 01.01.2004.

(iv) Offers of appointment to selected candidates were made before 01.01.2004 with a direction to join on or after 01.01.2004.

(v) Offers of appointment were issued to selected candidates before 01.1.2204 any many/most candidates joined service before 01.01.2004. However, some candidates(s) were allowed extension of joining time and they joined service on or after 01.01.2004. However, their seniority was either unaffected or was depressed in the same batch or to a subsequent batch, the result for which subsequent batch was declared before 01.01.2004.

(iv) The result for recruitment was declared before 01.01.2004 but one or more candidates were declared disqualified on the grounds of medical fitness or verification of character and antecedents, caste or income certificates. Subsequently, on review, they were found fit for appointment and were issued offers of appointment on or after 01.01.2004.

*It has been observed that in all the above illustrative cases, since the result for recruitment was declared before 01.01.2004, denial of the benefit of pension under CCS (Pension) Rules, 1972 to the affected Government servants is not considered justified.*

6. Ld. counsel for the applicant would submit that the O.A may be disposed of with a direction upon the respondents to consider the representation at Annexure A-1 to the O.A in the light of the DOPT O.M dated 17.02.2020 whereby and whereunder it has been clarified that



employees who joined after 01.01.2004 against vacancies declared before 1.1.2004 are eligible to opt for old pension scheme.

7. Ld. counsel for the applicant would canvass that the vacancies arose/occurred in 2002/2003 and therefore the O.M referred supra, would squarely apply to the present facts and situation.

8. Ld. counsel for the respondents would raise no objection to the disposal of the O.A for consideration in the light of the O.M., supra.

9. Accordingly, with consent of parties we would dispose of the OA with a direction upon the competent authority to consider and decide the claim of the applicant in the light of the O.M referred supra with a reasoned and speaking order issued in accordance with law and within a period of 3 months from the date of receipt of copy of this order.

10. We would further direct that in the event if nothing else stands in the way, appropriate benefits shall be granted to the applicant by issuing orders within 1 month thereafter.

11. The OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

