

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**



Date of Order: 11.08.2021

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

O.A/350/1090/2019 -----SUKALYAN PATRA & ORS  
M/A/350/621/2019

WITH

O.A/350/1091/2019----- SUJAN BHOWMIK  
MA./350/622/2019

--Applicants



VS

1. The union of India, service through the Secretary, Ministry of Defence, Department of Defence Production, having its office at South Block, New Delhi, 110011.
2. Ordnance Factory Board service through the DGOF & Chairman, Ordnance Factory Board, 10A SK Bose Road, Kolkata 700001.
3. The General Manager, Gun and Shell Factory, Cossipore, Kolkata 700002.
4. The HOS/HRM, Gun and Shell Factory, Cossipore, Kolkata 700002.

--Respondents

Adv. for the Applicant(s): MR. N.P. BISWAS  
MR P.C. DAS.

Adv. for the Respondent(s): Mr. R. Halder.

**ORDER (ORAL)**

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

Heard ld. Counsel for both sides.

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 and relief of OA. No. 1090/2019 is being delineated and discussed hereunder:

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"a) An order / direction may be issue to cancel, withdraw and / or rescind the impugned order No. 42/17/HRM/GPF/NPS, dated 07.09.2018, passed by the HOS/HRM, refusing to accept the requests of the applicants to grant membership to the General Provident Fund (GPF) and Pensionary Benefits, under the CCS (Pension) Rules, 1972, and as contained at Annexure - A/ 7.

b) To direct the respondent authorities and each of them, their subordinates and / or agents, to induct the applicants into the statutory pension scheme under CCS (Pension) Rules, 1972, notionally treating them to have been appointed as semi-skilled grade industrial employees from the date of occurrence of vacancies, i.e. when sanction for recruitment was accorded by the Ordnance Factory Board on 29.08.2003, for the limited purpose of grant of pension under CCS (Pension) Rules, 1972, only.

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

d) To declare that the applicants are deemed to have been appointed as Semi-Skilled grade industrial employees notionally and they be regulated by the CCS (Pension) Rules, 1972.

e) 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.

f) To grant costs pertaining to this application

g) 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."

2. During hearing, Id. Counsel for the applicant submits that:

In O.A 1090/19, all the applicants, except applicant no. 3, i.e. Shri Ratan Kumar Mistry, have been granted the benefits of Old Pension Rules 1972. Ratan Kumar Mistry he has been denied the benefits in view of the fact that the interview was held after 22.12.2003 and the result was published on 07.01.2004. In view of the fact that the vacancies admittedly arose prior to 01.01.2004, the selection was completed before 1.1.04 but the result in regard to one candidate was published after 1.1.04.

In O.A 1091/2021 : All the applicants except Jiten Kumar Lakshnan and Suman Sarathi Das, (Sl. No 12&24 in the O.A) have been denied the benefits of the OPS in view of the fact that the interview was held on 22.12.2003, whereas in the other cases, interview was held in October 2003 and the result was published after 01.01.04, they are entitled for the



same benefits as granted to the other applicants in the light of DOPT O.M  
Dated 17.02.2020.

3. Ld. Counsel for the applicants would submit that the Hon'ble High Court of Delhi in the case of Davinder Singh Brar, WP(C)No. 756/2020, allowed the petitioner the benefit of Old Pension Rules 1972. The case of the applicant therein was that he had applied against the advertisement dated 24<sup>th</sup> May 2003. However, his interview was held on 29<sup>th</sup> March 2004 and the letter of appointment was issued on 16<sup>th</sup> October, 2004.

Ld. Counsel for the applicants would further submit that he would be fairly satisfied if a direction is issued to the competent authority to reconsider 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 of pre 01.01.2004 even where selection was completed after 01.01.2004 i.e after the effective date of New Pension Scheme.

5. Ld. Counsel for the respondents would bring to our notice that some clarifications has been issued by the Ministry of Finance upon dismissal of the SLP in Davinder Singh Brar, a proposal was processed/mooted to file a Review Petition in consultation with the Ministry of Law and social justice, however, no review petition has been preferred as yet.

6. Since the SLP preferred by the department has been stated to be dismissed, we dispose of this O.A. directing the respondents to consider the case of the applicant in the light of the judgment and the DOPT OM, supra within a period of two months from the date of receipt of a copy of

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this order. If after such consideration the applicants are found to be entitled to the relief claimed by them then appropriate orders shall be passed by the authorities extending the benefit of Old Pension Rules to the applicants within a period of two months thereafter.

7. The above O.As stand disposed of. No costs.

  
(Nandita Chatterjee)  
Member (A)

  
(Bidisha Banerjee)  
Member (J)

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