CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO. 80/2014

Date of Arguments : 13th July, 2016.
Date of Order 18 th July, 2016.

CORAM
HON'BLE SHRI R.C. MISRA, MEMBER(A)
HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)

.....

Miss Fauzia Naqvie, aged about 37 years D/o Syed Rashid Ali Naqvie, at present working as a PGT Commerce,D.M.School, Regional Institute of Education, At/PO Bhubaneswar, District Khurda, at present Quarter No. 3R-12, RIE Campus, Unit 9, Bhubaneswar, District Khurda, Odisha. **.....Applicant**

V E R S U S

1. Secretary, National Council of Education Research and Training (NCERT), Sri Arabindo Marg, New Delhi.
2. Deputy Secretary, National Council of Education Research & Training (NCERT) Sri Arabindo Marg, New Delhi.
3. Principal, Regional Institute of Education, Bhubaneswar, Khurda, Odisha.
4. Accounts Officer, Regional Institute of Education, Bhubaneswar, Khruda, Odisha.

.... Respondents

.....

Advocate for applicant : Mr.N.R.Routray

Advocate for respondents : Mr. B.Dash

.....

O R D E R

PER S. K. PATTNAIK:

The applicant has filed this O.A. for a direction to the respondents to treat her in Old Pension Scheme and for quashing of the orders dated 6/9-5-2005 (Annex.A/9) and 5/8-4-2013 (Annex.A/17) by which, her prayer to treat her under old pension scheme was regretted as she joined the Council services on 9.3.2004 and as such, covered under the ***"Defined Contribution Pension Scheme"***.

2. Admittedly, the applicant joined the Council services on 9.3.2004 but, her main thrust is that, as the Advertisement and the Offer of Appointment were taken-up in 2003, she has to be treated as a recruit of 2003 and not a recruit of 2004.

3. In a case of this nature where benefit of old pension scheme was not given one has to travel to find out the reasons through the Counter filed by the respondents. According to the respondents, a recruitment process was undertaken for purpose of filling up certain posts of TGT which was held on 15.10.2003. Subsequently, on 31.10.2003 again, a process of recruitment was undertaken for filling of two posts of PGT (Commerce) in which, name of the applicant was recommended by the selection committee along with one Smt. Anju Chopra. Subsequently, on 11.12.2003, offer of appointment was given to the applicant and applicant submitted her consent vide letter dated 17.12.2003 and thereafter, joined her post on 09.03.2004. Miss Pinki Sharma, however had joined her post on 19.12.2003. Subsequently, ***"Defined Contribution Pension Scheme"*** was introduced by the Government replacing the existing system vide Notification dated 22.12.2003 which categorically stipulated that all new entrants appointed on or after 1.1.2004, shall be governed by the new pension scheme and the applicant having entered into Government service much after 1.1.2004, has to be governed by the ***"Defined Contribution Pension Scheme"***.

4. In a case of this nature when the applicant joined in service in 2004, her grievances concerning service conditions cannot be adjudicated in an OA filed in 2014 as the cause of action arose in 2004. Even on 13.12.2004 (Annex.A/6), the Regional Institute of Education, Bhubaneswar, had issued a letter in name of the present applicant intimating her that Government of India has introduced a new pension scheme called ***"Defined Contribution Pension Scheme"*** replacing the existing system vide their Notification dated 22.12.2003, according to which, all new entrants in the Government

including Autonomous Bodies, on or after 01.01.2004, will be governed by the new scheme and, even the impugned letter dated 6/9-5-2005, a copy of which has been forwarded to the present applicant, clearly indicated by National Council of Educational Research and Training that the case of the applicant cannot be treated under old pension scheme as she joined the Council services on 9.3.2004 and she will be considered under the "***Defined Contribution Pension Scheme***". If the applicant was really aggrieved by such development, she should have agitated the matter by taking appropriate legal action in 2005 and not waiting for another communication made in 2013 (Annex.A/17) which was passed in response to a representation again made by the applicant on 29.08.2012 under Annex.A/15. Annexure A/17 is a reiteration of the earlier letter communicated under Annex.A/9 dated 6/9-5-2005.

5. Instead of dilly-dallying the matter, it can be abruptly concluded that since the applicant joined the service after 01.01.2004, she cannot be guided under the old pension scheme and has to be governed by the new pension scheme which comes into operation from 01.01.2004. Service condition is decided by the date of joining of an employee and not applicable from the date of offer of appointment. There is no infirmity or illegality in the order passed under Annex. A/9 dated 6/9-5-2005 or Annex.A/17 dated 5/8-4-2013 calling for interference. Apart from merit also, the O.A. is liable to be dismissed being hopelessly barred by limitation, as it has become a stale claim.

6. The O.A. being devoid of merit, is hereby dismissed with no order as to costs.

18/7/14

(S.K.Pattnaik)
Member (J)

(R.C.Misra)
Member (A)

mehta