

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application 323/2011

Date of Order: 15-02-2012

Reserved on 09.02.2012

CORAM:

**HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER,
HON'BLE Mr. V. AJAY KUMAR, JUDICIAL MEMBER.**

1. B.N.Gahlot S/o Shri Bhanu Ramji Gahlot, aged about 62 years, R/o Chonkha, Jodhpur, last employed on the post of TGT Maths in Kendriya Vidyalaya No.1 (Air Force), Jodhpur.
2. Mrs. Munni Bansal W/o Shri Raj Kumar Bansal, aged about 60 years, R/o C-144, Ist Extension, Kamla Nehru Nagar, Jodhpur, last employed on the post of PRT in Kendriya Vidyalaya No.1 (Air Force), Jodhpur.
3. Mrs. Garnet Meera Fredrick W/o Shri D.S. Fredrick, aged about 60 years, R/o 140, Patrakar Colony, Opp. New Power House, Sector-7, Shastrinagar Extension, Jodhpur, last employed on the post of PGT in Kendriya Vidyalaya No.1 (Air Force), Jodhpur.
4. Ram Prakash Dau S/o Late Shri Jairam Dua, aged about 57 years, R/o H.No.1353/32, Behind Covent Girls School, Alwar Gate, Ajmer-305001, last employed on the post of Principal Gd.II in Kendriya Vidyalaya BSF, Dabla, Jaisalmer.
5. Smt. Roshan Ara Qureshi W/o Shri Abdul Saleem, aged about 61 years, R/o 207-G, G Sector, Shastri Nagar, Jodhpur, last employed on the post of TGT (Sc.) in Kendriya Vidyalaya No.2, Air Force, Jodhpur.

...Applicants

Mr. J.K. Mishra, Counsel for Applicants.

Versus

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1. Union of India through the Secretary to Government of India, Ministry of Human Resources Development (HRD), Shastri Bhawan, New Delhi-110001.
2. Kendriya Vidyalaya Sangathan (KVS) through the Commissioner, KVS, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110602.

...Respondents.

Mr. V.S. Gurjar, Counsel for Respondents.

ORDER

(Per V. Ajay Kumar, Judicial Member)

The applicants, who are five in number, filed the present O.A. under Section 19 of the Administrative Tribunals Act 1985 seeking the following reliefs:-

"8 (i) That the applicants may be permitted to peruse this joint application on behalf of five applicants under Rule 4(5) of CAT Procedure Rule 1987.

(ii) That the respondents may be directed to reconsider the case of applicant for switching over from CPF Scheme to Pension Scheme and grant another option for the same, accordingly. The applicants may be allowed all the consequential monetary benefits thereof.

(iii) That any other direction, or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iv) That the costs of this application may be awarded."

2. It is submitted that the applicants were the employees of Kendriya Vidyalaya Sangathan (for short KVS). The applicants No.1, 2, 3 and 5 retired from service on attaining the age of superannuation on 31.12.2009, 30.06.2011, 31.10.2010, and 31.10.2010 respectively. The fourth applicant took voluntary retirement w.e.f. 27.06.2006. In case of the said fourth applicant originally pension was granted wrongly, but the same was withdrawn and PPO was cancelled since he had opted for CPF Scheme.

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3. It is submitted that prior to 1986, in the respondent Kendriya Vidyalaya Sangathan (KVS), there were two Schemes in the matter of terminal benefits admissible to its employees. These were the General Provident Fund (GPF)-Cum-Pension Scheme and the Contributory Provident Fund (CPF) Scheme. Prior to 01.01.1986, the employee of the KVS had option either to be a Member of the CPF Scheme or the GPF-Cum-Pension Scheme. Under the CPF Scheme, the employees got the lump sum amount on retirement whereas in GPF-Cum-Pension Scheme, the employees get the GPF back and a monthly pension after retirement. Further the employees who joined the KVS after 01.01.1986, and those employees other than those who opted for CPF Scheme, were all to be governed by the GPF-Cum-Pension Scheme. Since, at the relevant point of time, the benefits under the CPF and GPF-Cum-Pension Scheme were almost equal, and, hence, the applicants have exercised their option in the year 1988 for CPF Scheme. Due to the subsequent changes such as the verdict of the Hon'ble Apex Court, and the recommendation of the Sixth Pay Commission etc., the optees of GPF-Cum-Pension Scheme got better benefits, and whereas the CPF optees were left with no great benefits. This has resulted in a lot of financial loss to the applicants and similarly situated CPF optees. The applicants submit that though there was no chance to change their option under the service condition, but in similar bodies like Council of Scientific and Industrial Research (CSIR) all the employees were given another opportunity during the year 1999 to switch over, if they choose, from CPF Scheme to GPF-Cum-Pension Scheme, but such similar opportunity was not

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provided to the applicants and similarly placed employees of KVS, and in the result they are losing lot of monetary benefits.

4. The applicants have submitted a number of representations to the respondents to provide them a chance/opportunity to switch over to GPF-Cum-Pension Scheme, but in vain, and hence they filed the present O.A.

5. The respondents have filed a detailed reply, in which they have stated that prior to 1986, the KVS employees had an option to be Member of CPF Scheme or GPF-Cum-Pension Scheme. All the employees, who joined the KVS on or after 01.01.1986 but before 01.01.2004, are governed under the GPF-Cum-Pension Scheme. The employees, who joined on or after 01.01.2004 are governed under New Pension Scheme. The KVS employees as on 01.01.1986, who were Members of CPF Scheme, were given an opportunity to exercise a fresh option to continue in the CPF Scheme, if they so desired, failing which they will be covered under GPF-Cum-Pension Scheme vide letter dated 01.09.1988.

6. In response to the said letter, the applicants, who were working in different Kendriya Vidyalayas under the jurisdiction of the Jaipur Regional Office, opted to continue in the existing CPF Scheme. It is further submitted that the claim of the applicants for pensionary benefits under CCS (Pension) Rules, 1972 is not sustainable for the reason that the Kendriya Vidyalaya Sangathan has allotted the CPF account numbers to the applicants and those employees who exercised their option to retain/continue under the

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CPF Scheme. The applicants after having exercised their option by submitting specific prescribed option form with the required details as per prescribed procedure before the date fixed in the year 1989, to continue under and retain the CPF Scheme, now cannot take a U-turn and seek another opportunity for switching over to GPF-Cum-Pension Scheme.

7. It is further submitted by the respondents that the O.A. is time barred and hence liable to be dismissed in limini. The applicants were given an opportunity to opt either for GPF-Cum-Pension Scheme or to continue in the CPF Scheme vide letter dated 01.09.1988. They have exercised an irrevocable option to continue in the CPF Scheme in response to the said letter, and in pursuance of the said option they have contributed to the CPF Scheme from their monthly salary, and finally the applicants No.1, 2, 3, 4 and 5 retired from service on 31.12.2009, 30.06.2011, 31.10.2010, 27.06.2006 and 31.10.2010 respectively. They have also received the benefits under the Scheme as part of their retirement benefits. Now, after the lapse of 22 years from the date of exercising option to continue in CPF Scheme, they have filed the present O.A. seeking to permit them to switch over to GPF-Cum-Pension Scheme, which is highly belated and barred by limitation.

8. It is not disputed by the applicants that when the respondents had given them an opportunity to switch over from CPF Scheme to GPF-Cum-Pension Scheme, they had voluntarily and irrevocably opted for the CPF Scheme. It is also not disputed that all these years the applicants were contributing from their

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salary to the CPF Scheme, and have received the benefits under the said Scheme on attaining the age of superannuation. In this view of the matter, the *lis* is barred by limitation and also by acquiescence.

9. The contention of the applicants that now only they have realized that GPF-Cum-Pension Scheme is more beneficial than the CPF Scheme cannot be considered as they have themselves voluntarily opted for the CPF Scheme 22 years back. Further, providing another opportunity to the employees of different autonomous bodies to switch over from CPF Scheme to GPF-Cum-Pension Scheme will not also help the case of the applicants, inasmuch as the service conditions of the applicants are governed by the Rules of the respondent, KVS only.

10. A learned Single Member of the CAT, Jaipur Bench, in O.A. No.478/2006, order dated 10.09.2007, had considered the similar issue in respect of the respondent KVS, and dismissed the said O.A. as being devoid of merits, following the judgment of the Hon'ble Apex Court in the case of Union of India & ors. Vs. Shankar, 2002 SCC (L&S) 1039.

11. For the aforesaid reasons and in the circumstances, we find no merit in the O.A. and the same is accordingly dismissed. No order as to costs.

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(V. AJAY KUMAR)
JUDICIAL MEMBER


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER