

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 457/2011

Thursday, this the 22nd day of March, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

Johnson P John,
PGT Physics, Kendriya Vidyalaya No.1,
Palakkad-678 009. - Party in Person

v.

1. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office IIT Campus,
Chennai-600 036.
2. The Principal, Kendriya Vidyalaya No.1,
Hemambikanagar, Palakkad-678 009.
3. The Commissioner,
Kendriya Vidyalaya Sangathan,
18 Institutional Area, Shaheed Jeet Singh Marg,
New Delhi.Respondents

(By Advocate M/s Iyer & Iyer)

This application having been finally heard on 22.03.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

The case is short and simple. The applicant joined the Respondents' organization in October, 1988. By that time, for the new entrants, it was only GPF Scheme with Pension Scheme that was available and the erstwhile CPF scheme was made available to those who were in service as on 01-09-1988 as an option. In fact, those who did not specifically opt for CPF were brought within the fold of GPF and Pension Scheme. Annexure A-6 order dated 01-09-1988

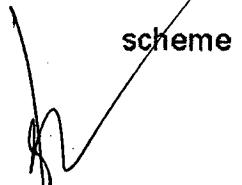
refers.

2. It appears by mistake, the respondents had brought the applicant under the fold of CPF instead of GPF and Pension Scheme and started recovering CPF and corresponding employers' contribution has also been credited in the CPF Account of the applicant. The amount in the CPF, especially of the employer's contribution has been in tact as the same cannot be withdrawn, save at the time of retirement. The applicant having come to know that the respondents have wrongly applied CPF scheme to the applicant, moved this OA praying for a direction to the respondents to restore the applicant to the GPF cum pension scheme immediately.

3. Respondents have contested the O.A. They have stated that when option was called for, the applicant had opted for CPF Scheme. Para 5 of the reply refers. They have contended that the Ministry of HRD had directed vide Annexure R-1 order dated 22-02-2006 that permission to switch over from CPF to GPF should not be given.

4. The applicant has furnished his rejoinder in which he has stated that the question of exercising of option does not arise in respect of those whose initial appointment is post 01-01-1986 and the applicant has been appointed only in October, 1988. By that time, order dated 01-09-1998 vide Annexure A-6 has come into force. He has also expressed that the Government order relied upon in the reply (Annexure R-1) is alien to his case.

5. Applicant in person argued the case and succinctly brought out the entire facts and contended that he cannot but be a subscriber to the GPF cum Pension scheme and CPF scheme is not applicable to him at all.



6. Counsel for the respondents submitted that the applicant has been brought under CPF as he had exercised his option.

7. Arguments were heard and documents perused. Though the respondents have contended that the applicant had opted for CPF, no such option stated to have been exercised has been produced, nor did the respondents give the details thereof. In fact, the question of asking for option from an employee whose induction in the service is posterior to 01-09-1988 does not arise at all. The reference vide Annexure R-1 relates to post 01-01-2004 entrants and not to the applicant. The applicant is thus right when he asserted that the said government order is alien to his case. Apparently, the respondents have by mistake applied the CPF Scheme to the applicant, whereas, the same was not holding the field at the time when the applicant was inducted into the service.

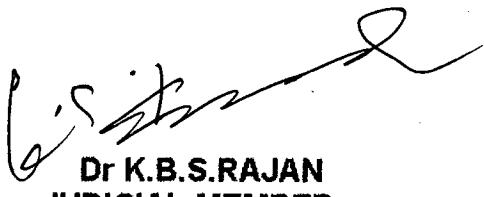
8. In view of the above, the OA **succeeds**. It is declared that the applicant is covered only by the GPF cum Pension Scheme. His CPF account shall be converted into G.P.F. Account and the extent of employer's contribution at the credit of the CPF account including the interest element for the said amount shall be deducted from the total credit balance reflected in the GPF account of the applicant. There shall be a pre-audit in this regard and statement of GPF account should be made available to the applicant. In the service Book/Personal file to the applicant the details of the applicant's entitlement to GPF and Pension Scheme shall be conspicuously reflected so that in future, no confusion shall arise. The applicant be informed of the action taken in this regard.

9. This order shall be complied with, within a period of six months from the date of communication of this order. However, the GPF subscription as per the

Rule shall be deducted from the salary of the applicant from the ensuing financial year, i.e. from the pay for the month of April, 2012 onwards.

10. Under the above circumstances, there shall be no orders as to cost.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER

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