

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 1449/2014

Hon'ble Shri Raj Vir Sharma, Member(J)

Pronounced on : 22.07.2016

1. Dr. C.P. Gupta (Sr. Citizen aged about 78 years)
S/o Sh. Kanhaiya Lal Gupta,
Retired Professor,
IIT Khagpur, West Bengal
R/o Flat No.35, Anamika Apartments,
Plot No.99, I.P. Extension, New Delhi-110092 ...Applicant

(By Advocate: Mr. N.S. Rana)

Versus

Union of India Through

1. The Secretary
Ministry of Human Resources Development,
Department of Education,
Govt. of India, New Delhi-110001
2. The Secretary
Ministry of Personnel
Public Grievances & Pension
(Department of Personnel & Training i.e. DoPT)
North Block, New Delhi-110001
3. Education Advisor (T)
Ministry of Human Resource Development
Department of Education
Govt. of India, New Delhi-110001
4. Director
Indian Institute of Technology (i.e. I.I.T)
Kharagpur, West Bengal (721302)
5. Registrar
Indian Institute of Technology (i.e. IIT)
Kharagpur,
West Bengal (721302) ... Respondents

(By Advocate: Mr. Rajinder Nischal)

Order

The applicant has filed the present O.A. seeking the following reliefs :-

“(i) Pass an order declaring to the effect that the whole action of the respondents not granting the pension to the applicant on the basis of option dated 29.9.1987 is illegal, arbitrary, against the rules and consequently pass an order directing the respondents to grant the service pension to the applicant as per pension scheme, after declaring order dt. 14.01.1988 is illegal and arbitrary order.

(ii) Order the respondents to grant pension to applicant right from 9.5.1986 (FN) as applicant had been permitted to retire voluntarily on 8.5.1986 (A.N.) by respondent No. 4&5, and the applicant had already offered finally on 29.9.1987 that he will refund Govt.’s contribution to his Provident Fund of Rs.54020.00 with due interest thereon.

(iii) Order the respondents to pay all arrears of pension from 09.5.1986, after applicant had submitted in April, 1986 his option for Pension Scheme for the first time.

(iv) May also order the respondents to pay compound interest @ 18% per annum on all his pension arrears from the date, pension was due every month, till the date respondents actually pay the pension to applicant, since applicant has been submitting numerous representations to grant him pension.

(v) Order the respondent to pay the costs of this litigation.

(vi) Any other relief which this Hon’ble Tribunal may consider fit and proper in the

circumstances of the case, in view of submissions above.

2. The brief facts of the case are that the applicant while working as Professor in IIT/Khargpur was permitted to retire voluntarily on 8.5.1966. He had joined service as Lecturer in that IIT on 8.2.1966, all the rules of Central Govt. are applicable to the employees of IIT. Applicant was earlier governed by contributory Provident Fund Scheme and had been paid Rs. 54020.00 as Govt. contribution to his Contributory Provident Fund in June, 1986.

3. As per provision of OM No. 4/1/87-PIC-I dated 01.05.1987, all the CPF beneficiaries who were in service on 1.1.1986 and retired thereafter could opt for Pension Scheme by 30.09.1987, if they agreed to refund the Govt. contribution.

4. The applicant had also accordingly opted for Pension Scheme on 29.09.1987, but the respondents No. 4&5 have illegally rejected this option as per impugned order dated 14.1.1988, though there are no rules or orders to reject a valid option for Pension Scheme and respondents have no authority for rejecting a valid option. Many representations and appeal to Ministry of HRD, Department of Education by applicant have borne out no fruit.

5. Respondents No.4&5 have filed their counter reply, in which they have admitted that the applicant was appointed as Professor on 24.08.1976. The application/option dated 13.04.86 was placed before the competent authority but his request was not considered as it was time-barred due to the fact that last date of submission of the option as per DOPT order dated 06.06.1985 was already over. The representation of the applicant dated 15.07.1986 was considered and was rejected by the competent authority. The relevant order of the Govt. of India dated 01.05.1987 for change over of the Central Government employees from the Contributory Provident Fund Scheme to Pension Scheme was implemented first for Group B, C & D employees (as on roll on 1.1.1986/still in service) of the Institute guided under CPF Scheme vide O.O. No. Estt/343/87 dated 14.09.1987 at the time of revision of their pay as per recommendation of 4th CPC and the last date of option was 31.10.1987 for Group 'A' officers & faculty members of the Institute and options were invited vide O.O. No. Estt/262/90 dated 06.07.1990 and the last date of submission of option was 30.09.1990. The relevant Govt. of India's order dated 01.05.1987 was widely circulated.

6. In the rejoinder, the applicant has stated that since it was the fault of respondents to not to have sent copy of this O.M. to

applicant, they had to condone the delay of about four months in submitting this option for pension on return of applicant from E.O.L. for secondment to AIT Bangkok as sanctioned in April, 1985.

7. Heard learned counsel for the parties and perused the records.

8. At the very outset, learned counsel for the respondents raised the issue of jurisdiction during his arguments he argued that IIT Kharagpur where applicant was serving is not within the jurisdiction of this Tribunal. Therefore, this OA deserves dismissal. In the reply, learned counsel for the applicant argued that after retirement applicant is residing at a place within the jurisdiction of this Tribunal. Therefore, this Tribunal has jurisdiction to decide this O.A. Since this is a preliminary point which is related to jurisdiction of this Tribunal, the order was reserved after hearing both the parties on this issue only.

9. The jurisdiction, powers and authority of the Central Administrative Tribunal are well defined under Section 14 of the Central Administrative Tribunals Act, 1985 which runs as follows :

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal.-

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority

exercisable immediately before that day by all courts(except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b)all service matters concerning-

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Government for such appointment. (Explanation - for the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.)

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government: Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations (or societies).

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation (or society), all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to-

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation (or society); and

(b) all service matters concerning a person (other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation (or society] and pertaining to the service of such person in connection with such affairs."

10. On September, 15, 1956, the Parliament of India passed an Act known as the Indian Institute of Technology (Kharagpur) Act declaring this Institute as an Institute of national importance. The Institute was also given the status of an autonomous University.

11. The Institute of Technology, Act, 1961 (Act 59 of 1961) was passed by the Legislature. Thereafter, the service conditions of the employees of the Institute and other matters pertaining to Institute are governed by the Provisions of this Act. Under the provisions of aforementioned section 14(2) of the Administrative Tribunals Act, 1985, the Govt. of India has notified 207 local or other authorities within the territory of India or under the control of the Government of India and corporations (or societies) owned or controlled by Government,

not being a local or other authority or corporation (or society) controlled or owned by the Government of India and subjected them to the jurisdiction of this Tribunal but Govt. of India has not issued such notification regarding the Institute of Technology (Kharagpur) under aforesaid provisions of the act. Therefore, this Tribunal has no jurisdiction to decide the matter pertaining to the employees of the aforementioned Institute. Consequently, this Tribunal has no jurisdiction to decide this OA and OA is liable to be dismissed. Accordingly this OA is dismissed. No costs.

(Raj Vir Sharma)
Member (J)

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