

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2562/2015
MA 2285/2015
MA 2286/2015

New Delhi, this the 8th day of December, 2016

**Hon'ble Mr. Justice M.S. Sullar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

1. Rajeev Shukla, (DANICS)
Aged about 42 years
S/o Shri T.N. Shukla
R/o 20, Delhi Govt. Officers Flat
Greater Kailash, Part-I
Delhi-110048
2. Richa, (DANICS)
Aged about 40 years
W/o Shri Prabhat Kumar
R/o 59, Delhi Govt. Officers Flat
Greater Kailash, Part-I
Delhi-110048
3. Ranjit Singh, (DANICS)
Aged about 42 years
S/o Late Shri Jiwan Singh
R/o 48, Delhi Govt. Officers Flat
Greater Kailash, Part-I
Delhi-110048
4. Hareesh HP, (DANICS)
Aged about 39 years
S/o Shri H. Puttaidh
R/o R-6, Type-4, Police Colony,
Vasant Vihar,
New Delhi-110057
5. Manoj Dwedi, (DANICS)
Aged about 40 years
S/o Shri M.P. Dwedi,
R/o 33/6, Rajpur Road,
Delhi-110054
6. Ashish Mohan, (DANICS)
Aged about 41 years
S/o Late Cdr. U.K. Bhardwaj
R/o 306, Block-II, DDA, HIG Flats

Motia Khan, Delhi

....Applicants

(Through Shri M.K. Bhardwaj, Advocate)

Versus

UOI & ors. Through:

1. Union of India
Through its Secretary
Ministry of Home Affairs, North Block
New Delhi-110011
2. The Joint Secretary (UT)
Ministry of Home Affairs, North Block
New Delhi-110011
3. Govt. of NCT of Delhi
Through its Chief Secretary
New Secretariat, I.P. Estate,
New Delhi

... Respondents

(Through Shri R.N. Singh, Advocate)

ORDER (Oral)

Mr. P.K. Basu, Member (A)

The applicants in this case, all appeared for the Civil Services Examination, 2002 and were selected in Delhi, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli Civil Services (DANICS). They were issued offer of appointment on 4.12.2003 and 27.01.2004. They joined on 1.01.2004 (applicants no.1 and 3) and on 9.02.2004 (applicants no.2, 4, 5 and 6).

2. The applicants grievance is that they are being treated under the new pension scheme on the ground that they joined service on 1.01.2004 and 9.02.2004 and the new pension scheme became effective from 1.01.2004. Their claim is that as

they were selectee of 2003 batch i.e. before 1.01.2004, they should be granted pension under the old Pension Scheme. They have relied on a judgment of the Hon'ble High Court in W.P. (C) 3834/2013, **Parma Nand Yadav and ors. Vs. Union of India and ors.**, in which case also letters of appointment were delayed by three months and were issued in December, 2003, as a result of which they were being deprived of the old Pension Scheme. The Writ was allowed directing the respondents to treat the petitioners therein under the old Pension Scheme. Reliance is also placed on the order of this Tribunal in OA 1624/2015, **Pankaj Kumar Singh Vs. Union of India and others**. Again in this case, the applicant's appointment letter was delayed because of delay in receiving report of the District Collector regarding verification of character and antecedents and the Tribunal allowed the OA directing the respondents to treat the applicant as beneficiary of Old Pension Scheme.

3. Learned counsel for the applicant further pointed out that in the letter dated 22.01.2004 issued to applicant no.2, clause (v) reads as follows:

"(v) you will be required to contribute to the General Provident Fund compulsorily from the date of your appointment at such minimum rates and on such terms as may be prescribed by the Central Government from time to time."

It is argued that this also shows that the applicants were to be treated under the Old Pension Scheme (GPF) and not the New Pension Scheme based on Contributory Provident Fund (CPF).

4. Learned counsel for the applicants further relied upon the order in OA 3924/2013 decided on 20.01.2015 and order in OA 3747/2013 decided on 22.09.2014, wherein, for similar delay in issuance of appointment letters, the Tribunal held that the appointees should be treated belonging to same year for which their batch mates have been treated.

5. Learned counsel for the respondents stated that the New Pension Scheme has become effective from 1.01.2004. Admittedly, the applicants have joined on or after that and, therefore, they cannot be granted benefit of the Old Pension Scheme and would be governed by New Pension Scheme.

6. We have heard the learned counsel for the parties, gone through the pleadings available on record and perused the orders/judgments cited.

7. We have no doubt in our minds that various orders/judgments cited by the applicants have clearly settled the principle that in case the joining of the applicants beyond 1.01.2004 is on account of appointment letters being delayed by the respondents, the applicants should not be made to suffer and they should be considered along with their batch mates for pensionary benefits. In this case, all the applicants were treated belonging to 2003 batch, i.e. before 1.01.2004. The respondents delayed in issuing appointment letters; as a result, the applicants could not join before 1.01.2004. Thus, they are eligible to the benefits of the orders/judgments cited.

8. In view of the above discussion, the OA is allowed and the respondents are directed to treat the applicants as entitled to the Old Pension Scheme. Necessary orders in this regard would be issued by the respondents within a period of sixty days from the date of receipt of a certified copy of this order. No costs.

(P.K. Basu)
Member (A)

(Justice M.S. Sullar)
Member (J)

/dkm/