

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.1807/2014

Tuesday, this the 6th December 2016

Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. Mohd. Fazil
N-163, 3rd Floor
Abul Fazal Enclave
Jamia Nagar, New Delhi

..Applicant

(Mr. Rajesh Srivastava, Advocate)

Versus

1. Union of India
Ministry of Health & Family Welfare
Govt. of India (Department of Ayush)
Ayush Bhawan
GPO Complex, B Block
INA, New Delhi – 23
(through its Secretary)

2.. Central Council for Research of Unani Medicine
(Department of Ayush)
Ministry of Health & Family Welfare
Govt. of India
61-65, Institutional Area, Opp. D Block
Janakpuri, New Delhi – 58
(through its Director General)

..Respondents

(Mr. Hilal Haider, Advocate for respondent No.1 –
Nemo for respondent No.2)

O R D E R (ORAL)

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following specific reliefs:

- “a. Set aside the order dated 22.04.2014;
- b. Direct the respondents to continue to deduct the GPF contribution from the salary of the applicant and to deposit the same in his GPF account no.752; and
- c. Direct the respondents to deposit the amount already deducted from the salary of the applicant in the GPF account.”

2. The brief facts of the case are that the applicant joined the Central Council for Research of Unani Medicine – respondent No.1 as an Assistant Research Officer on 26.07.1996 initially on *ad hoc* basis. His services were regularized on 03.02.2004. His grievance is that he is entitled for the Pension-cum-DCR Gratuity Scheme whereas respondent No.2 vide Annexure-A order dated 22.04.2014 has intimated that the applicant is covered under the New Pension Scheme (NPS).

3. Pursuant to the notice, only respondent No.2 has filed the reply. However, respondent No.1 did not choose to file any reply, *albeit* it has been represented by Mr. Hilal Haider, learned counsel.

4. It is seen from the Annexure R-1 Advertisement dated 2-8.03.1996, pursuant to which the applicant participated in the selection process and got selected as a Research Officer, that the benefit of pension-cum-DCR Gratuity Scheme was applicable to the selected candidates. Learned counsel for applicant submitted that in the body of the impugned Annexure-A communication itself, it could be seen that he was allotted GPF account number, which would indicate that he was also covered under the old Pension Scheme. In this connection, he also drew my attention to the Annexure-F order dated 21.05.1998 in which he, in fact, has been allotted account No.752.

5. In the reply filed on behalf of respondent No.2, in reply to paragraph 4.2 of the O.A., it is submitted that “it is wrong and denied that it was mentioned in the advertisement (Annexure-B to OA) that the benefit of pension-cum-DCR Gratuity scheme alongwith GPF will be available for the selected candidates”. This averment of respondent No.2 is belied by just

looking at the Advertisement (Annexure R-1) where it is clearly mentioned that “persons already employed in service must submit their applications through proper channel. The benefit of pension-cum-DCR Gratuity Scheme is available”.

6. Learned counsel for applicant also brought to my notice an order passed by the Lucknow Bench of this Tribunal in **Rafat Khanam v. Union of India & others** (O.A.No.548/2014) dated 05.02.2016 wherein an identically placed applicant was granted the same relief, as has been prayed for by the applicant in the instant case. I have perused the said order of the coordinate Bench.

7. In view of the terms of service notified in the Advertisement, as mentioned in paragraph 5 above, I am fully convinced that the applicant is entitled for the grant of the prayers made in the O.A., which gets further fortified by similar view taken by the Lucknow Bench of the Tribunal (supra).

8. In the conspectus of the discussion in the foregoing paragraphs, the O.A. is allowed. Respondent No.2 is directed to pass a specific order granting the benefits of pension-cum-DCR Gratuity Scheme along with GPF to the applicant from the date of his eligibility, within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

(K.N. Shrivastava)
Member (A)

December 6, 2016
/sunil/