

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.3832/2015

Order reserved on 24th April 2017

Order pronounced 1st May, 2017

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

Anis Ahamed (Age 56 years) Principal
Govt. Boys Sr. Secondary School
R.K. Puram, New Delhi - 22

..Applicant

(Mr. Arman Roop Sharma, Advocate)

Versus

1. Govt. NCT of Delhi
Through its Secretary (Education)
Old Secretariat, Delhi
2. Kendriya Vidyalaya Sangathan (HQ)
Through Commissioner
18, Institutional Area
Shaheed Jeet Singh Marg, New Delhi – 16
3. Kendriya Vidyalaya
The Principal
Paluwas, Bhiwani, Haryana – 127021
4. Kendriya Vidyalaya Sangathan
Regional Office
SCO-72-73, Sector 31-A
Chandigarh – 160030
5. Kendriya Vidyalaya Sangathan
KVS, Regional Office
KV 2 Campus
Kanganpur Road, Sirsa
Distt. Sirsa – 15053
6. Directorate of Education
Through Assistant Director of Education (GOC Cell)
GNCTD, Old Secretariat
New Delhi – 54
7. K.V.A.F.S.
Sector 14
Gurgaon, Haryana – 122 001

..Respondents

(Mr. K M Singh, Advocate for respondent Nos. 1 & 6 –
Mr. U N Singh, Advocate for respondent Nos. 2 to 5 & 7)

O R D E R

Through the medium of this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 prayed for the following main reliefs:-

- “i. To remit the Pro-rata Pensionary Benefits for all pending years i.e 22 years for the period 29.08.1985 to 24.07.2007 for the petitioner has served in his tenure.
- ii. To transfer of service and the CPF Account No.2766 to the present authority i.e. with Respondent no.6;
- iii. To count past service rendered in Respondent no.3 by the petitioner;
- iv. To handover the cheque in favour of the petitioner.”

2. The applicant joined as a Trained Graduate Teacher (TGT) in Kendirya Vidyalaya Sangathan (KVS) on 29.08.1985. Later on, he was appointed as Post Graduate Teacher (PGT) (Chemistry) on 28.08.1985 in the same organization. He worked as PGT (Chemistry) till 24.07.2007. He participated in the selection process for selection to the post of Principal in Government Senior Secondary School under Directorate of Education, Govt. of NCT of Delhi (respondent No.6). The selection was done through Union Public Service Commission (UPSC). The applicant was selected to the post of Principal on 22.12.2006. Pursuant to the selection, he was relieved from KVS on 24.04.2007 and he joined as Principal, Government of Senior Secondary School, R K Puram under respondent No.6 on 25.07.2007. Since the issue of sharing of retiral benefits between his earlier employer, i.e., KVS and the present employer, i.e., Directorate of Education, Govt. of NCT of Delhi has not yet been settled, he has approached the Tribunal in the instant O.A. praying for the reliefs mentioned at paragraph (1) above.

3. Learned counsel for applicant submitted that the KVS vide Annexure P-5 letter dated 06.07.2012 has already written to respondent No.6 stating therein that KVS has no objection to remit the pro-rata pension liability in respect of the applicant but for doing so, KVS requires a formal letter from respondent No.6 as also the name of the authority to whom the cheque/Demand Draft could be sent. He further submits that in reply to Annexure P-5 letter of KVS, on behalf of respondent No.6, it has already been intimated to KVS vide letter dated 24.08.2012 (page 15 of the paper book) that the services rendered by the applicant in KVS will be counted for his pensionary benefits and that the pro-rata share of KVS in his retiral benefits should be remitted in favour of PAO-II, R K Puram, New Delhi.

4. Learned counsel for applicant concluded his arguments by stating that due to inordinate delay taking place in settling the matter between the KVS and the Directorate of Education, Govt. of NCT of Delhi, the applicant has been made to suffer and as such the reliefs prayed for in the O.A. may be granted.

5. Learned counsel for KVS (respondent Nos. 2 to 5 & 7) submitted that the KVS has already intimated to the Director of Education that it is ready to share the pro-rata liability towards the pensionary benefits of the applicant, vis-à-vis, the period of service rendered by the applicant in KVS. He, however, argued that since the requisite information has not been forthcoming from respondent No.6 as well as the applicant, the KVS has not been able to act in the matter.

6. Learned counsel for respondent Nos. 1 & 6 submitted that the Directorate of Education, Govt. of NCT of Delhi has already written to the

KVS vide letter dated 24.08.2012 in the matter and there has been no response from the KVS.

7. I have carefully considered the rival contentions of the parties and perused the material placed on record.

8. There is no dispute with regard to the fact that the period of service rendered by the applicant in KVS is to be counted for grant of pensionary benefits and that the liability accruing on account of it, is to be shared between KVS and the Directorate of Education, Govt. of NCT of Delhi on pro-rata basis, vis-à-vis, the periods of service rendered by the applicant in these two organizations. Both the organizations, i.e., KVS and the Directorate of Education, have agreed to do so. From the records, it is quite clear that the Directorate of Education, Govt. of NCT of Delhi has only intimated the name of authority (PAO-II, R K Puram, New Delhi) to whom the pro-rata contribution from KVS is required to be remitted in respect of the applicant, but no intimation has been sent by the Directorate of Education, Govt. of NCT of Delhi as to the monthly quantum of such contribution.

9. The other issue contended by KVS is that neither the applicant nor respondent No.6 has intimated to it about the CPF account number of the applicant. In this regard, it is to be noted that the applicant was assigned a CPF account while he was in the service of KVS. Needless to say that the same CPF account would hold good even for the service rendered by the applicant under respondent No.6 and the same must be available in the records of KVS. Be that as it may, the applicant has also indicated in the body of the O.A. that his CPF account number is 2766. It would be

appropriate that applicant informs his CPF account number to both KVS and Directorate of Education, Govt. of NCT of Delhi once again. After the applicant has joined under respondent No.6, his contribution as well as equal contribution from respondent No.6 is being regularly credited to his CPF account. Learned counsel for applicant and learned counsel for respondent Nos. 1 & 6 confirm it.

10. In terms of the directions of the Tribunal dated 01.02.2017, learned counsel for respondent Nos. 2 to 5 & 7 produced a photocopy of KVS Form CAM – 47 CPF Ledger Card of the applicant. This Ledger Card indicates that monthly contributions of KVS and that of the applicant to the CPF account of the applicant have been regularly credited. I also take note of the fact that the CPF accounts of all Central Government employees are maintained by the Central Provident Fund Commissioner. As a matter of fact, an employer, not crediting such contributions to the CPF account of the concerned employee, would be liable for legal prosecution under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, and thus no employer could ever dare acting against such a statutory requirement. The monthly contributions credited to employee's account can, now-a-days, be viewed by the concerned employee online.

11. In this view of the matter, I am convinced that KVS has credited requisite employee and employer contributions to the CPF Account No.2766 of the applicant regularly. Further, the new employer, namely, respondent No.6 has also credited such contributions to the said CPF account of the applicant every month after he joined as Principal, Government of Senior Secondary School, R K Puram under respondent

No.6 on 25.07.2007. It is quite understandable that the CPF contributions made by the earlier employer (KVS) and the present employer (Directorate of Education) could be released to the applicant only after his retirement. The applicant is still in service and hence the question of release of the CPF amount at this stage simply does not arise. As regards the release of gratuity and leave encashment by KVS for the period when the applicant was working under KVS, the KVS is obliged to release such payments to the applicant since he is no more in the service of KVS.

12. In the conspectus of the discussions in the pre-paragraphs, I dispose of this O.A. with the following directions:

Respondent Nos.2 to 5 & 7 (KVS) are directed to release all dues in regard to gratuity and leave encashment to the applicant pertaining to the period when he was serving under KVS, i.e., from 29.08.1985 to 24.07.2007. They are also directed to send a formal letter to respondent No.6 (Directorate of Education), under intimation to the applicant, that CPF contributions have been remitted to his CPF account for the entire period of service rendered by him under KVS. This shall be done by the said respondents 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)

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