

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

O.A.No.4579/2015

Wednesday, this the 6<sup>th</sup> day of December 2017

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

D K Gupta, age 56 years  
s/o Sh. G L Gupta  
working as Principal in KVS  
presently posted in Kendriya Vidyalaya No.1  
Surat (Gujrat)  
r/o Principal Bungalow, Kendriya Vidyalaya No.1  
Surat (Gujrat)

..Applicant

(Mr. Yogesh Sharma, Advocate)

Versus

1. Union of India through the Secretary  
Ministry of Human Resources Development  
Shastri Bhawan, New Delhi
2. The Secretary  
Ministry of Finance, Department of Expenditure  
Govt. of India, North Block, New Delhi
3. Kendriya Vidyalaya Sangathan  
Through the Commissioner  
18, Institutional Area, Shaheed Jeet Singh Marg  
New Delhi
4. The Finance Officer  
Kendriya Vidyalaya Sangathan  
18, Institutional Area, Shaheed Jeet Singh Marg  
New Delhi

..Respondents

(Mr. Hanu Bhasker, Advocate for respondent Nos. 1 & 2 –  
Mr. S Rajappa, Advocate for respondent Nos. 3 & 4)

## **O R D E R (ORAL)**

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

“(i) That the Hon’ble Tribunal may further graciously be pleased to pass an order of quashing the impugned order dated 07.10.2015 (A/1) & order dated 07.04.2015 declaring to the effect that the whole action of the respondents applying the CPF Scheme on the applicant on his fresh appointment as Principal in the year 2003 as void-ab-initio as in the year 2003 CPF Scheme was not in operation for fresh appointment and consequently, pass an order directing the respondents to treat the applicant as governed by GPF cum pension scheme from the date of fresh appointment to the post of Principal with all consequential benefits, by way of extending the benefit of Hon’ble Tribunal, Principal Bench judgment dated 25.3.2014 in OA No.1027/2014 and in OA No.1039/2014 (Annex.A/2).”

2. The factual matrix of the case, as noticed from the records, is as under:-

2.1 The applicant joined Kendriya Vidyalaya Sangathan (KVS) – respondent organization on 20.08.1985 as Post Graduate Teacher (Commerce) (for short ‘PGT (C)’). He was subsequently appointed as Principal on direct recruitment basis w.e.f. 27.09.2003.

2.2 In the year 1985, the Central Government called upon all its servants to indicate their option as to whether they would like to come under the Pension Scheme or would like to continue under the prevailing Contributory Provident Fund (CPF) Scheme, in the backdrop of the recommendations of 4<sup>th</sup> CPC to implement GPF–cum–Pension Scheme in respect of all the Central Government employees w.e.f. 01.01.1986. The Central Government had also made it clear that all government servants appointed on or after 01.01.1986 would compulsorily be covered under the GPF–cum–Pension Scheme (O.M. dated 01.05.1987 – Annexure A-9).

The contention of the applicant is that he was appointed to the post of Principal, as a direct recruit, after 01.01.1986 and hence he automatically gets covered under GPF–cum–Pension Scheme.

2.3 Since his request for covering him under the GPF–cum–Pension Scheme was not being considered by the respondents, the applicant approached this Bench of the Tribunal in O.A. No.2502/2015, which was disposed of vide order dated 15.07.2015 at the admission stage itself with the following directions:-

“4. In our view, considering the submissions made by the learned counsel for the applicant and the documents available on record, this O.A can be disposed of at the admission stage itself. Accordingly, we direct the respondents to consider the case of the applicant in this OA in the light of the aforesaid order of Ernakulam Bench of the Tribunal as upheld by the Hon’ble High Court of Kerala at Ernakulam. They shall also convey the decision taken in the matter to the applicant within a period of two months from the date of receipt of a copy of this order.”

2.4 In obedience of the *ibid* directions of the Tribunal, the respondents, vide Annexure A-1 memorandum dated 07.10.2015, rejected the claim of the applicant for covering him under GPF–cum–Pension Scheme. The operative part of the memorandum reads as under:-

“Now, therefore, it is hereby ordered that Sri D K Gupta, Principal will continue to be covered under CPF Scheme only and his request for conversion from CPF to GPF – cum – Pension Scheme cannot be acceded to and that the decisions relied upon and referred to by him will not apply to his case and therefore, he cannot get the benefit of conversion from CPF to GPF at this point of time.”

Aggrieved by the impugned Annexure A-1 memorandum of the respondent-KVS, the applicant has filed the instant O.A. praying for the reliefs as indicated in paragraph (1) above.

3. When the case was taken up for hearing the arguments of learned counsel for the parties, learned counsel for the parties were *ad idem* that given the facts of this case, it is squarely covered by the judgment of this Tribunal in **Hoshiar Singh v. Union of India & others** (O.A.. No.3112/2013) decided on 19.09.2016. Relevant portion of the said judgment reads as under:-

“10. In view of the discussions in the foregoing paras and for the reasons given therein, the OA is allowed. The respondents are directed to extend the benefits of the Pension Scheme to the applicant considering his appointment as Principal on direct recruitment basis w.e.f. 14.08.2002. This shall be done within a period of three months from the date of receipt of a certified copy of this order. It is also made clear that the applicant shall not be entitled to any interest on the arrears of the pension payable to him.”

4. In view of fact that the instant O.A. is squarely covered by the aforesaid decision, the O.A. is disposed of in terms of judgment of this Tribunal in **Hoshiar Singh's** case (supra). No order as to costs.

**( K.N. Shrivastava )**  
**Member (A)**

**December 6, 2017**  
/sunil/