

**Central Administrative Tribunal
Principal Bench**

OA No. 1158/2013

Order reserved on: 06.09.2018
Order pronounced on : 19.09.2018

Hon'ble Mr. Pradeep Kumar, Member (A)

Dilshad Kumar
S/o Sh. Narayan Das Khatri,
Cond. No.21327, P.T.No.47248,
Dilshad Garden Depot,
New Delhi.

... Applicant

(By Advocate: Sh. Fidel Sebastian)

Versus

Delhi Transport Corporation,
Through its Chairman cum Managing Director,
IP Estate,
New Delhi-110002.

... Respondents

(By Advocate: Sh. Jatin Prashar for Sh. Ajesh Luthra)

ORDER

The applicant had joined Delhi Transport Corporation (DTC) as a Conductor on 16.08.1984. The services of the applicant were dismissed on 17.03.1988. Thereafter following certain adjudication by the Industrial Tribunal, the applicant was re-employed on 09.05.2011. The DTC had an Employees Contributory Provident Fund Scheme (ECPF Scheme) in force at the time the applicant was dismissed. Thereafter, a new Scheme, namely, DTC Pension

Scheme was launched on 23.11.1992 and an option was given to the existing employees to opt for the same. The existing employees were given the option to either choose the earlier ECPF Scheme or the new DTC Pension Scheme. However, the DTC Pension Scheme was also available only up to the year 1995 when the same was stopped.

2. The grievance of the applicant is that he could not exercise the option for DTC Pension Scheme while the same was in force as he remained dismissed at the relevant point of time. Through the instant OA, the applicant has pleaded that he should be covered under the DTC Pension Scheme. In support thereof, the applicant pleaded that his contributions to ECPF Scheme was stopped w.e.f. July 2012 and accordingly he ought to have been covered under the DTC Pension Scheme only.

3. The respondents brought out that the DTC Pension Scheme was brought out in the year 1992 and that the option could be exercised by the existing employees and since the applicant was not in service, no such opportunity could be given to the applicant to exercise this option belatedly. Moreover, the said DTC Pension Scheme itself could not be opted after 1995, the same having been withdrawn. Further the applicant had himself also taken 90% withdrawal from the CPF in January 2018 before his retirement and having done so it cannot be permitted that he should be allowed to

be part of the DTC Pension Scheme. The respondents further brought out that as per the rules under DTC Pension Scheme, the contributions to the ECPF Scheme were required to be retained by the department. This condition also being not fulfilled, applicant is not eligible for DTC Pension Scheme.

4. The applicant further drew attention to a decision by the Tribunal in OA No.949/2015 decided on 08.05.2018 wherein the benefit has been extended.

5. The respondents also referred a judgment in OA no.4060/2010 delivered on 12.08.2011 by the Tribunal wherein under similar circumstances when an employee did not opt for DTC Pension Scheme it was pleaded that he should be deemed to have exercised the option. However, the plea was not accepted by the Tribunal. In view of the foregoing, the respondents pleaded that the applicant cannot be covered under the DTC Pension Scheme.

6. The matter was heard at length. In the instant case, it is admitted that the employee had remained under dismissal from service from 17.03.1988 to 09.05.2011. In between this period, a new Pension Scheme came into effect wherein options were sought from the existing employees. However, this new Pension Scheme came to a close in the year 1995 and thus it was no more available even to the existing employees unless they had already opted for the same. Further, the EPF Contribution was also withdrawn by the

applicant himself before his retirement. The circumstances of OA No.949/2015 are different and no parallel can be drawn.

7. In view of this, the plea of the applicant cannot be accepted. Applicant cannot be covered under DTC Pension Scheme. The OA is dismissed being devoid of merit. No costs.

(Pradeep Kumar)
Member (A)

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