

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1678/2017

New Delhi this the 26th day of July, 2018

HON'BLE MR. PRADEEP KUMAR , MEMBER (A)

1. Sh. Jagpal Singh,
Ex. Traffic Supervisor, Group-C
Delhi Transport Corporation, GNCTD
S/o Sh. Narpat Singh, Aged 63 yrs.
R/o D-133, Gali No. 8, Rajiv Nagar,
Bhopura (DLF), Ghaziabad. -Applicant

(By Advocate: Dr. N. Gautam with Ms. Swati Gatutam)

Versus

1. Chairman cum-MD Delhi Transport Corporation,
(Government of NCT of Delhi, DTC Hqrs., I.P Estate
New Delhi -110002. -Respondent

(By Advocate: Ms. Mona Singh for Ms. Ruchitra Gupta)

ORDER (ORAL)

Heard the case of the applicant through his counsel as well as the case of the respondents through proxy counsel, who had given pleadings in the matter.

2. The facts of this case are that the applicant was appointed by Delhi Transport Corporation as Conductor on 15.09.1975 and was confirmed in the year 1978. He was retired on 31.01.2014 while working as Traffic Supervisor (after about 37 years of service). Originally, the applicant was entitled for CPF Scheme as per rules prior to the year 1992. Thereafter, the Government came with a new

Welfare Scheme in the year 1992 and employees were to exercise option to choose, with the provisions that all employees will be covered by the new Pension Scheme unless they opted out of the same and gave positive application for continuing with the earlier CPF Scheme.

3. The case of the applicant is that he has not opted out of the new pension scheme. However, still the department treated him to be covered by the earlier CPF scheme and at the time of retirement, he was settled with the earlier CPF Scheme. His grievance is that he ought to have been settled under the new pension scheme.

4. The learned counsel for the respondents brought out that there had been certain confusion and several errors in various communications and doubts had arisen about several employees, as to whether they are covered by CPF Scheme or the new Pension Scheme. In support thereof, learned counsel drew attention to the minutes of the relevant meeting which took place on 02.09.2014, wherein the case of the applicant Shri Jag Pal Singh, Ex. T.I. was also discussed as item No. 3 thereof, as under:-

**"1. Shri Jagpal Singh, Ex. T.I., T. No. 16227,
S.N.P. Depot**

The above ex-employee retired from the services of the Corporation on 31.1.2014. His case was received

in this office from SNPD for placing the same in Dispute Settlement Committee,. On scrutiny of the pension file, it has come to notice that the name of Shri Jagpal Singh, Ex. T.I, T. No. 16227, SNPD has not appeared in the Computerized List of Pension Opted Employees. On the first page of his service Book, the word 'Not' in the stamp of "Pension Not Opted" shown cutting with the Pen and a fresh unsigned stamp of 'Pension Opted' shown just above the stamp of Pension Not Opted. The nomenclature 'N' has been shown in his Pay Slip since 2000. In addition, the pension opted list which was prepared in the year 1993, the name of nominee has been written by SNPD in the year 2002. In the above Pension Opted list, the name & T. No. of the employee has not been mentioned against his B. No. 9989 after S. No.18 In this regard, Depot Manager, SNPD informed that the record of ex-employee was sent to DM, Dilshad Garden Depot for clarification. DM, DGD informed that the record was not available with the Depot Authority when the list was prepared and forwarded to Pension Cell, as such, the name and T.No. of the ex. Employee was not mentioned in the list and specifically mentioned as "S. Record not received". As no Option Form / proof for exercising any option is available in his Personal File according O.O. No. 16, he has to be treated as deemed to have pension opted. Moreover, the person who was the custodian/ maintained the Service Book has already been retired from the services of the Corporation from Yamuna Vihar Depot.

The ex.employee has requested during his service tenure that the nomenclature 'S' may be mentioned in his Pay Slip instead of 'N' nomenclature as he was not filled any, option form.

During the meeting Depot Authority submitted that the employee now has been retired on 31.1.2014 and the retirement memo of the employee was issued to the employee concerned treating him as 'Not Opted DTC Pension Scheme.' Also, his retirement dues i.e gratuity , both CPF share etc have already been released treated him as Not Opted DTC Pension Scheme' After detailed discussion, the Committee decided that as the name of the employee is not available in the computerised / manual lists of Pension Optees, nomenclature 'N' is shown in his Pay Slip, which means the employee is not a member of the DTC Pension Scheme, his

employee share towards CPF is not available with the Pension Trust and the Depot Authority already released his retirement dues treated him as 'Not Opted for DTC Pension Scheme, Shri Jagpal Singh, Ex. T.I., T. No. 16227 of SNPD is not entitled for DTC Penionary benefit.

After detailed discussion, the members of the Trust approved the above recommendation of the Dispute Settlement Committee."

5. Learned counsel for the respondents also drew attention to the pay slips of the employee of January & February of 2000, as well as those of March and April 2000, which were all part of the record. It was brought out that the two pay slips of January and February of 2000, indicate letter 'S' in third row. The learned counsel for respondents also mentioned that letter 'S' has been indicated for the applicant in all pay slips from year 1992 to Feb.-2000.

Learned counsel for the respondents specifically advised that the letter 'N' indicates 'Pension Not Opted' and the letter 'S' indicates 'Opted for Pension'.

Thus, on the basis of those two payslips, the applicant is taken to have "Opted for Pension".

6. The two pay slips of March-2000 and April-2000 indicate letter 'N' in place of 'S'. However, the respondents are unable to show any exercise of option by the applicant warranting this change from 'S' to 'N'.

7. The respondents also mentioned that Rs.756/- deduction made in Sl No.41 of pay slip, in row -8 thereof, was not being credited to Pension Cell but was being credited to the earlier CPF Cell and thus respondents claimed that applicant was covered by earlier CPF Scheme. The respondents, however, were unable to give any answer as to how will an employee have any control whatsoever on where the said deducted amount is being credited by the Department.

8. On perusal of the service book which is also part of record and information mentioned about earlier pay slips, it is seen that one stamp is pasted indicating "PENSION OPTED" twice and "PENSION NOT OPTED" once (but in this one stamp word 'NOT' is smudged in ink). Respondents pleaded that this was one of the reason leading to confusion referred in para 4 above for which committees were formed to decide.

9. The respondents also mentioned the applicant agreed to take all settlement dues, as per earlier CPF scheme, without any protest.

This plea, however, cannot be sustained in view of specific observation "the ex-employee has requested during his service tenure that the nomenclature 'S' may be mentioned in his Pay Slip instead of 'N' nomenclature as he

was not filled any, option form.", recorded by the departmental committee referred in para 4.0 above.

10. It is clear that there was no option exercised by applicant to opt out of earlier CPF Scheme. He was treated as someone who is covered by new Pension scheme upto Feb-2000 as per pay slips. The confusion and error by Department, cannot be to the detriment of an employee. Moreover, new Pension scheme was a welfare measure and unless the employee opts out of the same the applicant needs to be given this benefit.

11. In view of the above, the OA is disposed of with a direction to the respondent that applicant be treated as an employee covered by new Pension scheme for which option was given in 1992, and his case be settled accordingly.

In the flow of these directions, whatever payment the applicant may have received as per earlier CPF scheme, shall be refunded to the respondent and applicant's case shall be settled as per new Pension Rules accordingly. No costs.

**(Pradeep Kumar)
Member (A)**

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