

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.879 of 2013

Reserved on : 24.10.2018

Order pronounced on : 25. 10.2018

Between:

D. Janardhan Rao, S/o. (late) D.A. Padmanabha Rao,
Aged 61 years, Retired Head Accounts & Internal Financial Adviser,
National Remote Sensing Centre,
R/o. H. No. 12-2-417/5, Saradanagar,
Hyderabad – 500 006.

... Applicant

And

1. National Remote Sensing Centre,
Department of Space, Govt. of India,
Represented by its Director, Balanagar,
Hyderabad – 500 625.
2. The Government of India,
The Department of Space, Rep. by its Secretary,
Antariksh Bhavan, New BEL Road, Bangalore – 560 231.
3. National Remote Sensing Centre,
The Department of Space, Govt. of India,
Represented by its Head,
Personnel & General Administration,
Balanagar, Hyderabad – 500 625.

... Respondents

Counsel for the Applicant	...	Mr. P.V. Ramana
Counsel for the Respondents	...	Mr.V. Vinod Kumar, Sr. CGSC

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OA is filed against lr dt 23.12.2011 issued by the 3rd respondent rejecting the request of the applicant to switch over from contributory provident fund (CPF) to GPF/Pension scheme consequent upon conversion of the National

Remote Sensing Agency (NRSA), hitherto a autonomous body into a Government organisation.

2. The facts of the case are that the applicant worked for NRSA and retired on 31.10.2011 as Head Accounts and Internal Financial Advisor. NRSA was constituted as a society under Societies Registration Act working under the control of Dept. of space and following Govt. of India Rules. Initially it did not have pension scheme but had a Contributory provident fund scheme (CPF) run by a trust with contribution from the employees and a matching contribution being made to the said fund by the employer. Death cum Retirement gratuity Scheme was also introduced by creating a fund to meet the liability at the time of death/retirement. On 1.10.1986 NRSA introduced the Pension scheme which was regulated by the CCS (Pension) Rules, 1972. The Governing body of the society assured to provide the grant in aid to NRSA in 2005 to pay salary and pensions to its employees. NRSA was converted into a Government entity on 1.9.2008 adopting service conditions similar to Indian Space Research Organisation (ISRO) and Dept. of Space (D.O.S). The employees were given option to opt for Govt. Service or be with the society. Applicant has adopted for Govt. Service under G.O.I and an appointment order dt 28.8.2008 was issued. On becoming a Govt. Servant the applicant represented to switch over to GPF cum pension scheme on 17.3.2011, 2.11.2007 & 23.11.2007 which were rejected and hence the O.A. The applicant has also moved an M.A pointing out that the Honourable High Court of Gujarat has passed a judgment in Special Civil Application No.15472/2010 which is in favour of the applicant on grounds of discriminating the administrative staff of Physical Research Laboratory vis a vis scientific and technical staff by giving the later 3 additional options in 1993, 1997 & 2008 to opt for the pension scheme.

3. The contention of the applicant is that on conversion of NRSA into a Govt. Body he is governed by the CCS Pension Rules 1972 and even earlier to conversion NRSA was following CCS Pension Rules 1972. Hence his pension should be regulated under the said Rules. Services rendered prior to conversion are to be counted as per O.M dt 3.12.1977 on par with ISRO employees who were given four options to convert to GPF cum pension scheme in 1976, 1981 & 1987 after it was made a Govt. Body in 1975 whereas the NRSA employees have not been given such an option after the conversion.

4. The respondents claim that on 4.9.1986 has issued a notice in regard to provident fund scheme stating that two packages namely package I with existing benefits and package II with contributory fund (CPF) or with GPF with Pension and DCRG. Applicant opted for package I. Subsequently based on recommendation of the 4th CPC another opportunity was provided by Dept of Pension & Pensioners Welfare (DOP & PW) to switch from CPF to GPF scheme, explicitly stating that those who opt for package II shall be deemed to have opted for GPF with pension and DCRG. The applicant opted for CPF with gratuity on 29.1.1988. In regard to ISRO employees they were given an option to switch to GPF after becoming a Govt. Dept is because they had only CPF earlier. In regard to the Honourable High Court of Gujarat verdict the respondents explain that NRSA did not distinguish between the administrative and the Scientific and technical staff and the said decision does not apply to the applicant.

5. Heard the counsel and perused the documents on record.

6. The learned counsel for the applicant has stressed on discrimination of administrative employees in comparison with scientific & technical staff in providing the options to convert to GPF with pension & Gratuity scheme. The Id.

Counsel for the respondents has resisted it with equal force stating that there was no such discrimination and on the contrary the applicant was given ample opportunities to exercise the option and he did so by opting for CPF on his own volition in multiple occasions.

7. As is evident from the records the applicant has retired from a responsible position of Head Accounts & Internal Financial Advisor. In 1986 and 1988 he has opted for CPF. The applicant claimed that NRSA regulated the service conditions of the employees based on G.O.I rules even prior to being made a Govt. Body in 2008. Hence the option exercised by the applicant was as per the said rules claimed by him. In regard to ISRO it was but natural to provide for an opportunity to opt for GPF cum Pension with Gratuity as it was introduced after ISRO was declared as a Govt. Body in 1975. Hence the applicant cannot draw parallel with the employees of ISRO on the count of additional options given. Further the CPF & GPF rules are different for administrative and scientific & technical (S&T) staff as brought out by the respondents in their written arguments. Such distinction was deliberately brought about in order to allow the S &T staff to seamlessly move from one organisation to the other like Dept. of Atomic Energy, Dept. of Space etc in National interest over the last 30 years. In regard to extending the option in 1993 and 1997 it is noticed that the S&T staff are being governed by Scientific policy resolution of 1958 whereas the administrative staff are administered by the Central Govt. Rules. Hence it can be seen that the D.O.P & P.W in O.M dt. 1.5.1987/12.10.92 has excluded the S&T staff for extending the exercise of said option. Therefore, based on cited O.M the D.O.S has issued O.M dt 4.1.1993 extending the option facility to the S& T staff. However, the D.O.P & P.W withdrew its circular issued in 1992 by O.M. dt. 23.7.1996 and directed to maintain status quo and call for fresh options from

employees. Hence the D.O.S again called for fresh option based on the latest O.M of 1996 vide its ltr dt 30.5.1997 since earlier options of 1993 were cancelled. Hence the S&T staff were given only one option to exercise in 1997 and that too after 10 years of the administrative being given such an option. Therefore the facts stated by the respondents need to be given credence in the sense that the administrative staff and S&T staff are governed by separate set of rules. The applicant cannot equate himself with them and seek relief quoting the Honourable High Court of Gujarat judgment. There has been no discrimination since the applicant was clearly given multiple options to switch to GPF cum pension but he chose to be with CPF. In NRSA all the categories of employees were given options and they were not discriminated as per details on record. Hence, the judgment of the Hon'ble High Court Gujarat does not apply. Moreover, he is a senior officer from the financial side with full knowledge of the consequence of his decision. Having made a choice in 1988 and again the final one in 1990 seeking one more additional option in 2011 after nearly 11 years of exercising the option is a stale claim. It is like unsettling a settled issue. It is not just the applicant but many others would have exercised similar such option based on the rules prevailing. The rules of S&T staff being different to those of the administrative staff, seeking relief on par with the S &T does not sound logical. As was pointed out, a decision should not unsettle a settled issue since it would lead to many ramifications in the administrative set up. In fact, Honourable Supreme Court has observed not to unsettle a settled issue in *Shiba Shankar Mahapatra v State of Orissa*, in CA 7537-7541 of 2009 wherein it has been held as under:

24. The Court further observed that it was not that there was any period of limitation for the Courts to exercise their powers under Article 226 nor was it that there could never be a case where the Courts cannot interfere in a matter after certain length of time. It would be a sound and wise exercise of jurisdiction for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of person who do not

approach it expeditiously for relief and who standby and allow things to happen and then approach the court to put forward stale claim and try to unsettle settled matters.”

8. In view of the above the applicant has not made out a case. Therefore the O.A fails and hence is dismissed. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 25th day of October, 2018

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