

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

**Original Application No. 21/1105/2017**

**Date of CAV: 20.12.2018**

**Date of Pronouncement: 11.01.2019**

Between:

Dr. Binaya Kumar Paty, Aged 58 years,  
S/o. late Sri Bhagirathi Paty,  
Director, Organization, System, Planning & Management (OSPM),  
O/o. National Institute of Agricultural Extension Manager (MANAGE),  
Rajendranagar, Hyderabad – 500 030,  
R/o. Qtr. No. D-4, MANAGE CAMPUS,  
Rajendra Nagar, Hyderabad.

... Applicant

And

1. National Institute of Agricultural Extension Management (MANAGE),  
(Government of India Autonomous Organization),  
Rajendranagar, Hyderabad – 500 030, Rep. by its Director General.
2. Union of India, Ministry of Agriculture & Farmers Welfare,  
Department of Agriculture, Cooperation & Farmers Welfare,  
Krishi Bhavan, New Delhi – 110 001,  
Rep. by its Secretary to the Government of India.

... Respondents

Counsel for the Applicant ... Dr. K. Lakshmi Narasimha

Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC for R-2,  
Mr. Ramachander Rao, Advocate for  
Dr. P. B. Vijaya Kumar, SC for R-1

**CORAM:**

***Hon'ble Mr. Justice R. Kantha Rao, Member (Judl)***  
***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

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

2. The OA is filed for not granting pension under CCS (Pension) Rules, 1972  
vide impugned order MNG-01/02-BKP/2012 dt 29.5.2017.

3. Brief facts of the case are that the applicant worked in the Min. of Agriculture from 7.12.1984 to 18.8.2005 and thereafter from 19.8.2005 to 12.7.2012 in Choudhary Charan Singh National Institute of Agricultural Marketing (CCS NIAM) an autonomous organisation. Having quit the said autonomous body, the applicant is presently working for National Institute of Agricultural Extension Management (MANAGE) from 16.7.2012. For pension purpose, mobility from Central Govt. Organisations to Autonomous bodies and vice versa or between pensionable autonomous bodies is permitted by OM dt 29.8.1984 of Dept. of Personnel and Administrative Reforms (DOP & AR), G.O.I. As per the said OM, a Govt. servant who has taken terminal benefits on pro-rata retirement from a Central Govt/Autonomous Body has the option to count his past services on returning the same to the new organisation which he joins. The applicant tendered technical resignation to the Min. of Agriculture on 18.8.2005 and joined CCS NIAM on 19.8.2005. CCS NIAM being a non pensionable organisation, he was granted pro rata pension vide PPO order dt 31.8.2006 for the services rendered to the Min. of Agriculture. Subsequently, the applicant joined MANAGE on 16.7.2012, which is a Central Govt. autonomous body under Ministry of Agriculture. As per CCS Pension Rules, 1972, pension is admissible only for the qualifying period and not to the non qualifying period which can be condoned as per rules. The applicant's request is that ignoring the period of service in CCS-NIAM, his services in Min. of Agriculture and in MANAGE should be coupled and he be brought under the ambit of the CCS (Pension) Rules 1972 vide OM dt 26.7.2005 but the respondents are forcing him to join the New Pension Scheme. A notice to this effect was issued by the 1<sup>st</sup> respondent on 1.2.2013. Applicant represented to 2<sup>nd</sup> respondent and through the CPGRAMS but they were rejected and hence the OA.

4. The contentions of the applicant are that all the 3 organisations he served are under the same Ministry of Agriculture. After taking due permission from the respective organisations to apply for a post in the new organisation, he tendered technical resignations to the posts held in Min. of Agriculture and CCS-NIAM respectively, which should not be treated as interruption of service. Therefore based on this hypothesis, the applicant claims that the 32 years of service rendered by him is to be treated as being rendered in a single Govt. organisation. Moreover, Rule 28 of CCS (Pension) Rules provides for condonation of services rendered in CCS-NIAM. Besides, MANAGE having adopted CCS pension rules 1972 cannot deny applying the provisions favourable to the applicant. The Impugned order rejecting his representation is devoid of reason as it did not reckon the cited factors. In fact, the issue is covered by the orders of Honourable Ernakulam, Kolkotta benches of this Tribunal and that of the Honourable Supreme Court in *Madhukar v State of Maharashtra and ors* reported in (2014) 15 SCC 565, dt 11.4.2014. However, as the respondent was not resolving his grievance for months together the applicant under compulsion, in order not to lose interest and income tax benefits, has opted for the New Pension Scheme.

5. Respondent states that MANAGE was registered under Public Societies Registration Act in 1987. Applicant has opted for the new pension scheme and now seeking pension under 1972 pension rules is only an afterthought. Had the applicant raised this issue at the time of selection the decision to have him would have been pondered upon. Nevertheless, after having taken the applicant on the rolls, OM dt 29.8.1984 does provide for count of past services provided the pro-rata retirement benefits are deposited with interest in the new organisation. As the applicant has not deposited the amount on his joining MANAGE he is not eligible to count his past service. Besides, MANAGE being an autonomous

body, joining of spells in Min. of Agriculture and MANAGE does not come under the purview of Rule 28 of CCS (Pension) Rules by condoning his service in CCS-NIAM. As per existing instructions an employee governed by CCS pension rules -1972 and who has entered into service on or before 31.12.2003 tenders technical resignation to join a new organisation on or after 1.1.2004 is ineligible to come under the old pension rules. Even when the applicant ventilated his grievance through CPGRAMS, (Central Govt. portal to resolve grievances) it was rejected, in consultation with the Dept of Pension and Pensioners' Welfare (DOP&PW), on the ground that the applicant cannot combine Govt. service with the spell in an autonomous body like MANAGE. Rule 28 applies in case the two spells of service are in Govt. organisations. The Impugned order issued is a replica of the disposal given in CPGRAMS, which in fact is the order of DOP&PW, the competent authority to clarify the issue. Although, MANAGE is a pensionable organisation but at the time of appointing the applicant it was made clear that he will not be covered by the old pension rules 1972. Further as per O.M dt 28.10.2009 of Min. of Personnel and Public Grievances and Pensions the pre-existing arrangement of mobility between Govt and autonomous bodies, between autonomous bodies that were governed by old pension rules which were in force up to 31.12.2003 have been restored but those covered under CPF (contributory provident fund) due to appointments made after 1.1.2004 shall not be allowed to come under the old pension rules of 1972. The applicant was in CPF before joining MANAGE and hence is not eligible to come under the old pension rules. Therefore placing the applicant under the New Pension scheme (NPS) is appropriate and as per rules.

6. Heard the learned counsel and went through the documents placed on record.

7A. The whole conflict is all about as to whether the applicant comes under NPS or CCS pension rules of 1972 in the context of the applicant hopping between various organisations before settling down at MANAGE. A Chronological sequence of events along with interpretation of rules associated pertaining to the concerned period will help in resolving the issue.

B. To begin with, the applicant has joined Min. of Agriculture in 1984 and on technically resigning from the Ministry he was granted pro-rata pension for rendering 20 years 8 months service as Govt. servant vide PPO order dt 31.8.2006. Thereafter, the applicant joined CCS-NIAM wherein there is no provision for pension. From here the applicant joined MANAGE on 16.7.2012. The interregnum period of 19.8.2005 to 12.7.2102 comes under the interpretation of rule 28 of CCS (Pension) Rules, 1972 which states as under:

*“In the absence of a specific indication to the contrary in the service book, an interruption between two spells of civil service rendered by a Government servant under Government including civil service rendered and paid out of Defence Services Estimates or Railway Estimates shall be treated as automatically condoned and the pre-interruption service treated as qualifying service.”*

As per the cited rule the service rendered by the applicant in Min. of Agriculture and MANAGE can be combined by condoning the service rendered in CCS-NIAM. The reason is that both come under the Govt. of India.

C. In regard to MANAGE, as per their own website it is stated as under:

*“MANAGE was established in 1987, as the National Centre for Management of Agricultural Extension at Hyderabad, by the Ministry of Agriculture & Farmers Welfare, Government of India as an autonomous Institute, from which its acronym ‘MANAGE’ is derived. In recognition of its importance and expansion of activities all over the country, its status was elevated to that of a National Institute in 1992 and re-christened to its present name i.e., National Institute of Agricultural Extension Management.*

*Therefore there can be no doubt that it is a central Govt autonomous body.*

D. The following service bye laws adopted by the MANAFE establish that it is following the rules of the Central Govt and thereby reiterates the fact that it is Central Govt. autonomous body.

(i) Under Chapter II, bye law 4, clauses (2&3) state that

*“The posts in the institute will be classified into Group A,B,C;D based on the criteria followed by the Govt. of India in respect of central civil services/Posts. The scale of pay of each category of post shall be the scale of pay applicable to the corresponding category of post under Govt. of India as communicated by the Dept. of Govt. of India dealing with the institute.”*

(ii) Further, in chapter V bye-law 28, clause (1) states that:

*“The rules, orders and instructions in force from time to time in the Fundamental rules and Supplementary Rules (FRSR) of the G.O.I regarding pay, increments, additions to pay, combination of appointments, dismissal, removal and suspension, joining time and pay and allowances admissible during joining time in relation to civil posts shall mutates mutandis be applicable to the employees of the Institute.”*

(iii) Besides, under chapter VII, the bye law 35 clauses (1) & (2) in regard to pension state as under:

*The Pension scheme shall be applicable to all persons appointed to a post in the Institute otherwise than on contract or on deputation basis. The provisions of CCS (Pension)Rules,1972 and the Payment of Arrears of Pension (Nomination) Rules 1983 as amended time to time along with the various orders and decisions issued there under by the G.O.I in relation to the Central Civil Government servants shall mutates mutandis be applicable to the employees of the Institute, under the scheme.*

E. Therefore based on the above bye-laws there is no iota of doubt that MANAGE has adopted the Central Govt. F.R.S.R, pay and pension rules. Therefore the contention of the respondents in their reply statement that the CCS (Pension) Rules cannot be made applicable to the applicant is incorrect. More so in the context of the applicant being appointed on a regular basis by appointment

order dt 23.5.2012. The bye law under chapter VII, in regard to pension scheme states that the CCS pension rules apply if an employee is appointed on a regular basis. The applicant is thus naturally governed by the CCS pension rules 1972 in view of his regular appointment. Once the applicant comes under the ambit of CCS pension rules, rule 28 of CCS of pension which provides for condonation of interruption between two spells of civil service becomes operational. Thus the service rendered by the applicant in CCS-NIAM can be condoned by applying rule 28 of CCS pension rules -1972. This rule has to be read along with Dept. Of Personnel & A.R OM dt 29.8.1984 which permitted counting of past services for granting pension in cases of Central Govt. Employees going over to Central Autonomous Bodies or vice versa. Para 5 (1)(b) of the cited O.M is relevant to the case and is extracted below:

*“The employees of a Central Autonomous Body or Central Government, as the case may be, who have already been sanctioned or have received pro-rata retirement benefits or other terminal benefits for their past service will have the option either -*

*(a) XXXX*

*(b) to have the past service counted as qualifying service for pension under the new organization in which case the pro rata retirement or other terminal benefits, if already received by them, will have to be deposited along with interest thereon from the date of receipt of the those benefits till the date of deposit with the Autonomous body or the central Government, as the case may be.”*

F. The learned counsel for the applicant has submitted that the applicant is willing to refund the terminal benefits with interest for getting his past services in Min. of Agriculture to be counted for pension. The respondents stated that the applicant has not credited the terminal benefits and hence he is not eligible. However, when applicant is willing to credit the terminal benefits, the objection raised by the respondents becomes infructuous. It is also not mentioned in the reply statement as to whether the respondents had given an opportunity to the

applicant to refund the pro rata terminal benefits he received from the Min. of Agriculture.

G. It was further clarified by Ministry of Personnel, Public Grievance and Pensions vide lr dated 26.7.2005 that the employees who entered into Central Govt. Service or in the service of an Autonomous Body set up by Central Govt. on or before 31.12.2003 and who were governed by old pension scheme under the CCS pension rules,1972 will continue to be governed by the same pension scheme and same rules, for the purpose of counting of their past service under the said rules or under the provisions of the DP & ARs O.M dt 29.8.1984., as amended from time to time , if such employees submit technical resignation on or after 1.1.2004 to take up new appointment in another Ministry or Dept of G.O.I or an Autonomous body set up by the Central Government in which the pension scheme under CCS (Pension) Rules already exists for the employees who entered into service on or before 31.12.2003.

H. Thus as per the lr cited in the preceding para, the applicant comes under the purview of the CCS (pension) Rules as he entered Govt. service before 31.12.2003 by joining Ministry of Agriculture, G.O.I. Therefore, there can be no second thought that the applicant is governed by the CCS (Pension) Rules, 1972 even though he has joined MANAGE after 1.1.2004. The interregnum period in CCS-NIAM gets condoned under rule 28 of CCS pension rules 1972. Had the applicant been continuously under CPF before joining MANAGE, the respondent would have had the right to reject the claim of the applicant. However, it is not so as explained.

I. To sum up, the rules quoted above make it clear that MANAGE is a Central Govt. autonomous body as per its own bye-laws. The applicant was appointed on a regular basis and hence the pension scheme covering CCS

pension rules- 1972 as per chapter VII of bye laws, is applicable to the applicant. Rule 28 of the CCS (Pension) Rules permits condonation of services rendered by the applicant in CCS-NIAM. The DP & ARs O.M dt 29.8.1984 allows counting of past services when employees move from Govt. to central Govt autonomous bodies and vice versa. Further, the same OM states that if an employee receives pro rata retirement benefits then he has to deposit them with interest to allow his past services counted. A further clarification was given by Ministry of Personnel, Public Grievance and Pensions vide lr dated 26.7.2005 that those employees who were governed by the old CCS (Pension) Rules of 1972 shall continue to be governed by the same rules after tendering technical resignation and on joining a new Central Govt. Autonomous body even after 1.1.2004, provided CCS pension rules 1972 are followed in the new organisation. MANAGE a Central Govt. Autonomous body has adopted the CCS pension rules 1972 as per its bye laws expounded above.

J. Further Honourable Ernakulam bench of this Tribunal in N.Manil vs U.O.I on 18.12.2002 reported in 2004 (2) SLJ 10 CAT, has held that the applicant therein who worked for the Govt of Kerala for 11 years joined a non pensionable organisation namely Keltron and thereafter entered into VSSC. The services of the applicant in Keltron were condoned and his past 11 years service with Kerala Govt. was counted as service for pension by Vikram Sarabhai Space Centre (VSSC), which is under the aegis of Dept. of Space. Similarly Honourable Kolkota bench of this Tribunal has in Sankar Nath Pramanik vs U.O.I and ors vide judgment dt. 28.4.1998 condoned the service of 5 years of the concerned applicant in HAL, which is non pensionable period, and allowed the 11 years of service rendered in Defence organisation to be counted with the service put up in Govt. of India for the purpose of pension.

To top it, the Honourable Supreme Court of India in *Madhukar v State of Maharashtra and ors reported in (2014) 15 SCC 565*, dt 11.4.2014 has considered the past service after condoning the interruption of service as under:

*13. In the case of the appellant, there is notional break in service. The appellant resigned from Government service on 18.7.1960 and joined the post of Lecturer in Hislop College, Nagpur on the same day ie 18.7.1960. Further, higher authorities have recommended to add the earlier period of service for determination of pension benefit. Being so, in absence of a specific direction to the contrary in the service record, the interruption between two spells of services rendered by the appellant under the Govt. shall be treated as automatically condoned, the earlier service rendered by the appellant is to be counted towards qualifying service.*

A similar observation has been made by the Honourable Supreme Court in *D.G, Council of Scientific and Industrial Research v Dr. K. Narayana Swamy and ors, (1995) 3 SCC 124*, wherein it was held that:

*“8. Rule 28 would take care of interruption; and the period of interruption would then stand condoned in the absence of a specific indication to the contrary in the service book.”*

There is nothing contrary or irregular recorded in the service book of the applicant which has been brought out in the reply statement. The observations of the Judicial forums cited apply squarely to the case in question. The law is well settled in the matter.

K. The stand of the respondents that the applicant has joined NPS at the time of the appointment would not hold because they are contrary to the statutory provisions of CCS pension rules -1972. Executive instructions cannot overrule the statutory provisions. When being forced to opt for NPS, applicant opted for the same in order to save interest and income tax. That cannot be a ground to reject his request to apply old pension rules which is backed by rules and law.

In view of the aforesaid discussion covering the issues in question, the action of the 1<sup>st</sup> respondent is illegal, arbitrary and unreasonable. Therefore the impugned order MNG-01/02-BKP/2012 dt 29.5.2017 issued by the 1<sup>st</sup> respondent is quashed. The OA is allowed.

L. Consequently the respondents are directed to consider as under:

- i) To consider grant of pension as per CCS (Pension) Rules 1972, as and when due and considered for payment, with consequential benefits by counting of his past pensionable service in Ministry of Agriculture along with the services rendered in MANAGE by condoning of services rendered in CCS-NIAM as per Rule 28 of CCS (Pension) Rules.
- ii) The applicant shall deposit the pro-rata terminal benefits received by him from Ministry of Agriculture with interest as is applicable at present for GPF accumulations, for the period from the date of receipt of such terminal benefits till the date of deposit into the MANAGE account. Such refund shall be made by the applicant within a period of one month from the date of receipt of this order, as per clause 5 (b) of DOP & AR, OM dt 29.8.1984.
- iii) There shall be no order to costs.

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

**(JUSTICE R. KANTHA RAO)  
MEMBER (JUDL.)**

Dated, the 11<sup>th</sup> day of January, 2019

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