

**Central Administrative Tribunal
Principal Bench**

OA No.1999/2014

New Delhi, this the 4th day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sh. V.D. Pandey,
Aged about 59 years and 11 months,
S/o Sh. Ram Pyare Pandey,
R/o KV-Staff Qtrs. No. 5, NDA Khadakwasala,
Pune-411023, Maharashtra,
(Working as Principal KV, NDA, Khadakwasala)

... Applicant

(By Advocate : Shri S.K. Gupta)

Versus

1. Kendriya Vidyalaya Sangathan,
Through its Commissioner,
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi.

2. Joint Commissioner (Finance),
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi.

... Respondents

(By Advocate : Shri S.Rajappa)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant joined the service of the Kendriya Vidyalaya Sangathan (for short, KVS), in the year 1981 as TGT. On 03.10.1985, he was promoted as PGT. In the year 2006, he was promoted as Vice Principal and

thereafter as Principal in the year 2011. He retired from service on 30.06.2014, on attaining the age of superannuation.

2. While in service, the applicant made representation on 22.11.2013, stating that he is entitled to be extended the benefit under GPF cum pension scheme, but he was being shown as CPF beneficiary, though he did not exercise that option at all. The respondents replied through a communication dated 11.03.2014, stating that he is liable to be continued under CPF scheme, since deductions were being effected continuously towards subscription to CPF. The same is challenged in the OA.

3. The applicant contends that all the employees of 1st respondent, KVS, were covered by CPF scheme and in the year 1988, option was given to the employees either to remain in CPF or to come under GPF scheme. It was also stated that such of the employees who did not exercise any option at all, are brought under the GPF scheme and it is only when a specific option is exercised that they would be continued in CPF. The applicant submits that he never exercised the option to remain in

CPF scheme and despite that, he is being continued under CPF scheme.

4. The respondents filed counter affidavit, opposing the OA. It is silent as to whether the applicant has exercised any option to remain under the CPF. It is stated that the deductions were being effected towards contribution to the CPF and since the applicant did not protest against this, he is liable to be continued under the CPF scheme.

5. We heard Shri S.K.Gupta, learned counsel for applicant and Shri S.Rajappa, learned counsel for respondents.

6. The applicant joined the service of the respondents way back in the year 1981 and at that time, all the employees of the respondents were covered under the CPF scheme. The GPF scheme was introduced by the Government w.e.f. 01.01.1986. On their part, the Board of Governors of KVS adopted the scheme through their Resolution dated 31.05.1988. The relevant portion reads as under :-

“In view of the fact that Pension Scheme is already available in the KVS for its

employees, the Board is requested to accord its approval for the following :-

- (i) All new entrants joining Sangathan on or after 1.1.86 be admitted to GPF-cum-Pension Scheme only;
- (ii) Existing CPF optees be allowed to exercise option for continuation of their subscription to CPF Scheme within 5 (five) months from the date of issue of the orders from the Sangathan failing which they be deemed to have come over to the GPF-cum-Pension Scheme;
- (iii) CPF beneficiaries who have retired on or after 1.1.1986 be given option, to have their retirement benefits calculated under Pension Scheme, within five months from the date of issue of orders from the Sangathan; and
- (iv) The extension of the benefit of retirement and death gratuity with effect from 1.1.86 in respect of those employees who opt to continue to the CPF Scheme.

The above are in conformity with the decision of the Government of India for its employees.”

7. From this, it becomes clear that if an employee does not give option within five months from the date of issue of the order i.e. 31.05.1988, he shall be covered by GPF cum-pension scheme. The applicant asserts that he did not opt to remain under CPF scheme and accordingly, he comes under GPF-cum-pension scheme. The

respondents are not able to place before us, any letter of option addressed by the applicant, choosing to remain under CPF scheme. The record discloses that at least from the year 2010 onwards, the applicant has been informing the respondents that he was wrongly being shown as the optee of CPF scheme and the same may be corrected. However, there was no reaction to this. We are not satisfied with the view taken by the respondents and the impugned order is incorrect and contrary to the scheme

8. Therefore, we allow the OA, directing the respondents to treat the applicant as covered by GPF cum pension scheme. The contribution to CPF deducted from the applicant from time to time shall be paid to him, duly re-working his pay structure, referable to GPF-cum-pension scheme. This exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order. We also direct that the adjustment shall also take place vis-a-vis the amounts, if any, paid to the applicant, subsequent retirement.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)
'rk'

(Justice L. Narasimha Reddy)
Chairman