

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00157/2019

Date of Order: This, the 14th day of August 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

Mrs. Ina Barua
Wife of Late Bhupendra Nath Barua
Retired Principal, Kendriya Vidyalaya
Sangathan, IOC Noonmati
Resident of House No. 55
Sundarpur Zoo Road, Post Office – Dispur
Police Station – Dispur, Pin – 781005, Assam.

...Applicant

By Advocates: Sri Adil Ahmed, Smti. D. Goswami & Ms. A. Theyo

-Versus-

1. The Commissioner
Kendriya Vidyalaya Sangathan
18 Institutional Area, Saheed Jeet Singh Marg
New Delhi, Pin – 110016.
2. The Joint Commissioner
Kendriya Vidyalaya Sangathan
18 Institutional Area, Saheed Jeet Singh Marg
New Delhi, Pin – 110016.
3. The Deputy Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Jawaharnagar
Khanapara, Guwahati, Pin – 781022, Assam.

...Respondents

By Advocate: Sri M.K. Majumdar, KVS SC

ORDER (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicant makes a prayer to convert her case from Contributory Provident Fund (CPF) to General Provident Fund (GPF) Cum Pension Scheme and/or treat her as enroll there under as such for all intents and purpose.

2. Sri Adil Ahmed, learned counsel appearing on behalf of the applicant submits that the applicant was initially appointed as Post Graduate Teacher in Kendriya Vidyalaya Sangathan (KVS), Narengi vide offer of appointment letter No. F.5-2/PGT/(NE)/KVS/GR/84-85/41-85-87 dated 29.08.1984 and joined as PGT on 05.09.1984. Thereafter, she was appointed to the post of Principal, Kendriya Vidyalaya (Direct Recruitee) vide office order No. F. 7-4/2000-KVS (Estt.II) dated 29.05.2001. Accordingly, the applicant joined on 08.06.2001 as Principal at Kendriya Vidyalaya. The applicant has retired from service on superannuation on 30.04.2007.

3. Sri Ahmed submits that the Joint Commissioner Administration had issued an Office Memorandum under F. No. 152-1/79-80/KVS/Budget/Part II dated 01.09.1988 on the subject of changeover of KVS employees from the Contributory

Provident Fund Scheme to Pension Scheme and as per the said Office Memorandum, persons joining service in the Sangathan on or after 01.01.1986 shall govern only by the GPF Cum-Pension Scheme and will have no option for CPF Scheme. However, all CPF beneficiaries who were in service on 01.01.1986 and who are still in service on the date of issue of these orders will be deemed to have come over to the Pension Scheme.

According to Sri Ahmed, the respondents have wrongly enrolled the applicant's service under CPF Scheme although she joined in service after 01.01.1986. Hence, applicant's appointment stood covered under the GPF Cum pension scheme.

4. Since the applicant has retired from service on superannuation on 30.04.2007, she made a representation dated 07.09.2018 before the respondent authorities to consider her case for conversion from CPF to GPF as per KVS (HQ) letter dated 30.05.2018. Thereafter, she submitted a reminder on 10.12.2018 before the respondent No. 1 i.e. Commissioner, KVS through respondent No. 3 i.e. Deputy Commissioner, KVS,

Regional Office Guwahati. However, the case is neither rejected nor accepted by the respondent authorities till date.

5. Learned counsel has drawn my attention to the judgment and order dated 11.10.2018 wherein the CAT, Jodhpur Bench has already entertained the matter in the case of similarly situated employee in **O.A. No. 411 of 2017 with M.A. No. 308 of 2017 (Smti Kumudini Pandey, Retd. PGT, KV -Vs- KVS & Ors.)** and gave relief in favour of the applicant therein. Sri

Ahmed pointed out that the CAT, Jodhpur Bench in the said case (supra), has categorically observed as follows:-

"11. From the above, it could be seen that the law is very settled that in the absence of specific option exercised by the employee towards CPF Scheme, the employee was deemed to have come over to GPF Scheme. Therefore, the action of the respondents in treating the applicant governed by CPF Scheme after 01.09.1988 in absence of any option form submitted by her is hereby declared illegal. Accordingly the respondents are directed to convert the applicant as pensioner under GPF Scheme, in pursuance to the para 3 of OM dated 01.09.1988, and pay the revised pension including the arrears for which she became eligible by such conversion. It is made clear that the applicant shall refund the amount received by her towards CPF Scheme with 9% p.a. interest from the date when she received till the date of payment. It is also made clear that arrears of pension payable to the applicant under GPF Scheme may be adjusted towards refund of CPF amounts received by her with interest. In the event of not realizing the entire amount, the remaining portion amount may be refunded by the applicant."

Accordingly, in view of the above, learned counsel prays for similar reliefs in the case of the present applicant also.

6. I have heard the learned counsel for the applicant. Perused the pleadings and the precedents relied upon. Since the learned counsel for the applicant has prayed similar direction as granted by the Co-ordinate Bench of CAT, Jodhpur Bench in **O.A. No. 411 of 2017 with M.A. No. 308 of 2017 (Smti Kumudini Pandey, Retd. PGT, KV -Vs- KVS & Ors.)**, by accepting the said prayer of the applicant and with due consent of Sri M.K. Majumdar, learned counsel for the respondents as well as without going into the merit of the case, I direct the respondents to verify the case of the present applicant whether she is similarly situated with **Smti Kumudini Pandey (supra)** and if so, similar benefits be granted to her within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, O.A. stands disposed of at the admission stage. There shall be no order as to costs.

**(MANJULA DAS)
MEMBER (J)**