

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

**Original Application No.21/504/2018**

**Date of Order: 29.07.2019**

Between:

G. Somaiah, S/o. late Sri Veeraiah, Gr. C,  
Aged about 67 years, Occ: Tradesman 'G'(Retired),  
Nuclear Fuel Complex, Hyderabad,  
R/o. H. No. 5-2-162/3, Plot No. 184,  
Thirumala Nagar, Moulali, H.B. Colony,  
Hyderabad – 500 040.

... Applicant

And

1. Union of India, Represented by its Secretary,  
Department of Atomic Energy,  
CSM Marg, Mumbai – 400 001.
2. The Chief Executive,  
Nuclear Fuel Complex,  
Department of Atomic Energy,  
ECIL Post, Hyderabad.
3. The Secretary,  
Department of Pension & Pensioners Welfare,  
Ministry of Personnel, Public Grievances and Pension,  
Loknaya Bhavan, Khan Market, New Delhi-3.

... Respondents

Counsel for the Applicant      ...      Dr. A. Raghu Kumar

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

***CORAM:***

***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

**ORDER**  
***{As per B.V. Sudhakar, Member (Admn.) }***

2. OA is filed challenging the action of the respondents in retiring the applicant under Contributory Provident Fund Scheme (for short “CPF Scheme”) instead of considering him under General Provident Fund Scheme (for short “GPF”).

3. Brief facts of the case are that the applicant joined the respondents organization as Tradesman ‘A’ on 22.04.1979 and retired on 28.02.2011 as Tradesman ‘G’. Applicant was admitted into CPF Scheme as it was the only Scheme available to the employees at that relevant point of time. The Department of Atomic Energy (for short “DAE”) vide OM dated 17.01.1967 extended the option for pension and pensionary benefits to the permanent staff holding the Technical post. Later, in 1987, the Department of Pension and Pensioners Welfare (for short “DoP & PW”) vide OM dated 01.05.1987 provided an option to all Central Government employees who were in CPF Scheme to change over to the Pension Scheme in pursuance of acceptance of the IV CPC recommendations. The DoP & PW issued OM dated 12.10.1992 formulating uniform policy for Scientific & Technical Staff of Department of Atomic Energy, Department of Space and Electronics for change over from CPF to GPF Scheme. Applicant is to be governed for pension and pensionary benefits in terms of the OM dt. 12.10.1992 read with DAE OM dt. 17.01.1967. Action of the respondents in retiring the applicant under CPF Scheme instead of considering him under GPF Scheme is against Rules. Hence, the OA.

4. Contentions of the applicant are that the applicant is entitled to be governed by GPF Scheme in terms of OM dt. 17.01.1967 of the DAE read with DoP&PW OMs dt. 12.10.1992 and 23.07.1996 and Department of Space OM dt. 19.04.2006. Pension and pensionary benefits are not a bounty and they are to be released on the basis of statutory rules. Pension is property under Article 300-A of the Constitution of India.

5. Respondents opposed the contentions of the applicant by stating that the OM dt. 17.1.1967 is applicable only to Technical personnel. Applicant had opted to continue under CPF Scheme though he had option to switch over to Pension Scheme from the date of his confirmation w.e.f. 01.08.1984 vide order dt. 04.03.1985 and he did not exercise the option to switch over to Pension Scheme. Respondents have made other averments on the subject stating that the applicant is not eligible for GPF Scheme.

6. Heard learned counsel for both sides and perused the record.

7. Similar issue fell for consideration of this Tribunal in OA No. 948 of 2017 & batch, wherein this Tribunal, vide order dt. 06.06.2019, observed as under:

*“2. Across the bar it is stated by both the learned counsel that the very issue is under consideration by the Hon’ble Supreme Court in SLP No. 028825-028827/2017. In addition to that, the Department of Atomic Energy has constituted a Committee vide OM dated 1.5.2019 to address this very issue under the Chairmanship of Joint Secretary (Admn), Department of Atomic Energy.*

3. *We are of the view that when the issue is under consideration by the Hon'ble Supreme Court as well as the Government at the highest level, there is no point in keeping the OAs pending. Whenever a final solution comes either from the Hon'ble Supreme Court or from the Government, the applicants can pursue the remedies in accordance with law. We, therefore, close the OAs. It is needless to mention that if the grievance of the applicants still remains, it shall be open for them to approach the Tribunal for redressal. There shall be no order as to costs."*

The above judgment applies to the case of the applicant as well since he is similarly situated. Accordingly, based on the decision of the Hon'ble Supreme Court or the Government, applicant can pursue remedies in accordance with law, by approaching this Tribunal, if required.

With the above directions, the OA is disposed. There shall be no order as to costs.

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

Dated, the 29<sup>th</sup> day of July, 2019

evr