

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No.O.A.350/01400/2014

Date of order : 16.03.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
 Hon'ble Ms. Jaya Das Gupta, Administrative Member

BHUSHAN KUMAR SAH

VS.

UNION OF INDIA & OTHERS
(D/O Science & Technology)

For the applicant : Mr. P.K. Munsi, counsel

For the respondents : Mr. S.K. Ghosh, counsel

ORDERPer Justice V.C. Gupta, J.M.

Heard Id. counsel for the parties.

2. The facts in brief are that the applicant, Sri Bhushan Kumar Sah was appointed under the respondents on compassionate ground as a contingent Khalasi in Group 'D' category vide order dated 31.10.2001 after death of his father Sri Tulsi Sah. In pursuance of the appointment order, he joined service on 01.11.2001 and brought to regular temporary Group 'D' establishment w.e.f. 01.03.2004 on pay of Rs.2550-3200 vide order dated 26.04.2004. A monthly subscription of Rs.3000/- was deducted during continuance of his service from January, 2013 and as per his GPF statement for the year 2013-14(Annexure A-7) the closing balance is Rs.2,58,978/- However, on 17.09.2014 a letter was issued to the applicant by Respondent No.5 intimating that he will draw pay and allowances under New Pension Scheme and simultaneously he has been instructed to prepare the Permanent Retirement Account No. The applicant's case is that New Pension Scheme is not applicable to him.

3. Id. counsel for the applicant submits that the applicant was appointed as a Central Government servant prior to 01.01.2004, hence, he would be governed not by the New Pension Scheme but by the Old Pension Scheme applicable at the time of his employment. He further submits that case of the applicant is covered by a recent circular of Government of India, Geological Survey of India, Central Headquarters, Kolkata dated 11.03.2016 which is based on O.M. No.49014/2/2014-Estt.(C) dated 26.02.2016 issued by Government of India, Ministry of Personnel, Public Grievances and P.G, Department Of Personnel and Training. The Id. counsel for the applicant relied on a judgment of Central Administrative Tribunal, Lucknow Bench in O.A.No.44/2006 in this regard. On the strength of several other decisions the Id. counsel

claimed that the applicant is entitled to be considered under the Old Pension Scheme) not by the New Pension Scheme as suggested under the impugned letter dated 17.09.2014; and now his case is covered by O.M. dated 26.02.2016 mentioned hereinabove. *and*

4. The question, whether the benefit of the aforesaid O.M. dated 26.02.2016 would be granted to the applicant or not needs to be considered first by the authorities as the same came into force during the pendency of this application. Hence, we are of the opinion that the applicant may move a comprehensive representation to the competent authority in the light of the O.M. dated 26.02.2016 within a period of one month along with a certified copy of this order. Thereafter, the competent authority shall dispose of the claim of the applicant within a further period of three months by passing a reasoned and speaking order under intimation to the applicant and if the decision favours the applicant, the benefits of the said O.M. should be extended to him.

5. With these observations, the O.A. stands disposed of. No cost.

(JAYA DAS GUPTA)
Administrative Member

(JUSTICE V.C. GUPTA)
Judicial Member

s.b.