

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.O.A.350/01399/2014

Date of order : 16.03.2016

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

SMT. FULAKI DEVI

VS.

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

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

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

ORDER

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

Heard ld. counsel for the parties.

2. According to the applicant's claim, her husband died in harness and she got compassionate appointment vide order dated 29.10.2002 as contingent Khalasi in Group 'D' category under the Employment Assistance Scheme. In pursuance of the appointment order issued on 01.11.2002, she joined service. The applicant has submitted a statement of her GPF account (Annexure A-4) for the year 2013-2014 from which it appears that the closing balance of her GPF was Rs. 81,323/-. However, on 17.09.2014 a letter was issued to the applicant by Respondent No.5 intimating that she will draw pay and allowances under New Pension Scheme and simultaneously she has been instructed to prepare the Permanent Retirement Account No. The applicant's case is that New Pension Scheme is not applicable to her because contingent establishment is a part of a regular establishment and the seniority of a contingent employee is counted from the date of contingent employment.

3. Ld. counsel for the applicant submits that the applicant was appointed as a Central Government servant prior to 01.01.2004, hence, she would be governed not by the New Pension Scheme but by the Old Pension Scheme applicable at the time of her 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 PG, Department Of Personnel and Training. The ld. 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 ld. 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 her case is covered by O.M. dated 26.02.2016 mentioned hereinabove.

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 her.

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