
(2019) 10 CAT CK 0036

In the Central Administrative Tribunal

Case No : Original Application No. 2033 Of 2018, Miscellaneous Application No. 2300 Of 2018

Daya Nand

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(2)(b)

Citation : (2019) 10 CAT CK 0036

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Anil Mittal, Sushant Sharma, Manish Garg

Final Decision : Allowed

Judgement

1. By filing this OA, the applicant is seeking the following reliefs:-

"(i) Quash order dated 5-2-2018 (Annexure -A.1) refusing to pay pension and other benefits to the applicant.

(ii) extend the benefit of Pension Scheme (Annexure A-2) to the applicant;

(iii) declare that the applicant stood retired from service on 30-4-2007 and not on 30-4-2005;

(iv) direct the respondent to pay to the applicant the post retirement benefits, i.e., General Provident Fund, Gratuity, Pension and Leave Encashment and arrears of pension w.e.f. 1-5-2005 and arrears of salary from 1-5-2005 till 30-4-2007 with interest."

2. Brief facts of the case are that the applicant was working as a Driver with the Respondent - Delhi Transport Corporation (DTC) and was issued a show cause notice on 22. 8.1991 for manhandling a Ticket Inspector and therefore a chargesheet was issued to him on 5.9.1991. Subsequently, enquiry proceedings were held in which the applicant was found guilty of misconduct and his services

were terminated on 16.10.1992. The respondent filed an approval application being O.P. No.483 of 1992 under Section 33 (2) (b) of I.D. Act before Industrial Tribunal, Delhi and applicant has also filed a complaint being I.D. No.60/1992 challenging the action of the respondent removing him from service.

3. In the year 1992, when the applicant was out of service, the respondent - DTC introduced the Pension Scheme for the employees of the DTC as applicable to the Central Govt. employees vide Office Order No.16 dated 27.11.1992 and as per the said Pension Policy, those interested to avail pension had to opt within 30 days. Further as per para 9 of the said Office Order, in case a person did not give any option for pension then he was deemed to have been opted for the pension. Since the services of the applicant had been terminated by the DTC on 16.10.1992, he could not give his option for pension.

3.1 Applicant further stated that as per Office Order dated 30.6.1998, a Driver of DTC retires from service on attaining the age of 55 years, yet if he is medically fit at 55 then he can be given yearly extension which will continue till he attains the age of 60 years.

3.2 Applicant further stated that the aforesaid OP No.483/1992 preferred by the respondent was rejected by the learned Industrial Tribunal, Delhi, vide Order dated 26.5.2003 and subsequently the Complaint I.D. No.60/1992 was decided by the Industrial, Delhi, vide Order dated 27.6.2013 by holding that the applicant was entitled to reinstatement with full back wages and continuity of service and with all consequential benefits and the said Award was published on 13.10.2003 and became enforceable w.e.f. 12.11.2003 and in implementation proceedings, the said award the applicant received back wages from 16-10-1992 to 31.3.2004.

3.3 In the meanwhile, the respondent filed a Writ Petition being WP (C) No.5388/2005 before the Hon^{ble} High Court of Delhi challenging the order dated 26.5.2003 passed by the learned Industrial Tribunal in said OP No.483/1992 and the said WP(C) was dismissed vide Order dated 4.3.2010 and the respondent was directed to reinstate the applicant and to pay the balance amount towards the back wages within a period of one month from the date of the said Order and on the failure to pay the amount of back wages by the respondent from the said period, the applicant shall become liable to pay interest @ 12% on the said balance amount of back wages.

3.4 Thereafter the applicant filed an application for implementation as per directions of the Hon^{ble} High Court. On application moved before Implementation Cell, the applicant received back wages from 1.4.2004 to 30.4.2005. Thereafter the applicant was instructed by the Implementation Cell to approach DTC Headquarter for his GPF, Gratuity, Pension and other retirement benefits. However, when respondent failed to pay him the amount of GPF, Gratuity, Pension and other retirement benefits despite various requests, he served a legal notice dated 22.1.2018 requesting the respondent to give him post retirement benefits, i.e., GPF, Gratuity, Pension and Leave Encashment etc.

to him including arrears of pension w.e.f. 1.5.2005 to my client with interest @ 12% per annum within a period of 15 days of receipt of the said notice. The respondent vide reply dated 5.2.2018 responded to the said legal notice but refused to pay him the amount of back wages from 1.5.2005 till 30.4.2007, GPF, Gratuity, Pension and Leave Encashment etc. with interest.

3.5 Thereafter applicant filed a Contempt Case (C) No.191 of 2018 in the Hon?ble High Court of Delhi. Since the retirement age of Driver was 55 years and in Order dated 4.3.2010 there could not be any specific order for reinstatement, the said Contempt Petition was withdrawn vide order dated 16.3.2018.

3.6 Feeling aggrieved by the Order dated 5.2.2018, the applicant has filed this OA seeking the reliefs as quoted above.

4. During the course of hearing, counsel for the applicant submitted that in the year 1992 when the respondent introduced the Pension Scheme, he was not in service because of order of termination of his services was passed on 16. 10.1992 and the applicant was not provided any opportunity to give any option in pursuance of the said Scheme and the approval application (O.P. No.483/1992) moved by the respondent in 1992 before the Industrial Tribunal was rejected on 26.5.2003 and his Complaint I.D. No.60/1992 was decided on 27.6.2003 by the Industrial Tribunal by holding that applicant was entitled to reinstatement with full back wages and continuity of service. Although in implementation proceedings of the said Award, the applicant received back wages for the period from 16. 10.1992 to 31.3.2004 but since the respondent filed a WP(C) No.5388/2005 before the Hon?ble Delhi High Court challenging the order dated 26.5.2003 passed by the Industrial Tribunal in OP No.483/1992, the applicant was not reinstated and when the said Writ Petition was dismissed by the Hon?ble Delhi High Court vide Order dated 4.3.2010, the applicant filed an application for implementation as per directions of the Hon?ble High Court and on his said application, the applicant received back wages from 1.4.2004 to 30.4.2005. But he was not paid his post retirement benefits such as General Provident Fund, Gratuity and Pension etc. and for which, he was instructed to approach DTC Head Quarters. However, despite repeated requests, when the said benefits the applicant served legal notice which was responded to by the respondents vide impugned order dated 5.2.2018, which is based on wrong appreciation of the facts of this case.

4.1 Counsel for the applicant further submitted that by virtue of order dated 26.5.2003 when the Industrial Tribunal rejected OP NO.483 of 1992, which was filed by the respondent to get approval to the order of termination, the applicant became entitled to reinstatement with all the consequential benefits and as per Office Order dated 30.6.1998, a Driver of DTC retires from service on attaining the age of 55 years, yet if he is medically fit at 55 then he can be given yearly extension which will continue till he attains the age of 60 years. Applicant drew our attention to the applicant?s driving license, which was validly extended by the Transport Department till 8.6.2007, which shows that the applicant was fit to

drive motor vehicle till June 2007.

4.2 Counsel further submitted that since the applicant was not afforded any opportunity to give option in pursuance of the Pension Policy introduced by the respondent vide Office Order dated 27.11.1992, the applicant was entitled to retirement pension either under Clause 4 or Under Clause 9 of the said Office Order. Counsel further submitted that Constitution Bench of Hon'ble Supreme Court in the matter of Jaipur Zala S.B. Bank Ltd. vs. Ram Gopal Sharma, AIR 2002 SC 643 held that if approval to dismissal order u/s 33 (3) (b) of the Act is declined, the dismissal order becomes ineffective from the date it was passed and the workman is deemed to be in continuous service with all benefits as if order of dismissal was never passed and no separate order for his reinstatement was required.

5. On the other hand, counsel for the respondents by referring to the counter affidavit submitted that the applicant has not produced before this Tribunal any order/instructions issued by the respondent permitting the applicant and similarly placed employees to make such representation opting for DTC Pension after their retirement during 2005 to 2011 and in the absence of such order/instruction, no fault can be found with the respondent in not entertaining the request made by the applicant after his retirement to treat him as a deemed optee for the DTC Pension Scheme and to grant him pension thereunder.

5.1 Counsel further submitted that applicant has admitted in his pleadings that he has received both the shares of the employee and employer after his retirement from service and has also been paid other statutory dues as he was not covered by the DTC Pension Scheme. In support of respondent stand, counsel placed reliance on the decision of Full Bench decision of the Hon'ble Delhi High Court in the case of R.D. Gupta and others vs. DTC and another, LPA No.708/2002, decided on 20.9.2011 in which it has been held that :

"The concept of 'deemed to have opted the pension scheme benefits' has been accepted on the foundation that the same is binding on the DTC. If the language of Clause 9 is appositely understood, it would convey that if an employee does not exercise any option or quits service or dies without exercising an option or whose option is incomplete or conditional or ambiguous, he shall be deemed to have opted the pension scheme benefits. It does not lay down that if an employee deliberately applies for getting the benefit under the Contributory Provident Fund scheme and avails the benefits, then it would come under the realm of opting out of the pension scheme. It is an affirmative act to opt for the Contributory Provident Fund Scheme and to avail other benefits attached to it. The said benefits are higher ex gratia amount and the employer's provident fund contribution. There is subtle distinction between deemed inclusion to be under the pension benefit scheme but it would be an anathema to hold that even if an employee has voluntarily opted out and availed the benefits still he can take a somersault and claim to be brought within the pension scheme. As has been in the case of Madhu Bhushan Anand (supra) the same amounts to novation of

contract of volition. To hold that who had applied and opted for the voluntary retirement under VRS 1993 and received all payments would still be entitled to pension regard being had to Clause 9 of the Office Order dated 27.11.1992 would result in placing a farfetched interpretation on Clause 9. In the case of DTC Retired Employees Association (supra) the Division Bench has clearly opined that such employees have no right to switch back to the pension scheme after they have opted out of the pension scheme. As we have indicated earlier, the decision in Madhu Bhushan Anand (supra) and DTC Retired Employees Association (supra) have not been interfered with by their Lordships of the Apex Court. In our considered opinion, Clause 9 of the scheme cannot be carried so far as to have an absurd impact on the scheme. Once the said benefits are availed of, the principle of opting out has to be made applicable. The concept of switch on and switch off has to be ostracized. When an employee accepts the benefits out of his own volition without any coercion, he cannot take a somersault and claim to have the benefits taking recourse to Clause 9 that he is deemed to be within the pension scheme. Thus analyzed, we are of the considered opinion that the decision in Madhu Bhushan Anand (supra) lays down the law correctly. The law laid down in Kishan Lal Sehgal and Ors. (supra) and Vir Bhan (supra) is not correct and, accordingly, the said decisions and the decisions on the said lines are overruled."

5.2 Counsel further submitted that extension of service beyond 55 years in the case of Drivers is subject to medical fitness and since the applicant was granted back wages by virtue of Court's orders well after his retirement date, i.e., 30.4.2005 and as such in his case his services could not have been extended and that the extension of service is granted on year to year basis till 60 years. Merely the applicant's driving license, which was validly extended by the Transport Department till 8.6.2007, does not give as a matter of right to claim extension as the extension of service of the workmen as a driver, which was made permissible, was subject to their being found medically fit by a medical board only because of the scarcity of drivers in the services of the management and it was not a decision to grant extension of services to a driver per se. In this case, there was no occasion for the respondent to adjudge his medical fitness through Medical Board as required under rules, as he was not in service till his retirement and his admissible dues were released well after his retirement.

5.3 Counsel also submitted that applicant has been allowed to be treated as the members of CPF Scheme and there is no change to the same till date. Counsel further submitted that applicant was not pension optee as such both shares of CPF has already been released and gratuity amount has been released on the calculation "pension not opted."

5.4 Counsel for the respondents also placed on reliance of the decision of this Tribunal in OA No.2828/2012 (Dharambir Singh vs. Delhi Transport Corporation) decided on 21.10.2013

6. After hearing learned counsel for the parties and perusing the pleadings

available on record, it is observed that there is no dispute that termination of services of the applicant vide order dated 16.10.1992 was not approved by the Industrial Tribunal and in the Complaint being I.D.

No.60/1992 filed by the applicant was decided by the Industrial Tribunal by holding that the applicant was entitled to reinstatement with full back wages and continuity of service with all consequential benefits and the said Award was published on 13.10.2003 and became enforceable w.e.f. 12.11.2003 and in implementation proceedings, the said award the applicant received back wages from 16.10.1992 to 31.3.2004. In the meanwhile the respondent challenged the rejection of their approval application (OP 483/1992) by the Industrial Tribunal vide Order dated 26.5.2003 before the Hon'ble Delhi High Court by filing the said Writ Petition and after dismissal of the said Writ Petition, the respondent has released the payment of back wages from 1.4.2004 to 30.4.2005. As such when the Pension Scheme was introduced by the respondent vide Office Order dated 27.11.1992, he was not in service and there was no occasion for the applicant to give option in favour of the Pension Scheme or otherwise. In the said Pension Scheme reads as under:-

"DELHI TRANSPORT CORPORATION

(A GOVT OF INDIA UNDERTAKING)

I.P.ESTATE: NEW DELHI

No.Adm-I-5(4)/92

Dated 27.11.92

Office Order No.16

Sub: Introduction of Pension Scheme in DTC as applicable to the Central Govt. Employees.

The introduction of Pension Scheme for the employees of the DTC has been sanctioned by the Central Govt. and conveyed by the M.O.S.T. vide letter No.RT-12019/21/88-TAG dated 23.11.92 on the same pattern as for the Central Govt. employees subject to the following conditions :

1. The pension scheme would be operated by the LIC on behalf of DTC.
2. The date of effect of Pension Scheme would be 3.8.1981.
3. All the existing employees including those retired w.e.f.3.8.1981 onwards would have the option to opt for the Pension Scheme or the Employees Contributory Provident Fund as at present, within 30 days from the date of issue of the O.O. for the implementation of the Pension Scheme as approved by the Govt. of India.
4. The Pension Scheme would be compulsory for all the new employees joining DTC w.e.f. 23.11.92, the date of sanction of the Scheme.

5. The Pension Scheme would be operated by the LIC on behalf of DTC. The employees share in the EPF A/c of the DTC employees, who opt for Pension Scheme, would be transferred to the LIC, for operating the Pension Scheme on behalf of DTC and the amount deposited in the Central Govt./State Govt./Guaranteed Securities would be encashed on maturity.

6. The employees who have retired on or after 3rd August 1981 and the existing employees, who have drawn the employer's share, under the EPF Act, partly or wholly shall have to refund the same with interest in the event of their opting for the Pension Scheme. The total amount to be refunded by the retired employees/existing employees would be the amount that would have accrued had they not withdrawn the employer's share.

7. Excess amount of gratuity, if already paid to ex-employees and which is not admissible under the Pension Scheme, will have to be refunded by them before any benefit under the Scheme, is granted to them.

8. A due and drawn statement would be prepared in respect of retired employees opting for Pension Scheme and the amount to be paid/refunded, would be worked out by the concerned unit, wherefrom the employee had retired from service.

9. If any of the employee of DTC, who does not exercise any option within the prescribed period of 30 days or quits service or dies without exercising an option or whose option is incomplete or conditional or ambiguous, he shall be deemed to have opted the Pension Scheme Benefits.

Application forms for exercising option would be available with the Unit Officers and all employees including retired employees wishing to exercise option, should do so with the Unit of their present working/wherefrom they retired, within a period of 30 days from the date of issue of this Office Order.

The Unit Officers, after receiving the options from the ex-employees, will take further necessary action for getting the necessary forms completed, which will be supplied to them by LIC for pension, etc. They will also ensure the recovery of EPF and Gratuity from the ex-employees before forwarding their applications as mentioned above. The cases of all officers will be dealt with at Headquarters.

The options received from the existing employees for not opting Pension may be kept in their Personal file and entry made in their Service Book.

Sd/-

(L.C.Goyal)

Dy. Chief General Manager (P)

CHIEF GENERAL MANAGERS

ALL GENERAL MANAGERS

ALL UNIT OFFICERS

ALL NOTICE BOARDS.

COPY TO: The Under Secretary to the Government of India (MOST) - for information."

From Clause 9 of the said Scheme, it is quite clear that if any of the employee of DTC, who does not exercise any option within the prescribed period of 30 days or quits service or dies without exercising an option or whose option is incomplete or conditional or ambiguous, he shall be deemed to have opted the Pension Scheme Benefits. However, in the present case, it is an admitted position that applicant had not been given any opportunity to give option in pursuance to the said Pension Scheme. As such the applicant's case is squarely covered under the said Clause 9 of the aforesaid Office Order dated 27.11.1992. The reliance placed by the respondents on the aforementioned judgments of the Hon'ble Delhi High Court as well as of this Tribunal are distinguishable on facts and as such the same are not relevant in this case.

7. So far as the grievance of the applicant that he ought to have been declared as retired from service on 30.4.2007 and not from 30.4.2005 is concerned, the applicant had attained the age of retirement on 30.4.2005 but from the date of termination of his service, i.e., 16.10.1992 till 30.4.2005, he has not actually performed his duties. However, by virtue of the aforesaid Orders of the Industrial Tribunal as well as Hon'ble Delhi High Court, he was granted back wages till the date of his retirement. It is relevant to mention that extension of service of Drivers, by virtue of Office Order dated 30.6.1998, till attainment of age of 60 years is subject to medical fitness which is required to be done or obtained by the Medical Board of the DTC and the said extension is also granted on year to year basis after assessment of medical fitness of the concerned Driver by the Medical Board. As such merely the applicant's driving license was valid till 30.4.2007 by the Transport Department is not sufficient to declare him to continue till 30.4.2007.

8. In view of the above, the case of the applicant in OA is squarely covered by the order of the Hon'ble High Court of Delhi in the case of B.R. Khokha Vs. Delhi Transport Corporation (WP (C) No.6630/2016) delivered on 14.09.2016, wherein the petitioner was similarly placed, as the applicant in OA. He was not a 'pension optee'- not having opted for the pension scheme of the respondent in terms of office order dated 27.11.1992. In OA No.4464/2014 Shri B.R. Khokha had sought similar benefit (as the present applicant in the OA), which was rejected by the Tribunal vide its order dated 28.07.2015. The petitioner, however, succeeded in the Hon'ble High Court wherein the order of the Tribunal was set aside and the respondents were directed to grant pension to the petitioner in terms of DTC Pension Scheme, in terms of para 9 of the Office order dated 27.11.1992. Their Lordships held that the office order dated 27.11.1992 does not expressly mandate that the optees were obliged to exercise an option to get covered under

the scheme. The relevant paras of the said Order of the Hon^{ble} Delhi High Court are reproduced below:-

"15. In our view, the present case is fully covered by the decision rendered in the case of DTC v. Raj Singh, W.P. (C) 4728/2014, relevant paragraphs of which read as under:

"3. It appears that in the year 2002, a circular was issued by the DTC calling upon the existing employees who had not opted for the pension scheme, to exercise fresh option for pension. The respondent-applicant had exercised his option to be covered by the pension scheme. Despite the aforesaid, the respondent-applicant was denied pension upon his superannuation. Consequently, the respondent preferred the aforesaid Original Application before the Tribunal to seek release of pension with effect from 01.12.2004 along with interest. The respondent relied upon the documents of the petitioner, namely, a communication dated 01.07.2004 issued by the Depot Manager which stated, "he has opted DTC pension" and the order dated 29.11.2004 on the subject of payment of gratuity which also showed at serial No. 12 that the respondent had opted for pension.

...

6. Before us, the submission of Ms. Ahlawat, learned counsel for the petitioner is on the same lines as advanced before the Tribunal. Ms. Ahlawat submits that the name of the respondent did not figure in the list of pension optees prepared in 1992 since the respondent did not opt for the pension scheme. She further submits that so far as the 2002 Circular is concerned, the same was issued without authority of law and exercise of option in pursuance thereof by the respondent is of no avail. She further submits that even in his legal notice, the respondent had not claimed that he had opted for the pension scheme in the year 1992.

...

8. As observed by the Supreme Court in DTC Retired Employees Association and Ors. (supra) and by this Court in Madhu Bhushan Anand (supra), para 9 of the Pension Scheme of 27.11.1992 makes it clear that the said pension scheme applied to all the existing employees of the DTC, except those who consciously opted not to get covered by the said pension scheme. The option had to be exercised by the existing employees to opt out of the pension scheme. Otherwise, by default, all the existing employees got covered by the pension scheme. The Supreme Court in DTC Retired Employees Association and Ors. (supra), inter alia, observed:

"14. It is to be noted that those who had retired by the time the Pension Scheme was introduced must have definitely availed of the benefit under the Provident Fund Scheme and as per the Pension Scheme they were liable to refund the employer's share of provident fund with interest thereon, if they wanted to opt

for the Pension Scheme. On the contrary, some such retired employees might not have been interested in refunding the money received by them and having utilized such amount would also find it difficult to raise the funds for repayment. It cannot be assumed that they are bound by the Scheme and would automatically come under the purview. The Pension Scheme cannot be thrust upon such employees even if it may, prima facie, be beneficial to them. As regards the existing employees as on 27.11.1992, the employer could always ask them to exercise their option within a stipulated period and if they failed to exercise their option, the deeming provision can be invoked and it could be said that they are covered by the Scheme. It is also important to note that as per Clause 4 of the Scheme, those employees who joined DTC with effect from 23.11.1992 are compulsorily covered by the Scheme. Therefore, the Division Bench is perfectly justified in holding that the employees who retired on or after 3.8.1981 but before 27.11.1992 and had not exercised their option within the stipulated period or within the extended period, are not entitled to pension under the Scheme."

...

10. Therefore, merely because the respondent did not respond in terms of the office order/pension scheme dated 27.11.1992 to give his positive option to be covered by the pension scheme, it cannot be inferred or interpreted that the respondent had opted out of the pension scheme. The language used in para 9 of the office order No. 16 dated 27.11.1992 is plain and clear and does not, even remotely, support the submission of the petitioner that the respondent was obliged to exercise the option positively and expressly to get covered by the pension scheme. In the light of the aforesaid, the petitioners submission that the circular of 2002 calling for options was issued without any authority, and that the respondent opted for the pension Scheme only in pursuance of the said circular, is of no avail.

11. Pertinently, despite repeatedly being asked whether the respondent had consciously and expressly opted out of the pension scheme in the year 1992 or thereafter, learned counsel for the petitioner has not been able to show that the respondent had so opted out of the pension scheme. Merely because his name did not figure in the list of pension optees stated to have been prepared in 1992 cannot be a reason to deny the legitimate claim of the respondent." (Emphasis Supplied)

16. We may also respectfully state that we are of the view that the case of Rati Bhan (supra), as relied upon by counsel for the respondent, is not applicable to the facts of the present case as in the said case, a list was circulated of the persons who had become entitled to pension in which the name of the petitioner did not feature and he had failed to make any objection thereto. There was not dispute that in the absence of the same, the petitioner therein would have been a deemed optee under the Office Order dated 27.11.1992. The said Office Order also deals with the situation where in case the amount of provident fund has

been received, the same is to be refunded with interest.

17. We also note that the judgment of this court in Raj Singh (Supra) seems to be at odds with the previous judgment in Rati Bhan (Supra) in respect of whether the non-featuring of the names of the employees in the list prepared post the notification would disentitle them to pension as per the Office Order dated 27.11.1992; but, at the same time, there is no dispute as to para 9 of the said Office Order and its consequence. Accordingly, in the present case there can be no doubt as to whether the petitioner was covered under the Office Order dated 27. 11.1992 as he had not expressly opted out of the pension scheme.

18. As far as the objection with regard to delay in approaching the Tribunal is concerned, we may notice that the petitioner has been agitating the issue ever since he retired from the service and without any loss of time he had approached the Public Grievance Cell. The petitioner even appeared before the Public Grievance Cell and on 14.3.2005 the following communication was addressed to the petitioner by the Public Grievance Cell:

"Please refer to your complaint on the above cited subject. I am to inform that inquiry has been conducted by the DTC Deptt and has intimated that subject matter is subjudiced. As soon, as the decision of the Court is announced, the auction will be taken accordingly. In view of the above, your case has been closed for time being in the Commission."

(Emphasis Supplied)

19. A reading of the communication dated 14.3.2005 would show that the case of the petitioner was closed on the express stand taken by the DTC that the matter is sub judice and as far as the decision of the Court is announced, necessary steps would be taken accordingly.

20. In our view, the respondent being a State functionary has not acted fairly and in accordance with law. The respondent should have either complied with the order passed by the Tribunal in the case of Raj Singh (supra) or informed the petitioner as his case is different than that of Raj Singh (supra). Further, the petitioner cannot be blamed for the delay as the decision in Raj Singh (supra) was rendered in the month of July, 2014, and immediately thereafter the petitioner filed the OA in the same year.

21. Accordingly, in view of above, Rule is made absolute. Present writ petition is allowed and the impugned orders dated 28.7.2015 and 2.11.2015 passed by the Tribunal are set aside. The respondent shall grant pension to the petitioner in terms of DTC Pension Scheme and the amount shall be released in terms of para 6 of the Office Order dated 27.11.1992. The petitioner shall refund the amount of Rs. 62,749/- under the CPF Scheme to the respondent in terms of para 6 of the Office Order dated 27.11.1992."

9. In view of the above facts and circumstances of this case and for the reasons stated above, the respondents are directed to grant pension as well as arrears of

pension to the applicant under DTC Pension Scheme of 27.11.1992 from the date of his retirement on superannuation. Before this, the applicant must refund the entire amount he has received at the time of his retirement under the CPF Scheme and also pay interest at the GPF rates on the said amount. If the said amount is paid, the respondents shall grant him pension upto the date of his retirement on superannuation of Drivers, i.e., the age of 55 years as he was never received any extension for continuance in service beyond that date. The applicant shall first refund the money within 30 days of the receipt of a copy of this Order and thereafter if he refunds the said amount of CPF along with interest to the respondent then the respondent shall be liable for implementation of Pension Scheme in applicant's case within 90 days of the completion of pension papers by the applicant of this OA. After submission of pension papers if there is any delay in release of pension beyond 90 days of receipt of pension papers from the applicant, interest at the GPF rate shall be applicable on the admissible amount to be released to the applicant.

10. The instant OA is allowed in above terms. No costs.