(2021) 03 CAT CK 0072

In the Central Administrative Tribunal

Case No : Original Application 798 Of 2019

Kali Prasad Dash APPELLANT

Vs

Kendariya Vidyalaya Sangathan & Others RESPONDENT

Date of Decision : 16-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0072

Hon'ble Judges : Aradhana Johri, Member (A)

Bench : Single Bench

Advocate : Yogesh Sharma, U.N. Singh

Final Decision : Dismissed

Judgement

Aradhana Johri, Member (A)

1. The applicant was employed as Post Graduate Teacher (PGT) (English) with the respondents since 1985. He superannuated on 31.05.2019. At that point of time, he was covered under the CPF Scheme. From 2018 onwards, he gave representations for changing over to the GPF-cum-pension Scheme on the ground that he was regularised only after 01.01.1986, from which date the CPF Scheme ceased to be in operation, that he had given no option for continuing in the CPF Scheme, therefore, he is deemed to be covered under the GPF-cum-Pension Scheme. He has cited this Tribunal's judgments in the case of V.D.Pandey vs. Kendriya Vidyalaya Sangthan (OA No. 1999/2014) and Dr. V.D. Arya vs. Kendriya Vidyalaya Sangathan & Anr. (OA No. 2912/82018), Delhi High Court judgment in the case Kendriya Vidyalaya Sangathan vs. Dr. V.D. Arya (WP(C) 6193/2020), Madras High Court judgments in the case of N. Subramanian vs. Kendriya Vidyalaya Sangathan & Ors. (WP(C) 19215/2015), Kendriya Vidyalaya Sangathan & Ors. vs. R. Amutha (WP 17165/2020), Kendriya Vidyalaya Sangathan vs. R. Shobana & Anr. (WP No. 18758/2020) and Kendriya Vidyalaya Sangathan vs. A. Malarkodi & Anr. (WP 267/2021) and the Madras Bench of this Tribunal's judgment in the case of Smt. Usha Rajagopalan & Anr.

(OA No. 1248/2019 & Batch).

2. In their counter affidavit, the respondents have denied the claims of applicant and stated that the applicant's appointment was from 1985 , hence, it was before the cut-off date of 01.01.1986. He was given a CPF account number and was subsequently allotted revised CPF A/c no. 1278 in place of the old account no. BRC-2438. They have cited the case of KVS & Others vs. Jaspal Kaur & Ors. in Civil Appeal No. 2876/2007, Shashi Gupta (OA No. 924/2016) and Ram Prit Thakur vs. Kendriya Vidyalaya Sangathan & Ors. (OA No. 973/2018). They have stated that the applicant opted for the CPF scheme hence he is not entitled to the Pension Scheme. Furthermore deductions were regularly made for CPF contribution, he was issued Form-16 for filing of IT Return. Hence, as per the respondents, the fact that he was governed by the CPF was well within his knowledge. Through supplementary additional documents filed on 04.02.2021, the respondents have given a copy of the option form signed by the applicant dated 13.10.1998 for continuing in the CPF Scheme. They have also filed a sheet in which revised numbers have been allotted to several officials, including the applicant.

3. At the stage of final hearing, learned counsel for applicant stated that he would like to withdraw this OA with permission to file a better OA.

4. Shri U.N. Singh, learned counsel for respondents had no objection to withdrawal of the OA but opposed grant of any liberty to the applicant at this stage.

5. I am of the view that it is the right of the applicant to pursue a case or to withdraw from it and no one can be compelled to continue with any litigation. Since final hearing has not yet been completed, applicant is permitted to withdraw the OA.

6. OA is dismissed as withdrawn with liberty to the applicant to approach the appropriate legal forum. No order as to costs.

