
(2019) 09 CAT CK 0059

In the Central Administrative Tribunal

Case No : Original Application No. 2742 Of 2018

Manju Sehgal

APPELLANT

Vs

Kendriya Vidyalaya Sangathan And Ors

RESPONDENT

Date of Decision : 26-09-2019

Acts Referred:

Citation : (2019) 09 CAT CK 0059

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

Bench : Single Bench

Advocate : Yogesh Sharma, Rashmi Bansal

Final Decision : Allowed

Judgement

1. The applicant Mrs. Manju Sehgal was appointed as a Primary Teacher in the respondents? organisation - Kendriya Vidhyalaya Sagathan (KVS) on 19.03.1979. Subsequently, she was appointed as PGT on 05.01.1986 on direct recruitment basis and further appointed as Principal on 01.07.2002 on direct recruitment basis, and retired from the same post on 30.11.2007 from KVS, Dharamshala, (H.P). She was covered under the CPF scheme and continued to be under the said scheme till her retirement. On 20.06.2018, she gave a representation to the respondents that since she was selected and joined as PGT (English) on 05.01.1986 through direct recruitment, she is to be covered by GPF-cum-Pension Scheme as per the case of Sh. Jhonson P. Jhon, PGT (Physics) in accordance with the judgment of CAT Ernakulam Bench as well as the case of Sh. S. K. Sharma and Ms. Usha Rani Singh vide P. B. Delhi CAT judgment in O.A No. 1027/2014 and O.A No. 1039/2014. However, the applicant has not yet been granted pension under the GPF-cum-Pension Scheme.

2. It is the contention of the applicant that since she was directly recruited as PGT on 05.01.1986 and subsequently as Principal on 01.07.2002, while the new pension scheme was implemented with effect from 01.01.1986 in the respondents? organisation. After the said cut of date, all appointees were

deemed to be in GPF Pension Scheme as there was no CPF scheme for them. She has claimed that she is similarly situated to Sh. Jhonson P. Jhon, PGT (Physics) in O.A No. 457/2011 for conversion from CPF to GPF which was allowed by the Ernakulam Bench of this Tribunal and was upheld by the High Court of Kerala in OP(CAT) No.597/2013. She has also claimed that Sh. Santosh Kumar Verma and Smt. Usha Rani Singh were extended the benefit of the Ernakulam Bench Judgment in their O.As No. 1027/2014 and 1039/2014 filed before the Principal Bench of this Tribunal. She has also cited judgment of Sh. Hoshiyar Singh in O.A No. 3112/2013, which was allowed by the Principal Bench. Other judgments filed by the applicant in support of her contention are :-

(1) O.A No. 2073/2014 in B. C. Tyagi Vs. Union of India & Ors.

(2) O.A No. 4592/2015 in Vijay Kumar Malik Vs. Union of India & Ors.

(3) O.A No. 2318/2015 in P.R.L. Gupta Vs. Union of India & Ors.

(4) O.A No. 782/2018 in Sanjeev Kumar Rai Vs. KVS & Ors.

3. She has sought the following reliefs :-

"(i) That the Hon?ble Tribunal may further graciously be pleased to pass an order declaring to the effect that the whole action of the respondents applying the CPF Scheme on the applicant on his fresh appointment as PGT on 05.01.1986 and as Principal on 01.07.2002 is void-ab-initio as in the year 1986 and in the year 2002 CPF Scheme was not in operation for fresh appointment and consequently, pass an order directing the respondents to treat the applicant as governed by GPF cum pension scheme with all consequential benefits including the arrears of pension from the date of retirement with interest.

(ii) That the Hon?ble Tribunal may further graciously be pleased to pass an order directing the respondents to adjust the CPF paid to the applicant in the GPF."

4. Respondents have denied the claim of the applicant though admitting that the KVS in its 51st Meeting of Board of Governors dated 31.05.1988 decided that employees who joined service on or after 01.01.1986 shall be governed by GPF-cum-Pension Scheme. Further, the employees who would like to continue in CPF scheme would exercise a clear option by 31.01.1989. In their counter affidavit they have asserted that after a lapse of 32 years, the applicant has suddenly given a representation for consideration of her case in GPF-cum-Pension Scheme which is not maintainable. They have cited several cases including that of KVS and Ors. Vs. Jaspal Kaur and anr., in C.A No. 2876/2007 decided on 06.06.2007 by the Hon?ble Apex Court, Smt. Shashi Gupta Vs. KYS, in O.A No. 942/2016, Union of India & Ors. Vs. M. K. Sarkar, C.A. No. 8151/2009, T. Krishnamurthy Vs. Assistant Commissioner, KVS and Ors. in O.A No. 139/2012, Liladhar Vasant Chogale and anr. Vs. UOI and ors. in W.P. No. 1982/2005 and Krishena Kumar & Ors. vs. Union of India & Ors. [(1990) 4SCC 2071].

5. Heard Mr. Yogesh Sharma, learned counsel for applicant and Ms. Rashmi

Bansal, learned counsel for respondents.

6. It is the case of the applicant that since her appointment on 05.01.1986 as PGT was on direct recruitment basis as was her subsequent appointment as Principal on 01.07.2002 on a direct recruitment basis, as per the BoG decision of KVS, all persons joining service on or after 01.01.1986 shall be governed by GPF-cum-Pension scheme and will have no option for CPF scheme. It is not disputed that the applicant's appointment on 05.01.1986 was on direct recruitment basis. Therefore, she will be squarely covered by the rulings cited by her, the principal case being that of Sh. Jhonson P. Jhon, PGT (Physics) in O.A No. 457/2011 before CAT Ernakulam Bench, which was upheld by Hon'ble High court of Kerala in OP(CAT) No. 597/2013 as well as in O.A No. 3112/2013 filed before the CAT Principal Bench by Sh. Hoshiyar Singh. This along with other rulings cited by the applicant has also been implemented by the respondent organisation.

7. As far as the rulings in the case of Krishena Kumar and Anr. Vs. Union of India & Ors., 1990 AIR 1782, as well as other rulings cited by the respondents are concerned, in these rulings the principal issue was not that all persons appointed on direct recruitment basis after the cut off date for commencement of the GPF-cum-Pension Scheme were deemed to have been covered by the said scheme. Therefore, the present case is distinguishable from the cases cited by the respondents. Since herein the issue is that of a person appointed on direct recruitment basis being deemed to be covered under the GPF-cum-Pension Scheme.

8. In the light of the above, this O.A is hereby allowed. The respondents are directed to extend the benefit of the pension scheme to the applicant considering her appointment as PGT on direct recruitment from 05.01.1986. The applicant shall refund the employer's contribution along with the interest and any other funds received which are to be refunded as per the scheme of respondent organisation.

There shall be no order as to costs.