
(2023) 01 JH CK 0035
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5636 Of 2014

Sagen Soi Murum

APPELLANT

Vs

Jharkhand Urja Vikas Nigam Ltd And Others

RESPONDENT

Date of Decision : 23-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 01 JH CK 0035

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Nand Kishore Prasad Sinha, O.P. Tiwari, Neha Bhardwaj

Final Decision : Dismissed

Judgement

Anubha Rawat Choudhary, J

1. Heard Mr. Nand Kishore Prasad Sinha, learned counsel appearing on behalf of the petitioner.
2. Heard Mr. O.P. Tiwari, learned counsel appearing on behalf of the respondents-State.
3. Heard Ms. Neha Bhardwaj, learned counsel appearing on behalf of the respondent No. 8.
4. This writ petition has been filed for the following reliefs:-

“(i) For issuance of direction in the nature of certiorari for quashing Memo No. 591 dated 30.04.2014 (Annexure-11) whereby the representations of the petitioner for change of his option from C.P.F. to G.P.F. under certified standing orders of the Board has been rejected arbitrarily, illegally and whimsically without application of mind in contrary to the provision made under the rule.

(ii) For issuance of direction in the nature of mandamus commanding upon the respondents to allow the option exercised by the petitioner in term of clause 9 of

the Bihar State Electricity Board modified certified standing order duly certified under the Industrial Employment (Standing Orders) Act, 1946 wherein provision has been made that on termination of employment either due to retirement, discharge or on other ground the workmen will be paid either according to Gratuity Pension, G.P.F. Scheme or C.P.F. Gratuity Scheme on the option exercised by the workmen after and from the date the modified standing order comes into effect which is 21.11.1998.

(iii) For issuance of direction in the nature of Mandamus commanding upon the respondents to sanction and pay the retiral benefits of the petitioner viz. Pension, Gratuity and G.P.F. after adjusting the amount paid to him as C.P.F. accumulation and recover the balance amount, if any, with interest from the amount of Gratuity and Pension payable to the petitioner under Rule.

(iii) To sanction and pay the interest for delayed payment of Pension and Gratuity under the rule.”

Arguments of the Petitioner.

5. The learned counsel for the petitioner submitted that the impugned order has been passed pursuant to the order passed by this court in the earlier writ petition filed by the original petitioner being W.P.(S). No.5878 of 2006. This case was earlier taken up on 02.05.2018 wherein following order was passed by this court:

6. A supplementary counter affidavit was filed mentioning that the application of the original petitioner by which he had opted to continue under CPF Scheme could not be traced out and that all the documents were with Bihar State Power (Holding) Company Limited and a letter was issued to them to provide the document relating to the original petitioner. Consequently, Bihar State Power (Holding) Company Limited was added as respondent no.8 and notice was issued and thereafter Bihar State Power (Holding) Company Limited has appeared through a counsel and filed a counter affidavit that the records were not available with Respondent no.8. The matter was taken up on 16.11.2022 and it was recorded in para 5 and 6 of the order that apparently, none of the respondents have the copy of the option exercised by the petitioner to continue under CPF Scheme and the matter was heard on merits on the basis of available records and then it was posted for judgement today.

7. The learned counsel for the petitioner has submitted that the original petitioner was appointed as unskilled khalasi as back as on 13.01.1977 and was subsequently appointed as correspondence clerk on 29.07.1977 . The then Bihar State electricity Board had circulated resolution no. 393 dated 08.12.1987 regarding introduction of pension cum general provident fund (GPF) Scheme in which it was specifically mentioned in para 2 that the existing employees may however exercise their option to continue in C.P.F. Scheme within three months from the date of issue of this order and option once exercised shall be treated as final. If no option is received within the prescribed time limit, it will be presumed that the employee has opted for the new Pension-cum-G.P.F. Scheme. It is the

case of the petitioner in the writ petition that the aforesaid order dated 08.12.1987 took effect from 06.11.1987 and the petitioner continued in CPF Scheme ignorantly [para 6(c)]. In pursuance of one order passed by the Hon'ble Supreme Court dated 31.01.1995, the standing order of the Board was modified and the modified standing order certified under the Industrial Employment (standing order) Act, 1946 came into effect from 21.11.1998 vide letter no 247 dated 21.11.1998 wherein provision was made under clause-9 of the standing order that on the option exercised by the workmen after and the date on which modified standing order comes into effect, the workmen will be paid either under GPF Scheme or under CPF Scheme. Thereafter the original petitioner exercised his option in terms of clause -9 of the modified standing order which was made effective vide letter no 247 dated 21.11.1998 dated 09.10.2002 forwarded vide his letter dated 10.10.2002 which was duly forwarded for consideration by higher authorities and in the meantime the petitioner retired on 30.04.2008. He received a sum of Rs.8,04,413/- vide cheque dated 28.03.2009 towards withdrawal against CPF scheme. It is also the case of the petitioner in para 13 of the writ petition that another person namely one Dr. R.R.U. Singh, ex-Director Personnel, JSEB was extended the same benefit but not extended to the petitioner.

8. The counsel for the petitioner has submitted that in terms of modified standing order No. 247 effective from 21.11.1998, the original petitioner had expressed and exercised his option to continue as a member of GPF Scheme. By the impugned order contained in memo No. 591 dated 30.04.2014 (Annexure-11) the representation of the original petitioner for change of his option from CPF scheme to GPF Scheme under certified standing order has been rejected.

9. The learned counsel appearing on behalf of the respondents on the other hand has submitted that though the respondents have not been able to bring on record the option exercised by the petitioner to continue under CPF Scheme, but as per the representation dated 9.10.2002, the petitioner has mentioned that he was a member of CPF Contributory bearing Account No. 2305 and he had changed his mind and wants to be a member of GPF. The said document at Annexure-3 is dated 09.10.2002. The learned counsel submits that on account of subsequent development which has taken place after the creation of the State of Jharkhand and unbundling of the respondent electricity board, the option exercised by the original petitioner in continuing under CPF scheme could not be traced, but in view of Annexure-3, it appears that the original petitioner was continuing as a member of CPF and thereafter he changed his mind and wanted to be a member of GPF in 2002. The learned counsel also submits that the original petitioner has retired and has taken the benefits under CPF scheme.

Rejoinder of the petitioner.

10. In response, the learned counsel for the petitioner has submitted that the claim of the original petitioner under GPF was under consideration and in the

meantime the original petitioner has retired and therefore it cannot be said that the original petitioner has voluntarily accepted his payment under CPF. The learned counsel has also relied upon a judgment passed by the Hon'ble Supreme Court reported in (2014) 3 SCC 617 (Calcutta Port Trust and Others versus Anadi Kumar Das (Captain) and others and he submits that the option to continue under GPF could have been exercised even subsequently for which the original petitioner had filed his representation dated 09.10.2002 which was duly processed.

Findings of this Court.

11. From the perusal of the records of this case, this court finds that the option form filled by the original petitioner showing that he had ever opted for CPF scheme as claimed by the respondents is not on record. Further, the original petitioner is claiming benefits of GPF scheme by virtue of submitting his option form on 09.10.2002 vide covering letter dated 09.10.2002. The option form submitted vide covering letter dated 09.10.2002 is also not on record. The respondents have not been able to produce the option form (s) filed by the original petitioner as the records are not traceable. In such circumstances, this court called for the records of the earlier writ petition being W.P.(S). No.5878 of 2006 filed by the original petitioner but in the said case record also, the option form(s) filled by the original petitioner before the respondents is not available. However in the said case record, a copy of the order dated 31.01.1995 passed by the Hon'ble Supreme Court has been found in the supplementary affidavit filed by the original petitioner and the said order dated 31.01.1995 was passed in Civil Appeal no. 5267/1995 and 5268 /1995 [Bihar State Electricity Board versus Presiding officer, Industrial Tribunal and others].

12. It is not in dispute that the original petitioner was appointed as unskilled khalasi as back as on 13.01.1977 and was subsequently appointed as correspondence clerk on 29.07.1977.

13. After hearing the learned counsel for the parties and after going through the materials on record and upon going through the aforesaid judgement dated 31.01.1995 passed by the Hon'ble Supreme Court, this court is of the considered view that essentially following points arise for consideration by this court: -

a. Whether the present case is a case of exercise of option for the first time or it is a case of change of option.

If it is found that it is a case of change of option, then the further point for consideration would be-

b. Whether, the subsequent development after introduction of resolution no. 393 dated 08.12.1987 i.e introduction of modified standing order vide letter no 247 dated 21.11.1998 entitled the petitioner to change his option from CPF scheme to GPF scheme by referring to clause 9 thereof.

14. The sequence of events are as follows: -

(i) 13.01.1977 – The original petitioner was appointed as unskilled khalasi. In the year 1977 itself the original petitioner was appointed as correspondence clerk.

(ii) On 17.06.1999 – the original petitioner was promoted to the post of head clerk.

(iii) Till the year 1987, all the employees of erstwhile Bihar State Electricity Board were covered under CPF (Contributory Provident Fund) Scheme.

(iv) Vide Resolution No.393 dated 08.12.1987 Pension-cum-G.P.F. scheme was introduced. Para 2 of the resolution is quoted as under:

“The existing employees may however, exercise their option to continue in CPF scheme within three months from the date of issue of this order and option once exercised shall be treated as final. If no option is received within the prescribed time limit, it will be presumed that the employee has opted for the new Pension cum GPF scheme.”

(v) Clause 9 of the modified standing order came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998. As quoted in the impugned order, clause 9 reads as follows: -

“On termination of employment either due to retirement, discharge or on other ground will be paid either according to Gratuity, Pension, GPF Scheme or CPF gratuity Pension, GPF Scheme or CPF gratuity scheme on the option exercised by the workman after and from the date on which this modified standing order comes into effect.”

(vi) Vide covering letter dated 09.10.2002, the original petitioner filed his option dated 09.10.2002 to come under GPF scheme.

(vii) On 30.04.2008 – The original petitioner retired. He received a sum of Rs.8,04,413/- vide cheque dated 28.03.2009 towards withdrawal against CPF scheme.

(viii) The application of the original petitioner was forwarded to the Administrator, Pension-cum-GPF Trust, Jharkhand State Electricity Board, Ranchi vide letter dated 05.05.2009.

(ix) When no action was taken in his exercise of option dated 09.10.2002 filed vide covering letter dated 09.10.2002, the original petitioner filed writ petition being WPS no. 5878 of 2006 raising his grievance that he had exercised an option in terms of Clause 9 of Bihar State Electricity Board's modified standing order duly certified under Industrial Employment (Standing Orders) Act, 1946 to avail the benefits of GPF Pension and Gratuity scheme, but no decision was taken. The said writ petition was disposed of vide order dated 29.07.2013 with the following observations and direction:

“Learned counsel for the petitioner submits that only C.P.F. amount has been paid and the other post retiral benefits are still due.

Learned counsel for the respondent – Board, however, submits that the petitioner has retired on 30.4.2008 and has been given all the post retiral benefits under the C.P.F. Scheme.

After hearing learned counsel for the parties, it appears that the respondents have not yet taken decision on the representation made by the petitioner to avail of the benefits of G.P.F. Pension and Gratuity Scheme in terms of the Board's modified standing order dated 21.11.1998.

In such situation, therefore, in the first instance let the representation of the petitioner be decided by the respondents themselves. The petitioner shall once again approach respondent no.2, Secretary, Jharkhand State Electricity Board, Engineering Building, HEC, Dhurwa, Ranchi with a fresh representation within a period of three weeks with all supporting facts and documents including earlier correspondences. On receipt of such representation, the respondent no.2, Secretary, Jharkhand State Electricity Board, Engineering Building, HEC, Dhurwa, Ranchi shall take an informed decision in view of the modified standing order relied upon by the petitioner as also the rules prevalent in the Board from time to time within a period of twelve weeks thereafter.

The writ petition is disposed of in the aforesaid terms."

(x) Thereafter, the original petitioner filed representation dated 22.08.2013, before the Secretary, Jharkhand State Electricity Board, Ranchi (Annexure- 10) and also filed a representation dated 10.02.2014 to the General Manager (HR and Administration), Jharkhand Urja Vikas Nigam Limited, Engineering Building, HEC Dhurwa, Ranchi.

(xi) Ultimately, the impugned order contained in Memo No.591 dated 30.04.2014 has been passed pursuant to the direction issued by this court in WPS no. 5878 of 2006 and the claim of the original petitioner has been rejected by stating that the original petitioner had already exercised his option to continue under CPF Scheme , he continued under CPF Scheme after resolution of the board dated 08.12.1987 by which GPF Scheme was introduced and the original petitioner was allocated account number of CPF Scheme and duly contributed in the CPF scheme till his retirement and also withdrawn the amount as per CPF scheme upon retirement .

Point no. (a)

15. This court finds that the above provision of para 2 of Resolution No.393 dated 08.12.1987 clearly mentioned that in order to continue in CPF Scheme, one had to exercise option within three months and option so exercised was to be treated as final. It also provided that if no option is received within time, it will be presumed that the employee had opted for a new Pension-cum-G.P.F scheme.

16. Thus, the consequence of non – furnishing of any option under resolution dated 08.12.1987 was that the employee was presumed to have opted for the

new pension cum GPF scheme and one had to exercise the option in order to continue under CPF scheme.

17. Admittedly, the original petitioner remained in CPF scheme and an account number of availing benefits under CPF scheme was also allotted to the original petitioner.

18. The original petitioner never protested to his continuation in CPF scheme. As already held above, in order to continue in CPF scheme, it required conscious exercise of option otherwise the employees were deemed to have opted for the new GPF scheme introduced vide resolution no. 393 dated 08.12.1987. It is not the case of the original petitioner that he never exercised any option pursuant to resolution dated 08.12.1987 to continue in CPF scheme and he was wrongly continued in CPF scheme. Rather, the original petitioner has stated in the writ petition that he continued in CPF scheme on account of ignorance. It is also important to note that the original petitioner is not claiming any relief arising out of exercise of option upon introduction of new GPF scheme vide resolution no. 393 dated 08.12.1987 at the relevant point of time i.e in the year 1987 or 1988.

Admittedly only three months' time was granted to exercise option under resolution no. 393 dated 08.12.1987 and the option so exercised was said to be final and in case of failure to exercise option the employee had to continue under new GPF scheme. The original petitioner has not challenged any action or inaction of the respondents with regards to exercise of option under resolution no. 393 dated 08.12.1987.

19. The specific case of the petitioner is that in terms of the aforesaid modified standing order dated 21.11.1998, the original petitioner exercised his option vide petition dated 09.10.2002 and letter no.417 dated 10.10.2002 to cover himself under Pension cum GPF scheme.

20. The covering Letter of the petitioner dated 09.10.2002 in connection with option form dated 09.10.2002 is quoted as under:

To,

The Director of Accounts,

Jharkhand State Electricity Board (Hd. Qr.)

Artisan Hostel, Dhurwa, Ranchi

Sub: - Regarding option for conversion of my C.P.F bearing A/C No.2035 to

G.P.F. as per Modified Standing Order No.247 dated 21.11.98 under clause "9" page no.4 of the Board.

Sir,

I would like to draw your kind attention on the subject noted above and very sorry to express my opinion: -

That at present I am a member of C.P.F. contributory bearing my A/c No.2035.

It comes to my knowledge, that Secretary to the Apex Board has pleased to issue specific order on option for conversion of C.P.F. to G.P.F. vide its Modified Standing Order No.247 effective from 21.11.98 under clause "9" in page no.4 of the Board. (copy enclosed).

In the said order, I have changed my mind and want to be a member of G.P.F.

In the light of the aforesaid order, I therefore request you, my option given may kindly be considered sympathetically as per rule existed under the Board.

For this act I shall always remain ever grateful and highly oblige.

Encl: - As above

Your's
Faithfully

s/d-

Dated – 9.10.2002

Head Clerk

Elect. Supply Division,

Chakradharpur"

21. In the said covering letter dated 09.10.2002 letter, it has been clearly mentioned by the original petitioner that he was a member of CPF scheme and that he had changed his mind and wants to be a member of GPF. In the said letter, it is not the stand of the original petitioner that he continued under CPF Scheme under any ignorance. Rather, the subject of the letter itself indicates that it was written for the purpose of 'Regarding option for conversion of my C.P.F bearing A/C No.2035 to G.P.F. as per Modified Standing Order No.247 dated 21.11.98 under clause "9" page no.4 of the Board.' and in the letter it has been mentioned that the original petitioner had applied under the impression that the Apex Board had been pleased to issue specific order on option for conversion of C.P.F. to G.P.F. vide its Modified Standing Order No.247 effective from 21.11.98 under clause "9".

22. In the said letter, it was also mentioned that vide letter dated 21.11.1998, the Apex Board has been pleased to issue specific order on option for conversion for CPF to GPF. However, as discussed later in this judgement, the letter no.247 dated 21.11.1998 (Annexure – 2), does not call for exercise of fresh option from the employees.

23. The aforesaid facts demonstrates that in the year 2002 , the original

petitioner has not claimed the he had exercised his option for the first time , rather his specific case is that 'he has changed his mind and wanted to a member of GPF' for which he filed his option vide covering letter date 09.10.2002 and in order to do so he has relied upon clause 9 of the modified standing order , which came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998 , as a follow up of the judgement passed by the Hon'ble Supreme Court dated 31.01.1995 passed in Civil Appeal no. 5267/1995 and 5268 /1995 [Bihar State Electricity Board versus Presiding officer, Industrial Tribunal and others].

24. Thus, the original petitioner has no grievance with regard to any act or omission of the respondents with regard to resolution no. 393 dated 08.12.1987 and his continuance in the CPF scheme for which an account number was also allotted and he throughout continued to contribute to the said account. The very fact that as per resolution no. 393 dated 08.12.1987, a person could continue under CPF scheme only upon exercise of option to that effect and the fact that the original petitioner continued in CPF scheme and later opted for GPF Scheme in the year 2002 by stating that 'he has changed his mind and wanted to a member of GPF' itself indicates that the original petitioner must have exercised his option to continue under CPF scheme in terms of clause 2 of resolution no. 393 dated 08.12.1987, thereby continued under CPF scheme and subsequently changed his mind by taking recourse to clause 9 of modified standing order introduced vide letter no 247 dated 21.11.1998. Thus, the present case is not a case of exercise of option for the first time but is a case of change of option. Point no (a) is accordingly decided.

25. Before finally closing the point no (a) it is important to deal with the judgement relied upon by the petitioner. Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court reported in (2014) 3 SCC 617 and has referred to paragraph 23 of the judgment which reads as follows:-

26. "23. We would like to observe that whenever an employer introduces the pension scheme or makes the same applicable to retired employees and gives them opportunity to exercise option, the circulars/instructions issued for that purpose should either be communicated to the retirees or made known to them by some reasonable mode. Mere display of such notice/instructions on the noticeboard of the head office cannot be treated as an intimation thereof to the retired employees/officers. The employer cannot presume that all the retirees have settled in the city where the head office is located. If the employees belong to the services of the Central Government or its agencies/ instrumentalities, they are likely to settle in their native places which may be far away from the seat of the Government or head office of the establishment or organization. The retirees are not expected to frequently travel from their native places to the seat of the Government or head office to know about additional benefits, if any, extended by the Government or their establishment/organisation and it is the duty of the employer to adopt a suitable mechanism for communicating the decision to the

retired employees publishing a notice in the newspaper about which the retirees are told at the time of their retirement or by sending copies of the circulars/instructions to the retirees or by sending a copy thereof to the association of the employees and/or officers with a direction to them to circulate the same among the retirees concerned. By taking advantage of the modern technology, the employer can also display the circulars/instructions on a designated website about which prior information is made available to the employees at the time of their retirement. If one of these modes is not adopted, the retired employees can legitimately complain that they have been denied right to exercise the option and can seek intervention of the court.”

27. This court finds that it is not the case of the petitioner that he was never granted any opportunity to exercise his option. The aforesaid letter dated 09.10.2002 clearly demonstrates that he had applied for change of option. It is not the case of the petitioner that circular regarding exercise of option was not communicated to the original petitioner or he was not aware of the same, rather he had stated that he continued under CPF scheme on account of ignorance and nothing further mentioned by him. The prayer of the writ petitioner does not reflect that the petitioner is aggrieved by not granting of any opportunity of exercise his option as per circular of the year 1987, rather his entire case is based on the subsequent enforcement of modified standing order. Accordingly aforesaid judgment does not apply to the facts and circumstances of this case.

Point no (b)

28. Having held that the present case is a case of change of option, it is required to be examined as to whether, the subsequent development after introduction of resolution no. 393 dated 08.12.1987 i.e introduction of modified standing order vide letter no 247 dated 21.11.1998 entitled the original petitioner to change his option from CPF scheme to GPF scheme by referring to clause 9 thereof.

29. In order to examine this point, it is important to refer to the judgment dated 31.01.1995 passed by the Hon’ble Supreme Court in the Civil Appeal no. 5267/1995 and 5268 /1995 [Bihar State Electricity Board versus Presiding officer, Industrial Tribunal and others] which was the reason for issuance of modified standing order which came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998.

30. The opening paragraph of the judgement passed by the Hon’ble Supreme Court mentions that ‘the only question which arises for consideration is whether the high court was right in upholding the modification of certified standing orders of the appellant which had been submitted for certification.’

The background of the case has been narrated in the next two paragraphs of the judgement as follows: -

“It appears that there were standing orders which had been framed under the Industrial Employment (Standing orders) Act, 1946 which are in existence. Some

modification were proposed by the appellant and they were submitted for certification. The respondent no. 2 certified the standing orders of the Board and made certain provisions in respect of recruitment, promotion and transfer. The matter was taken to the appellate authority who modified and confirmed the order of the Certifying Officer.

The respondents thereafter filed writ petitions challenging some of the modifications. The Board also challenged some other modifications. It is not necessary to deal in detail with all the contention which were raised because in the present appeal is arising on leave to appeal having been granted, we are concerned with only those aspects of the standing orders, namely, provision made regarding automatic, cessation of employment, provision regarding recruitment of workmen and, lastly, the provision with regard to transfer of workmen."

31. Upon perusal of the judgement passed by the Hon'ble Supreme court this court finds that the Bihar State Electricity Board already had a standing order and the same was amended, some of the amendments were subject matter of consideration before the Hon'ble Supreme Court and the proceedings before the Hon'ble Supreme Court neither had anything to do with the pension/gratuity scheme of the electricity board nor had anything to do with any exercise of option under resolution no. 393 dated 08.12.1987 or under the standing orders of the Board.

32. On 21.11.1998, pursuant to judgment passed by Hon'ble Supreme Court dated 31.01.1995, the standing order of the Board was modified and the modified standing order certified under the Industrial Employment (Standing Orders) Act, 1946 came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998 issued by erstwhile Bihar State Electricity Board. The entire Industrial Employment (Standing Orders) Act, 1946 has not been placed on record. However, Clause 9 of the modified Standing order, which has been relied upon by the petitioner, has already been quoted above.

33. The specific case of the petitioner is that by virtue of Clause 9 of the modified Standing order, the original petitioner had exercised his right to change the option as 'he has changed his mind and wanted to a member of GPF'

34. The fact remains that letter no 247 dated 21.11.1998 was issued to implement the modified standing order pursuant to the judgement passed by the Hon'ble Supreme Court which had nothing to do with pension schemes. Upon going through the clause 9 of the modified standing order which came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998, this court finds that the same is neither calling for any option from any employee regarding choosing between the two pension schemes nor calling for any change of option with regard to the two pension schemes. Simply put, the said clause 9 only provides that from the date of coming into force of the modified standing order, the employees upon termination of employment will be paid pension/gratuity/

provident fund according to the option exercised by them under the schemes.

35. It is important to note that even if it is assumed for a moment that the clause 9 of the modified standing order which came into effect from 21.11.1998 vide letter No.247 dated 21.11.1998 was meant to call for any option /change of option regarding CPF scheme or GPF scheme, there is no time limit to exercise such an option. The two schemes are totally different from each other and appropriate follow up financial adjustments are required to be done as per the schemes and it cannot be left open to opt for either of the two at any point of time. This court is of the considered view that implementation of modified standing order does not replace the existing modified order but it only implements the modifications made in the standing order after the judgement passed by the Hon'ble Supreme Court dated 31.01.1995.

36. In view of the aforesaid facts and circumstances of this case, this court is of the considered view that introduction of modified standing order vide letter no 247 dated 21.11.1998 did not entitle the petitioner to change his option from CPF scheme to GPF scheme by referring to clause 9 thereof. No other provision or clause has been relied upon by the petitioner entitling him to change his option from CPF Scheme to GPF Scheme. The point no. (b) is accordingly decided against the petitioner.

37. In the writ petition at paragraph No. 13 a plea has been taken by the petitioner that similar benefit has been allowed after retirement of one Dr. R.R.U. Singh, Ex-Director of Personnel, JSEB, and the petitioner has been denied such benefit. This court finds that the statement made in para 13 of the writ petition has been stated to be a matter of record in the counter affidavit. However, other details with regard to exercise of option etc. by Dr. R.R.U. Singh has neither been mentioned in the writ petition nor in the counter affidavit. Otherwise also, in view of the aforesaid findings with regards to point no (a) and (b) with regard to specific facts and circumstances of this case, the benefit, if any, given to any other person has no bearing in the present case.

38. In view of the aforesaid findings, with regards to point no (a) and (b), this court is of the considered view that the respondents have rightly held in the impugned order that the original petitioner had already exercised his option to continue under CPF Scheme and no relief could be granted to the petitioner under GPF Scheme. This court does not find any illegality or perversity in the impugned action and order passed by the respondent calling for any interference under Article 226 of the Constitution of India. Consequently, the present writ petition is dismissed.

39. Pending interlocutory application, if any, is closed.