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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3228/2018 with C.M. Nos. 12762,32849,47132/2018

NATIONAL COUNCIL OF EDUCATION RESEACH AND
TRAINING

..... Petitioner

Through: Mr. Ashok Kr. Panigrahi with Mr.
Rajvardhan Singh, Advs.

Versus

DR B SHYAM PRASAD RAJU

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

13.11.2018

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1. The petitioner - National Council of Education Reseach and Training (NCERT) has preferred the present writ petition to assail the award dated 25.10.2016 passed by the Tribunal in O.A. No. 100/2416/2015 preferred by the respondent. The Tribunal allowed the said original application and held that the respondent was entitled to seek coverage under the General Provident Fund Scheme (GPF Scheme). We may observe that though the impugned order is of 25.10.2016, the present writ petition was preferred only in February 2018. The petitioner has sought to explain the delay in filing the writ petition on the ground that inter ministerial consultation was taking place on the issue whether the present writ petition should be preferred or not. In our view, the said explanation is unsatisfactory and on account of delay in latches, the present petition is liable to be dismissed.
2. Reliance placed by the learned counsel for the petitioner on the judgment of the Supreme Court in *State of U.P. & Ors. V. Raj Bahadur*

Singh & Anr. (1998) 8 SCC 685 is inapposite since that was a case in relation to the setting aside of the termination of a temporary Government Servant. The writ petition had been preferred after a delay of about 18 months in that case.

3. In our view, in the facts of the present case, the said decision is not attracted. In any event, we have also examined the merits of the present case and we find that the order passed by the Tribunal does not call for interference.

4. The respondent was initially appointed as Lecturer in Mathematics in the NCERT vide an appointment offer dated 31.05.1985. At that stage, the respondent had opted for the Contributory Provident Fund Scheme (CPF Scheme). He had not opted for the GPF Scheme even when options were called for from the employees. He consciously opted to continue to be covered by the CPF Scheme.

5. The NCERT advertised for the post of Reader against which the respondent applied. He was recommended by the selection committee and offered the post of Reader in Mathematics vide office memorandum dated 10.05.1993. He was appointed initially on probation for a period of two years, and was ultimately appointed as Reader in Mathematics with effect from 15.09.1993 vide letter dated 03.06.1993. At that stage, he applied to be covered by the GPF Scheme. However, he was denied coverage under the said Scheme on the premise that he had earlier opted for the CPF Scheme when options were called for. The respondent claimed that since he was freshly recruited by way of direct recruitment as a Reader with effect from 15.05.1993 - when the GPF Scheme was in force, he was entitled to coverage under the said scheme.

6. The Tribunal allowed the Original Application by placing reliance on the decision of this Court in *A.P. Verma v. National Council of Educational Research & Training*, W.P. (C.) No. 8489/2011, decided on 25.02.2013. Reference was also made to memorandum dated 01.02.2013 issued by the Ministry of Human Resource Development, which directed the petitioner herein to prepare and put forward the list of officers who were unable to opt for the GPF pension Scheme due to bona fide reasons.

7. The Tribunal has taken note of the fact that the respondent's case is covered by *A.P. Verma* (supra). The Special Leave Petition preferred before the Supreme Court against the said decision was also rejected in SLP(C) No. 39272-39273/2013, titled *NCERT v. A.P. Verma etc.*, decided on 05.09.2014.

8. The Tribunal has also placed reliance on another decision in *NCERT v. Krishan Murari Gupta*, W.P. (C.) No. 8151/2016, decided on 16.09.2016. In this decision this Court held that when the employee had been appointed, the CPF Scheme was not even in vogue and, therefore, he could not be governed by it. When the respondent was appointed as a Reader in Mathematics in the year 1993, the CPF Scheme was no longer in vogue, and he was entitled to be covered by the GPF Scheme.

9. The Tribunal has taken note of other decisions as well which are relevant to the issue. In view of the aforesaid, we find no merit in this petition. Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 13, 2018 ^{Nk}