

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.Nos.20455/2020, 12 & 72/2021
& WMP.Nos.122, 8 & 101/2021

[Video Conferencing]

- 1.The Commissioner
Kendriya Vidyalaya Sangathan
Head Quarters, 18, Institutional Area,
Shahid Jeetsingh Marg
New Delhi 110 016.1st Petitioner in WP.20455 of 2020,
12 and 72 of 2021
- 2.Deputy Commissioner
Kendriya Vidyalaya Sangathan
Hyderabad Region, Picket
Secunderabad 500 009.2nd petitioner in WP.20455 of 2020
12 of 2021
- 3.Deputy Commissioner
Kendriya Vidyalaya Sangathan
Chennai Region, IIT Campus
Chennai - 600 036.3rd Petitioner in WP.20455 of 2020
and 12 of 2021

Versus

- 1.Dr.G.Ramamoorthy .. 1st Respondent in
WP.No.20455/2020

- G.Sekhar Reddy .. 1st Respondent in
WP.No.12/2021

- Shama Nawaz .. 1st Respondent in
WP.No.72/2021

- 2.The Registrar
Central Administrative Tribunal
Madras Bench, City Civil Court Buildings
Chennai-104. . 2nd Respondent in all WPs.

Common Prayer:- Writ petitions filed under Article 226 of
the Constitution of India praying for issuance of a writ of

certiorari calling for the records of the 2nd respondent [Hon'ble Central Administrative Tribunal, Madras Bench] culminating in the impugned order dated 03.06.2020 & 02.04.2019 in OA.Nos.1140/2019, 1282/2018 and 1076/2019 and quash the same.

For Petitioners in all
Writ Petitions : Mr.M.Vaidhiyanathan

For R1 in all Writ
Petitions : Mr.R.Arumugam

R2 in all Writ Petitions : Tribunal

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, all the writ petitions are taken up for final disposal and is disposed of by this common order as the impugned order passed in favour of the respective 1st respondents herein / Original Applicants in each of these writ petitions, is also a common one.
- (2) The 1st respondent in WP.No.20455/2020 has filed OA.No.1140/2019 on the file of the 2nd respondent-Tribunal, calling for the records culminated in the impugned letter dated 19.07.2019 and to quash the same and also for a declaration that he is deemed to have come under the GPF [Pension] Scheme in terms of the Policy under the 1st petitioner herein in terms of the Office Memorandum dated 01.09.1988 with effect from 01.02.1989 and consequently, extend the benefits of GPF [pension] Scheme to him. The said Original Application was entertained and the petitioners herein, who are arrayed as the respondents in the Original Application, filed their Reply Affidavit.
- (3) The 1st respondent in WP.No.12/2021 has filed OA.No.1282/2018 on the file of the 2nd respondent-Tribunal, calling for the records culminated in the impugned letter dated 11.04.2018 and to quash the same and also for a declaration that he is deemed to have come under the GPF [Pension] Scheme in terms of the Policy under the 1st petitioner herein in terms of the Office Memorandum dated 01.09.1988 with effect from 01.02.1989 and consequently, extend the benefits of GPF [pension] Scheme to him. The said Original Application was entertained and the petitioners herein, who are arrayed as the respondents in the Original Application, filed their Reply Affidavit.
- (4) The 1st respondent in WP.No.72/2021 has filed OA.No.1076/2019 on the file of the 2nd respondent-Tribunal, calling for the records culminated in the impugned letter

dated 06.05.2019 and to quash the same and also for a declaration that he is deemed to have come under the GPF [Pension] Scheme in terms of the Policy under the 1st petitioner herein in terms of the Office Memorandum dated 01.09.1988 with effect from 01.02.1989 and consequently, extend the benefits of GPF [pension] Scheme to him. The said Original Application was entertained and the petitioners herein, who are arrayed as the respondents in the Original Application, filed their Reply Affidavit.

(5) The Tribunal, vide impugned common order dated 03.06.2020 [WP.Nos.20455/2020 and 72/2021] in OA.No.1248/2019 batch etc., which include the Original Applications filed by the respective 1st respondents in WP.Nos.20455/2020 & 72/2021/Original Applicants and vide order dated 02.04.2019 [in WP.No.12/2021], has found that a similar matter came up before the said Bench in OA.No.1094/2015 - V.Thyagarajan V. Union of India and Others and it was decided in favour of the Original Applicant holding that when the applicant was appointed directly, only GPF Pension Scheme was available and hence, he is entitled to get the benefit of the said scheme. The Tribunal has also taken note of the order passed in OA.No.457 of 2011 - Johnson P.John Vs. Deputy Commissioner, KVS and Others on the file of the Central Administrative Tribunal, Ernakulam Bench, which came to be confirmed in OA [CAT] 597/13[z] dated 13.08.2013 and found that as per the scheme, the employee who had not given option to continue CPF, will be deemed to have come under GPF [Pension] Scheme from the date of introduction and therefore, allowed the Original Applications with the following directions:-

'1.The respondents are directed to grant the benefits of GPF [Pension] Scheme to the applicants in the above Oas, wef., the date of appointment to their respective posts or from dates on deemed coming over to the GPF scheme.

2.The applicants are directed to refund the amount received from CPF, if any, at the time of their retirement without any interest. It is also made clear that the applicants are also not entitled to get any interest on the pension accrued from KVS.

3.The respondents are directed to complete the exercise of implementing the above order within a period of six months from the date of receipt of a copy of this order.'

(6) The respondents in the Original Applications, aggrieved by the said orders, came forward to file these writ petitions.

(7) Mr/M.Vaidhiyanathan, learned counsel for the petitioners has fairly brought to the knowledge of this Court that one R.Shobana has filed OA.No.1668/2019 for similar relief which has also been dealt with in the above cited common order dated 03.06.2020 in OA.No.1248/2019 batch etc., and it was

also put to challenge before this Court in WP.No.18758/2020 and the writ petition came to be dismissed by this Court vide order dated 15.12.2020 and prays for appropriate orders.

(8) Mr. R. Arumugam, learned counsel appearing for the respective 1st respondents in these writ petitions would submit that in the light of the orders referred to above in the impugned order coupled with the order of dismissal dated 15.12.2020 made in WP.No.18758/2020 [referred to supra], these writ petitions deserves dismissal.

(9) This Court has carefully considered the rival submissions and also perused the materials placed before it.

(10) It is relevant to extract paragraph No.3.2 of the Office Memorandum of Kendriya Vidyalaya Sangathan, in F.No.152-1/79-80/KVS/Budget/Part.II, dated 01.09.1988:

'3.2 The employees of the category mentioned above will, however, have an option to continue under the CPF scheme, if they so desire. The option will have to be exercised and conveyed to the concerned Head of Office/Principal by 31.01.1989, in duplicate, in the form enclosed (one form may be sent to this office while the other kept with personal records of the employee concerned) if the employees wish to continue under the CPF scheme. If no option is received by the Head of Office/Principal by the above date and in this office through them by 28.02.1989, the employees will be deemed to have come over to the Pension Scheme. The Head of Office/Principal are to forward in one lot options exercised by employees for retention of CPF Scheme received by them, to reach Sangathan's office latest by 28.02.1989. Where no option to continue under the CPF Scheme is received by them from any, a nil report be sent by due date viz., 28.02.1989.'

(11) The petitioners/official respondents in the Original Applications did not produce any material to show that the respective 1st respondents herein / Original Applicants had exercised the option. The Tribunal has also placed reliance upon similar orders and held in their favour.

(12) In the light of the above facts and circumstances and reasons assigned herein, this Court finds no merits in these writ petitions.

(13) In the result, the writ petitions are dismissed, confirming the common order of the Tribunal dated 03.06.2020 in OA.Nos.1140/2019 & 1076/2019 as well as the order dated 02.04.2019 made in OA.No.1282/2018 respectively and the

petitioners herein are granted six months time from the date of receipt of a copy of this order / uploading of the order in the website to comply with the directions issued by the Tribunal in the impugned orders as confirmed in these writ petitions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner
Kendriya Vidyalaya Sangathan
Head Quarters, 18, Institutional Area,
Shahid Jeetsingh Marg
New Delhi 110 016.
- 2.Deputy Commissioner
Kendriya Vidyalaya Sangathan
Hyderabad Region, Picket
Secunderabad 500 009.
- 3.Deputy Commissioner
Kendriya Vidyalaya Sangathan
Chennai Region, IIT Campus
Chennai - 600 036.
- 4.The Registrar
Central Administrative Tribunal
Madras Bench, City Civil Court Buildings
Chennai-104.

+3cc to Mr.MVaidhiyanthan, Advocate SR.1009 to 1011
+3cc to Mr.R.Arumugam, Advocate SR.717 to 719

WP.Nos.20455/2020, 12 & 72/2021

JP(CO)
CB(09/02/2021)

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