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

+ **W.P.(C) 13928/2024**

**SH. K.K. JAIN**

.....Petitioner

Through: Mr. Ankur Malik, Advocate  
versus

**UNION OF INDIA & ORS.**

.....Respondents

Through: Ms. Archana Sharma, Advocate for  
Respondents No. 1 and 4/UOI.  
Ms. Avnish Ahlawat, Standing Counsel for  
Respondents No. 2 and 3/GNCTD.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**03.10.2024**

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking a direction to the Respondents to allow the Petitioner to retrospectively switch from Contributory Provident Fund Scheme (CPF) to General Provident Fund-cum-Pension Scheme (GPF) in light of the new Unified Pension Scheme (UPS) announced by Government of India in the year 2024 and to accept refund of CPF amount from the Petitioner along with interest accrued on the employer's contribution received by the Petitioner.

2. Petitioner joined Respondent No. 3/Delhi Financial Corporation (DFC) on 14.07.1981 as Deputy General Manager. In 1995, DFC enacted the Delhi Financial Corporation Services (Pension & Death-cum-Retirement Benefit) Regulations, 1995 and introduced the GPF-cum-Pension Scheme replacing the CPF Scheme and the employees including the Petitioner were given option to switch to the new Scheme. Petitioner admittedly opted to continue in the CPF Scheme. It is averred that between 2009 to 2011,



several representations were made on behalf of the Petitioner and other employees requesting for a switch over from CPF Scheme to GPF-cum-Pension Scheme due to change in circumstances which could not be foreseen in 1995 but there was no positive response. It is further averred that Petitioner superannuated on 30.06.2011 as Senior General Manager after 30 years of service and took his benefits in consonance with the CPF Scheme. The trigger of the present petition is the decision of the Union Cabinet on 24.08.2024 approving the UPS to bring about uniformity in pensionary benefits across employees.

3. Learned counsel for the Petitioner submits that Petitioner has a vested right to switch over from CPF Scheme to GPF-cum-Pension Scheme and denying him the said benefit is violation of his right under Article 14 of the Constitution of India inasmuch as similarly placed employees have been granted the said option to switch over. It is contended that after the approval of UPS on 24.08.2024, there is no doubt that the Government of India intends to ensure uniformity and equity in pensionary benefits across all employees and it is a settled law as held by the Supreme Court in ***State of Punjab v. Justice S.S. Dewan (Retired Chief Justice) and Others, (1997) 4 SCC 569***, that when the Government changes its pension policy to provide benefits retrospectively to some individuals or classes of individuals, other similarly placed cannot be arbitrarily denied those benefits. Denial of pensionary benefits to the Petitioner is not only in violation of the principles laid down by the Supreme Court in ***D.S. Nakara and Others v. Union of India, (1983) 1 SCC 305***, wherein it was held that pension is not a bounty of the State but a right of an employee but also the principle of equal pay for equal work propounded by the Supreme Court in ***Randhir Singh v. Union***



*of India and Others, (1982) 1 SCC 618*. Petitioner could not have foreseen in 1995 that there will be a decline in interest rates on CPF contributions and/or significant increase in pensionary benefits under the GPF-cum-Pension Scheme due to recommendations of successive Pay Commissions and cannot be denied his right to switch over to the pension scheme, more particularly, when he is ready and willing to refund employer's contribution paid to him under the CPF Scheme along with interest accrued thereon.

4. Issue notice.

5. Counsels, as above, accept notice on behalf of the Respondents and oppose the writ petition on the ground that Petitioner had willingly opted under the CPF Scheme *albeit* he had an option to opt before his retirement on 30.06.2011 to opt under the GPF-cum-Pension Scheme. Having chosen to be governed by the CPF Scheme, he cannot seek a switch over to the GPF-cum-Pension Scheme at this belated stage. Moreover, the Petitioner seeks a direction to DFC to allow him to retrospectively switch over in light of the UPS, a Scheme which has been announced only in the year 2024 and has no retrospective effect.

6. Upon hearing the learned counsels for the parties, this Court finds that there is no merit in the contentions of the Petitioner. It is not disputed that while the Petitioner was in service, DFC had introduced the GPF-cum-Pension Scheme and employees including the Petitioner were given an option to switch over to the GPF-cum-Pension Scheme in the same year. Petitioner consciously opted to continue under the CPF Scheme and received benefits thereunder. As per the averments in the writ petition, Petitioner admittedly made representations between 2009 to 2011 requesting for a switch over but representations did not get a favourable response and



Petitioner accepted this state of affairs not only till his superannuation on 30.06.2011 but from then till the filing of this petition after 13 years. Even today what the Petitioner seeks is a relief which is impermissible in law i.e. a direction to DFC to allow the Petitioner to switch over retrospectively from CPF Scheme to GPF-cum-Pension Scheme under the UPS announced by the Government of India in 2024. Petitioner had opted for the CPF Scheme willingly and with his eyes open and cannot now seek the benefit of switching over under the UPS. There cannot be a doubt on the proposition that pension is not a bounty of the State and/or that similarly placed pensioners cannot be discriminated and to this extent Petitioner correctly places reliance on the aforesaid judgements. However, the Petitioner has neither pleaded nor is able to formulate and support his case of discrimination during the course of hearing as to what is the discrimination meted out to him and which similarly placed person has been permitted a switch over. No case of discrimination has been set up by the Petitioner and thus there is no violation of Article 14 of the Constitution of India.

7. In view of the above, there is no merit in the writ petition and the same is dismissed.

**JYOTI SINGH, J**

**OCTOBER 3, 2024**

*B.S. Rohella/shivam*