

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 33773 of 2014

Tapan Kumar Guchait

-vs-

The Union of India & Ors.

With

WPA 33782 of 2014

Gopi Das

-vs-

The Union of India & Ors.

For the Petitioner : Mr. Sarothi Dasgupta
Mr. Mainak Ganguly

For the Respondent/IIT : Mr. R.N. Majumder
Mr. S.M. Obaidullah
Mr. Roni Chowdhury
Mr. Goutam Chakraborty

Heard on and Judgment on : 28-08-2025

Partha Sarathi Sen, J.:-

1. Since WPA 33773 of 2014 and WPA 33782 of 2014 are identical in nature and since similar questions of facts and laws are involved in both the instant two writ petitions, this Court proposes to dispose of the instant two writ petitions by a common judgment.
2. By filing the instant two writ petitions, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities,

more specifically against the respondent no.5/authority, to allow the prayer of the writ petitioners for conversion from contributory Provident Fund-cum-Gratuity Scheme to General Provident Fund-Pension-cum-Gratuity Scheme (hereinafter referred to as CPF to GPF, in short) along with other ancillary reliefs.

3. At the time of hearing, Mr. Dasgupta, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no.28 of WPA 33773 of 2014, being a copy of Memo dated 19.08.2010, as issued by the respondent no.5/authority.
4. For effective adjudication of the instant two writ petitions, the contents of the said memo are required to be looked into and those are quoted hereinbelow in verbatim: -

“The undersigned is directed to convey that the Board of Governors at its 165th meeting held on 17.06.2010 considered the status regarding changeover of employees from CPF and CPG to GP-cum-Pension-cum-Gratuity Scheme and decided that those faculty and staff members who joined the Institute before 01.01.2004 and will be able to submit a proof of their having submitted option for changeover from CPF/CPG to GPF-cum-Pension-Gratuity Scheme and their cases have not been considered due to administrative lapses, be examined on case to case basis and the conversion from CPF/CPG to GPF, be allowed.

It was further decided that the faculty and staff members who will not be in a position to submit any proof of their having opted for the same their requests for conversion may be brought to the Board for review and decision.

2. This is for information and necessary action.”

5. At this juncture, Mr. Dasgupta draws attention of this Court to page No. 26 of the writ petition, being WPA 33773 of 2014, being a copy of the option Form dated 06.08.1997, as claimed to have been submitted by the writ petitioner in WPA 33773 of 2014.

6. Mr. Dasgupta, in his usual fairness, submits before this Court that for the present he is not in a position to show any acknowledgement showing submission of the said option Form dated 06.08. 1997. However, Mr. Dasgupta, at this juncture, draws attention of this Court to page No. 29 in WPA 33773 of 2014, being a copy of the letter dated 24.08.2010. It is submitted by Mr. Dasgupta that under cover of the said letter dated 24.08.2010, the writ petitioner in WPA 33773 of 2014 requested the respondent No. 5/authority to consider his prayer for changeover from CPF to GPF in terms of the aforementioned memo dated 19.08.2010.
7. It is submitted by Mr. Dasgupta that from page No. 30 of the instant writ petition, it would reveal that the office of the respondent No. 5 /authority in WPA 33773 of 2014 has duly received the said letter dated 24.08.2010, which has also been admitted by the respondents / authorities in their affidavit-in-opposition, more specifically, in paragraph 11. Drawing attention to paragraph 12 of the said affidavit-in-opposition, Mr. Dasgupta further contended that it is the specific case of the respondents/authorities that the prayer of the writ petitioner for changeover from CPF to GPF as made on 24.08.2010 could not be considered, since the respondents/authorities found no administrative lapses on their part.
8. It is argued by Mr. Dasgupta that the defense as taken by the respondents/authorities in their affidavit-in-opposition, more specifically, in paragraph 12 thereof is contrary to the aforementioned memo dated 19.08.2010 inasmuch as the respondents/authorities have miserably failed to construe the latter part of paragraph 1 of the said memo dated

19.08.2010, which indicated that the faculty members and the staff members, who would not be in a position to submit any proof of their having opted for the same their requests for conversion would be brought to the board for review and decision.

9. It is submitted by Mr. Dasgupta that the respondents/authorities while considering the application dated 24.08.2010, as submitted by the writ petitioner in WPA 33773 of 2024, have failed to visualize that by issuing the said memo dated 19.08.2010, the respondent no.5/authority is duty bound to review the request for conversation as made by the writ petitioner even in absence of proof of submission of Form for changeover as mentioned (*supra*).
10. It is, thus, submitted by Mr. Dasgupta that for not considering the prayer of the writ petitioner in terms of the second part of paragraph 1 of the memo dated 19.08.2010 by the respondent no.5/authority, serious miscarriage of justice occurred, which ultimately affects the right to life, as envisaged under Article 21 of the Constitution of India, since the writ petitioner's legitimate prayer for conversion from CPF to GPF was ignored for no reason whatsoever.
11. It is further submitted by Mr. Dasgupta that in a case of the writ petitioner, in WPA 33782 of 2014 same injustice occurred. Mr. Dasgupta, thus, submits that these are the fit cases for granting relief/reliefs as prayed for by the writ petitioners in the instant two writ petitions.
12. Mr. Obaidullah, learned advocate appearing on behalf of the respondents/authorities and duly led by Mr. R.N. Majumder, learned advocate, in course of his submission at the very outset draws attention of

this Court to page nos.17 and 18 of the affidavit-in-opposition, as filed by the respondent nos.2 to 6. It is submitted by Mr. Obaidullah that much prior to the issuance of memo dated 19.08.2010, the respondent no.5/authority issued an office order dated 14.09.1987, as has been annexed at page no.28 of the writ petition.

13. Mr. Obaidullah, learned advocate further contended that the said office order relates to the subject of changeover of employees from CPF/CPF-cum-Gratuity-Scheme to Pension Scheme. It is further submitted by Mr. Obaidullah that in the said office order, it has also been mentioned that by the said office order, no option has been envisaged for changeover from GPF-cum-Pension-cum-Gratuity Scheme to CPF-cum-Gratuity Scheme.
14. It is further submitted by Mr. Obaidullah that the said office order also indicated that the option Form from CPF to GPF ought to have been exercised by 31.10.1987 as per the Form enclosed therewith and it was also indicated that, in the event, no option was received from the employees, who are in the pay roll of the IIT, they would be deemed to have been changeover to GPF-cum-Pension-cum-Gratuity Scheme.
15. It is lastly contended by Mr. Obaidullah that the said office order clearly indicates that option once exercised would be final.
16. At this juncture, Mr. Obaidullah draws attention of this Court to page no.18 of the affidavit-in-opposition, being a copy of the Form of option as executed by the writ petitioner in WPA 33773 of 2014. It is submitted by Mr. Obaidullah that from the said option Form, it would reveal that the writ petitioner in WPA 33773 of 2014 on 30.10.1987 by submitting the option Form opted to remain in CPF Scheme, which becomes final in terms

of the office order dated 14.09.1987. It is, thus, submitted by Mr. Obaidullah that on such score, the review as sought for by the writ petitioners was/were turned down by the respondent authorities.

17. On careful consideration of the entire materials, as placed before this Court, and after giving due consideration over the submissions of the learned advocates for the contending parties, this Court finds sufficient justification in the submission of Mr. Obaidullah inasmuch as by the office order dated 14.09.1987, the respondent no.5/authority communicated the Scheme for changeover of employees from CPF/CPF-cum-Gratuity-Scheme to Pension Scheme. The said office order also indicated that, in the event, no option was received from the employees then the employees would be governed under the GPF-cum-Pension-cum-Gratuity Scheme, however, option once exercised would become final.
18. Sufficient materials have been placed on behalf of the respondent nos. 2 to 6 that the writ petitioner in WPA 33773 of 2014 opted to remain in CPF Scheme by submitting his option form on 30.10.1987 which thus become final in terms of the office order dated 14.09.1987.
19. At this juncture, if I look to the memo dated 19.08.2010 as has been annexed at Page No. 28 of the instant writ petition, it reveals that admittedly, a memo dated 19.08.2010 was issued by the respondent no. 5/authority for considering the status regarding changeover of employees of IIT, Kharagpur from CPF to GPF who joined IIT before 01.01.2004 and would be able to submit a proof of their having submitted option for changeover from CPF to GPF.

20. The latter part of the paragraph 1 of said memo dated 19.08.2010 further indicated that the faculty members and the staff members who would not be in a position to submit any proof of their having opted for the same, their request for conversation may be brought to the board for review and decision.
21. It thus appears to this Court that the memo dated 19.08.2010 should not be read in isolation and on the contrary, this Court considers that the memo dated 19.08.2010 shall have to be considered in terms of the previous office order dated 14.09.1987 as has been annexed at Page No. 17 of the affidavit-in-opposition.
22. It appears to this Court that the memo dated 19.08.2010 as issued by the respondent no. 5/authority was not issued for the purpose of allowing the faculty members and the staff members of IIT for applying for conversion from CPF to GPF afresh but on the contrary, the said memo dated 19.08.2010 was issued to revisit the application for changeover as has been submitted pursuant to the office order dated 14.09.1987 over which no action has been taken on account of administrative lapses.
23. It further appears to this Court that even at the latter portion of the paragraph 1 of said memo dated 19.08.2010, the respondent no. 5/authority further indicated that even if the faculty members and the staff members would not be in a position to submit any proof of their submission of option, their cases will be considered by way of review.
24. At this juncture, if I look to the Page No. 18 of the affidavit-in-opposition, it reveals that the petitioner in WPA 33773 of 2014 consciously opted to

remain in CPF Scheme by submitting his form of option dated 30.10.1987 pursuant to the office order dated 14.09.1987.

25. Admittedly, the said office order dated 14.09.1987 clearly indicates that option once exercised would become final.
26. Such being the position, this Court finds no perversity and/or illegality in the decision of the IIT authority in not allowing the prayer of the writ petitioner in WPA 33773 of 2014 as made by him under cover of his letter dated 24.08.2010.
27. In view of the discussion made hereinabove, this Court thus finds no merit in WPA 33773 of 2014.
28. Consequently, the instant writ petition being **WPA 33773 of 2014** is hereby dismissed.
29. Consequently, **WPA 33782 of 2014** is also dismissed in the light of the observations made hereinabove.
30. There shall, however, be no order as to costs.
31. Urgent Photostat certified copy of the order if applied for, be made over to the parties as expeditiously as possible.

(Partha Sarathi Sen, J.)

S.R. [AR(C)]