



केन्द्रीय विद्यालय संगठन(मुख्यालय)
Kendriya Vidyalaya Sangathan (HQ)
18, संस्थागत क्षेत्र, शहीद जीत सिंह मार्ग,
18, Institutional Area, Shaheed Jeet Singh Marg
नई दिल्ली/New Delhi -110016
फोन न. / Phone No. : 26858570
फैक्स@ FAX: 26514179
वेब/Website: www.kvsangathan.nic.in
ईमेल/Email: kvshqepf@gmail.com

F. No.110-125/2013-14/KVS/PF/Court case/N Pramila Devanand/1757

Date: 08.09.2014

The Deputy Commissioner/Director,
Kendriya Vidyalaya Sangathan,
All Regional Offices / ZIETs.

Sir,

Sub: Court cases filed on conversion from CPF to GPF – Reg.

With reference to the captioned subject, I am to forward herewith the copies of the following judgments:

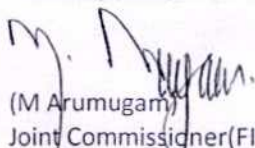
1. Judgement dated 06.06.2007 of the Hon'ble Supreme court of India in Civil Appeal no.2876 of 2007 filed by KVS vs Jaspal Kaur and Ors.
2. Judgement dated 4th July 2014 of the Hon'ble CAT, Hyderabad Bench, Hyderabad in OA no.1271/2013 filed by Smt. N Pramila Devanand Vs KVS and Ors.

It may be seen from the above judgements that the the Hon'ble courts have decided the cases in favour of Sangathan based on the reply furnished by Sangathan that secondary records like Allotment of New CPF Account No., PF statement(s), Income Tax Return etc. prove the fact that the petitioner(s) were aware that they were contributing to CPF Scheme even though the original option form could not be submitted in court.

It is requested that these judgments may please be noted for defending the future cases filed if any on conversion form CPF to GPF cum Pension scheme. It is also informed that the Para Wise comments on court cases filed on the conversion form CPF to GPF, if any, may be prepared on the lines of the judgements in consultation with the LA of the Region and it should be sent together with the copy of petition for perusal and approval by the competent authority in future cases.

Kindly acknowledge receipt.

Yours faithfully,


(M Arumugam)
Joint Commissioner(FIN)

Encl: as stated.

Copy to: The Deputy Commissioner(Acad), EDP Cell, KVS(HQ), New Delhi – with the request to upload this circular in KVS website under 'Announcements'.

CASE NO.:
Appeal (civil) 2876 of 2007

PETITIONER:
K.V.S. and Ors.

RESPONDENT:
Jaspal Kaur and Ors.

DATE OF JUDGMENT: 06/06/2007

BENCH:
DR. ARIJIT PASAYAT & D.K. JAIN

JUDGMENT:
JUDGMENT

DR. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the order passed by a Division Bench of the Punjab and Haryana High Court dismissing the writ petition filed by the appellants.
3. Background facts in a nutshell are as follows:

Respondent no. 1 joined as a primary School Teacher in the Kendriya Vidyalaya Sangathan (for Short 'KVS') on 20th July, 1978. KVS is an autonomous body running schools all over the country. On 1.9.1988 the KVS issued Circular providing for the option to the KVS employees to switch over to CPF Scheme from the CPF Scheme. On 6.3.1989 KVS allotted account numbers in the CPF Subscription in which the respondent no. 1s name is at serial no. 8 This document shows that a number of employees opted for the benefit of CPF Scheme. on 6.7.1989 a new CPF account number was allotted to respondent no. 1 for habingn exercised the option to continue in the CPF Scheme. on 15.7.1989 revised CPF account which was allotted by letter dated 6.3.1989 was further changed vide O.M. dated 15.7.1989 in which also name of respondent no. 1 appeared at serial no. 8 On 15.3.1997 letter was received from respondent no. 1 stating that she had been continuing under the CPF Scheme and it should be changed to GPF Scheme. In this letter respondent no. 1stated that she had been contributing towards the CPF and the CPF account no. is JRC 1889. On 16.9.2002 respondent no. 1 made another representation to change from CPF Scheme to GPF Scheme. By letter dated 7.11.2002 Senior Audit and Accounts Officer rejected the representation for change from CPF Scheme to GPF Scheme. on 8.3.2004 an order was passed by KVS to the effect that respondent no. 1 was not entitled to claim benefit of GPF Scheme cum Pension Scheme as she had opted for CPF Scheme. She moved the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for Short the 'CATA' CAT held that she was entitled to claim benefit of GPF Scheme cum Pension Scheme The original applications was allowed by CAT on the ground that the appellants did not produce direct evidence to show that respondent no. 1 had opted for the Scheme and bushed aside the secondary evidence before it by the appellants to the effect that she had been continuing in the CPF Scheme and that she was allotted CPF account number, The CAT further held that respondent no. 1 was entitled to the benefit of GPF cum Pension Scheme on Account of her being in service in KVS. Further direction was given to the effect that respondent no.1 was entitled to get GPF pension Scheme with effect from the due date with consequential benefits. Writ petition filed before High Court was dismissed on the sole ground that in spite of the number of opportunities given to the department no direct evidence was furnished was The High Court department on direct evidence was furbished. The High Court held that the option was to be exercised in writing and other materials produced were not sufficeir to show that, respondent no. 1 had exercised option

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD

Original Application No.1271/2013
Date of Order : 04th July, 2014



Between :

N.Pramila Devanand, Age 61 years,
W/o Sri Devananda Babu,
Primary Teacher (PRT) Retired,
Kendriya Vidyalaya No.1, Golconda,
R/o Flat No.105, Raghuram Apartments,
Raghuram Nagar, Bandlaguda, Jagir,
Hydershahkote, Near Sun City,
Hyderabad.

... Applicant.

And

1. Government of India,
Rep. By Commissioner,
Kendriya Vidyalaya Sangathan,
18. Institutional area, Shahid Jeet Singh Marg,
New Delhi – 110 016.
2. The Deputy Commissioner,
Kendriya Vidyalaya Sangathan Hyderabad
Regional Office, Picket,
Secunderabad – 500 009.
3. The Principal,
Kendriya Vidyalaya No.1,
Golconda, Langer House,
Hyderabad – 500 008.
4. The Deputy Commissioner,
Kendriya Vidyalaya Sangathan
Regional Office – Chennai,
IIT Campus,
Chennai – 600 036.
5. The Principal,
Kendriya Vidyalaya, CRPF,
Avadi, Chennai – 600 065.

... Respondents.



5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The brief facts of the case are that the applicant initially joined as Primary Teacher (PRT) in 5th respondent's Kendriya Vidyalaya CRPF, Avadi, Madras on 01.10.1982 and retired on 30.11.2012 at Kendriya Vidyalaya No.1, Golconda, Hyderabad on attaining the age of superannuation, after rendering more than 30 years service. At the time of joining into service, the applicant opted for the existing Provident Fund Scheme i.e. Contributory Provident Fund (CPF) with Account No. MRC-1915. It is also not in dispute that vide O.M. dated 01.09.1988, (Anx-A) the respondent Vidyalaya came up with a pension scheme and the employees were offered the option of switching over from the Contributory Provident Fund (CPF) to the pension scheme. It was made clear in the O.M. that if no option is received by 28.02.1989, the employee would be deemed to have switched over to the pension scheme. It was also made clear that the option shall be exercised latest by 31.07.1989 and once the option is exercised, it shall be final.

7. It is the case of the applicant that he did not want to continue in CPF Scheme and desired to be covered by the "Pension Scheme" dated 01.09.1988 and did not purposefully and intentionally exercised any option to continue in CPF scheme. Thus the applicant contends that he is governed only under "Pension Scheme" in accordance with statutory rules as contemplated under OM dated 01.09.1988. In spite of waiting for allotment of GPF account number under pension scheme, there was no progress. In the meanwhile, the 5th CPC scales were



24.09.2013 (Anx-C) stating that CPF option form of 1988 is not available in the personal file and service register of the employee basing on such information the applicant submits that she never gave any option to continue CPF scheme in the year 1988, when pension scheme was introduced and as such she is entitled for change over to pension rules as per the pension scheme vide OM dated 01.09.1988 (Anx-A).

11. It is the case of the respondents that based on the option of the applicant to continue under the CPF scheme, she was allotted with revised CPF account No.319 in 1989. They further stated that as per CPF scheme, regular deductions towards contribution to CPF is available in the yearly statement along with management contribution and also informed the amount to her credit under CPF every year till her retirement on 30.11.2012 and filed copies of yearly statement of CPF for the years 1990-91, 1991-92, 1992-93, 2003-04, 2004-05, 2005-06, 2006-07, 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13 issued to the applicant (Anx-R-1). The respondents also contended that the applicant was issued Form 16 to file Income Tax returns for the year 2004-05, 2007-08, 2009-10, 2011-12 and 2012-13 (Anx-R-2) duly mentioning the CPF deduction made through the monthly pay bills and on her retirement all the benefits as per the rules were settled. Thus stated that the applicant opted for CPF at the time of joining in KVS and thereafter based on the OM dated 01.09.1988, she opted to continue in CPF and thereby new CPF account number was also allotted to her. Thereafter contribution towards CPF is deducted during the year with brought forward amount from the previous years and the contribution of KVS during that year along



clearly shows that the applicant is aware of implementation of CPF scheme alone after introduction of pension scheme. Admittedly, the applicant never made any protest or objection for continuing her under CPF scheme or for allotment of revised CPF account in 1989. Though the applicant stated that she was waiting for implementation under pension scheme and the local authorities informed that it will take much time is not at all convincing in view of revised CPF account in 1989. The representation made to the 1st respondent few days before the retirement and another before filing this OA does not refer anything that she made any representation to the authorities in respect of her claim for availing pension scheme on the ground that she never made any option on introduction of pension scheme in the year 1989.

14. Admittedly the applicant never made any representation raising protest or objection for counting her under CPF scheme and further she never raised any objection after allotment of revised CPF account number in 1989 clearly shows that the applicant is aware if continuation of her account under CPF scheme alone. Further in connection with such CPF scheme only her contributions were deducted from monthly salary for years together and she is also aware of contribution made on behalf of management and the annual account sheet which the respondents used to supply regularly. Basing on the statements, admittedly the applicant submitted her income tax returns and also benefits on such count. This practice followed continuously from the date of introduction of new pension plans in 1988, which continued till her retirement for a period of 23 years. Without raising any objections, at the time of retirement making representation that she



circumstances, relying on the decision of Hon'ble High Court of Kerala is not helpful to this case.

16. The learned counsel for the applicant also relied on the decision of *Co-ordinate Bench of C.A.T. Madras in OA.495/2012 dated 02.11.2012 in the case of Smt. S.Renganayaki Vs. Union of India and others* stating that the respondent authorities did not receive option to continue CPF scheme, the applicant will be deemed to have come over to the pension scheme. In the above cited case, it is not the case of the respondent authorities that the employee opted to continue CPF scheme. But in the instant case, it is the case of the respondents that the applicant opted for continuation of CPF scheme, but they have failed to produce such option form stating that because of such delay of more than 23 years and due to transfer of the applicant to various places, they have not traced the option form. Further the applicant in the relied decision started making representations from 2001 onwards asking the authorities to brought her under GPF scheme stating that she never opted for continuation of CPF scheme. The respondents who did not deny such contention of the applicant in respect of non submission of option form also not disposed of the representations of the applicant till 2011 and thereafter she filed the OA. But in the instant case, no representations have been made to show her bonafide that she did not submit her option form or at least requesting the authorities for conversion into pension scheme on the ground that she did not submit any option after introduction of pension scheme in 1988. It is also the case of the respondent authorities that the applicant submitted her option form and as such they have continued on account of CPF scheme immediately and



CPF Scheme after introduction of pension scheme in 1988 giving revised CPF number and also deducted contribution from the applicant's salary every month for years together for a period of more than 22 years and further she never made any representation to the authorities stating that she never intended to continue in CPF scheme or stating that she never submitted any option to that extent. The respondents contended that because of such lapse of period and due to transfer of the applicant from one place to other, they are not in a position to trace out the option form. Thus expressed their inability for non tracing the option form. The decision of the Hon'ble Supreme Court on the ground that option form of the employee could not be traced out by the department is not a ground for extending the benefit of pension scheme converting from CPF scheme. The decision of the Hon'ble Supreme Court clearly supporting the stand taken by the respondents in the present OA and as such the applicant has no merits for seeking conversion of CPF into pension scheme on the ground that she has not submitted any option form and failure of the respondent authorities to trace out the same.

19. From the above discussion, it is clear that there are no merits in the claim of the applicant for seeking conversion from CPF scheme to pension scheme on the ground that she never submitted any option for continuation of CPF scheme and failure on the part of the respondents to trace out such option form and as such the OA is liable for dismissal.