

W.P.No.20091 of 2024 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2024

PRONOUNCED ON: 29.10.2024

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CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.P.Nos.20091, 22287, 11436, 20854 of 2024 & 19109 of 2022
and
W.M.P.Nos.21985, 22811, 12546, 24273 of 2024, 18411 & 21194 of
2022

W.P.No.20091 of 2024

- 1.Union of India
Rep. by its Secretary,
Ministry of Education,
Shastri Bhavan, New Delhi – 110 001.
- 2.Commissioner
Kendriya Vidyalaya Sangathan
Head Quarters, 18 Institutional Area,
Shahid Jeetsingh Marg,
New Delhi – 110 016.
- 3.Deputy Commissioner,
Kendriya Vidyalaya Sangathan
IIT Powai, Mumbai – 400 076.
- 4.Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Chennai Region
IIT Campus, Chennai – 600 036.

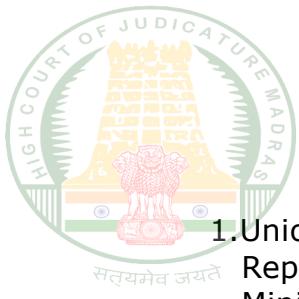
.. Petitioners

VS

Mrs. C.V.L.Annapurna

.. Respondent

W.P.No.22287 of 2024



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1. Union of India
Rep. by its Secretary,
Ministry of Education,
Shastri Bhawan, New Delhi – 110 001.

2. Commissioner,
Kendriya Vidyalaya Sangathan
Head Quarters, 18 Institutional Area,
Shahid Jeetsingh Marg,
New Delhi – 110 016.

3. Deputy Commissioner,
Kendriya Vidyalaya Sangathan
Chennai Region,
IIT Campus, Chennai – 600 036.

.. Petitioners

VS

N.Kamalambal

.. Respondent

W.P.No.11436 of 2024

1. The Commissioner
Kendriya Vidyalaya Sangathan,
Saheed Jeet Singh Marg,
New Delhi – 110 016.

2. The Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office – Chennai,
IIT Campus, Chennai – 600 036.

.. Petitioners

VS

1. Smt. Jalaja Sampathkumar

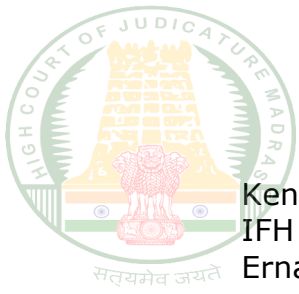
2. The Registrar,
Central Administrative Tribunal
Madras Bench, City Civil Court Buildings,
Chennai – 104.

.. Respondents

W.P.No.20854 of 2024

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
Saheed Jeet Singh Marg,
New Delhi – 110 016.

2. The Deputy Commissioner,



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Kendriya Vidyalaya Sangathan,
IFH Road, Kadvanthara,
Ernakulam, Kochi – 682020

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3.The Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office – Chennai,
IIT Campus, Chennai – 600 036.

.. Petitioners

VS

1.K.Suresh

2.The Registrar,
Central Administrative Tribunal
Madras Bench, City Civil Court Buildings,
Chennai – 104.

.. Respondents

W.P.No.19109 of 2022

1.The Commissioner,
Kendriya Vidyalaya Sangathan,
Head Quarters, 18, Institutional Area,
Shahid Jeetsingh Marg,
New Delhi – 110 016.

2.The Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Chennai Region, IIT Campus,
Chennai – 600 036.

3.The Principal,
Kendriya Vidyalaya,
OCF, Avadi, Chennai – 600 054.

.. Petitioners

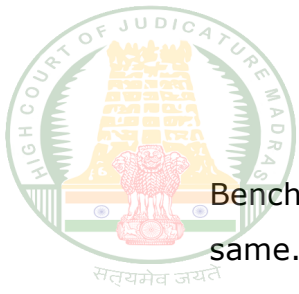
VS

1.R.Geetha

2.The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Buildings,
Chennai – 104.

.. Respondents

Prayer in W.P.No.20091 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari calling for the records from the file of the Hon'ble Administrative Tribunal, Madras



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Bench made in O.A.No.948 of 2022 dated 20.04.2023 and quash the same.

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Prayer in W.P.No.20087 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari calling for the records from the file of the Hon'ble Administrative Tribunal, Madras Bench made in O.A.No.969 of 2022 dated 08.02.2023 and quash the same.

Prayer in W.P.No.11436 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari calling for the records of the 2nd respondent (Hon'ble Administrative Tribunal, Madras Bench) culminating in the impugned order dated 03.02.2023 in O.A.No.825 of 2021 and quash the same.

Prayer in W.P.No.20854 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari calling for the records of the 2nd respondent (Hon'ble Administrative Tribunal, Madras Bench) culminating in the impugned order dated 03.02.2023 in O.A.No.694 of 2021 and quash the same.

Prayer in W.P.No.19109 of 2002: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari calling for the records of the 2nd respondent (Hon'ble Administrative Tribunal, Madras Bench) culminating in the impugned order dated 21.02.2021 in O.A.No.672 of 2021 and quash the same.

For Petitioners : Mr.Su.Srinivasan
(in W.P.Nos. 20091 & 22287/2024)
Mr.M.Vaidyanathan
(in W.P.Nos. 11436 & 20854/2024 &
19109/22)

For Respondent : Mr.R.Arumugam
in W.P.No.20091/2024 & W.P.No.22287/2024
for R1 in W.P.No.11436/2024,



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20854 / 2024 & 19109/2022
R2 – Tribunal
in W.P.Nos. 11436/2024, 19109/22 &
20854/24

COMMON ORDER

(Per : DR.JUSTICE ANITA SUMANTH.,J)

In disposing these five writ petitions by way of a common order as the issue arising for consideration is the same though dealt with by the Central Administrative Tribunal (CAT/Tribunal) by way of different orders.

2. The issue that arises for consideration in common relates to the grant of pension benefits. The Secretary, Ministry of Education (P1) and various authorities of Kendriya Vidyalaya Sangathan collectively referred to as (P2 – P4) are the petitioners and the teachers appointed in the Kendriya Vidyalaya Sangathan Schools are the private respondents before us.

3. The private respondents had rendered services as Teachers in the Kendriya Vidyalaya Schools. The dates of joining and their dates of retirement are as set out below:-

WP No.	Date of Joining	Date of Retirement
20091/24	01.11.1985	30.11.2021
22287/24	01.09.1983	31.07.2020
19109/22	09.08.1983	31.07.2021
20854/24	14.08.1985	31.05.2020
11436/24	03.09.1981	31.05.2017

4. P1 had introduced the General Pension Fund (GPF) (Pension Scheme) as a measure of implementation of recommendations of the IV Central Pay Commission vide its memorandum dated 01.09.1988. The Scheme provided an automatic transition from the



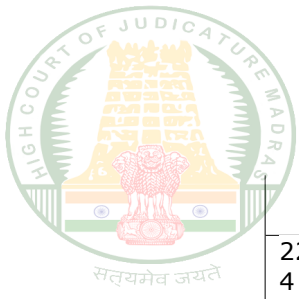
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Contributory Pension Fund (CPF Scheme). In the event, the employee desired to continue in the CPF Scheme he/she was to exercise such option by 31.01.1989.

5. The private respondents had averred that no such option form was filed by them. The petitioners, especially P2 to P4, would also confirm before us that the records do not contain any option forms having been submitted by the private respondents. The Tribunal had hence proceeded on the basis that no option has been exercised by the private respondents and there is no reason for this Court to deviate from that factual position. The admitted facts is thus that none of the private respondents, before us, exercised the option to continue in the CPF Scheme and they are hence deemed to have automatically transitioned to the GPF Scheme.

6. While so, P2 to P4 continue to treat the private respondents as coming under the erstwhile CPF Scheme alone and it is the say of the private respondents both before the Tribunal and before us that they had made representations on various dates seeking consequential effect be given to the transition to GPF Scheme. The dates of their representation as furnished by the petitioners are as follows:-

WP No.	Date of Joining	Date of Retirement	Dates of Representation	Date of filing OA
20091/24	01.11.1985	30.11.2021	23-07-1994 10-03-1997 22-07-1999 07-06-2006 12-03-2009 12-04-2014 15-03-2017 19-02-2020 08-08-2022	28.10.2022



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			{Page 49 of Petitioner's paper book}	
22287/24	01.09.1983	31.07.2020	09-07-1992 10-07-1995 20-07-1998 15-02-2001 21-01-2004 24-01-2008 24-11-2010 15-10-2013 15-09-2015 18-04-2018 11-07-2020 11-07-2022 {Page 50 of Petitioner's paper book}	30.10.2022
19109/22	09.08.1983	31.07.2021	23-07-1994 16-04-1998 18-08-2000 12-01-2004 24-08-2007 12-08-2010 19-09-2014 09-03-2020 {Page 73 of Petitioner's paper book}	25.07.2021
20854/24	14.08.1985	31.05.2020	18-09-2017 06-01-2018 22-03-2021 {Page 39,41 & 46 of Petitioner's paper book}	04.08.2021
11436/24	03.09.1981	31.05.2017	27-06-1991 10-11-1997 21-07-2000 04-10-2010 05-09-2016 10-08-2019 07-04-2021 {Page 47 of Petitioner's paper book}	09.09.2021

7. Admittedly, there has been no reply from the respondents in the case of three petitioners and replies have been sent on 25.07.2021 and 04.08.2021 in the case of petitioners in W.P.Nos.19109 of 2022 & 20854 of 2024.

8. In the aforesaid communications dated 30.09.2021 and 12.07.2021, the request of the private respondents for shifting to the GPF Scheme has been rejected. The contents of the communication that



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were impugned before the Tribunal was proceeded on the basis that those employees had decided to opt for CPF and hence granting them permission for shifting from CPF to GPF could not be considered.

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9. Mr.Su.Srinivasan, learned counsel, in W.P.No.20091 and 22287 of 2024; Mr.M.Vaidyanathan, learned counsel, in W.P.Nos. 11436, 20854 of 2024 & 19109 of 2022 and Mr.R.Arumugam, learned counsel, for the private respondents, in all cases, are before us.

10. The first argument advanced by the petitioners turns on the fact that the applications filed by the private respondents before the CAT was belated and hit by laches. The dates of filing of original application are as follows:-

WP No.	Date of filing OA
20091/24	28-10-2022
22287/24	30-10-2022
19109/22	25-07-2021
20854/24	04-08-2021
11436/24	09-09-2021

11. Thus all the applications were filed in late 2021 and in 2022 and in four out of five cases, after the superannuation of the employees. It is only in the case of petitioner in W.P.No.19109 of 2022 that the application was filed on 25.07.2021 whereas she had superannuated on 31.07.2021, a few days prior to superannuation.

12. Our attention is drawn to sub-clause (1) of Section 21 of the Tribunal Act that sets out limitation of 30 days for filing of an application before the Tribunal, reads thus:-

21. Limitation.—(1) A Tribunal shall not admit an application,— (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one



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year from the date on which such final order has been made; (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

13. The application in these matters has been filed long past the cause of action having arisen and are hence hit by laches / barred by limitation. Reliance in this regard is placed on the following judgments (i) *Premalatha.J v Union of India, Rep by its Secretary, Ministry of Education and others*¹, (ii) *D.C.S. Negi v Union & Others*², (iii) *State of Madhya Pradesh and another v Bhilal Bhai and another*³, (iv) *Bichitrananda Behera v State of Orissa & Ors*⁴, (v) *State of Uttar Pradesh and others v Arvind Kumar Srivastava and others*⁵, (vi) *S.S.Balu and another v State of Kerala and others*⁶ and (vii) *Union of India & Others v A.Durairaj(Dead) By Lrs*⁷.

14. On the merits of the matter, learned counsel for petitioners would rely on the judgment in *Rajasthan State Transport Corporation v Madu Giri and Ors*⁸, wherein a claim of conversion of pension scheme made after superannuation had come to be rejected. They would also submit that the CAT in some cases had rejected the similar / identical claims by employees of Kendriya Vidyalaya Sagathan Schools on the

1 O.A.No.1064 of 2022 dt. 20.04.2023 (CAT, Chennai)

2 (2018) 16 SCC 721

3 AIR 1964 SC 1006

4 (2023) LiveLaw (SC) 883

5 (2015) 1 SCC 347

6 (2009) 2 SCC 479

7 (2010) 14 SCC 380

8 (2013) 11 SCC 603



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ground that merely because an original option form was not available on the record, the claim was not liable to be accepted. In some cases, the claim of the employees had been rejected on the ground that had they received the entire dues as per CPF Scheme on their retirement and could not now turn around and claim the benefit of the GPF Scheme.

15. Reference in this regard is made to the judgments in (i) *KVS and others v Jaspal Kaur and others*⁹, (ii) *Kendriya Vidyalaya Sangathan v Ramesh Chandra Agarwal*¹⁰, (iii) *Yarlagadda Jyoti and others v Union of India, through its Secretary, Ministry of Human Resources and Development, Department of Education, Shastri Bhawan, New Delhi and others*¹¹, (iv) *Ram Prit Thakur v Kendriya Vidyalaya Sangath and others*¹².

16. Per contra, Mr.Arumugam, learned counsel, appearing for private respondents would submit that petitioners have completely mis-appreciated the tenor of the Scheme. There is no question of the petitioners seeking a transition to GPF Scheme as the Scheme itself provided for an automatic transition of all employees from the subsisting CPF Scheme to the GPF Scheme. The reference to option is only in the event an employee desired to continue with CPF Scheme itself and in the present case none of the private respondents have exercised such an option. He would bring to our notice the order of this Court in the case of *Commissioner, Kendriya Vidyalaya Sangathan and*

⁹ (2007) 6 SCC 13

¹⁰ W.P.(C) No. 7712 & 9851 of 2020 dt 12.03.2021 (Delhi HC)

¹¹ O.A.No.802 of 2020 dt. 19.07.2023 (CAT, Allahabad)

¹² O.A.No.973 of 2018 dt. 08.08.2019 (CAT, Principal Bench, New Delhi)



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two others v R.Amutha & Anr [W.P.No.17165 of 2020 dated 7.12.2020]

which has been rejected by the Supreme Court 06.12.2021 in S.L.P.(C)

No. 019772 of 2021.

17. A similar order was passed by a Division Bench of this Court on 11.01.2021 in W.P.Nos.423 & 429 of 2021 in the case of *Commissioner, Kendriya Vidyalaya Sangathan v V.Janaki and another*. He relies on the order passed by the Division Bench in the case of *N.Subramanian v the Commissioner, Kendriya Vidyalaya Sangathan and others* [2017 4 MLJ 36] to similar effect as against which S.L.P(C) No. 10695 of 2018 filed has been dismissed on 18.02.2019.

18. Mr.Arumugam, would distinguish the judgments of the Supreme Court in the case of *Jaspal Kaur*, which has been relied upon by the petitioners pointing out that adverse conclusion in that case was on the facts of that case.

19. Per contra, petitioners would distinguish the decision in *N.Subramanian* (supra) stating that, that decision contains a factual error at paragraph 10. The Bench distinguishes the judgment in the case of *Jaspal Kaur* stating '*however, in that case, it was factually demonstrated that the employee therein had opted to CPF scheme and therefore, the judgment of the Hon'ble Supreme Court was rendered in that context*'.

20. Mr.Vaidyanathan, would point out that, that was never the case and the facts in *Jaspal Kaur* case were very similar to the facts in the present case as well. Hence the distinction as sought to be noted by



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Justice Parthiban (as he then was) in the case of *N.Subramanian* did not really arise at all.

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21. We have heard learned counsel in extenso and have carefully perused the materials referred as well as the case laws cited.

22. There is no dispute with respect to the material facts in relation to the content and import of O.M bearing F.No.152-1/79-80KVS/Budget/Part.II dated 01.09.1988 issued by the Ministry of Education, Union of India from which the relevant portions are extracted below:-

"F.No.152-1/79-80/KVS/Budget/Part.II Dated 1-9-88

MOST IMPORTANT

OFFICE MEMORANDUM

Subject : Changeover of the Kendriya Vidyalaya Sangathan employees from the Contributory Provident Fund Scheme to Pension Scheme

In the 51st Meeting of the Board of Governors of the Kendriya Vidyalaya Sangathan held on 31st May, 1988, it was approved that Kendriya Vidyalaya Sangathan will implement mutatis-mutandis the decision taken by the Government of India on the recommendations of the Fourth Central Pay Commission for its employees for the change over from the Contributory Provident Fund Scheme to Pension Scheme in the manner as indicated in Ministry of Personnel, Public Grievances and Pensions (Deptt. Of Pension and Pensioners' Welfare) O.M.No.4/1/87-PIC dated 1.5.87.

2. It has, accordingly, been decided that persons joining service in the Sangathan on or after 1-1-1986 shall be governed only by the G.P.F.Scheme and will have no option for the C.P.F.Scheme. However, for all CPF beneficiaries, who were in service on 1-1-1986, the decision taken shall be implemented in the manner herein after indicated.



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3. All C.P.F. beneficiaries, who were in service on 1-1-1986 and who are still in service on the date of issue of these orders will be deemed to have come over to the pension scheme.

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 31.1.1989, 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 28-2-1989, 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 28-2-1989. Where no option to continue under the CPF Scheme is received by them from any, a nil report be sent by due date viz., 28-2-1989.

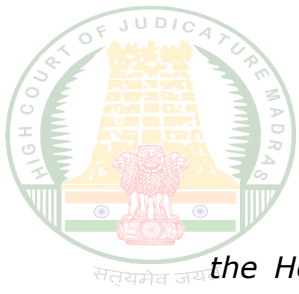
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3.6 The option once exercised shall be final.

....."

23. Clause 3 of the Scheme is categoric to the effect that all C.P.F. beneficiaries in service on 01.01.1986 which is the case of the private respondents and who are still in service on the date of issue of the O.M., being dated 01.09.1988 will be 'deemed to have come over to the pension scheme'.

24. Clause 3.2 states that the employees of the category mentioned above i.e., those who were in service on 01.01.1986 and continued in service as on 01.09.1988 would be given an option to continue, that option would have to be exercised and conveyed by 31.01.1989 in the specific form.



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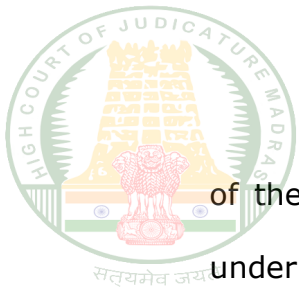
25. Clause 3.2 goes on to state that *'if no option is received by the Head of Office / Principals by 31.01.1989 and in the office of the Joint Commissioner (Admin) of the Kendriya Vidyalaya Sangathan by 28.02.1989, the employees will be deemed to have come over to the pension scheme'*. Thus, the attempt of the petitioners now to insist on the continuance of the private respondents in the CPF Scheme is clearly contrary to their own O.M. dated 01.09.1988. Clause 3.6 states that *'The option once exercised shall be final.'*

26. Thus, there is substantial merit in the contention of the private respondents that the transition from CPF to GPF is automatic. The question of exercise of option is immaterial in the case of one who does not wish to continue in the CPF Scheme.

27. In the present case, the petitioners have confirmed unambiguously that the private respondents have not exercised option to be retained in the CPF Scheme. With this, in our considered view, the mandate under Clause 3 of O.M. dated 01.09.1988 would have to be given effect as an automatic measure by the petitioners.

28. Petitioners have relied on the fact that they have continued to treat the private respondents as coming under the CPF Scheme till their retirement and the private respondents have received the benefit under the CPF Scheme as well.

29. In one case, i.e., the case of R.Geetha (petitioner in W.P.No.19109 of 2022), Mr.Vaithyanathan, would submit that the writ petitioner had even sought a loan as against CPF benefits which were granted to her. Thus, they have argued that having availed the benefits



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of the CPF Scheme and continued for the length of their employment under that Scheme, they cannot seek the benefits of the GPF Scheme.

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30. We reject this argument outright as being contrary to the express terms of O.M. dated 01.09.1988. The continuance of the employees under the erstwhile CPF Scheme is only at the behest of the petitioners. Undoubtedly, it is the petitioners, who maintain the service records, including the records relating to pension benefits. The credit of CPF benefits is done by the writ petitioners and it is not their case that such credit has been at the instance of the private respondents. In fact, the private respondents have no manner of control over either the records or the benefits having been extended to them under the erstwhile CPF Scheme. The very fact that they have been making representations would indicate the inclination of the writ petitioners that the tenets of OM dated 01.09.1988 be given effect to. Needless to say, the transition from CPF to GPF ought to have been given effect to by the writ petitioners even if such representations had not been made.

31. In the case of *Jaspal Kaur* (supra) that has been relied upon, the Kendriya Vidyalaya Sangathan had challenged an order of the Punjab & Haryana High Court. The Scheme in question is the same. The facts stated at page 3 are that a letter had been received from Jaspal Kaur stating that she had been continuing under the CPF Scheme and it should be changed to GPF Scheme. Her request was rejected and an order was passed stating that she was not entitled to claim the benefit of GPF pension scheme as she had opted for CPF Scheme.



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32. Before the Central Administrative Tribunal, Jaspal Kaur

contended that she had not opted for the scheme but the Tribunal allowed the application on the ground that no direct evidence had been produced by the Kendriya Vidyalaya Sangathan to establish that position. The secondary evidence produced by the Kendriya Vidyalaya Sangathan to show that she had been continuing in the scheme and that she had been allotted a fresh CPF account number.

33. The High Court confirmed the order of the Tribunal. The Supreme Court notes that there was a change of CPF Number in the case of Jaspal Kaur on 06.03.1989, post issuance of O.M dated 01.09.1988. Jaspal Kaur, had acquiesced to the change of CPF number and had corresponded with the Kendriya Vidyalaya Sangathan acquiescing to the continuance under the CPF Scheme. In all her correspondences, she had stated the revised number. It is under these circumstances, and in light of the fact that her own correspondences dated 15.03.1997 where she had stated that she was contributing towards CPF and her account number was JK4889 which was a revised number. This document addressed to the Accounts Officer was held to be a critical document by the Supreme Court, which established that Jaspal Kaur was aware of the change in the account number and hence was deemed to be an exercise of option for continuance in the scheme.

34. In the present case, no such material has been brought on record by the writ petitioners to indicate that they had expressly exercised an option to continue in the CPF Scheme. Undoubtedly, the private respondents were treated as continuing in the CPF Scheme. The



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records would indicate the continuance of the CPF number. The annual statement of the CPF subscription which are part of the service records maintained by the petitioners would also indicate so.

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35. However, as we have noted such records fall within the domain of control of the petitioners and cannot under any circumstances be taken to be express consent or exercise of option by the private respondents. The private respondents have brought on record several instances where orders of the CAT as well the High Court have in identical circumstances held in favour of the employees and the Kendriya Vidyalaya Sangathan has complied with those orders. There is no reason for the petitioners to have adopted a divergent stand in the present matters.

36. The mere fact that K.Geetha (in W.P.No.19101 of 2022) had applied for and obtained a loan as against CPF benefits would also have no bearing in the matter as the act of the employee is merely to seek a loan as against the pension benefits. Whether the pension benefits have been computed under the CPF or the GPF Scheme would fall only within the control of the petitioners and the private respondents have no say in the matter. In any event and certainly, it cannot mean that she has exercised an option for retention in the CPF Scheme. The exercise of option for retention would have to be a conscious, voluntary and express act. The records of the petitioners have not conclusively established that no option in the requisite form has been made by the employees. The secondary evidence also fall within the ambit of service records maintained by the writ petitioners

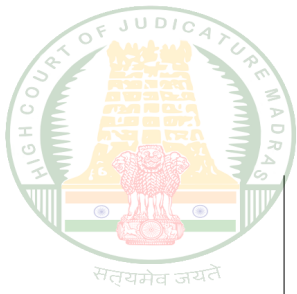


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and no clinching secondary evidence had been produced in this case to persuade us to come to the conclusion that the private respondents have applied their mind and exercised an option for retention in CPF Scheme.

37. The prayer of the private respondents before the CAT is as follows:-

<i>Writ Petition Number</i>	<i>Prayer before Tribunal</i>
<i>20091/2024</i>	<i>"a. Call for the original files(s)/record(s) relating the case of the applicant and issue a direction to the 2nd respondent authority to consider the case of the applicant for grant of GPF pension scheme benefits in terms of the well settled position of law by way of order dated 05.05.2022 passed by the Hon'ble Apex Court in SLP (C) No.19952/2021 and judgment dated 105.2022 in SLP(C) Dy.No.13901/2017 and consequently receive the management share of CPF paid to the applicant without any interest and pay arrears of pension to the applicant. b. costs of this OA to be paid by the respondents. c.pass such further or other orders as may be required in facts and circumstances of the case."</i>
<i>19109 of 2022</i>	<i>"(a) Call for original files(s)/record(s) of the 1st respondent authority relating to passing of the impugned letter bearing F.No.110125/2021/K.V.S./PF/CPF to GPF 482 dated 12.07.2021 and quash the same as illegal. (b) For a declaration that the applicant deemed to have come under the GPF (Pension) Scheme in terms of the Policy under 1st respondent</i>

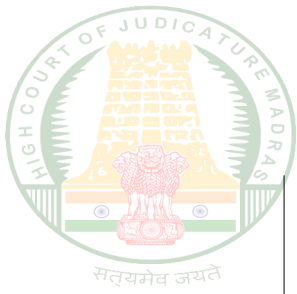


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	<p>authorities O.M. in F.No. 152-1/79-80/KVS/Budget/Part-II dated 01.09.1988 with effect from 01.02.1989 and consequently extend the benefits of GPF (Pension) scheme to the applicant</p> <p>(c) Costs of this Original Application to be paid by the respondents.</p> <p>(d) Pass such further or other orders as may be required in facts and circumstances of the case."</p>
20854/2024	<p>"(a) call for the original file(s)/ record(s) of the respondents dealing with the case of the applicant and peruse the same;</p> <p>(b) declare that after regularizing the services of the applicant w.e.f.23.05.1988 as Post Graduate Teacher (Economics) vide 2nd respondent's office order dated 22.02.2019, the applicant is entitled to be granted the benefits of GPF-cum-Pension Scheme with all consequential benefits.</p> <p>(c)Costs of Original Application to be paid by the respondents.</p> <p>(d) Pass such further or other order as may be required in the facts and circumstances of the case."</p>
22287/2024	<p>"a. For a direction to the 1st respondent authority to consider the case of applicant for grant of GPF pension scheme benefits in terms of the well settled position of law by way of order dated 5.5.2022 passed by the Hon'ble Apex Court in SLP(C) No.19952/2021 and consequently receive the management share of CPF paid to the applicant without any interest and pay arrears of pension to the applicant.</p> <p>b. cost of this OA to be paid by the respondents.</p>



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	<p><i>c. pass such further or other order as may be required in facts and circumstances of the case."</i></p>
11436/2024	<p><i>"a) Call for the original files(s)/records(s) of the 1st respondent authority relating to the applicant's case.</i></p> <p><i>b) For a declaration that the applicant deemed to have come under the GPF (Pension) Scheme in terms of the Policy under 1st respondent authorities O.M. in F.No.152-1/79-80/KVS/Budget/Part-II dated 01-09-1988 with effect from 01-02-1989 and consequently extend the benefits of GPF (Pension) Scheme to the applicant.</i></p> <p><i>c) Costs of this Original Application to be paid by the respondents.</i></p> <p><i>d) Pass such further or and other orders as may be required in the facts and circumstances of the case."</i></p>

38. The scope of the prayer is only for the benefits of GPF that is say, that the employers' contribution for the period after 01.09.1988. Needless to say, any CPF benefits received by them, post 01.09.1988, subject to their refund of any of the CPF benefits received by them at the time of their superannuation.

39. The decisions relied on by Mr.Srinivasan are in the context of delay and laches. He has made reference to Section 21 which deals with limitation. The provision undoubtedly places a bar on any application being admitted beyond the periods stipulated in clauses a and b thereof.



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40. A perusal of the tabulation set out at paragraph 6 (supra)

reveals that the applications have been instituted by the private respondents before the Tribunal within six months from the date of last application. In our considered view, this would suffice to satisfy the bar of limitation under Section 21(1)(b) which has been extracted at paragraph 12 above.

41. The attempt of Mr.Srinivasan, to say that relying on the case cited, is to say that such an interpretation would tantamount to extending the limitations beyond what is envisaged in the provision. We disagree. The ground realities of a situation such as present cannot lose sight of. The private respondents are all in service and have been making representations before the employer regularly. As we have already indicated, it was unnecessary to even require them to make representations as their very O.M. dated 01.09.1988 requires Kendriya Vidyalaya Sangathan to effect transition to the GPF Scheme. This has not been done in the case of the private respondents.

42. Hence, for a default committed by the Kendriya Vidyalaya Sangathan, the employees cannot suffer to say that their representations and the institution of the applications before the CAT were hit by the bar of limitation. This submission does not appeal to us at all. Hence we find that the ratio of the decisions cited by Mr.Srinivasan, are entirely distinguishable as on the facts of those cases and the facts and legalities of the present matter.

43. At the risk of repetition, we must reiterate that O.M.dated 01.09.1988 was by the Kendriya Vidyalaya Sangathan itself putting into



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motion a scheme of transition from CPF to GPF and providing expressly that it is only if the option had been exercised for continuance that the

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employees would be retained in the CPF Scheme. There is hence no merit or we may even say fairness in the Kendriya Vidyalaya Sangathan taking the present stand. They are also seen to have complied with the orders in the cases of many others similarly placed employees and hence we see no justification for the present private respondents being denied the same benefit.

44. Mr.Srinivasan points out that the Tribunal has not dealt with the grounds of limitation at all. That is true as we do not find any discussion in the impugned orders relating to the bar of limitation. While it would have been appropriate that, that ground had been dealt with, we have dealt with the same and we believe that this would suffice.

45. In light of the discussion as above, we are in agreement with the conclusions of the Tribunal in the orders impugned before us and confirm the same. These writ petitions are dismissed. Effect shall be given to the prayers of the private respondents before the Tribunal within a period of eight (8) weeks from date of issuance of a copy of this order. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [G.A.M.,J]
29.10.2024

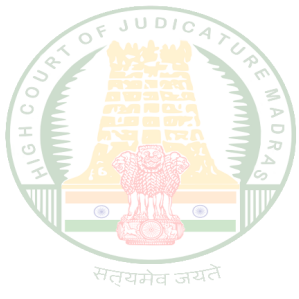
Index : Yes
Neutral citation: Yes



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To
The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Buildings,
Chennai - 104.



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W.P.No.20091 of 2024 etc. batch

DR.ANITA SUMANTH,J.

And

G. ARUL MURUGAN.,J.

ssm

W.P.Nos.20091, 22287, 11436,
20854 of 2024 & 19109 of 2022

and

W.M.P.Nos.21985, 22811, 12546,
24273 of 2024 & 18411 of 2022

29.10.2024