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**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.23733 of 2024**

***Ajit Kumar Singh Babu*** .... ***Petitioner***

Mr. S. Mohapatra, Advocate

*-versus-*

***Commissioner Kendriya*** .... ***Opp. Parties***

***Vidyalaya Sangathan, New***

***Delhi and Anr.***

Mr. H. Tripathy, Advocate

**CORAM:  
JUSTICE KRISHNA SHRIPAD DIXIT  
JUSTICE CHITTARANJAN DASH**

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**Date of Hearing: 18.03.2026**

**Date of Judgment: 24.03.2026**

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***Chittaranjan Dash, J.***

1. By means of this application, the Petitioner calls in question the legality and propriety of the order dated 20.12.2023 passed by the Central Administrative Tribunal, Cuttack Bench in O.A. No.231 of 2021, whereby the claim of the Petitioner for conversion from the Contributory Provident Fund (CPF) Scheme to the GPF-cum-Pension Scheme has been rejected, inter alia, on grounds which, according to the Petitioner, are contrary to the applicable Office Memoranda and settled principles governing service jurisprudence.



2. The brief facts giving rise to the present application are that the Petitioner was initially appointed as a Librarian under the Opp. Party No.2 on 16.11.1981 and his services were subsequently confirmed on 30.04.1984. At the time of his appointment, his service conditions were governed under the CPF Scheme. It is stated that pursuant to the recommendations of the Fourth Central Pay Commission, the Government of India issued Office Memorandum dated 01.05.1987 providing for a shift from CPF to GPF Scheme, which was thereafter adopted by the Opp. Party No.1 vide Office Memorandum dated 01.09.1988, stipulating that employees in service as on 01.01.1986 would be deemed to have come over to the GPF-cum-Pension Scheme unless they exercised an option to continue under the CPF Scheme within the prescribed time. The Petitioner did not exercise any option to continue under the CPF Scheme within the stipulated period and, therefore, claims that he ought to have been treated as having been covered under the GPF-cum-Pension Scheme. The Petitioner continued in service and, upon attaining the age of superannuation, retired on 29.02.2016. It is further stated that subsequent to his retirement, the Petitioner submitted a representation on 03.10.2018 before the Opp. Party No.1 seeking conversion from CPF to GPF-cum-Pension Scheme. The Petitioner also sought information under the Right to Information Act, 2005 pursuant to which it was intimated that no record was available indicating that he had exercised any option to continue under the CPF Scheme.



According to the Petitioner, similarly situated employees have been extended the benefit of conversion to the GPF-cum-Pension Scheme. As his grievance remained unaddressed, the Petitioner approached the Central Administrative Tribunal, Cuttack Bench by filing O.A. No.231 of 2021. The said Application, along with analogous matters, was disposed of by order dated 20.12.2023, whereby the claim of the Petitioner was rejected. Being aggrieved by the said order, the present writ application has been filed.

3. Learned counsel for the Petitioner submits that the impugned order passed by the Tribunal, pursuant to the Office Memorandum dated 01.09.1988, all employees who were in service as on 01.01.1986 were required to be shifted to the GPF-cum-Pension Scheme unless they specifically exercised an option to continue under the CPF Scheme within the stipulated period. In the present case, admittedly, the Petitioner never exercised any such option, however, by operation of the deeming provision, he ought to have been treated as a member of the Pension Scheme. It is further submitted that the information obtained under the RTI Act clearly indicates that no option form was available in the service records of the Petitioner, thereby fortifying his claim. Learned counsel also contends that similarly situated employees under the Kendriya Vidyalaya Sangathan have been extended the benefit of conversion from CPF to GPF-cum-Pension Scheme pursuant to



judicial pronouncements, and denial of the same benefit to the Petitioner amounts to arbitrariness and discrimination. In support of such submissions, reliance is placed upon the decisions of the Hon'ble Supreme Court in *University of Delhi vs. Shashi Kiran and Others*, (2022) SCC OnLine SC 594, as well as orders passed by various Benches of the Central Administrative Tribunal and High Courts, including the judgment of the Hon'ble High Court of Madras, passed in W.P.(C) No.24860/2018 and the order of this Court in *Baijayanti Mohanty vs. Union of India and Others* passed in W.P.(C) No. 7336 of 2025.

4. Per contra, learned counsel appearing for the Opp. Parties contend that the Petitioner continued under the CPF Scheme throughout his service career and accepted all benefits thereunder without any demur. The Petitioner, having retired in the year 2016, cannot now seek conversion to the Pension Scheme after an inordinate delay. It is further submitted that the burden lies on the Petitioner to establish that he had not exercised any option to continue under the CPF Scheme, and mere non-availability of records at this stage cannot automatically entitle him to the benefit of the Pension Scheme. Learned counsel also submits that the cases relied upon by the Petitioner are distinguishable on facts and do not confer any automatic right for conversion. In support of such submissions, reliance is placed on the decisions of the Hon'ble Supreme



Court in *Kendriya Vidyalaya Sangathan vs. Jaspal Kaur*, (2007) 6 SCC 13, *Lily Thomas vs. Union of India & Others.*, AIR 2000 SC 1650, *Supertech Ltd. vs. Emerald Court Owner Resident Welfare Association and Others*, (2024) 1 SCC (L&S) 819, etc. to contend that belated claims seeking to reopen settled service conditions are liable to be rejected on the ground of delay and acquiescence. Accordingly, it is contended that the Writ application is liable to be dismissed.

5. Upon hearing learned counsel for the parties and upon perusal of the material on record, including the pleadings and documents appended thereto, this Court proceeds to examine the sustainability of the impugned order.

6. At the outset, it is necessary to note that the foundational facts are not in dispute. The Petitioner entered service under the Opp. Parties at a time when the CPF Scheme governed the field and continued under the said regime throughout his service tenure. It is also borne out from the record that subsequent to the recommendations of the Fourth Central Pay Commission, policy decisions were taken to permit migration from the CPF Scheme to the GPF-cum-Pension Scheme, subject to exercise of option within a stipulated time-frame.

7. A careful scrutiny of the record reveals that such option was not a one-time measure but was extended on multiple occasions, with specific cut-off dates prescribed for exercise thereof. The scheme, by its very nature, was conditional and



required a conscious act on the part of the employee to either opt for migration or continue under the existing CPF regime. The material on record does not indicate that the Petitioner exercised such option within the prescribed period. On the contrary, the conduct of the Petitioner, as reflected from the service records, demonstrates that he continued under the CPF Scheme, accepted deductions thereunder and derived the attendant benefits without raising any objection at the relevant point of time.

8. The copy of the Service Book of the Petitioner reflects both the “Old CPF No. CEC-442” and the subsequently assigned “New CPF No. 2199”. The Nomination Form submitted by the Petitioner, the Provisional Annual CPF Statement for the Financial Year 2015-16 bearing the said account number, as well as the Provisional Last Pay Certificate as on 29.02.2016, consistently indicate his status as a CPF subscriber. These documents, annexed as Annexures-R/1, R/2, R/3 and R/4 respectively, show that the Petitioner was allotted a revised CPF Account No.2199 in continuation of his earlier account and had continued contributing to the CPF Scheme till his retirement on 29.02.2016.

9. Moreover, the record also discloses supporting secondary material, including the Service Book entries reflecting both the old and revised CPF account numbers, which reinforce the Petitioner’s continued association with the CPF Scheme. Form ‘B’ relating to CPF nomination in Annexure-R/2, submitted by



the Petitioner on 24.09.2008 and duly signed by him along with two witnesses, having been executed nearly two decades after the Office Memorandum dated 01.09.1988, shows a conscious continuation under the CPF regime.

10. Taken cumulatively, these contemporaneous records, including the Service Book entries establish that the Petitioner remained under the CPF Scheme throughout his service tenure. The record further indicates that he was aware of such status, as reflected from the monthly pay bills, annual CPF statements and statutory documents such as Form-16 issued for income tax purposes, the uninterrupted contribution to the CPF Scheme, without any objection, reflects a clear and conscious acceptance thereof. In such circumstances, the contention that the Petitioner was unaware of his position or that his continuance under the CPF Scheme was inadvertent cannot be sustained. On the contrary, the record demonstrates that the Petitioner, by his conduct, continued under the CPF regime in terms of the Office Memorandum dated 01.09.1988 and retained the same till his retirement.

11. The principal contention advanced on behalf of the Petitioner rests on the premise that in absence of any recorded option to continue under the CPF Scheme, he ought to be deemed to have been covered under the GPF-cum-Pension Scheme. While such a submission, at first blush, appears appealing, the same cannot be accepted in isolation. The



question is not merely of absence of record, but of the overall conduct of the employee and the surrounding circumstances. The Petitioner remained in service for decades after the issuance of the relevant Office Memoranda and did not, at any point of time, assert any right to be governed under the Pension Scheme. The absence of any contemporaneous assertion or challenge assumes significance and militates against the plea now sought to be raised.

12. This Court finds that the issue is squarely covered by the judgment rendered by this Court in W.P.(C) No.28979 of 2025 (and batch matters), wherein an identical question arose for consideration in respect of employees of the Kendriya Vidyalaya Sangathan seeking conversion from the CPF Scheme to the GPF-cum-Pension Scheme at a belated stage. The ratio laid down therein is in sync to the facts of the present case. The Petitioner herein stands on no better footing than the Petitioners in the aforesaid batch cases. The attempt to reopen a concluded position after retirement, on the basis of subsequent developments or perceived advantages of another scheme, cannot be countenanced in law.

13. It is well settled that a writ court, while exercising jurisdiction under Article 226 of the Constitution of India, does not sit in appeal over the findings of fact recorded by the Tribunal unless such findings are shown to be perverse or illegal. The Central Administrative Tribunal Central



Administrative Tribunal has taken into consideration the relevant materials on record, including the service particulars of the Petitioner and the governing policy, and has arrived at a conclusion that the Petitioner had continued under the CPF Scheme and had not exercised the option for migration within the prescribed period. Such finding does not suffer from any perversity or jurisdictional infirmity. A perusal of the impugned order dated 20.12.2023 passed by the Tribunal in O.A. No.231 of 2021 indicates that the Tribunal has examined the service particulars of the Petitioner in the backdrop of the policy governing migration from the CPF Scheme to the GPF-cum-Pension Scheme and the materials placed on record. It has been recorded that the Petitioner had continued under the CPF Scheme throughout his service tenure and had not exercised the option for migration within the stipulated period, despite opportunities having been made available. The Tribunal has further taken into account the fact that the claim was raised only after the Petitioner's retirement in the year 2016, whereas the cause of action, if any, had arisen much earlier at the stage when such options were invited. In that view of the matter, noting the absence of any contemporaneous assertion of right and the unexplained delay in approaching the forum, the Tribunal declined to grant the relief sought for, which reasoning, in the considered view of this Court, does not suffer from any perversity or error apparent on the face of the record.



14. The plea of parity with similarly situated employees also does not advance the case of the Petitioner. Entitlement to such benefit depends upon the factual matrix of each case, not only with regard to the exercise of option within the stipulated time but with the conduct of the employee as discussed above. In absence of a clear demonstration that the Petitioner stands on identical footing with those who have been granted relief, no claim of discrimination can be sustained.

15. Upon an overall consideration of the materials on record, this Court is of the considered view that the Tribunal has appreciated the matter in its right perspective and has assigned cogent reasons while rejecting the claim of the Petitioner. The reasoning does not suffer from any error apparent on the face of the record, nor does it disclose any infirmity warranting interference.

16. In view of the above, the Petitioner has failed to make out any case for interference under Article 226 of the Constitution of India and in consequence, the present Writ Petition is dismissed being devoid of merit.

***(Chittaranjan Dash)***  
***Judge***

***(Krishna Shripad Dixit)***  
***Judge***