

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

**TUESDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 34062 OF 2025

Between:

T.Girija Manik, W/o T.Manik, Aged about 66 years, Occ- Asst. Accountant,
E.C.No. 3815, Accounts Section, Nuclear Fuel Complex, Department of Atomic
Energy, Hyderabad.

...PETITIONER

AND

1. Union of India, Represented by its Secretary, Atomic Energy Department,
Anushakthi Bhavan, CSM Marg, Mumbai- 400 001.
2. The Additional Secretary, Atomic Energy Department, CSM Marg, Mumbai -
400 001.
3. The Chief Executive, Nuclear Fuel Complex, ECIL (Post), Hyderabad.
4. The Deputy Chief Executive (Admin),, Nuclear Fuel Complex, ECIL,
Hyderabad.
5. The Administrative Officer, - HIM Nuclear Fuel Complex, ECIL, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ or Direction or Order, more particularly one in the nature of Writ of certiorari to call for the records pertains to the order in OA/021/0754/2023, dated 12-06-2025 passed by the Central Administrative Tribunal, Hyderabad Bench by declaring the same as illegal, arbitrary, unconstitutional and violation of Article 14, 16 and 309 of constitution of India and quash the same, consequently direct the Respondents to extend the benefit of Hon'ble Supreme Court of India Judgment in SLP 2885-28827/2017 Dt- 14-02-

2023 and grant the pension from the date of superannuation to till date of payment with interest payable to General Provident Fund from time to time.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to implement the order in SLP.No. 28825-28827/2017 Dt-14-02-2023 in the case of the petitioner, pending disposal of main writ petition.

Counsel for the Petitioner : SRI K RAM MURTHY

**Counsel for the Respondents: SRI B NARASIMHA SHARMA ADDITIONAL
SOLICITOR GENERAL OF INDIA
ON BEHALF OF N BHUJANGA RAO DEPUTY
SOLICITOR GENERAL OF INDIA**

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION No.34062 OF 2025

ORDER:

This Writ Petition assails the order dated 12.06.2025 passed by the Central Administrative Tribunal (for short 'CAT'), Hyderabad, in O.A.No.21/1485/2015, whereby the Tribunal dismissed the Original Application (for short 'O.A') filed by the petitioner. The petitioner had filed the subject O.A. seeking a direction to be covered under the pension scheme instead of Contributory Provident Fund (CPF) Scheme, contending that under the Office Memorandum (O.M) dated 01.05.1987 she was deemed to have come over/switched to the pension scheme as per 4th Central Pay Commission (CPC) recommendations, as she never exercised any option to remain in CPF before 30.09.1987.

2. Heard Sri K.Ram Murthy, learned counsel for the petitioner; Sri B.Narasimha Sharma, learned Additional Solicitor General of India on behalf of Sri N Bhujanga Rao, learned Deputy Solicitor General of India appearing for respondents and perused the record.

Factual Matrix (in brief)

3. The factual background, necessary for the adjudication of the present writ petition, is as follows:

- i) Smt.T Girija Manik (for short 'writ petitioner') joined the service in the year 1981 and was confirmed in 1986 and has explicitly opted for the CPF scheme.
 - ii) Following the 4th Central Pay Commission, the Government of India issued an Office Memorandum on 01.05.1987, stating that all CPF beneficiaries in service as of 01.05.1987 would be deemed to have come over to the pension scheme, unless they exercised a positive option to retain CPF by 30.09.1987.
 - iii) The petitioner claims that since she did not submit a written option to continue in the CPF by the deadline, she must be automatically deemed to have switched over to the pension scheme. However, the respondents contend that the petitioner's service book contains an entry, made post-deadline, stating she "opted to retain CPF," and that she continued to contribute to and receive benefits from the CPF account until her superannuation.
 - iv) The petitioner claims to have made several representations to the respondents to bring her under the pension scheme which were rejected. She filed an O.A.
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before the CAT, Hyderabad, which was dismissed. The CAT relied on a precedent where it held that employees who consciously enjoyed CPF benefits cannot be allowed belatedly to seek switch over from CPF scheme to pension scheme.

v) Aggrieved thereby, the petitioner has approached this Court under Article 226 of the Constitution challenging the Tribunal's order.

Contentions on behalf of the petitioner

- i) The learned counsel for the petitioner contends that, in terms of the O.M. dated 01.05.1987, a statutory deeming fiction was created whereby all CPF beneficiaries in service as on the date of issuance of the O.M. would automatically stand brought under the pension scheme unless they expressly opted to continue under the CPF before 30.09.1987. Since the petitioner did not submit any written option retaining the CPF Scheme within the prescribed period, the petitioner asserts that by operation of the said deeming provision, the petitioner has to be treated as having come over to the pension scheme.
- ii) The learned counsel for the petitioner contends that the present case is squarely covered by the order of the Hon'ble Supreme Court in SLP(C) Nos.28825-

28827/2017 arising from the Madras High Court in ***Union of India v. S. Subbaiah and others***¹, where similarly situated employees in the Department of Atomic Energy were granted the benefit of the pension scheme.

- iii) The learned counsel contends that the action of the respondents is arbitrary and violative of Article 14 of the Constitution, inasmuch as similarly situated scientific and technical personnel were permitted to exercise a belated option to come over to the Pension Scheme, whereas the same benefit has been unjustly denied to the petitioner without any rational basis.
- iv) It is contended also that any service-book entry recorded after 30.09.1987, indicating that the petitioner opted to continue under the CPF Scheme, is devoid of legal sanctity, as the belated endorsement cannot defeat or supersede the deeming effect of the Office Memorandum dated 01.05.1987.

Contentions on behalf of the respondents

Per contra, learned counsel for the respondents, in unison, contended as under:

¹ W.P.Nos.28092 of 2015 and batch dated 05.01.2017

- i) That the petitioner had consciously opted for the CPF Scheme in 1986 and, even after issuance of the O.M. dated 01.05.1987, expressly reaffirmed her decision to remain under CPF, as reflected in the contemporaneous entry in her service book. The petitioner having continued to contribute to and enjoy the benefits of the CPF Scheme throughout her service and at the time of her retirement, cannot now seek to resile from her own choice.
- ii) That the judgement of the Madras High Court in **S. Subbaiah's** case (supra 1) relied upon by the petitioner, is concerned with the employees who had not exercised any option whatsoever. However, in the present case the petitioner had affirmatively and voluntarily opted for the CPF Scheme, rendering the precedent inapplicable to her case, as evident from her service book.
- iii) That the petitioner's claim of seeking to be covered under the pension scheme is belated, as the petitioner's option was concluded long ago, and repeated representations do not extend the period of limitation or revive a stale cause of action.

4. We have given our anxious considerations to the submissions and perused the record, including the judgment of the Madras High Court in **S. Subbaiah's** case (supra 1).

Analysis and Reasoning:

5. The cornerstone of the scheme introduced in 1987-88 was the provision of a conscious choice to the employees. The petitioner has consciously and voluntarily exercised her option in writing to continue under the CPF Scheme. The terms of the Office Memorandum were clear and unambiguous that the option was final. Having made a calculated choice and reaped the benefits of CPF Scheme throughout his career and at the time of retirement, she cannot now be permitted to resile from that position decades later. In this regard, the principle of estoppel and waiver squarely applies to the facts of this case.

6. In the present case the petitioner's claim stands vitiated by an inordinate and wholly unexplained delay, as the cause of action had crystallised in 1987-88, when the relevant entry was made in her service book and she continued to contribute and enjoy benefits, without protest, under the CPF Scheme. Further, the doctrine of laches would apply to the present case. Granting relief in such a stale claim would set a dangerous precedent, unsettling long-closed financial transactions and would open the flood gates of similar stale claims.

7. It is pertinent to note that the petitioner's claim rests entirely upon the so-called 'deemed option' contemplated under the O.M. dated 01.05.1987, which by its very nature, operates only where the employee has taken no affirmative step. In the present case, the respondents contended before the CAT of clear and contemporaneous evidence that the petitioner had, in fact, exercised a positive option to remain under the CPF Scheme, as reflected in the duly recorded entry in her service book. The relevant portion of the order of the CAT is extracted hereunder:

4. The respondents further contended that in response to the DP&PW's OM dated 01.05.1987 and further communication vide DAE OM No.1/1/13/87-Admn.II dated 23.09.1987, an entry has been made in the Service Book stating that "Opted to retain CPF benefits in terms of O.M. No.1/1(13)/87-Adm.1 dt. 23.09.1987. In addition, it is revealed from the Accounts data i.e., yearly statements of provident fund that the Applicant is under CPF. The Applicant herein by taking the cognizance of the aforesaid OMs dated 01.05.1987 & 23.09.1987, consciously, exercised the option to retain CPF benefits, which is seen from the Service Book of the Applicant and which was beneficial at that time and now alleging that since she did not exercise any option against the above referred OMs and hence deemed to have come under pension scheme is not tenable. Therefore, the respondents prayed for the dismissal of the O.A.

Significantly, the petitioner never questioned or disputed this entry at any time during her service and also did not controvert the stand of the respondents taken before the CAT. In these circumstances, the legal fiction of a deemed switch to the pension scheme stands excluded, and the petitioner's contention founded thereon cannot be sustained.

8. Further, the petitioner's reliance on the judgment of the Madras High Court in **S. Subbaiah's** case (supra 1) is distinguishable as the factual foundation of that judgment stands in stark contrast to the present case. It is evident from a careful reading of the said Judgment, that the employees therein had not exercised any option within the original or extended period. They were true 'default cases', thereby attracting the deeming fiction under the O.M. dated 01.05.1987, which treated such passive employees as having come over to the pension scheme. However, in the instant case the petitioner had consciously opted for the CPF Scheme in 1986, and the contemporaneous service-book entry indicates that she reaffirmed this choice even after issuance of the 1987 O.M., which remained unquestioned throughout petitioner's career. Therefore, the ratio of **S. Subbaiah's** case (supra 1) is wholly inapplicable to the petitioner's case.

9. The petitioner in the present writ petition is essentially seeking to quash the order of the Central Administrative Tribunal. The decision of the Tribunal is based on the facts of delay, estoppel, waiver and acquiescence is a plausible and legal one. The order of the CAT does not suffer from any perversity or error of law that warrants the interference of this Court under Article 226 of the Constitution.

10. For the foregoing reasons, we find no merit in this Writ Petition. The order of the Tribunal is legal, just and equitable and does not call for any interference. The petitioner's reliance on the Madras High Court judgment in **S. Subbaiah's** case (supra 1) is insufficient to overcome the significant hurdles of a conscious, final option exercised by the petitioner and the inordinate and unexplained delay in the present case.

11. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, shall stand closed.

**SD/-B. REKHA RANI
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. One CC to SRI K RAM MURTHY Advocate [OPUC]
2. One CC to SRI N BHUJANGA RAO Deputy Solicitor General of India [OPUC]
3. Two CCs to GP FOR ,High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CD Copies

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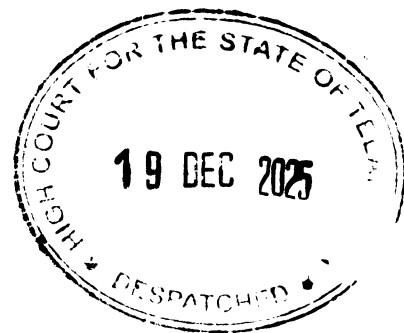
PA

HIGH COURT

DATED:25/11/2025

ORDER

WP.No.34062 of 2025



DISMISSING THE WRIT PETITION
WITHOUT COSTS

⑦ PA
8/12/25