



2025:DHC:254-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1310/2019

RAJESH GOMESPetitioner

Through: Mr. Amit Kumar, Adv.

versus

**NEW DELHI MUNICIPAL COUNCIL
(NDMC) AND ORS.**

.....Respondents

Through: Ms. Kanika Agnihotri, Standing
Counsel, NDMC with Mr. Sachin Sharma,
Adv.

Ms. Kanika Singh, ASC with Mr. Nikhil
Saini, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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16.01.2025

C.HARI SHANKAR, J.

1. This writ petition impugns order dated 21 April 2016 passed by the Central Administrative Tribunal¹ in OA 1603/2014. The prayer clause in the OA merits reproduction, thus:

“a) Direct the respondent to regularize the service of the applicant from the date of initial appointment since he has been holding the Driving License of HMV at par with Rama Kant Rai.

b) Direct the respondents to regularize the applicant as LMV Driver w.e.f. 22.02.1994 on the analogy of Om Prakash

¹ “Tribunal” hereinafter



Dabas case with all consequential benefits, as recommended by the CRG vide its recommendation dt. 03.01 2013 while disposing of the representation dated 01.03.2012 of the applicant and regularize/promote the applicant as HMV driver since 1997 with all consequential benefit i.e. with effect from the date when, his similarly situated colleagues have been regularized as HMV Driver by the respondents on its own as well as on the directions of the Hon'ble High Court as the applicant has been driving HMV vehicle through the years since his initial appointment as TMR in the year 1986 till date, with all consequential benefit including arrears with interest 18% per annum with cost of litigation.

c) Any other relief/reliefs which this Hon'ble Tribunal may deem fit and proper in the fact and circumstance of the case.”

2. The petitioner joined the services of the respondent NDMC as driver with effect from 3 September 1986 on Temporary Muster Roll² basis. His engagement on TMR basis was extended till 31 December 1989, *vide* order dated 1 November 1989. While he was so working as TMR Driver, the NDMC, *vide* letter dated 7 July 1994, called upon the petitioner to appear in a Trade Test for engagement on Regular Muster Roll³ as Driver.

3. The petitioner appeared and qualified in the Trade Test. *Vide* office order dated 25 August 1994, the petitioner was engaged as Driver on RMR basis.

4. While he was so working, the NDMC, *vide* letter dated 12 July 1996, called upon the petitioner and others to appear in a Trade Test to be held on 18 July 1996 for appointment to the post of Driver (HMV). The respondents did not, however, allow the petitioner to appear in the

² “TMR” hereinafter

³ “RMR” hereinafter



Trade Test on the ground that the invitation to appear was only in respect of persons who had approached this Court in CWP 646/1994, and in respect of whom the following order was passed by this Court on 8 October 1998:

“The Petitioners had been engaged on muster roll basis to perform the job of Driver by respondent NDMC. In these three writ petitions, they have prayed for regularizing their services as LMV Driver-cum-Fitter in pay scale of ₹ 1150-1500 P.M. Various interim orders have been passed from time to time in these cases and as per the order passed on 17.9.1996 Respondent NDMC was directed to fill-up the vacancies of HMV Drivers equal, to the number of the Petitioners in the three petitions.

After we heard learned Counsel for the parties on merits of the petitioners claim, learned Counsel for the Respondent NDMC stated that without prejudice to the stand taken by Respondent NDMC in these cases and in the facts of this case, Respondent NDMC is still ready and willing to put the Petitioners to trade test subject to their fulfilling all other eligibility criteria as provided in the recruitment rules and on petitioners' remaining successful in the trade-test, the Respondent NDMC will provide regular appointment to the successful candidates against the posts of HMV Drivers in Respondent NDMC.

Pursuant to an earlier order passed in this case, some of the petitioners had appeared in the trade test conducted by the Respondent. Some of the petitioners had also appeared in the trade test conducted separately. Leaned Counsel for the Respondent NDMC states that S/Shri Vijay Kumar, Roshan Lal, Amin Chand, Kuldeep Kumar and Subhash Chand, mentioned at Serial No. 1, 8, 14, 16 and 25 in Annexure-II at page 259 of the paper book have remained successful in those trade tests. Out of these five petitioners, Vijay Kumar is not fulfilling requisite educational qualifications.

Keeping in view of the fact that petitioner Vijay Kumar has been engaged on muster roll basis by Respondent NDMC from 1987 till date with intermittent breaks and has been performing his job to the satisfaction of the Respondent and has also successfully passed the trade test, the mere fact that he does not fulfil the requisite educational qualification, cannot be treated as a bar for not providing him regular job. We direct that in his case, the



educational qualification will be duly relaxed.

Learned Counsel for the Respondent states that he has been instructed to say that with respect to the above mentioned five petitioners, letters of appointment will be issued within a period of two weeks from today. Their joining the regular post, however, will be subject to their being medically fit. Within two weeks the Respondent will issue the appointment letters to the aforesaid five petitioners as HMV Drivers, who on completing the formality of undergoing medical tests will join their respective post, as per the appointment letters.

Insofar as remaining petitioners are concerned, learned counsel for the Respondent states that trade test will be conducted on 18.11.1996 at 11.00 a.m. at NDMC Workshop at Laxmi Bai Nagar, New Delhi.

The suggestion is fair and reasonable. We direct the remaining petitioners to make available for the trade test on the specified date at the stated place. The trade test will be conducted as per the usual norms. Whosoever is declared successful in the trade test will be offered regular appointment of HMV Driver in Respondent NDMC subject to the fulfilling of the other requirements, namely, of having a valid HMV Driving licence with no punishment for accident during the last two years and of being medically fit.

With these directions the petitions stand disposed of.

Dasti.”

5. Consequent on the aforesaid order being passed, the petitioner filed his own writ petition, being WP (C) 4844/1999, seeking to be regularised as LMV Driver, and to be permitted to appear in the Trade Test for that purpose.

6. The said writ petition came to be disposed of, by a Single Bench of this Court of Hon’ble Mr. Justice Sanjiv Khanna (as the Hon’ble Chief Justice of India then was), *vide* order dated 15 May 2008, which reads thus:



“1. The petitioners have been working as drivers since 1987 and were initially enrolled as Temporary Muster Roll employees.

2. On 24.5.1993 a circular was issued asking Temporary Muster Roll employees to apply for posts of Light Motor Vehicle driver cum fitter against direct recruitment quota. Thereafter, in 1994 the petitioners were informed that they should appear for a trade test and if they qualify they shall be posted as Regular Muster Roll drivers.

3. The petitioners appeared in the said trade test and were appointed as Regular Muster Roll drivers on 17.8.1994.

4. Surprisingly, NDMC in 2002 again enrolled petitioners as Regular Muster Roll employees on the ground that they had completed 500 days of service as Temporary Muster Roll employees. NDMC lost sight of the fact that they had already been posted as Regular Muster Roll employees pursuant to policy decision taken by them and after the petitioners had cleared the trade test in 1994. It is not understandable, why and how the petitioners are being treated as Regular Muster Roll employees w.e.f. 2002, when they had already been enrolled way back in 1994 as Regular Muster Roll employees-drivers.

5. The petitioners have made allegations that several others who are juniors to the petitioners have been regularised as drivers. I am not inclined to go into these aspects because the initial appointment of the petitioners was without a proper selection process. However, NDMC has taken a policy decision to regularize the services of Regular Muster Roll employees-Driver, depending upon the vacancy position. It is stated by the learned counsel for the NDMC that as and when regular posts are available Regular Muster Roll employees-Driver are being appointed subject to their clearing trade test and approval from the Selection Committee. In this regard, attention of the Court has been drawn to the decision of a Division Bench in writ petition nos. 646/1994, 4125/1995 and 4760/1995 wherein after considering the facts and circumstances, which are almost identical to the present case, the following directions were given:

“Learned counsel for the respondent states that he has been instructed to say that with respect to the above mentioned five petitioners, letters of appointment will be issued within a period of two weeks from today. Their joining the regular



post, however, will be subject to their being medically fit. Within two weeks the respondent will issue the appointment letters to the aforesaid five petitioners as HMV Drivers, who on completing the formality of undergoing medical tests will join their respective post, as per the appointment letters.

Insofar as remaining petitioners are concerned, learned counsel for the respondent states that trade test will be conducted on 18.11.1996 at 11.00 a.m. at NDMC workshop at Laxmi Bai Nagar, New Delhi.

The suggestion is fair and reasonable. We direct the remaining petitioners to make available for the trade test on the specified date at the stated place. The trade test will be conducted as per the usual norms. Whosoever is declared successful in the trade test will be offered regular appointment of HMV Driver in respondent NDMC subject to the fulfilling of the other requirements, namely, of having a valid HMV Driving licence with no punishment for accident during the last two years and of being medically fit.”

6. Keeping in view the above facts and as the petitioners have been working as Drivers since 1987 and as Regular Muster Roll Employees since 1994, similar directions are issued in the present case also. Respondent/NDMC will conduct trade test within 8 weeks and on the petitioners clearing the trade test and on approval by the Selection Committee they will be appointed on regular basis as LMV Drivers depending upon vacancy position and subject to their satisfying all conditions mentioned in the order passed in Writ Petition No. 646/1994 and other cases.

The writ petition is accordingly disposed of.”

7. In compliance with the aforesaid order, the petitioner was permitted to undergo a Trade Test. On his clearing the Trade Test, he was appointed as LMV Driver-cum-Fitter with immediate effect on *ad hoc* basis. Subsequently, *vide* order dated 17 March 2009, he was regularised as LMV Driver-cum-Fitter.



8. The petitioner, thereafter, addressed a representation to the NDMC, requesting that he be regularised as HMV Driver from 1997. He sought to draw parity with the case of one Om Prakash Dabas, who was one of the persons who had undergone the Trade Test in 1994 and to whom we would advert in greater detail hereinafter. The said representation came to be rejected by the NDMC *vide* order dated 6 August 2013, paras 5 and 6 of which may be reproduced thus:

“5. Further, Sh.Om Prakash Dabas has been regularized to the post of LMV Driver-Cum-Fitter w.e.f. 22.02.1994 *vide* Hon'ble CAT order dated 23.09.2010.

6. The representation of Sh.Rajesh Gomes for appointment to the post of HMV Driver-cum-Fitter from the back date, i.e., from 22.02.1994 has been examined and cannot be acceded as per the above judgment of the Hon'ble Court of Delhi *vide* writ petition No. WC(C) 4844/1999 and order dated 15.05.2008. Sh.Rajesh Gomes cleared the trade test, in the year 2008 pursuant to and in compliance of the directions of the Hon'ble High Court of Delhi consequently on passing the trade, test services of Sh.Rajesh Gomes are regularized as a LMV Driver-Cum Fitter w.e.f. 25.08.2008. Moreover, the post of HMV Driver-cum-Fitter is feeder cadre post of LMV Driver-Cum-Fitter and hence, the representation of Sh. Rajesh Gomes for the post of HMV Driver-Cum-Fitter considered.”

9. Aggrieved thereby, the petitioner re-approached the Tribunal way of OA 1603/2014⁴. The Tribunal has dismissed the said OA *vide* judgment dated 21 April 2016, which forms subject matter of challenge in the present writ petition.

10. We have heard Mr. Amit Kumar, learned Counsel for the

⁴ *Rajesh Gomes v The Chairman NDMC*



petitioner and Ms. Kanika Agnihotri and Ms. Kanika Singh, learned Counsel for the respondents at some length.

11. Mr. Amit Kumar emphatically contends that by granting the petitioner regularisation only as LMV Driver only post 2008, 22 years of the petitioner's service, rendered from 1994, have been reduced to nil. As the petitioner had undergone the Trade Test in 1994, he also ought to have granted regularisation as LMV Driver in 1994 itself. He submits that there was no justification to treat the petitioner differently from the persons in CWP 646/1994, in whose favour the order dated 8 October 1998 had been passed by this Court.

12. We may reproduce, for ready reference, the findings of the Tribunal in the impugned order, thus:

“7. In the present O.A., by citing the case of Shri Rama Kant Rai, Caretaker, the applicant has claimed regularization of his services with effect from the date of his initial engagement on TMR as Driver. The applicant, has filed copies of the posting slip dated 2.5.1994 issued by the respondent-NDMC in favour, of Mr.Rama Kant Rai and another; the award dated 28.2.2004 passed by the Industrial Tribunal-II, Kakardooma Courts, Delhi, in I.D. No.12 of 2000 (M/s NDMC Vs. Its Workmen Sh.Rama Kant Rai & another); the judgment dated 6.3.2009 passed by the Hon'ble High Court of Delhi in W.P.(C) No. 2273 of 2005 (N.D.M.C. Vs. Shri Rama Kant Rai); the office order dated 21.5.2009 issued by the respondent-NDMC regularizing the services of Mr.Rama Kant Rai as Caretaker with effect from 2.5.1994; the order dated 22.8.2006 passed by the Hon'ble High Court of Delhi in W.P. (C) No. 18559 of 2004; and the office order dated 16.12.2009 issued by the NDMC regularizing the services of Mr.Shakeel Ahmed as Caretaker with effect from 6.5.1994, i.e., the date of his initial appointment. On a careful perusal of these documents, we have found that prior to their initial appointment as Caretaker on ad hoc basis, S/Shri Rama Kaiit Rai and Mohd.Shakeel Ahmed were working as Peons with the respondent-NDMC. The dispute



between the NDMC and S/Shri Rama Kant Rai and Mohd. Shakeel Ahmed was referred by the Government of NCT to the Industrial Tribunal for adjudication. The term of reference was as to whether Sh.Rama Kant Rai and Sh. Shakeel Ahmed, Caretakers, were entitled to the pay scale of Rs.4000-7100/- as was being provided to their regular counterparts and If so, what directions were necessary in that respect. The award was passed by the Industrial Tribunal declaring that Shri Rama Kant Rai (the contesting workman) was entitled to the pay scale of Rs.950-1500/- from 2.5.1994 till 31.12.1995 and pay scale of Rs.4000-7100/- w.e.f 1.1.1996 onward till he worked as Caretaker on ad hoc basis. Though the writ petition was filed by the NDMC challenging the Industrial Tribunal's award, yet a compromise was entered into by and between the NDMC and Mr.Rama Kant Rai, as a consequence of which it was agreed by the NDMC to regularize the services of Sh.Rama Kant Rai as Caretaker Grade II from the date of his initial appointment as Caretaker on ad hoc basis w.e.f 2.5.1994 in the pay scale of Rs,950-1500/- which stood revised to Rs.4000-7000/- with, effect from 1.1.1996. An affidavit to that effect was filed by the NDMC before the Hon'ble High Court. In this affidavit it was stated that the said settlement might not be treated as a precedent. In the light of the aforesaid affidavit the Hon'ble High Court disposed of the writ petition. Accordingly, the NDMC issued office order dated 21.5.2009 regularizing the services of Sh.Rama Kant Rai as Caretaker with effect from 2.5.1994, i.e., the date of his initial appointment as Caretaker on ad hoc basis. The Hon'ble High Court also granted the same relief to Mohd. Shakeel Ahmed in the writ petition filed by him. Consequently, the NDMC issued office order dated 16.12.2009 regularizing the services of Mohd Shakeel Ahmed as Caretaker with effect from 6.5.1994, i.e., the date of his initial engagement as Caretaker on ad hoc basis.

8. From the foregoing, it is clear that the applicant in the present case is not similarly placed as Mr.Rama Kant Rai. While the applicant was initially engaged on TMR as Driver, Shri Rama Kant Rai was appointed as Caretaker on ad hoc basis with effect from 2.5.1994. Furthermore, before his ad hoc appointment as Caretaker on ad hoc basis, Shri Rama Kant Rai was working as a Peon with the respondent-NDMC. The NDMC regularized the services of Shri Rama Kant Rai as Caretaker with effect from 2.5.1994, i.e., the date of his initial appointment as Caretaker on ad hoc basis, in compliance with the award passed by the Industrial Tribunal, and the judgment passed by the Hon'ble High Court of Delhi. Therefore, in the present case, the applicant cannot be allowed to claim to be treated at par with Shri Rama Kant Rai.

9. In support of his claim for regularization of his services as



LMV Driver w.e.f. 22.2.1994, the applicant has cited the case of Shri Om Prakash Dabas. It is admitted position between the parties that the services of Shri Om Prakash Dabas were regularized as LMV Driver-cum-Fitter with effect from 22.2.1994 on the basis of the order dated 23.9.2010 passed by the Tribunal in T.A.No.5 of 2010 (New Delhi Municipal Council Vs. Om Prakash Dabas). It transpires from the order dated 23.9.2010, *ibid*, that Shri Om Prakash Dabas was taken on RMR as HMV Driver with effect from 5.2.1987. In compliance with the direction of the Hon'ble High Court of Delhi, his services were regularized as LMV Driver-cum-Fitter with effect from 16.6.1997. Subsequently, he filed a civil suit for regularization of his services from 1994. The grievance of Shri Om Prakash Dabas was that despite his passing the trade test in the year 1994, the NDMC denied regularization of his services, whereas the services of his juniors were regularized in the year 1994. The learned Senior Civil Judge held that Shri Om Prakash Dabas was entitled to regularization of his services as LMV Driver from 1994, in which year he had passed the trade test. Accordingly, the civil suit filed by Shri Om Prakash Dabas was decreed by the learned Senior Civil Judge. The appeal, against the judgment and decree passed by the learned Senior Civil Judge, preferred by the NDMC was transferred to the Tribunal and registered as TA No.5 of 2010. Dismissing the T.A., the Tribunal, *vide* order dated 23.9.2010, held, *inter alia*, that there was no valid reason for the NDMC to have denied; regularization to Shri Om Prakash Dabas from the year 1994, as he had passed the prescribed trade test in the year 1994. Accordingly, in compliance with the judgment and decree passed by the learned Senior Civil Judge, as upheld by the Tribunal, the NDMC regularized the services of Shri Om Prakash Dabas as LMV Driver-cum-Fitter with effect from 22.2.1994. It is, thus, clear that the applicant is not similarly placed as Shri Om Prakash Dabas. The services of Shri Om Prakash Dabas were regularized as LMV Driver-cum-Fitter with effect from 22.2.1994, as he had passed the prescribed trade test in the year 1994, whereas the applicant passed the prescribed trade test only in the year 2008 and his services were regularized as LMV Driver with effect from 25.5.2008. It is pertinent to mention here that in compliance with the direction issued by the Hon'ble High Court of Delhi, the respondent-NDMC conducted the prescribed trade test for the applicant and others in the year 2008. The applicant appeared in the said trade test. As he passed the said trade test, the respondent-NDMC regularized his services in the post of LMV Driver-cum-Fitter with effect from 25.8.2008. In the above view of the matter, we do not find any merit in the claim of the applicant for regularization of his services with effect from 22.2.1994 when the services of Sh. Om Prakash Dabas were regularized as LMV Driver-cum-Fitter. The applicant has not



placed before this Tribunal any rule, or orders issued by the respondent-NDMC, showing that services of any RMR Driver could be regularized as LMV Driver-cum-Fitter with effect from a date by which he did not pass the prescribed trade test.”

13. Having heard learned Counsel for the parties and perused the judgment of the Tribunal, we are unable to come to the aid of the petitioner.

14. The petitioner is bound by the order dated 15 May 2008 which was passed by this Court in WP (C) 4844/1999, filed by the petitioner himself. A reading of the said order reveals that this Court was conscious of the fact that the petitioner had undergone a Trade Test for the post of LMV Driver in 1994. Despite this, the Court, in the concluding paragraph of the judgment, directed that the petitioner be subjected once again to a Trade Test and directed that, on the petitioner clearing the Trade Test and on his being approved by the Selection Committee, he be appointed on regular basis as LMV Driver subject to availability of vacancies and subject to satisfying of the conditions applicable to LMV Drivers who had got the benefits of the order dated 8 October 1998 passed by this Court. As such, the mandate of the order dated 15 May 2008 is clear and categorical. The regularisation of the petitioner could only be consequent on the petitioner clearing the Trade Test and being approved by the Selection Committee.

15. There is no dispute about the fact that the petitioner was indeed regularised consequent on passing the Trade Test and approval by the



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Selection Committee. The petitioner's prayer for regularisation from 1994 or at the least 1999 has no legs to stand on. The petitioner was not a party to WP(C) 646/1994. Apparently, the petitioner was a fence sitter who was awaiting the outcome of WP (C) 646/1994. On the petitioners in the said writ petition obtaining relief *vide* order dated 8 October 1998, the petitioner immediately jumped into the fray and filed his own writ petition the very next year, i.e. 1999. By doing so, the petitioner cannot, now, aspire to the same benefits which were obtained by those candidates who had approached this Court in 1996. The petitioner's writ petition came to be decided after nine years in 2008, and the regularization of the petitioner is strictly in terms of the order which came to be passed by this court on 15 May 2008 in that writ petition.

16. Apropos the parity that the petitioner seeks to draw with Ramakant Rai and Om Prakash Dabas, we find that the Tribunal has for good reason, distinguished the petitioner's case from the cases of the said candidates in paras 7 to 9 of the impugned judgment which already stand reproduced hereinabove. The grounds cited therein constitute valid reasons to distinguish the case of the petitioner from that of Ramakant Rai and Om Prakash Dabas. It is not necessary for us to burden this judgment by reproducing the said reasons.

17. For the aforesaid reasons, we find no reason to interfere with the impugned judgment.

18. The writ petition is accordingly dismissed.



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19. After we have concluded dictation of the judgment, Mr. Amit Kumar submitted that three more submissions, advanced by him, may be noted, which were based on three executive instructions.

20. The first is a circular dated 10 July 1992, which deals with change of nomenclature of drivers. We fail to understand how this circular can at all be relied upon once the petitioner had approached this court and this court, *vide* order dated 15 May 2008, had directed that the petitioner be regularized as LMV driver consequent to passing the Trade Test and approval by the Selection Committee. If the petitioner desire to be designated not as LMV driver but as HMV driver, the remedy with the petitioner would have been to seek a review of that order or to challenge that order. The order is now final and binding against the petitioner.

21. The petitioner, thereafter, relies on two Office Memoranda dated 4 November 1992 and 3 March 2023 issued by the DoPT and the Department of Pension and Pensioners Welfare. We may note that neither of these Office Memoranda were ever cited by the petitioner before the Tribunal. On a query from the court as to how this court can now enter into these aspects, Mr. Amit Kumar submitted that these Office Memoranda go to the root of the matter and that the court should, therefore, take them into consideration.

22. In order to be fair, we have also examined the said Memoranda.



23. The Office Memorandum dated 4 November 1992 deals with delinking of seniority from conformation. Mr. Amit Kumar places reliance on para 2 thereof which reads thus:

“2. This principle has been coming under judicial scrutiny in a number of cases in the past, the last important judgement being the one delivered by the Supreme Court on 2.5.90 (JT-1990(2)SC-264) in the case of *Direct Recruit Class II Engineering Officers Association v. State of Maharashtra*. In para 47(A) of the said judgement the Supreme Court has held that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation”

24. There is no claim for seniority made by the petitioner before the Tribunal. The only prayer of the petitioner was for his being treated as regular from the date of his initial appointment. That aspect, as we have already held, no longer survives for consideration after the order dated 15 May 2008 passed by this Court in the petitioner’s own writ petition.

25. The second Office Memorandum dated 3 March 2023 deals with the availability of the Old Pension Scheme or the New Pension Scheme and coverage under the CCS (Pension) Rules. Mr. Amit Kumar has drawn our attention to paras 4 and 8 of the said OM which reads thus:

“4. The matter has been examined in consultation with the Department of Financial Services, Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decisions of the Courts in this regard. It has now been decided that, in all cases where the Central Government civil employee has been appointed against a post or vacancy which was advertised/notified



for recruitment/appointment, prior to the date of notification for National Pension System i.e. 22.12.2003 and is covered under the National Pension System on joining service on or after 01.01.2004, may be given a one-time option to be covered under the CCS(Pension) Rules, 1972 (now 2021). This option may be exercised by the concerned Government servants latest by 31.08.2023.

8. The Government servants who exercise option to switch over to the pension scheme under CCS (Pension) Rules, 1972 (now 2021), shall be required to subscribe to the General Provident Fund (GPF). Regarding account of the corpus in the NPS account of the Government servant, Controller General of Accounts (CGA) has furnished the following clarification vide letter No. 1(7)(2)/2010/cla./TA III/390 dated 14.11.2019 & I.D. Note No. TA-3-6/3/2020-TA-III/cs-4308/450 dated 23.12.2022:

- i. Adjustment of Employees' contribution in Accounts: Amount may be credited to individual's GPF account and the account may be recasted permitting up-to-date interest (Authority-FR-16 & Rule 11 of GPF Rules).
- ii. Adjustment of Government contribution under NPS in Accounts: To be accounted for as (-) Dr. to object head 70 Deduct Recoveries under Major Head 2071 Pension and other Retirement benefit - Minor Head 911- Deduct Recoveries of over payment (GAR 35 and para 3.10 of List of Major and Minor Heads of Accounts).
- iii. Adjustment of increased value of subscription on account of appreciation of investments - May be accounted for by crediting the amount to Govt. account under M.H. 0071- Contribution towards Pension and Other Retirements Benefits 800- Other Receipts (Note under the above Head in LMMHA)."

26. We are completely at a loss as to how this OM is at all applicable in this case. Neither is the petitioner a pensioner, nor has he sought any pensionary benefits.



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27. We, therefore, once again dismiss this petition, with no order as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 16, 2025

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[Click here to check corrigendum, if any](#)