

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 6520 of 2025

Kendriya Vidyalaya Sangathan, through its Commissioner, 18 Industrial Area, Shahid Jeet Singh Marg, P.O. & P.S. Shahidjeet Singh, New Delhi-100016 ... **Petitioner**

Versus

Sh. Bhriagu Nandan Sharma, aged about 72 years son of Late Kedar Prasad Sharma, resident of Qr. No. 203-204, Vastu Vihar, Mesra, Near Navodaya Vidyalaya, P.O. & P.S.- BIT Mesra Campus, District- Ranchi, Jharkhand- 835215 ... **Respondent**

With

W.P.(S) No. 6552 of 2025

Kendriya Vidyalaya Sangathan, through its Commissioner, 18 Industrial Area, Shahid Jeet Singh Marg, P.O. & P.S. Shahidjeet Singh, New Delhi-100016 ... **Petitioner**

Versus

Devendra Singh Rana aged about 66 years, s/o Sri Ramjiwan Rana resident of flat no. 24/D, Ujjain Enclave, Gas Godown Road, Khirji, P.O. & P.S.- Namkum, Dist- Ranchi, Jharkhand**Respondent**

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner(s) : Md. Mokhtar Khan, Adv
Mr. Faisal Khan, Adv
For the Respondent(s): Md. Jalisur Rahman, Adv

05/Dated : 05.12.2025

1. Heard the parties.
2. The learned Administrative Tribunal (for short 'Tribunal) vide its judgment dated 28.05.2025 directed the cases of the respondents herein to be converted from CPF to G.P.F.-cum- Pension Scheme and aggrieved thereby the petitioner(s) have filed these writ petitions assailing the order passed by the learned Tribunal.
3. The facts are not in dispute. The respondent herein in WP(S) No. 6552 of 2025 is retired Yoga Teacher, Kendriya Vidhyalaya,

Bulandshahr((U.P.). He retired on 31.03.2019, He was initially appointed as Yoga Teacher in the year 1981. The scheme of Yoga Teacher was introduced in KVS on Experimental basis . However, later on his service was ordered to be regularized in the month of April, 1995.

4. After appointment, the respondent had opted for CPF in the month of October, 1982. Thereafter, in view of the DOPT No. 4/1/87 dated 01.05.1987 issued by the Ministry of Personnel, Public Grievance and Pensions, Government of India and also the memorandum issued by the KVS vide KVS OM No. 152-1/79-80/KVS/Budget/Part.II dated 01.09.1988, the respondent had never exercised the option for continuance in the CPF Scheme.

5. It was contended by the respondent before the Tribunal that in view of the deeming clause of the Memo dated 01.05.1987 of the DOPT and also Memo dated 01.09.1988 of the KVS, the respondent's provident fund scheme should have converted from CPF to G.P.F.-cum- Pension Scheme, but the authorities did not convert the same till the date of his retirement. The respondent had even submitted a representation on 30.09.2019 and requested for conversion of his CPF Scheme to G.P.F.-cum- Pension Scheme but nothing had been done.

6. The respondent had applied under Right to Information Act, 2005 for getting information, as to whether he had opted for CPF Scheme Pursuant to the Memo dated 01.09.1988 of the KVS and was informed that there was no such option form available in his service record. As per the respondent, he had never exercised the option to continue in CPF

Scheme and, therefore, requested the appellant for conversion of his CPF Scheme to G.P.F.-cum- Pension Scheme.

7. The appellant recommended the case for the conversion for direct recruits, leaving behind the direct recruits since the respondent who were appointed prior to 01.01.1986, constraining him to approach the tribunal for the grant of following relief:-

“That the applicant has come before this Hon'ble Court with a prayer for quashing the order dated 06/10.04.2023 passed by the respondents concerned and for a direction to change over from CPF to GPF-cum-Pension Scheme in view of the recent judgment of the Hon'ble Supreme Court of India dated 10.05.2022 passed in University of Delhi Versus Smt. Shashi Kiran and analogous cases reported in 2022 SCC OnLine SC 594 whereby the Hon'ble Apex Court has upheld the finding of the Hon'ble Delhi High Court in R.N. Virmani batch of cases. On the similar matter, the Hon'ble Jharkhand High Court has also dismissed the writ application filed by the KVS vide WP(S) No. 6050 of 2019 (The Union of India & Ors Versus Priyabrat Singh) on 14.09.2022. The case of the applicant is squarely covered with the ratio of the Judgment rendered by the Hon'ble Supreme Court of India as well as the Hon'ble Jharkhand High Court.”

8. As regards the respondent in W.P.S) No. 6520 of 2025, he was initially appointed in KVS as PRT on 01.09.1980 and opted CPF scheme and subsequently he was selected to the post of PGT on 30.09.1986 on direct recruitment basic and finally he was promoted to the post of vice Principal and retired from the post of Vice Principal on 31.12.2014. After his appointment he opted for CPF in the Year, 1982. He too had never exercised option for continuance in the CPF Scheme till his retirement on 31.12.2014 and on the same analogy as above he has claimed the relief

with similar averments as that of the respondent in WP(S) No. 6552 of 2025.

9. The appellant(s) who were respondents before the learned Tribunal had contested the case mainly on the ground that having been appointed with the appellant (s) it was the respondents who had opted for CPF Scheme and had opted for continuation in CPF scheme submitting their revised option form in response to KVS OM dated 01.09.1988 and was thereafter allotted their respective CPF Accounts which continued till the retirement. Moreover, the respondents had obtained all benefits admissible under the CPF Scheme upon retirement.

10. It was further averred that the provision contained in the various OM relied upon by the respondents, the same applicable only to Civilian Central Government Employees who were subscribing to the CPF under Contributory Provident Fund Rules(India) 1962. The employees of Statutory/autonomous bodies were not automatically covered by this O.M. KVS is an autonomous body and in the 51st Meeting of Board of Governors held on 31st May, 1988, it was decided that KVS would implement mutatis mutandis the decision taken by the Government of India on the recommendation of Fourth Pay Commission for the KVS employees for change over from CPF to Pension Scheme in the manner indicated in OM dated 01.09.1988 (supra). The persons joining service on or after 01.01.1986 would be governed by the GPF-cum-Pension Scheme and would have no option for CPF Scheme. The employees who would like to continue in CPF Scheme were however required to exercise a clear option to continue in CPF Scheme.

11. It is further averred that Government of India had not issued any orders for allowing CPF optees to re-exercise the option for conversion from CPF Scheme to GPF-cum-Pension Scheme. Therefore the appellant(s) cannot allow its CPF optees to re-exercise the option for conversion from CPF to GPF Pension Scheme.

12. Lastly it was averred that the matter with regard to one-time permission for change over from CPF to GPF –cum- Pension Scheme was considered by the MHRD in consultation with the department of Expenditure. MHRD vide its letter dated 7th April 2015 had informed that the department of Expenditure after examining the proposal the employees of Kendriya Vidyalaya Sangathan who were in service as on 01.01.1986 and decided to opt for CPF made a conscious decision knowing well the option exercised is final. Grant of one more option to such CPF Subscribers in KVS could have repercussion elsewhere with such an option having to be extended to all other CPF beneficiaries as well whose number is quite substantial. Therefore, in view of the above position, the proposal of grant of one time permission for changing from CPF to GPF – cum- Pension Scheme for teaching and non-teaching staff of KVS was not agreed to.

13. We have heard the learned counsel for the petitioner(s) and have gone through the records of the case.

14. At the outset it needs to be observed that as regards letter dated 07.04.2015 (supra), the same has no bearing on this case as admittedly the respondents herein are the employees of Kendriya Vidyalaya Sangathan

who had been recruited prior to 01.01.1986 in the year 1980 and 1981 respectively.

15. Adverting to the merits of the case it needs to be noticed that a close reading of memorandum dated 01.09.1988 issued by KVS indicates that if no option to continue in CPF scheme is received by 28.02.1989, the employee(s) shall be deemed to have switched over to the G.P.F. –cum-Pension Scheme.

16. However, the learned counsel for the petitioner KVS would submit while adjudicating upon the Original Application preferred by the respondent(s), the learned Tribunal erroneously relied upon the judgment of Hon'ble Supreme Court in **K.V.S. and others v. Jaspal Kaur and others 2007 (6) SCC 13**. In this regard it was submitted that the ratio in **Jaspal Kaur case** (supra) is not at all applicable to the facts of the instant case especially qua the switch over from CPF Scheme to GPF-cum-Pension Scheme because the respondents herein had been granted sufficient option at the first instance to exercise the options for the applicability of the aforesaid scheme and the KVS memorandum of 1988 but the respondent(s) had not exercised the option.

17. However, we find no merit in the contention raised by the petitioner(s), more particularly in view of the law laid down by the Hon'ble Supreme Court in **University of Delhi v. Shashi Kiran and others (2022) 15 SCC 325** wherein the Hon'ble Supreme Court while dealing with the issue of switch over by the employee(s) from CPF Scheme to GPF-cum-Pension Scheme. The Hon'ble Supreme Court dealt

with three distinct type of eventualities that are reflected therein which read as under:-

4. On 06.06.1985, the Central Government employees who were governed by the Contributory Provident Fund (for short, "CPF") were permitted to opt for General Provident Fund and Pension Scheme (for short, "GPF"). Thereafter a notification was issued by the Central Government with respect to the changeover of the employees from CPF to GPF. Said notification issued on 1.5.1987 contemplated that all CPF beneficiaries who were in service on 01.01.1986 and were still in service would be deemed to have "come over" to GPF unless a contrary option was exercised by them in writing by 30.09.1987 to continue to be under CPF. The relevant paragraphs of said notification were:

"The Central Government employees who are governed by the Contributory Provident Fund Scheme (CPF Scheme) have been given repeated options in the past to come over to the Pension Scheme. The last such option was given in the Department of Personnel and Training. O.M. No. F 3 (1)

- Pension Unit/85, dated the 6" June, 1985. However, some Central Government employees still continue under the CPF Scheme. The Fourth Central Pay Commission has recommended that all CPF beneficiaries in service on January 1, 1986, should be deemed to have come over to the Pension Scheme on that date unless they specifically opt out to continue under the CPF Scheme.

2. After careful consideration, it has been decided that the said recommendation shall be accepted and implemented in the manner hereinafter indicated.

3.1 All CPF beneficiaries, who were in service on 1st January, 1986, and who are still in service on the date of issue of these orders viz., 1st May, 1987) 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 by 30-9-1987, in the form enclosed if the employees wish to continue under the CPF Scheme. If no option is received by the Head of Office by the above date the employees will be deemed to have come over to the Pension Scheme.

3.6 The option once exercised shall be final.

6.3 These orders do not also apply to scientific and technical personnel of the Department of Atomic Energy, Department of Space, Department of Electronics and such other Scientific Departments as have adopted the system prevailing in the Department of Atomic Energy. Separate orders will be issued in their respect in due course. [See Order (3) in this Appendix.] 8. These orders issue with the concurrence of the Ministry of Finance, Department of Expenditure, vide their U.O. No.2038/IS(Pers.)/87, dated 13-4-1987.”

5. Around the same time, a communication was addressed on 05.05.1987 by the Central Government to the Registrar of the University stating that the Hon'ble President of India in his capacity as Visitor of the University was pleased to approve the proposal of the University for amending Statute 28A, giving benefits to its employees relating to GPF, CPF, gratuity etc. “which are more advantageous to the employees of the University in pursuance to similar order issued by the Central Government with respect to their own employees”.

18. The Hon'ble Supreme Court while dealing with the aspect of switch over in all the three distinct types of eventualities, as noted above, held that the switch over from the CPF Scheme to GPF-cum- Pension Scheme shall be permissible and the claims of employee(s) shall not be barred by the delay and laches and /or, in light of the facts and the scheme as put in operation accrued for the welfare of the employees. In essence, the very choice to select scheme stemmed and/or formed part of beneficial

piece of legislation way back permitting switch over between the two schemes. Thus what can be deduced from the exposition of law in **Shashi Kiran's case** is that the switch over shall be permissible to the employee(s) in the following eventualities:-

- (i) Wherein the employee had not exercised any option at all.
- (ii) Wherein the employees had not exercised the option by the cut off date.
- (iii) Wherein the employees had exercised the positive option by the cut-off date, but, eventually demanding a change in connection therewith.

19. The rationale behind this for permitting switch over in the said eventualities, as enumerated above, was that the very choice to select a scheme accrued for the welfare of the employees.

20. Therefore, it can safely be said that even the employee(s) who had originally opted to remain in the CPF Scheme and subsequently sought to switch over to the pension scheme, on account of the later being more beneficial to them, was permissible, especially due to the fact that non grant of better and/or more lucrative benefits by way of pension and denying the same to one set of employees would per se be discriminatory notwithstanding the option exercised by the employee(s) to remain in the CPF scheme.

21. In taking this view we are further fortified by the judgment rendered by the learned Division Bench of this Court in **Union of India v. Priyabrat Singh 2022 (4) JBCJ Page 458** wherein this Court while dealing with two distinct view point as expressed by the Hon'ble Supreme Court **Jaspal Kaur's case** (supra) and **Shashi Kiran's case** (supra) held as under:-

14. This Court is having two views of the Hon'ble Apex Court; one in the case of *KVS and Others vs. Jaspal Kaur and Others* (*supra*) and another in the case of *University of Delhi vs. Shashi Kiran and Others* (*supra*).

15. The position of law is well settled that if there are two conflicting view of the Hon'ble Apex Court, the latest judgment is to be considered having the binding precedence, as has been held in *Subhash Chandra and Another vs. Delhi Subordinate Services Selection Board and Others*[(2009) 15 SCC 458]. For ready reference, the relevant paragraph of the aforesaid judgment is quoted hereunder:-

“96. A decision, as is well known, is an authority for what it decides and not what can logically be deduced therefrom. In *S. Pushpa* [(2005) 3 SCC 1], decisions of the Constitution Benches of this Court in *Lilind* [(2001) 1 SCC 4] had not been taken into consideration. Although *Chinnaiah* [(2005) 1 SCC 394] was decided later on, we are bound by the same. It is now a well-settled principle of law that a Division Bench, in case of conflict between a decision of a Division Bench of two Judges and a decision of a larger Bench and in particular Constitution Bench, would be bound by the latter.(See *Sardar Associates vs. Punjab & Sind Bank* [(2009) 8 SCC 257]).

16. This Court, taking into consideration the aforesaid position of law that the latest judgment of the Hon'ble Apex Court is required to be followed, therefore, is of the considered view that that the view as has been taken by the Hon'ble Apex Court in *University of Delhi vs. Shashi Kiran and Others* (*supra*) is required to be followed herein also.

17. This Court, after having discussed the factual aspect and the legal position based upon the judgment rendered by Hon'ble Apex Court, has gone through the order passed by the Central Administrative Tribunal and found therefrom that the view expressed therein based upon the judgment passed by the Hon'ble Apex Court in *University of Delhi vs. Shashi Kiran and Others* (*supra*), requires

no interference, since therein also the learned Central Administrative Tribunal has come to a view that in absence of any specific option furnished by one or the other employee of the organization, there cannot be any deemed option.

22. Here, it needs to be noted that the judgment passed by this Court in **Priyabrat Singh's case** (supra) has attained finality as the appeal filed by the Union of India against the decision of this Court (Special Leave to Appeal) stands dismissed by the Hon'ble Supreme Court on 26.09.2023.

23. The learned Tribunal apart from considering all the judgments as cited above, has also considered the fact that the very choice to select a scheme stemmed and/or formed part of beneficial piece of legislation, thereby permitting switch over from the CPF Scheme to GPF-cum-Pension Scheme in all three distinct types of eventualities, as discussed above.

24. We are in complete agreement with the view taken by the learned Tribunal vide its judgment dated 28.05.2025.

25. Consequently, we see no merit in these petitions, the same are, therefore, dismissed in limine.

26. Pending Interlocutory Application(s), if any, stands disposed of.

(Tarlok Singh Chauhan, C.J.)

(Rajesh Shankar, J.)

05 /12/2025

A.F.R.

Sharda/-

Uploaded On 09.12.2025