

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

+ **W.P. (C.) No.13142/2009**

% **Date of Decision: 08.01.2010**

Manzoor Ahmed Khan Petitioner
Through Mr.Ashok Bhalla, Advocate

Versus

Delhi Transport Corporation Respondents
Through Ms.Avnish Ahlawat, Advocate

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

Whether reporters of Local papers may be allowed to see the judgment?	YES
To be referred to the reporter or not?	NO
Whether the judgment should be reported in the Digest?	NO

ANIL KUMAR, J. (ORAL)

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The petitioner challenges the order dated 10th August, 2009 in TA No.789 of 2009, Manzoor Ahmed Khan v. Delhi Transport Corporation passed by Central Administrative Tribunal dismissing his petition seeking directions to the respondent to treat the petitioner as pension optee and to settle his terminal dues and direction to pay interest at 12% per annum for delayed payment of his terminal dues.

In order to claim that the petitioner is entitled for pension, he relied on photocopies of certain documents which were found to be incomplete and appeared to be tampered. The original documents were

not produced by the counsel for the petitioner on the ground that they were not available with the petitioner.

The Tribunal has noted that the documents relied on by the petitioner did not inspire confidence for inferring that the petitioner is to be treated as an optee for pension. The documents relied were lists allegedly prepared by the respondents. It was contended that the original documents as allegedly submitted by the petitioner were not available.

The respondents however, produced the original records and the records were found to be well-founded. The master copies of salary slips for different periods pertaining to the petitioner were also produced with the entry "N" denoting that the case of the petitioner was to be treated as of an employee who did not belong to the pension scheme.

The respondent also produced register maintained to show that the petitioner was governed by CPF Scheme. The amounts contributed by the petitioner were found to be higher than the amount that was statutorily payable and consequently it was inferred that he was contributing to CPF voluntarily. The employee's contribution at higher rate would not have been paid by the petitioner, had he opted for pension.

The petitioner on his retirement had also accepted both parts of the provident fund which had accumulated to his credit and, therefore, later demand by the petitioner that he was an optee for the pension scheme cannot be accepted.

Considering all the record and facts and circumstances, the Tribunal has relied on the version of DTC/respondent based on the documentary evidence vis-à-vis the incomplete photocopies filed by the petitioner which have not been accepted holding that the petitioner was not an optee for pension scheme. The learned counsel for the petitioner has failed to point out any such illegality or irregularity which will require interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The writ petition is, therefore, without any merit and it is dismissed.

ANIL KUMAR, J.

January 8th , 2010

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MOOL CHAND GRARG, J.